# NINETY-NINTH DAY

St. Paul, Minnesota, Wednesday, April 27, 1994

The Senate met at 8:30 a.m. and was called to order by the President.

## CALL OF THE SENATE

Mr. Mondale 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. George H. Martin.

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

| | | | | |
|---|---|---|---|---|
| Adkins | Finn | Kroening | Murphy | Runbeck |
| Anderson | Flynn | Laidig | Neuville | Sams |
| Beckman | Frederickson | Langseth | Novak | Samuelson |
| Belanger | Hanson | Larson | Oliver | Solon |
| Benson, D.D. | Hottinger | Lesewski | Olson | Spear |
| Benson, J.E. | Janezich | Lessard | Pappas | Stevens |
| Berg | Johnson, D.E. | Luther | Pariseau | Stumpf |
| Berglin | Johnson, D.J. | Marty | Piper | Terwilliger |
| Bertram | Johnson, J.B. | McGowan | Pogemiller | Vickerman |
| Betzold | Johnston | Merriam | Price | Wiener |
| Chandler | Kelly | Metzen | Ranum | |
| Cohen | Kiscaden | Moe, R.D. | Reichgott Junge | |
| Day | Knutson | Mondale | Riveness | |
| Dille | Krentz | Morse | Robertson | |

The President declared a quorum present.

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

## EXECUTIVE AND OFFICIAL COMMUNICATIONS

The following communications were received and referred to the committee indicated.

March 11, 1994

The Honorable Allan H. Spear
President of the Senate

Dear Sir:

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

STATE BOARD FOR COMMUNITY COLLEGES

Andrew R. Larson, 3002 E. Superior St., Duluth, St. Louis County, has been appointed by me, effective March 16, 1994, for a term expiring on the first Monday in January, 1998.

John M. Lundsten, 1804 Hillside Ln., Buffalo, Wright County, has been appointed by me, effective March 16, 1994, for a term expiring on the first Monday in January, 1998.

(Referred to the Committee on Education.)

Warmest regards,
Arne H. Carlson, Governor

April 21, 1994

The Honorable Irv Anderson
Speaker of the House of Representatives

The Honorable Allan H. Spear
President of the Senate

I have the honor to inform you that the following enrolled Acts of the 1994 Session of the State Legislature have been received from the Office of the Governor and are deposited in the Office of the Secretary of State for preservation, pursuant to the State Constitution, Article IV, Section 23:

| S.F. No. | H.F. No. | Session Laws Chapter No. | Time and Date Approved 1994 | Date Filed 1994 |
|---|---|---|---|---|
| | 1835 | 479 | 4:47 p.m. April 21 | April 21 |

Sincerely,
Joan Anderson Growe
Secretary of State

April 25, 1994

The Honorable Allan H. Spear
President of the Senate

Dear President Spear:

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. 1732, 1912, 1744, 760, 1903 and 2329.

Warmest regards,
Arne H. Carlson, Governor

## MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce the passage by the House of the following

Senate File, herewith returned: S.F. No. 1867.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned April 26, 1994

Mr. President:

I have the honor to announce that the House has acceded to the request of the Senate for the appointment of a Conference Committee, consisting of 5 members of the House, on the amendments adopted by the House to the following Senate File:

S.F. No. 1706: A bill for an act relating to public utilities; providing legislative authorization of the construction of a facility for the temporary dry cask storage of spent nuclear fuel at Prairie Island nuclear generating plant; providing conditions for any future expansion of storage capacity; providing for a transfer of land; approving the continued operation of pool storage at Monticello and Prairie Island nuclear generating plants; requiring development of wind power; regulating nuclear power plants; requiring increased conservation investments; providing low-income discounted electric rates; regulating certain advertising expenses related to nuclear power; providing for intervenor compensation; appropriating money; amending Minnesota Statutes 1992, sections 216B.16, subdivision 8, and by adding a subdivision; 216B.241, subdivision 1a; and 216B.243, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 216B.

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

Jennings, Munger, Carlson, Hausman and Johnson, V.

Senate File No. 1706 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned April 26, 1994

Mr. President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 2046:

H.F. No. 2046: A bill for an act relating to wild animals; restricting the killing of dogs wounding, killing, or pursuing big game within the metropolitan area; amending Minnesota Statutes 1992, section 97B.011.

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

Wagenius, Trimble and Ozment have been appointed as such committee on the part of the House.

House File No. 2046 is herewith transmitted to the Senate with the request that the Senate appoint a like committee.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted April 26, 1994

Ms. Ranum moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 2046, and that a Conference Committee of 3 members be appointed by the Subcommittee on Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

Mr. President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 2227:

H.F. No. 2227: A bill for an act relating to electric currents in earth; requiring the public utilities commission to appoint a team of science advisors; mandating scientific framing of research questions; providing for studies of stray voltage and the effects of earth as a conductor of electricity; requiring scientific peer review of findings and conclusions; providing for a report to the public utilities commission; appropriating money.

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

Krueger, Jacobs and Koppendrayer have been appointed as such committee on the part of the House.

House File No. 2227 is herewith transmitted to the Senate with the request that the Senate appoint a like committee.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted April 26, 1994

Mr. Sams moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 2227, and that a Conference Committee of 3 members be appointed by the Subcommittee on Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

Mr. President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 3193:

H.F. No. 3193: A bill for an act relating to public finance; providing conditions and requirements for the issuance of debt; authorizing the use of revenue recapture by certain housing agencies; clarifying a property tax exemption; allowing school districts to make and levy for certain contract or lease purchases; changing contract requirements for certain projects; changing certain debt service fund requirements; authorizing use of special assessments for on-site water contamination improvements; authorizing an increase in the membership of county housing and redevelopment authorities; amending Minnesota Statutes 1992, sections 270A.03, subdivision 2; 383.06, subdivision 2; 429.011, by adding a subdivision; 429.031, subdivision 3; 469.006, subdivision 1; 469.015, subdivision 4; 469.158; 469.184, by adding a subdivision; 471.56, subdivision 5; 471.562, subdivision 3, and by adding a subdivision; 475.52, subdivision 1; 475.53, subdivision 5; 475.54, subdivision 16; 475.66, subdivision 1; and 475.79; Minnesota Statutes 1993 Supplement,

sections 124.91, subdivision 3; 272.02, subdivision 1; and 469.033, subdivision 6; proposing coding for new law in Minnesota Statutes, chapter 469.

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

Rest, Abrams and Milbert have been appointed as such committee on the part of the House.

House File No. 3193 is herewith transmitted to the Senate with the request that the Senate appoint a like committee.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted April 26, 1994

Mr. Pogemiller moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 3193, and that a Conference Committee of 3 members be appointed by the Subcommittee on Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

Mr. President:

I have the honor to announce the passage by the House of the following House File, herewith transmitted: H.F. No. 2951.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted April 26, 1994

## FIRST READING OF HOUSE BILLS

The following bill was read the first time and referred to the committee indicated.

H.F. No. 2951: A bill for an act relating to health care financing; modifying provisions for enrollment in the MinnesotaCare program; establishing a health care access reserve account; transferring money; amending Minnesota Statutes 1993 Supplement, section 256.9352, subdivision 3.

Referred to the Committee on Finance.

## MOTIONS AND RESOLUTIONS

Messrs. Stumpf and Larson introduced—

Senate Resolution No. 88: A Senate resolution honoring the initial class of 20 members of the Lincoln High School Prowler Hall of Fame of Thief River Falls, Minnesota.

Referred to the Committee on Rules and Administration.

S.F. No. 1766 and the Conference Committee Report thereon were reported to the Senate.

## CONFERENCE COMMITTEE REPORT ON S.F. NO. 1766

A bill for an act relating to attorneys; expanding remedies for the unauthorized practice of law; amending Minnesota Statutes 1992, section 481.02, subdivision 8.

April 22, 1994

The Honorable Allan H. Spear
President of the Senate

The Honorable Irv Anderson
Speaker of the House of Representatives

We, the undersigned conferees for S.F. No. 1766, report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendments and that S.F. No. 1766 be further amended as follows:

Page 1, after line 5, insert:

"Section 1. Minnesota Statutes 1992, section 325D.55, subdivision 2, is amended to read:

Subd. 2. *(a)* Nothing contained in sections 325D.49 to 325D.66, shall apply to actions or arrangements otherwise permitted, or regulated by any regulatory body or officer acting under statutory authority of this state or the United States.

*(b) Paragraph (a) includes programs established and operated by nonprofit organizations under the supervision of the supreme court that provide legal services to low-income persons at reduced fees based on a fee structure approved by the supreme court. The nonprofit organization shall submit a proposed fee structure, including hourly rates, to the supreme court at least once each calendar year. The supreme court may approve the proposed fee structure or establish another fee structure.*"

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 2, after the semicolon, insert "authorizing the operation of certain legal service programs for low-income persons;"

Page 1, line 4, delete "section" and insert "sections 325D.55, subdivision 2; and"

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

Senate Conferees: (Signed) Ember D. Reichgott Junge, Don Betzold, David L. Knutson

House Conferees: (Signed) Dave Bishop, Thomas Pugh, Bill Macklin

Ms. Reichgott Junge moved that the foregoing recommendations and Conference Committee Report on S.F. No. 1766 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

S.F. No. 1766 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

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

Those who voted in the affirmative were:

| | | | | |
|---|---|---|---|---|
| Adkins | Dille | Kroening | Murphy | Sams |
| Anderson | Finn | Langseth | Neuville | Samuelson |
| Beckman | Flynn | Larson | Oliver | Solon |
| Belanger | Frederickson | Lesewski | Olson | Spear |
| Benson, D.D. | Hanson | Lessard | Pappas | Stevens |
| Benson, J.E. | Hottinger | Luther | Pariseau | Stumpf |
| Berg | Janezich | Marty | Piper | Terwilliger |
| Berglin | Johnson, D.E. | McGowan | Pogemiller | Vickerman |
| Bertram | Johnson, J.B. | Merriam | Price | Wiener |
| Betzold | Johnston | Metzen | Ranum | |
| Chandler | Kelly | Moe, R.D. | Reichgott Junge | |
| Cohen | Knutson | Mondale | Robertson | |
| Day | Krentz | Morse | Runbeck | |

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

## MOTIONS AND RESOLUTIONS – CONTINUED

S.F. No. 2104 and the Conference Committee Report thereon were reported to the Senate.

## CONFERENCE COMMITTEE REPORT ON S.F. NO. 2104

A bill for an act relating to children; establishing an abused child program under the commissioner of corrections; creating an advisory committee; specifying powers and duties of the commissioner and the advisory committee; proposing coding for new law in Minnesota Statutes, chapter 241.

April 25, 1994

The Honorable Allan H. Spear
President of the Senate

The Honorable Irv Anderson
Speaker of the House of Representatives

We, the undersigned conferees for S.F. No. 2104, report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendment and that S.F. No. 2104 be further amended as follows:

Page 1, line 9, delete "241.445" and insert "611A.362"

Page 1, line 22, delete "241.446" and insert "611A.363"

Page 2, line 26, after "*grant*" insert "*under this section*"

Page 2, line 36, delete "241.447" and insert "611A.364"

Page 3, line 25, delete "241.448" and insert "611A.365"

Amend the title as follows:

Page 1, line 7, delete "241" and insert "611A"

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

Senate Conferees: (Signed) Linda Runbeck, Deanna Wiener, Sheila M. Kiscaden

House Conferees: (Signed) Linda Wejcman, Mary Murphy, Darlene Luther

Ms. Runbeck moved that the foregoing recommendations and Conference Committee Report on S.F. No. 2104 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

S.F. No. 2104 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

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

Those who voted in the affirmative were:

| | | | | |
|---|---|---|---|---|
| Adkins | Dille | Knutson | Mondale | Riveness |
| Anderson | Finn | Krentz | Morse | Robertson |
| Beckman | Flynn | Kroening | Murphy | Runbeck |
| Belanger | Frederickson | Langseth | Neuville | Sams |
| Benson, D.D. | Hanson | Larson | Oliver | Samuelson |
| Benson, J.E. | Hottinger | Lesewski | Olson | Solon |
| Berg | Janezich | Lessard | Pappas | Spear |
| Berglin | Johnson, D.E. | Luther | Pariseau | Stevens |
| Bertram | Johnson, D.J. | Marty | Piper | Stumpf |
| Betzold | Johnson, J.B. | McGowan | Pogemiller | Terwilliger |
| Chandler | Johnston | Merriam | Price | Vickerman |
| Cohen | Kelly | Metzen | Ranum | Wiener |
| Day | Kiscaden | Moe, R.D. | Reichgott Junge | |

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

## MOTIONS AND RESOLUTIONS – CONTINUED

S.F. No. 2709 and the Conference Committee Report thereon were reported to the Senate.

## CONFERENCE COMMITTEE REPORT ON S.F. NO. 2709

A bill for an act relating to agriculture; amending provisions regarding the pricing of certain dairy products; amending Minnesota Statutes 1993 Supplement, section 32.72.

April 25, 1994

The Honorable Allan H. Spear
President of the Senate

The Honorable Irv Anderson
Speaker of the House of Representatives

We, the undersigned conferees for S.F. No. 2709, report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendment.

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

Senate Conferees: (Signed) Charles A. Berg, Cal Larson, Dallas C. Sams

House Conferees: (Signed) Gene Hugoson, Stephen G. Wenzel, Sydney G. Nelson

Mr. Berg moved that the foregoing recommendations and Conference Committee Report on S.F. No. 2709 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

S.F. No. 2709 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 58 and nays 4, as follows:

Those who voted in the affirmative were:

| | | | | |
|---|---|---|---|---|
| Adkins | Dille | Krentz | Murphy | Runbeck |
| Anderson | Finn | Kroening | Neuville | Sams |
| Beckman | Frederickson | Langseth | Oliver | Samuelson |
| Belanger | Hanson | Larson | Olson | Solon |
| Benson, D.D. | Hottinger | Lesewski | Pariseau | Spear |
| Benson, J.E. | Janezich | Lessard | Piper | Stevens |
| Berg | Johnson, D.J. | Luther | Pogemiller | Stumpf |
| Berglin | Johnson, J.B. | McGowan | Price | Terwilliger |
| Bertram | Johnston | Metzen | Ranum | Vickerman |
| Betzold | Kelly | Moe, R.D. | Reichgott Junge | Wiener |
| Cohen | Kiscaden | Mondale | Riveness | |
| Day | Knutson | Morse | Robertson | |

Mr. Chandler, Ms. Flynn, Messrs. Marty and Merriam voted in the negative.

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

## MOTIONS AND RESOLUTIONS – CONTINUED

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

## MESSAGES FROM THE HOUSE

Mr. President:

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

S.F. No. 2192: A bill for an act relating to health; MinnesotaCare; establishing and regulating community integrated service networks; defining terms; creating a reinsurance and risk adjustment association; classifying data; requiring reports; mandating studies; modifying provisions relating to the regulated all-payer option; requiring administrative rulemaking; setting timelines and requiring plans for implementation; designating essential community

providers; establishing an expedited fact finding and dispute resolution process; requiring proposed legislation; establishing task forces; providing for demonstration models; mandating universal coverage; requiring insurance reforms; providing grant programs; establishing the Minnesota health care administrative simplification act; implementing electronic data interchange standards; creating the Minnesota center for health care electronic data interchange; providing standards for the Minnesota health care identification card; appropriating money; providing penalties; amending Minnesota Statutes 1992, sections 60A.02, subdivision 3; 60A.15, subdivision 1; 62A.303; 62D.02, subdivision 4; 62D.04, by adding a subdivision; 62E.02, subdivisions 10, 18, 20, and 23; 62E.10, subdivisions 1, 2, and 3; 62E.141; 62E.16; 62J.03, by adding a subdivision; 62L.02, subdivisions 9, 13, 17, 24, and by adding subdivisions; 62L.03, subdivision 1; 62L.05, subdivisions 1, 5, and 8; 62L.06; 62L.07, subdivision 2; 62L.08, subdivisions 2, 5, 6, and 7; 62L.12; 62L.21, subdivision 2; 62M.02, subdivisions 5 and 21; 62M.03, subdivisions 1, 2, and 3; 62M.05, subdivision 3; 62M.06, subdivision 3; 62M.09, subdivision 5; 144.335, by adding a subdivision; 144.581, subdivision 2; 256.9355, by adding a subdivision; 256.9358, subdivision 4; 295.50, by adding subdivisions; and 318.02, by adding a subdivision; Minnesota Statutes 1993 Supplement, sections 43A.317, by adding a subdivision; 60K.14, subdivision 7; 61B.20, subdivision 13; 62A.011, subdivision 3; 62A.65, subdivisions 2, 3, 4, 5, and by adding subdivisions; 62D.12, subdivision 17; 62J.03, subdivision 6; 62J.04, subdivisions 1 and 1a; 62J.09, subdivisions 1a and 2; 62J.33, by adding subdivisions; 62J.35, subdivisions 2 and 3; 62J.38; 62J.41, subdivision 2; 62J.45, by adding subdivisions; 62L.02, subdivisions 8, 11, 15, 16, 19, and 26; 62L.03, subdivisions 3, 4, and 5; 62L.04, subdivision 1; 62L.08, subdivisions 4 and 8; 62N.01; 62N.02, subdivisions 1, 8, and by adding a subdivision; 62N.06, subdivision 1; 62N.065, subdivision 1; 62N.10, subdivisions 1 and 2; 62N.22; 62N.23; 62P.01; 62P.03; 62P.04; 62P.05; 144.1486; 151.21, subdivisions 7 and 8; 256.9352, subdivision 3; 256.9353, subdivisions 3 and 7; 256.9354, subdivisions 1, 4, 5, and 6; 256.9356, subdivision 3; 256.9362, subdivision 6; 256.9363, subdivisions 6, 7, and 9; 256.9657, subdivision 3; 295.50, subdivisions 3, 4, and 12b; 295.52, subdivision 5; 295.53, subdivisions 1, 2, and 5; 295.54; 295.58; and 295.582; Laws 1992, chapter 549, article 9, section 22; proposing coding for new law in Minnesota Statutes, chapters 62A; 62J; 62N; 62P; 144; and 317A; proposing coding for new law as Minnesota Statutes, chapter 62Q; repealing Minnesota Statutes 1992, sections 62A.02, subdivision 5; 62E.51; 62E.52; 62E.53; 62E.531; 62E.54; 62E.55; and 256.362, subdivision 5; Minnesota Statutes 1993 Supplement, sections 62J.04, subdivision 8; 62N.07; 62N.075; 62N.08; 62N.085; and 62N.16.

Senate File No. 2192 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned April 26, 1994

Ms. Berglin moved that the Senate do not concur in the amendments by the House to S.F. No. 2192, and that a Conference Committee of 5 members be appointed by the Subcommittee on Committees on the part of the Senate, to act with a like Conference Committee to be appointed on the part of the House. The motion prevailed.

Mr. President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 1999:

H.F. No. 1999: A bill for an act relating to insurance; requiring disclosure of information relating to insurance fraud; granting immunity for reporting suspected insurance fraud; requiring insurers to develop antifraud plans; prescribing penalties; proposing coding for new law in Minnesota Statutes, chapter 60A.

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

Pugh, Asch and Swenson have been appointed as such committee on the part of the House.

House File No. 1999 is herewith transmitted to the Senate with the request that the Senate appoint a like committee.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted April 26, 1994

Mr. Riveness moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 1999, and that a Conference Committee of 3 members be appointed by the Subcommittee on Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 2411, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 2411 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted April 22, 1994

## CONFERENCE COMMITTEE REPORT ON H.F. NO. 2411

A bill for an act relating to retirement; providing for coverage of employees of lessee of Itasca Medical Center facilities by the public employees retirement association.

April 20, 1994

The Honorable Irv Anderson
Speaker of the House of Representatives

The Honorable Allan H. Spear
President of the Senate

We, the undersigned conferees for H.F. No. 2411, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendment

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

House Conferees: (Signed) Loren A. Solberg, Anthony G. "Tony" Kinkel, Robert Ness

Senate Conferees: (Signed) Bob Lessard, Harold R. "Skip" Finn, Pat Pariseau

Mr. Lessard moved that the foregoing recommendations and Conference Committee Report on H.F. No. 2411 be now adopted, and that the bill be repassed as amended by the Conference Committee.

Mr. Riveness moved that the recommendations and Conference Committee Report on H.F. No. 2411 be rejected, the Conference Committee discharged, and that a new Conference Committee be appointed by the Subcommittee on Committees to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

## MOTIONS AND RESOLUTIONS – CONTINUED

Pursuant to Rule 10, Mr. Moe, R.D., Chair of the Committee on Rules and Administration, designated H.F. No. 1899 a Special Order to be heard immediately.

## SPECIAL ORDER

H.F. No. 1899: A bill for an act relating to state government; revising procedures used for adoption and review of administrative rules; correcting erroneous, ambiguous, obsolete, and omitted text and obsolete references; eliminating redundant, conflicting, and superseded provisions in Minnesota Rules; making various technical changes; amending Minnesota Statutes 1992, sections 10A.02, by adding a subdivision; 14.05, subdivision 1; 14.12; 14.38, subdivisions 1, 7, 8, and 9; 14.46, subdivisions 1 and 3; 14.47, subdivisions 1, 2, and 6; 14.50; 14.51; 17.84; 84.027, by adding a subdivision; and 128C.02, by adding a subdivision; Minnesota Statutes 1993 Supplement, sections 3.841; and 3.984, subdivision 2; proposing coding for new law in Minnesota Statutes, chapters 3; and 14; correcting Minnesota Rules, parts 1200.0300; 1400.0500; 3530.0200; 3530.1500; 3530.2614; 3530.2642; 4685.0100; 4685.3000; 4685.3200; 4692.0020; 5000.0400; 7045.0075; 7411.7100; 7411.7400; 7411.7700; 7883.0100; 8130.3500; 8130.6500; 8800.1200; 8800.1400; 8800.3100; 8820.0600; 8820.2300; 9050.1070; and 9505.2175; repealing Minnesota Statutes 1992, sections 3.842; 3.843; 3.844; 3.845; 3.846; 14.03, subdivision 3; 14.05, subdivisions 2 and 3; 14.06; 14.08; 14.09; 14.11; 14.115; 14.131; 14.1311; 14.14; 14.15; 14.16; 14.18, subdivision 1; 14.19; 14.20; 14.22; 14.225; 14.23; 14.235; 14.24; 14.25; 14.26; 14.27; 14.28; 14.29; 14.30; 14.305; 14.31; 14.32; 14.33; 14.34; 14.35; 14.36; 14.365; 14.38, subdivisions 4, 5, and 6; and 17.83; Minnesota Statutes 1993 Supplement, sections 3.984; and 14.10; Minnesota Rules, parts 1300.0100; 1300.0200; 1300.0300; 1300.0400; 1300.0500; 1300.0600; 1300.0700; 1300.0800; 1300.0900; 1300.0940; 1300.0942; 1300.0944; 1300.0946; 1300.0948; 1300.1000; 1300.1100; 1300.1200; 1300.1300; 1300.1400; 1300.1500; 1300.1600; 1300.1700; 1300.1800; 1300.1900; 1300.2000; 4685.2600; 4692.0020, subpart 2; 4692.0045; 7856.1000, subpart 5; 8017.5000; 8130.9500, subpart 6; 8130.9912; 8130.9913; 8130.9916; 8130.9920; 8130.9930; 8130.9956; 8130.9958; 8130.9968; 8130.9972; 8130.9980; 8130.9992; and 8130.9996.

Mr. Hottinger moved to amend H.F. No. 1899, as amended pursuant to Rule 49, adopted by the Senate April 26, 1994, as follows:

(The text of the amended House File is identical to S.F. No. 1969.)

Page 15, line 28, delete "*all*"

Page 15, line 29, delete everything before "any"

Page 16, line 25, before the period, insert ". *An agency may adopt a substantially different rule after satisfying the rule requirements for the adoption of a substantially different rule*"

Page 35, line 7, after "*14,*" insert "*as amended,*"

Amend the title as follows:

Page 1, line 4, after "of" insert "agency" and delete "by state agencies"

The motion prevailed. So the amendment was adopted.

Mr. Hottinger then moved to amend H.F. No. 1899, as amended pursuant to Rule 49, adopted by the Senate April 26, 1994, as follows:

(The text of the amended House File is identical to S.F. No. 1969.)

Page 16, line 36, before the period, insert "*or a statement that the person opposes the entire rule*"

Page 25, line 13, delete everything after "*(3)*" and insert " *incorporate specific changes set forth in applicable statutes when no interpretation of the law is required*"

Page 25, line 14, delete everything before the semicolon

The motion prevailed. So the amendment was adopted.

Ms. Runbeck moved to amend H.F. No. 1899, as amended pursuant to Rule 49, adopted by the Senate April 26, 1994, as follows:

(The text of the amended House File is identical to S.F. No. 1969.)

Page 10, line 31, delete "*and*"

Page 10, line 35, before the period, insert "*;*

*(5) the probable costs of complying with the proposed rule; and*

*(6) an assessment of any differences between the proposed rule and existing federal regulations and a specific analysis of the need for and reasonableness of each difference*"

The motion prevailed. So the amendment was adopted.

Mr. Benson, D.D. moved to amend H.F. No. 1899, as amended pursuant to Rule 49, adopted by the Senate April 26, 1994, as follows:

(The text of the amended House File is identical to S.F. No. 1969.)

Page 1, after line 22, insert:

"ARTICLE 1

RULEMAKING CHANGES"

Page 36, after line 3, insert:

"ARTICLE 2

OBSOLETE RULE REPEALERS

Section 1. [REPEALER; DEPARTMENT OF AGRICULTURE.]

*Minnesota Rules, parts 1540.0010, subparts 12, 18, 21, 22, and 24; 1540.0060; 1540.0070; 1540.0080; 1540.0100; 1540.0110; 1540.0120; 1540.0130; 1540.0140; 1540.0150; 1540.0160; 1540.0170; 1540.0180; 1540.0190; 1540.0200; 1540.0210; 1540.0220; 1540.0230; 1540.0240; 1540.0260; 1540.0320; 1540.0330; 1540.0340; 1540.0350; 1540.0370; 1540.0380; 1540.0390; 1540.0400; 1540.0410; 1540.0420; 1540.0440; 1540.0450; 1540.0460; 1540.0490; 1540.0500; 1540.0510; 1540.0520; 1540.0770; 1540.0780; 1540.0800; 1540.0810; 1540.0830; 1540.0880; 1540.0890; 1540.0900; 1540.0910; 1540.0920; 1540.0930; 1540.0940; 1540.0950; 1540.0960; 1540.0970; 1540.0980; 1540.0990; 1540.1000; 1540.1005; 1540.1010; 1540.1020; 1540.1030; 1540.1040; 1540.1050; 1540.1060; 1540.1070; 1540.1080; 1540.1090; 1540.1100; 1540.1110; 1540.1120; 1540.1130; 1540.1140; 1540.1150; 1540.1160; 1540.1170; 1540.1180; 1540.1190; 1540.1200; 1540.1210; 1540.1220; 1540.1230; 1540.1240; 1540.1250; 1540.1255; 1540.1260; 1540.1280; 1540.1290; 1540.1300; 1540.1310; 1540.1320; 1540.1330; 1540.1340; 1540.1350; 1540.1360; 1540.1380; 1540.1400; 1540.1410; 1540.1420; 1540.1430; 1540.1440; 1540.1450; 1540.1460; 1540.1470; 1540.1490; 1540.1500; 1540.1510; 1540.1520; 1540.1530; 1540.1540; 1540.1550; 1540.1560; 1549.1570; 1540.1580; 1540.1590; 1540.1600; 1540.1610; 1540.1620; 1540.1630; 1540.1640; 1540.1650; 1540.1660; 1540.1670; 1540.1680; 1540.1690; 1540.1700; 1540.1710; 1540.1720; 1540.1730; 1540.1740; 1540.1750; 1540.1760; 1540.1770; 1540.1780; 1540.1790; 1540.1800; 1540.1810; 1540.1820; 1540.1830; 1540.1840; 1540.1850; 1540.1860; 1540.1870; 1540.1880; 1540.1890; 1540.1900; 1540.1905; 1540.1910; 1540.1920; 1540.1930; 1540.1940; 1540.1950; 1540.1960; 1540.1970; 1540.1980; 1540.1990; 1540.2000; 1540.2010; 1540.2015; 1540.2020; 1540.2090; 1540.2100; 1540.2110; 1540.2120; 1540.2180; 1540.2190; 1540.2200; 1540.2210; 1540.2220; 1540.2230; 1540.2240; 1540.2250; 1540.2260; 1540.2270; 1540.2280; 1540.2290; 1540.2300; 1540.2310; 1540.2320; 1540.2325; 1540.2330; 1540.2340; 1540.2350; 1540.2360; 1540.2370; 1540.2380; 1540.2390; 1540.2400; 1540.2410; 1540.2420; 1540.2430; 1540.2440; 1540.2450; 1540.2490; 1540.2500; 1540.2510; 1540.2530; 1540.2540; 1540.2550; 1540.2560; 1540.2570; 1540.2580; 1540.2590; 1540.2610; 1540.2630; 1540.2640; 1540.2650; 1540.2660; 1540.2720; 1540.2730; 1540.2740; 1540.2760; 1540.2770; 1540.2780; 1540.2790; 1540.2800; 1540.2810; 1540.2820; 1540.2830; 1540.2840; 1540.3420; 1540.3430; 1540.3440; 1540.3450; 1540.3460; 1540.3470; 1540.3560; 1540.3600; 1540.3610; 1540.3620; 1540.3630; 1540.3700; 1540.3780; 1540.3960; 1540.3970; 1540.3980; 1540.3990; 1540.4000; 1540.4010; 1540.4020; 1540.4030; 1540.4040; 1540.4080; 1540.4190; 1540.4200; 1540.4210; 1540.4220; 1540.4320; 1540.4330; and 1540.4340, are repealed.*

Sec. 2. [REPEALER; DEPARTMENT OF COMMERCE.]

*Minnesota Rules, parts 2642.0120, subpart 1; 2650.0100; 2650.0200; 2650.0300; 2650.0400; 2650.0500; 2650.0600; 2650.1100; 2650.1200; 2650.1300; 2650.1400; 2650.1500; 2650.1600; 2650.1700; 2650.1800; 2650.1900; 2650.2000; 2650.2100; 2650.3100; 2650.3200; 2650.3300;*

*2650.3400; 2650.3500; 2650.3600; 2650.3700; 2650.3800; 2650.3900; 2650.4000; 2650.4100; 2655.1000; 2660.0070; and 2770.7400, are repealed.*

Sec. 3. [REPEALER; DEPARTMENT OF HEALTH.]

*Minnesota Rules, part 4610.2210, is repealed.*

Sec. 4. [REPEALER; DEPARTMENT OF HUMAN SERVICES.]

*Minnesota Rules, parts 9540.0100; 9540.0200; 9540.0300; 9540.0400; 9540.0500; 9540.1000; 9540.1100; 9540.1200; 9540.1300; 9540.1400; 9540.1500; 9540.2000; 9540.2100; 9540.2200; 9540.2300; 9540.2400; 9540.2500; 9540.2600; and 9540.2700, are repealed.*

Sec. 5. [REPEALER; POLLUTION CONTROL AGENCY.]

*Minnesota Rules, parts 7002.0410; 7002.0420; 7002.0430; 7002.0440; 7002.0450; 7002.0460; 7002.0470; 7002.0480; 7002.0490; 7011.0300; 7011.0305; 7011.0310; 7011.0315; 7011.0320; 7011.0325; 7011.0330; 7011.0400; 7011.0405; 7011.0410; 7011.2220, subpart 4; 7047.0010; 7047.0020; 7047.0030; 7047.0040; 7047.0050; 7047.0060; 7047.0070; 7100.0300; 7100.0310; 7100.0320; 7100.0330; 7100.0335; 7100.0340; 7100.0350; and 7100.0360, are repealed.*

Sec. 6. Minnesota Rules, part 7009.0080, is amended to read:

7009.0080 STATE AMBIENT AIR QUALITY STANDARDS.

The following table contains the state ambient air quality standards.

| Pollutant/ Air Contaminant | Primary Standard | Secondary Standard | Remarks |
|---|---|---|---|
| Hydrogen Sulfide | 0.05 ppm by volume (70.0 micrograms per cubic meter) | | 1/2 hour average not to be exceeded over 2 times per year |
| | 0.03 ppm by volume (42.0 micrograms per cubic meter) | | 1/2 hour average not to be exceeded over 2 times in any 5 consecutive days |
| Ozone | 0.12 ppm by volume (235 micrograms per cubic meter) | 0.12 ppm by volume (235 micrograms per cubic meter) | the standard is attained when the expected number of days per calendar year with maximum hourly average concentrations above the standard is equal to or less than one, as determined by Code of Federal Regulations, title 40, part 50, appendix H, |

| | | | |
|---|---|---|---|
| | | | Interpretation of the National Ambient Air Quality Standards for Ozone (1981) |
| Carbon Monoxide | 9 ppm by volume (10 milligrams per cubic meter) | 9 ppm by volume (10 milligrams per cubic meter) | maximum 8 hour concentration not to be exceeded more than once per year |
| | 30 ppm by volume (35 milligrams per cubic meter) | 30 ppm by volume (35 milligrams per cubic meter) | maximum 1 hour concentration not to to be exceeded more than once per year |
| ~~Hydro carbons~~ | ~~0.24 ppm by volume (160 micrograms per cubic meter)~~ | ~~0.24 ppm by volume (160 micrograms per cubic meter)~~ | ~~maximum 3 hour concentration (6:00 to 9:00 a.m.) not to be exceeded more than once per year, corrected for methane~~ |
| Sulfur Dioxides | 80 micrograms per cubic meter (0.03 ppm by volume) | 60 micrograms per cubic meter (0.02 ppm by volume) | maximum annual arithmetic mean |
| | 365 micrograms per cubic meter (0.14 ppm by volume) | 365 micrograms per cubic meter (0.14 ppm by volume) | maximum 24 hour concentration not to be exceeded more than once per year |
| | | 915 micrograms per cubic meter (0.35 ppm by volume) | maximum 3 hour concentration not to be exceeded more than once per year in Air Quality Control Regions 127, 129, 130, and 132 as set forth in Code of Federal Regulations, title 40, part 81, Designations of Air Quality Control Regions (1981) |
| | | 1300 micrograms | maximum 3 hour concentration not to |

| | | | |
|---|---|---|---|
| | | per cubic meter (0.5 ppm by volume) | be exceeded more than once per year in Air Quality Control Regions 128, 131, and 133 as set forth in Code of Federal Regulations, title 40, part 81, Designation of Air Quality Control Regions (1981) |
| | 1300 micrograms per cubic meter (0.5 ppm by volume) | | maximum 3 hour concentration not to be exceeded more than once per year |
| | 1300 micrograms per cubic meter (0.5 ppm by volume) | | maximum 1 hour concentration not to be exceeded more than once per year |
| ~~Particulate Matter~~ | ~~75 micrograms per cubic meter~~ | ~~60 micrograms per cubic meter~~ | ~~maximum annual geometric mean~~ |
| | ~~260 micrograms per cubic meter~~ | ~~150 micrograms per cubic meter~~ | ~~maximum 24 hour concentration not to be exceeded more than once per year~~ |
| Nitrogen Dioxides | 0.05 ppm by volume (100 micrograms per cubic meter) | 0.05 ppm by volume (100 micrograms per cubic meter) | maximum annual arithmetic mean |

Sec. 7. [REPEALER; DEPARTMENT OF PUBLIC SAFETY.]

*Minnesota Rules, parts 7510.6100; 7510.6200; 7510.6300; 7510.6350; 7510.6400; 7510.6500; 7510.6600; 7510.6700; 7510.6800; 7510.6900; and 7510.6910, are repealed.*

Sec. 8. [REPEALER; DEPARTMENT OF PUBLIC SERVICE.]

*Minnesota Rules, parts 7600.0100; 7600.0200; 7600.0300; 7600.0400; 7600.0500; 7600.0600; 7600.0700; 7600.0800; 7600.0900; 7600.1000; 7600.1100; 7600.1200; 7600.1300; 7600.1400; 7600.1500; 7600.1600; 7600.1700; 7600.1800; 7600.1900; 7600.2000; 7600.2100; 7600.2200; 7600.2300; 7600.2400; 7600.2500; 7600.2600; 7600.2700; 7600.2800; 7600.2900; 7600.3000; 7600.3100; 7600.3200; 7600.3300; 7600.3400; 7600.3500; 7600.3600; 7600.3700; 7600.3800; 7600.3900; 7600.4000;*

*7600.4100; 7600.4200; 7600.4300; 7600.4400; 7600.4500; 7600.4600; 7600.4700; 7600.4800; 7600.4900; 7600.5000; 7600.5100; 7600.5200; 7600.5300; 7600.5400; 7600.5500; 7600.5600; 7600.5700; 7600.5800; 7600.5900; 7600.6000; 7600.6100; 7600.6200; 7600.6300; 7600.6400; 7600.6500; 7600.6600; 7600.6700; 7600.6800; 7600.6900; 7600.7000; 7600.7100; 7600.7200; 7600.7210; 7600.7300; 7600.7400; 7600.7500; 7600.7600; 7600.7700; 7600.7750; 7600.7800; 7600.7900; 7600.8100; 7600.8200; 7600.8300; 7600.8400; 7600.8500; 7600.8600; 7600.8700; 7600.8800; 7600.8900; 7600.9000; 7600.9100; 7600.9200; 7600.9300; 7600.9400; 7600.9500; 7600.9600; 7600.9700; 7600.9800; 7600.9900; 7605.0100; 7605.0110; 7605.0120; 7605.0130; 7605.0140; 7605.0150; 7605.0160; 7625.0100; 7625.0110; 7625.0120; 7625.0200; 7625.0210; 7625.0220; and 7625.0230, are repealed.*

Sec. 9. [REPEALER; DEPARTMENT OF REVENUE.]

*Minnesota Rules, parts 8120.1100, subpart 3; 8121.0500, subpart 2; 8130.9500, subpart 6; 8130.9912; 8130.9913; 8130.9916; 8130.9920; 8130.9930; 8130.9956; 8130.9958; 8130.9968; 8130.9972; 8130.9980; 8130.9992; and 8130.9996, are repealed.*

## ARTICLE 3

## CONFORMING AMENDMENTS

Section 1. Minnesota Rules, part 1540.2140, is amended to read:

1540.2140 DISPOSITION OF CONDEMNED MEAT OR PRODUCT AT OFFICIAL ESTABLISHMENTS HAVING NO TANKING FACILITIES.

Any carcass or product condemned at an official establishment which has no facilities for tanking shall be denatured with crude carbolic acid, cresylic disinfectant, or other prescribed agent, or be destroyed by incineration under the supervision of a department employee. When such carcass or product is not incinerated it shall be slashed freely with a knife, before the denaturing agent is applied.

Carcasses and products condemned on account of anthrax, ~~and the materials identified in parts 1540.1300 to 1540.1360,~~ which are derived therefrom at establishments which are not equipped with tanking facilities shall be disposed of by complete incineration, or by thorough denaturing with a prescribed denaturant, and then disposed of in accordance with the requirements of the Board of Animal Health, who shall be notified immediately by the inspector in charge.

Sec. 2. Minnesota Rules, part 4400.4500, subpart 3, is amended to read:

Subp. 3. Air quality. Criterion: study areas for LEPGPs shall be compatible with existing federal and state air quality rules.

Standard: study areas shall not include those areas in which operation of an LEPGP would likely result in violation of primary or secondary standards or exceedence of prevention of significant deterioration increments for sulfur dioxide or particulate matter as established under United States Code 1980, title 42, sections 7401 to 7642, Minnesota Statutes, section 116.07, and parts 7009.0010 to ~~7009.0080~~ *7009.0070*.

Sec. 3. Minnesota Rules, part 7001.0140, subpart 2, is amended to read:

Subp. 2. Agency findings. The following findings by the agency constitute justification for the agency to refuse to issue a new or modified permit, to refuse permit reissuance, or to revoke a permit without reissuance:

A. that with respect to the facility or activity to be permitted, the proposed permittee or permittees will not comply with all applicable state and federal pollution control statutes and rules administered by the agency, or conditions of the permit;

B. that there exists at the facility to be permitted unresolved noncompliance with applicable state and federal pollution control statutes and rules administered by the agency, or conditions of the permit and that the permittee will not undertake a schedule of compliance to resolve the noncompliance;

C. that the permittee has failed to disclose fully all facts relevant to the facility or activity to be permitted, or that the permittee has submitted false or misleading information to the agency or to the commissioner;

D. that the permitted facility or activity endangers human health or the environment and that the danger cannot be removed by a modification of the conditions of the permit;

E. that all applicable requirements of Minnesota Statutes, chapter 116D and the rules adopted under Minnesota Statutes, chapter 116D have not been fulfilled;

F. that with respect to the facility or activity to be permitted, the proposed permittee has not complied with any requirement under parts 7002.0210 to 7002.0310, ~~7002.0410 to 7002.0490,~~ or chapter 7046 to pay fees; or

G. that with respect to the facility or activity to be permitted, the proposed permittee has failed to pay a penalty owed under Minnesota Statutes, section 116.072.

Sec. 4. Minnesota Rules, part 7001.0180, is amended to read:

7001.0180 JUSTIFICATION TO COMMENCE REVOCATION WITHOUT REISSUANCE OF PERMIT.

The following constitute justification for the commissioner to commence proceedings to revoke a permit without reissuance:

A. existence at the permitted facility of unresolved noncompliance with applicable state and federal pollution statutes and rules or a condition of the permit, and refusal of the permittee to undertake a schedule of compliance to resolve the noncompliance;

B. the permittee fails to disclose fully the facts relevant to issuance of the permit or submits false or misleading information to the agency or to the commissioner;

C. the commissioner finds that the permitted facility or activity endangers human health or the environment and that the danger cannot be removed by a modification of the conditions of the permit;

D. the permittee has failed to comply with any requirement under parts 7002.0210 to 7002.0310, ~~7002.0410 to 7002.0490,~~ or chapter 7046 to pay fees; or

E. the permittee has failed to pay a penalty owed under Minnesota Statutes, section 116.072.

Sec. 5. Minnesota Rules, part 7005.0100, subpart 8a, is amended to read:

Subp. 8a. Criteria pollutant. "Criteria pollutant" means any of the following: sulfur dioxide, particulate matter, nitrogen oxides, carbon monoxide, ozone, lead, and any other pollutants for which national ambient air quality standards have been established in Code of Federal Regulations, title 40, part 50, as amended, or for which state ambient air quality standards have been established in parts 7009.0010 to ~~7009.0080~~ *7009.0070*.

Sec. 6. Minnesota Rules, part 7007.0100, subpart 7, is amended to read:

Subp. 7. Applicable requirement. "Applicable requirement" means all the following as they apply to emissions units in a stationary source (including requirements that have been promulgated or approved by the EPA or the agency through rulemaking at the time of issuance but have future effective compliance dates):

A. any standard, or other requirement provided for in Minnesota's implementation plan approved or promulgated by the EPA under title I of the act (Program and Activities), including any revisions to that plan promulgated in Code of Federal Regulations, title 40, part 52, as amended (Approval and Promulgation of Implementation Plans)~~, except rules related to odor in parts 7011.0300 to 7011.0330~~;

B. any preconstruction review requirement of regulations promulgated under title I of the act, including part C (Prevention of Significant Deterioration of Air Quality) or part D (Plan Requirements for Nonattainment Areas), and the emission facility offset rule in parts 7007.4000 to 7007.4030, and any term or condition of any preconstruction permit issued pursuant to those regulations or parts 7007.4000 to 7007.4030;

C. any standard or other requirement under section 111 (Standard of Performance for New Stationary Sources of the Act, including section 111(d)) (Standards of Performance for Existing Sources; Remaining Useful Life of a Source);

D. any standard or other requirement for hazardous air pollutants, or other requirement under section 112 of the act (Hazardous Air Pollutants), including any requirement concerning accident prevention under section 112(r)(7) of the act;

E. any standard or other requirement of the acid rain program under title IV of the act, or the regulations promulgated under it;

F. any requirements established pursuant to section 504(b) (Permit Requirements and Conditions; Monitoring and Analysis) or section 114(a)(3) (Record keeping, Inspections, Monitoring, and Entry; Authority of Administrator or Authorized Representative) of the act;

G. any standard or other requirement governing solid waste incineration, under section 129 (Solid Waste Combustion) of the act;

H. any standard or other requirement for consumer and commercial products, under section 183(e) (Federal Ozone Measures; Control of Emissions from Certain Sources) of the act;

I. any standard or other requirement for tank vessels under section 183(f) (Federal Ozone Measures; Tank Vessel Standards) of the act;

J. any standard or other requirement of the regulations promulgated to protect stratospheric ozone under title VI of the act (Stratospheric Ozone Protection), unless the administrator has determined that such requirements need not be contained in a part 70 permit;

K. any national ambient air quality standard adopted under section 109 of the act (National Primary and Secondary Air Quality Standards) or increment or visibility requirement under part C of title I of the act (Prevention of Significant Deterioration of Air Quality), but only as it would apply to temporary sources permitted pursuant to section 504(e) of the act (Permit Requirements and Conditions; Temporary Sources);

L. any national ambient air quality standard adopted under section 109 of the act or increment or visibility requirement under part C of title I of the act not addressed in item K;

M. any state ambient air quality standard under chapter 7009;

N. any requirement to pay an emissions fee under part 7002.0025;

O. any standard or other requirement of the air pollution episodes rule in parts 7009.1000 to 7009.1110;

P. any standard or other requirement pursuant to the Standards of Performance for Stationary Sources under chapter 7011, ~~except rules related to odor in parts 7011.0300 to 7011.0330~~;

Q. any standard or other requirement regulating a specific hazardous pollutant under chapter 7011;

R. any reporting, monitoring, and testing requirement for stationary sources under chapter 7017;

S. any requirement under the emissions inventory provisions of chapter 7019;

T. any standard or other requirement of the acid deposition control rule under chapter 7021; and

U. any standard or other requirement related to noise pollution under chapter 7030.

Sec. 7. Minnesota Rules, part 7009.0010, subpart 1, is amended to read:

Subpart 1. Scope. For the purpose of parts 7009.0010 to ~~7009.0080~~ *7009.0070*, the following terms have the meanings given them.

Sec. 8. Minnesota Rules, part 7009.0030, is amended to read:

7009.0030 ENFORCEMENT.

The requirement in part 7009.0020 applies without respect to whether emission rules stated in other air pollution control rules of the agency are also being violated. However, in enforcing the ambient air quality standards specified in parts 7009.0010 to ~~7009.0080~~ *7009.0070*, the agency shall not seek payment of a civil or criminal penalty from a person to or with whom a

permit or stipulation agreement has been issued or entered into by the agency if and only if:

A. that permit or stipulation agreement establishes emission limitations or standards of performance for the pollutant or precursor thereof for which there is an ambient air quality standard which has been violated; and

B. the person to or with whom the permit or stipulation agreement has been issued or entered into by the agency was in compliance with the corresponding emission limitations and standards of performance at the time of the violation of the ambient air quality standard.

Sec. 9. Minnesota Rules, part 7023.9050, is amended to read:

7023.9050 MINOR MODIFICATION OF PERMIT.

In addition to the corrections or allowances listed in part 7001.0190, subpart 3, the commissioner upon obtaining the consent of the permittee may modify an indirect source permit without following the procedures in parts 7001.0100 to 7001.0130 if the commissioner determines that the modification would not result in an increase in carbon monoxide of greater than one part per million with respect to the eight-hour carbon monoxide standard, that the modification would not result in an increase in carbon monoxide of greater than three parts per million with respect to the one-hour carbon monoxide standard, and that the modification would not result in a violation of the carbon monoxide standard established in parts 7009.0010 to ~~7009.0080~~ *7009.0070*.

Sec. 10. Minnesota Rules, part 7035.2835, subpart 3, is amended to read:

Subp. 3. Operation requirements for a yard waste compost facility.

A. Odors emitted from the facility must ~~not exceed the limits specified in~~ *comply with* parts ~~7011.0100 to 7011.0115, 7011.0300 to 7011.0410, 7011.1500 to 7011.1515, 7011.1600 to 7011.1625,~~ 7011.2200 to 7011.2220~~, 7011.2300, and 7023.0100 to 7023.0120~~.

B. Composted yard waste offered for use must be produced by a process that encompasses turning of the yard waste on a periodic basis to aerate the yard waste, maintain temperatures, and reduce pathogens. The composted yard waste must contain no sharp objects greater than one inch in diameter.

C. By-products, including residuals and recyclables, must be stored in a manner that prevents vector problems and aesthetic degradation. Materials that are not composted must be stored and removed at least weekly.

D. Surface water drainage must be controlled to prevent leachate runoff. Surface water drainage must be diverted from the compost and storage areas.

E. The annual report required under part 7035.2585 must be submitted to the commissioner and must include the type and quantity, by weight or volume, of yard waste received at the compost facility; the quantity, by weight or volume, of compost produced; the quantity, by weight or volume, of compost removed from the facility; and a description of the end-product distribution and disposal system.

Sec. 11. Minnesota Rules, part 7035.2835, subpart 6, is amended to read:

Subp. 6. Operation requirements for a solid waste compost facility.

A. The owner or operator of a solid waste compost facility must maintain a record of the characteristics of the waste, sewage sludge, and other materials, such as nutrient or bulking agents, being composted including the source and volume or weight of the material. The record must be submitted as part of the annual report required under part 7035.2585.

B. Odors emitted by the facility must ~~not exceed the limits specified in~~ *comply with* parts ~~7011.0300 to 7011.0330 and~~ 7011.2200 to 7011.2220.

C. All wastes delivered to the facility must be confined to a designated delivery area and stored and removed at a frequency that prevents nuisances.

D. Access to the facility must be controlled by a perimeter fence and gate or enclosed building structures. All access points must be secured when the facility is not open for business or when no authorized personnel are on site.

E. By-products, including residuals and recyclables, must be stored to prevent vector intrusion and aesthetic degradation. Materials that are not composted must be removed at least once per week.

F. Run-off water that has come in contact with composted waste, materials stored for composting, or residual waste must be diverted to the leachate collection and treatment system. If the run-off water is held in a holding pond, it must be monitored on a quarterly basis for the parameters listed in item H and for fecal coliforms.

G. The temperature and retention time for the material being composted must be monitored and recorded each working day.

H. Periodic analyses of the compost must be completed for the following parameters: percentage of total solids; volatile solids as a percentage of total solids; pH; Kjeldahl, ammonia, and nitrate nitrogen; total phosphorus; cadmium; chromium; copper; lead; nickel; zinc; mercury; and polychlorinated biphenyls (PCB). All analyses must be reported on a dry weight basis. The sampling and analysis program must be established in the facility permit based on the facility design, intended end use distribution for the compost, waste composted, and facility operation.

I. Quarterly reports must be submitted to the commissioner within 30 days after the end of each calendar quarter and must include: the results of the analyses required in item H; the quantity of solid waste delivered to the facility; sources and quantities of other materials used in the compost process; a description of the process to reduce pathogens; temperature readings; retention time; the quantity of compost produced; quantity and type of by-products removed; and a description of the end-product distribution and disposal system.

J. If, for any reason, the facility becomes inoperable, the owner or operator of the facility must notify the commissioner within 48 hours and implement the contingency action plan developed under part 7035.2615.

K. Compost must be produced by a process to further reduce pathogens. Three acceptable methods are described in subitems (1) to (3).

(1) The windrow method for reducing pathogens consists of an unconfined composting process involving periodic aeration and mixing. Aerobic conditions must be maintained during the compost process. A temperature of 55 degrees celsius must be maintained in the windrow for at least three weeks. The windrow must be turned at least twice every six to ten days.

(2) The static aerated pile method for reducing pathogens consists of an unconfined composting process involving mechanical aeration of insulated compost piles. Aerobic conditions must be maintained during the compost process. The temperature of the compost pile must be maintained at 55 degrees Celsius for at least seven days.

(3) The enclosed vessel method for reducing pathogens consists of a confined compost process involving mechanical mixing of compost under controlled environmental conditions. The retention time in the vessel must be at least 24 hours with the temperature maintained at 55 degrees Celsius. A stabilization period of at least seven days must follow the decomposition period. Temperature in the compost pile must be maintained at least at 55 degrees Celsius for three days during the stabilization period.

Sec. 12. Minnesota Rules, part 7035.2875, subpart 3, is amended to read:

Subp. 3. Operation and maintenance manual. The owner or operator of a refuse-derived fuel processing facility must prepare an operation and maintenance manual and keep the manual at the facility. The manual must contain the information needed to operate the facility properly and meet the following requirements:

A. Odors emitted by the facility must ~~not exceed the limits as specified in~~ *comply with* parts ~~7011.0300 to 7011.0330 and~~ 7011.2200 to 7011.2220.

B. Access to the site must be controlled by a complete perimeter fence and gate. The gate must be locked when the facility is not open for business.

C. By-products, including residuals and metal fractions, must be stored to prevent vector problems and aesthetic degradation. The by-products must be removed or used at least once a week.

Sec. 13. Minnesota Rules, part 7040.2800, subpart 1, is amended to read:

Subpart 1. Performance standard. A sewage sludge landspreading facility shall be designed, constructed, operated, and maintained so that it will not adversely impact the health and safety of the public living near or passing by the facility. ~~The facility shall comply with applicable provisions of parts 7011.0300 to 7011.0330 of the Minnesota Pollution Control Agency at the facility boundary.~~

Sec. 14. Minnesota Rules, part 7045.0460, subpart 2, is amended to read:

Subp. 2. Other location standards. No facility may be established or constructed in a wetland or within a shoreland.

No facility may be established or constructed in a location where the topography, geology, hydrology, or soil is unsuitable for the protection of the ground water and the surface water. Factors to be used in determining unsuitability of a site include:

A. proximity to lakes, streams, or ponds;

B. proximity to and type of bedrock;

C. presence of natural aquicludes to protect ground water;

D. value of the ground water as a water supply; and

E. ground water flow patterns, particularly if the site is located in a zone of recharge to aquifers usable as sources of drinking water.

No facility may be established or constructed in a location where facility activity would result in emissions of air contaminants causing the violation of the ambient air quality standards established in parts 7009.0010 to ~~7009.0080~~ *7009.0070*.

Sec. 15. Minnesota Rules, part 8130.3500, subpart 3, is amended to read:

Subp. 3. Motor carrier direct pay certificate. A motor carrier direct pay certificate will be issued to qualified electing carriers by the commissioner of revenue and will be effective as of the date shown on the certificate. ~~A facsimile of the authorized motor carrier direct pay certificate is reproduced at part 8130.9958.~~

Sec. 16. Minnesota Rules, part 8130.6500, subpart 5, is amended to read:

Subp. 5. Sale of aircraft. When the dealer sells the aircraft, the selling price must be included in gross sales. The fact that the aircraft commercial use permit has not expired or that the dealer has reported and paid use tax on the aircraft has no effect on the taxability of the sale. The dealer must return the aircraft commercial use permit (unless previously returned) when the dealer files the sales and use tax return for the month in which the sale was made. No credit or refund is given for the $20 fee originally paid.

~~A facsimile of the authorized aircraft commercial use permit is reproduced at part 8130.9992.~~"

Amend the title as follows:

Page 1, line 4, after the semicolon, insert "repealing obsolete rules of the departments of agriculture, commerce, health, human services, public safety, public service, and revenue and the pollution control agency; removing internal references to repealed rules;"

Page 1, line 16, before "proposing" insert "Minnesota Rules, parts 1540.2140; 4400.4500, subpart 3; 7001.0140, subpart 2; 7001.0180; 7005.0100, subpart 8a; 7007.0100, subpart 7; 7009.0010, subpart 1; 7009.0030; 7009.0080; 7023.9050; 7035.2835, subparts 3 and 6; 7035.2875, subpart 3; 7040.2800, subpart 1; 7045.0460, subpart 2; 8130.3500, subpart 3; and 8130.6500, subpart 5;"

Page 1, line 21, before the period, insert "; Minnesota Rules, parts 1540.0010, subparts 12, 18, 21, 22, and 24; 1540.0060; 1540.0070; 1540.0080; 1540.0100; 1540.0110; 1540.0120; 1540.0130; 1540.0140; 1540.0150; 1540.0160; 1540.0170; 1540.0180; 1540.0190; 1540.0200; 1540.0210; 1540.0220; 1540.0230; 1540.0240; 1540.0260; 1540.0320; 1540.0330; 1540.0340; 1540.0350; 1540.0370; 1540.0380; 1540.0390; 1540.0400; 1540.0410; 1540.0420; 1540.0440; 1540.0450; 1540.0460; 1540.0490; 1540.0500; 1540.0510; 1540.0520; 1540.0770; 1540.0780; 1540.0800; 1540.0810; 1540.0830; 1540.0880; 1540.0890; 1540.0900; 1540.0910; 1540.0920; 1540.0930; 1540.0940; 1540.0950; 1540.0960; 1540.0970; 1540.0980; 1540.0990; 1540.1000; 1540.1005; 1540.1010; 1540.1020; 1540.1030; 1540.1040; 1540.1050; 1540.1060; 1540.1070; 1540.1080; 1540.1090; 1540.1100; 1540.1110; 1540.1120; 1540.1130; 1540.1140; 1540.1150; 1540.1160; 1540.1170; 1540.1180; 1540.1190; 1540.1200; 1540.1210; 1540.1220; 1540.1230; 1540.1240; 1540.1250; 1540.1255; 1540.1260; 1540.1280; 1540.1290; 1540.1300; 1540.1310; 1540.1320; 1540.1330; 1540.1340; 1540.1350; 1540.1360; 1540.1380; 1540.1400; 1540.1410; 1540.1420; 1540.1430; 1540.1440; 1540.1450;

1540.1460; 1540.1470; 1540.1490; 1540.1500; 1540.1510; 1540.1520; 1540.1530; 1540.1540; 1540.1550; 1540.1560; 1549.1570; 1540.1580; 1540.1590; 1540.1600; 1540.1610; 1540.1620; 1540.1630; 1540.1640; 1540.1650; 1540.1660; 1540.1670; 1540.1680; 1540.1690; 1540.1700; 1540.1710; 1540.1720; 1540.1730; 1540.1740; 1540.1750; 1540.1760; 1540.1770; 1540.1780; 1540.1790; 1540.1800; 1540.1810; 1540.1820; 1540.1830; 1540.1840; 1540.1850; 1540.1860; 1540.1870; 1540.1880; 1540.1890; 1540.1900; 1540.1905; 1540.1910; 1540.1920; 1540.1930; 1540.1940; 1540.1950; 1540.1960; 1540.1970; 1540.1980; 1540.1990; 1540.2000; 1540.2010; 1540.2015; 1540.2020; 1540.2090; 1540.2100; 1540.2110; 1540.2120; 1540.2180; 1540.2190; 1540.2200; 1540.2210; 1540.2220; 1540.2230; 1540.2240; 1540.2250; 1540.2260; 1540.2270; 1540.2280; 1540.2290; 1540.2300; 1540.2310; 1540.2320; 1540.2325; 1540.2330; 1540.2340; 1540.2350; 1540.2360; 1540.2370; 1540.2380; 1540.2390; 1540.2400; 1540.2410; 1540.2420; 1540.2430; 1540.2440; 1540.2450; 1540.2490; 1540.2500; 1540.2510; 1540.2530; 1540.2540; 1540.2550; 1540.2560; 1540.2570; 1540.2580; 1540.2590; 1540.2610; 1540.2630; 1540.2640; 1540.2650; 1540.2660; 1540.2720; 1540.2730; 1540.2740; 1540.2760; 1540.2770; 1540.2780; 1540.2790; 1540.2800; 1540.2810; 1540.2820; 1540.2830; 1540.2840; 1540.3420; 1540.3430; 1540.3440; 1540.3450; 1540.3460; 1540.3470; 1540.3560; 1540.3600; 1540.3610; 1540.3620; 1540.3630; 1540.3700; 1540.3780; 1540.3960; 1540.3970; 1540.3980; 1540.3990; 1540.4000; 1540.4010; 1540.4020; 1540.4030; 1540.4040; 1540.4080; 1540.4190; 1540.4200; 1540.4210; 1540.4220; 1540.4320; 1540.4330; 1540.4340; 2642.0120, subpart 1; 2650.0100; 2650.0200; 2650.0300; 2650.0400; 2650.0500; 2650.0600; 2650.1100; 2650.1200; 2650.1300; 2650.1400; 2650.1500; 2650.1600; 2650.1700; 2650.1800; 2650.1900; 2650.2000; 2650.2100; 2650.3100; 2650.3200; 2650.3300; 2650.3400; 2650.3500; 2650.3600; 2650.3700; 2650.3800; 2650.3900; 2650.4000; 2650.4100; 2655.1000; 2660.0070; 2770.7400; 4610.2210; 7002.0410; 7002.0420; 7002.0430; 7002.0440; 7002.0450; 7002.0460; 7002.0470; 7002.0480; 7002.0490; 7011.0300; 7011.0305; 7011.0310; 7011.0315; 7011.0320; 7011.0325; 7011.0330; 7011.0400; 7011.0405; 7011.0410; 7011.2220, subpart 4; 7047.0010; 7047.0020; 7047.0030; 7047.0040; 7047.0050; 7047.0060; 7047.0070; 7100.0300; 7100.0310; 7100.0320; 7100.0330; 7100.0335; 7100.0340; 7100.0350; 7100.0360; 7510.6100; 7510.6200; 7510.6300; 7510.6350; 7510.6400; 7510.6500; 7510.6600; 7510.6700; 7510.6800; 7510.6900; 7510.6910; 7600.0100; 7600.0200; 7600.0300; 7600.0400; 7600.0500; 7600.0600; 7600.0700; 7600.0800; 7600.0900; 7600.1000; 7600.1100; 7600.1200; 7600.1300; 7600.1400; 7600.1500; 7600.1600; 7600.1700; 7600.1800; 7600.1900; 7600.2000; 7600.2100; 7600.2200; 7600.2300; 7600.2400; 7600.2500; 7600.2600; 7600.2700; 7600.2800; 7600.2900; 7600.3000; 7600.3100; 7600.3200; 7600.3300; 7600.3400; 7600.3500; 7600.3600; 7600.3700; 7600.3800; 7600.3900; 7600.4000; 7600.4100; 7600.4200; 7600.4300; 7600.4400; 7600.4500; 7600.4600; 7600.4700; 7600.4800; 7600.4900; 7600.5000; 7600.5100; 7600.5200; 7600.5300; 7600.5400; 7600.5500; 7600.5600; 7600.5700; 7600.5800; 7600.5900; 7600.6000; 7600.6100; 7600.6200; 7600.6300; 7600.6400; 7600.6500; 7600.6600; 7600.6700; 7600.6800; 7600.6900; 7600.7000; 7600.7100; 7600.7200; 7600.7210; 7600.7300; 7600.7400; 7600.7500; 7600.7600; 7600.7700; 7600.7750; 7600.7800; 7600.7900; 7600.8100; 7600.8200; 7600.8300; 7600.8400; 7600.8500; 7600.8600; 7600.8700; 7600.8800; 7600.8900; 7600.9000; 7600.9100; 7600.9200; 7600.9300; 7600.9400;

7600.9500; 7600.9600; 7600.9700; 7600.9800; 7600.9900; 7605.0100; 7605.0110; 7605.0120; 7605.0130; 7605.0140; 7605.0150; 7605.0160; 7625.0100; 7625.0110; 7625.0120; 7625.0200; 7625.0210; 7625.0220; 7625.0230; 8120.1100, subpart 3; 8121.0500, subpart 2; 8130.9500, subpart 6; 8130.9912; 8130.9913; 8130.9916; 8130.9920; 8130.9930; 8130.9956; 8130.9958; 8130.9968; 8130.9972; 8130.9980; 8130.9992; 8130.9996; 9540.0100; 9540.0200; 9540.0300; 9540.0400; 9540.0500; 9540.1000; 9540.1100; 9540.1200; 9540.1300; 9540.1400; 9540.1500; 9540.2000; 9540.2100; 9540.2200; 9540.2300; 9540.2400; 9540.2500; 9540.2600; and 9540.2700"

The motion prevailed. So the amendment was adopted.

Mr. Merriam moved to amend H.F. No. 1899, as amended pursuant to Rule 49, adopted by the Senate April 26, 1994, as follows:

(The text of the amended House File is identical to S.F. No. 1969.)

Page 30, line 1, delete "*Minnesota Statutes 1992,*" and delete "*14.29*" and insert "*39*" and delete "*14.36*" and insert "*47*"

Page 30, line 4, delete "*Minnesota Statutes 1992,*" and delete "*14.32*" and insert "*43*" and delete "*Minnesota*"

Page 30, line 5, delete "*Statutes 1992,*" and delete "*3.846, subdivision 2*" and insert "*41*" and delete "*Minnesota*"

Page 30, line 6, delete "*Statutes 1992,*" and delete "*14.36*" and insert "*47*"

Page 30, line 13, delete "*Minnesota Statutes*"

Page 30, line 14, delete "*1992,*" and delete "*3.846, subdivision 2*" and insert"*41*"

Page 30, line 35, delete "*Minnesota Statutes 1992,*" and delete "*14.35*" and insert "*46*"

Page 32, delete section 41 and insert:

"Sec. 41. [97A.0453] [PUBLICATION OF NOTICE OF EXEMPT RULES.]

*Subdivision 1.* [REQUIREMENT.] *No rule, as defined in section 14.02, subdivision 4, that is exempt from the rulemaking provisions of chapter 14, has the force and effect of law unless a notice has been published and filed under subdivision 2 before its effective date.*

*Subd. 2.* [NOTICE.] *The notice must be published in the State Register and filed with the secretary of state and the legislative commission to review administrative rules. The notice must contain a citation to the statutory authority for the exempt rule and either: (1) a copy of the rule; or (2) a description of the nature and effect of the rule and an announcement that a free copy of the rule is available from the agency on request.*

*Subd. 3.* [ALTERNATIVE COMPLIANCE.] *Notwithstanding subdivisions 1 and 2, a rule subject to this section has the force and effect of law if it has satisfied the requirements of section 14.38, subdivision 7.*

*Subd. 4.* [NONAPPLICATION.] *This section does not apply to section 14.03, subdivision 3.*"

The motion prevailed. So the amendment was adopted.

Mr. Merriam then moved to amend H.F. No. 1899, as amended pursuant to Rule 49, adopted by the Senate April 26, 1994, as follows:

(The text of the amended House File is identical to S.F. No. 1969.)

Page 5, after line 30, insert:

"Sec. 8. Minnesota Statutes 1993 Supplement, section 4A.05, subdivision 2, is amended to read:

Subd. 2. [FEES.] The director shall set fees under section 16A.128~~, subdivision 2,~~ reflecting the actual costs of providing the center's information products and services to clients. Fees collected must be deposited in the state treasury and credited to the land management information center revolving account. Money in the account is appropriated to the director for operation of the land management information system, including the cost of services, supplies, materials, labor, and equipment, as well as the portion of the general support costs and statewide indirect costs of the office that is attributable to the land management information system. The director may require a state agency to make an advance payment to the revolving fund sufficient to cover the agency's estimated obligation for a period of 60 days or more. If the revolving fund is abolished or liquidated, the total net profit from operations must be distributed to the funds from which purchases were made. The amount to be distributed to each fund must bear to the net profit the same ratio as the total purchases from each fund bear to the total purchases from all the funds during a period of time that fairly reflects the amount of net profit each fund is entitled to receive under this distribution."

Page 27, after line 29, insert:

"Sec. 35. Minnesota Statutes 1992, section 16A.127, subdivision 1, is amended to read:

Subdivision 1. [STATEWIDE AND AGENCY INDIRECT COSTS.] (a) As used in this section ~~and in section 16A.128~~, "statewide indirect costs" means all operating costs incurred by the treasurer and all agencies attributable to providing services to any other agency except as prohibited by federal law. These operating costs include their proportionate share of costs incurred by the legislative and judicial branches.

(b) As used in this section, "agency indirect costs" means all general support costs within the agency that are not directly charged to agency programs."

Page 27, line 34, strike from "in" through page 28, line 2, to "charges"

Page 28, line 5, strike from "; or" through page 28, line 9, to "involved"

Page 28, after line 14, insert:

"Sec. 37. Minnesota Statutes 1993 Supplement, section 16A.1285, subdivision 4, is amended to read:

Subd. 4. [RULEMAKING.] (a) Unless otherwise exempted or unless specifically set by law, all charges for goods and services, licenses, and regulation must be established or adjusted as provided in chapter 14; except that agencies may establish or adjust ~~individual~~ *the following kinds of* charges ~~when~~:

(1) charges for goods and services ~~are~~ provided for the direct and primary use of a private individual, business, or other similar entity;

(2) ~~charges are~~ nonrecurring *charges*;

(3) charges *that* would produce insignificant revenues;

(4) charges ~~are~~ billed within or between state agencies; ~~or~~

(5) charges ~~are~~ for admissions to or for use of public facilities operated by the state, if the charges are set according to prevailing market conditions to recover operating costs~~.~~

~~(b) In addition to the exceptions in paragraph (a), agencies may adjust charges, with the approval of the commissioner of finance, if the~~*; or*

*(6)* proposed adjustments *to charges that* are within consumer price level (CPI) ranges stipulated by the commissioner of finance~~, if the adjustments~~ *and* do not change the type or purpose of the item being adjusted.

~~(c) Any~~ *(b)* Departmental earnings changes or adjustments authorized by the commissioner of finance *or listed in paragraph (a), clause (1), (5), or (6),* must be reported *by the commissioner of finance* to the chairs of the senate committee on finance and the house ways and means committee before ~~August 1~~ *November 30* of each year.

Sec. 38. Minnesota Statutes 1993 Supplement, section 16A.1285, subdivision 5, is amended to read:

Subd. 5. [PROCEDURE.] The commissioner of finance shall review and comment on all departmental charges submitted ~~for approval~~ under chapter 14. The commissioner's comments and recommendations must be included in the statement of need and reasonableness and must address any fiscal and policy concerns raised during the review process."

Page 28, after line 29, insert:

"Sec. 40. Minnesota Statutes 1993 Supplement, section 18E.03, subdivision 3, is amended to read:

Subd. 3. [DETERMINATION OF RESPONSE AND REIMBURSEMENT FEE.] (a) The commissioner shall determine the amount of the response and reimbursement fee under subdivision 4 after a public hearing~~, but notwithstanding section 16A.128,~~ based on:

(1) the amount needed to maintain an unencumbered balance in the account of $1,000,000;

(2) the amount estimated to be needed for responses to incidents as provided in subdivision 2, clauses (1) and (2); and

(3) the amount needed for payment and reimbursement under section 18E.04.

(b) The commissioner shall determine the response and reimbursement fee so that the total balance in the account does not exceed $5,000,000.

(c) Money from the response and reimbursement fee shall be deposited in the treasury and credited to the agricultural chemical response and reimbursement account."

Page 34, after line 19, insert:

"Sec. 53. Minnesota Statutes 1992, section 116.07, subdivision 4d, is amended to read:

Subd. 4d. [PERMIT FEES.] (a) The agency may collect permit fees in amounts not greater than those necessary to cover the reasonable costs of reviewing and acting upon applications for agency permits and implementing and enforcing the conditions of the permits pursuant to agency rules. Permit fees shall not include the costs of litigation. The agency shall adopt rules under section 16A.128 establishing the amounts and methods of collection of any permit fees collected under this subdivision. The fee schedule must reflect reasonable and routine permitting, implementation, and enforcement costs. The agency may impose an additional enforcement fee to be collected for a period of up to two years to cover the reasonable costs of implementing and enforcing the conditions of a permit under the rules of the agency. Any money collected under this paragraph shall be deposited in the special revenue account.

(b) Notwithstanding paragraph (a), ~~and section 16A.128, subdivision 1,~~ the agency shall collect an annual fee from the owner or operator of all stationary sources, emission facilities, emissions units, air contaminant treatment facilities, treatment facilities, potential air contaminant storage facilities, or storage facilities subject to the requirement to obtain a permit under Title V of the federal Clean Air Act Amendments of 1990, Public Law Number 101-549, Statutes at Large, volume 104, pages 2399 et seq., or section 116.081. The annual fee shall be used to pay for all direct and indirect reasonable costs, including attorney general costs, required to develop and administer the permit program requirements of Title V of the federal Clean Air Act Amendments of 1990, Public Law Number 101-549, Statutes at Large, volume 104, pages 2399 et seq., and sections of this chapter and the rules adopted under this chapter related to air contamination and noise. Those costs include the reasonable costs of reviewing and acting upon an application for a permit; implementing and enforcing statutes, rules, and the terms and conditions of a permit; emissions, ambient, and deposition monitoring; preparing generally applicable regulations; responding to federal guidance; modeling, analyses, and demonstrations; preparing inventories and tracking emissions; providing information to the public about these activities; and, after June 30, 1992, the costs of acid deposition monitoring currently assessed under section 116C.69, subdivision 3.

(c) The agency shall adopt fee rules in accordance with the procedures in section 16A.128~~, subdivisions 1a and 2a,~~ that will result in the collection, in the aggregate, from the sources listed in paragraph (b), of the following amounts:

(1) in fiscal years 1992 and 1993, the amount appropriated by the legislature from the air quality account in the environmental fund for the agency's air quality program;

(2) for fiscal year 1994 and thereafter, an amount not less than $25 per ton of each volatile organic compound; pollutant regulated under United States Code, title 42, section 7411 or 7412 (section 111 or 112 of the federal Clean Air Act); and each pollutant, except carbon monoxide, for which a national primary ambient air quality standard has been promulgated; and

(3) for fiscal year 1994 and thereafter, the agency fee rules may also result in the collection, in the aggregate, from the sources listed in paragraph (b), of an amount not less than $25 per ton of each pollutant not listed in clause (2) that is regulated under Minnesota Rules, chapter 7005, or for which a state primary ambient air quality standard has been adopted.

The agency must not include in the calculation of the aggregate amount to be collected under the fee rules any amount in excess of 4,000 tons per year of each air pollutant from a source.

(d) To cover the reasonable costs described in paragraph (b), the agency shall provide in the rules promulgated under paragraph (c) for an increase in the fee collected in each year beginning after fiscal year 1993 by the percentage, if any, by which the Consumer Price Index for the most recent calendar year ending before the beginning of the year the fee is collected exceeds the Consumer Price Index for the calendar year 1989. For purposes of this paragraph the Consumer Price Index for any calendar year is the average of the Consumer Price Index for all-urban consumers published by the United States Department of Labor, as of the close of the 12-month period ending on August 31 of each calendar year. The revision of the Consumer Price Index that is most consistent with the Consumer Price Index for calendar year 1989 shall be used.

(e) Any money collected under paragraphs (b) to (d) must be deposited in an air quality account in the environmental fund and must be used solely for the activities listed in paragraph (b).

Sec. 54. Minnesota Statutes 1992, section 144.98, subdivision 3, is amended to read:

Subd. 3. [FEES.] (a) An application for certification under subdivision 1 must be accompanied by the annual fee specified in this subdivision. The fees are for:

(1) base certification fee, $250; and

(2) test category certification fees:

| Test Category | Certification Fee |
|---|---|
| Bacteriology | $100 |
| Inorganic chemistry, fewer than four constituents | $ 50 |
| Inorganic chemistry, four or more constituents | $150 |
| Chemistry metals, fewer than four constituents | $100 |
| Chemistry metals, four or more constituents | $250 |
| Volatile organic compounds | $300 |
| Other organic compounds | $300 |

(b) The total annual certification fee is the base fee plus the applicable test category fees. The annual certification fee for a contract laboratory is 1.5 times the total certification fee.

(c) Laboratories located outside of this state that require an on-site survey will be assessed an additional $1,200 fee.

(d) The commissioner of health may adjust fees under section 16A.128, ~~subdivision 2~~ *without rulemaking*. Fees must be set so that the total fees support the laboratory certification program. Direct costs of the certification

service include program administration, inspections, the agency's general support costs, and attorney general costs attributable to the fee function.

Sec. 55. Minnesota Statutes 1992, section 221.0335, is amended to read:

221.0335 [HAZARDOUS MATERIALS TRANSPORTATION REGISTRATION; FEES.]

A person required to file a registration statement under section 106(c) of the federal Hazardous Materials Transportation Safety Act of 1990 may not transport a hazardous material unless the person files an annual hazardous materials registration statement with the commissioner and pays a fee. The commissioner shall adopt rules to implement this section, including administration of the registration program and establishing registration fees. A fee may not exceed a person's annual registration fee under the federal act. Fees must be set in accordance with section 16A.128~~, subdivision 1a,~~ to cover the costs of administering and enforcing this section and the costs of hazardous materials incident response capability under sections 299A.48 to 299A.52 and 299K.095. All fees collected under this section must be deposited in the general fund.

Sec. 56. Minnesota Statutes 1992, section 326.2421, subdivision 3, is amended to read:

Subd. 3. [ALARM AND COMMUNICATION CONTRACTOR'S LICENSES.] No person may lay out, install, maintain, or repair alarm and communication systems, unless the person is licensed as an alarm and communication contractor under this subdivision, or is a licensed electrical contractor under section 326.242, subdivision 6, or is an employee of the contractor. The board of electricity shall issue an alarm and communication contractor's license to any individual, corporation, partnership, sole proprietorship, or other business entity that provides adequate proof that a bond and insurance in the amounts required by section 326.242, subdivision 6, have been obtained by the applicant. The board ~~may initially~~ *shall* set license fees ~~without rulemaking,~~ pursuant to section 16A.128. Installation of alarm and communication systems are subject to inspection and inspection fees as provided in section 326.244, subdivision 1a.

Sec. 57. Minnesota Statutes 1992, section 341.10, is amended to read:

341.10 [LICENSE FEES.]

The board shall have authority to collect and require the payment of a license fee in an amount set by the board from the owners of franchises or licenses. ~~Notwithstanding section 16A.128, subdivision 1a,~~ The fee is not subject to approval by the commissioner of finance and need not recover all costs. The board shall require the payment of the fee at the time of the issuance of the license or franchise to the owner. The moneys so derived shall be collected by the board and paid to the state treasurer. The board shall have authority to license all boxers, managers, seconds, referees and judges and may require them to pay a license fee. All moneys collected by the board from such licenses shall be paid to the state treasurer."

Page 35, after line 22, insert:

"Sec. 61. [INSTRUCTION TO REVISOR.]

*Minnesota Statutes 1993 Supplement, section 16A.1285, was a continuation and combination of Minnesota Statutes 1992, sections 16A.128 and 16A.1281.*

*In the next edition of Minnesota Statutes, the revisor of statutes shall renumber subdivisions 1, 2, 4, and 5 of section 16A.1285 as subdivisions of section 16A.128, renumber subdivision 3 of section 16A.1285 as section 16A.1281, and correct references in Minnesota Statutes and Minnesota Rules, as appropriate.*"

Page 36, line 2, delete "*Section 48 is*" and insert "*Sections 8, 35 to 38, 40, 53 to 57, and 61 are*"

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

H.F. No. 1899 was read the third time, as amended, and placed on its final passage.

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

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

Those who voted in the affirmative were:

| | | | | |
|---|---|---|---|---|
| Adkins | Dille | Knutson | Morse | Riveness |
| Anderson | Finn | Krentz | Murphy | Robertson |
| Beckman | Flynn | Langseth | Neuville | Runbeck |
| Belanger | Frederickson | Larson | Novak | Sams |
| Benson, D.D. | Hanson | Lesewski | Oliver | Samuelson |
| Benson, J.E. | Hottinger | Lessard | Olson | Solon |
| Berg | Janezich | Luther | Pappas | Spear |
| Berglin | Johnson, D.E. | Marty | Pariseau | Stevens |
| Bertram | Johnson, D.J. | McGowan | Piper | Stumpf |
| Betzold | Johnson, J.B. | Merriam | Pogemiller | Terwilliger |
| Chandler | Johnston | Metzen | Price | Vickerman |
| Cohen | Kelly | Moe, R.D. | Ranum | Wiener |
| Day | Kiscaden | Mondale | Reichgott Junge | |

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

Pursuant to Rule 10, Mr. Moe, R.D., Chair of the Committee on Rules and Administration, designated H.F. No. 2920 a Special Order to be heard immediately.

## SPECIAL ORDER

H.F. No. 2920: A bill for an act relating to the environment; reestablishing the office of waste management as the office of environmental assistance; transferring environmental assistance programs from the pollution control agency to the office; transferring waste management and policy planning from the metropolitan council to the office; amending Minnesota Statutes 1992, sections 115A.03, by adding a subdivision; 115A.055; 115A.06, subdivision 2; 115A.072; 115A.12; 115A.14, subdivision 4; 115A.15, subdivision 5; 115A.411, subdivision 1; 115A.42; 115A.5501, subdivision 2; 115A.84, subdivision 3; 115A.86, subdivision 2; 115A.912, subdivision 1; 115A.96, subdivision 2; 116F.02, subdivision 2; 473.149, subdivisions 1, 3, 5, and by adding a subdivision; 473.8011; 473.803, subdivisions 2 and 4; and 473.823, subdivision 5; Minnesota Statutes 1993 Supplement, sections 115A.551, subdivision 4; 115A.96, subdivisions 3 and 4; 115A.981, subdivision 3; 473.149, subdivision 6; 473.803, subdivision 3; and 473.846; repealing Minnesota Statutes 1992, sections 115A.81, subdivision 3; 115A.914, subdi-

vision 1; 115A.952; 116F.06, subdivisions 2, 3, 4, and 5; 116F.08; 473.181, subdivision 4; and 473.803, subdivision 1b; Minnesota Statutes 1993 Supplement, section 473.149, subdivision 4.

Mr. Merriam moved that the amendment made to H.F. No. 2920 by the Committee on Rules and Administration in the report adopted April 25, 1994, pursuant to Rule 49, be stricken. The motion prevailed. So the amendment was stricken.

Mr. Merriam then moved that H.F. No. 2920 be laid on the table. The motion prevailed.

Pursuant to Rule 10, Mr. Moe, R.D., Chair of the Committee on Rules and Administration, designated H.F. No. 2158 a Special Order to be heard immediately.

## SPECIAL ORDER

H.F. No. 2158: A bill for an act relating to pollution; requiring that certain towns, cities, and counties have ordinances complying with pollution control agency rules regarding individual sewage treatment systems; requiring the agency to license sewage treatment professionals; requiring rulemaking; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 115.

Mr. Price moved to amend H.F. No. 2158, as amended pursuant to Rule 49, adopted by the Senate April 25, 1994, as follows:

(The text of the amended House File is identical to S.F. No. 1909.)

Page 2, line 5, after "*with*" insert "*the individual sewage treatment system*" and delete everything after "*rules*"

Page 2, line 6, delete everything before the period

Page 2, after line 18, insert:

"*Subd. 2.* [RULES.] *(a) The agency shall adopt rules containing minimum standards and criteria for the design, location, installation, use, and maintenance of individual sewage treatment systems. The rules must include:*

*(1) provisions describing how the advisory committee on individual sewage treatment systems established under Minnesota Rules, part 7080.0100, will participate in review and implementation of the individual sewage treatment system rules;*

*(2) provisions for alternative individual sewage treatment systems;*

*(3) provisions for the disposal of effluent from individual sewage treatment systems;*

*(4) provisions for abandonment of individual sewage treatment systems;*

*(5) provisions allowing counties, cities, and towns to adopt alternative standards and criteria for individual sewage treatment systems if the commissioner certifies that the alternative standards and criteria are at least as protective of public health, safety, and welfare and the environment as the agency's rules; and*

*(6) variance procedures.*

*(b) The agency shall consult with the advisory committee before adopting rules under this subdivision.*

*Subd. 3.* [COMPLIANCE WITH RULES REQUIRED; ENFORCEMENT.] *(a) A person who designs, installs, alters, repairs, maintains, pumps, or inspects all or part of an individual sewage treatment system shall comply with the individual sewage treatment system rules.*

*(b) Counties, cities, and towns may enforce this subdivision under section 115.071, subdivisions 3 and 4. This authority is in addition to other remedies available under section 115.071.*''

Page 2, line 19, delete ''*2*'' and insert ''*4*''

Page 3, line 2, delete ''*3*'' and insert ''*5*''

Page 3, line 29, delete ''*4*'' and insert ''*6*''

Page 4, delete lines 21 to 23

Page 4, line 24, delete ''*3*'' and insert ''*2*''

Page 5, line 21, delete ''*performance*'' and insert ''*corporate surety*''

Page 5, line 31, delete ''*4*'' and insert ''*3*''

Page 6, line 12, delete ''*5*'' and insert ''*4*''

Page 6, line 13, delete ''*subdivision 2*'' and insert ''*this section*''

Amend the title as follows:

Page 1, line 2, after the semicolon, insert ''requiring compliance with individual sewage treatment system rules adopted by the pollution control agency and allowing enforcement by counties, cities, and towns;''

Page 1, line 3, delete everything after ''unless''

Page 1, line 4, delete ''regarding''

Page 1, line 5, delete ''complied with'' and insert ''upgraded''

Mr. Merriam moved to amend the Price amendment to H.F. No. 2158 as follows:

Page 1, line 15, delete ''*under Minnesota*''

Page 1, line 16, delete everything before ''*will*'' and insert ''*by rule*''

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

Mr. Dille moved to amend the Price amendment to H.F. No. 2158 as follows:

Page 1, line 26, delete from ''*if*'' through page 1, line 29, to ''*rules*''

## CALL OF THE SENATE

Mr. Morse imposed a call of the Senate for the balance of the proceedings on H.F. No. 2158. The Sergeant at Arms was instructed to bring in the absent members.

The question was taken on the adoption of the Dille amendment to the Price amendment.

Mr. Moe, R.D. moved that those not voting be excused from voting. The motion prevailed.

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

Those who voted in the affirmative were:

| | | | | |
|---|---|---|---|---|
| Adkins | Day | Laidig | Neuville | Sams |
| Beckman | Dille | Langseth | Novak | Samuelson |
| Belanger | Hanson | Larson | Oliver | Stevens |
| Benson, D.D. | Johnson, D.E. | Lesewski | Olson | Stumpf |
| Benson, J.E. | Johnston | Lessard | Pariseau | Terwilliger |
| Berg | Kiscaden | McGowan | Robertson | Vickerman |
| Bertram | Knutson | Murphy | Runbeck | |

Those who voted in the negative were:

| | | | | |
|---|---|---|---|---|
| Anderson | Frederickson | Kroening | Morse | Riveness |
| Berglin | Hottinger | Luther | Pappas | Solon |
| Betzold | Janezich | Marty | Piper | Spear |
| Chandler | Johnson, D.J. | Merriam | Pogemiller | Wiener |
| Cohen | Johnson, J.B. | Metzen | Price | |
| Finn | Kelly | Moe, R.D. | Ranum | |
| Flynn | Krentz | Mondale | Reichgott Junge | |

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

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

Mr. Dille then moved to amend H.F. No. 2158, as amended pursuant to Rule 49, adopted by the Senate April 25, 1994, as follows:

(The text of the amended House File is identical to S.F. No. 1909.)

Page 3, line 26, delete "*two years*" and insert "*one year*"

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 19 and nays 44, as follows:

Those who voted in the affirmative were:

| | | | | |
|---|---|---|---|---|
| Adkins | Day | Knutson | Lesewski | Robertson |
| Benson, D.D. | Dille | Laidig | Olson | Stevens |
| Benson, J.E. | Johnson, D.E. | Langseth | Pariseau | Terwilliger |
| Berg | Johnston | Larson | Piper | |

Those who voted in the negative were:

| | | | | |
|---|---|---|---|---|
| Anderson | Hanson | Lessard | Neuville | Runbeck |
| Beckman | Hottinger | Luther | Novak | Sams |
| Berglin | Janezich | Marty | Oliver | Samuelson |
| Betzold | Johnson, D.J. | McGowan | Pappas | Solon |
| Chandler | Johnson, J.B. | Merriam | Pogemiller | Spear |
| Cohen | Kelly | Metzen | Price | Stumpf |
| Finn | Kiscaden | Moe, R.D. | Ranum | Vickerman |
| Flynn | Krentz | Mondale | Reichgott Junge | Wiener |
| Frederickson | Kroening | Morse | Riveness | |

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

Mr. Neuville moved to amend H.F. No. 2158, as amended pursuant to Rule 49, adopted by the Senate April 25, 1994, as follows:

(The text of the amended House File is identical to S.F. No. 1909.)

Page 6, after line 14, insert:

"Sec. 3. [WATER LEVEL ADJUSTMENT; LAKE FRANCIS.]

*Notwithstanding any other law, the commissioner may adjust the water level of Lake Francis in Elysian township up to two feet below the ordinary high water level. The commissioner shall take all necessary steps to alleviate current and future septic tank problems of riparian property owners on Lake Francis within the provisions of this authorization, provided that any actions taken must not harm the fishery.*"

Page 6, line 21, delete "*and 2*" and insert "*to 3*"

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

Mr. Finn questioned whether the amendment was germane.

The President ruled that the amendment was germane.

Mr. Neuville withdrew his amendment.

Mr. Neuville then moved to amend H.F. No. 2158, as amended pursuant to Rule 49, adopted by the Senate April 25, 1994, as follows:

(The text of the amended House File is identical to S.F. No. 1909.)

Page 6, after line 14, insert:

"Sec. 3. [WATER LEVEL ADJUSTMENT; LAKE FRANCIS.]

*Notwithstanding any other law, the commissioner of natural resources may adjust the water level of Lake Francis in Elysian township up to two feet below the ordinary high water level. The commissioner shall take all necessary steps to alleviate current and future septic tank problems of riparian property owners on Lake Francis within the provisions of this authorization, provided that any actions taken must not harm the fishery.*"

Page 6, line 21, delete "*and 2*" and insert "*to 3*"

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

Pursuant to Rule 22, Mr. Hottinger moved that he be excused from voting on the Neuville amendment. The motion prevailed.

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 32 and nays 28, as follows:

Those who voted in the affirmative were:

| | | | | |
|---|---|---|---|---|
| Adkins | Dille | Laidig | Neuville | Samuelson |
| Beckman | Frederickson | Larson | Oliver | Stevens |
| Belanger | Johnson, D.E. | Lesewski | Olson | Stumpf |
| Benson, D.D. | Johnston | Lessard | Pariseau | Terwilliger |
| Benson, J.E. | Kiscaden | McGowan | Robertson | |
| Berg | Knutson | Metzen | Runbeck | |
| Day | Kroening | Murphy | Sams | |

Those who voted in the negative were:

| | | | | |
|---|---|---|---|---|
| Anderson | Finn | Langseth | Morse | Riveness |
| Berglin | Flynn | Luther | Novak | Spear |
| Bertram | Janezich | Marty | Pappas | Vickerman |
| Betzold | Johnson, J.B. | Merriam | Piper | Wiener |
| Chandler | Kelly | Moe, R.D. | Price | |
| Cohen | Krentz | Mondale | Ranum | |

The motion prevailed. So the amendment was adopted.

H.F. No. 2158 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 63 and nays 1, as follows:

Those who voted in the affirmative were:

| | | | | |
|---|---|---|---|---|
| Adkins | Dille | Kroening | Murphy | Robertson |
| Anderson | Flynn | Laidig | Neuville | Runbeck |
| Beckman | Hanson | Langseth | Novak | Sams |
| Belanger | Hottinger | Larson | Oliver | Samuelson |
| Benson, D.D. | Janezich | Lesewski | Olson | Solon |
| Benson, J.E. | Johnson, D.E. | Lessard | Pappas | Spear |
| Berg | Johnson, D.J. | Luther | Pariseau | Stevens |
| Berglin | Johnson, J.B. | Marty | Piper | Stumpf |
| Bertram | Johnston | McGowan | Pogemiller | Terwilliger |
| Betzold | Kelly | Merriam | Price | Vickerman |
| Chandler | Kiscaden | Moe, R.D. | Ranum | Wiener |
| Cohen | Knutson | Mondale | Reichgott Junge | |
| Day | Krentz | Morse | Riveness | |

Mr. Finn voted in the negative.

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

## MOTIONS AND RESOLUTIONS – CONTINUED

Mr. Merriam moved that H.F. No. 2920 be taken from the table. The motion prevailed.

H.F. No. 2920: A bill for an act relating to the environment; reestablishing the office of waste management as the office of environmental assistance; transferring environmental assistance programs from the pollution control agency to the office; transferring waste management and policy planning from the metropolitan council to the office; amending Minnesota Statutes 1992, sections 115A.03, by adding a subdivision; 115A.055; 115A.06, subdivision 2; 115A.072; 115A.12; 115A.14, subdivision 4; 115A.15, subdivision 5; 115A.411, subdivision 1; 115A.42; 115A.5501, subdivision 2; 115A.84, subdivision 3; 115A.86, subdivision 2; 115A.912, subdivision 1; 115A.96, subdivision 2; 116F.02, subdivision 2; 473.149, subdivisions 1, 3, 5, and by adding a subdivision; 473.8011; 473.803, subdivisions 2 and 4; and 473.823, subdivision 5; Minnesota Statutes 1993 Supplement, sections 115A.551, subdivision 4; 115A.96, subdivisions 3 and 4; 115A.981, subdivision 3; 473.149, subdivision 6; 473.803, subdivision 3; and 473.846; repealing Minnesota Statutes 1992, sections 115A.81, subdivision 3; 115A.914, subdivision 1; 115A.952; 116F.06, subdivisions 2, 3, 4, and 5; 116F.08; 473.181, subdivision 4; and 473.803, subdivision 1b; Minnesota Statutes 1993 Supplement, section 473.149, subdivision 4.

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

The question was taken on the passage of the bill.

The roll was called, and there were yeas 58 and nays 7, as follows:

Those who voted in the affirmative were:

| | | | | |
|---|---|---|---|---|
| Adkins | Berglin | Cohen | Flynn | Janezich |
| Anderson | Bertram | Day | Frederickson | Johnson, D.E. |
| Beckman | Betzold | Dille | Hanson | Johnson, D.J. |
| Berg | Chandler | Finn | Hottinger | Johnson, J.B. |

| | | | | |
|---|---|---|---|---|
| Johnston | Lessard | Morse | Piper | Solon |
| Kelly | Luther | Murphy | Pogemiller | Spear |
| Kiscaden | Marty | Neuville | Price | Stevens |
| Krentz | McGowan | Novak | Ranum | Stumpf |
| Kroening | Merriam | Oliver | Reichgott Junge | Vickerman |
| Laidig | Metzen | Olson | Riveness | Wiener |
| Langseth | Moe, R.D. | Pappas | Sams | |
| Lesewski | Mondale | Pariseau | Samuelson | |

Those who voted in the negative were:

| | | | | |
|---|---|---|---|---|
| Belanger | Knutson | Robertson | Runbeck | Terwilliger |
| Benson, J.E. | Larson | | | |

So the bill passed and its title was agreed to.

Mr. Moe, R.D. moved that H.F. No. 3210 be taken from the table. The motion prevailed.

H.F. No. 3210: A bill for an act relating to the organization and operation of state government; appropriating money for the departments of human services and health, the ombudsman for mental health and mental retardation, the council on disability, veterans nursing homes board, jobs and training, housing finance, veterans affairs, human rights, and other purposes with certain conditions; establishing and modifying certain programs; modifying the compact on industrialized/modular buildings; providing for appointments; amending Minnesota Statutes 1992, sections 16A.124, subdivisions 1, 2, 3, 4, 5, and 6; 16B.75; 62A.046; 62A.048; 62A.27; 62A.31, by adding a subdivision; 62J.05, subdivision 2; 126A.02, subdivision 2; 144.0721, by adding a subdivision; 144.0723, subdivisions 1, 2, 3, 4, and 6; 144.414, subdivision 3; 144.417, subdivision 1; 144.801, by adding a subdivision; 144.804, subdivision 1; 144.878, by adding a subdivision; 144A.073, subdivisions 1, 3a, 4, 8, and by adding a subdivision; 144A.46, subdivision 2; 145A.14, by adding a subdivision; 148B.23, subdivisions 1 and 2; 148B.27, subdivision 2, and by adding a subdivision; 148B.60, subdivision 3; 245A.14, subdivision 7; 246.50, subdivision 5; 246.53, subdivision 1; 246.57, subdivision 1; 252.025, subdivision 1, and by adding a subdivision; 252.275, subdivisions 3, 4, and by adding a subdivision; 253.015, by adding a subdivision; 256.015, subdivisions 2 and 7; 256.045, subdivisions 3, 4, and 5; 256.74, by adding a subdivision; 256.9365, subdivisions 1 and 3; 256.969, subdivisions 10 and 16; 256B.042, subdivision 2; 256B.056, by adding a subdivision; 256B.059, subdivision 1; 256B.06, subdivision 4; 256B.0625, subdivisions 8, 8a, 25, and by adding subdivisions; 256B.0641, subdivision 1; 256B.0913, subdivision 8, and by adding a subdivision; 256B.0915, subdivision 5; 256B.0917, subdivisions 6 and 8; 256B.15, subdivision 1a; 256B.431, subdivisions 3c, 3f, and 17; 256B.432, subdivisions 1, 3, and 6; 256B.49, subdivision 4; 256B.501, subdivisions 1, 3, 3c, and by adding a subdivision; 256B.69, subdivision 4, and by adding a subdivision; 256D.03, subdivisions 3a and 3b; 256D.05, subdivisions 3 and 3a; 256D.16; 256D.425, by adding a subdivision; 256F.09; 256H.05, subdivision 6; 257.62, subdivisions 1, 5, and 6; 257.64, subdivision 3; 257.69, subdivisions 1 and 2; 261.04, subdivision 2; 518.171, subdivision 5; 518.613, subdivision 7; 524.3-803; 524.3-1201; 528.08; and 626.556, subdivisions 4, 10e, and by adding subdivisions; Minnesota Statutes 1993 Supplement, sections 16B.06, subdivision 2a; 62A.045; 144.551, subdivision 1; 144.651, subdivisions 21 and 26; 144.872, subdivision 4; 144.873, subdivision 1; 144.874, subdivisions 1 and 3a; 144.8771, subdivision 2;

144.99, subdivisions 1 and 6; 144A.071, subdivisions 3 and 4a; 144A.073, subdivisions 2 and 3; 153A.14, subdivision 2; 157.08; 239.785, subdivision 2, and by adding a subdivision; 245.492, subdivisions 2, 6, 9, and 23; 245.493, subdivision 2; 245.4932, subdivisions 1, 2, 3, and 4; 245.494, subdivisions 1 and 3; 245.495; 245.496, subdivision 3, and by adding a subdivision; 245.97, subdivision 6; 252.46, by adding a subdivision; 253B.03, subdivisions 3 and 4; 256.9353, subdivisions 3 and 7; 256.9354, subdivisions 1, 4, 5, and 6; 256.9362, subdivision 6; 256.9657, subdivisions 2 and 3; 256.9685, subdivision 1; 256.969, subdivision 1; 256B.059, subdivisions 3 and 5; 256B.0595, subdivisions 1, 2, 3, and 4; 256B.0625, subdivisions 13, 19a, 20, and 37; 256B.0626; 256B.0911, subdivisions 2, 4, and 7; 256B.0913, subdivisions 5 and 12; 256B.0915, subdivisions 1 and 3; 256B.0917, subdivisions 1, 2, and 5; 256B.15, subdivision 2; 256B.431, subdivisions 2b, 2r, 15, and 24; 256B.432, subdivision 5; 256B.501, subdivisions 3g, 5a, and 8; 256D.03, subdivisions 3 and 4; 256I.04, subdivision 3; 256I.06, subdivision 1; 257.55, subdivision 1; 257.57, subdivision 2; 326.71, subdivision 4; 326.75, subdivision 3; 514.981, subdivisions 2 and 5; 518.171, subdivisions 1, 3, 4, 7, and 8; 518.611, subdivisions 2 and 4; 518.613, subdivision 2; 518.615, subdivision 3; and 626.556, subdivision 11; Laws 1993, chapter 369, sections 5, subdivision 4; and 11; proposing coding for new law in Minnesota Statutes, chapters 137; 144; 145; 148; 197; 245; 246; 252; 253; 256; 256B; 256D; 268; 268A; and 645; repealing Minnesota Statutes 1992, sections 62C.141; 62C.143; 62D.106; 62E.04, subdivisions 9 and 10; 144.0723, subdivision 5; 148B.23, subdivision 1a; 148B.28, subdivision 6; 197.235; 252.275, subdivisions 4a and 10; 256.969, subdivision 24; 256B.501, subdivisions 3d, 3e, and 3f; 256D.065; 268.32; 268.551; and 268.552; Minnesota Statutes 1993 Supplement, sections 144.8771, subdivision 5; 144.8781, subdivisions 1, 2, 3, and 5; 157.082; and 157.09; Laws 1993, chapter 286, section 11; and Laws 1993, First Special Session chapter 1, article 9, section 49; Minnesota Rules, parts 3300.0100; 3300.0200; 3300.0300; 3300.0400; 3300.0500; 3300.0600; and 3300.0700.

## 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. 3210 and that the rules of the Senate be so far suspended as to give H.F. No. 3210 its second and third reading and place it on its final passage. The motion prevailed.

H.F. No. 3210 was read the second time.

Mr. Samuelson moved to amend H.F. No. 3210 as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1

HUMAN DEVELOPMENT APPROPRIATIONS

Section 1. [APPROPRIATIONS SUMMARY.]

The sums shown in the columns marked "APPROPRIATIONS" are appropriated from the general fund, or any other fund named, to the agencies and for the purposes specified in the following sections of this article, to be available for the fiscal years indicated for each purpose. The figures "1994"

and "1995" where used in this article, mean that the appropriation or appropriations listed under them are available for the fiscal year ending June 30, 1994, or June 30, 1995, respectively. Where a dollar amount appears in parentheses, it means a reduction of an appropriation.

SUMMARY BY FUND

| APPROPRIATIONS | 1994 | 1995 | BIENNIAL TOTAL |
|---|---|---|---|
| General | $(30,751,000) | $47,560,000 | $16,809,000 |
| State Government Special Revenue | 115,000 | 299,000 | 414,000 |
| TOTAL | $(30,636,000) | $47,859,000 | $17,223,000 |
| Revenue General | 7,932,000 | 3,178,000 | 11,110,000 |
| Revenue State Government Special Revenue | -0- | 169,000 | 169,000 |

| | APPROPRIATIONS Available for the Year Ending June 30 1994 | 1995 |
|---|---|---|
| Sec. 2. COMMISSIONER OF HUMAN SERVICES | | |
| Subdivision 1. Appropriation by Fund | | |
| General Fund | $ (30,776,000) | $ 44,787,000 |

This appropriation is added to the appropriation in Laws 1993, First Special Session chapter 1, article 1, section 2.

[TRANSFER OF UNENCUMBERED BALANCES.] Effective the day following final enactment, the commissioner may transfer unencumbered appropriation balances for fiscal year 1994 among the aid to families with dependent children, general assistance, general assistance medical care, medical assistance, Minnesota supplemental aid, and work readiness programs, and the entitlement portion of the chemical dependency consolidated treatment fund, with the approval of the commissioner of finance after notification of the chair of the senate health care and family service finance division and the chair of the house of representatives human services finance division.

Subd. 2. Social Services Administration

General

664,000 3,998,000

[DEAF SERVICES.] Up to $100,000 of unexpended nonentitlement grant money within the social services administration for fiscal year 1994 does not cancel but is available in fiscal year 1995 to be transferred to the deaf and hard-of-hearing services for hearing impaired grants. This money must be used to increase the capacity of statewide interpreter referral services, and none of this money may be used for administrative purposes. The amount transferred shall not become part of the base level funding for deaf services for the 1996-1997 biennium.

[SOCIAL SERVICES INFORMATION SYSTEM.] Of this appropriation, $371,000 in fiscal year 1995 is for the social services information system and is added to the appropriation in Laws 1993, First Special Session chapter 1, article 1, section 2, subdivision 3, to continue the design and development of a new system. Appropriations and federal receipts for the social services information system project must be deposited in the state systems account authorized and administered under Minnesota Statutes, section 256.014, and must be used for development and operation of department information systems according to law.

[VULNERABLE ADULTS REPORT.] $38,000 of the appropriation to the commissioner is to be transferred to the office of the attorney general to continue the study of, and prepare the report on, the vulnerable adults act.

[INDIAN ELDERLY ACCESS PROGRAM.] Of this appropriation, $44,000 is appropriated to the Minnesota board on aging for the fiscal year ending June 30, 1995, to fund a coordinator for the state Indian elderly access program. The area agency on aging of the Minnesota Chippewa tribe shall administer the program.

[OLMSTED COUNTY.] (a) The commissioner shall authorize a pilot project creating community-based short-term alternative services in Olmsted county for persons with overriding health care needs

who, in the absence of these services, would require placement in more restrictive settings by reconfiguring the capacity of a 43-bed intermediate care facility for persons with mental retardation or related conditions, provided the pilot project is cost neutral to the state. The commissioner may:

(1) authorize relocation of an alternative home and community-based services for up to 20 residents of an existing 43-bed intermediate care facility for persons with mental retardation or related conditions; and

(2) adjust the operating cost rate of the facility under Minnesota Rules, part 9553.0050, as necessary to implement the project.

(b) The facility's aggregate investment-per-bed limit in effect before downsizing must be the facility's investment-per-bed limit after downsizing. The facility's total revenues after downsizing must not increase as a result of the downsizing project. The facility's total revenues before downsizing are determined by multiplying the payment rate in effect the day before the downsizing is effective by the number of resident days for the reporting year preceding the downsizing project. For the purpose of this pilot project, the average medical assistance rate for the home and community-based services shall not exceed the rate made available, under Laws 1992, chapter 513, article 5, section 2, to residents of intermediate care facilities for persons with mental retardation or related conditions who are relocated to alternative home and community-based services.

(c) This pilot project shall primarily serve persons who are the responsibility of Olmsted county and other counties in economic development region 10. This project must be approved by the commissioner under Minnesota Statutes, section 252.28, and must include criteria for determining how individuals are selected for alternative services and the use of a request for proposal process. The commissioner shall report to the legislature on the pilot project by January 1, 1996.

[WAGE ENHANCEMENT.] Of this appropriation, $150,000 is for a wage enhancement demonstration project to measure the impact of wage increases on staff retention and the quality of care. Within the limits of the appropriation, the commissioner shall increase wages and fringe benefits by up to 15 percent for personnel earning less than $7.25 per hour who are not central, affiliated, or corporate office personnel and who are employed by a provider in northeastern Minnesota that operates day training and habilitation services and five intermediate care facilities for persons with mental retardation or related conditions. Any remaining money from this appropriation shall be used to increase wages and fringe benefits by up to 15 percent for personnel earning less than $7.25 per hour who are not central, affiliated, or corporate office personnel and who are employed by other day training and habilitation services that rank lowest in the state in terms of both reimbursement rates and employee wages. At least two-thirds of the increase must be allocated for salary increases and not more than one-third for fringe benefits and payroll taxes. In order to participate in the demonstration project, the provider shall comply with all reporting requirements established by the commissioner. The commissioner shall review the project on a retrospective basis to determine that the appropriation was spent as required, and shall reduce future per diem rates if necessary to recover amounts not spent on wage enhancements. The commissioner shall report to the legislature by December 31, 1995, the results of the demonstration project, including the effect on staff turnover and on the quality of care. The effective date for rate adjustments under this provision is January 1, 1995.

[COUNTY PLANNING GRANT.] Of this appropriation, $50,000 is for grants to counties for collaborative planning by local agencies and consumers to demonstrate alternative, noninstitutional models for services to persons with developmental disabilities or related conditions.

[SENIOR HOUSING WITH SERVICES REPORT.] The commissioners of health and human services shall convene a group of providers and consumers of housing with services for seniors to study the issue of quality assurance in this setting, and to report findings and recommendations to the 1995 legislature. The commissioner of health shall not adopt administrative rules under Minnesota Statutes, chapter 144B, until after the 1995 legislature has acted upon the report on quality assurance for housing with services for seniors.

[OUT-OF-HOME RESPITE CARE REPORT.] By February 1, 1995, the commissioner of human services, after consultation with the commissioner of health, must report to the legislature on methods to fund and provide out-of-home respite care for children with medically complex needs who live with their families. The report must include an estimate of the need for such services across the state, what services are now provided, funding sources currently used, and need for additional types of respite care and proposed funding sources.

[NEW CHANCE.] The first annual report to the legislature on the new chance demonstration project referred to in Laws 1993, First Special Session chapter 1, article 1, section 2, subdivision 3, must be prepared for the legislature by December 1, 1995.

Subd. 3. Health Care Administration

General

(37,766,000) 17,756,000

[MORATORIUM EXCEPTION PROPOSALS.] Of this appropriation, $110,000 is appropriated to the commissioner of human services for the fiscal year ending June 30, 1995, to pay the medical assistance costs associated with exceptions to the nursing home moratorium granted under Minnesota Statutes, section 144A.073. Notwithstanding section 144A.073, the interagency long-term care planning committee shall issue a request for proposals by June 6, 1994, and the commissioner of health shall make a

final decision on project approvals by October 15, 1994.

[MANAGED CARE CARRYOVER.] Unexpended money appropriated for grants to counties for managed care administration in fiscal year 1994 does not cancel but is available in fiscal year 1995 for that purpose.

[HIGH COST INFANT AND YOUNG PEDIATRIC ADMISSIONS.] The appropriation to the aid to families with dependent children program in Laws 1993, First Special Session chapter 1, article 1, section 2, subdivision 5, for the fiscal year ending June 30, 1994, is reduced by $1,165,000. The appropriation to the medical assistance program is increased by $1,165,000 for the fiscal year ending June 30, 1995, for the purpose of (1) exceptionally high cost inpatient admissions for infants under the age of one, and for children under the age of six receiving services in a hospital that receives payment under Minnesota Statutes, section 256.969, subdivision 9 or 9a; and (2) hospitals with a 20 percent or greater negative adjustment that exceeds $1,000,000, as the adjustment is calculated under Minnesota Statutes, section 256.9695, subdivision 3.

[INFLATION ADJUSTMENTS.] The commissioner of finance shall include, as a budget change request in the 1996-1997 biennial detailed expenditure budget submitted to the legislature under Minnesota Statutes, section 16A.11, annual inflation adjustments in operating costs for: nursing services and home health aide services under Minnesota Statutes, section 256B.0625, subdivision 6a; nursing supervision of personal care services, under Minnesota Statutes, section 256B.0625, subdivision 19a; private duty nursing services under Minnesota Statutes, section 256B.0625, subdivision 7; home and community-based services waiver for persons with mental retardation and related conditions under Minnesota Statutes, section 256B.501; home and community-based services waiver for the elderly under Minnesota Statutes, section 256B.0915; alternative care program un-

der Minnesota Statutes, section 256B.0913; traumatic brain injury waiver under Minnesota Statutes, section 256B.093; adult residential program grants, under rule 12, under Minnesota Rules, parts 9535.2000 to 9535.3000; adult and family community support grants, under rules 14 and 78, under Minnesota Rules, parts 9535.1700 to 9535.1760.

[HOSPITAL TECHNOLOGY FACTOR.] For admissions occurring on or after April 1, 1994, through June 30, 1995, the hospital cost index shall be increased by 0.51 percent for technology. Notwithstanding the sunset provisions of this article, this increase shall become part of the base for the 1996-1997 biennium. For fiscal year 1995 only, the commissioner shall adjust rates paid to a health maintenance organization under medical assistance contract with the commissioner to reflect the hospital technology factor in this paragraph, and the adjustment must be made on an undiscounted basis.

[ICF/MR RECEIVERSHIP.] If an intermediate care facility for persons with mental retardation or related conditions that is in receivership under Minnesota Statutes, section 245A.12 or 245A.13, is sold to an unrelated organization: (1) the facility shall be considered a newly established facility for rate setting purposes notwithstanding any provisions to the contrary in section 256B.501, subdivision 11; and (2) the facility's historical basis for the physical plant, land, and land improvements for each facility must not exceed the prior owner's aggregate historical basis for these same assets for each facility. The allocation of the purchase price between land, land improvements, and physical plant shall be based on the real estate appraisal using the depreciated replacement cost method.

[NEW ICF/MR.] A newly constructed or newly established intermediate care facility for persons with mental retardation or related conditions that is developed and financed during the fiscal year ending June 30, 1995, shall not be subject to the equity requirements in Minnesota Stat-

utes, section 256B.501, subdivision 11, paragraph (d), or Minnesota Rules, part 9553.0060, subpart 3, item F, provided that the provider's interest rate does not exceed the interest rate available through state agency tax-exempt financing.

Subd. 4. Family Self-Sufficiency Administration

General

4,070,000 22,168,000

[MAXIS.] The commissioner shall cancel $5,154,000 in unspent funds at the end of fiscal year 1993. $518,000 is appropriated in fiscal year 1994 and $4,636,000 is appropriated in fiscal year 1995 for MAXIS. These amounts are added to the appropriation in Laws 1993, First Special Session chapter 1, article 1, section 2, but shall not become part of the base funding level for the 1996-1997 biennium.

[WORK READINESS TRANSFER.] The commissioner may transfer part or all of any anticipated surplus in the fiscal year 1995 allocation for work readiness start work grants and work readiness literacy transportation reimbursement to pay for any deficit in work readiness employment and training services funding.

[FRAUD CONTROL.] Unexpended money appropriated for program integrity activities for fiscal year 1994 may be used for county fraud control initiatives. This money does not cancel but is available to the commissioner for fiscal year 1995.

[RAMSEY COUNTY EBS.] Notwithstanding the requirements for state contracts contained in Minnesota Statutes, chapter 16B, or Laws 1993, First Special Session chapter 1, article 1, section 2, subdivision 5, or any other law to the contrary, the commissioner, under terms and conditions approved by the attorney general, may accept assignment from Ramsey county of any existing contract, license agreement, or similar transactional document related to the Ramsey county electronic benefit system. The term of any contract, agreement, or other document assigned to the state, including the agreement arising from the Ramsey county electronic benefit services pilot project,

may not extend beyond June 30, 1997, and the commissioner must publish a request for proposals for succeeding electronic benefits services in the State Register before January 1, 1996.

[GRH TRANSFER.] The commissioner may (1) transfer money as needed between the appropriation for the group residential housing program and the general assistance, work readiness, and Minnesota supplemental aid programs; and (2) transfer money from the appropriation for the group residential housing program to county social services grants or program grants intended to serve persons who are currently served in group residential housing settings. Any money transferred under clause (2) must be permanently removed from the group residential housing base and added to the base or bases for program or social services grants. County social services contracts must be adjusted to reflect these transfers. Any room and board or services which are paid for by the transferred money are permanently ineligible for group residential housing payment after the transfer. The commissioner must report to the appropriate legislative committees by February 1 of 1995 and 1996 regarding transfers under this paragraph.

[CHILD SUPPORT; PATERNITY ESTABLISHMENT.] For the biennium ending June 30, 1995, federal matching money from the hospital acknowledgment reimbursement program is appropriated to the commissioner to pay for the paternity establishment program at the state office of child support enforcement.

Subd. 5. Mental Health and State Operated Services Administration

General

2,256,000 865,000

[COMPULSIVE GAMBLING.] Notwithstanding the provision in Laws 1993, First Special Session chapter 1, article 1, section 2, subdivision 6, allowing both allocations and contributions to compulsive treatment programs to be available until expended, only contributions may be car-

ried forward between fiscal years or from biennium to biennium.

[DHS CLINICS.] Effective the day following final enactment, for fiscal years 1994 and 1995, all receipts for services provided by community health clinics operated by the commissioner in accordance with Minnesota Statutes, sections 256B.04, subdivision 2, and 256B.0625, subdivision 4, and as enrolled medical assistance providers under Minnesota Rules, part 9505.0255, are appropriated to the commissioner of human services for operation and expansion of the clinics. Any balances remaining in the clinic accounts at the end of the first year do not cancel but are available until spent.

[TRAINING GRANTS.] The commissioner may authorize training grants, within the available appropriation for regional centers, to assist registered nurses employed by regional treatment centers in obtaining certification as clinical specialists in psychiatric nursing.

[UMD.] The commissioner of human services shall provide $125,000 in federal community mental health services block grant funds to the board of regents for recruitment and initial hiring of psychiatrists and support staff at the University of Minnesota Duluth medical school. The commissioner of finance shall include funding for the rural psychiatry program as a budget request when preparing the 1996-1997 biennial budget.

[STATE-OPERATED COMMUNITY SERVICES AT CAMBRIDGE.] The commissioner shall designate five of the undesignated state-operated community services for persons with developmental disabilities authorized by Laws 1993, First Special Session chapter 1, articles 1, section 2, subdivision 6; and 7, section 33; and two of the unspecified state-operated day training and habilitation programs for the Cambridge catchment area.

[CAMBRIDGE RTC.] Of this appropriation, $10,000 is for a grant to the Cambridge regional treatment center community group to conduct the commu-

nity planning process under Minnesota Statutes, sections 252.51 and 252.511.

[BRAINERD TRAUMATIC BRAIN INJURY PROGRAM.] Notwithstanding the contrary provisions of Minnesota Statutes, section 253.015, subdivision 4, the 15-bed unit for persons with traumatic brain injury at the Brainerd regional human services center shall not begin receiving admissions until October 1, 1994.

Sec. 3. COMMISSIONER OF HEALTH

| | | |
|---|---|---|
| Subdivision 1. Total Appropriation | 140,000 | 2,134,000 |
| Summary by Fund | | |
| General | 25,000 | 1,850,000 |
| State Government Special Revenue | 115,000 | 284,000 |

This appropriation is added to the appropriation in Laws 1993, First Special Session chapter 1, article 1, section 3.

| | | |
|---|---|---|
| Subd. 2. Health Protection | -0- | 771,000 |
| General | | |
| | -0- | 771,000 |

[DUST-RELATED LUNG DISEASE STUDY.] Of this appropriation, $75,000 is for a pilot study of dust-related lung diseases in northeastern Minnesota and may be matched with money from other sources. This appropriation shall not become part of the base for the 1996-1997 biennium.

[TUBERCULOSIS CONTROL DRUGS.] Of this appropriation, $171,000 is added for fiscal year 1995 to the appropriation in Laws 1993, First Special Session chapter 1, article 1, section 3, subdivision 2, for tuberculosis control drugs. Local boards of health must use funds that otherwise would have been expended for tuberculosis drugs, for other tuberculosis control activities. For purposes of this paragraph, "funds that otherwise would have been expended for tuberculosis drugs" means the amount expended for tuberculosis drugs in calendar year 1993. The commissioner may utilize a portion of this appropriation to contract with a pharmacist to dispense the tuberculosis drugs.

[STREP STUDY.] Of this appropriation, $75,000 is to the commissioner of health for fiscal year 1995 to be awarded as a grant to an entity which will conduct a feasibility study to determine the efficacy of conducting throat cultures for evidence of streptococcal infection in selected symptomatic students. The study must be conducted in three schools, one of which is in rural Minnesota and one of which is in a core city. The study must be conducted with students in grades K-12.

The grantee must be a Minnesota institution of higher learning which is affiliated with a university hospital which has a relationship with the World Health Organization. The grantee shall develop the protocol for the study. This appropriation shall not become part of the base for the 1996-1997 biennium.

[LEAD ABATEMENT.] Of this appropriation, $400,000 is appropriated to the commissioner of health for fiscal year 1995 for the lead abatement activities specified in this paragraph. $125,000 must be used to create staff positions assigned to lead abatement responsibilities under Minnesota Statutes, sections 144.871 to 144.879. These positions must include one lead research analyst. The money appropriated for positions must be used to supplement and not replace current staff assigned to lead abatement activities within the department.

At least $40,000 must be used for safe housing grants under Minnesota Statutes, section 144.872, subdivision 3. At least $35,000 must be used for lead cleanup equipment grants under Minnesota Statutes, section 144.872, subdivision 4, with no individual grant to exceed $5,000. The grants under Minnesota Statutes, section 144.872, subdivisions 3 and 4 must be awarded to achieve geographically diverse distribution, and with priority given to communities at high risk for toxic lead exposure. The remaining appropriation must be used for proactive lead education under Minnesota Statutes, section 144.872, subdivision 1, and to subsidize the cost of the lead abatement training as required under Minnesota Statutes, sec-

tion 144.876, subdivision 1, and rules adopted under Minnesota Statutes, section 144.878, subdivision 5. The commissioner shall give preference for subsidies provided through this appropriation to training small business owners and employees of nonprofit organizations.

[MANUFACTURED HOUSING STUDY.] Of this appropriation, $50,000 is appropriated to the commissioner of health for transfer to the management analysis division of the department of administration for the manufacturing home study required under article 6. This appropriation shall not become part of the base for the 1996-1997 biennium.

Subd. 3. Health Delivery Systems -0- 1,123,000

General

-0- 954,000

State Government
Special Revenue

-0- 169,000

[MASS MEDIA PROGRAM.] The appropriation for the mass media program on the effects of secondhand smoke on children shall not become part of the base for the 1996-1997 biennium.

[HEALTH CARE ACCESS OFFICE GRANTS.] Of this appropriation, $50,000 in fiscal year 1995 is appropriated to the commissioner of health to award a grant to an existing health care access office and to a rural community to establish a health care access office. Recipients of the grants must provide a local match equal to 30 percent of the state grant. A health care access office is a nonprofit organization that provides direct client services that increase access to health care by providing a single point of access for financial assessment and assistance, information and assisted referral to existing public and private health care programs and services, advocacy, counseling, and case management.

[TRANSFER TO THE DEPARTMENT OF COMMERCE.] Of this appropriation, $20,000 is appropriated to the commissioner of health to be transferred to the

commissioner of commerce for fiscal year 1995 for purposes of administering the Medicare supplement rate regulation program under Minnesota Statutes, section 62A.31, subdivision 1u.

[SPECIAL REVENUE APPROPRIATION.] In fiscal year 1995, $115,000 is appropriated from the state government special revenue fund to the commissioner of health for purposes of administering the Medicare supplement rate regulation program under Minnesota Statutes, section 62A.31, subdivision 1u.

[AMBULANCE SERVICES.] Of this appropriation, $35,000 is appropriated for fiscal year 1995 to the commissioner of health for the purpose of a grant to West Central Minnesota EMS Corporation, the current contract holder under Minnesota Statutes, section 144.8093, to conduct a study to determine the feasibility of expanding the scope of services provided by ambulance service providers to better address the out-of-hospital health care and transportation needs of rural Minnesota populations.

The grantee may itself undertake the study or may contract with another entity to undertake the study.

The study must be undertaken in consultation with community health services, hospitals, physicians, and nurses to consider potential areas for expanded ambulance personnel roles and responsibilities. The study must include, but is not limited to, analyzing:

(1) ways of supporting current health care provider services and personnel;

(2) additional training needs;

(3) statutory issues;

(4) potential liability;

(5) third-party reimbursement consequences; and

(6) the unique needs of the sick and injured in rural areas.

The study must consider only the out-of-hospital health care needs of the rural population in Minnesota.

The commissioner shall report the findings and recommendations of the study to the legislature no later than January 1, 1995. This appropriation shall not become part of the base for the 1996-1997 biennium.

[WOMEN'S HEALTH.] Effective January 1, 1995, the commissioner, in cooperation with the University of Minnesota and other researchers, may investigate women's health needs, disseminate current research results, conduct research on women's health, and may accept money from other sources for this purpose.

[HOME VISITING PROGRAM.] Of this appropriation, $500,000 is to the commissioner of health for the purposes of the home visiting program under Minnesota Statutes, section 145A.15.

[CHILD PROGRAM.] Of this appropriation, $59,000 is appropriated to the commissioner of health for fiscal year 1995 for the CHILD program under Minnesota Statutes, section 145.951. This appropriation shall not become part of the base for the 1996-1997 biennium.

[CHILDHOOD SCREENINGS.] Of this appropriation, $150,000 is appropriated to the commissioner of health for the childhood screening grant program under Minnesota Statutes, section .145A.14, subdivision 5. This appropriation shall not become part of the base for the 1996-1997 biennium.

[ACUPUNCTURE PRACTITIONER CERTIFICATION.] Of this appropriation, $54,000 is appropriated to the commissioner of health from the state government special revenue fund for fiscal year 1995 to administer Minnesota Statutes, sections 148.63 to 148.637.

[FEMALE GENITAL MUTILATION; EDUCATION AND OUTREACH.] The commissioner of health, in consultation with representatives of the affected communities, shall carry out appropriate education, prevention, and outreach activities in communities that traditionally practice female circumcision, excision, or infibulation to inform people in those communities about the health risks and emotional

trauma inflicted by those practices. The information shall include notification that these practices may be subject to criminal prosecution under state laws including those prohibiting assault, child abuse, and the practice of medicine without a license. The commissioner shall work with culturally appropriate groups to obtain private funds to help finance these education, prevention, and outreach activities.

[ENABL.] Of this appropriation, $20,000 is for the purpose of planning and developing, in consultation with the commissioner of education and a representative from Minnesota planning, a program to reduce teen pregnancy modeled after the education now and babies later (ENABL) program in California. The commissioner shall consult with the chief of the health education section of the California department of health services for guidance in developing the program, and specifically to determine if Minnesota can use the ENABL acronym. The commissioner shall report to the legislature by January 15, 1995, information regarding statewide implementation of the program and the estimated appropriation necessary to implement the program statewide.

[PROVISION OF DATA.] The commissioner shall provide to the commissioner of human services by August 15, 1994, any data needed to update the base year for the hospital and health maintenance organization surcharges.

[CANCER SCREENING.] Of this appropriation, $70,000 is to be used for breast and cervical cancer screening for low-income women. This appropriation shall not become part of the base for the 1996-1997 biennium.

| | | |
|---|---|---|
| Subd. 4. Health Support Services | 140,000 | 240,000 |
| Summary by Fund | | |
| General | 25,000 | 125,000 |
| State Government Special Revenue | 115,000 | 115,000 |

Sec. 4. OMBUDSMAN FOR MENTAL HEALTH AND MENTAL RETARDATION -0- 28,000

This appropriation is added to the appropriation in Laws 1993, First Special Session chapter 1, article 1, section 7.

Sec. 5. MINNESOTA HOUSING FINANCE AGENCY -0- 400,000

This appropriation is added to the appropriation in Laws 1993, chapter 369, section 6. This appropriation shall not become part of the base for the 1996-1997 biennium.

[BLIGHTED HOUSING.] Of this appropriation, $400,000 is appropriated from the general fund to the commissioner of the housing finance agency for fiscal year 1995 for the community rehabilitation fund account created pursuant to Minnesota Statutes, section 462A.206. Notwithstanding the requirements of Minnesota Statutes, section 462A.206, subdivision 3, the commissioner must use the appropriation to make grants to cities for projects that meet the following criteria:

(1) will acquire, remove, or rehabilitate large multiunit residential blighted housing located in a redeveloped project area established under Minnesota Statutes, section 469.002, subdivision 12. For purposes of this section, "large" means a building or complex of buildings containing at least 80 residential units;

(2) will stabilize the tax capacity of the neighborhood in which the project is located;

(3) will provide housing opportunities for persons and households of income levels determined by the governing body of the city to be needed within the city; and

(4) will be located in a city that has implemented a program to acquire, demolish, or rehabilitate multiunit residential housing within three years of the effective date of this section.

"City" has the meaning given it in Minnesota Statutes, section 462A.03, subdivision 21. The commissioner must award

grants under this appropriation by September 1, 1994.

Sec. 6. VETERANS NURSING HOMES BOARD -0- -0-

[VETERANS HOMES TRANSFER.] Effective the day following final enactment, for fiscal years 1994 and 1995, the general fund appropriations made to the veterans homes board in Laws 1993, First Special Session chapter 1, article 1, section 4, shall be transferred to a veterans homes special revenue account in the special revenue fund in the same manner as other receipts are deposited in accordance with Minnesota Statutes, section 198.34, and are appropriated to the veterans homes board of directors for the operation of board facilities and programs.

Sec. 7. COUNCIL ON DISABILITY -0- 495,000

This appropriation is added to the appropriation in Laws 1993, First Special Session chapter 1, article 1, section 6.

Of this appropriation, $295,000 is for fiscal year 1995 for the purposes of establishing a grant program in the council on disability to assist organizations in complying with the requirements of the federal Americans with Disabilities Act.

Of this appropriation, $200,000 is appropriated from the general fund to the council on disability for fiscal year 1995 for the purpose of a grant to the Fergus Falls Center for the Arts, Inc. to complete renovations of a local theater necessary to bring it into compliance with the federal Americans with Disabilities Act.

Sec. 8. HEALTH-RELATED BOARDS

Subdivision 1. Total Appropriation -0- 15,000

The appropriations in this section are from the state government special revenue fund.

This appropriation is added to the appropriation in Laws 1993, First Special Session chapter 1, article 1, section 5.

Subd. 2. Board of Nursing -0- 15,000

[NURSING.] This appropriation is for the costs associated with allowing certified clinical specialists in psychiatric or mental health nursing to prescribe and administer drugs.

Sec. 9. BASE FUNDING LEVEL

None of the appropriations in this article that are allowed to be carried forward from fiscal year 1994 to fiscal year 1995 or to be transferred from one account to another account shall become part of the base funding level for the 1996-1997 biennium, unless specifically directed by the legislature.

Sec. 10. SUNSET OF UNCODIFIED LANGUAGE

All the uncodified language contained in this article expires on June 30, 1995, unless a different expiration is explicit.

Sec. 11. Minnesota Statutes 1993 Supplement, section 246.18, subdivision 4, is amended to read:

Subd. 4. [COLLECTIONS DEPOSITED IN THE GENERAL FUND.] Except as provided in subdivisions 2 ~~and~~, 5, *and 6,* all receipts from collection efforts for the regional treatment centers, state nursing homes, and other state facilities as defined in section 246.50, subdivision 3, must be deposited in the general fund. The commissioner shall ensure that the departmental financial reporting systems and internal accounting procedures comply with federal standards for reimbursement for program and administrative expenditures and fulfill the purpose of this paragraph.

Sec. 12. Minnesota Statutes 1992, section 246.18, is amended by adding a subdivision to read:

*Subd. 6.* [COLLECTIONS DEDICATED.] *Except for state-operated programs and services funded through a direct appropriation from the legislature, money received by a regional treatment center for serving mentally retarded persons through state-operated, community-based residential and day training and habilitation services, is dedicated to the commissioner for the provision of those services. These funds are reappropriated to the commissioner to operate the services authorized, and any unexpended balances do not cancel but are available until spent.*

ARTICLE 2

SOCIAL SERVICES; CHILD SUPPORT; SELF-SUFFICIENCY

Section 1. Minnesota Statutes 1993 Supplement, section 13.46, subdivision 2, is amended to read:

Subd. 2. [GENERAL.] (a) Unless the data is summary data or a statute specifically provides a different classification, data on individuals collected, maintained, used, or disseminated by the welfare system is private data on individuals, and shall not be disclosed except:

(1) pursuant to section 13.05;

(2) pursuant to court order;

(3) pursuant to a statute specifically authorizing access to the private data;

(4) to an agent of the welfare system, including a law enforcement person, attorney, or investigator acting for it in the investigation or prosecution of a criminal or civil proceeding relating to the administration of a program;

(5) to personnel of the welfare system who require the data to determine eligibility, amount of assistance, and the need to provide services of additional programs to the individual;

(6) to administer federal funds or programs;

(7) between personnel of the welfare system working in the same program;

(8) the amounts of cash public assistance and relief paid to welfare recipients in this state, including their names and social security numbers, upon request by the department of revenue to administer the property tax refund law, supplemental housing allowance, and the income tax;

(9) to the Minnesota department of jobs and training for the purpose of monitoring the eligibility of the data subject for unemployment compensation, for any employment or training program administered, supervised, or certified by that agency, or for the purpose of administering any rehabilitation program, whether alone or in conjunction with the welfare system, and to verify receipt of energy assistance for the telephone assistance plan;

(10) to appropriate parties in connection with an emergency if knowledge of the information is necessary to protect the health or safety of the individual or other individuals or persons;

(11) data maintained by residential facilities as defined in section 245A.02 may be disclosed to the protection and advocacy system established in this state pursuant to Part C of Public Law Number 98-527 to protect the legal and human rights of persons with mental retardation or other related conditions who live in residential facilities for these persons if the protection and advocacy system receives a complaint by or on behalf of that person and the person does not have a legal guardian or the state or a designee of the state is the legal guardian of the person;

(12) to the county medical examiner or the county coroner for identifying or locating relatives or friends of a deceased person;

(13) data on a child support obligor who makes payments to the public agency may be disclosed to the higher education coordinating board to the extent necessary to determine eligibility under section 136A.121, subdivision 2, clause (5);

(14) participant social security numbers and names collected by the telephone assistance program may be disclosed to the department of revenue to conduct an electronic data match with the property tax refund database to determine eligibility under section 237.70, subdivision 4a;

(15) the current address of a recipient of aid to families with dependent children, medical assistance, general assistance, work readiness, or general assistance medical care may be disclosed to law enforcement officers who provide the name and social security number of the recipient and satisfactorily

demonstrate that: (i) the recipient is a fugitive felon, including the grounds for this determination; (ii) the location or apprehension of the felon is within the law enforcement officer's official duties; and (iii) the request is made in writing and in the proper exercise of those duties; ~~or~~

(16) information obtained from food stamp applicant or recipient households may be disclosed to local, state, or federal law enforcement officials, upon their written request, for the purpose of investigating an alleged violation of the food stamp act, in accordance with Code of Federal Regulations, title 7, section 272.1(c)*; or*

*(17) data on a child support obligor who is in arrears may be disclosed for purposes of publishing the data pursuant to section 518.575.*

(b) Information on persons who have been treated for drug or alcohol abuse may only be disclosed in accordance with the requirements of Code of Federal Regulations, title 42, sections 2.1 to 2.67.

(c) Data provided to law enforcement agencies under paragraph (a), clause (15) or (16); or (b) are investigative data and are confidential or protected nonpublic while the investigation is active. The data are private after the investigation becomes inactive under section 13.82, subdivision 5, paragraph (a) or (b).

(d) Mental health data shall be treated as provided in subdivisions 7, 8, and 9, but is not subject to the access provisions of subdivision 10, paragraph (b).

Sec. 2. Minnesota Statutes 1993 Supplement, section 62A.045, is amended to read:

62A.045 [PAYMENTS ON BEHALF OF WELFARE RECIPIENTS.]

No ~~policy of accident and sickness insurance regulated under this chapter; vendor of risk management services regulated under section 60A.23; nonprofit health service plan corporation regulated under chapter 62C; health maintenance organization regulated under chapter 62D; or self insured plan regulated under chapter 62E~~ *health plan issued or renewed to provide coverage to a Minnesota resident* shall contain any provision denying or reducing benefits because services are rendered to a person who is eligible for or receiving medical benefits pursuant to *title XIX of the Social Security Act (Medicaid) in this or any other state;* chapter 256; 256B; or 256D or services pursuant to section 252.27; 256.9351 to 256.9361; 260.251, subdivision 1a; or 393.07, subdivision 1 or 2. No ~~insurer~~ *health carrier* providing benefits under ~~policies~~ *plans* covered by this section shall use eligibility for medical programs named in this section as an underwriting guideline or reason for nonacceptance of the risk.

*To the extent that payment for covered expenses has been made under state medical programs for health care items or services furnished to an individual, in any case where a third party has a legal liability to make payments, the state is considered to have acquired the rights of the individual to payment by any other party for those health care items or services.*

Notwithstanding any law to the contrary, when a person covered ~~under~~ *by* a ~~policy of accident and sickness insurance, risk management plan, nonprofit health service plan, health maintenance organization, or self insured~~ *health* plan receives medical benefits according to any statute listed in this section, payment for covered services or notice of denial for services billed by the

provider must be issued directly to the provider. If a person was receiving medical benefits through the department of human services at the time a service was provided, the provider must indicate this benefit coverage on any claim forms submitted by the provider to the ~~insurer~~ *health carrier* for those services. If the commissioner of human services notifies the ~~insurer~~ *health carrier* that the commissioner has made payments to the provider, payment for benefits or notices of denials issued by the ~~insurer~~ *health carrier* must be issued directly to the commissioner. Submission by the department to the ~~insurer~~ *health carrier* of the claim on a department of human services claim form is proper notice and shall be considered proof of payment of the claim to the provider and supersedes any contract requirements of the ~~insurer~~ *health carrier* relating to the form of submission. Liability to the insured for coverage is satisfied to the extent that payments for those benefits are made by the ~~insurer~~ *health carrier* to the provider or the commissioner.

*A health carrier may not impose requirements on a state agency which has been assigned the rights of an individual eligible for medical programs named in this section, and covered for health benefits from the health carrier, that are different from requirements applicable to an agent or assignee of any other individual so covered.*

*For the purpose of this section, "health plan" includes integrated service networks, any plan governed under the federal Employee Retirement Income Security Act of 1974 (ERISA), United States Code, title 29, sections 1001 to 1461, and the following exclusions under section 62A.011, subdivision 3, clauses (2), (6), (9), and (10).*

Sec. 3. Minnesota Statutes 1992, section 62A.046, is amended to read:

62A.046 [COORDINATION OF BENEFITS.]

(1) No group contract providing coverage for hospital and medical treatment or expenses issued or renewed after August 1, 1984, which is responsible for secondary coverage for services provided, may deny coverage or payment of the amount it owes as a secondary payor solely on the basis of the failure of another group contract, which is responsible for primary coverage, to pay for those services.

(2) A group contract which provides coverage of a claimant as a dependent of a parent who has legal responsibility for the dependent's medical care pursuant to a court order under section 518.171 must make payments directly to the provider of care, *the custodial parent, or the department of human services pursuant to section 62A.045*. In such cases, liability to the insured is satisfied to the extent of benefit payments made to the provider.

(3) This section applies to an insurer, a vendor of risk management services regulated under section 60A.23, a nonprofit health service plan corporation regulated under chapter 62C and a health maintenance organization regulated under chapter 62D. Nothing in this section shall require a secondary payor to pay the obligations of the primary payor nor shall it prevent the secondary payor from recovering from the primary payor the amount of any obligation of the primary payor that the secondary payor elects to pay.

(4) Payments made by an enrollee or by the commissioner on behalf of an enrollee in the children's health plan under sections 256.9351 to 256.9361, or a person receiving benefits under chapter 256B or 256D, for services that are

covered by the policy or plan of health insurance shall, for purposes of the deductible, be treated as if made by the insured.

(5) The commissioner of human services shall recover payments made by the children's health plan from the responsible insurer, for services provided by the children's health plan and covered by the policy or plan of health insurance.

(6) Insurers, vendors of risk management services, nonprofit health service plan corporations, fraternals, and health maintenance organizations may coordinate benefits to prohibit greater than 100 percent coverage when an insured, subscriber, or enrollee is covered by both an individual and a group contract providing coverage for hospital and medical treatment or expenses. Benefits coordinated under this paragraph must provide for 100 percent coverage of an insured, subscriber, or enrollee. To the extent appropriate, all coordination of benefits provisions currently applicable by law or rule to insurers, vendors of risk management services, nonprofit health service plan corporations, fraternals, and health maintenance organizations, shall apply to coordination of benefits between individual and group contracts, except that the group contract shall always be the primary plan. This paragraph does not apply to specified accident, hospital indemnity, specified disease, or other limited benefit insurance policies.

Sec. 4. Minnesota Statutes 1992, section 62A.048, is amended to read:

62A.048 [DEPENDENT COVERAGE.]

A ~~policy of accident and sickness insurance~~ *health plan* that covers ~~an employee who is~~ a Minnesota resident must, if it provides dependent coverage, allow dependent children who do not reside with the ~~covered employee~~ *participant* to be covered on the same basis as if they reside with the ~~covered employee~~ *participant*. ~~Neither the amount of support provided by the employee to the dependent child nor the residency of the child may be used as an excluding or limiting factor for coverage or payment for health care.~~ *Enrollment of a child cannot be denied on the basis that the child was born out of wedlock, the child is not claimed as a dependent on the parent's federal income tax return, or the child does not reside with the parent or in the insurer's service area. Every health plan must provide coverage in accordance with section 518.171 to dependents covered by a qualified court or administrative order meeting the requirements of section 518.171.*

*For the purpose of this section, "health plan" includes integrated service networks, coverage designed solely to provide dental or vision care, and any plan governed under the federal Employee Retirement Income Security Act of 1974 (ERISA), United States Code, title 29, sections 1001 to 1461.*

Sec. 5. Minnesota Statutes 1992, section 62A.27, is amended to read:

62A.27 [COVERAGE FOR ADOPTED CHILDREN.]

~~An individual or group policy or plan of health and accident insurance regulated under this chapter or chapter 64B, subscriber contract regulated under chapter 62C, or health maintenance contract regulated under chapter 62D,~~ *A health plan* that provides coverage to a Minnesota resident must cover adopted children of the insured, subscriber, *participant,* or enrollee on the same basis as other dependents. Consequently, the ~~policy or~~ plan shall not contain any provision concerning preexisting condition limitations, insurabil-

ity, eligibility, or health underwriting approval concerning ~~adopted~~ children *placed for adoption with the participant.*

The coverage required by this section is effective from the date of placement for ~~the purpose of~~ adoption ~~and continues unless the placement is disrupted prior to legal adoption and the child is removed from placement.~~ *Placement for adoption means the assumption and retention by a person of a legal obligation for total or partial support of a child in anticipation of adoption of the child. The child's placement with a person terminates upon the termination of the legal obligation for total or partial support.*

*For the purpose of this section, "health plan" includes integrated service networks, coverage that is designed solely to provide dental or vision care, and any plan under the federal Employee Retirement Income Security Act of 1974 (ERISA), United States Code, title 29, sections 1001 to 1461.*

Sec. 6. Minnesota Statutes 1992, section 245A.14, subdivision 7, is amended to read:

Subd. 7. [CULTURAL DYNAMICS TRAINING FOR CHILD CARE PROVIDERS.] (a) The ~~ongoing~~ training required of licensed child care centers and group and family child care providers shall include training in the cultural dynamics of childhood development and child care ~~as an option~~.

(b) The cultural dynamics training must include, but not be limited to, the following: awareness of the value and dignity of different cultures and how different cultures complement each other; awareness of the emotional, physical, and mental needs of children and families of different cultures; knowledge of current and traditional roles of women and men in different cultures, communities, and family environments; and awareness of the diversity of child rearing practices and parenting traditions.

(c) The commissioner shall amend current rules relating to the ~~initial~~ training of the licensed providers included in paragraph (a) to require cultural dynamics training upon determining that sufficient curriculum is developed statewide.

Sec. 7. Minnesota Statutes 1992, section 256.74, is amended by adding a subdivision to read:

*Subd. 6.* [GOOD CAUSE CLAIMS.] *All applications for good cause to not cooperate with child support enforcement are to be reviewed by designees of the county human services board to ensure the validity of good cause determinations.*

Sec. 8. [256.9771] [HEALTH INSURANCE COUNSELING.]

*Subdivision 1.* [DEFINITION.] *For purposes of this section, "certified health insurance counselor" means an individual who is a volunteer or paid staff member of a health insurance counseling program who completes the initial training approved by the Minnesota board on aging, receives a passing grade on a competency examination, and completes ongoing training.*

*Subd. 2.* [IMMUNITY FROM LIABILITY.] *A health insurance counselor certified under this section is immune from civil liability that otherwise might result from the person's actions or omissions if the person's actions are in good faith, are within the scope of the person's responsibilities, and do not constitute willful or reckless conduct.*

*Subd. 3.* [PROGRAM DATA.] *(a) Data maintained by certified health insurance counselors and programs sponsoring the service are private data on individuals as defined in section 13.02, subdivision 12, or nonpublic data as defined in section 13.02, subdivision 9.*

*(b) Data maintained by certified health insurance counselors and programs sponsoring the service that relate to the identity of a beneficiary shall be released only with the consent of the beneficiary. A certified health insurance counselor who violates this subdivision shall be decertified and relieved of duties with the program.*

Sec. 9. Minnesota Statutes 1992, section 256D.05, subdivision 3, is amended to read:

Subd. 3. [RESIDENTS OF SHELTER FACILITIES.] Notwithstanding the provisions of subdivisions 1 and 2, general assistance payments shall be made for maintenance costs and security costs which are related to providing 24-hour staff coverage at the facility incurred as a result of residence in a secure crisis shelter, a housing network, or other shelter facilities which provide shelter services to ~~women~~ *a battered woman, as that term is defined in section 611A.31, subdivision 2,* and ~~their~~ *her* children ~~who are being or have been assaulted by their spouses, other male relatives, or other males with whom they are residing or have resided in the past.~~

These payments shall be made directly to the shelter facility from general assistance funds on behalf of women and their children who are receiving, or who are eligible to receive, aid to families with dependent children or general assistance.

In determining eligibility of women and children for payment of general assistance under this subdivision, the asset limitations of the aid to families with dependent children program shall be applied. Payments to shelter facilities shall not affect the eligibility of individuals who reside in shelter facilities for aid to families with dependent children or general assistance or payments made to individuals who reside in shelter facilities through aid to families with dependent children or general assistance, except when required by federal law or regulation.

Sec. 10. [256D.066] [GENERAL ASSISTANCE AND WORK READINESS PAYMENTS.]

*Notwithstanding other provisions of sections 256D.01 to 256D.21 otherwise eligible applicants without children must have resided in this state for at least 60 consecutive days before applying for work readiness or general assistance benefits. This requirement does not apply if the person resides in this state and meets any of the following conditions:*

*(1) The person was born in this state.*

*(2) The person has, in the past, resided in this state for at least 365 consecutive days.*

*(3) The person came to this state to join a close relative who has resided in this state for at least 180 days before the arrival of the person. For purposes of this section, "close relative" means the person's parent, grandparent, brother, sister, spouse or child.*

*(4) The person came to this state to accept a bona fide offer of employment and the person was eligible to accept the employment.*

*A county agency may waive this requirement in cases of medical emergency or where unusual misfortune or hardship would result from denial of assistance. All waivers under this section shall be reported to the commissioner within 30 days.*

Sec. 11. Minnesota Statutes 1992, section 256F.09, is amended to read:

256F.09 [GRANTS FOR CHILDREN'S ~~SAFETY~~ ~~CENTERS~~ *SUPERVISED VISITATION FACILITIES*.]

Subdivision 1. [PURPOSE.] The commissioner shall issue a request for proposals from existing local nonprofit, nongovernmental organizations, to use existing local facilities as pilot children's ~~safety~~ ~~centers~~ *supervised visitation facilities*. The commissioner shall award grants in amounts up to $50,000 for the purpose of creating children's ~~safety~~ ~~centers~~ *supervised visitation facilities* to reduce children's vulnerability to violence and trauma related to family visitation, where there has been a history of domestic violence or abuse within the family. At least one of the pilot projects shall be located in the seven-county metropolitan area and at least one of the projects shall be located outside the seven-county metropolitan area, and the commissioner shall award the grants to provide the greatest possible number of ~~safety~~ ~~centers~~ *children's supervised visitation facilities* and to locate them to provide for the broadest possible geographic distribution of the ~~centers~~ *facilities* throughout the state.

Each children's ~~safety~~ ~~center~~ *visitation facility* must use existing local facilities to provide a healthy interactive environment for parents who are separated or divorced and for parents with children in foster homes to visit with their children. The ~~centers~~ *facilities* must be available for use by district courts who may order visitation to occur at a ~~safety~~ ~~center~~ *supervised visitation facility*. The ~~centers~~ *facilities* may also be used as drop-off sites, so that parents who are under court order to have no contact with each other can exchange children for visitation at a neutral site. Each ~~center~~ *facility* must provide sufficient security to ensure a safe visitation environment for children and their parents. A grantee must demonstrate the ability to provide a local match, which may include in-kind contributions.

Subd. 2. [PRIORITIES.] In awarding grants under the program, the commissioner shall give priority to:

(1) areas of the state where no children's ~~safety~~ ~~center~~ *supervised visitation facility* or similar facility exists;

(2) applicants who demonstrate that private funding for the ~~center~~ *facility* is available and will continue; and

(3) facilities that are adapted for use to care for children, such as day care centers, religious institutions, community centers, schools, technical colleges, parenting resource centers, and child care referral services.

Subd. 3. [ADDITIONAL SERVICES.] Each ~~center~~ *supervised visitation facility* may provide parenting and child development classes, and offer support groups to participating custodial parents and hold regular classes designed to assist children who have experienced domestic violence and abuse.

Subd. 4. [REPORT.] The commissioner shall evaluate the operation of the

pilot children's ~~safety centers~~ *supervised visitation facilities* and report to the legislature by February 1, 1994, with recommendations.

*Subd. 5.* [ADMINISTRATION.] *In administering the grants authorized by this section, the commissioner shall ensure that the term "children's supervised visitation facility" is used in all applications, publicity releases, requests for proposals and other materials of like nature.*

Sec. 12. Minnesota Statutes 1992, section 256G.09, subdivision 1, is amended to read:

Subdivision 1. [GENERAL PROCEDURES.] If upon investigation the local agency decides that the application or commitment was not filed in the county of financial responsibility as defined by this chapter, but that the applicant is otherwise eligible for assistance, it shall send a copy of the application or commitment claim, together with the record of any investigation it has made, to the county it believes is financially responsible. The copy and record must be sent within 60 days of the date the application was approved or the claim was paid. The first local agency shall provide assistance to the applicant until financial responsibility is transferred under this section.

The county receiving the transmittal has 30 days to accept or reject financial responsibility *and must notify the applicant's service providers of its decision.* A failure to respond within 30 days establishes financial responsibility by the receiving county *and that county must ensure payment for the approved services provided to the applicant.*

Sec. 13. Minnesota Statutes 1992, section 256H.05, subdivision 6, is amended to read:

Subd. 6. [NON-STRIDE AFDC CHILD CARE PROGRAM.] *(a)* Starting one month after April 30, 1992, the department of human services shall reimburse eligible expenditures for 2,000 family slots for AFDC caretakers not eligible for services under section 256.736, who are engaged in an authorized educational or job search program. Each county will receive a number of family slots based on the county's proportion of the AFDC caseload. A county must receive at least two family slots. Eligibility and reimbursement are limited to the number of family slots allocated to each county. County agencies shall authorize an educational plan for each student and may prioritize families eligible for this program in their child care fund plan upon approval of the commissioner of human services.

*(b)(1) Effective July 1, 1994, the department of human services shall reclaim 90 percent of the vacant slots in each county and distribute those slots to counties with ACCESS child care program waiting lists. The slots must be distributed to eligible families based on the July 1, 1994, waiting list placement date, first come, first served.*

*(2) ACCESS child care slots remaining after the waiting list under clause (1) has been eliminated must be distributed to eligible families on a first come, first served basis, based on the client's date of request. To secure a slot, counties must notify the department of human services within five calendar days of an ACCESS child care program request.*

*(3) The county must notify the department of human services when an ACCESS slot in the county becomes available. Notification by the county must be within five calendar days of the effective date of the termination of the ACCESS child care services. The resulting vacant slot must be returned to the*

*department of human services. The slot will then be redistributed under clause (2).*

Sec. 14. Minnesota Statutes 1993 Supplement, section 256I.04, subdivision 3, is amended to read:

Subd. 3. [MORATORIUM ON THE DEVELOPMENT OF GROUP RESIDENTIAL HOUSING BEDS.] (a) County agencies shall not enter into agreements for new group residential housing beds except: (1) for group residential housing establishments meeting the requirements of subdivision 2a, clause (2); (2) for group residential housing establishments licensed under Minnesota Rules, parts 9525.0215 to 9525.0355, provided the facility is needed to meet the census reduction targets for persons with mental retardation or related conditions at regional treatment centers; (3) to ensure compliance with the federal Omnibus Budget Reconciliation Act alternative disposition plan requirements for inappropriately placed persons with mental retardation or related conditions or mental illness; ~~or~~ (4) *for* up to 80 beds in a single, specialized facility located in Hennepin county that will provide housing for chronic inebriates who are repetitive users of detoxification centers and are refused placement in emergency shelters because of their state of intoxication. Planning for the specialized facility must have been initiated before July 1, 1991, in anticipation of receiving a grant from the housing finance agency under section 462A.05, subdivision 20a, paragraph (b)*; or (5) for up to 40 beds in a single facility located in Hennepin county for the purpose of providing housing to chronic stage chemically dependent American Indians. This facility must be part of a provider-developed comprehensive services plan for homeless American Indian people, and must be developed in coordination with the affected neighborhood groups. The planning process must include at least one public hearing in the affected neighborhood. In addition, the provider shall develop an ongoing advisory committee composed of neighborhood residents, which shall meet at least quarterly to discuss the impact of the facility on the neighborhood and to develop recommendations for resolution of any problems which may arise.*

(b) A county agency may enter into a group residential housing agreement for beds in addition to those currently covered under a group residential housing agreement if the additional beds are only a replacement of beds which have been made available due to closure of a setting, a change of licensure or certification which removes the beds from group residential housing payment, or as a result of the downsizing of a group residential housing setting. The transfer of available beds from one county to another can only occur by the agreement of both counties.

(c) Group residential housing beds which become available as a result of downsizing settings which have a license issued under Minnesota Rules, parts 9520.0500 to 9520.0690, must be permanently removed from the group residential housing census and not replaced.

Sec. 15. Minnesota Statutes 1993 Supplement, section 257.55, subdivision 1, is amended to read:

Subdivision 1. [PRESUMPTION.] A man is presumed to be the biological father of a child if:

(a) He and the child's biological mother are or have been married to each other and the child is born during the marriage, or within 280 days after the

marriage is terminated by death, annulment, declaration of invalidity, dissolution, or divorce, or after a decree of legal separation is entered by a court;

(b) Before the child's birth, he and the child's biological mother have attempted to marry each other by a marriage solemnized in apparent compliance with law, although the attempted marriage is or could be declared void, voidable, or otherwise invalid, and,

(1) if the attempted marriage could be declared invalid only by a court, the child is born during the attempted marriage, or within 280 days after its termination by death, annulment, declaration of invalidity, dissolution or divorce; or

(2) if the attempted marriage is invalid without a court order, the child is born within 280 days after the termination of cohabitation;

(c) After the child's birth, he and the child's biological mother have married, or attempted to marry, each other by a marriage solemnized in apparent compliance with law, although the attempted marriage is or could be declared void, voidable, or otherwise invalid, and,

(1) he has acknowledged his paternity of the child in writing filed with the state registrar of vital statistics;

(2) with his consent, he is named as the child's father on the child's birth certificate; or

(3) he is obligated to support the child under a written voluntary promise or by court order;

(d) While the child is under the age of majority, he receives the child into his home and openly holds out the child as his biological child;

(e) He and the child's biological mother acknowledge his paternity of the child in a writing signed by both of them under section 257.34 and filed with the state registrar of vital statistics. If another man is presumed under this paragraph to be the child's father, acknowledgment may be effected only with the written consent of the presumed father or after the presumption has been rebutted;

(f) Evidence of statistical probability of paternity based on blood *or genetic* testing establishes the likelihood that he is the father of the child, calculated with a prior probability of no more than 0.5 (50 percent), is 99 percent or greater;

(g) He and the child's biological mother have executed a recognition of parentage in accordance with section 257.75 and another man is presumed to be the father under this subdivision; or

(h) He and the child's biological mother have executed a recognition of parentage in accordance with section 257.75 and another man and the child's mother have executed a recognition of parentage in accordance with section 257.75.

Sec. 16. Minnesota Statutes 1993 Supplement, section 257.57, subdivision 2, is amended to read:

Subd. 2. The child, the mother, or personal representative of the child, the public authority chargeable by law with the support of the child, the personal representative or a parent of the mother if the mother has died or is a minor,

a man alleged or alleging himself to be the father, or the personal representative or a parent of the alleged father if the alleged father has died or is a minor may bring an action:

(1) at any time for the purpose of declaring the existence of the father and child relationship presumed under section 257.55, subdivision 1, paragraph (d), (e), (f), (g), or (h), or the nonexistence of the father and child relationship presumed under clause (d) of that subdivision;

(2) for the purpose of declaring the nonexistence of the father and child relationship presumed under section 257.55, subdivision 1, paragraph (e) or (g), only if the action is brought within three years after the date of the execution of the declaration or recognition of parentage; or

(3) for the purpose of declaring the nonexistence of the father and child relationship presumed under section 257.55, subdivision 1, paragraph (f), only if the action is brought within three years after the party bringing the action, or the party's attorney of record, has been provided the blood *or genetic* test results.

Sec. 17. Minnesota Statutes 1992, section 257.62, subdivision 1, is amended to read:

Subdivision 1. [BLOOD *OR GENETIC* TESTS REQUIRED.] The court may, and upon request of a party shall, require the child, mother, or alleged father to submit to blood *or genetic* tests. *A copy of the test results must be served on the parties as provided in section 543.20. Any objection to the results of blood or genetic tests must be made in writing no later than 15 days prior to a hearing at which those test results may be introduced into evidence. Test results served upon a party must include notice of this right to object.* If the alleged father is dead, the court may, and upon request of a party shall, require the decedent's parents or brothers and sisters or both to submit to blood *or genetic* tests. However, in a case involving these relatives of an alleged father, who is deceased, the court may refuse to order blood *or genetic* tests if the court makes an express finding that submitting to the tests presents a danger to the health of one or more of these relatives that outweighs the child's interest in having the tests performed. Unless the person gives consent to the use, the results of any blood *or genetic* tests of the decedent's parents, brothers, or sisters may be used only to establish the right of the child to public assistance including but not limited to social security and veterans' benefits. The tests shall be performed by a qualified expert appointed by the court.

Sec. 18. Minnesota Statutes 1992, section 257.62, subdivision 5, is amended to read:

Subd. 5. [POSITIVE TEST RESULTS.] (a) If the results of blood *or genetic* tests completed in a laboratory accredited by the American Association of Blood Banks indicate that the likelihood of the alleged father's paternity, calculated with a prior probability of no more than 0.5 (50 percent), is 92 percent or greater, upon motion the court shall order the alleged father to pay temporary child support determined according to chapter 518. The alleged father shall pay the support money into court pursuant to the rules of civil procedure to await the results of the paternity proceedings.

(b) If the results of blood *or genetic* tests completed in a laboratory accredited by the American Association of Blood Banks indicate that likelihood of the alleged father's paternity, calculated with a prior probability

of no more than 0.5 (50 percent), is 99 percent or greater, the alleged father is presumed to be the parent and the party opposing the establishment of the alleged father's paternity has the burden of proving by clear and convincing evidence that the alleged father is not the father of the child.

Sec. 19. Minnesota Statutes 1992, section 257.62, subdivision 6, is amended to read:

Subd. 6. [TESTS, EVIDENCE ADMISSIBLE.] In any hearing brought under subdivision 5, a certified report of the facts and results of a laboratory analysis or examination of blood or genetic tests, that is performed in a laboratory accredited to meet the Standards for Parentage Testing of the American Association of Blood Banks and is prepared and attested by a qualified expert appointed by the court, shall be admissible in evidence without proof of the seal, signature, or official character of the person whose name is signed to it, ~~unless a demand is made by a party in a motion or responsive motion made within the time limit for making and filing a responsive motion that the matter be heard on oral testimony before the court.~~ *If no objection is made, the blood or genetic test results are admissible as evidence without the need for foundation testimony or other proof of authenticity or accuracy.*

Sec. 20. Minnesota Statutes 1992, section 257.64, subdivision 3, is amended to read:

Subd. 3. If a party refuses to accept a recommendation made under subdivision 1 and blood *or genetic* tests have not been taken, the court shall require the parties to submit to blood *or genetic* tests, ~~if practicable~~. *Any objection to blood or genetic testing results must be made in writing no later than 15 days before any hearing at which the results may be introduced into evidence. Test results served upon a party must include a notice of this right to object.* Thereafter the court shall make an appropriate final recommendation. If a party refuses to accept the final recommendation the action shall be set for trial.

Sec. 21. Minnesota Statutes 1992, section 257.69, subdivision 1, is amended to read:

Subdivision 1. [COUNSEL; APPOINTMENT.] In all proceedings under sections 257.51 to 257.74, any party may be represented by counsel. ~~If the public authority charged by law with support of a child is a party,~~ The county attorney shall represent the public authority. ~~If the child receives public assistance and no conflict of interest exists, the county attorney shall also represent the custodial parent. If a conflict of interest exists, the court shall appoint counsel for the custodial parent at no cost to the parent. If the child does not receive public assistance, the county attorney may represent the custodial parent at the parent's request.~~ The court shall appoint counsel for a party who is unable to pay timely for counsel in proceedings under sections 257.51 to 257.74.

Sec. 22. Minnesota Statutes 1992, section 257.69, subdivision 2, is amended to read:

Subd. 2. [GUARDIAN; LEGAL FEES.] The court may order expert witness and guardian ad litem fees and other costs of the trial and pretrial proceedings, including appropriate tests, to be paid by the parties in proportions and at times determined by the court. The court shall require a

party to pay part of the fees of court-appointed counsel according to the party's ability to pay, but if counsel has been appointed the appropriate agency shall pay the party's proportion of all other fees and costs. The agency responsible for child support enforcement shall pay the fees and costs for blood *or genetic* tests in a proceeding in which it is a party, is the real party in interest, or is acting on behalf of the child. However, at the close of a proceeding in which paternity has been established under sections 257.51 to 257.74, the court shall order the adjudicated father to reimburse the public agency, if the court finds he has sufficient resources to pay the costs of the blood *or genetic* tests. When a party bringing an action is represented by the county attorney, no filing fee shall be paid to the court administrator.

Sec. 23. Minnesota Statutes 1993 Supplement, section 518.171, subdivision 1, is amended to read:

Subdivision 1. [ORDER.] *Compliance with this section constitutes compliance with a qualified medical child support order as described in the federal Employee Retirement Income Security Act of 1974 (ERISA) as amended by the federal Omnibus Budget Reconciliation Act of 1993 (OBRA).*

(a) Every child support order must*:*

*(1)* expressly assign or reserve the responsibility for maintaining medical insurance for the minor children and the division of uninsured medical and dental costs*; and*

*(2) contain the names and last known addresses, if any, of the dependents unless the court prohibits the inclusion of an address and orders the custodial parent to provide the address to the administrator of the health plan.* The court shall order the party with the better group dependent health and dental insurance coverage *or health insurance plan* to name the minor child as beneficiary on any health and dental insurance plan that is ~~comparable to or better than a number two qualified plan and~~ available to the party on*:*

*(i)* a group basis*;* ~~or~~

*(ii)* through an employer or union*; or*

*(iii) through a group health plan governed under the ERISA and included within the definitions relating to health plans found in section 62A.011, 62A.048, or 62E.06, subdivision 2.*

*"Health insurance" or "health insurance coverage" as used in this section means coverage that is comparable to or better than a number two qualified plan as defined in section 62E.06, subdivision 2.* "Health insurance" *or "health insurance* coverage" as used in this section does not include medical assistance provided under chapter 256, 256B, or 256D.

(b) If the court finds that dependent health or dental insurance is not available to the obligor or obligee on a group basis or through an employer or union, or that ~~the~~ group ~~insurer~~ *insurance* is not accessible to the obligee, the court may require the obligor (1) to obtain other dependent health or dental insurance, (2) to be liable for reasonable and necessary medical or dental expenses of the child, or (3) to pay no less than $50 per month to be applied to the medical and dental expenses of the children or to the cost of health insurance dependent coverage.

(c) If the court finds that the available dependent health or dental insurance does not pay all the reasonable and necessary medical or dental expenses of the child, including any existing or anticipated extraordinary medical expenses, and the court finds that the obligor has the financial ability to contribute to the payment of these medical or dental expenses, the court shall require the obligor to be liable for all or a portion of the medical or dental expenses of the child not covered by the required health or dental plan. Medical and dental expenses include, but are not limited to, necessary orthodontia and eye care, including prescription lenses.

(d) ~~If the obligor is employed by a self-insured employer subject only to the federal Employee Retirement Income Security Act (ERISA) of 1974, and the insurance benefit plan meets the above requirements, the court shall order the obligor to enroll the dependents within 30 days of the court order effective date or be liable for all medical and dental expenses occurring while coverage is not in effect. If enrollment in the ERISA plan is precluded by exclusionary clauses, the court shall order the obligor to obtain other coverage or make payments as provided in paragraph (b) or (c).~~

~~(e)~~ Unless otherwise agreed by the parties and approved by the court, if the court finds that the obligee is not receiving public assistance for the child and has the financial ability to contribute to the cost of medical and dental expenses for the child, including the cost of insurance, the court shall order the obligee and obligor to each assume a portion of these expenses based on their proportionate share of their total net income as defined in section 518.54, subdivision 6.

~~(f)~~ *(e)* Payments ordered under this section are subject to section 518.611. An obligee who fails to apply payments received to the medical expenses of the dependents may be found in contempt of this order.

Sec. 24. Minnesota Statutes 1993 Supplement, section 518.171, subdivision 3, is amended to read:

Subd. 3. [IMPLEMENTATION.] A copy of the court order for insurance coverage shall be forwarded to the obligor's employer or union *and to the health or dental insurance plan* by the obligee or the public authority responsible for support enforcement only when ordered by the court or when the following conditions are met:

(1) the obligor fails to provide written proof to the obligee or the public authority, within 30 days of the effective date of the court order, that the insurance has been obtained ~~or that application for insurability has been made~~;

(2) the obligee or the public authority serves written notice of its intent to enforce medical support on the obligor by mail at the obligor's last known post office address; and

(3) the obligor fails within 15 days after the mailing of the notice to provide written proof to the obligee or the public authority that the insurance coverage existed as of the date of mailing.

The employer or union shall forward a copy of the order to the health and dental insurance plan offered by the employer.

Sec. 25. Minnesota Statutes 1993 Supplement, section 518.171, subdivision 4, is amended to read:

Subd. 4. [EFFECT OF ORDER.] (a) The order is binding on the employer or union and the health and dental insurance plan when service under subdivision 3 has been made. *An employer or union that is included under ERISA may not deny enrollment based on exclusionary clauses described in section 62A.048.* Upon receipt of the order, or upon application of the obligor pursuant to the order, the employer or union and its health and dental insurance plan shall enroll the minor child as a beneficiary in the group insurance plan and withhold any required premium from the obligor's income or wages. If more than one plan is offered by the employer or union, the child shall be enrolled in ~~the insurance plan in which the obligor is enrolled or~~ the least costly *health insurance* plan ~~otherwise~~ available to the obligor that is comparable to a number two qualified plan. *If the obligor is not enrolled in a health insurance plan, the employer or union shall also enroll the obligor in the chosen plan if enrollment of the obligor is necessary in order to obtain dependent coverage under the plan. Enrollment of dependents and the obligor must be immediate and not dependent upon open enrollment periods. Enrollment is not subject to underwriting policies described in section 62A.048.*

(b) An employer or union that willfully fails to comply with the order is liable for any health or dental expenses incurred by the dependents during the period of time the dependents were eligible to be enrolled in the insurance program, and for any other premium costs incurred because the employer or union willfully failed to comply with the order. An employer or union that fails to comply with the order is subject to contempt under section 518.615 and is also subject to a fine of $500 to be paid to the obligee or public authority. Fines paid to the public authority are designated for child support enforcement services.

(c) Failure of the obligor to execute any documents necessary to enroll the dependent in the group health and dental insurance plan will not affect the obligation of the employer or union and group health and dental insurance plan to enroll the dependent in a plan ~~for which other eligibility requirements are met~~. Information and authorization provided by the public authority responsible for child support enforcement, or by the custodial parent or guardian, is valid for the purposes of meeting enrollment requirements of the health plan. The insurance coverage for a child eligible under subdivision 5 shall not be terminated except as authorized in subdivision 5.

Sec. 26. Minnesota Statutes 1992, section 518.171, subdivision 5, is amended to read:

Subd. 5. [ELIGIBLE CHILD.] A minor child that an obligor is required to cover as a beneficiary pursuant to this section is eligible for insurance coverage as a dependent of the obligor until the child is emancipated or until further order of the court. *The health or dental insurance plan may not disenroll or eliminate coverage of the child unless the health or dental insurance plan is provided satisfactory written evidence that the court order is no longer in effect, or the child is or will be enrolled in comparable health coverage through another health or dental insurance plan that will take effect not later than the effective date of the disenrollment, or the employer has eliminated family health and dental coverage for all of its employees.*

Sec. 27. Minnesota Statutes 1993 Supplement, section 518.171, subdivision 7, is amended to read:

Subd. 7. [RELEASE OF INFORMATION.] When an order for dependent insurance coverage is in effect, the obligor's employer, union, or insurance agent shall release to the obligee or the public authority, upon request, information on the dependent coverage, including the name of the ~~insurer~~ *health or dental insurance plan. The employer, union, health or dental insurance plan, or insurance agent must provide the obligee with insurance identification cards and all necessary written information to enable the obligee to utilize the insurance benefits for the covered dependents.* Notwithstanding any other law, information reported pursuant to section 268.121 shall be released to the public agency responsible for support enforcement that is enforcing an order for ~~medical~~ *health* or dental insurance coverage under this section. The public agency responsible for support enforcement is authorized to release to the obligor's ~~insurer~~ *health or dental insurance plan* or employer information necessary to obtain or enforce medical support.

Sec. 28. Minnesota Statutes 1993 Supplement, section 518.171, subdivision 8, is amended to read:

Subd. 8. [OBLIGOR LIABILITY.] (a) An obligor who fails to maintain medical or dental insurance for the benefit of the children as ordered or fails to provide other medical support as ordered is liable to the obligee for any medical or dental expenses incurred from the effective date of the court order, including health and dental insurance premiums paid by the obligee because of the obligor's failure to obtain coverage as ordered. Proof of failure to maintain insurance or noncompliance with an order to provide other medical support constitutes a showing of increased need by the obligee pursuant to section 518.64 and provides a basis for a modification of the obligor's child support order.

(b) Payments for services rendered to the dependents that are directed to the obligor, in the form of reimbursement by the ~~insurer~~ *health or dental insurance plan*, must be endorsed over to and forwarded to the vendor or custodial parent or public authority when the reimbursement is not owed to the obligor. An obligor retaining insurance reimbursement not owed to the obligor may be found in contempt of this order and held liable for the amount of the reimbursement. Upon written verification by the ~~insurer~~ *health or dental insurance plan* of the amounts paid to the obligor, the reimbursement amount is subject to all enforcement remedies available under subdivision 10, *including income withholding pursuant to section 518.611. The monthly amount to be withheld until the obligation is satisfied is 20 percent of the original debt or $50, whichever is greater.*

Sec. 29. [518.575] [PUBLICATION OF NAMES OF DELINQUENT CHILD SUPPORT OBLIGORS.]

*Every three months the department of human services shall publish at government bid rates in the newspaper of widest circulation in each county a list of the names and last known addresses of each person who (1) is a child support obligor, (2) resides in the county, (3) is at least $3,000 in arrears, and (4) has not made a child support payment, or has made only partial child support payments that total less than 25 percent of the amount of child support owed, for the last 12 months including any payments made through the interception of federal or state taxes. An obligor's name may not be published if the obligor claims in writing, and the department of human services determines, there is good cause for the nonpayment of child support. The list*

*must be based on the best information available to the state at the time of publication.*

*Before publishing the name of the obligor, the department of human services shall send a notice to the obligor's last known address which states the department's intention to publish the obligor's name and the amount of child support the obligor owes. The notice must also provide an opportunity to have the obligor's name removed from the list by paying the arrearage or by entering into an agreement to pay the arrearage, and the final date when the payment or agreement can be accepted.*

*The department of human services shall insert with the notices sent to the obligee, a notice stating the intent to publish the obligor's name, and the criteria used to determine the publication of the obligor's name.*

Sec. 30. Minnesota Statutes 1993 Supplement, section 518.611, subdivision 2, is amended to read:

Subd. 2. [CONDITIONS OF INCOME WITHHOLDING.] (a) Withholding shall result when:

(1) the obligor requests it in writing to the public authority;

(2) the custodial parent requests it by making a motion to the court *and the court finds that previous support has not been paid on a timely or consistent basis or that the obligor has threatened expressly or otherwise to stop or reduce payments*; or

(3) the obligor fails to make the maintenance or support payments, and the following conditions are met:

(i) the obligor is at least 30 days in arrears;

(ii) the obligee or the public authority serves written notice of income withholding, showing arrearage, on the obligor at least 15 days before service of the notice of income withholding and a copy of the court's order on the payor of funds;

(iii) within the 15-day period, the obligor fails to move the court to deny withholding on the grounds that an arrearage of at least 30 days does not exist as of the date of the notice of income withholding, or on other grounds limited to mistakes of fact, and, ex parte, to stay service on the payor of funds until the motion to deny withholding is heard;

(iv) the obligee or the public authority serves a copy of the notice of income withholding, a copy of the court's order or notice of order, and the provisions of this section on the payor of funds; and

(v) the obligee serves on the public authority a copy of the notice of income withholding, a copy of the court's order, an application, and the fee to use the public authority's collection services.

For those persons not applying for the public authority's IV-D services, a monthly service fee of $15 must be charged to the obligor in addition to the amount of child support ordered by the court and withheld through automatic income withholding, or for persons applying for the public authority's IV-D services, the service fee under section 518.551, subdivision 7, applies. The county agency shall explain to affected persons the services available and encourage the applicant to apply for IV-D services.

(b) To pay the arrearage specified in the notice of income withholding, the employer or payor of funds shall withhold from the obligor's income an additional amount equal to 20 percent of the monthly child support or maintenance obligation until the arrearage is paid.

(c) The obligor may move the court, under section 518.64, to modify the order respecting the amount of maintenance or support.

(d) Every order for support or maintenance shall provide for a conspicuous notice of the provisions of this subdivision that complies with section 518.68, subdivision 2. An order without this notice remains subject to this subdivision.

(e) Absent a court order to the contrary, if an arrearage exists at the time an order for ongoing support or maintenance would otherwise terminate, income withholding shall continue in effect in an amount equal to the former support or maintenance obligation plus an additional amount equal to 20 percent of the monthly child support obligation, until all arrears have been paid in full.

Sec. 31. Minnesota Statutes 1993 Supplement, section 518.611, subdivision 4, is amended to read:

Subd. 4. [EFFECT OF ORDER.] (a) Notwithstanding any law to the contrary, the order is binding on the employer, trustee, payor of the funds, or financial institution when service under subdivision 2 has been made. Withholding must begin no later than the first pay period that occurs after 14 days following the date of the notice. In the case of a financial institution, preauthorized transfers must occur in accordance with a court-ordered payment schedule. An employer, payor of funds, or financial institution in this state is required to withhold income according to court orders for withholding issued by other states or territories. The payor shall withhold from the income payable to the obligor the amount specified in the order and amounts required under subdivision 2 and section 518.613 and shall remit, within ten days of the date the obligor is paid the remainder of the income, the amounts withheld to the public authority. The payor shall identify on the remittance information the date the obligor is paid the remainder of the income. The obligor is considered to have paid the amount withheld as of the date the obligor received the remainder of the income. The financial institution shall execute preauthorized transfers from the deposit accounts of the obligor in the amount specified in the order and amounts required under subdivision 2 as directed by the public authority responsible for child support enforcement.

(b) Employers may combine all amounts withheld from one pay period into one payment to each public authority, but shall separately identify each obligor making payment. Amounts received by the public authority which are in excess of public assistance expended for the party or for a child shall be remitted to the party.

(c) An employer shall not discharge, or refuse to hire, or otherwise discipline an employee as a result of a wage or salary withholding authorized by this section. The employer or other payor of funds shall be liable to the obligee for any amounts required to be withheld. A financial institution is liable to the obligee if funds in any of the obligor's deposit accounts identified in the court order equal the amount stated in the preauthorization agreement but are not transferred by the financial institution in accordance with the agreement. An employer or other payor of funds that fails to withhold or transfer funds in accordance with this section is also liable to the obligee for interest on the funds at the rate applicable to judgments under section 549.09,

computed from the date the funds were required to be withheld or transferred. An employer or other payor of funds is liable for reasonable attorney fees of the obligee or public authority incurred in enforcing the liability under this paragraph. An employer or other payor of funds that has failed to comply with the requirements of this section is subject to contempt sanctions under section 518.615. *If an employer violates this subdivision, a court may award the employee twice the wages lost as a result of this violation. If a court finds the employer violates this subdivision, the court shall impose a civil fine of not less than $500.*

Sec. 32. Minnesota Statutes 1993 Supplement, section 518.613, subdivision 2, is amended to read:

Subd. 2. [ORDER; COLLECTION SERVICES.] Every order for child support must include the obligor's social security number and date of birth and the name and address of the obligor's employer or other payor of funds. In addition, every order must contain provisions requiring the obligor to keep the public authority informed of the name and address of the obligor's current employer, or other payor of funds and whether the obligor has access to employment-related health insurance coverage and, if so, the health insurance policy information. Upon entry of the order for support or maintenance, the court shall mail, *within five working days of entering the order,* a copy of the court's automatic income withholding order and the provisions of section 518.611 and this section to the obligor's employer or other payor of funds and to the public authority responsible for child support enforcement. *If the employer is unknown, the order must be forwarded to the public authority responsible for child support enforcement. Upon locating a payor of funds, the public authority responsible for child support enforcement shall mail a copy of the court's automatic income withholding order within five working days of locating the address of the payor of funds.* An obligee who is not a recipient of public assistance must decide to either apply for the IV-D collection services of the public authority or obtain income withholding only services when an order for support is entered unless the requirements of this section have been waived under subdivision 7. The supreme court shall develop a standard automatic income withholding form to be used by all Minnesota courts. This form shall be made a part of any order for support or decree by reference.

Sec. 33. Minnesota Statutes 1992, section 518.613, subdivision 7, is amended to read:

Subd. 7. [WAIVER.] (a) The court may waive the requirements of this section if the court finds that there is no arrearage in child support or maintenance as of the date of the hearing~~, that it would not be contrary to the best interests of the child~~, and: (1) one party demonstrates and the court finds that there is good cause to waive the requirements of this section or to terminate automatic income withholding on an order previously entered under this section; or (2) all parties reach a written agreement that provides for an alternative payment arrangement and the agreement is approved by the court after a finding that the agreement is likely to result in regular and timely payments. *The court's findings waiving the requirements of this section must include a written explanation of the reasons why automatic withholding would not be in the best interests of the child and, in the case that involves modification of support, that past support has been timely made.* If the court waives the requirements of this section:

(1) in all cases where the obligor is at least 30 days in arrears, withholding must be carried out pursuant to section 518.611;

(2) the obligee may at any time and without cause request the court to issue an order for automatic income withholding under this section; and

(3) the obligor may at any time request the public authority to begin withholding pursuant to this section, by serving upon the public authority the request and a copy of the order for child support or maintenance. Upon receipt of the request, the public authority shall serve a copy of the court's order and the provisions of section 518.611 and this section on the obligor's employer or other payor of funds. The public authority shall notify the court that withholding has begun at the request of the obligor pursuant to this clause.

(b) For purposes of this subdivision, "parties" includes the public authority in cases when it is a party pursuant to section 518.551, subdivision 9.

Sec. 34. Minnesota Statutes 1993 Supplement, section 518.615, subdivision 3, is amended to read:

Subd. 3. [LIABILITY.] The employer, trustee, or payor of funds is liable to the obligee or the agency responsible for child support enforcement for any amounts required to be withheld that were not paid. The court may enter judgment against the employer, trustee, or payor of funds for support not withheld or remitted. *An employer, trustee, or payor of funds found guilty of contempt shall be punished by a fine of not more than $250 as provided in chapter 588.* The court may also impose *other* contempt sanctions *authorized* under chapter 588.

Sec. 35. Minnesota Statutes 1992, section 626.556, subdivision 4, is amended to read:

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

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

(2) any ~~social worker~~ *person with responsibility for performing duties under this section* or supervisor employed by a local welfare agency complying with subdivision 10d ~~or the provisions of section 626.5561~~; and

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

(b) A person who is a supervisor or ~~social worker~~ *person with responsibility for performing duties under this section* employed by a local welfare agency complying with subdivisions 10 and 11 *or section 626.5561* or any related rule or provision of law is immune from any civil or criminal liability that might otherwise result from the person's actions, if the person is acting in good faith and ~~exercising due care~~ *in accordance with any established protocols and rules and reasonable professional practice.*

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

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

Sec. 36. Minnesota Statutes 1992, section 626.556, is amended by adding a subdivision to read:

*Subd. 4b.* [LIABILITY; COSTS AND ATTORNEY FEES.] *If a person who is an alleged perpetrator prevails in a civil action arising out of an assessment, determination, or bad faith report made under this section, the person is entitled to costs and reasonable attorney fees in the action. This subdivision does not apply to criminal or juvenile court proceedings. This subdivision does not affect the immunity provisions of this section or other law.*

Sec. 37. Minnesota Statutes 1992, section 626.556, is amended by adding a subdivision to read:

*Subd. 9a.* [PROTOCOL GOVERNING ABUSE AND NEGLECT ASSESSMENTS.] *The commissioner of human services shall adopt rules establishing a specific protocol to be followed by social workers, child protection workers, and supervisors employed by local welfare agencies and the commissioner in conducting assessments and making determinations under this section. In developing the rules the commissioner shall consult with individuals involved in assessing child abuse and neglect, including physicians and other health professionals, child psychologists, social workers, child protection workers, and supervisors, county attorneys, educators, and law enforcement. The commissioner shall also consult with representatives of parent and foster parent groups, facilities, attorneys and other advocates who represent the interests of persons who may be accused of child abuse and neglect, and representatives of communities of color.*

Sec. 38. Minnesota Statutes 1992, section 626.556, subdivision 10e, is amended to read:

Subd. 10e. [DETERMINATIONS.] Upon the conclusion of every assessment or investigation it conducts, the local welfare agency shall make two determinations: first, whether maltreatment has occurred; and second, whether child protective services are needed. *Determinations under this subdivision must be made based on a preponderance of the evidence.*

(a) For the purposes of this subdivision, "maltreatment" means any of the following acts or omissions committed by a person responsible for the child's care:

(1) physical abuse as defined in subdivision 2, paragraph (d);

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

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

(4) mental injury as defined in subdivision 2, paragraph (k).

(b) For the purposes of this subdivision, a determination that child protective services are needed means that the local welfare agency has documented conditions during the assessment or investigation sufficient to cause a child protection worker, as defined in section 626.559, subdivision 1, to conclude that a child is at significant risk of maltreatment if protective intervention is not provided and that the individuals responsible for the child's care have not taken or are not likely to take actions to protect the child from maltreatment or risk of maltreatment.

(c) This subdivision does not mean that maltreatment has occurred solely because the child's parent, guardian, or other person responsible for the child's care in good faith selects and depends upon spiritual means or prayer for treatment or care of disease or remedial care of the child, in lieu of medical care. However, if lack of medical care may result in imminent and serious danger to the child's health, the local welfare agency may ensure that necessary medical services are provided to the child.

Sec. 39. Minnesota Statutes 1993 Supplement, section 626.556, subdivision 11, is amended to read:

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

Sec. 40. Minnesota Statutes 1992, section 626.556, is amended by adding a subdivision to read:

*Subd. 11d.* [DISCLOSURE OF INFORMATION TO SUBJECT OF REPORT.] *If a determination is made that maltreatment has occurred or that child protective services are needed, the person determined to be maltreating the child and the director of the facility, if applicable, may request a summary of the specific reasons for the determination and the person has access to data documenting the basis for the determination, excluding data that would identify the reporter or other confidential sources.*

Sec. 41. Minnesota Statutes 1992, section 626.556, is amended by adding a subdivision to read:

*Subd. 14.* [CONFLICT OF INTEREST.] *A person who conducts an assessment or assists in making an assessment under this section or section 626.5561 may not have any direct or shared financial interest or referral relationship resulting in a direct shared financial gain with a child abuse and neglect treatment provider. If an independent assessor is not available, the person responsible for making the determination under this section may use the services of an assessor with a financial interest or referral relationship, as authorized under rules adopted by the commissioner of human services.*

Sec. 42. [REPORT.]

*The commissioner shall consult with the task force on child care and make recommendations for future distribution of the ACCESS slots under Minnesota Statutes, section 256H.05, subdivision 6, paragraph (b), to the 1995 legislature.*

Sec. 43. [REPORT TO LEGISLATURE.]

*The department of human services shall report to the legislature in January 1996, in the department of human services annual report to the legislature, the fiscal implications of the program, established in Minnesota Statutes, section 518.575, which publishes the names of delinquent child support obligors, including related costs and savings.*

Sec. 44. [REPEALER; SUPPORT ORDERS.]

*Minnesota Statutes 1992, sections 62C.141; 62C.143; 62D.106; and 62E.04, subdivisions 9 and 10, are repealed.*

Sec. 45. [REPEALER; GENERAL ASSISTANCE FOR NEW RESIDENTS.]

*Minnesota Statutes 1992, section 256D.065, is repealed.*

Sec. 46. [EFFECTIVE DATES.]

*Subdivision 1.* [SUPPORT ORDERS.] *Sections 2 to 5 and 23 to 28 (62A.045, 62A.046, 62A.048, 62A.27, and 518.171, subdivisions 1 to 8) are effective retroactively to August 10, 1993.*

*Subd. 2.* [PUBLICATION OF NAMES.] *Section 29 (518.575) is effective January 1, 1995.*

*Subd. 3.* [LIABILITY; COSTS AND ATTORNEY FEES.] *Section 36 (626.556, subdivision 4b) is effective August 1, 1996.*

ARTICLE 3

HEALTH CARE ADMINISTRATION

Section 1. Minnesota Statutes 1992, section 62A.31, is amended by adding a subdivision to read:

*Subd. 1u.* [PREMIUM RATE REGULATION.] *No Medicare supplement policy, contract, or certificate, including policies, contracts, or certificates that supplement Medicare issued by health maintenance organizations and those contracts governed by section 1833 or 1876 of the federal Social Security Act, United States Code, title 42, section 1395 et seq., may be issued or renewed to a Minnesota resident unless the premium rate charged complies with this subdivision. The premium rate must:*

*(1) not be used unless it has been approved by the commissioner of commerce or commissioner of health, whichever is applicable, as being in full compliance with this subdivision and other applicable state law, except as otherwise provided in clause (vi);*

*(2) not be approved, unless the commissioner of commerce or commissioner of health, whichever is applicable, has determined that the rate is reasonable. In determining reasonableness, the commissioner shall consider the effect of any Medicare benefit changes, the growth rates applied under section 62J.04, subdivision 1, paragraph (b), to the calendar year or years that the proposed premium rate would be in effect, actuarially valid changes in risk associated with the enrollee population and actuarially valid changes as a result of statutory changes in Laws 1992, chapter 549;*

*(3) approved by the commissioner of commerce or commissioner of health, whichever is applicable, as actuarially justified, based upon an actuarial review, by the commissioner's own employed or retained actuary, of the actuarial justification provided by the health carrier; and*

*(4) not be approved except after compliance with the following procedure:*

*(i) a health carrier that wishes to increase its premium rate must submit its request to the appropriate commissioner on or before October 15;*

*(ii) the health carrier must notify its policyholders, contract holders, enrollees, and certificate holders of the proposed increase by mail no later than November 1. The notice must specify the dollar amount per month or the percentage of the proposed increase and itemize the portion of the proposed increase attributable to each of the following:*

*(a) changes in Medicare deductibles and copays;*

*(b) changes in Medicare payments to the health carrier;*

*(c) changes in the medical care component of the Consumer Price Index, based upon the most recent 12-month change available as of October 1, as determined by the commissioners;*

*(d) expense or claims experience under the plan; and*

*(e) other factors specified by the health carrier.*

*The notice must provide a toll-free telephone number that may be used to call the health carrier for more information.*

*(iii) the notice must also inform the recipient of the dates, times, and locations of no fewer than five public hearings arranged jointly by the commissioners of health and commerce and must further inform the recipient that the recipient may appear at the hearing to comment on the proposed increase or may submit written comments to the appropriate commissioner. The hearings must be held in the first two weeks in December and must be*

*located at convenient locations throughout the state, as determined by the commissioners in their discretion. The rates must not be approved until after the hearings;*

*(iv) clause (iii) does not apply to a proposed rate increase that is attributable only to the change in clause (ii), item (c), as determined by the commissioner. Upon receipt of a request for a rate increase, the commissioner shall determine, no later than October 15, whether the proposed increase complies with the clause. If the commissioner is in doubt, the determination shall be that it does not comply;*

*(v) no rate increase shall go into effect prior to January 1, except a request that complies with clause (iv) or that is described in clause (vi);*

*(vi) health maintenance organizations may increase premium rates for contracts governed by section 1833 or 1876 of the federal Social Security Act, United States Code, title 42, section 1395 et seq., and for other contracts governed by federal law, on January 1 without complying with clause (iv) and without the prior approval of the commissioner of health. A rate increase permitted under this clause is not final until approved by the commissioner of health and is subject to all requirements and procedures required under this subdivision, except as expressly exempted in this subdivision. If the commissioner of health later disapproves all or part of a proposed rate increase that went into effect under this clause, the health maintenance organization shall promptly refund the excess premiums to the enrollees with interest at five percent per year.*

*This subdivision shall not apply to Minnesota comprehensive health association policies.*

Sec. 2. Minnesota Statutes 1992, section 144A.46, subdivision 2, is amended to read:

Subd. 2. [EXEMPTIONS.] The following individuals or organizations are exempt from the requirement to obtain a home care provider license:

(1) a person who is licensed as a registered nurse under sections 148.171 to 148.285 and who independently provides nursing services in the home without any contractual or employment relationship to a home care provider or other organization;

(2) a personal care assistant who provides services under the medical assistance program as authorized under sections 256B.0625, subdivision 19, and 256B.04, subdivision 16;

(3) a person or organization that exclusively offers, provides, or arranges for personal care assistant services under the medical assistance program as authorized under sections 256B.0625, subdivision 19, and 256B.04, subdivision 16;

(4) a person who is registered under sections 148.65 to 148.78 and who independently provides physical therapy services in the home without any contractual or employment relationship to a home care provider or other organization;

(5) a provider that is licensed by the commissioner of human services to provide semi-independent living services under Minnesota Rules, parts 9525.0500 to 9525.0660 when providing home care services to a person with a developmental disability;

(6) a provider that is licensed by the commissioner of human services to provide home- and community-based services under Minnesota Rules, parts 9525.2000 to 9525.2140 when providing home care services to a person with a developmental disability; ~~or~~

(7) a person or organization that provides only home management services, if the person or organization is registered under section 144A.43, subdivision 3; *or*

*(8) a person who is licensed as a social worker under sections 148B.18 to 148B.28 and who provides social work services in the home independently and not through any contractual or employment relationship with a home care provider or other organization.*

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

Sec. 3. Minnesota Statutes 1993 Supplement, section 144A.071, subdivision 3, is amended to read:

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

(a) to license or certify a new bed in place of one decertified after July 1, 1993, as long as the number of certified plus newly certified or recertified beds does not exceed the number of beds licensed or certified on July 1, 1993, or to address an extreme hardship situation, in a particular county that, together with all contiguous Minnesota counties, has fewer nursing home beds per 1,000 elderly than the number that is ten percent higher than the national average of nursing home beds per 1,000 elderly individuals. For the purposes of this section, the national average of nursing home beds shall be the most recent figure that can be supplied by the federal health care financing administration and the number of elderly in the county or the nation shall be determined by the most recent federal census or the most recent estimate of the state demographer as of July 1, of each year of persons age 65 and older, whichever is the most recent at the time of the request for replacement. An extreme hardship situation can only be found after the county documents the existence of unmet medical needs that cannot be addressed by any other alternatives;

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

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

*(d) to certify two existing beds in a facility with 66 licensed beds on January 1, 1994, that had an average occupancy rate of 98 percent or higher in both calendar year 1992 and calendar year 1993, and which began construction of four attached assisted living units in April 1993.*

Sec. 4. Minnesota Statutes 1993 Supplement, section 144A.071, subdivision 4a, is amended to read:

Subd. 4a. [EXCEPTIONS FOR REPLACEMENT BEDS.] It is in the best interest of the state to ensure that nursing homes and boarding care homes continue to meet the physical plant licensing and certification requirements by permitting certain construction projects. Facilities should be maintained in condition to satisfy the physical and emotional needs of residents while allowing the state to maintain control over nursing home expenditure growth.

The commissioner of health in coordination with the commissioner of human services, may approve the renovation, replacement, upgrading, or relocation of a nursing home or boarding care home, under the following conditions:

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

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

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

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

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

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

(vi) the commissioner determines that the replacement beds are needed to prevent an inadequate supply of beds.

Project construction costs incurred for repairs authorized under this clause shall not be considered in the dollar threshold amount defined in subdivision 2;

(b) to license or certify beds that are moved from one location to another within a nursing home facility, provided the total costs of remodeling performed in conjunction with the relocation of beds does not exceed 25 percent of the appraised value of the facility or $500,000, whichever is less;

(c) to license or certify beds in a project recommended for approval under section 144A.073;

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

(e) to certify and license as nursing home beds boarding care beds in a certified boarding care facility if the beds meet the standards for nursing home licensure, or in a facility that was granted an exception to the moratorium under section 144A.073, and if the cost of any remodeling of the facility does

not exceed 25 percent of the appraised value of the facility or $500,000, whichever is less. If boarding care beds are licensed as nursing home beds, the number of boarding care beds in the facility must not increase beyond the number remaining at the time of the upgrade in licensure. The provisions contained in section 144A.073 regarding the upgrading of the facilities do not apply to facilities that satisfy these requirements;

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

(g) to license and certify nursing home beds to replace currently licensed and certified boarding care beds which may be located either in a remodeled or renovated boarding care or nursing home facility or in a remodeled, renovated, newly constructed, or replacement nursing home facility within the identifiable complex of health care facilities in which the currently licensed boarding care beds are presently located, provided that the number of boarding care beds in the facility or complex are decreased by the number to be licensed as nursing home beds and further provided that, if the total costs of new construction, replacement, remodeling, or renovation exceed ten percent of the appraised value of the facility or $200,000, whichever is less, the facility makes a written commitment to the commissioner of human services that it will not seek to receive an increase in its property-related payment rate by reason of the new construction, replacement, remodeling, or renovation. The provisions contained in section 144A.073 regarding the upgrading of facilities do not apply to facilities that satisfy these requirements;

(h) to license as a nursing home and certify as a nursing facility a facility that is licensed as a boarding care facility but not certified under the medical assistance program, but only if the commissioner of human services certifies to the commissioner of health that licensing the facility as a nursing home and certifying the facility as a nursing facility will result in a net annual savings to the state general fund of $200,000 or more;

(i) to certify, after September 30, 1992, and prior to July 1, 1993, existing nursing home beds in a facility that was licensed and in operation prior to January 1, 1992;

(j) to license and certify new nursing home beds to replace beds in a facility condemned as part of an economic redevelopment plan in a city of the first class, provided the new facility is located within one mile of the site of the old facility. Operating and property costs for the new facility must be determined and allowed under existing reimbursement rules;

(k) to license and certify up to 20 new nursing home beds in a community-operated hospital and attached convalescent and nursing care facility with 40 beds on April 21, 1991, that suspended operation of the hospital in April 1986. The commissioner of human services shall provide the facility with the same

per diem property-related payment rate for each additional licensed and certified bed as it will receive for its existing 40 beds;

(l) to license or certify beds in renovation, replacement, or upgrading projects as defined in section 144A.073, subdivision 1, so long as the cumulative total costs of the facility's remodeling projects do not exceed 25 percent of the appraised value of the facility or $500,000, whichever is less;

(m) to license and certify beds that are moved from one location to another for the purposes of converting up to five four-bed wards to single or double occupancy rooms in a nursing home that, as of January 1, 1993, was county-owned and had a licensed capacity of 115 beds;

(n) to allow a facility that on April 16, 1993, was a 106-bed licensed and certified nursing facility located in Minneapolis to layaway all of its licensed and certified nursing home beds. These beds may be relicensed and recertified in a newly-constructed teaching nursing home facility affiliated with a teaching hospital upon approval by the legislature. The proposal must be developed in consultation with the interagency committee on long-term care planning. The beds on layaway status shall have the same status as voluntarily delicensed and decertified beds, except that beds on layaway status remain subject to the surcharge in section 256.9657. This layaway provision expires July 1, 1995;

(o) to allow a project which will be completed in conjunction with an approved moratorium exception project for a nursing home in southern Cass county and which is directly related to that portion of the facility that must be repaired, renovated, or replaced, to correct an emergency plumbing problem for which a state correction order has been issued and which must be corrected by August 31, 1993; ~~or~~

(p) to allow a facility that on April 16, 1993, was a 368-bed licensed and certified nursing facility located in Minneapolis to layaway, upon 30 days prior written notice to the commissioner, up to 30 of the facility's licensed and certified beds by converting three-bed wards to single or double occupancy. Beds on layaway status shall have the same status as voluntarily delicensed and decertified beds except that beds on layaway status remain subject to the surcharge in section 256.9657, remain subject to the license application and renewal fees under section 144A.07 and shall be subject to a $100 per bed reactivation fee. In addition, at any time within three years of the effective date of the layaway, the beds on layaway status may be:

(1) relicensed and recertified upon relocation and reactivation of some or all of the beds to an existing licensed and certified facility or facilities located in Pine River, Brainerd, or International Falls; provided that the total project construction costs related to the relocation of beds from layaway status for any facility receiving relocated beds may not exceed the dollar threshold provided in subdivision 2 unless the construction project has been approved through the moratorium exception process under section 144A.073~~.~~;

(2) relicensed and recertified, upon reactivation of some or all of the beds within the facility which placed the beds in layaway status, if the commissioner has determined a need for the reactivation of the beds on layaway status~~.~~;

*(q) to license and certify up to 24 nursing home beds in a facility located*

*in St. Louis county which, as of January 1, 1993, has a licensed capacity of 26 hospital beds and 24 nursing home beds under the following conditions:*

*(1) no more than 12 nursing home beds can be licensed and certified during fiscal year 1995; and*

*(2) the additional 12 nursing home beds can be licensed and certified during fiscal year 1996 only if the 1994 occupancy rate for nursing homes within a 25-mile radius of the facility exceeds 96 percent.*

*This facility shall not be required to comply with the new construction standards contained in the nursing home licensure rules for resident bedrooms;*

*(r) to license and certify up to 117 beds that are relocated from a licensed and certified 138-bed nursing facility located in St. Paul to a hospital with 130 licensed hospital beds located in South St. Paul, provided that the nursing facility and hospital are owned and operated by the same organization and that prior to the date the relocation is completed the hospital ceases operation of its inpatient hospital services at that hospital.*

*The total project construction cost estimate for the project must not exceed the cost estimate submitted for the replacement of the nursing facility in connection with the moratorium exception process initiated under section 144A.073 in 1993.*

*At the time of licensure and certification of the 117 nursing facility beds in the new location, the facility may layaway the remaining 21 nursing facility beds, which shall have the same status as voluntarily delicensed and decertified beds except that beds on layaway status remain subject to the surcharge in section 256.9657. The 21 nursing facility beds on layaway status may be relicensed and recertified within the identifiable complex of health care facilities in which the beds are currently located upon recommendation by the commissioner of human services; or*

*(s) to license and certify a newly constructed 118-bed facility in Crow Wing county when the following conditions are met:*

*(1) the owner of the new facility delicenses an existing 68-bed facility located in the same county;*

*(2) the owner of the new facility delicenses 60 beds in three-bed rooms in other owned facilities located in the seven-county metropolitan area; and*

*(3) the project results in a ten-bed reduction in the number of licensed beds operated statewide by the owner of the new facility.*

*All beds in the newly constructed facility shall be licensed as nursing home beds regardless of the licensure of beds at the closed facility.*

The property-related payment rate of a facility placing beds on layaway status must be adjusted by the incremental change in its rental per diem after recalculating the rental per diem as provided in section 256B.431, subdivision 3a, paragraph (d). The property-related payment rate for a facility relicensing and recertifying beds from layaway status must be adjusted by the incremental change in its rental per diem after recalculating its rental per diem using the number of beds after the relicensing to establish the facility's capacity day divisor, which shall be effective the first day of the month following the month

in which the relicensing and recertification became effective. Any beds remaining on layaway status more than three years after the date the layaway status became effective must be removed from layaway status and immediately delicensed and decertified.

Sec. 5. Minnesota Statutes 1992, section 144A.073, subdivision 1, is amended to read:

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

(a) "Conversion" means the relocation of a nursing home bed from a nursing home to an attached hospital.

(b) "Renovation" means extensive remodeling of, or construction of an addition to, a facility on an existing site with a total cost exceeding ten percent of the appraised value of the facility or $200,000, whichever is less.

(c) "Replacement" means ~~the~~ *a substantial* demolition or reconstruction ~~of all or part~~ of an existing facility.

(d) "Upgrading" means a change in the level of licensure of a bed from a boarding care bed to a nursing home bed in a certified boarding care facility.

*(e) "Relocation" means the movement of licensed nursing home beds or certified boarding care beds as permitted under subdivision 4, paragraph (a), clause (4), and subdivision 5 of this section.*

Sec. 6. Minnesota Statutes 1993 Supplement, section 144A.073, subdivision 2, is amended to read:

Subd. 2. [REQUEST FOR PROPOSALS.] At the intervals specified in rules, the interagency committee shall publish in the State Register a request for proposals for nursing home projects to be licensed or certified under section 144A.071, subdivision 4a, clause (c). *The public notice of this funding and the request for proposal must specify how the approval criteria will be prioritized by the advisory review panel, the interagency long-term care planning committee, and the commissioner.* The notice must describe the information that must accompany a request and state that proposals must be submitted to the interagency committee within 90 days of the date of publication. The notice must include the amount of the legislative appropriation available for the additional costs to the medical assistance program of projects approved under this section. If no money is appropriated for a year, the notice for that year must state that proposals will not be requested because no appropriations were made. To be considered for approval, a proposal must include the following information:

(1) whether the request is for renovation, replacement, upgrading, or conversion;

(2) a description of the problem the project is designed to address;

(3) a description of the proposed project;

(4) an analysis of projected costs, including initial construction and remodeling costs, site preparation costs, *resident discharge plans when downsizing is part of the proposal,* financing costs, *including the current estimated long-term financing costs of the proposal, including the amount and sources of money, bond fund reserve, annual payments scheduled, interest*

*rates, length of term, closing costs and fees, and insurance costs, any completed marketing study or underwriting review,* and estimated operating costs during the first two years after completion of the project;

(5) for proposals involving replacement of all or part of a facility, the proposed location of the replacement facility and an estimate of the cost of addressing the problem through renovation;

(6) for proposals involving renovation, an estimate of the cost of addressing the problem through replacement;

(7) the proposed timetable for commencing construction and completing the project; ~~and~~

(8) *an explanation of any licensure or certification issues, such as certification survey deficiencies; and*

*(9)* other information required by *permanent* rule of the commissioner of health *in accordance with subdivisions 4 and 8.*

Sec. 7. Minnesota Statutes 1993 Supplement, 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 long-term care planning committee 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 committee shall appoint an advisory review panel composed of representatives of consumers and providers to review proposals and provide comments and recommendations to the committee. The commissioners of human services and health shall provide staff and technical assistance to the committee for the review and analysis of proposals. The interagency committee shall hold a public hearing before submitting recommendations to the commissioner of health on project requests. The committee 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 committee's recommendations. *The advisory review panel, the committee, and the commissioner of health shall base their recommendations, approvals, or disapprovals on a comparison and ranking of proposals using only the criteria in subdivision 4 and in emergency and permanent rules adopted by the commissioner.* 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 months after approval by the commissioner of health unless the facility has commenced construction as defined in section 144A.071, subdivision 1a, paragraph (d). The committee'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. 8. Minnesota Statutes 1992, 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 July 1, 1992, may be commenced more than 18 months after the date of the commissioner's approval but no later than ~~July 1, 1994~~ *January 1, 1995*, 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, *except that for a project eligible under this section that applies for department of housing and urban development funding prior to September 30, 1994, construction may be commenced no later than July 1, 1995.*

Sec. 9. Minnesota Statutes 1992, section 144A.073, subdivision 4, is amended to read:

Subd. 4. [CRITERIA FOR REVIEW.] (a) The following criteria must be used *in a consistent manner* to compare ~~and~~, evaluate, *and rank* all proposals submitted~~:~~. *Except for the criteria specified in clauses (4) and (5), the application of criteria listed under this paragraph must not reflect any distinction based on the geographic location of the proposed project:*

(1) ~~the extent to which the average occupancy rate of the facility supports the need for the proposed project;~~

~~(2) the extent to which the average occupancy rate of all facilities in the county in which the applicant is located, together with all contiguous Minnesota counties, supports the need for the proposed project;~~

~~(3)~~ the extent to which the proposal furthers state long-term care goals *specified in permanent rules adopted under subdivision 8*, including the goal of enhancing the availability and use of alternative care services and the goal of reducing the number of long-term care resident rooms with more than two beds;

~~(4) the cost effectiveness of the proposal, including~~ *(2)* the proposal's long-term effects on the costs of the medical assistance program, as determined by the commissioner of human services; ~~and~~

~~(5) other factors developed in rule by the commissioner of health that evaluate and assess how the proposed project will further promote or protect the health, safety, comfort, treatment, or well-being of the facility's residents.~~

*(3) the extent to which the proposal at the time of the application under this section eliminates beds from the state's nursing home or certified boarding care bed supply, results in the closure of at least one nursing home or certified boarding care home, or distinct sections of a facility;*

*(4) notwithstanding paragraph (b), and subdivision 5, the extent to which the project would result in a newly constructed facility or an addition to a facility in a county:*

*(i) with less than the statewide average of nursing home beds per 1,000 persons aged 65 or older;*

*(ii) where services are available as an alternative to nursing home use;*

*(iii) where nursing home occupancy exceeds 97 percent as determined by the department of human services; and*

*(iv) located in a development region where the percentage of projected population increase between 1990 and 2005 in the number of persons aged 85 or older exceeds the statewide projection included in 1993 state demographer data.*

*The project must involve a reduction in beds in a development region with a nursing home occupancy rate less than the statewide average accomplished through the transfer of beds, especially the transfer of beds from three-bed or four-bed rooms, provided that for every six licensed beds transferred, an additional licensed bed is delicensed. Projects may only be approved under this clause until June 30, 1995;*

*(5) until June 30, 1995, and notwithstanding section 144A.073, subdivision 6, the extent to which the project would increase the capacity of a nursing home attached to a hospital, that has been delicensed, but only if the most current occupancy rate for nursing homes within a 25-mile radius of the facility exceeds 96 percent. The facility shall not be required to comply with the new construction standards contained in the nursing home licensure rules for resident bedrooms;*

~~(b) In addition to the criteria in paragraph (a), the following criteria must be used to evaluate, compare, and rank proposals involving renovation or replacement:~~

~~(1)~~ *(6)* the extent to which the project improves conditions that affect the health or safety of residents, such as narrow corridors, narrow door frames, unenclosed fire exits, and wood frame construction, and similar provisions contained in fire and life safety codes and licensure and certification rules;

~~(2)~~ *(7)* the extent to which the project improves conditions that affect the comfort or quality of life of residents in a facility or the ability of the facility to provide efficient care, such as a relatively high number of residents in a room; inadequate lighting or ventilation; poor access to bathing or toilet facilities; a lack of available ancillary space for dining rooms, day rooms, or rooms used for other activities; problems relating to heating, cooling, or energy efficiency; inefficient location of nursing stations; narrow corridors; or other provisions contained in the licensure and certification rules~~.~~*;*

*(8) the extent to which the applicant demonstrates the delivery of quality care to residents as evidenced by the two most recent state agency certification surveys and the applicants' response to those surveys;*

*(9) the extent to which the project removes the need for waivers or variances previously granted by either the licensing agency, certifying agency, fire marshal, or local governmental entity; and*

*(10) other factors developed in permanent rule by the commissioner of health that evaluate and assess how the proposed project will further promote or protect the health, safety, comfort, treatment, or well-being of the facility's residents.*

*(b) Notwithstanding paragraph (a), clauses (4) and (5), the use of the following criteria is limited to evaluation, comparison, and ranking, of proposals that involve relocation:*

*(1) the extent to which the average occupancy rate of the facility and the average occupancy rate of all facilities in the county in which the project will*

*be located, together with all contiguous Minnesota counties, supports the need for the proposed project; and*

*(2) the extent to which the number of nursing home beds per 1,000 individuals over the age of 85 in the county in which the project will be located, together with all contiguous Minnesota counties, supports the need for the project.*

Sec. 10. Minnesota Statutes 1992, section 144A.073, is amended by adding a subdivision to read:

*Subd. 7a.* [UTILIZATION COSTS.] *As part of the technical assistance review and analysis of proposals, the commissioner of human services shall verify any state medical assistance utilization costs projected by a proposal. If verified, the advisory review panel, the interagency committee, and the commissioner shall include the projected state medical assistance costs when calculating whether the combined costs of all projects exceed any statutory funding allocation threshold for the exceptions process.*

Sec. 11. Minnesota Statutes 1992, section 144A.073, subdivision 8, is amended to read:

Subd. 8. [RULEMAKING.] The commissioner of health shall adopt emergency or permanent rules to implement this section. *The permanent rules must be in accordance with and implement only the criteria listed in this section.* The authority to adopt emergency *and permanent* rules continues until ~~December 30, 1988~~ *July 1, 1996. For any moratorium exceptions process that occurs prior to July 1, 1996, an emergency rule may be used only to the extent that it is in accordance with and implements only the criteria listed in this section.*

Sec. 12. Minnesota Statutes 1992, section 148B.23, subdivision 1, is amended to read:

Subdivision 1. [EXEMPTION FROM EXAMINATION.] ~~(a)~~ For ~~two years~~ *12 months* from July 1, ~~1987~~ *1994*, the board shall issue a license without examination to an applicant *who practiced social work, as defined by section 148B.18, subdivision 11, in a hospital or a nursing home licensed under chapters 144 and 144A. The applicant must have practiced social work in a hospital or a nursing home licensed under chapters 144 and 144A at some time between July 1, 1984 and July 1, 1995, and the applicant must meet the qualifications for the requested level of licensure as follows*:

(1) for a licensed social worker, if the board determines that the applicant has received a baccalaureate degree from an accredited program of social work, or that the applicant has ~~at least~~ a baccalaureate degree from ~~an~~ *a nationally or regionally* accredited college or university ~~and two years in full-time employment or 4,000 hours of experience in the supervised practice of social work within the five years before July 1, 1989, or within a longer time period as specified by the board~~;

(2) for a licensed graduate social worker, if the board determines that the applicant has received a master's degree from an accredited program of social work ~~or doctoral degree in social work;~~ or a master's or doctoral degree ~~from a graduate program~~ in a human service discipline *related to social work*, as approved by the board, *from a nationally or regionally accredited college or university*;

(3) for a licensed independent social worker, if the board determines that the applicant has received a master's degree from an accredited program of social work ~~or doctoral degree in social work;~~ or a master's or doctoral degree ~~from a graduate program~~ in a human service discipline *related to social work*, as approved by the board, *from a nationally or regionally accredited college or university*; and, after receiving the degree, has practiced social work for at least two years in full-time employment or *for* 4,000 hours *of part-time employment* under the supervision of a social worker meeting these requirements, or of another qualified professional; and

(4) for a licensed independent clinical social worker, if the board determines that the applicant has received a master's degree from an accredited program of social work ~~or doctoral degree in social work;~~ or a master's or doctoral degree ~~from a graduate program~~ in a human service discipline *related to social work*, as approved by the board, *from a nationally or regionally accredited college or university*; and, after receiving the degree, has practiced clinical social work for at least two years in full-time employment or *for* 4,000 hours *of part-time employment* under the supervision of a clinical social worker meeting these requirements, or of another qualified mental health professional.

~~(b) During the period beginning August 1, 1991, and ending September 30, 1991, the board shall issue a license without examination to an applicant who was licensed as a school social worker by the board of teaching between July 1, 1987, and July 1, 1989. To qualify for a license under this paragraph, the applicant must:~~

~~(1) provide evidence, as determined by the board, of meeting all other licensure requirements under paragraph (a);~~

~~(2) provide evidence, as determined by the board, of practicing social work between July 1, 1987, and July 1, 1989, at the level of licensure being applied for;~~

~~(3) provide verification, on a form provided by the board, that the license held with the board of teaching was in good standing while licensed under their jurisdiction; and~~

~~(4) provide a completed application, including all information required in this paragraph, by September 30, 1991.~~

~~(c) The board shall allow an applicant who became licensed as a school social worker by the board of teaching between July 1, 1989, and July 1, 1990, to take the social work licensure examination and, upon passing the examination, to receive a license. To qualify for a license under this paragraph, the applicant must:~~

~~(1) take and pass one of the next two regularly scheduled social work licensure examinations administered after June 5, 1991;~~

~~(2) provide verification, on a form provided by the board, that the license held with the board of teaching is in good standing; and~~

~~(3) provide a completed application, including all information required in this paragraph, by the board's examination application deadline for the February 1992 licensure examination.~~

Sec. 13. Minnesota Statutes 1992, section 148B.23, subdivision 2, is amended to read:

Subd. 2. [OTHER REQUIREMENTS.] An applicant licensed under this section must also agree to:

(1) engage in social work practice only under the applicable supervision requirements provided in section 148B.21 for each category of licensees, *except that the supervised social work experience which an applicant licensed as a licensed social worker must demonstrate may have been obtained before initial licensure, provided that the supervision was obtained after receiving the degree required for licensure*; and

(2) conduct all professional activities as a social worker in accordance with standards for professional conduct established by the *rules of the* board ~~by rule~~.

Sec. 14. Minnesota Statutes 1992, section 148B.27, subdivision 2, is amended to read:

Subd. 2. [USE OF TITLES.] After the board adopts rules, no individual shall be presented to the public by any title incorporating the words "social work" or "social worker" unless that individual holds a valid license issued under sections 148B.18 to 148B.28. City, county, and state agency social workers who are not licensed under sections 148B.18 to 148B.28 may use the title city agency social worker or county agency social worker or state agency social worker. ~~Hospital social workers who are not licensed under sections 148B.18 to 148B.28 may use the title hospital social worker while acting within the scope of their employment.~~

Sec. 15. Minnesota Statutes 1992, section 148B.27, is amended by adding a subdivision to read:

*Subd. 2b.* [USE OF HOSPITAL SOCIAL WORKER TITLE.] *Individuals employed as social workers on June 30, 1995, by a hospital licensed under chapter 144 who do not qualify for licensure under section 148B.21 or 148B.23, subdivision 1, may use the title "hospital social worker" for as long as they continue to be employed by the hospital by which they are employed on June 30, 1995. Individuals covered by this subdivision may not use the title "social worker" or "hospital social worker" in Minnesota in another hospital or in another setting for which licensure is required after June 30, 1995, unless licensed under section 148B.21.*

Sec. 16. Minnesota Statutes 1992, section 148B.60, subdivision 3, is amended to read:

Subd. 3. [UNLICENSED MENTAL HEALTH PRACTITIONER OR PRACTITIONER.] "Unlicensed mental health practitioner" or "practitioner" means a person who provides or purports to provide, for remuneration, mental health services as defined in subdivision 4. It does not include persons licensed by the board of medical practice under chapter 147; the board of nursing under sections 148.171 to 148.285; the board of psychology under sections 148.88 to 148.98; the board of social work under sections 148B.18 to 148B.28; the board of marriage and family therapy under sections 148B.29 to 148B.39; or another licensing board if the person is practicing within the scope of the license; or members of the clergy who are providing pastoral services in the context of performing and fulfilling the salaried duties and obligations required of a member of the clergy by a religious congregation. For the purposes of complaint investigation or disciplinary action relating to an individual practitioner, the term includes:

(1) ~~hospital and nursing home social workers exempt from licensure by the board of social work under section 148B.28, subdivision 6, including hospital and nursing home social workers acting within the scope of their employment by the hospital or nursing home;~~

~~(2)~~ persons employed by a program licensed by the commissioner of human services who are acting as mental health practitioners within the scope of their employment;

~~(3)~~ *(2)* persons employed by a program licensed by the commissioner of human services who are providing chemical dependency counseling services; persons who are providing chemical dependency counseling services in private practice; and

~~(4)~~ *(3)* clergy who are providing mental health services that are equivalent to those defined in subdivision 4.

Sec. 17. Minnesota Statutes 1993 Supplement, section 245.492, subdivision 2, is amended to read:

Subd. 2. [BASE LEVEL FUNDING.] "Base level funding" means funding received from state, federal, or local sources and expended across the local system of care in fiscal year 1993 for children's mental health services ~~or~~, for special education services *and other services* for children with emotional or behavioral disturbances *and their families*.

In subsequent years, base level funding may be adjusted to reflect decreases in the numbers of children in the target population.

Sec. 18. Minnesota Statutes 1993 Supplement, section 245.492, subdivision 6, is amended to read:

Subd. 6. [~~INITIAL~~ *OPERATIONAL* TARGET POPULATION.] "~~Initial~~ *Operational* target population" means a population of children that the local children's mental health collaborative agrees to serve ~~in the start-up phase~~ and who ~~meet~~ *fall within* the criteria for the target population. The ~~initial~~ *operational* target population may be less than the target population.

Sec. 19. Minnesota Statutes 1993 Supplement, section 245.492, subdivision 9, is amended to read:

Subd. 9. [INTEGRATED SERVICE SYSTEM.] "Integrated service system" means a coordinated set of procedures established by the local children's mental health collaborative for coordinating services and actions across categorical systems and agencies that results in:

(1) integrated funding;

(2) improved outreach, early identification, and intervention across systems;

(3) strong collaboration between parents and professionals in identifying children in the target population facilitating access to the integrated system, and coordinating care and services for these children;

(4) a coordinated assessment process across systems that determines which children need multiagency care coordination and wraparound services;

(5) multiagency plan of care; and

(6) ~~wraparound~~ *individualized rehabilitation* services.

Services provided by the integrated service system must meet the requirements set out in sections 245.487 to 245.4887. Children served by the integrated service system must be economically and culturally representative of children in the service delivery area.

Sec. 20. Minnesota Statutes 1993 Supplement, section 245.492, subdivision 23, is amended to read:

Subd. 23. [~~WRAPAROUND~~ *INDIVIDUALIZED REHABILITATION* SERVICES.] "~~Wraparound~~ *Individualized rehabilitation* services" are alternative, flexible, coordinated, and highly individualized services that are based on a multiagency plan of care. These services are designed to build on the strengths and respond to the needs identified in the child's multiagency assessment and to improve the child's ability to function in the home, school, and community. ~~Wraparound~~ *Individualized rehabilitation* services may include, but are not limited to, residential services, respite services, services that assist the child or family in enrolling in or participating in recreational activities, assistance in purchasing otherwise unavailable items or services important to maintain a specific child in the family, and services that assist the child to participate in more traditional services and programs.

Sec. 21. Minnesota Statutes 1993 Supplement, section 245.493, subdivision 2, is amended to read:

Subd. 2. [GENERAL DUTIES OF THE LOCAL CHILDREN'S MENTAL HEALTH COLLABORATIVES.] Each local children's mental health collaborative must:

*(1) notify the commissioner of human services within ten days of formation by signing a collaborative agreement and providing the commissioner with a copy of the signed agreement;*

*(2)* identify a service delivery area and an ~~initial~~ *operational* target population within that service delivery area. The ~~initial~~ *operational* target population must be economically and culturally representative of children in the service delivery area to be served by the local children's mental health collaborative. The size of the ~~initial~~ *operational* target population must also be economically viable for the service delivery area;

~~(2)~~ *(3)* seek to maximize federal revenues available to serve children in the target population by designating local expenditures for ~~mental health~~ services *for these children and their families* that can be matched with federal dollars;

~~(3)~~ *(4)* in consultation with the local children's advisory council and the local coordinating council, if it is not the local children's mental health collaborative, design, develop, and ensure implementation of an integrated service system *that meets the requirements for state and federal reimbursement* and develop interagency agreements necessary to implement the system;

~~(4)~~ *(5)* expand membership to include representatives of other services in the local system of care including prepaid health plans under contract with the commissioner of human services to serve the ~~mental health~~ needs of children *in the target population* and *their* families;

~~(5)~~ *(6)* create or designate a management structure for fiscal and clinical responsibility and outcome evaluation;

~~(6)~~ *(7)* spend funds generated by the local children's mental health collaborative as required in sections 245.491 to 245.496; ~~and~~

~~(7)~~ *(8)* explore methods and recommend changes needed at the state level to reduce duplication and promote coordination of services including the use of uniform forms for reporting, billing, and planning of services.;

*(9) submit its integrated service system design, including its contract with the commissioner of human services, to the state coordinating council for approval within one year of notifying the commissioner of human services of its formation;*

*(10) provide an annual report that includes the elements listed in section 245.494, subdivision 2, and the collaborative's planned timeline to expand its operational target population to the state coordinating council; and*

*(11) expand its operational target population.*

*Each local children's mental health collaborative may contract with the commissioner of human services to become a medical assistance provider of mental health services.*

Sec. 22. Minnesota Statutes 1993 Supplement, section 245.4932, subdivision 1, is amended to read:

Subdivision 1. [~~PROVIDER~~ *COLLABORATIVE* RESPONSIBILITIES.] The children's mental health collaborative shall have the following authority and responsibilities regarding federal revenue enhancement:

(1) *the collaborative must establish an integrated fund;*

*(2)* the collaborative shall designate a lead county or other qualified entity as the fiscal agency for reporting, claiming, and receiving payments;

~~(2)~~ *(3)* the collaborative or lead county may enter into subcontracts with other counties, school districts, special education cooperatives, municipalities, and other public and nonprofit entities for purposes of identifying and claiming eligible expenditures to enhance federal reimbursement;

~~(3)~~ *(4) the collaborative shall use any enhanced revenue attributable to the activities of the collaborative, including administrative and service revenue, solely to provide mental health services or to expand the operational target population. The lead county or other qualified entity may not use enhanced federal revenue for any other purpose;*

*(5)* the *members of the* collaborative must continue the base level of expenditures, *as defined in section 245.492, subdivision 2,* for services for children with emotional or behavioral disturbances and their families from any state, county, federal, or other public or private funding source which, in the absence of the new federal reimbursement earned under sections 245.491 to 245.496, would have been available for those services. The base year for purposes of this subdivision shall be the accounting period closest to state fiscal year 1993;

~~(4)~~ *(6)* the collaborative or lead county must develop and maintain an accounting and financial management system adequate to support all claims for federal reimbursement, including a clear audit trail and any provisions specified in the contract *with the commissioner of human services*;

~~(5)~~ *(7)* the collaborative ~~shall~~ *or its members may elect to* pay the nonfederal share of the medical assistance costs for services designated by the collaborative; *and*

~~(6)~~ *(8)* the lead county or other qualified entity may not use federal funds or local funds designated as matching for other federal funds to provide the nonfederal share of medical assistance.

Sec. 23. Minnesota Statutes 1993 Supplement, section 245.4932, subdivision 2, is amended to read:

Subd. 2. [COMMISSIONER'S RESPONSIBILITIES.] (1) Notwithstanding sections 256B.19, subdivision 1, and 256B.0625, the commissioner shall be required to amend the state medical assistance plan to include as covered services eligible for medical assistance reimbursement, those services eligible for reimbursement under federal law or waiver, which a collaborative elects to provide and for which the collaborative elects to pay the nonfederal share of the medical assistance costs.

(2) The commissioner may suspend, reduce, or terminate the federal reimbursement to a ~~provider~~ *collaborative* that does not meet the requirements of sections 245.493 to 245.496.

(3) The commissioner shall recover from the collaborative any federal fiscal disallowances or sanctions for audit exceptions directly attributable to the collaborative's actions or the proportional share if federal fiscal disallowances or sanctions are based on a statewide random sample.

Sec. 24. Minnesota Statutes 1993 Supplement, section 245.4932, subdivision 3, is amended to read:

Subd. 3. [PAYMENTS.] Notwithstanding section 256.025, subdivision 2, payments under sections 245.493 to 245.496 to providers for ~~wraparound service expenditures and expenditures for other~~ services for which the collaborative elects to pay the nonfederal share of medical assistance shall only be made of federal earnings from services provided under sections 245.493 to 245.496.

Sec. 25. Minnesota Statutes 1993 Supplement, section 245.4932, subdivision 4, is amended to read:

Subd. 4. [CENTRALIZED DISBURSEMENT OF MEDICAL ASSISTANCE PAYMENTS.] Notwithstanding section 256B.041, and except for family community support services and therapeutic support of foster care, county payments for the cost of ~~wraparound services and other~~ services for which the collaborative elects to pay the nonfederal share, for reimbursement under medical assistance, shall not be made to the state treasurer. For purposes of ~~wraparound~~ *individualized rehabilitation* services under sections 245.493 to 245.496, the centralized disbursement of payments to providers under section 256B.041 consists only of federal earnings from services provided under sections 245.493 to 245.496.

Sec. 26. [245.4933] [MEDICAL ASSISTANCE PROVIDER STATUS.]

*Subdivision 1.* [REQUIREMENTS.] *(a) In order for a local children's mental health collaborative to become a prepaid provider of medical assistance services and be eligible to receive medical assistance reimbursement, the collaborative must:*

*(1) enter into a contract with the commissioner of human services to provide mental health services including inpatient, outpatient, medication management, services under the rehabilitation option, and related physician services;*

*(2) meet the applicable federal requirements;*

*(3) either carry stop-loss insurance or enter into a risk-sharing agreement with the commissioner of human services; and*

*(4) provide medically necessary medical assistance mental health services to children in the target population who enroll in the local children's mental health collaborative.*

*(b) Upon execution of the provider contract with the commissioner of human services the local children's mental health collaborative may:*

*(1) provide mental health services which are not medical assistance state plan services in addition to the state plan services described in the contract with the commissioner of human services; and*

*(2) enter into subcontracts which meet the requirements of Code of Federal Regulations, title 42, section 434.6, with other providers of mental health services including prepaid health plans established under section 256B.69.*

*Subd. 2.* [PROVIDER STATUS IN A PREPAID HEALTH PLAN COUNTY.] *(a) A children's mental health collaborative that has a service delivery area in a county where a prepaid health plan contract with the commissioner of human services, including those established under section 256B.69, existing on or before January 1, 1995, must enter into an agreement between the commissioner of human services and one or more such prepaid health plans in order to become a provider of medical assistance or MinnesotaCare services. The collaborative and the health plan shall work cooperatively to assure the integration of physical and mental health services.*

*(b) After January 1, 1995, a children's mental health collaborative with a service delivery area in a county where no prepaid health plan contract with the commissioner of human services exists, including those established under section 256B.69, shall be given notice by the commissioner of the intent to establish a prepaid health plan contract in that county. The collaborative must enter into an agreement between the commissioner and one or more such prepaid health plans in order to become a provider of MinnesotaCare or medical assistance services but shall have 12 months from receipt of the notice of intent or actual establishment of the prepaid health plan contract, whichever occurs later, to meet the requirements of paragraph (a). During this notice period the collaborative will not be at financial risk; the individual members of the collaborative who have a medical assistance provider agreement may bill the prepaid health plan on a nonrisk basis at medical assistance fee for service rates. Upon expiration of the notice period, collaboratives that do not meet the requirements of paragraph (a), to become a prepaid provider shall not be eligible to receive medical assistance or MinnesotaCare reimbursement. The collaborative and the health plan shall work cooperatively to assure the integration of physical and mental health services.*

*(c) The commissioner of human services shall provide each children's mental health collaborative considering whether to become a prepaid provider of mental health services the commissioner's best estimate of a*

*capitated payment prior to an actuarial study based upon the collaborative's operational target population. The capitated payment shall be adjusted annually, if necessary, for changes in the operational target population.*

*(d) The commissioner shall negotiate risk adjustment and reinsurance mechanisms with children's mental health collaboratives that become medical assistance providers.*

*Subd. 3.* [NONCONTRACTING COLLABORATIVES.] *A local children's mental health collaborative that does not become a prepaid provider of medical assistance or MinnesotaCare services may provide services through individual members of a noncontracting collaborative who have a medical assistance provider agreement to eligible recipients who are not enrolled in the health plan.*

Sec. 27. Minnesota Statutes 1993 Supplement, section 245.494, subdivision 1, is amended to read:

Subdivision 1. [STATE COORDINATING COUNCIL.] The state coordinating council, in consultation with the integrated fund task force, shall:

(1) assist local children's mental health collaboratives in meeting the requirements of sections 245.491 to 245.496, by seeking consultation and technical assistance from national experts and coordinating presentations and assistance from these experts to local children's mental health collaboratives;

(2) assist local children's mental health collaboratives in identifying an economically viable ~~initial~~ *operational* target population;

(3) develop methods to reduce duplication and promote coordinated services including uniform forms for reporting, billing, and planning of services;

(4) by September 1, 1994, develop a model multiagency plan of care that can be used by local children's mental health collaboratives in place of an individual education plan, individual family community support plan, individual family support plan, and an individual treatment plan;

(5) assist in the implementation and operation of local children's mental health collaboratives by facilitating the integration of funds, coordination of services, and measurement of results, and by providing other assistance as needed;

(6) by July 1, 1993, develop a procedure for awarding start-up funds. Development of this procedure shall be exempt from chapter 14;

(7) develop procedures and provide technical assistance to allow local children's mental health collaboratives to integrate resources for children's mental health services with other resources available to serve children in the target population in order to maximize federal participation and improve efficiency of funding;

(8) ensure that local children's mental health collaboratives and the services received through these collaboratives meet the requirements set out in sections 245.491 to 245.496;

(9) identify base level funding from state and federal sources across systems;

(10) explore ways to access additional federal funds and enhance revenues available to address the needs of the target population;

(11) develop a mechanism for identifying the state share of funding for services to children in the target population and for making these funds available on a per capita basis for services provided through the local children's mental health collaborative to children in the target population. Each year beginning January 1, 1994, forecast the growth in the state share and increase funding for local children's mental health collaboratives accordingly;

(12) identify barriers to integrated service systems that arise from data practices and make recommendations including legislative changes needed in the data practices act to address these barriers; and

(13) annually review the expenditures of local children's mental health collaboratives to ensure that funding for services provided to the target population continues from sources other than the federal funds earned under sections 245.491 to 245.496 and that federal funds earned are spent consistent with sections 245.491 to 245.496.

Sec. 28. Minnesota Statutes 1993 Supplement, section 245.494, subdivision 3, is amended to read:

Subd. 3. [DUTIES OF THE COMMISSIONER OF HUMAN SERVICES.] The commissioner of human services, in consultation with the integrated fund task force, shall:

(1) ~~beginning January 1,~~ *in the first quarter of* 1994, in areas where a local children's mental health collaborative has been established, based on an independent actuarial analysis, ~~separate~~ *identify* all medical assistance, ~~general assistance medical care,~~ and MinnesotaCare resources devoted to mental health services for children ~~and their families~~ *in the target population* including inpatient, outpatient, medication management, services under the rehabilitation option, and related physician services ~~from~~ *in* the total health capitation ~~from~~ *of* prepaid plans~~, including plans established~~ *under contract with the commissioner to provide medical assistance services* under section 256B.69~~, for the target population as identified in section 245.492, subdivision 21, and develop guidelines for managing these mental health benefits that will require all contractors to:~~

~~(i) provide mental health services eligible for medical assistance reimbursement;~~

~~(ii) meet performance standards established by the commissioner of human services including providing services consistent with the requirements and standards set out in sections 245.487 to 245.4888 and 245.491 to 245.496;~~

~~(iii) provide the commissioner of human services with data consistent with that collected under sections 245.487 to 245.4888; and~~

~~(iv) in service delivery areas where there is a local children's mental health collaborative for the target population defined by local children's mental health collaborative:~~

~~(A) participate in the local children's mental health collaborative;~~

~~(B) commit resources to the integrated fund that are actuarially equivalent~~

~~to resources received for the target population being served by local children's mental health collaboratives; and~~

~~(C) meet the requirements and the performance standards developed for local children's mental health collaboratives;~~

~~(2) ensure that any prepaid health plan that is operating within the jurisdiction of a local children's mental health collaborative and that is able to meet all the requirements under section 245.494, subdivision 3, paragraph (1), items (i) to (iv), shall have 60 days from the date of receipt of written notice of the establishment of the collaborative to decide whether it will participate in the local children's mental health collaborative; the prepaid health plan shall notify the collaborative and the commissioner of its decision to participate;~~

~~(3)~~ *(2) assist each children's mental health collaborative to determine an actuarially feasible operational target population;*

*(3) ensure that a prepaid health plan that contracts with the commissioner to provide medical assistance or MinnesotaCare services shall pass through the identified resources to a collaborative or collaboratives upon the collaboratives meeting the requirements of section 245.4933 to serve the collaborative's operational target population. The commissioner shall, through an independent actuarial analysis, specify differential rates the prepaid health plan must pay the collaborative based upon severity, functioning, and other risk factors, taking into consideration the fee-for-service experience of children excluded from prepaid medical assistance participation;*

*(4) ensure that a children's mental health collaborative that enters into an agreement with a prepaid health plan under contract with the commissioner shall accept medical assistance recipients in the operational target population on a first-come, first-served basis up to the collaborative's operating capacity or as determined in the agreement between the collaborative and the commissioner;*

*(5) ensure that a children's mental health collaborative that receives resources passed through a prepaid health plan under contract with the commissioner shall be subject to the quality assurance standards, reporting of utilization information, standards set out in sections 245.487 to 245.4888, and other requirements established in Minnesota Rules, part 9500.1460;*

*(6) ensure that any prepaid health plan that contracts with the commissioner, including a plan that contracts under section 256B.69, must enter into an agreement with any collaborative operating in the same service delivery area that:*

*(i) meets the requirements of section 245.4933;*

*(ii) is willing to accept the rate determined by the commissioner to provide medical assistance services; and*

*(iii) requests to contract with the prepaid health plan;*

*(7) ensure that no agreement between a health plan and a collaborative shall terminate the legal responsibility of the health plan to assure that all activities under the contract are carried out. The agreement may require the collaborative to indemnify the health plan for activities that are not carried out;*

*(8) ensure that where a collaborative enters into an agreement between the commissioner and a prepaid health plan to provide medical assistance and MinnesotaCare services a separate capitation rate will be determined through an independent actuarial analysis which is based upon the factors set forth in clause (3) to be paid to a collaborative for children in the operational target population who are eligible for medical assistance but not included in the prepaid health plan contract with the commissioner;*

*(9) ensure that in counties where no prepaid health plan contract to provide medical assistance or MinnesotaCare services exists, a children's mental health collaborative that meets the requirements of section 245.4933 shall:*

*(i) be paid a capitated rate, actuarially determined, that is based upon the collaborative's operational target population;*

*(ii) accept medical assistance or MinnesotaCare recipients in the operational target population on a first-come, first-served basis up to the collaborative's operating capacity or as determined in the contract between the collaborative and the commissioner; and*

*(iii) comply with quality assurance standards, reporting of utilization information, standards set out in sections 245.487 to 245.4888, and other requirements established in Minnesota Rules, part 9500.1460;*

*(10) subject to federal approval, in the development of rates for local children's mental health collaboratives, the commissioner shall consider, and may adjust, trend and utilization factors, to reflect changes in mental health service utilization and access;*

*(11) consider changes in mental health service utilization, access, and price, and determine the actuarial value of the services in the maintenance of rates for local children's mental health collaborative provided services, subject to federal approval;*

*(12) provide written notice to any prepaid health plan operating within the service delivery area of a children's mental health collaborative of the collaborative's existence within 30 days of the commissioner's receipt of notice of the collaborative's formation;*

*(13) ensure that in a geographic area where both a prepaid health plan including those established under either section 256.9363 or 256B.69 and a local children's mental health collaborative exist, medical assistance and MinnesotaCare recipients in the operational target population who are enrolled in prepaid health plans will have the choice to receive mental health services through either the prepaid health plan or the collaborative that has a contract with the prepared health plan, according to the terms of the contract;*

*(14)* develop a mechanism for integrating medical assistance resources for mental health service with ~~resources for general assistance medical care,~~ MinnesotaCare, and any other state and local resources available for services for children *in the operational target population* and develop a procedure for making these resources available for use by a local children's mental health collaborative;

~~(4)~~ *(15)* gather data needed to manage mental health care including evaluation data and data necessary to establish a separate capitation rate for children's mental health services if that option is selected;

~~(5)~~ *(16)* by January 1, 1994, develop a model contract for providers of mental health managed care that meets the requirements set out in sections 245.491 to 245.496 and 256B.69, and utilize this contract for all subsequent awards, and before January 1, 1995, the commissioner of human services shall not enter into or extend any contract for any prepaid plan that would impede the implementation of sections 245.491 to 245.496;

~~(6)~~ *(17)* develop revenue enhancement or rebate mechanisms and procedures to certify expenditures made through local children's mental health collaboratives for services including administration and outreach that may be eligible for federal financial participation under medical assistance, ~~including expenses for administration,~~ and other federal programs;

~~(7)~~ *(18)* ensure that new contracts and extensions or modifications to existing contracts under section 256B.69 do not impede implementation of sections 245.491 to 245.496;

~~(8)~~ *(19)* provide technical assistance to help local children's mental health collaboratives certify local expenditures for federal financial participation, using due diligence in order to meet implementation timelines for sections 245.491 to 245.496 and recommend necessary legislation to enhance federal revenue, provide clinical and management flexibility, and otherwise meet the goals of local children's mental health collaboratives and request necessary state plan amendments to maximize the availability of medical assistance for activities undertaken by the local children's mental health collaborative;

~~(9)~~ *(20)* take all steps necessary to secure medical assistance reimbursement under the rehabilitation option for family community support services and therapeutic support of foster care~~,~~ and for ~~residential treatment and wrap-around~~ *individualized rehabilitation* services ~~when these services are provided through a local children's mental health collaborative~~;

~~(10)~~ *(21)* provide a mechanism to identify separately the reimbursement to a county for child welfare targeted case management provided to children served by the local collaborative for purposes of subsequent transfer by the county to the integrated fund; and

~~(11) where interested and qualified contractors are available, finalize contracts within 180 days of receipt of written notification of the establishment of a local children's mental health collaborative~~

*(22) ensure that family members who are enrolled in a prepaid health plan and whose children are receiving mental health services through a local children's mental health collaborative file complaints about mental health services needed by the family members, the commissioner shall comply with section 256B.031, subdivision 6. A collaborative may assist a family to make a complaint.*

Sec. 29. Minnesota Statutes 1993 Supplement, section 245.495, is amended to read:

245.495 [ADDITIONAL FEDERAL REVENUES.]

(a) Each local children's mental health collaborative shall report expenditures eligible for federal reimbursement in a manner prescribed by the commissioner of human services under section 256.01, subdivision 2, clause (17). The commissioner of human services shall pay all funds earned by each local children's mental health collaborative to the collaborative. Each local

children's mental health collaborative must use these funds to expand the ~~initial~~ *operational* target population or to develop or provide mental health services through the local integrated service system to children in the target population. Funds may not be used to supplant funding for services to children in the target population.

For purposes of this section, "mental health services" are community-based, nonresidential services, which may include respite care, that are identified in the child's multiagency plan of care.

(b) The commissioner may set aside a portion of the federal funds earned under this section to repay the special revenue maximization account under section 256.01, subdivision 2, clause (15). The set-aside must not exceed five percent of the federal reimbursement earned by collaboratives and repayment is limited to:

(1) the costs of developing and implementing sections 245.491 to 245.496, including the costs of technical assistance from the departments of human services, education, health, and corrections to implement the children's mental health integrated fund;

(2) programming the information systems; and

(3) any lost federal revenue for the central office claim directly caused by the implementation of these sections.

(c) Any unexpended funds from the set-aside described in paragraph (b) shall be distributed to counties according to section 245.496, subdivision 2.

Sec. 30. Minnesota Statutes 1993 Supplement, section 245.496, subdivision 3, is amended to read:

Subd. 3. [SUBMISSION ~~AND APPROVAL~~ OF LOCAL COLLABORATIVE PROPOSALS FOR INTEGRATED SYSTEMS.] By December 31, 1994, a local children's mental health collaborative that received start-up funds must submit to the state coordinating council its proposal for creating and funding an integrated service system for children in the target population. *A local children's mental health collaborative which forms without receiving start-up funds must submit its proposal for creating and funding an integrated service system within one year of notifying the commissioner of human services of its existence.* Within 60 days of receiving the local collaborative proposal the state coordinating council must review the proposal and notify the local children's mental health collaborative as to whether or not the proposal has been approved. If the proposal is not approved, the state coordinating council must indicate changes needed to receive approval.

Sec. 31. Minnesota Statutes 1993 Supplement, section 245.496, is amended by adding a subdivision to read:

*Subd. 4.* [APPROVAL OF A COLLABORATIVE'S INTEGRATED SERVICE SYSTEM.] *A collaborative may not become a medical assistance provider unless the state coordinating council approves a collaborative's proposed integrated service system design. The state coordinating council shall approve the integrated service system proposal only when the following elements are present:*

*(1) interagency agreements signed by the head of each member agency who has the authority to obligate the agency and which set forth the specific financial commitments of each member agency;*

*(2) an executed contract between the collaborative and the commissioner of human services;*

*(3) an adequate management structure for fiscal and clinical responsibility including appropriate allocation of risk and liability;*

*(4) a process of utilization review; and*

*(5) compliance with sections 245.491 to 245.496.*

Sec. 32. Minnesota Statutes 1992, section 246.53, subdivision 1, is amended to read:

Subdivision 1. [CLIENT'S ESTATE.] Upon the death of a client, or a former client, the total cost of care given the client, less the amount actually paid toward the cost of care by the client and the client's relatives, shall be ~~filed by the commissioner as~~ a claim against the estate of the client ~~with the court having jurisdiction to probate the estate and~~, *and may be collected in any manner allowed by chapter 524 or otherwise permitted by law.* All proceeds collected by the state in the case shall be divided between the state and county in proportion to the cost of care each has borne.

Sec. 33. Minnesota Statutes 1992, section 252.275, subdivision 3, is amended to read:

Subd. 3. [REIMBURSEMENT.] Counties shall be reimbursed for all expenditures made pursuant to subdivision 1 at a rate of 70 percent, up to the allocation determined pursuant to subdivisions 4, ~~4a,~~ and 4b. However, the commissioner shall not reimburse costs of services for any person if the costs exceed the state share of the average medical assistance costs for services provided by intermediate care facilities for a person with mental retardation or a related condition for the same fiscal year, and shall not reimburse costs of a one-time living allowance for any person if the costs exceed $1,500 in a state fiscal year. ~~For the biennium ending June 30, 1993, the commissioner shall not reimburse costs in excess of the 85th percentile of hourly service costs based upon the cost information supplied to the legislature in the proposed budget for the biennium.~~ The commissioner may make payments to each county in quarterly installments. The commissioner may certify an advance of up to 25 percent of the allocation. Subsequent payments shall be made on a reimbursement basis for reported expenditures and may be adjusted for anticipated spending patterns.

Sec. 34. Minnesota Statutes 1992, section 252.275, subdivision 4, is amended to read:

Subd. 4. [FORMULA.] ~~Effective January 1, 1992,~~ The commissioner shall allocate funds on a calendar year basis. ~~For calendar year 1992, funds shall be allocated based on each county's portion of the statewide reimbursement received under this section for state fiscal year 1991. For subsequent calendar years, funds shall be allocated~~ *Beginning with the calendar year 1994 grant period, funds shall be allocated first in amounts equal to each county's guaranteed floor according to subdivision 4b, with any remaining available funds allocated* based on each county's portion of the statewide expenditures eligible for reimbursement under this section during the 12 months ending on June 30 of the preceding calendar year.

If the legislature appropriates funds for special purposes, the commissioner may allocate the funds based on proposals submitted by the counties to the

commissioner in a format prescribed by the commissioner. Nothing in this section prevents a county from using other funds to pay for additional costs of semi-independent living services.

Sec. 35. Minnesota Statutes 1992, section 256.015, subdivision 2, is amended to read:

Subd. 2. [PERFECTION; ENFORCEMENT.] The state agency may perfect and enforce its lien under sections 514.69, 514.70, and 514.71, and must file the verified lien statement with the appropriate court administrator in the county of financial responsibility. The verified lien statement must contain the following: the name and address of the person to whom medical care, subsistence, or other payment was furnished; the date of injury; the name and address of vendors furnishing medical care; the dates of the service or payment; the amount claimed to be due for the care or payment; and to the best of the state agency's knowledge, the names and addresses of all persons, firms, or corporations claimed to be liable for damages arising from the injuries.

This section does not affect the priority of any attorney's lien. The state agency is not subject to any limitations period referred to in section 514.69 or 514.71 and has one year from the date notice is *first* received by it under subdivision 4, paragraph (c), *even if the notice is untimely,* or one year from the date medical bills are first paid by the state agency, whichever is later, to file its verified lien statement. The state agency may commence an action to enforce the lien within one year of (1) the date the notice required by subdivision 4, paragraph (c), is received, or (2) the date the person's cause of action is concluded by judgment, award, settlement, or otherwise, whichever is later.

Sec. 36. Minnesota Statutes 1992, section 256.015, subdivision 7, is amended to read:

Subd. 7. [COOPERATION REQUIRED.] Upon the request of the department of human services, any state agency or third party payer shall cooperate with the department in furnishing information to help establish a third party liability. *Upon the request of the department of human services or county child support or human service agencies, any employer or third party payer shall cooperate in furnishing information about group health insurance plans or medical benefit plans available to its employees.* The department of human services *and county agencies* shall limit its use of information gained from agencies ~~and~~, third party payers, *and employers* to purposes directly connected with the administration of its public assistance *and child support* programs. The provision of information by agencies ~~and~~, third party payers, *and employers* to the department under this subdivision is not a violation of any right of confidentiality or data privacy.

Sec. 37. Minnesota Statutes 1992, section 256.045, subdivision 3, is amended to read:

Subd. 3. [STATE AGENCY HEARINGS.] *(a)* Any person applying for, receiving or having received public assistance or a program of social services granted by the state agency or a county agency under sections 252.32, 256.031 to 256.036, and 256.72 to 256.879, chapters 256B, 256D, 256E, 261, or the federal Food Stamp Act whose application for assistance is denied, not acted upon with reasonable promptness, or whose assistance is suspended, reduced, terminated, or claimed to have been incorrectly paid, or any patient or relative

aggrieved by an order of the commissioner under section 252.27, or a party aggrieved by a ruling of a prepaid health plan, may contest that action or decision before the state agency by submitting a written request for a hearing to the state agency within 30 days after receiving written notice of the action or decision, or within 90 days of such written notice if the applicant, recipient, patient, or relative shows good cause why the request was not submitted within the 30-day time limit.

*(b)* Except for a prepaid health plan, a vendor of medical care as defined in section 256B.02, subdivision 7, or a vendor under contract with a county agency to provide social services under section 256E.08, subdivision 4, is not a party and may not request a hearing under this section, *except if assisting a recipient as provided in subdivision 4.*

*(c)* An applicant or recipient is not entitled to receive social services beyond the services included in the amended community social services plan developed under section 256E.081, subdivision 3, if the county agency has met the requirements in section 256E.081.

Sec. 38. Minnesota Statutes 1992, section 256.045, subdivision 4, is amended to read:

Subd. 4. [CONDUCT OF HEARINGS.] All hearings held pursuant to subdivision 3, 3a, or 4a shall be conducted according to the provisions of the federal Social Security Act and the regulations implemented in accordance with that act to enable this state to qualify for federal grants-in-aid, and according to the rules and written policies of the commissioner of human services. County agencies shall install equipment necessary to conduct telephone hearings. A state human services referee may schedule a telephone conference hearing when the distance or time required to travel to the county agency offices will cause a delay in the issuance of an order, or to promote efficiency, or at the mutual request of the parties. Hearings may be conducted by telephone conferences unless the applicant, recipient, or former recipient objects. The hearing shall not be held earlier than five days after filing of the required notice with the county or state agency. The state human services referee shall notify all interested persons of the time, date, and location of the hearing at least five days before the date of the hearing. Interested persons may be represented by legal counsel or other representative of their choice, *including a provider of therapy services,* at the hearing and may appear personally, testify and offer evidence, and examine and cross-examine witnesses. The applicant, recipient, or former recipient shall have the opportunity to examine the contents of the case file and all documents and records to be used by the county *or state* agency at the hearing at a reasonable time before the date of the hearing and during the hearing. Upon request, the county agency shall provide reimbursement for transportation, child care, photocopying, medical assessment, witness fee, and other necessary and reasonable costs incurred by the applicant, recipient, or former recipient in connection with the appeal. All evidence, except that privileged by law, commonly accepted by reasonable people in the conduct of their affairs as having probative value with respect to the issues shall be submitted at the hearing and such hearing shall not be "a contested case" within the meaning of section 14.02, subdivision 3. *The agency must present its evidence prior to or at the hearing and may not submit evidence after the hearing except by agreement of the parties at the hearing, provided the recipient has the opportunity to respond.*

Sec. 39. Minnesota Statutes 1992, section 256.045, subdivision 5, is amended to read:

Subd. 5. [ORDERS OF THE COMMISSIONER OF HUMAN SERVICES.] A state human services referee shall conduct a hearing on the appeal and shall recommend an order to the commissioner of human services. The recommended order must be based on all relevant evidence and must not be limited to a review of the propriety of the state or county agency's action. A referee may take official notice of adjudicative facts. The commissioner of human services may accept the recommended order of a state human services referee and issue the order to the county agency and the applicant, recipient, former recipient, or prepaid health plan. The commissioner on refusing to accept the recommended order of the state human services referee, shall notify the county agency and the applicant, recipient, former recipient, or prepaid health plan of that fact and shall state reasons therefor and shall allow each party ten days' time to submit additional written argument on the matter. After the expiration of the ten-day period, the commissioner shall issue an order on the matter to the county agency and the applicant, recipient, former recipient, or prepaid health plan.

A party aggrieved by an order of the commissioner may appeal under subdivision 7, or request reconsideration by the commissioner within 30 days after the date the commissioner issues the order. The commissioner may reconsider an order upon request of any party or on the commissioner's own motion. A request for reconsideration does not stay implementation of the commissioner's order. Upon reconsideration, the commissioner may issue an amended order or an order affirming the original order.

Any order of the commissioner issued under this subdivision shall be conclusive upon the parties unless appeal is taken in the manner provided by subdivision 7. Any order of the commissioner is binding on the parties and must be implemented by the state agency or a county agency until the order is reversed by the district court, or unless the commissioner or a district court orders monthly assistance or aid or services paid or provided under subdivision 10.

Except for a prepaid health plan, a vendor of medical care as defined in section 256B.02, subdivision 7, or a vendor under contract with a county agency to provide social services under section 256E.08, subdivision 4, is not a party and may not request a hearing or seek judicial review of an order issued under this section, *unless assisting a recipient as provided in subdivision 4.*

Sec. 40. Minnesota Statutes 1992, section 256.9365, subdivision 1, is amended to read:

Subdivision 1. [PROGRAM ESTABLISHED.] The commissioner of human services shall establish a program to pay private health plan premiums for persons who have contracted human immunodeficiency virus (HIV) to enable them to continue coverage under a group or individual health plan. If a person is determined to be eligible under subdivision 2, the commissioner shall: (1) pay the eligible person's group plan premium for the period of continuation coverage provided in the Consolidated Omnibus Budget Reconciliation Act of 1985; or (2) pay the eligible person's individual plan premium for ~~24~~ *36* months.

Sec. 41. Minnesota Statutes 1992, section 256.9365, subdivision 3, is amended to read:

Subd. 3. [~~RULES~~ *COST-EFFECTIVE COVERAGE.*] ~~The commissioner shall establish rules as necessary to implement the program. Special~~ Requirements for the payment of individual plan premiums under subdivision 2, clause (5), must be designed to ensure that the state cost of paying an individual plan premium over a ~~two-year~~ *three-year* period does not exceed the estimated state cost that would otherwise be incurred in the medical assistance or general assistance medical care program. *The commissioner shall purchase the most cost-effective coverage available for eligible individuals.*

Sec. 42. Minnesota Statutes 1993 Supplement, section 256.9657, subdivision 2, is amended to read:

Subd. 2. [HOSPITAL SURCHARGE.] (a) Effective October 1, 1992, each Minnesota hospital except facilities of the federal Indian Health Service and regional treatment centers shall pay to the medical assistance account a surcharge equal to 1.4 percent of net patient revenues excluding net Medicare revenues reported by that provider to the health care cost information system according to the schedule in subdivision 4.

(b) Effective July 1, 1994, the surcharge under paragraph (a) is increased to ~~1.56~~ *1.6* percent.

Sec. 43. Minnesota Statutes 1992, section 256.9657, subdivision 4, is amended to read:

Subd. 4. [PAYMENTS INTO THE ACCOUNT.] *(a)* Payments to the commissioner under subdivisions 1 to 3 must be paid in monthly installments due on the 15th of the month beginning October 15, 1992. The monthly payment must be equal to the annual surcharge divided by 12. Payments to the commissioner under subdivisions 2 and 3 for fiscal year 1993 must be based on calendar year 1990 revenues. Effective July 1 of each year, beginning in 1993, payments under subdivisions 2 and 3 must be based on revenues earned in the second previous calendar year.

*(b) Effective October 1, 1994, and each October 1 thereafter, the payments in paragraph (a) must be based on revenues earned in the previous calendar year.*

Sec. 44. Minnesota Statutes 1993 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 requirements based on diagnosis,

procedure, or service after notice in the State Register and a 30-day comment period.

Sec. 45. Minnesota Statutes 1992, section 256.969, is amended by adding a subdivision to read:

*Subd. 8a.* [EXCEPTIONALLY HIGH COSTS FOR INFANT AND CHILD ADMISSIONS.] *(a) The commissioner shall include in the payment rates an adjustment factor for exceptionally high cost inpatient admissions for infants under the age of one in any hospital and for children under the age of six receiving services in a hospital receiving payment under subdivision 9 or 9a. The thresholds for exceptionally high cost admissions shall be established for neonatal and burn diagnostic categories at one standard deviation, and for all other diagnostic categories at two standard deviations, beyond the mean operating cost per admission. The thresholds shall be adjusted from the base year to the rate year by the hospital cost index. The additional adjustment factor shall apply to admissions occurring on or after July 1, 1992.*

*(b) For admissions occurring on or after July 1, 1992, to December 31, 1994, in the case of clause (1) or to October 25, 1993, in the case of clause (2):*

*(1) Payments for admissions not subject to subdivision 13 shall be determined by multiplying the allowable charges for the admission by the hospital's base year allowable operating cost to charge ratio and subtracting the high cost threshold. The result shall be multiplied by 50 percent after adjustment for subdivisions 9, 9a, 20, 22, and 23, and the core hospital increase of Laws 1993, First Special Session chapter 1, article 1, section 2, and reduced for payments under subdivision 8. A negative result on an admission specific basis shall not be implemented. Payments established under section 256.9695, subdivision 3, paragraph (e), shall not be affected by this subdivision and for purposes of appeals under section 256.9695, subdivision 1, payment shall be considered to have been made at the time of admission. Payment for admissions occurring from July 1, 1992, to December 31, 1993, and paid by May 1, 1994, shall be made on or about August 1, 1994. Payment for admissions occurring from January 1, 1994, to December 31, 1994, and paid by May 1, 1995, shall be made on or about July 1, 1995.*

*(2) Payments for admissions subject to subdivision 13 shall be determined by multiplying the allowable charges for the admission by the hospital's base year allowable operating cost to charge ratio and subtracting the high cost threshold. The result shall be multiplied by 50 percent after adjustment for subdivisions 9, 9a, 20, 22, and 23, and the core hospital increase of Laws 1993, First Special Session chapter 1, article 1, section 2. The sum of this result for all admissions shall be reduced for payments under subdivision 13. A negative result shall not be implemented. Payments established under section 256.9695, subdivision 3, paragraph (e), shall not be affected by this subdivision and for purposes of appeals under section 256.9695, subdivision 1, payment shall be considered to have been made at the time of admission. Payment shall be made according to the schedule of clause (1).*

*(c) For admissions occurring on or after January 1, 1995, that are not subject to subdivision 13:*

*(1) Operating rates shall be established using the 90, 70, or alternative percentage of costs beyond the threshold and methodology of subdivision 8, except that if an admission also qualifies for payment under subdivision 8, the*

*higher amount of outlier cost that is unrecognized in payments shall be added back to the operating cost per admission.*

*(2) Payments shall be determined by multiplying the allowable charges for the admission by the hospital's base year allowable operating cost to charge ratio and subtracting the high cost threshold and multiplying by the applicable 90, 70, or alternative percentage. The result shall be multiplied by 50 percent after adjustment for subdivisions 9, 9a, 20, 22, and 23, and the core hospital increase of Laws 1993, First Special Session chapter 1, article 1, section 2. If an admission qualifies for payment under this subdivision and subdivision 8, payment shall be made at the higher amount.*

Sec. 46. Minnesota Statutes 1992, section 256.969, subdivision 10, is amended to read:

Subd. 10. [SEPARATE BILLING BY CERTIFIED REGISTERED NURSE ANESTHETISTS.] Hospitals may exclude certified registered nurse anesthetist costs from the operating payment rate as allowed by section 256B.0625, subdivision 11. *For the rate year beginning January 1, 1995, a hospital that has previously elected to exclude certified registered nurse anesthetist costs may elect to include these costs by notifying the commissioner of this election by October 1, 1994.* To be eligible, a hospital must notify the commissioner in writing by October 1 of the year preceding the rate year of the request to exclude certified registered nurse anesthetist costs. The hospital must agree that all hospital claims for the cost and charges of certified registered nurse anesthetist services will not be included as part of the rates for inpatient services provided during the rate year. In this case, the operating payment rate shall be adjusted to exclude the cost of certified registered nurse anesthetist services. ~~Payments made through separate claims for certified registered nurse anesthetist services shall not be paid directly through the hospital provider number or indirectly by the certified registered nurse anesthetist to the hospital or related organizations.~~

For admissions occurring on or after July 1, 1991, and until the expiration date of section 256.9695, subdivision 3, services of certified registered nurse anesthetists provided on an inpatient basis may be paid as allowed by section 256B.0625, subdivision 11, when the hospital's base year did not include the cost of these services. To be eligible, a hospital must notify the commissioner in writing by July 1, 1991, of the request and must comply with all other requirements of this subdivision.

Sec. 47. Minnesota Statutes 1992, section 256.969, subdivision 16, is amended to read:

Subd. 16. [INDIAN HEALTH SERVICE FACILITIES.] Indian health service facilities are exempt from the rate establishment methods required by this section and shall be reimbursed at charges as limited to the amount allowed under federal law. ~~This exemption is not effective for payments under general assistance medical care.~~

Sec. 48. Minnesota Statutes 1993 Supplement, section 256.969, subdivision 24, is amended to read:

Subd. 24. [HOSPITAL PEER GROUPS.] For admissions occurring on or after ~~the later of~~ July 1, 1994, ~~or the implementation date of the upgrade to the Medicaid management information system,~~ *operating* payment rates of each hospital shall be limited to the payment rates within its peer group ~~so that the~~

~~statewide payment level is reduced by ten percent under the medical assistance program and by 15 percent under the general assistance medical care program~~ *under paragraphs (a) to (d). Rates established for long-term hospitals as designated by the Medicare program and neonatal transfer rates that are paid according to subdivision 13 are not subject to peer group limitations.* ~~For subsequent rate years, the limits shall be adjusted by the hospital cost index. The commissioner shall contract for the development of criteria for and the establishment of the peer groups. Peer groups must be established based on variables that affect medical assistance cost such as scope and intensity of services, acuity of patients, location, and capacity. Rates shall be standardized by the case mix index and adjusted, if applicable, for the variable outlier percentage. The peer groups may exclude and have separate limits or be standardized for operating cost differences that are not common to all hospitals in order to establish a minimum number of groups.~~

*(a) Peer groups are established based on the status of the hospital or the rehabilitation distinct part of the hospital on the October 1 prior to a rebased rate year using the criteria of clauses (1) to (6), except that the criteria of clauses (3) and (4) must be combined under general assistance medical care:*

*(1) nonmetropolitan statistical area hospitals;*

*(2) metropolitan statistical area major teaching hospitals. A major teaching hospital is one that meets the certification requirements of the council of teaching hospitals including the operation of a minimum of four approved active residency programs with at least two in medicine, surgery, obstetrics, pediatrics, family practice, or psychiatry;*

*(3) metropolitan statistical area minor teaching hospitals as designated by the Medicare program;*

*(4) metropolitan statistical area nonteaching hospitals;*

*(5) children's hospitals with neonatal intensive care units. A children's hospital is a hospital in which the admissions are predominantly individuals under 18 years of age; and*

*(6) rehabilitation hospitals and rehabilitation distinct parts of hospitals as designated by the Medicare program, and children's hospitals without neonatal intensive care units.*

*(b) The limitation on rates is established for each eligibility and rehabilitation category of rates within a peer group according to clauses (1) to (5):*

*(1) combine the adjusted base year operating rate per admission and outlier rate per day into a rate per admission for each hospital after recalculating each hospital's case mix index based on the Medicare diagnostic related groups using the grouper in effect for the rate year;*

*(2) determine the metropolitan statistical area, nonmetropolitan statistical area, and statewide average rates from clause (1);*

*(3) after excluding rates based on averages in clause (2), establish the limit at the median for each medical assistance and general assistance medical care category, and at 139 percent of the median for the rehabilitation category;*

*(4)(i) for medical assistance, if clause (1) is greater than clause (3), add 80 percent of the difference between clause (1) and clause (3) to clause (3) and*

*divide the result by clause (1). Multiply this result by each hospital's adjusted base year operating rate per admission and outlier rate per day;*

*(ii) for general assistance medical care, if clause (1) is greater than clause (3), add 64 percent of the difference between clause (1) and clause (3) to clause (3) and divide the result by clause (1). Multiply this result by each hospital's adjusted base year operating rate per admission and outlier rate per day; and*

*(iii) for rates established for the rehabilitation category, regardless of program eligibility, if clause (1) is greater than clause (3), divide clause (3) by clause (1) and multiply the result by each hospital's adjusted base year operating rate per admission and outlier rate per day;*

*(5) for any hospital with an admission or outlier rate that is based on an average rate of other hospitals:*

*(i) for medical assistance, if clause (2) is greater than clause (3), add 80 percent of the difference between clause (2) and clause (3) to clause (3) and divide the result by clause (2). Multiply this result by each hospital's applicable average adjusted base year operating rate per admission or outlier rate per day;*

*(ii) for general assistance medical care, if clause (2) is greater than clause (3), add 64 percent of the difference between clause (2) and clause (3) to clause (3) and divide the result by clause (2). Multiply this result by each hospital's applicable average adjusted base year operating rate per admission or outlier rate per day; and*

*(iii) for rates established for the rehabilitation category, regardless of program eligibility, if clause (2) is greater than clause (3), divide clause (3) by clause (2) and multiply the result by each hospital's adjusted base year operating rate per admission and outlier rate per day.*

*(c) Hospitals that have not chosen to exclude certified registered nurse anesthetist costs from rates according to subdivision 10 are allowed to elect the option if the commissioner is notified in writing by June 1, 1994.*

*(d) For rate years in which the rates are not rebased to more recent data, the limits are adjusted by the hospital cost index.*

Sec. 49. Minnesota Statutes 1993 Supplement, section 256.9695, subdivision 3, is amended to read:

Subd. 3. [TRANSITION.] Except as provided in section 256.969, subdivision 8, the commissioner shall establish a transition period for the calculation of payment rates from July 1, 1989, to the implementation date of the upgrade to the Medicaid management information system or July 1, 1992, whichever is earlier.

During the transition period:

(a) Changes resulting from section 256.969, subdivisions 7, 9, 10, 11, and 13, shall not be implemented, except as provided in section 256.969, subdivisions 12 and 20.

(b) The beginning of the 1991 rate year shall be delayed and the rates notification requirement shall not be applicable.

(c) Operating payment rates shall be indexed from the hospital's most recent fiscal year ending prior to January 1, 1991, by prorating the hospital cost index methodology in effect on January 1, 1989. For payments made for admissions occurring on or after June 1, 1990, until the implementation date of the upgrade to the Medicaid management information system the hospital cost index excluding the technology factor shall not exceed five percent. This hospital cost index limitation shall not apply to hospitals that meet the requirements of section 256.969, subdivision 20, paragraphs (a) and (b).

(d) Property and pass-through payment rates shall be maintained at the most recent payment rate effective for June 1, 1990. However, all hospitals are subject to the hospital cost index limitation of subdivision 2c, for two complete fiscal years. Property and pass-through costs shall be retroactively settled through the transition period. The laws in effect on the day before July 1, 1989, apply to the retroactive settlement.

(e) If the upgrade to the Medicaid management information system has not been completed by July 1, 1992, the commissioner shall make adjustments for admissions occurring on or after that date as follows:

(1) provide a ten percent increase to hospitals that meet the requirements of section 256.969, subdivision 20, or, upon written request from the hospital to the commissioner, 50 percent of the rate change that the commissioner estimates will occur after the upgrade to the Medicaid management information system; and

(2) adjust the Minnesota and local trade area rebased payment rates that are established after the upgrade to the Medicaid management information system to compensate for a rebasing effective date of July 1, 1992. The adjustment shall be determined using claim specific payment changes that result from the rebased rates and revised methodology in effect after the systems upgrade. Any adjustment that is greater than zero shall be ratably reduced by 20 percent. In addition, every adjustment shall be reduced for payments under clause (1), and differences in the hospital cost index. Hospitals shall revise claims so that services provided by rehabilitation units of hospitals are reported separately. The adjustment shall be in effect until the amount due to or owed by the hospital is fully paid over a number of admissions that is equal to the number of admissions under adjustment multiplied by 1.5, *except that a hospital with a 20 percent or greater negative adjustment that exceeds $1,000,000 must use a schedule that is three times the number of admissions under adjustment.* The adjustment for admissions occurring from July 1, 1992 to December 31, 1992, shall be based on claims paid as of August 1, 1993, and the adjustment shall begin with the effective date of rules governing rebasing. The adjustment for admissions occurring from January 1, 1993, to the effective date of the rules shall be based on claims paid as of February 1, 1994, and shall begin after the first adjustment period is fully paid. For purposes of appeals under subdivision 1, the adjustment shall be considered payment at the time of admission.

Sec. 50. Minnesota Statutes 1992, section 256B.042, subdivision 2, is amended to read:

Subd. 2. [LIEN ENFORCEMENT.] The state agency may perfect and enforce its lien by following the procedures set forth in sections 514.69, 514.70 and 514.71, and its verified lien statement shall be filed with the appropriate court administrator in the county of financial responsibility. The verified lien statement shall contain the following: the name and address of the

person to whom medical care was furnished, the date of injury, the name and address of the vendor or vendors furnishing medical care, the dates of the service, the amount claimed to be due for the care, and, to the best of the state agency's knowledge, the names and addresses of all persons, firms, or corporations claimed to be liable for damages arising from the injuries. This section shall not affect the priority of any attorney's lien. The state agency is not subject to any limitations period referred to in section 514.69 or 514.71 and has one year from the date notice is *first* received by it under subdivision 4, paragraph (c), *even if the notice is untimely,* or one year from the date medical bills are first paid by the state agency, whichever is later, to file its verified lien statement. The state agency may commence an action to enforce the lien within one year of (1) the date the notice required by subdivision 4, paragraph (c), is received or (2) the date the recipient's cause of action is concluded by judgment, award, settlement, or otherwise, whichever is later.

Sec. 51. Minnesota Statutes 1992, section 256B.056, is amended by adding a subdivision to read:

*Subd. 3b.* [TREATMENT OF TRUSTS.] *(a) A "medical assistance qualifying trust" is a revocable or irrevocable trust, or similar legal device, established on or before August 10, 1993, by a person or the person's spouse under the terms of which the person receives or could receive payments from the trust principal or income and the trustee has discretion in making payments to the person from the trust principal or income. Notwithstanding that definition, a medical assistance qualifying trust does not include: (i) a trust set up by will; (ii) a trust set up before April 7, 1986, solely to benefit a person with mental retardation living in an intermediate care facility for persons with mental retardation; or (iii) a trust set up by a person with payments made by the Social Security Administration pursuant to the United States Supreme Court decision in Sullivan v. Zebley, 110 S. Ct. 885 (1990). The maximum amount of payments that a trustee of a medical assistance qualifying trust may make to a person under the terms of the trust is considered to be available assets to the person, without regard to whether the trustee actually makes the maximum payments to the person and without regard to the purpose for which the medical assistance qualifying trust was established.*

*(b) Trusts established after August 10, 1993, are treated according to section 13611(b) of the Omnibus Budget Reconciliation Act of 1993, (OBRA) Public Law Number 103-66.*

Sec. 52. Minnesota Statutes 1992, section 256B.059, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] (a) For purposes of this section, the terms defined in this subdivision have the meanings given them.

(b) "Community spouse" means the spouse of an institutionalized ~~person~~ *spouse.*

(c) "Spousal share" means one-half of the total value of all assets, to the extent that either the institutionalized spouse or the community spouse had an ownership interest at the time of institutionalization.

(d) "Assets otherwise available to the community spouse" means assets individually or jointly owned by the community spouse, other than assets excluded by subdivision 5, paragraph (c).

(e) "Community spouse asset allowance" is the value of assets that can be transferred under subdivision 3.

*(f) "Institutionalized spouse" means a person who is:*

*(i) in a hospital, nursing facility, intermediate care facility for persons with mental retardation, or is receiving home and community-based services under section 256B.0915, and is expected to remain in such facility or institution or receive such home and community-based services for at least 30 consecutive days; and*

*(ii) married to a person who is not in a hospital, nursing facility, or intermediate care facility for persons with mental retardation, and is not receiving home and community-based services under section 256B.0915.*

Sec. 53. Minnesota Statutes 1993 Supplement, section 256B.059, subdivision 3, is amended to read:

Subd. 3. [COMMUNITY SPOUSE ASSET ALLOWANCE.] An institutionalized spouse may transfer assets to the community spouse solely for the benefit of the community spouse. Except for increased amounts allowable under subdivision 4, the maximum amount of assets allowed to be transferred is the amount which, when added to the assets otherwise available to the community spouse, is as follows:

(1) prior to July 1, 1994, the greater of:

(i) $14,148;

(ii) the lesser of the spousal share or $70,740; or

(iii) the amount required by court order to be paid to the community spouse; and

(2) for persons ~~who begin~~ *whose date of initial determination of eligibility for medical assistance following* their first continuous period of institutionalization *occurs* on or after July 1, 1994, the greater of:

(i) $20,000;

(ii) the lesser of the spousal share or $70,740; or

(iii) the amount required by court order to be paid to the community spouse.

If the assets available to the community spouse are already at the limit permissible under this section, or the higher limit attributable to increases under subdivision 4, no assets may be transferred from the institutionalized spouse to the community spouse. The transfer must be made as soon as practicable after the date the institutionalized spouse is determined eligible for medical assistance, or within the amount of time needed for any court order required for the transfer. On January 1, 1994, and every January 1 thereafter, the limits in this subdivision shall be adjusted by the same percentage change in the consumer price index for all urban consumers (all items; United States city average) between the two previous Septembers. These adjustments shall also be applied to the limits in subdivision 5.

Sec. 54. Minnesota Statutes 1993 Supplement, section 256B.059, subdivision 5, is amended to read:

Subd. 5. [ASSET AVAILABILITY.] (a) At the time of ~~application~~ *initial determination of eligibility* for medical assistance benefits *following the first*

*continuous period of institutionalization*, assets considered available to the institutionalized spouse shall be the total value of all assets in which either spouse has an ownership interest, reduced by the following:

(1) prior to July 1, 1994, the greater of:

(i) $14,148;

(ii) the lesser of the spousal share or $70,740; or

(iii) the amount required by court order to be paid to the community spouse;

(2) for persons ~~who begin~~ *whose date of initial determination of eligibility for medical assistance following* their first continuous period of institutionalization *occurs* on or after July 1, 1994, the greater of:

(i) $20,000;

(ii) the lesser of the spousal share or $70,740; or

(iii) the amount required by court order to be paid to the community spouse. If the community spouse asset allowance has been increased under subdivision 4, then the assets considered available to the institutionalized spouse under this subdivision shall be further reduced by the value of additional amounts allowed under subdivision 4.

(b) An institutionalized spouse may be found eligible for medical assistance even though assets in excess of the allowable amount are found to be available under paragraph (a) if the assets are owned jointly or individually by the community spouse, and the institutionalized spouse cannot use those assets to pay for the cost of care without the consent of the community spouse, and if: (i) the institutionalized spouse assigns to the commissioner the right to support from the community spouse under section 256B.14, subdivision 3; (ii) the institutionalized spouse lacks the ability to execute an assignment due to a physical or mental impairment; or (iii) the denial of eligibility would cause an imminent threat to the institutionalized spouse's health and well-being.

(c) After the month in which the institutionalized spouse is determined eligible for medical assistance, during the continuous period of institutionalization, no assets of the community spouse are considered available to the institutionalized spouse, unless the institutionalized spouse has been found eligible under clause (b).

(d) Assets determined to be available to the institutionalized spouse under this section must be used for the health care or personal needs of the institutionalized spouse.

(e) For purposes of this section, assets do not include assets excluded under ~~section 256B.056, without regard to the limitations on total value in that section~~ *the supplemental security income program.*

Sec. 55. Minnesota Statutes 1993 Supplement, section 256B.0595, subdivision 1, is amended to read:

Subdivision 1. [PROHIBITED TRANSFERS.] (a) *For transfers of assets made on or before August 10, 1993,* if a person or the person's spouse has given away, sold, or disposed of, for less than fair market value, any asset or interest therein, except assets other than the homestead that are excluded under ~~section 256B.056, subdivision 3~~ *the supplemental security program*, within 30 months before or any time after the date of institutionalization if the

person has been determined eligible for medical assistance, or within 30 months before or any time after the date of the first approved application for medical assistance if the person has not yet been determined eligible for medical assistance, the person is ineligible for long-term care services for the period of time determined under subdivision 2.

(b) Effective for transfers made ~~on or~~ after ~~July 1, 1993, or upon federal approval, whichever is later~~ *August 10, 1993, (i)* a person, a person's spouse, or ~~a person's authorized representative~~ *any person, court, or administrative body with legal authority to act in place of, on behalf of, at the direction of, or upon the request of the person or person's spouse, (ii)* may not give away, sell, or dispose of, for less than fair market value, any asset or interest therein, *except assets other than the homestead that are excluded under the supplemental security income program,* for the purpose of establishing or maintaining medical assistance eligibility. For purposes of determining eligibility for ~~medical assistance~~ *long-term care services*, any transfer of ~~an asset~~ *such assets* within ~~60~~ *36* months ~~preceding application~~ *before or any time after an institutionalized person applies* for medical assistance ~~or during the period of medical assistance eligibility, including assets excluded under section 256B.056, subdivision 3~~, *or 36 months before or any time after a medical assistance recipient becomes institutionalized,* for less than fair market value may be considered. Any *such* transfer ~~for less than fair market value made within 60 months preceding application for medical assistance or during the period of medical assistance eligibility~~ is presumed to have been made for the purpose of establishing or maintaining medical assistance eligibility and the person is ineligible for ~~medical assistance~~ *long-term care services* for the period of time determined under subdivision 2, unless the person furnishes convincing evidence to establish that the transaction was exclusively for another purpose, or unless the transfer is permitted under ~~subdivisions~~ *subdivision* 3 or 4. *Notwithstanding the provisions of this paragraph, in the case of payments from a trust or portions of a trust that are considered transfers of assets under federal law, any transfers made within 60 months before or any time after an institutionalized person applies for medical assistance and within 60 months before or any time after a medical assistance recipient becomes institutionalized, may be considered.*

(c) This section applies to transfers, for less than fair market value, of income or assets, *including assets* that are considered income in the month received, such as inheritances, court settlements, and retroactive benefit payments *or income to which the person or the person's spouse is entitled but does not receive due to action by the person, the person's spouse, or any person, court, or administrative body with legal authority to act in place of, on behalf of, at the direction of, or upon the request of the person or the person's spouse.*

(d) This section applies to payments for care or personal services provided by a relative, unless the compensation was stipulated in a notarized, written agreement which was in existence when the service was performed, the care or services directly benefited the person, and the payments made represented reasonable compensation for the care or services provided. A notarized written agreement is not required if payment for the services was made within 60 days after the service was provided.

(e) This section applies to the portion of any asset or interest that a person ~~or~~, a person's spouse, *or any person, court, or administrative body with legal authority to act in place of, on behalf of, at the direction of, or upon the*

*request of the person or the person's spouse,* transfers to ~~an irrevocable~~ *any* trust, annuity, or other instrument, that exceeds the value of the benefit likely to be returned to the person or spouse while alive, based on estimated life expectancy using the life expectancy tables employed by the supplemental security income program to determine the value of an agreement for services for life. The commissioner may adopt rules reducing life expectancies based on the need for long-term care.

(f) For purposes of this section, long-term care services include *services in a* nursing facility, services *that are eligible for payment according to section 256B.0625, subdivision 2, because they are provided in a swing bed, intermediate care facility for persons with mental retardation*, and home and community-based services provided pursuant to ~~section 256B.491~~ *sections 256B.0915, 256B.092, and 256B.49*. For purposes of this subdivision and subdivisions 2, 3, and 4, "institutionalized person" includes a person who is an inpatient in a nursing facility~~,~~ *or in a swing bed, or intermediate care facility for persons with mental retardation* or who is receiving home and community-based services under ~~section 256B.491~~ *sections 256B.0915, 256B.092, and 256B.49*.

Sec. 56. Minnesota Statutes 1993 Supplement, section 256B.0595, subdivision 2, is amended to read:

Subd. 2. [PERIOD OF INELIGIBILITY.] (a) For any uncompensated transfer *occurring on or before August 10, 1993*, the number of months of ineligibility for long-term care services shall be the lesser of 30 months, or the uncompensated transfer amount divided by the average medical assistance rate for nursing facility services in the state in effect on the date of application. The amount used to calculate the average medical assistance payment rate shall be adjusted each July 1 to reflect payment rates for the previous calendar year. The period of ineligibility begins with the month in which the assets were transferred. If the transfer was not reported to the local agency at the time of application, and the applicant received long-term care services during what would have been the period of ineligibility if the transfer had been reported, a cause of action exists against the transferee for the cost of long-term care services provided during the period of ineligibility, or for the uncompensated amount of the transfer, whichever is less. The action may be brought by the state or the local agency responsible for providing medical assistance under chapter 256G. The uncompensated transfer amount is the fair market value of the asset at the time it was given away, sold, or disposed of, less the amount of compensation received.

(b) For uncompensated transfers made ~~on or~~ after ~~July 1~~ *August 10,* 1993, ~~or upon federal approval, whichever is later,~~ the number of months of ineligibility~~, including partial months,~~ for ~~medical assistance~~ *long-term care* services shall be the total uncompensated value of the resources transferred divided by the average medical assistance rate for nursing facility services in the state in effect on the date of application. ~~If a calculation of a penalty period results in a partial month, payments for medical assistance services will be reduced in an amount equal to the fraction, except that in calculating the value of uncompensated transfers, uncompensated transfers not to exceed $1,000 in total value per month shall be disregarded for each month prior to the month of application for medical assistance.~~ The amount used to calculate the average medical assistance payment rate shall be adjusted each July 1 to reflect payment rates for the previous calendar year. The period of ineligibility begins with the month in which the assets were transferred except that if one

or more uncompensated transfers are made during a period of ineligibility, the total assets transferred during the ineligibility period shall be combined and a penalty period calculated to begin in the month the first uncompensated transfer was made. ~~The penalty in this paragraph shall not apply to uncompensated transfers of assets not to exceed a total of $1,000 per month during a medical assistance eligibility certification period.~~ If the transfer was not reported to the local agency at the time of application, and the applicant received medical assistance services during what would have been the period of ineligibility if the transfer had been reported, a cause of action exists against the transferee for the cost of medical assistance services provided during the period of ineligibility, or for the uncompensated amount of the transfer, whichever is less. The action may be brought by the state or the local agency responsible for providing medical assistance under chapter 256G. The uncompensated transfer amount is the fair market value of the asset at the time it was given away, sold, or disposed of, less the amount of compensation received.

(c) ~~If the total value of all uncompensated transfers made in a month exceeds $1,000, the disregards allowed under paragraph (b) do not apply.~~ *Effective 60 days following published notice of receipt of federal approval, if a calculation of a penalty period results in a partial month, payments for long-term care services will be reduced in an amount equal to the fraction, except that in calculating the value of uncompensated transfers, if the total value of all uncompensated transfers made in a month do not exceed $1,000 in total value, then such transfers shall be disregarded for each month prior to the month of application for or during receipt of medical assistance. Notice of federal approval shall be published in the State Register.*

Sec. 57. Minnesota Statutes 1993 Supplement, section 256B.0595, subdivision 3, is amended to read:

Subd. 3. [HOMESTEAD EXCEPTION TO TRANSFER PROHIBITION.] (a) An institutionalized person is not ineligible for long-term care services due to a transfer of assets for less than fair market value if the asset transferred was a homestead and:

(1) title to the homestead was transferred to the individual's

(i) spouse;

(ii) child who is under age 21;

(iii) blind or permanently and totally disabled child as defined in the supplemental security income program;

(iv) sibling who has equity interest in the home and who was residing in the home for a period of at least one year immediately before the date of the individual's admission to the facility; or

(v) son or daughter who was residing in the individual's home for a period of at least two years immediately before the date of the individual's admission to the facility, and who provided care to the individual that permitted the individual to reside at home rather than in an institution or facility;

(2) a satisfactory showing is made that the individual intended to dispose of the homestead at fair market value or for other valuable consideration; or

(3) the local agency grants a waiver of the excess resources created by the uncompensated transfer because denial of eligibility would cause undue

hardship for the individual, based on imminent threat to the individual's health and well-being.

(b) When a waiver is granted under paragraph (a), clause (3), a cause of action exists against the person to whom the homestead was transferred for that portion of long-term care services granted within:

*(i)* 30 months of ~~the~~ *a* transfer *made on or before August 10, 1993;*

*(ii) 60 months if the homestead was transferred after August 10, 1993, to a trust or portion of a trust that is considered a transfer of assets under federal law; or*

*(iii) 36 months if transferred in any other manner after August 10, 1993,*

or the amount of the uncompensated transfer, whichever is less, together with the costs incurred due to the action. The action may be brought by the state or the local agency responsible for providing medical assistance under chapter 256G.

~~(c) Effective for transfers made on or after July 1, 1993, or upon federal approval, whichever is later, an institutionalized person is not ineligible for medical assistance services due to a transfer of assets for less than fair market value if the asset transferred was a homestead and:~~

~~(1) title to the homestead was transferred to the individual's~~

~~(i) spouse;~~

~~(ii) child who is under age 21;~~

~~(iii) blind or permanently and totally disabled child as defined in the supplemental security income program;~~

~~(iv) sibling who has equity interest in the home and who was residing in the home for a period of at least one year immediately before the date of the individual's admission to the facility; or~~

~~(v) son or daughter who was residing in the individual's home for a period of at least two years immediately before the date of the individual's admission to the facility, and who provided care to the individual that permitted the individual to reside at home rather than in an institution or facility;~~

~~(2) a satisfactory showing is made that the individual intended to dispose of the homestead at fair market value or for other valuable consideration; or~~

~~(3) the local agency grants a waiver of the excess resources created by the uncompensated transfer because denial of eligibility would cause undue hardship for the individual, based on imminent threat to the individual's health and well-being.~~

~~(d) When a waiver is granted under paragraph (c), clause (3), a cause of action exists against the person to whom the homestead was transferred for that portion of medical assistance services granted during the period of ineligibility under subdivision 2, or the amount of the uncompensated transfer, whichever is less, together with the costs incurred due to the action. The action may be brought by the state or the local agency responsible for providing medical assistance under chapter 256G.~~

Sec. 58. Minnesota Statutes 1993 Supplement, section 256B.0595, subdivision 4, is amended to read:

Subd. 4. [OTHER EXCEPTIONS TO TRANSFER PROHIBITION.] ~~(a)~~ An institutionalized person who has made, or whose spouse has made a transfer prohibited by subdivision 1, is not ineligible for long-term care services if one of the following conditions applies:

(1) the assets were transferred to the ~~community~~ *individual's* spouse~~, as defined in section 256B.059~~ *or to another for the sole benefit of the spouse*; or

(2) the institutionalized spouse, prior to being institutionalized, transferred assets to a spouse, provided that the spouse to whom the assets were transferred does not then transfer those assets to another person for less than fair market value. (At the time when one spouse is institutionalized, assets must be allocated between the spouses as provided under section 256B.059); or

(3) the assets were transferred to the individual's child who is blind or permanently and totally disabled as determined in the supplemental security income program; or

(4) a satisfactory showing is made that the individual intended to dispose of the assets either at fair market value or for other valuable consideration; or

(5) the local agency determines that denial of eligibility for long-term care services would work an undue hardship and grants a waiver of excess assets. When a waiver is granted, a cause of action exists against the person to whom the assets were transferred for that portion of long-term care services granted within 30 months of the transfer, or the amount of the uncompensated transfer, whichever is less, together with the costs incurred due to the action. The action may be brought by the state or the local agency responsible for providing medical assistance under this chapter; *or*

*(6) for transfers occurring after August 10, 1993, the assets were transferred by the person or person's spouse: (i) into a trust established solely for the benefit of a son or daughter of any age who is blind or disabled as defined by the supplemental security income program; or (ii) into a trust established solely for the benefit of an individual who is under 65 years of age who is disabled as defined by the supplemental security income program.*

~~(b) Effective for transfers made on or after July 1, 1993, or upon federal approval, whichever is later, an institutionalized person who has made, or whose spouse has made a transfer prohibited by subdivision 1, is not ineligible for medical assistance services if one of the following conditions applies:~~

~~(1) the assets were transferred to the community spouse, as defined in section 256B.059; or~~

~~(2) the institutionalized spouse, prior to being institutionalized, transferred assets to a spouse, provided that the spouse to whom the assets were transferred does not then transfer those assets to another person for less than fair market value. (At the time when one spouse is institutionalized, assets must be allocated between the spouses as provided under section 256B.059); or~~

~~(3) the assets were transferred to the individual's child who is blind or permanently and totally disabled as determined in the supplemental security income program; or~~

~~(4) a satisfactory showing is made that the individual intended to dispose of the assets either at fair market value or for other valuable consideration; or~~

~~(5) the local agency determines that denial of eligibility for medical assistance services would work an undue hardship and grants a waiver of excess assets. When a waiver is granted, a cause of action exists against the person to whom the assets were transferred for that portion of medical assistance services granted during the period of ineligibility determined under subdivision 2 or the amount of the uncompensated transfer, whichever is less, together with the costs incurred due to the action. The action may be brought by the state or the local agency responsible for providing medical assistance under this chapter.~~

Sec. 59. Minnesota Statutes 1992, section 256B.06, subdivision 4, is amended to read:

Subd. 4. [CITIZENSHIP REQUIREMENTS.] Eligibility for medical assistance is limited to citizens of the United States and aliens lawfully admitted for permanent residence or otherwise permanently residing in the United States under the color of law. Aliens who are seeking legalization under the Immigration Reform and Control Act of 1986, Public Law Number 99-603, who are under age 18, over age 65, blind, disabled, or Cuban or Haitian, and who meet the eligibility requirements of medical assistance under subdivision 1 and sections 256B.055 to 256B.062 are eligible to receive medical assistance. Pregnant women who are aliens seeking legalization under the Immigration Reform and Control Act of 1986, Public Law Number 99-603, and who meet the eligibility requirements of medical assistance under subdivision 1 are eligible for payment of care and services through the period of pregnancy and six weeks postpartum. Payment shall also be made for care and services that are furnished to an alien, regardless of immigration status, who otherwise meets the eligibility requirements of this section if such care and services are necessary for the treatment of an emergency medical condition, *except for organ transplants and related care and services*. For purposes of this subdivision, the term "emergency medical condition" means a medical condition, including labor and delivery, that if not immediately treated could cause a person physical or mental disability, continuation of severe pain, or death.

Sec. 60. Minnesota Statutes 1992, section 256B.0625, subdivision 8, is amended to read:

Subd. 8. [PHYSICAL THERAPY.] *(a)* Medical assistance covers physical therapy and related services.

*(b) By January 1, 1996, the commissioner shall adopt administrative rules under chapter 14 establishing criteria for review of prior authorization requests.*

Sec. 61. Minnesota Statutes 1992, section 256B.0625, subdivision 8a, is amended to read:

Subd. 8a. [OCCUPATIONAL THERAPY.] *(a)* Medical assistance covers occupational therapy and related services.

*(b) By January 1, 1996, the commissioner shall adopt administrative rules under chapter 14 establishing criteria for review of prior authorization requests.*

Sec. 62. Minnesota Statutes 1992, section 256B.0625, is amended by adding a subdivision to read:

*Subd. 8b.* [SPEECH THERAPY.] *(a) Medical assistance covers speech therapy and related services.*

*(b) By January 1, 1996, the commissioner shall adopt administrative rules under chapter 14 establishing criteria for review of prior authorization requests.*

Sec. 63. Minnesota Statutes 1993 Supplement, section 256B.0625, subdivision 19a, is amended to read:

Subd. 19a. [PERSONAL CARE SERVICES.] *(a)* Medical assistance covers personal care services in a recipient's home. Recipients who can direct their own care, or persons who cannot direct their own care when 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 for residents of a hospital, nursing facility, intermediate care facility, health care facility licensed by the commissioner of health, or unless a resident who is otherwise eligible is on leave from the facility and the facility either pays for the personal care services or forgoes the facility per diem for the leave days that personal care services are used 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 or the foster care provider of a recipient who cannot direct the recipient's own care or the recipient's legal guardian unless, in the case of a foster provider, a county or state case manager visits the recipient as needed, but no less than every six months, to monitor the health and safety of the recipient and to ensure the goals of the care plan are 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.

*(b) The commissioner of finance shall include annual inflation adjustments in operating costs for personal care services as a budget change request in each biennial detailed expenditure budget submitted to the legislature under section 16A.11.*

Sec. 64. Minnesota Statutes 1993 Supplement, section 256B.0625, subdivision 20, is amended to read:

Subd. 20. [MENTAL ILLNESS CASE MANAGEMENT.] (a) To the extent authorized by rule of the state agency, medical assistance covers case management services to persons with serious and persistent mental illness or subject to federal approval, children with severe emotional disturbance. Entities meeting program standards set out in rules governing family

community support services as defined in section 245.4871, subdivision 17, are eligible for medical assistance reimbursement for case management services for children with severe emotional disturbance when these services meet the program standards in Minnesota Rules, parts 9520.0900 to 9520.0926 and 9505.0322, excluding subpart 6.

(b) In counties where fewer than 50 percent of children estimated to be eligible under medical assistance to receive case management services for children with severe emotional disturbance actually receive these services in state fiscal year 1995, community mental health centers serving those counties, entities meeting program standards in Minnesota Rules, parts 9520.0570 to 9520.0870, and other entities authorized by the commissioner are eligible for medical assistance reimbursement for case management services for children with severe emotional disturbance when these services meet the program standards in Minnesota Rules, parts 9520.0900 to 9520.0926 and 9505.0322, excluding subpart 6.

*(c) Until legislation is enacted to implement the report required under section 245.494, subdivision 5, the rate for medical assistance case management for children with severe emotional disturbance shall be $45 per hour.*

Sec. 65. Minnesota Statutes 1992, section 256B.0625, subdivision 25, is amended to read:

Subd. 25. [PRIOR AUTHORIZATION REQUIRED.] *(a)* The commissioner shall publish in the State Register a list of health services that require prior authorization, as well as the criteria and standards used to select health services on the list. The list and the criteria and standards used to formulate it are not subject to the requirements of sections 14.001 to 14.69. The commissioner's decision whether prior authorization is required for a health service is not subject to administrative appeal.

*(b) A provider who has submitted a prior authorization request for physical therapy, occupational therapy, speech therapy, or related services must have access via telephone to the consultant to whom the request has been assigned. The department must make a reasonable amount of consultant time available for providers to contact the consultant by telephone in order to discuss either a pending request or a request about which a recommendation has been made. For purposes of this paragraph "consultant" has the meaning given it in Minnesota Rules, part 9505.5005, subpart 3.*

Sec. 66. Minnesota Statutes 1993 Supplement, section 256B.0625, subdivision 37, is amended to read:

Subd. 37. [~~WRAPAROUND~~ *INDIVIDUALIZED REHABILITATION* SERVICES.] Medical assistance covers ~~wraparound~~ *individualized rehabilitation* services as defined in section 245.492, subdivision ~~20, that are provided through a local children's mental health collaborative, as that entity is defined in section 245.492, subdivision 11~~ *23, that are provided by a collaborative, county, or an entity under contract with a county through an integrated service system, as described in section 245.4931, that is approved by the state coordinating council, subject to federal approval.*

Sec. 67. Minnesota Statutes 1992, section 256B.0625, is amended by adding a subdivision to read:

*Subd. 38.* [CHILDHOOD IMMUNIZATIONS.] *For providers who are authorized to administer pediatric vaccines within the scope of their licensure,*

*and who are enrolled in the pediatric vaccine administration program established by section 13631 of the Omnibus Budget Reconciliation Act of 1993, medical assistance shall pay a $5 fee per dose for administration of the vaccine to children eligible for medical assistance. Medical assistance does not pay for vaccines that are available at no cost from the pediatric vaccine administration program.*

Sec. 68. Minnesota Statutes 1992, section 256B.0625, is amended by adding a subdivision to read:

*Subd. 39.* [TUBERCULOSIS RELATED SERVICES.] *(a) For persons infected with tuberculosis, medical assistance covers case management services and direct observation of the intake of drugs prescribed to treat tuberculosis.*

*(b) Case management services means services furnished to assist persons infected with tuberculosis in gaining access to needed medical services. Case management services include at a minimum:*

*(1) assessing a person's need for medical services to treat tuberculosis;*

*(2) developing a care plan that addresses the needs identified in clause (1);*

*(3) assisting the person in accessing medical services identified in the care plan; and*

*(4) monitoring the person's compliance with the care plan to assure completion of tuberculosis therapy.*

*Medical assistance covers case management services under this subdivision only if the services are provided by a certified public health nurse who is employed by a community health board as defined in section 145A.02, subdivision 5.*

*(c) To be covered by medical assistance, direct observation of the intake of drugs prescribed to treat tuberculosis must be provided by:*

*(1) a community outreach worker, licensed practical nurse, or registered nurse who is trained and supervised by a public health nurse employed by a community health board as defined in section 145A.02, subdivision 5; or*

*(2) a public health nurse employed by a community health board.*

Sec. 69. Minnesota Statutes 1993 Supplement, section 256B.0626, is amended to read:

256B.0626 [ESTIMATION OF 50TH PERCENTILE OF PREVAILING CHARGES*; PAYMENT RATES FOR CERTAIN CASE MANAGEMENT SERVICES.*]

*Subdivision 1.* [ESTIMATION METHODOLOGY.] (a) The 50th percentile of the prevailing charge for the base year identified in statute must be estimated by the commissioner in the following situations:

(1) there were less than ten billings in the calendar year specified in legislation governing maximum payment rates;

(2) the service was not available in the calendar year specified in legislation governing maximum payment rates;

(3) the payment amount is the result of a provider appeal;

(4) the procedure code description has changed since the calendar year specified in legislation governing maximum payment rates, and, therefore, the prevailing charge information reflects the same code but a different procedure description; or

(5) the 50th percentile reflects a payment which is grossly inequitable when compared with payment rates for procedures or services which are substantially similar.

(b) When one of the situations identified in paragraph (a) occurs, the commissioner shall use the following methodology to reconstruct a rate comparable to the 50th percentile of the prevailing rate:

(1) refer to information which exists for the first nine billings in the calendar year specified in legislation governing maximum payment rates; or

(2) refer to surrounding or comparable procedure codes; or

(3) refer to the 50th percentile of years subsequent to the calendar year specified in legislation governing maximum payment rates, and reduce that amount by applying an appropriate Consumer Price Index formula; or

(4) refer to relative value indexes; or

(5) refer to reimbursement information from other third parties, such as Medicare.

*Subd. 2.* [PAYMENT RATES.] *(a) Payment for case management services for persons infected with tuberculosis that are covered under section 256B.0625, subdivision 39, shall be $10 per 15 minutes of case management time. Case management time is defined as any activity in which the case management provider has face-to-face contact or telephone contact with the recipient or any of the recipient's medical assistance service providers for the purpose of providing case management services.*

*(b) Payment for the direct observation of the intake of prescribed drugs that is covered under section 256B.0625, subdivision 39, shall be $25 per visit.*

Sec. 70. Minnesota Statutes 1992, section 256B.0641, subdivision 1, is amended to read:

Subdivision 1. [RECOVERY PROCEDURES; SOURCES.] Notwithstanding section 256B.72 or any law or rule to the contrary, when the commissioner or the federal government determines that an overpayment has been made by the state to any medical assistance vendor, the commissioner shall recover the overpayment as follows:

(1) if the federal share of the overpayment amount is due and owing to the federal government under federal law and regulations, the commissioner shall recover from the medical assistance vendor the federal share of the determined overpayment amount paid to that provider using the schedule of payments required by the federal government; ~~and~~

(2) if the overpayment to a medical assistance vendor is due to a retroactive adjustment made because the medical assistance vendor's temporary payment rate was higher than the established desk audit payment rate or because of a department error in calculating a payment rate, the commissioner shall recover from the medical assistance vendor the total amount of the overpayment

within 120 days after the date on which written notice of the adjustment is sent to the medical assistance vendor or according to a schedule of payments approved by the commissioner; *and*

*(3) a medical assistance vendor is liable for the overpayment amount owed by a medical assistance long-term care facility if the vendor and facility are under common control or ownership.*

Sec. 71. Minnesota Statutes 1993 Supplement, section 256B.0911, subdivision 2, is amended to read:

Subd. 2. [PERSONS REQUIRED TO BE SCREENED; EXEMPTIONS.] All applicants to Medicaid certified nursing facilities must be screened prior to admission, regardless of income, assets, or funding sources, except the following:

(1) patients who, having entered acute care facilities from certified nursing facilities, are returning to a certified nursing facility;

(2) residents transferred from other certified nursing facilities *located within the state of Minnesota*;

(3) individuals who have a contractual right to have their nursing facility care paid for indefinitely by the veteran's administration; ~~or~~

(4) individuals who are enrolled in the Ebenezer/Group Health social health maintenance organization project, *or enrolled in a demonstration project under section 256B.69, subdivision 18,* at the time of application to a nursing home*; or*

*(5) individuals previously screened and currently being served under the alternative care or waiver programs.*

Regardless of the exemptions in clauses (2) to (4), persons who have a diagnosis or possible diagnosis of mental illness, mental retardation, or a related condition must be screened before admission unless the admission prior to screening is authorized by the local mental health authority or the local developmental disabilities case manager, or unless authorized by the county agency according to Public Law Number 101-508.

Before admission to a Medicaid certified nursing home or boarding care home, all persons must be screened and approved for admission through an assessment process. The nursing facility is authorized to conduct case mix assessments which are not conducted by the county public health nurse under Minnesota Rules, part 9549.0059. The designated county agency is responsible for distributing the quality assurance and review form for all new applicants to nursing homes.

Other persons who are not applicants to nursing facilities must be screened if a request is made for a screening.

Sec. 72. Minnesota Statutes 1993 Supplement, section 256B.0911, subdivision 7, is amended to read:

Subd. 7. [REIMBURSEMENT FOR CERTIFIED NURSING FACILITIES.] (a) Medical assistance reimbursement for nursing facilities shall be authorized for a medical assistance recipient only if a preadmission screening has been conducted prior to admission or the local county agency has authorized an exemption. Medical assistance reimbursement for nursing

facilities shall not be provided for any recipient who the local screener has determined does not meet the level of care criteria for nursing facility placement or, if indicated, has not had a level II PASARR evaluation completed unless an admission for a recipient with mental illness is approved by the local mental health authority or an admission for a recipient with mental retardation or related condition is approved by the state mental retardation authority. The commissioner shall make a request to the health care financing administration for a waiver allowing screening team approval of Medicaid payments for certified nursing facility care. An individual has a choice and makes the final decision between nursing facility placement and community placement after the screening team's recommendation, except as provided in paragraphs (b) and (c).

(b) The local county mental health authority or the state mental retardation authority under Public Law Numbers 100-203 and 101-508 may prohibit admission to a nursing facility, if the individual does not meet the nursing facility level of care criteria or needs specialized services as defined in Public Law Numbers 100-203 and 101-508. For purposes of this section, "specialized services" for a person with mental retardation or a related condition means "active treatment" as that term is defined in Code of Federal Regulations, title 42, section 483.440(a)(1).

(c) Upon the receipt by the commissioner of approval by the Secretary of Health and Human Services of the waiver requested under paragraph (a), the local screener shall deny medical assistance reimbursement for nursing facility care for an individual:

*(i)* whose long-term care needs can be met in a community-based setting and whose cost of community-based home care services is less than 75 percent of the average payment for nursing facility care for that individual's case mix classification~~, and who is either:~~;

*(ii) who is being screened for nursing facility admission;*

*(iii) who meets a nursing facility level of care; and*

*(iv) who is either:*

~~(i)~~ *(A)* a current medical assistance recipient ~~being screened for admission to a nursing facility~~; or

~~(ii)~~ *(B)* an individual who would be eligible for medical assistance within 180 days of entering a nursing facility ~~and who meets a nursing facility level of care~~.

(d) Appeals from the screening team's recommendation or the county agency's final decision shall be made according to section 256.045, subdivision 3.

*The county shall be held harmless if the recommendation of the screening team is community placement.*

Sec. 73. Minnesota Statutes 1993 Supplement, section 256B.0913, subdivision 5, is amended to read:

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

(1) adult foster care;

(2) adult day care;

(3) home health aide;

(4) homemaker services;

(5) personal care;

(6) case management;

(7) respite care;

(8) assisted living;

(9) residential care services;

(10) care-related supplies and equipment;

(11) meals delivered to the home;

(12) transportation;

(13) skilled nursing;

(14) chore services;

(15) companion services;

(16) nutrition services; and

(17) training for direct informal caregivers.

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

(c) Unless specified in statute, the service standards for alternative care services shall be the same as the service standards defined in the elderly waiver. Persons or agencies must be employed by or under a contract with the county agency or the public health nursing agency of the local board of health in order to receive funding under the alternative care program.

(d) The adult foster care rate shall be considered a difficulty of care payment and shall not include room and board. The adult foster care daily rate shall be negotiated between the county agency and the foster care provider. The rate established under this section shall not exceed 75 percent of the state average monthly nursing home payment for the case mix classification to which the individual receiving foster care is assigned, and it must allow for other alternative care services to be authorized by the case manager.

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

(f) Costs for supplies and equipment that exceed $150 per item per month must have prior approval from the commissioner. A county may use alternative care funds to purchase supplies and equipment from a non-Medicaid certified vendor if the cost for the items is less than that of a Medicaid vendor. *A county is not required to contract with a provider of*

*supplies and equipment if the monthly cost of the supplies or equipment is less than $250.*

(g) For purposes of this section, residential care services are services which are provided to individuals living in residential care homes. Residential care homes are currently licensed as board and lodging establishments and are registered with the department of health as providing special services. Residential care services are defined as "supportive services" and "health-related services." "Supportive services" means the provision of up to 24-hour supervision and oversight. Supportive services includes: (1) transportation, when provided by the residential care center only; (2) socialization, when socialization is part of the plan of care, has specific goals and outcomes established, and is not diversional or recreational in nature; (3) assisting clients in setting up meetings and appointments; (4) assisting clients in setting up medical and social services; (5) providing assistance with personal laundry, such as carrying the client's laundry to the laundry room. Assistance with personal laundry does not include any laundry, such as bed linen, that is included in the room and board rate. Health-related services are limited to minimal assistance with dressing, grooming, and bathing and providing reminders to residents to take medications that are self-administered or providing storage for medications, if requested. Individuals receiving residential care services cannot receive both personal care services and residential care services.

(h) For the purposes of this section, "assisted living" refers to supportive services provided by a single vendor to clients who reside in the same apartment building of three or more units. Assisted living services are defined as up to 24-hour supervision, and oversight, supportive services as defined in clause (1), individualized home care aide tasks as defined in clause (2), and individualized home management tasks as defined in clause (3) provided to residents of a residential center living in their units or apartments with a full kitchen and bathroom. A full kitchen includes a stove, oven, refrigerator, food preparation counter space, and a kitchen utensil storage compartment. Assisted living services must be provided by the management of the residential center or by providers under contract with the management or with the county.

(1) Supportive services include:

(i) socialization, when socialization is part of the plan of care, has specific goals and outcomes established, and is not diversional or recreational in nature;

(ii) assisting clients in setting up meetings and appointments; and

(iii) providing transportation, when provided by the residential center only.

Individuals receiving assisted living services will not receive both assisted living services and homemaking or personal care services. Individualized means services are chosen and designed specifically for each resident's needs, rather than provided or offered to all residents regardless of their illnesses, disabilities, or physical conditions.

(2) Home care aide tasks means:

(i) preparing modified diets, such as diabetic or low sodium diets;

(ii) reminding residents to take regularly scheduled medications or to perform exercises;

(iii) household chores in the presence of technically sophisticated medical equipment or episodes of acute illness or infectious disease;

(iv) household chores when the resident's care requires the prevention of exposure to infectious disease or containment of infectious disease; and

(v) assisting with dressing, oral hygiene, hair care, grooming, and bathing, if the resident is ambulatory, and if the resident has no serious acute illness or infectious disease. Oral hygiene means care of teeth, gums, and oral prosthetic devices.

(3) Home management tasks means:

(i) housekeeping;

(ii) laundry;

(iii) preparation of regular snacks and meals; and

(iv) shopping.

~~A person's eligibility to reside in the building must not be contingent on the person's acceptance or use of the assisted living services.~~ Assisted living services as defined in this section shall not be authorized in boarding and lodging establishments licensed according to sections 157.01 to 157.031.

Reimbursement for assisted living services and residential care services shall be made by the lead agency to the vendor as a monthly rate negotiated with the county agency. The rate shall not exceed the nonfederal share of the greater of either the statewide or any of the geographic groups' weighted average monthly medical assistance nursing facility payment rate of the case mix resident class to which the 180-day eligible client would be assigned under Minnesota Rules, parts 9549.0050 to 9549.0059, except for alternative care assisted living projects established under Laws 1988, chapter 689, article 2, section 256, whose rates may not exceed 65 percent of either the statewide or any of the geographic groups' weighted average monthly medical assistance nursing facility payment rate of the case mix resident class to which the 180-day eligible client would be assigned under Minnesota Rules, parts 9549.0050 to 9549.0059. The rate may not cover rent and direct food costs.

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

(j) For purposes of this section, training for direct informal caregivers is defined as a classroom or home course of instruction which may include:

transfer and lifting skills, nutrition, personal and physical cares, home safety in a home environment, stress reduction and management, behavioral management, long-term care decision making, care coordination and family dynamics. The training is provided to an informal unpaid caregiver of a 180-day eligible client which enables the caregiver to deliver care in a home setting with high levels of quality. The training must be approved by the case manager as part of the individual care plan. Individuals, agencies, and educational facilities which provide caregiver training and education will be monitored by the case manager.

Sec. 74. Minnesota Statutes 1992, 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~~ *12* 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. 75. Minnesota Statutes 1993 Supplement, section 256B.0913, subdivision 12, is amended to read:

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

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

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

(3) when the alternative care client's total assets are greater than $6,000, the fee is 25 percent of the cost of alternative care services.

For married persons, total assets are defined as the total marital assets less the estimated community spouse asset allowance, under section 256B.059, if applicable. For married persons, total income is defined as the client's income less the monthly spousal allotment, under section 256B.058.

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

The monthly premium shall be calculated ~~and be payable in the~~ *based on the cost of the first full* month ~~in which the~~ *of* alternative care services ~~begin~~ and shall continue unaltered ~~for six months until the semiannual reassessment unless the actual cost of services falls below the fee~~ *until the next reassessment is completed or at the end of 12 months whichever comes first. Premiums are due and payable each month alternative care services are received unless the actual cost of the services is less than the premium.*

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

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

(2) a person is applying for medical assistance;

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

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

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

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

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

(c) The county agency must collect the premium from the client and forward the amounts collected to the commissioner in the manner and at the times prescribed by the commissioner. Money collected must be deposited in the general fund and is appropriated to the commissioner for the alternative care program. The client must supply the county with the client's social security number at the time of application. If a client fails or refuses to pay the premium due, the county shall supply the commissioner with the client's social security number and other information the commissioner requires to collect the premium from the client. The commissioner shall collect unpaid premiums using the revenue recapture act in chapter 270A and other methods available to the commissioner. The commissioner may require counties to inform clients of the collection procedures that may be used by the state if a premium is not paid.

(d) The commissioner shall begin to adopt emergency or permanent rules governing client premiums within 30 days after July 1, 1991, including criteria for determining when services to a client must be terminated due to failure to pay a premium.

Sec. 76. Minnesota Statutes 1993 Supplement, section 256B.0915, subdivision 1, is amended to read:

Subdivision 1. [AUTHORITY.] The commissioner is authorized to apply for a home and community-based services waiver for the elderly, authorized under section 1915(c) of the Social Security Act, in order to obtain federal financial participation to expand the availability of services for persons who are eligible for medical assistance. The commissioner may apply for additional waivers or pursue other federal financial participation which is advantageous to the state for funding home care services for the frail elderly who are eligible for medical assistance. The provision of waivered services to elderly and disabled medical assistance recipients must comply with the criteria approved in the waiver.

*Home and community-based services provided under the elderly and disabled waivers are available to individuals who, but for the provisions of such services, would require a nursing facility level of care, the cost of which could be reimbursed under the approved Medicaid state plan. A preadmission screening must be done in accordance with section 256B.0911, except for subdivision 7, to establish that an individual would require a nursing facility level of care.*

Sec. 77. Minnesota Statutes 1993 Supplement, section 256B.0915, subdivision 3, is amended to read:

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

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

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

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

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

(d) Expenditures for extended medical supplies and equipment that cost over $150 per month for both the elderly waiver and the disabled waiver must have the commissioner's prior approval. *A county is not required to contract with a provider of supplies and equipment if the monthly cost of the supplies or equipment is less than $250.*

(e) For the fiscal year beginning on July 1, 1993, and for subsequent fiscal years, the commissioner of human services shall not provide automatic annual inflation adjustments for home and community-based waivered services. The

commissioner of finance shall include as a budget change request in each biennial detailed expenditure budget submitted to the legislature under section 16A.11 annual adjustments in reimbursement rates for home and community-based waivered services, based on the forecasted percentage change in the Home Health Agency Market Basket of Operating Costs, for the fiscal year beginning July 1, compared to the previous fiscal year, unless otherwise adjusted by statute. The Home Health Agency Market Basket of Operating Costs is published by Data Resources, Inc. The forecast to be used is the one published for the calendar quarter beginning January 1, six months prior to the beginning of the fiscal year for which rates are set. The adult foster care rate shall be considered a difficulty of care payment and shall not include room and board.

(f) The adult foster care daily rate for the elderly and disabled waivers shall be negotiated between the county agency and the foster care provider. The rate established under this section shall not exceed the state average monthly nursing home payment for the case mix classification to which the individual receiving foster care is assigned, and it must allow for other waiver and medical assistance home care services to be authorized by the case manager.

(g) The assisted living and residential care service rates for elderly and disabled waivers shall be made to the vendor as a monthly rate negotiated with the county agency. The rate shall not exceed the nonfederal share of the greater of either the statewide or any of the geographic groups' weighted average monthly medical assistance nursing facility payment rate of the case mix resident class to which the elderly or disabled client would be assigned under Minnesota Rules, parts 9549.0050 to 9549.0059, except for alternative care assisted living projects established under Laws 1988, chapter 689, article 2, section 256, whose rates may not exceed 65 percent of the greater of either the statewide or any of the geographic groups' weighted average monthly medical assistance nursing facility payment rate for the case mix resident class to which the elderly or disabled client would be assigned under Minnesota Rules, parts 9549.0050 to 9549.0059. The rate may not cover direct rent or food costs.

(h) The county shall negotiate individual rates with vendors and may be reimbursed for actual costs up to the greater of the county's current approved rate or 60 percent of the maximum rate in fiscal year 1994 and 65 percent of the maximum rate in fiscal year 1995 for each service within each program.

(i) On July 1, 1993, the commissioner shall increase the maximum rate for home-delivered meals to $4.50 per meal.

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

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

Sec. 78. Minnesota Statutes 1992, section 256B.0915, subdivision 5, is amended 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~~ *12* 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. 79. Minnesota Statutes 1992, section 256B.15, subdivision 1a, is amended to read:

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 *single* person or the estate of the surviving spouse ~~in the court having jurisdiction to probate the estate~~ *and may be collected in any manner allowed by chapter 524 or otherwise permitted by law.*

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

(a) the person was over ~~65~~ *55* years of age, and received services under this chapter, excluding alternative care;

(b) the person resided in a medical institution for six months or longer, received services under this chapter 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. 80. Minnesota Statutes 1993 Supplement, section 256B.15, subdivision 2, is amended to read:

Subd. 2. [LIMITATIONS ON CLAIMS.] The claim shall include only the total amount of medical assistance rendered after age ~~65~~ *55* or during a period of institutionalization described in subdivision 1a, clause (b), and the total amount of general assistance medical care rendered, and shall not include interest. Claims that have been allowed but not paid shall bear interest according to section 524.3-806, paragraph (d). A claim against the estate of a surviving spouse who did not receive medical assistance, for medical assistance rendered for the predeceased spouse, is limited to the value of the

assets of the estate that were marital property or jointly owned property at any time during the marriage.

*Any claim under this section will be limited, or waived, to the extent that evidence of undue hardship upon financially dependent family members or other documented dependents of the deceased medical assistance recipient is shown. Undue hardship exists when application of probate laws regarding medical assistance would deprive financially dependent family members or other documented dependents of the deceased medical assistance recipient of food, clothing, shelter, or other necessities of life. Undue hardship does not exist where application of probate laws regarding medical assistance merely causes the deceased medical recipient's family members or other persons inconvenience, or might restrict their lifestyle, but would not cause the risk of serious deprivation of food, clothing, shelter, or other necessities of life.*

*Undue hardship does not exist where the waiver or limitation of a claim under this section will not result in the distribution of the estate to the person claiming undue hardship.*

Sec. 81. Minnesota Statutes 1993 Supplement, section 256B.19, subdivision 1d, is amended to read:

Subd. 1d. [PORTION OF NONFEDERAL SHARE TO BE PAID BY CERTAIN COUNTIES.] In addition to the percentage contribution paid by a county under subdivision 1, the governmental units designated in this subdivision shall be responsible for an additional portion of the nonfederal share of medical assistance cost. For purposes of this subdivision, "designated governmental unit" means the counties of Becker, Beltrami, Clearwater, Cook, Dodge, Hubbard, Itasca, Lake, Mahnomen, Pennington, Pipestone, Ramsey, St. Louis, Steele, Todd, Traverse, and Wadena.

Beginning in 1994, each of the governmental units designated in this subdivision shall transfer before noon on May 31 to the state Medicaid agency an amount equal to the number of licensed beds *as of September 30, 1991,* in any nursing home owned by the county multiplied by $5,723. If two or more counties own a nursing home, the payment shall be prorated. These sums shall be part of the designated governmental unit's portion of the nonfederal share of medical assistance costs, but shall not be subject to payback provisions of section 256.025.

Sec. 82. Minnesota Statutes 1993 Supplement, section 256B.431, subdivision 15, is amended to read:

Subd. 15. [CAPITAL REPAIR AND REPLACEMENT COST REPORTING AND RATE CALCULATION.] For rate years beginning after June 30, 1993, a nursing facility's capital repair and replacement payment rate shall be established annually as provided in paragraphs (a) to ~~(d)~~ *(e)*.

(a) Notwithstanding Minnesota Rules, part 9549.0060, subpart 12, the costs of ~~acquiring~~ any of the following items *not included in the equity incentive computations under subdivision 16 or reported as a capital asset addition under subdivision 18, paragraph (b),* including cash payment for equity investment and principal and interest expense for debt financing, ~~shall~~ *must* be reported in the capital repair and replacement cost category ~~when the cost of the item exceeds $500~~:

(1) wall coverings;

(2) paint;

(3) floor coverings;

(4) window coverings;

(5) roof repair; *and*

~~(6) heating or cooling system repair or replacement;~~

~~(7)~~ window repair or replacement~~;~~

~~(8) initiatives designed to reduce energy usage by the facility if accompanied by an energy audit prepared by a professional engineer or architect registered in Minnesota, or by an auditor certified under Minnesota Rules, part 7635.0130, to do energy audits and the energy audit identifies the initiative as a conservation measure; and~~

~~(9) repair or replacement of capital assets not included in the equity incentive computations under subdivision 16~~.

(b) *Notwithstanding Minnesota Rules, part 9549.0060, subpart 12, the repair or replacement of a capital asset not included in the equity incentive computations under subdivision 16 or reported as a capital asset addition under subdivision 18, paragraph (b), must be reported in the capital repair and replacement cost category under this subdivision when the cost of the item exceeds $500, and in the plant operations and maintenance cost category when the cost of the item is equal to or less than $500.*

*(c)* To compute the capital repair and replacement payment rate, the allowable annual repair and replacement costs for the reporting year must be divided by actual resident days for the reporting year. The annual allowable capital repair and replacement costs shall not exceed $150 per licensed bed. The excess of the allowed capital repair and replacement costs over the capital repair and replacement limit shall be a cost carryover to succeeding cost reporting periods, except that sale of a facility, under subdivision 14, shall terminate the carryover of all costs except those incurred in the most recent cost reporting year. The termination of the carryover shall have effect on the capital repair and replacement rate on the same date as provided in subdivision 14, paragraph (f), for the sale. For rate years beginning after June 30, 1994, the capital repair and replacement limit shall be subject to the index provided in subdivision 3f, paragraph (a). For purposes of this subdivision, the number of licensed beds shall be the number used to calculate the nursing facility's capacity days. The capital repair and replacement rate must be added to the nursing facility's total payment rate.

~~(c)~~ *(d)* Capital repair and replacement costs under this subdivision shall not be counted as either care-related or other operating costs, nor subject to care-related or other operating limits.

~~(d)~~ *(e)* If costs otherwise allowable under this subdivision are incurred as the result of a project approved under the moratorium exception process in section 144A.073, or in connection with an addition to or replacement of buildings, attached fixtures, or land improvements for which the total historical cost of these assets exceeds the lesser of $150,000 or ten percent of the nursing facility's appraised value, these costs must be claimed under subdivision 16 or 17, as appropriate.

Sec. 83. Minnesota Statutes 1992, section 256B.431, subdivision 17, is amended to read:

Subd. 17. [SPECIAL PROVISIONS FOR MORATORIUM EXCEPTIONS.] (a) Notwithstanding Minnesota Rules, part 9549.0060, subpart 3, for rate periods beginning on October 1, 1992, and for rate years beginning after June 30, 1993, a nursing facility that *(1) has completed a construction project approved under section 144A.071, subdivision 4a, clause (m); (2) has completed a construction project approved after June 30, 1993, under section 144A.071, subdivision 4a; or (3)* has completed a renovation, replacement, or upgrading project approved under the moratorium exception process in section 144A.073 shall be reimbursed for costs directly identified to that project as provided in subdivision 16 and this subdivision.

(b) Notwithstanding Minnesota Rules, part 9549.0060, subparts 5, item A, subitems (1) and (3), and 7, item D, allowable interest expense on debt shall include:

(1) interest expense on debt related to the cost of purchasing or replacing depreciable equipment, excluding vehicles, not to exceed six percent of the total historical cost of the project; and

(2) interest expense on debt related to financing or refinancing costs, including costs related to points, loan origination fees, financing charges, legal fees, and title searches; and issuance costs including bond discounts, bond counsel, underwriter's counsel, corporate counsel, printing, and financial forecasts. Allowable debt related to items in this clause shall not exceed seven percent of the total historical cost of the project. To the extent these costs are financed, the straight-line amortization of the costs in this clause is not an allowable cost; and

(3) interest on debt incurred for the establishment of a debt reserve fund, net of the interest earned on the debt reserve fund.

(c) Debt incurred for costs under paragraph (b) is not subject to Minnesota Rules, part 9549.0060, subpart 5, item A, subitem (5) or (6).

(d) The incremental increase in a nursing facility's rental rate, determined under Minnesota Rules, parts 9549.0010 to 9549.0080, and this section, resulting from the acquisition of allowable capital assets, and allowable debt and interest expense under this subdivision shall be added to its property-related payment rate and shall be effective on the first day of the month following the month in which the moratorium project was completed.

(e) Notwithstanding subdivision 3f, paragraph (a), for rate periods beginning on October 1, 1992, and for rate years beginning after June 30, 1993, the replacement-costs-new per bed limit to be used in Minnesota Rules, part 9549.0060, subpart 4, item B, for a nursing facility that has completed a renovation, replacement, or upgrading project that has been approved under the moratorium exception process in section 144A.073, or that has completed an addition to or replacement of buildings, attached fixtures, or land improvements for which the total historical cost exceeds the lesser of $150,000 or ten percent of the most recent appraised value, must be $47,500 per licensed bed in multiple-bed rooms and $71,250 per licensed bed in a single-bed room. These amounts must be adjusted annually as specified in subdivision 3f, paragraph (a), beginning January 1, 1993.

(f) A nursing facility that completes a project identified in this subdivision and, as of April 17, 1992, has not been mailed a rate notice with a special appraisal for a completed project, or completes a project after April 17, 1992, but before September 1, 1992, may elect either to request a special reappraisal with the corresponding adjustment to the property-related payment rate under the laws in effect on June 30, 1992, or to submit their capital asset and debt information after that date and obtain the property-related payment rate adjustment under this section, but not both.

*(g) For purposes of this paragraph, a total replacement means the complete replacement of the nursing facility's physical plant through the construction of a new physical plant or the transfer of the nursing facility's residents from one physical plant location to another. Upon completion of a total replacement project, the commissioner shall compute the incremental change in the nursing facility's rental per diem by replacing its appraised value, including the historical capital asset costs, and capital debt and interest costs with the new nursing facility's physical plant allowable capital asset costs and the related allowable capital debt and interest costs. If the new nursing facility has decreased its licensed capacity, the aggregate investment per bed limit in subdivision 3a, paragraph (d), shall apply. In the case of either type of total replacement as authorized under either section 144A.071 or 144A.073, the provisions of this subdivision shall also apply.*

Sec. 84. Minnesota Statutes 1993 Supplement, section 256B.431, subdivision 23, is amended to read:

Subd. 23. [COUNTY-NURSING HOME PAYMENT ADJUSTMENTS.] (a) Beginning in 1994, the commissioner shall pay a nursing home payment adjustment on May 31 after noon to ~~a county in which is located~~ a nursing home that, as of January 1 of the previous year, was county-owned and had over 40 beds and medical assistance occupancy in excess of 50 percent during the reporting year ending September 30, 1991. The adjustment shall be an amount equal to $16 per calendar day multiplied by the number of beds licensed in the facility as of September 30, 1991.

(b) Payments under paragraph (a) are excluded from medical assistance per diem rate calculations. These payments are required notwithstanding any rule prohibiting medical assistance payments from exceeding payments from private pay residents. A facility receiving a payment under paragraph (a) may not increase charges to private pay residents by an amount equivalent to the per diem amount payments under paragraph (a) would equal if converted to a per diem.

Sec. 85. Minnesota Statutes 1993 Supplement, section 256B.431, subdivision 24, is amended to read:

Subd. 24. [~~MODIFIED~~ *SHARED* EFFICIENCY INCENTIVE.] Notwithstanding section 256B.74, subdivision 3, for the rate year beginning July 1, 1993, the maximum efficiency incentive is $2.20, and for rate years beginning on or after July 1, 1994, the commissioner shall determine a nursing facility's efficiency incentive by first computing *the allowable difference, which is the lesser of $4.50 or* the amount by which the facility's other operating cost limit exceeds its nonadjusted other operating cost per diem for that rate year. The commissioner shall ~~then use the following table to~~ compute the ~~nursing facility's~~ efficiency incentive ~~.~~ *by:*

*(a) subtracting the allowable difference from $4.50 and dividing the result by $4.50,*

*(b) multiplying 0.20 by the ratio resulting from (a), and then,*

*(c) adding 0.50 to the result from (b), and*

*(d) multiplying the result from (c) times the allowable difference.*

*The facility's efficiency incentive payment shall be the lesser of $2.25 or the product obtained in (d).* ~~Each increment or partial increment the nursing facility's nonadjusted other operating per diem is below its other operating cost limit shall be multiplied by the corresponding percentage for that per diem increment. The sum of each of those computations shall be the nursing facility's efficiency incentive.~~

| ~~Other Operating Cost Per Diem Increment Below Facility Limit~~ | ~~Percentage Applied to Each Per Diem Increment~~ |
|---|---|
| ~~Less than $0.50~~ | ~~70 percent~~ |
| ~~$0.50 to less than $0.70~~ | ~~10 percent~~ |
| ~~$0.70 to less than $0.90~~ | ~~15 percent~~ |
| ~~$0.90 to less than $1.10~~ | ~~20 percent~~ |
| ~~$1.10 to less than $1.30~~ | ~~25 percent~~ |
| ~~$1.30 to less than $1.50~~ | ~~30 percent~~ |
| ~~$1.50 to less than $1.70~~ | ~~35 percent~~ |
| ~~$1.70 to less than $1.90~~ | ~~40 percent~~ |
| ~~$1.90 to less than $2.10~~ | ~~45 percent~~ |
| ~~$2.10 to less than $2.30~~ | ~~50 percent~~ |
| ~~$2.30 to less than $2.50~~ | ~~55 percent~~ |
| ~~$2.50 to less than $2.70~~ | ~~60 percent~~ |
| ~~$2.70 to less than $2.90~~ | ~~65 percent~~ |
| ~~$2.90 to less than $3.10~~ | ~~70 percent~~ |
| ~~$3.10 to less than $3.30~~ | ~~75 percent~~ |
| ~~$3.30 to less than $3.50~~ | ~~80 percent~~ |
| ~~$3.50 to less than $3.70~~ | ~~85 percent~~ |
| ~~$3.70 to less than $3.90~~ | ~~90 percent~~ |
| ~~$3.90 to less than $4.10~~ | ~~95 percent~~ |
| ~~$4.10 to less than $4.30~~ | ~~100 percent~~ |

~~The maximum efficiency incentive is $2.44 per resident day.~~

Sec. 86. Minnesota Statutes 1992, section 256B.432, subdivision 1, is amended to read:

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

(a) "Management agreement" means an agreement in which one or more of the following criteria exist:

(1) the central, affiliated, or corporate office has or is authorized to assume day-to-day operational control of the ~~long-term care~~ *nursing* facility for any six-month period within a 24-month period. "Day-to-day operational control" means that the central, affiliated, or corporate office has the authority to require, mandate, direct, or compel the employees of the ~~long-term care~~ *nursing* facility to perform or refrain from performing certain acts, or to

supplant or take the place of the top management of the ~~long-term care~~ *nursing* facility. "Day-to-day operational control" includes the authority to hire or terminate employees or to provide an employee of the central, affiliated, or corporate office to serve as administrator of the ~~long-term care~~ *nursing* facility;

(2) the central, affiliated, or corporate office performs or is authorized to perform two or more of the following: the execution of contracts; authorization of purchase orders; signature authority for checks, notes, or other financial instruments; requiring the ~~long-term care~~ *nursing* facility to use the group or volume purchasing services of the central, affiliated, or corporate office; or the authority to make annual capital expenditures for the ~~long-term care~~ *nursing* facility exceeding $50,000, or $500 per licensed bed, whichever is less, without first securing the approval of the ~~long-term care~~ *nursing* facility board of directors;

(3) the central, affiliated, or corporate office becomes or is required to become the licensee under applicable state law;

(4) the agreement provides that the compensation for services provided under the agreement is directly related to any profits made by the ~~long-term care~~ *nursing* facility; or

(5) the ~~long-term care~~ *nursing* facility entering into the agreement is governed by a governing body that meets fewer than four times a year, that does not publish notice of its meetings, or that does not keep formal records of its proceedings.

(b) "Consulting agreement" means any agreement the purpose of which is for a central, affiliated, or corporate office to advise, counsel, recommend, or suggest to the owner or operator of the nonrelated ~~long-term care~~ *nursing* facility measures and methods for improving the operations of the ~~long-term care~~ *nursing* facility.

(c) "~~Long-term care~~ *Nursing* facility" means a nursing facility whose medical assistance rates are determined according to section 256B.431 ~~or an intermediate care facility for persons with mental retardation and related conditions whose medical assistance rates are determined according to section 256B.501~~.

Sec. 87. Minnesota Statutes 1992, section 256B.432, subdivision 2, is amended to read:

Subd. 2. [EFFECTIVE DATE.] For rate years beginning on or after July 1, 1990, the central, affiliated, or corporate office cost allocations in subdivisions 3 to 6 must be used when determining medical assistance rates under sections 256B.431 and ~~256B.501~~ *256B.50*.

Sec. 88. Minnesota Statutes 1992, section 256B.432, subdivision 3, is amended to read:

Subd. 3. [ALLOCATION; DIRECT IDENTIFICATION OF COSTS OF ~~LONG-TERM CARE~~ *NURSING* FACILITIES; MANAGEMENT AGREEMENT.] All costs that can be directly identified with a specific ~~long-term care~~ *nursing* facility that is a related organization to the central, affiliated, or corporate office, or that is controlled by the central, affiliated, or corporate office under a management agreement, must be allocated to that ~~long-term care~~ *nursing* facility.

Sec. 89. Minnesota Statutes 1993 Supplement, section 256B.432, subdivision 5, is amended to read:

Subd. 5. [ALLOCATION OF REMAINING COSTS; ALLOCATION RATIO.] (a) After the costs that can be directly identified according to subdivisions 3 and 4 have been allocated, the remaining central, affiliated, or corporate office costs must be allocated between the ~~long-term care~~ *nursing* facility operations and the other activities or facilities unrelated to the ~~long-term care~~ *nursing* facility operations based on the ratio of total operating costs.

(b) For purposes of allocating these remaining central, affiliated, or corporate office costs, the numerator for the allocation ratio shall be determined as follows:

(1) for ~~long-term care~~ *nursing* facilities that are related organizations or are controlled by a central, affiliated, or corporate office under a management agreement, the numerator of the allocation ratio shall be equal to the sum of the total operating costs incurred by each related organization or controlled ~~long-term care~~ *nursing* facility;

(2) for a central, affiliated, or corporate office providing goods or services to related organizations that are not ~~long-term care~~ *nursing* facilities, the numerator of the allocation ratio shall be equal to the sum of the total operating costs incurred by the ~~non-long-term care~~ *non-nursing facility* related organizations;

(3) for a central, affiliated, or corporate office providing goods or services to unrelated ~~long-term care~~ *nursing* facilities under a consulting agreement, the numerator of the allocation ratio shall be equal to the greater of directly identified central, affiliated, or corporate costs or the contracted amount; or

(4) for business activities that involve the providing of goods or services to unrelated parties which are not ~~long-term care~~ *nursing* facilities, the numerator of the allocation ratio shall be equal to the greater of directly identified costs or revenues generated by the activity or function.

(c) The denominator for the allocation ratio is the sum of the numerators in paragraph (b), clauses (1) to (4).

Sec. 90. Minnesota Statutes 1992, section 256B.432, subdivision 6, is amended to read:

Subd. 6. [COST ALLOCATION BETWEEN ~~LONG-TERM CARE~~ *NURSING* FACILITIES.] (a) Those ~~long-term care~~ *nursing* operations that have long-term care facilities both in Minnesota and outside of Minnesota must allocate the ~~long-term care~~ *nursing* operation's central, affiliated, or corporate office costs identified in subdivision 5 to Minnesota based on the ratio of total resident days in Minnesota ~~long-term care~~ *nursing* facilities to the total resident days in all facilities.

(b) The Minnesota ~~long-term care~~ *nursing* operation's central, affiliated, or corporate office costs identified in paragraph (a) must be allocated to each Minnesota ~~long-term care~~ *nursing* facility on the basis of resident days.

Sec. 91. Minnesota Statutes 1992, section 256B.501, subdivision 1, is amended to read:

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

(a) "Commissioner" means the commissioner of human services.

(b) "Facility" means a facility licensed as a mental retardation residential facility under section 252.28, licensed as a supervised living facility under chapter 144, and certified as an intermediate care facility for persons with mental retardation or related conditions. *The term does not include a state regional treatment center.*

(c) "Waivered service" means home or community-based service authorized under United States Code, title 42, section 1396n(c), as amended through December 31, 1987, and defined in the Minnesota state plan for the provision of medical assistance services. Waivered services include, at a minimum, case management, family training and support, developmental training homes, supervised living arrangements, semi-independent living services, respite care, and training and habilitation services.

Sec. 92. Minnesota Statutes 1992, section 256B.501, subdivision 3, is amended to read:

Subd. 3. [RATES FOR INTERMEDIATE CARE FACILITIES FOR PERSONS WITH MENTAL RETARDATION OR RELATED CONDITIONS.] The commissioner shall establish, by rule, procedures for determining rates for care of residents of intermediate care facilities for persons with mental retardation or related conditions. ~~The procedures shall be based on methods and standards that the commissioner finds are adequate to provide for the costs that must be incurred for the care of residents in efficiently and economically operated facilities.~~ In developing the procedures, the commissioner shall include:

(a) cost containment measures that assure efficient and prudent management of capital assets and operating cost increases which do not exceed increases in other sections of the economy;

(b) limits on the amounts of reimbursement for property, ~~general and administration,~~ and new facilities;

(c) requirements to ensure that the accounting practices of the facilities conform to generally accepted accounting principles;

(d) incentives to reward accumulation of equity;

(e) ~~a revaluation on sale between unrelated organizations for a facility that, for at least three years before its use as an intermediate care facility, has been used by the seller as a single family home and been claimed by the seller as a homestead, and was not revalued immediately prior to or upon entering the medical assistance program, provided that the facility revaluation not exceed the amount permitted by the Social Security Act, section 1902(a)(13); and~~ *rule revisions which:*

*(1) combine the program, maintenance, and administrative operating cost categories, and professional liability and real estate insurance expenses into one general operating cost category;*

*(2) eliminate the maintenance and administrative operating cost category limits and account for disallowances under the rule existing on the effective date of this section in the revised rule. If this provision is later invalidated, the*

*total administrative cost disallowance shall be deducted from economical facility payments in clause (3);*

*(3) establish an economical facility incentive that rewards facilities that provide all appropriate services in a cost-effective manner and penalizes reductions of either direct service wages or standardized hours of care per resident;*

*(4) establish a best practices award system that is based on outcome measures and that rewards quality, innovation, cost effectiveness, and staff retention;*

*(5) establish compensation limits for employees on the basis of full-time employment and the developmentally disabled client base of a provider group or facility. The commissioner may consider the inclusion of hold harmless provisions;*

*(6) establish overall limits on a facility's rate of inflation increases. The commissioner shall consider groupings of facilities that account for a significant variation in cost. The commissioner may differentiate in the application of these limits between high and very high cost facilities. The limits, once established, shall be indexed for inflation and may be rebased by the commissioner; and*

*(7) develop cost allocation principles which are based on facility expenses; and*

(f) appeals procedures that satisfy the requirements of section 256B.50 ~~for appeals of decisions arising from the application of standards or methods pursuant to Minnesota Rules, parts 9510.0500 to 9510.0890, 9553.0010 to 9553.0080, and 12 MCAR 2.05301 to 2.05315 (temporary)~~.

~~In establishing rules and procedures for setting rates for care of residents in intermediate care facilities for persons with mental retardation or related conditions, the commissioner shall consider the recommendations contained in the February 11, 1983, Report of the Legislative Auditor on Community Residential Programs for the Mentally Retarded and the recommendations contained in the 1982 Report of the Department of Public Welfare Rule 52 Task Force. Rates paid to supervised living facilities for rate years beginning during the fiscal biennium ending June 30, 1985, shall not exceed the final rate allowed the facility for the previous rate year by more than five percent.~~

Sec. 93. Minnesota Statutes 1992, section 256B.501, subdivision 3c, is amended to read:

Subd. 3c. [COMPOSITE FORECASTED INDEX.] ~~For rate years beginning on or after October 1, 1988, the commissioner shall establish a statewide composite forecasted index to take into account economic trends and conditions between the midpoint of the facility's reporting year and the midpoint of the rate year following the reporting year. The statewide composite index must incorporate the forecast by Data Resources, Inc. of increases in the average hourly earnings of nursing and personal care workers indexed in Standard Industrial Code 805 in "Employment and Earnings," published by the Bureau of Labor Statistics, United States Department of Labor. This portion of the index must be weighted annually by the proportion of total allowable salaries and wages to the total allowable operating costs in the program, maintenance, and administrative operating cost categories for all facilities.~~

~~For adjustments to the other operating costs in the program, maintenance, and administrative operating cost categories, the statewide index must incorporate the Data Resources, Inc. forecast for increases in the national CPI-U. This portion of the index must be weighted annually by the proportion of total allowable other operating costs to the total allowable operating costs in the program, maintenance, and administrative operating cost categories for all facilities. The commissioner shall use the indices as forecasted by Data Resources, Inc., in the fourth quarter of the reporting year.~~

For rate years beginning on or after October 1, 1990, the commissioner shall index a facility's allowable operating costs in the program, maintenance, and administrative operating cost categories by using Data Resources, Inc., forecast for change in the Consumer Price Index-All Items (U.S. city average) (CPI-U). The commissioner shall use the indices as forecasted by Data Resources, Inc., in the first quarter of the calendar year in which the rate year begins. For fiscal years beginning after June 30, 1993, the commissioner shall not provide automatic inflation adjustments for intermediate care facilities for persons with mental retardation. The commissioner of finance shall include annual inflation adjustments in operating costs for intermediate care facilities for persons with mental retardation and related conditions as a budget change request in each biennial detailed expenditure budget submitted to the legislature under section 16A.11.

Sec. 94. Minnesota Statutes 1993 Supplement, section 256B.501, subdivision 3g, is amended to read:

Subd. 3g. [ASSESSMENT OF ~~RESIDENTS~~ *CLIENTS*.] To establish the service characteristics of ~~residents~~ *clients*, the quality assurance and review teams in the department of health shall assess all ~~residents~~ *clients* annually beginning January 1, 1989, using a uniform assessment instrument developed by the commissioner. This instrument shall include assessment of the services identified as needed and provided to each client to address behavioral needs, integration into the community, ability to perform activities of daily living, medical and therapeutic needs, and other relevant factors determined by the commissioner. By January 30, 1994, the commissioner shall report to the legislature on:

(1) the assessment process and scoring system utilized;

(2) possible utilization of assessment information by facilities for management purposes; and

(3) possible application of the assessment for purposes of adjusting the operating cost rates of facilities based on a comparison of client services characteristics, resource needs, and costs. *For clients newly admitted to the facility, the interdisciplinary team shall complete an assessment of the client, using the uniform assessment instrument developed by the commissioner, within 30 days of the client's admission to the facility. The facility's qualified mental retardation professional shall complete and submit the assessment form to the department of health, quality assurance and review section, within ten working days following the 30-day interdisciplinary team meeting. Clients admitted to the facility for temporary care shall not be assessed using the uniform instrument, unless the clients' length of stay in the facility exceeds 30 days.*

Sec. 95. Minnesota Statutes 1993 Supplement, section 256B.501, subdivision 5a, is amended to read:

Subd. 5a. [CHANGES TO ICF/MR REIMBURSEMENT.] The reimbursement rule changes in paragraphs (a) to (e) apply to Minnesota Rules, parts 9553.0010 to 9553.0080, and this section, and are effective for rate years beginning on or after October 1, 1993, unless otherwise specified.

(a) The maximum efficiency incentive shall be ~~$1.50~~ *$1.70* per resident per day.

(b) If a facility's capital debt reduction allowance is greater than 50 cents per resident per day, that facility's capital debt reduction allowance in excess of 50 cents per resident day shall be reduced by 25 percent.

(c) Beginning with the biennial reporting year which begins January 1, 1993, a facility is no longer required to have a certified audit of its financial statements. The cost of a certified audit shall not be an allowable cost in that reporting year, nor in subsequent reporting years unless the facility submits its certified audited financial statements in the manner otherwise specified in this subdivision. A nursing facility which does not submit a certified audit must submit its working trial balance.

(d) In addition to the approved pension or profit sharing plans allowed by the reimbursement rule, the commissioner shall allow those plans specified in Internal Revenue Code, sections 403(b) and 408(k).

(e) The commissioner shall allow as workers' compensation insurance costs under this section, the costs of workers' compensation coverage obtained under the following conditions:

(1) a plan approved by the commissioner of commerce as a Minnesota group or individual self-insurance plan as provided in sections 79A.03;

(2) a plan in which:

(i) the facility, directly or indirectly, purchases workers' compensation coverage in compliance with section 176.181, subdivision 2, from an authorized insurance carrier;

(ii) a related organization to the facility reinsures the workers' compensation coverage purchased, directly or indirectly, by the facility; and

(iii) all of the conditions in clause (4) are met;

(3) a plan in which:

(i) the facility, directly or indirectly, purchases workers' compensation coverage in compliance with section 176.181, subdivision 2, from an authorized insurance carrier;

(ii) the insurance premium is calculated retrospectively, including a maximum premium limit, and paid using the paid loss retro method; and

(iii) all of the conditions in clause (4) are met;

(4) additional conditions are:

(i) the reserves for the plan are maintained in an account controlled and administered by a person which is not a related organization to the facility;

(ii) the reserves for the plan cannot be used, directly or indirectly, as collateral for debts incurred or other obligations of the facility or related organizations to the facility;

(iii) if the plan provides workers' compensation coverage for non-Minnesota facilities, the plan's cost methodology must be consistent among all facilities covered by the plan, and if reasonable, is allowed notwithstanding any reimbursement laws regarding cost allocation to the contrary;

(iv) central, affiliated, corporate, or nursing facility costs related to their administration of the plan are costs which must remain in the nursing facility's administrative cost category, and must not be allocated to other cost categories; and

(v) required security deposits, whether in the form of cash, investments, securities, assets, letters of credit, or in any other form are not allowable costs for purposes of establishing the facilities payment rate;

(5) any costs allowed pursuant to clauses (1) to (3) are subject to the following requirements:

(i) if the facility is sold or otherwise ceases operations, the plan's reserves must be subject to an actuarially based settle-up after 36 months from the date of sale or the date on which operations ceased. The facility's medical assistance portion of the total excess plan reserves must be paid to the state within 30 days following the date on which excess plan reserves are determined;

(ii) any distribution of excess plan reserves made to or withdrawals made by the facility or a related organization are applicable credits and must be used to reduce the facility's workers' compensation insurance costs in the reporting period in which a distribution or withdrawal is received; and

(iii) if the plan is audited pursuant to the Medicare program, the facility must provide a copy of Medicare's final audit report, including attachments and exhibits, to the commissioner within 30 days of receipt by the facility or any related organization. The commissioner shall implement the audit findings associated with the plan upon receipt of Medicare's final audit report. The department's authority to implement the audit findings is independent of its authority to conduct a field audit; and

(6) the commissioner shall have authority to adopt emergency rules to implement this paragraph.

Sec. 96. Minnesota Statutes 1993 Supplement, section 256B.501, subdivision 8, is amended to read:

Subd. 8. [PAYMENT FOR PERSONS WITH SPECIAL NEEDS.] The commissioner shall establish by December 31, 1983, procedures to be followed by the counties to seek authorization from the commissioner for medical assistance reimbursement for very dependent persons with special needs in an amount in excess of the rates allowed pursuant to ~~subdivision~~ *subdivisions* 2 *and 8a*, including rates established under section 252.46 when they apply to services provided to residents of intermediate care facilities for persons with mental retardation or related conditions, and procedures to be followed for rate limitation exemptions for intermediate care facilities for persons with mental retardation or related conditions. No excess payment approved by the commissioner after June 30, 1991, shall be authorized unless:

(1) the need for specific level of service is documented in the individual service plan of the person to be served;

(2) the level of service needed can be provided within the rates established under section 252.46 and Minnesota Rules, parts 9553.0010 to 9553.0080, without a rate exception within 12 months;

(3) staff hours beyond those available under the rates established under section 252.46 and Minnesota Rules, parts 9553.0010 to 9553.0080, necessary to deliver services do not exceed 1,440 hours within 12 months;

(4) there is a basis for the estimated cost of services;

(5) the provider requesting the exception documents that current per diem rates are insufficient to support needed services;

(6) estimated costs, when added to the costs of current medical assistance-funded residential and day training and habilitation services and calculated as a per diem, do not exceed the per diem established for the regional treatment centers for persons with mental retardation and related conditions on July 1, 1990, indexed annually by the urban consumer price index, all items, as forecasted by Data Resources Inc., for the next fiscal year over the current fiscal year;

(7) any contingencies for an approval as outlined in writing by the commissioner are met; and

(8) any commissioner orders for use of preferred providers are met.

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

The commissioner may terminate the rate exception at any time under any of the conditions outlined in Minnesota Rules, part 9510.1120, subpart 3, for county termination, or by reason of information obtained through program and fiscal audits which indicate the criteria outlined in this subdivision have not been, or are no longer being, met.

The commissioner may approve no more than one rate exception, up to 12 months duration, for an eligible client.

Sec. 97. Minnesota Statutes 1992, section 256B.501, is amended by adding a subdivision to read:

*Subd. 8a.* [PAYMENT FOR PERSONS WITH SPECIAL NEEDS FOR CRISIS INTERVENTION SERVICES.] *State-operated, community-based crisis services provided in accordance with section 252.50, subdivision 7, to a resident of an intermediate care facility for persons with mental retardation (ICF/MR) reimbursed under this section shall be paid by medical assistance in accordance with the paragraphs in this subdivision.*

*(a) "Crisis services" means the specialized services listed in clauses (1) to (3) provided to prevent the recipient from requiring placement in a more restrictive institutional setting such as an inpatient hospital or regional treatment center and to maintain the recipient in his or her present community setting.*

*(1) The crisis services provider shall assess the recipient's behavior and environment to identify factors contributing to the crisis.*

*(2) The crisis services provider shall develop a recipient-specific intervention plan in coordination with the service planning team and provide recommendations for revisions to the individual service plan if necessary to*

*prevent or minimize the likelihood of future crisis situations. The intervention plan shall include a transition plan to aid the recipient in returning to the community-based ICF/MR if the recipient is receiving residential crisis services.*

*(3) The crisis services provider shall consult with and provide training and ongoing technical assistance to the recipient's service providers to aid in the implementation of the intervention plan and revisions to the individual service plan.*

*(b) "Residential crisis services" means crisis services that are provided to a recipient admitted to the crisis services foster care setting because the ICF/MR receiving reimbursement under this section is not able, as determined by the commissioner, to provide the intervention and protection of the recipient and others living with the recipient that is necessary to prevent the recipient from requiring placement in a more restrictive institutional setting.*

*(c) Crisis services providers must be licensed by the commissioner under section 245A.03 to provide foster care, must exclusively provide short-term crisis intervention, and must not be located in a private residence.*

*(d) Payment rates are determined annually for each crisis services provider based on cost of care for each provider as defined in section 246.50. Interim payment rates are calculated on a per diem basis by dividing the projected cost of providing care by the projected number of contact days for the fiscal year, as estimated by the commissioner. Final payment rates are calculated by dividing the actual cost of providing care by the actual number of contact days in the applicable fiscal year.*

*(e) Payment shall be made for each contact day. "Contact day" means any day in which the crisis services provider has face-to-face contact with the recipient or any of the recipient's medical assistance service providers for the purpose of providing crisis services as defined in paragraph (c).*

*(f) Payment for residential crisis services is limited to 21 days, unless an additional period is authorized by the commissioner. The additional period may not exceed 21 days.*

*(g) Payment for crisis services shall be made only for services provided while the ICF/MR receiving reimbursement under this section:*

*(1) has a shared services agreement with the crisis services provider in effect in accordance with section 246.57;*

*(2) has reassigned payment for the provision of the crisis services under this subdivision to the commissioner in accordance with Code of Federal Regulations, title 42, section 447.10(e); and*

*(3) has executed a cooperative agreement with the crisis services provider to implement the intervention plan and revisions to the individual service plan as necessary to prevent or minimize the likelihood of future crisis situations, to maintain the recipient in his or her present community setting, and to prevent the recipient from requiring a more restrictive institutional setting.*

*(h) Payment to the ICF/MR receiving reimbursement under this section shall be made for each therapeutic leave day during which the recipient is receiving residential crisis services, if the ICF/MR is otherwise eligible to receive payment for a therapeutic leave day under Minnesota Rules, part 9505.0415. Payment under this paragraph shall be terminated if the commis-*

*sioner determines that the ICF/MR is not meeting the terms of the cooperative agreement under paragraph (g) or that the recipient will not return to the ICF/MR.*

Sec. 98. Minnesota Statutes 1992, section 256B.69, subdivision 4, is amended to read:

Subd. 4. [LIMITATION OF CHOICE.] The commissioner shall develop criteria to determine when limitation of choice may be implemented in the experimental counties. The criteria shall ensure that all eligible individuals in the county have continuing access to the full range of medical assistance services as specified in subdivision 6. The commissioner shall exempt the following persons from participation in the project, in addition to those who do not meet the criteria for limitation of choice: (1) persons eligible for medical assistance according to section 256B.055, subdivision 1, or who are in foster placement; (2) persons eligible for medical assistance due to blindness or disability as determined by the social security administration or the state medical review team, unless they are 65 years of age or older; (3) recipients who currently have private coverage through a health maintenance organization; and (4) recipients who are eligible for medical assistance by spending down excess income for medical expenses other than the nursing facility per diem expense. *The commissioner may allow persons with a one month spend-down, who are otherwise eligible to enroll, to voluntarily enroll or remain enrolled if they elect to prepay their monthly spend-down to the state.* Before limitation of choice is implemented, eligible individuals shall be notified and after notification, shall be allowed to choose only among demonstration providers. After initially choosing a provider, the recipient is allowed to change that choice only at specified times as allowed by the commissioner. If a demonstration provider ends participation in the project for any reason, a recipient enrolled with that provider must select a new provider but may change providers without cause once more within the first 60 days after enrollment with the second provider.

Sec. 99. Minnesota Statutes 1992, section 256B.69, is amended by adding a subdivision to read:

*Subd. 18.* [ALTERNATIVE INTEGRATED LONG-TERM CARE SERVICES; ELDERLY AND DISABLED PERSONS.] *The commissioner may implement demonstration projects to create alternative integrated delivery systems for acute and long-term care services to elderly and disabled persons that provide increased coordination, improve access to quality services, and mitigate future cost increases. The commissioner may seek federal authority to combine Medicare and Medicaid capitation payments for the purpose of such demonstrations. Medicare funds and services shall be administered according to the terms and conditions of the federal waiver and demonstration provisions. For the purpose of administering medical assistance funds, demonstrations under this subdivision are subject to subdivisions 1 to 17. The provisions of Minnesota Rules, parts 9500.1450 to 9500.1464, apply to these demonstrations, with the exceptions of parts 9500.1452, subpart 2, item B; and 9500.1457, subpart 1, items B and C, which do not apply to elderly persons enrolling in demonstrations under this section. An initial open enrollment period may be provided. Persons who disenroll from demonstrations under this subdivision remain subject to Minnesota Rules, parts 9500.1450 to 9500.1464. When a person is enrolled in a health plan under this demonstration and the health plan's participation is subsequently terminated for any reason, the person shall be provided an opportunity to select a new*

*health plan and shall have the right to change health plans within the first 60 days of enrollment in the second health plan. Persons required to participate in health plans under section 256B.69 who fail to make a choice of health plan will not be randomly assigned to health plans under this demonstration. Notwithstanding Minnesota Statutes 1993 Supplement, section 256.9363, subdivision 5, and Minnesota Rules, part 9505.5220, subpart 1a, if adopted, for the purpose of demonstrations under this subdivision, the commissioner may contract with managed care organizations to serve only elderly persons eligible for medical assistance, or both elderly and disabled persons.*

*Before implementation of a demonstration project for disabled persons, the commissioner must provide information to appropriate committees of the house and senate and must involve representatives of affected disability groups in the design of the demonstration projects.*

Sec. 100. Minnesota Statutes 1993 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 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 who is having a payment made on the person's behalf under sections 256I.01 to 256I.06; or

(2)(i) who is a resident of Minnesota; and whose equity in assets is not in excess of $1,000 per assistance unit. No asset test shall be applied to children and their parents living in the same household. 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~~ *60* months preceding application for general assistance medical care or during the period of eligibility. Any transfer described in this paragraph shall be presumed to have been for the purpose of establishing eligibility for general assistance medical care, unless the individual furnishes convincing evidence to establish that the transaction was exclusively for another purpose. For purposes of this paragraph, the value of the asset or interest shall be the fair market value at the time it was given away, sold, or disposed of, less the amount of compensation received. For any uncompensated transfer, the number of months of ineligibility, including partial months, shall be calculated by dividing the uncompensated transfer amount by the average monthly per person payment made by the medical assistance program to skilled nursing facilities for the previous calendar year. The individual shall remain ineligible until this fixed period has expired. The period of ineligibility may exceed 30 months, and a reapplication for benefits after 30 months from the date of the transfer shall not result in eligibility unless and until the period of ineligibility has expired. The period of ineligibility begins in the month the transfer was reported to the county agency, or if the transfer was not reported, the month in which the county agency discovered the transfer, whichever comes first. For applicants, the period of ineligibility begins on the date of the first approved application.

(f)(1) Beginning October 1, 1993, an undocumented alien or a nonimmigrant is ineligible for general assistance medical care other than emergency services. For purposes of this subdivision, a nonimmigrant is an individual in one or more of the classes listed in United States Code, title 8, section 1101(a)(15), and an undocumented alien is an individual who resides in the United States without the approval or acquiescence of the Immigration and Naturalization Service.

(2) This subdivision does not apply to a child under age 18, to a Cuban or Haitian entrant as defined in Public Law Number 96-422, section 501(e)(1) or (2)(a), or to an alien who is aged, blind, or disabled as defined in United States Code, title 42, section 1382c(a)(1).

(3) For purposes of paragraph (f), "emergency services" has the meaning given in Code of Federal Regulations, title 42, section 440.255(b)(1), *except that it also means services rendered because of suspected or actual pesticide poisoning.*

Sec. 101. Minnesota Statutes 1992, section 256D.03, subdivision 3a, is amended to read:

Subd. 3a. [CLAIMS; ASSIGNMENT OF BENEFITS.] *Probate* claims must be filed pursuant to section 256D.16. General assistance medical care applicants and recipients must apply or agree to apply third party health and accident benefits to the costs of medical care. ~~They~~ *General assistance and general assistance medical care applicants and recipients* must cooperate with the state in establishing paternity and obtaining third party payments *to be eligible under this chapter.* By signing an application for general assistance *or general assistance medical care*, a person assigns to the department of human services all rights to medical support or payments for medical expenses from another person or entity on their own or their dependent's behalf and agrees to cooperate with the state in establishing paternity and obtaining third party payments. The application shall contain a statement explaining the assignment. Any rights or amounts assigned shall be applied against the cost of medical care paid for under this chapter. An assignment is effective on the date general assistance medical care eligibility takes effect. The assignment shall not affect benefits paid or provided under automobile accident coverage and private health care coverage until the person or organization providing the benefits has received notice of the assignment.

Sec. 102. Minnesota Statutes 1992, section 256D.03, subdivision 3b, is amended to read:

Subd. 3b. [COOPERATION.] *General assistance or general assistance medical care, applicants and recipients must cooperate with the state and local agency to identify potentially liable third-party payers and assist the state in obtaining third-party payments. Cooperation includes identifying any third party who may be liable for care and services provided under this chapter to the applicant, recipient, or any other family member for whom application is made and providing relevant information to assist the state in pursuing a potentially liable third party.* General assistance medical care applicants and recipients must cooperate by providing information about any group health plan in which they may be eligible to enroll. They must cooperate with the state and local agency in determining if the plan is cost-effective. If the plan is determined cost-effective and the premium will be paid by the state or local agency or is available at no cost to the person, they must enroll or remain enrolled in the group health plan. Cost-effective insurance premiums approved for payment by the state agency and paid by the local agency are eligible for reimbursement according to subdivision 6.

Sec. 103. Minnesota Statutes 1993 Supplement, section 256D.03, subdivision 4, is amended to read:

Subd. 4. [GENERAL ASSISTANCE MEDICAL CARE; SERVICES.] (a) For a person who is eligible under subdivision 3, paragraph (a), clause (3), general assistance medical care covers, *except as provided in paragraph (c)*:

(1) inpatient hospital services;

(2) outpatient hospital services;

(3) services provided by Medicare certified rehabilitation agencies;

(4) prescription drugs and other products recommended through the process established in section 256B.0625, subdivision 13;

(5) equipment necessary to administer insulin and diagnostic supplies and equipment for diabetics to monitor blood sugar level;

(6) eyeglasses and eye examinations provided by a physician or optometrist;

(7) hearing aids;

(8) prosthetic devices;

(9) laboratory and X-ray services;

(10) physician's services;

(11) medical transportation;

(12) chiropractic services as covered under the medical assistance program;

(13) podiatric services;

(14) dental services;

(15) outpatient services provided by a mental health center or clinic that is under contract with the county board and is established under section 245.62;

(16) day treatment services for mental illness provided under contract with the county board;

(17) prescribed medications for persons who have been diagnosed as mentally ill as necessary to prevent more restrictive institutionalization;

(18) case management services for a person with serious and persistent mental illness who would be eligible for medical assistance except that the person resides in an institution for mental diseases;

(19) psychological services, medical supplies and equipment, and Medicare premiums, coinsurance and deductible payments;

(20) medical equipment not specifically listed in this paragraph when the use of the equipment will prevent the need for costlier services that are reimbursable under this subdivision; ~~and~~

(21) services performed by a certified pediatric nurse practitioner, a certified family nurse practitioner, a certified adult nurse practitioner, a certified obstetric/gynecological nurse practitioner, or a certified geriatric nurse practitioner in independent practice, if the services are otherwise covered under this chapter as a physician service, and if the service is within the scope of practice of the nurse practitioner's license as a registered nurse, as defined in section 148.171;

*(22) services of a certified public health nurse practicing in a public health nursing clinic that is a department of, or that operates under the direct authority of, a unit of government, if the service is within the scope of practice of the public health nurse's license as a registered nurse, as defined in section 148.171; and*

*(23) tuberculosis related services for persons infected with tuberculosis as defined in section 256B.0625, subdivision 39.*

(b) *Except as provided in paragraph (c),* for a recipient who is eligible under subdivision 3, paragraph (a), clause (1) or (2), general assistance medical care covers the services listed in paragraph (a) with the exception of special transportation services.

(c) *Gender reassignment surgery and related services are not covered under this subdivision. This paragraph is not applicable to individuals who have begun receiving gender reassignment services before July 1, 1994.*

*(d)* In order to contain costs, the commissioner of human services shall select vendors of medical care who can provide the most economical care consistent with high medical standards and shall where possible contract with organizations on a prepaid capitation basis to provide these services. The commissioner shall consider proposals by counties and vendors for prepaid health plans, competitive bidding programs, block grants, or other vendor payment mechanisms designed to provide services in an economical manner or to control utilization, with safeguards to ensure that necessary services are provided. Before implementing prepaid programs in counties with a county operated or affiliated public teaching hospital or a hospital or clinic operated by the University of Minnesota, the commissioner shall consider the risks the prepaid program creates for the hospital and allow the county or hospital the opportunity to participate in the program in a manner that reflects the risk of adverse selection and the nature of the patients served by the hospital, provided the terms of participation in the program are competitive with the terms of other participants considering the nature of the population served. Payment for services provided pursuant to this subdivision shall be as provided to medical assistance vendors of these services under sections 256B.02, subdivision 8, and 256B.0625. For payments made during fiscal year 1990 and later years, the commissioner shall consult with an independent actuary in establishing prepayment rates, but shall retain final control over the rate methodology.

~~(d)~~ *(e)* The commissioner of human services may reduce payments provided under sections 256D.01 to 256D.21 and 261.23 in order to remain within the amount appropriated for general assistance medical care, within the following restrictions.

For the period July 1, 1985 to December 31, 1985, reductions below the cost per service unit allowable under section 256.966, are permitted only as follows: payments for inpatient and outpatient hospital care provided in response to a primary diagnosis of chemical dependency or mental illness may be reduced no more than 30 percent; payments for all other inpatient hospital care may be reduced no more than 20 percent. Reductions below the payments allowable under general assistance medical care for the remaining general assistance medical care services allowable under this subdivision may be reduced no more than ten percent.

For the period January 1, 1986 to December 31, 1986, reductions below the cost per service unit allowable under section 256.966 are permitted only as follows: payments for inpatient and outpatient hospital care provided in response to a primary diagnosis of chemical dependency or mental illness may be reduced no more than 20 percent; payments for all other inpatient hospital care may be reduced no more than 15 percent. Reductions below the payments allowable under general assistance medical care for the remaining general

assistance medical care services allowable under this subdivision may be reduced no more than five percent.

For the period January 1, 1987 to June 30, 1987, reductions below the cost per service unit allowable under section 256.966 are permitted only as follows: payments for inpatient and outpatient hospital care provided in response to a primary diagnosis of chemical dependency or mental illness may be reduced no more than 15 percent; payments for all other inpatient hospital care may be reduced no more than ten percent. Reductions below the payments allowable under medical assistance for the remaining general assistance medical care services allowable under this subdivision may be reduced no more than five percent.

For the period July 1, 1987 to June 30, 1988, reductions below the cost per service unit allowable under section 256.966 are permitted only as follows: payments for inpatient and outpatient hospital care provided in response to a primary diagnosis of chemical dependency or mental illness may be reduced no more than 15 percent; payments for all other inpatient hospital care may be reduced no more than five percent. Reductions below the payments allowable under medical assistance for the remaining general assistance medical care services allowable under this subdivision may be reduced no more than five percent.

For the period July 1, 1988 to June 30, 1989, reductions below the cost per service unit allowable under section 256.966 are permitted only as follows: payments for inpatient and outpatient hospital care provided in response to a primary diagnosis of chemical dependency or mental illness may be reduced no more than 15 percent; payments for all other inpatient hospital care may not be reduced. Reductions below the payments allowable under medical assistance for the remaining general assistance medical care services allowable under this subdivision may be reduced no more than five percent.

There shall be no copayment required of any recipient of benefits for any services provided under this subdivision. A hospital receiving a reduced payment as a result of this section may apply the unpaid balance toward satisfaction of the hospital's bad debts.

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

~~(f)~~ *(g)* Chemical dependency services that are reimbursed under chapter 254B must not be reimbursed under general assistance medical care.

~~(g)~~ *(h)* The maximum payment for new vendors enrolled in the general assistance medical care program after the base year shall be determined from the average usual and customary charge of the same vendor type enrolled in the base year.

~~(h)~~ *(i)* The conditions of payment for services under this subdivision are the same as the conditions specified in rules adopted under chapter 256B governing the medical assistance program, unless otherwise provided by statute or rule.

Sec. 104. Minnesota Statutes 1992, section 256D.16, is amended to read:

256D.16 [GENERAL ASSISTANCE TO BE ALLOWED AS CLAIM IN PROBATE COURT.]

On the death of any person who received any general assistance under sections 256D.01 to 256D.21, or on the death of the survivor of a married couple, either or both of whom received general assistance, the total amount paid as general assistance to either or both, without interest, shall be ~~allowed as~~ a claim against the estate of such person or persons ~~by the court having jurisdiction to probate the estate~~ *and may be collected in any manner allowed by chapter 524 or otherwise permitted by law.*

Sec. 105. Minnesota Statutes 1992, section 256D.425, is amended by adding a subdivision to read:

*Subd. 4.* [COOPERATION.] *To be eligible for the Minnesota supplemental aid program, applicants and recipients must cooperate with the state and local agency to identify potentially liable third-party payers and assist the state in obtaining third-party payments. Cooperation includes identifying any third party who may be liable for benefits provided under this chapter, to the applicant, recipient, or any other family member for whom application is made, and providing relevant information to assist the state in pursuing a potentially liable third party.*

Sec. 106. Minnesota Statutes 1993 Supplement, section 256I.06, subdivision 1, is amended to read:

Subdivision 1. [MONTHLY PAYMENTS.] Monthly payments made ~~on an individual's behalf~~ for group residential housing must be issued ~~as a voucher or vendor payment~~ *directly to a recipient of group residential housing. In the event that the federal Health Care Finance Administration approves vendor payments on an individual's behalf as optional state supplements to the Supplemental Security Income program, group residential housing payments made on an individual's behalf must be made by voucher or vendor payment.*

Sec. 107. Minnesota Statutes 1992, section 261.04, subdivision 2, is amended to read:

Subd. 2. [CLAIMS ~~FILED IN PROBATE COURT~~ *AGAINST ESTATE.*] Such claims, when against the estate of a deceased person, ~~shall be filed in probate court and acted upon as in the case of other claims~~ *may be collected in any manner allowed by chapter 524 or otherwise permitted by law.*

Sec. 108. [461.16] [INSPECTIONS; REPORTS.]

*Each city or, in the case of an unincorporated area, each county shall coordinate annual, random, unannounced inspections at locations where tobacco products are sold to test compliance with section 609.685 and to conform with the requirements of federal law. The inspections shall be performed by local units of government. A person no younger than 15 and no older than 17 shall assist in the tests of compliance only under the supervision of a law officer or an employee of the city or county and only with the written consent of a parent. Each city or county which performs compliance checks shall report results to the commissioner of human services by January 15 of each year. The report must include the number of tobacco licenses per retailer and vending outlet, the number of inspections conducted, and the number of violations. The commissioner shall annually submit the report required by United States Code, title 42, section 300x-26, and otherwise ensure the state's compliance with that law and any regulations adopted to implement it.*

Sec. 109. [461.17] [INFORMATION.]

*The employer at each retail location where tobacco products are sold shall inform the individuals who sell tobacco products about the law, the related penalties, and the employer's policy with regard to tobacco sales. The commissioner of public safety may impose an administrative penalty of not more than $100 upon the retailer at each location where the employees have not been informed as required by this section. If an inspection at any location discloses a violation of section 609.685, notice shall be given to the employer, and the employees shall be given information as required by this section.*

Sec. 110. Minnesota Statutes 1993 Supplement, section 514.981, subdivision 2, is amended to read:

Subd. 2. [ATTACHMENT.] (a) A medical assistance lien attaches and becomes enforceable against specific real property as of the date when the following conditions are met:

(1) payments have been made by an agency for a medical assistance benefit;

(2) notice and an opportunity for a hearing have been provided under paragraph (b);

(3) a lien notice has been filed as provided in section 514.982;

(4) if the property is registered property, the lien notice has been memorialized on the certificate of title of the property affected by the lien notice; and

(5) all restrictions against enforcement have ceased to apply.

(b) An agency may not file a medical assistance lien notice until the medical assistance recipient and the recipient's spouse or their legal representatives have been sent, by certified or registered mail, written notice of the agency's lien rights and there has been an opportunity for a hearing under section 256.045. In addition, the agency may not file a lien notice unless the agency determines as medically verified by the recipient's attending physician that the medical assistance recipient cannot reasonably be expected to be discharged from a medical institution and return home.

(c) An agency may not file a medical assistance lien notice against real property while it is the home of the recipient's spouse.

(d) An agency may not file a medical assistance lien notice against real property that was the homestead of the medical assistance recipient or the recipient's spouse when the medical assistance recipient received medical institution services if any of the following persons are lawfully residing in the property:

(1) a child of the medical assistance recipient if the child is under age 21 or is blind or permanently and totally disabled according to the supplemental security income criteria;

(2) a child *or grandchild* of the medical assistance recipient if the child resided in the homestead for at least two years immediately before the date the medical assistance recipient received medical institution services, and the child provided care to the medical assistance recipient that permitted the recipient to live without medical institution services; or

(3) a sibling of the medical assistance recipient if the sibling has an equity interest in the property and has resided in the property for at least one year

immediately before the date the medical assistance recipient began receiving medical institution services.

(e) A medical assistance lien applies only to the specific real property described in the lien notice.

Sec. 111. Minnesota Statutes 1993 Supplement, section 514.981, subdivision 5, is amended to read:

Subd. 5. [RELEASE.] (a) An agency that files a medical assistance lien notice shall release and discharge the lien in full if:

(1) the medical assistance recipient is discharged from the medical institution and returns home;

(2) the medical assistance lien is satisfied;

(3) the agency has received reimbursement for the amount secured by the lien or a legally enforceable agreement has been executed providing for reimbursement of the agency for that amount; or

(4) the medical assistance recipient, if single, or the recipient's surviving spouse, has died, and a claim may not be filed against the estate of the decedent under section 256B.15, subdivision 3.

(b) Upon request, the agency that files a medical assistance lien notice shall release a specific parcel of real property from the lien if:

(1) the property is or was the homestead of the recipient's spouse during the time of the medical assistance recipient's institutionalization, or the property is or was attributed to the spouse under section 256B.059, subdivision 3 or 4, and the spouse is not receiving medical assistance benefits;

(2) the property would be exempt from a claim against the estate under section 256B.15, subdivision 4;

(3) the agency receives reimbursement, or other collateral sufficient to secure payment of reimbursement, in an amount equal to the lesser of the amount secured by the lien, or the amount the agency would be allowed to recover upon enforcement of the lien against the specific parcel of property if the agency attempted to enforce the lien on the date of the request to release the lien; ~~or~~

(4) *there is evidence of undue hardship upon financially dependent family members or other documented dependents of the medical assistance recipient is shown. Undue hardship exists when enforcement of a medical assistance lien would deprive financially dependent family members or other documented dependents of the medical assistance recipient of food, clothing, shelter, or other necessities of life. Undue hardship does not exist where enforcement of a medical assistance lien merely causes the medical assistance recipient's family members or other persons inconvenience, or might restrict their lifestyle, but would not cause the risk of serious deprivation of food, clothing, shelter, or other necessities of life; or*

*(5)* the medical assistance lien cannot lawfully be enforced against the property because of an error, omission, or other material defect in procedure, description, identity, timing, or other prerequisite to enforcement.

(c) The agency that files a medical assistance lien notice may release the

lien if the attachment or enforcement of the lien is determined by the agency to be contrary to the public interest.

(d) The agency that files a medical assistance lien notice shall execute the release of the lien and file the release as provided in section 514.982, subdivision 2.

Sec. 112. Minnesota Statutes 1992, section 524.3-803, is amended to read:

524.3-803 [LIMITATIONS ON PRESENTATION OF CLAIMS.]

(a) All claims as defined in section 524.1-201 (4) against a decedent's estate which arose before the death of the decedent, including claims of the state and any subdivision thereof, whether due or to become due, absolute or contingent, liquidated or unliquidated, if not barred earlier by other statute of limitations, are barred against the estate, the personal representative, and the heirs and devisees of the decedent, unless presented as follows:

(1) in the case of a creditor who is only entitled, under the United States Constitution and under the Minnesota Constitution, to notice by publication under section 524.3-801, within four months after the date of the court administrator's notice to creditors which is subsequently published pursuant to section 524.3-801;

(2) in the case of a creditor who was served with notice under section 524.3-801, paragraph (c), within the later to expire of four months after the date of the first publication of notice to creditors or one month after the service;

(3) within the later to expire of one year after the decedent's death, or one year after June 16, 1989, whether or not notice to creditors has been published or served under section 524.3-801, provided, however, that in the case of a decedent who died before June 16, 1989, no claim which was then barred by any provision of law may be deemed to have been revived by the amendment of this section.

(b) All claims against a decedent's estate which arise at or after the death of the decedent, including claims of the state and any subdivision thereof, whether due or to become due, absolute or contingent, liquidated or unliquidated, are barred against the estate, the personal representative, and the heirs and devisees of the decedent, unless presented as follows:

(1) a claim based on a contract with the personal representative, within four months after performance by the personal representative is due;

(2) *any claim under section 246.53, 256B.15, 256D.16, or 261.04, within the earlier to expire of one year after death or four months of service of notice meeting the requirements of section 524.3-801, paragraph (c), upon the appropriate government agency;*

*(3)* any other claim, within four months after it arises.

(c) Nothing in this section affects or prevents:

(1) any proceeding to enforce any mortgage, pledge, or other lien upon property of the estate;

(2) any proceeding to establish liability of the decedent or the personal representative for which there is protection by liability insurance, to the limits of the insurance protection only;

(3) the presentment and payment at any time within one year after the decedent's death of any claim arising before the death of the decedent that is referred to in section 524.3-715, clause (18), although the same may be otherwise barred under this section; or

(4) the presentment and payment at any time before a petition is filed in compliance with section 524.3-1001 or 524.3-1002 or a closing statement is filed under section 524.3-1003, of:

(i) any claim arising after the death of the decedent that is referred to in section 524.3-715, clause (18), although the same may be otherwise barred hereunder;

(ii) any other claim, including claims subject to clause (3), which would otherwise be barred hereunder, upon allowance by the court upon petition of the personal representative or the claimant for cause shown on notice and hearing as the court may direct.

Sec. 113. Minnesota Statutes 1992, section 524.3-1201, is amended to read:

524.3-1201 [COLLECTION OF PERSONAL PROPERTY BY AFFIDAVIT.]

(a) Thirty days after the death of a decedent, any person indebted to the decedent or having possession of tangible personal property or an instrument evidencing a debt, obligation, stock or chose in action belonging to the decedent, *or holding property subject to a claim asserted under section 528.08,* shall make payment of the indebtedness or deliver the tangible personal property or an instrument evidencing a debt, obligation, stock or chose in action to a person claiming to be the successor of the decedent, or a ~~county~~ *government* agency with a claim authorized by section *246.53,* 256B.15, *256D.16, or 261.04* upon being presented a certified death certificate of the decedent and an affidavit, in duplicate, made by or on behalf of the ~~successor~~ *claimant* stating that:

(1) the value of the entire probate estate, wherever located, less liens and encumbrances, does not exceed $10,000;

(2) 30 days have elapsed since the death of the decedent;

(3) no application or petition for the appointment of a personal representative is pending or has been granted in any jurisdiction; and

(4) the ~~claiming successor~~ *claimant* is entitled to payment or delivery of the property.

(b) A transfer agent of any security shall change the registered ownership on the books of a corporation from the decedent to the ~~successor or successors~~ *claimant* upon the presentation of an affidavit as provided in subsection (a).

(c) The ~~claiming successor or county agency~~ *claimant* shall disburse the proceeds collected under this section to any person with a superior claim under section 524.3-805 or 525.15.

(d) A motor vehicle registrar shall issue a new certificate of title in the name of the ~~successor~~ *claimant* upon the presentation of an affidavit as provided in subsection (a).

Sec. 114. Minnesota Statutes 1992, section 528.08, is amended to read:

528.08 [RIGHTS OF CREDITORS.]

No multiple-party account will be effective against an estate of a deceased party to transfer to a survivor sums needed to pay *a deceased party's* debts, taxes, ~~and~~ expenses of administration, including statutory allowances to the surviving spouse, minor children and dependent children, *and claims under section 246.53, 256B.15, 256D.16, or 261.04* if other assets of the estate are insufficient, to the extent the deceased party is the source of the funds or beneficial owner. A surviving party or P.O.D. payee who receives payment from a multiple-party account after the death of a deceased party shall be liable to account to the deceased party's personal representative for amounts the decedent owned beneficially immediately before death to the extent necessary to discharge any such claims and charges remaining unpaid after the application of the assets of the decedent's estate. No proceeding to assert this liability shall be commenced unless the personal representative has received a written demand by a surviving spouse, a creditor or one acting for a minor dependent child of the decedent, and no proceeding shall be commenced later than two years following the death of the decedent. Sums recovered by the personal representative shall be administered as part of the decedent's estate. *For purposes of this section, the term "personal representative" means the personal representative of the deceased party's estate if one has been appointed or a duly authorized agent of a government agency asserting a claim pursuant to section 246.53, 256B.15, 256D.16, or 261.04 by means of an affidavit of collection under section 524.3-1201, if no application or petition for the appointment of a personal representative is pending or has been granted in any jurisdiction.* This section shall not affect the right of a financial institution to make payment on multiple-party accounts according to the terms thereof, or make it liable to the estate of a deceased party unless, before payment, the institution has been served with *an affidavit of collection under section 524.3-1201 or* process in a proceeding by the personal representative.

Sec. 115. [ADVISORY TASK FORCE TO STANDARDIZE SUPPORTING DOCUMENTATION FOR PRIOR AUTHORIZATION.]

*Subdivision 1.* [COMPOSITION OF TASK FORCE.] *A six-member advisory task force on prior authorization for physical therapy, occupational therapy, speech therapy, or related services supporting documentation is established. The task force is comprised of one licensed physiatrist, one licensed physical therapist, one licensed occupational therapist, one licensed speech therapist, one licensed rehabilitation nurse, and one consumer representative. All licensed task force members must be actively engaged in the practice of their profession in Minnesota. The members of the task force shall be appointed by the commissioner of human services. No more than three members may be of one gender. All licensed professional members shall be selected from lists submitted to the commissioner by the appropriate professional associations. Task force members who are licensed professionals shall not be compensated for their service. The consumer representative member must be compensated for time spent on task force activities as specified in Minnesota Statutes, section 15.059, subdivision 3. The task force shall expire on December 31, 1995.*

*Subd. 2.* [DUTIES OF COMMISSIONER AND TASK FORCE.] *The task force shall study the lists of items, specified in the issue of the medical assistance and general assistance medical care provider manual which is in effect as of the effective date of this section, that are required to be submitted*

*by each category of provider along with the provider's request for prior authorization. The task force shall recommend to the commissioner any amendments or refinements needed to clarify the lists. The commissioner shall use the recommendations of the task force in developing standardized documentation which a provider will submit with a prior authorization request. If the commissioner intends to depart from the recommendations of the task force, the commissioner shall inform the task force of the intended departure, provide a written explanation of the reasons for the departure, and give the task force an opportunity to comment on the intended departure.*

Sec. 116. [PRIOR AUTHORIZATION ALTERNATIVES; REPORT REQUIRED.]

*The commissioner shall report on alternative methods, other than prior authorization, to achieve utilization review of the therapy services provided by an entity that operates a Medicare certified comprehensive outpatient rehabilitation facility which was certified prior to January 1, 1993, and that is a facility licensed under Minnesota Rules, parts 9570.2000 to 9570.3600, when these services are provided within the comprehensive outpatient rehabilitation facility and not provided in a nursing facility other than the entity's own, and by facilities licensed under Minnesota Rules, parts 9570.2000 to 9570.3600, which provide residential services for persons with physical handicaps. The commissioner must consult with these facilities to develop recommendations for alternative methods of utilization review. By February 1, 1995, the commissioner must submit the report to the legislature.*

Sec. 117. [POLICY OPTIONS FOR BED TRANSFERS.]

*The interagency long-term care planning committee shall present to the legislature by January 15, 1995, policy options for transferring beds from areas of the state with a bed surplus to areas of the state with a bed shortage and for increasing the capacity of nursing homes attached to hospitals that have been delicensed. The options must include a comprehensive plan for distributing existing nursing home and certified boarding care home beds in order to serve the aging population as projected by the state demographer.*

Sec. 118. [RULES.]

*For rate years beginning as soon as practical after September 30, 1995, the commissioner shall revise Minnesota Rules, parts 9553.0010 to 9553.0080, to incorporate changes made to Minnesota Statutes, section 256B.501.*

Sec. 119. [ICF/MR RULE REVISION.]

*The commissioner shall consider various time record and time distribution record keeping requirements when developing rule revisions for cost allocation regarding intermediate care facilities for persons with mental retardation or related conditions. The commissioner shall consider information from the public, including providers, provider associations, advocates, and counties when developing rule amendments in the area of cost allocation.*

*From July 1, 1994, until December 31, 1994, all employees and consultants of ICFs/MR, including any individual for whom any portion of that individual's compensation is reported for reimbursement under Minnesota Rules, parts 9553.0010 to 9553.0080, shall document their service to all sites according to paragraphs (a) to (c). For this purpose, and for paragraphs (a) to (c), employee means an individual who is compensated by a facility or provider group for necessary services on any hourly or salaried basis.*

*Employees and consultants for whom no portion of that individual's total compensation is reported for reimbursement in Minnesota Rules, parts 9553.0010 to 9553.0080, are exempt from the record keeping requirements set forth in paragraphs (a) to (c).*

*(a) Time and attendance records are required for all employees and consultants as set forth in Minnesota Statutes, section 256B.432, subdivision 8.*

*(b) Employees and consultants shall keep time records on a daily basis showing the actual time spent on various activities, as required by Minnesota Rules, part 9553.0030, except that employees with multiple duties must not use a sampling method.*

*(c) All employees and consultants who work for the benefit of more than one site shall keep a record of where work is performed. This record must specify the time in which work performed at a site solely benefits that site. The amount of time reported for work performed at a site for the sole benefit of that site does not need to be adjusted for brief, infrequent telephone interruptions, time spent away from the site when accompanying clients from that site, and time away from the site for shopping or errands if the shopping or errands benefit solely that site.*

*For record keeping purposes, site means a Minnesota ICF/MR, waivered services location, semi-independent living service arrangement, day training and habilitation operation, or similar out-of-state service operation for persons with developmental disabilities. Site also means any nondevelopmental disability service location or any business operation owned or operated by a provider group, either in or outside of Minnesota, whether or not that operation provides a service to persons with developmental disabilities.*

Sec. 120. [STUDY ON NEED FOR BREAST CANCER PATIENT BILL OF RIGHTS.]

*Subdivision 1.* [COMMISSIONER OF HEALTH'S DUTIES.] *The commissioner of health shall, in consultation with representatives of public and private organizations knowledgeable of breast cancer issues, study the need for a breast cancer patient bill of rights. The study must take into consideration the types of information that a breast cancer patient requires to make an informed decision about treatment options, the manner in which the information is communicated to the patient, and the timeliness of the provision of the information.*

*Subd. 2.* [REPORT TO THE LEGISLATURE.] *The commissioner shall submit a report of findings and recommendations to the legislature by January 1, 1995. If the report includes a recommendation for the establishment of a breast cancer patient bill of rights, it must also contain specific recommendations concerning the content of the proposed bill of rights.*

Sec. 121. [FEDERAL WAIVER; DENTAL SERVICE PILOT PROGRAMS.]

*The commissioner of human services shall seek from the United States Department of Human Services all waivers necessary to operate two dental service pilot programs in rural areas that lack adequate dental service. The first pilot program would allow the commissioner to contract with individual dentists or groups of dentists to provide the necessary dental services to medical assistance recipients and allow the commissioner to rent dental office*

*space and pay for dental services on an hourly basis. The second pilot program would allow the commissioner to authorize payment systems that provide capitated medical assistance payments that would be paid directly to dentists and not through a prepaid health plan. The commissioner shall report to the legislature by February 15, 1995, on the status of obtaining the waivers needed to operate these pilot programs.*

Sec. 122. [STUDY OF LOSS RATIOS: MEDICARE RELATED COVERAGE.]

*The commissioner of commerce and the commissioner of health shall jointly study the loss ratios experienced with respect to all coverages regulated under Minnesota Statutes, section 62A.36, subdivision 1. The commissioners shall determine, using sound actuarial analysis, the effects of increasing the minimum loss ratios for those coverages by one percentage point per year for seven years. The commissioners shall jointly report their findings, analysis, and conclusions to the legislature, in compliance with Minnesota Statutes, section 3.195, no later than December 15, 1994. The commissioners shall conduct the entire study jointly and attempt to arrive at and report unified consistent findings, analysis, and conclusions; the commissioners shall not study separately only the coverages that each commissioner respectively regulates.*

Sec. 123. [CHISAGO COUNTY HOSPITAL PROJECT.]

*(a) Notwithstanding the provisions of Minnesota Statutes, section 144.551, subdivision 1, paragraph (a), a project to replace a hospital in Chisago county may be commenced if:*

*(1) the new hospital is located within ten miles of the current site;*

*(2) the project will result in a net reduction of licensed hospital beds; and*

*(3) all hospitals within ten miles of the project agree to the general location criteria, or if the hospitals do not agree by July 1, 1994, the commissioner approves the project through the process described in paragraph (b). The hospitals may notify the commissioner and request a mutually agreed upon extension of time not to extend beyond August 15, 1994, for submission of this project to the commissioner. The commissioner shall render a decision on the project within 60 days after submission by the parties. The commissioner's decision is the final administrative decision of the agency.*

*(b) As expressly authorized under paragraph (a), the commissioner shall approve a project if it is determined that replacement of the existing hospital or hospitals will:*

*(1) promote high quality care and services;*

*(2) provide improved access to care;*

*(3) not involve a substantial expansion of inpatient service capacity; and*

*(4) benefit the region to be served by the new regional facility.*

*(c) Prior to making this determination, the commissioner shall solicit and review written comments from hospitals and community service agencies located within ten miles of the new hospital site and from the regional coordinating board.*

*(d) For the purposes of pursuing the project established under this section, Chisago health services and district memorial hospital may pursue discussions and work cooperatively with each other, and with another organization mutually agreed upon, to plan for a new hospital facility to serve the area presently served by the two hospitals.*

Sec. 124. [WAIVER REQUEST FOR EMPLOYED DISABLED PERSONS.]

*The commissioner shall seek a federal waiver in order to implement a work incentive for disabled persons eligible for medical assistance who are not residents of long-term care facilities. The waiver shall request authorization to establish a medical assistance earned income disregard for employed disabled persons equivalent to the threshold amount applied to persons who qualify under section 1619(b) of the Social Security Act, except that when a disabled person's earned income reaches the maximum income permitted at the threshold under section 1619(b), the person shall retain medical assistance eligibility and must contribute to the costs of medical care on a sliding fee basis. This waiver will not be implemented without further approval from the legislature.*

Sec. 125. [EFFECT ON LOCAL ORDINANCE.]

*Sections 108 and 109 (461.16 and 461.17) do not preempt a local ordinance which provides for more restrictive regulation of retail tobacco sales.*

Sec. 126. [CRISIS SERVICES.]

*The commissioner of human services shall explore and recommend various methods of funding crisis services for persons with mental retardation or related conditions. The commissioner shall seek advice from affected parties in making the recommendations and report the recommendations to the 1995 legislature.*

Sec. 127. [STUDY.]

*The board of social work, in consultation with the Minnesota Hospital Association, shall review the effects of social worker licensure on rural hospitals and report its findings to the house health and human services committee and the senate health care committee by January 1, 1996.*

Sec. 128. [REPEALER.]

*Subdivision 1.* [SEMI-INDEPENDENT LIVING SERVICES (SILS) REPEALER.] *Minnesota Statutes 1992, section 252.275, subdivisions 4a and 10, are repealed.*

*Subd. 2.* [ICF/MR REPEALER.] *Minnesota Statutes 1992, section 256B.501, subdivisions 3d, 3e, and 3f, are repealed after the revisions required by section 118 to Minnesota Rules, parts 9553.0010 to 9553.0080, have been adopted and filed with the secretary of state, so as to have the force and effect of law.*

*Subd. 3.* [SOCIAL WORKER REPEALER.] *Minnesota Statutes 1992, sections 148B.23, subdivision 1a; and 148B.28, subdivision 6, are repealed effective July 1, 1995.*

Sec. 129. [EFFECTIVE DATES; APPLICATION.]

*Subdivision 1. Except as provided in this section, this article is effective July 1, 1994.*

*Subd. 2. Section 1 (62A.31, subdivision 1u) is effective the day following final enactment and applies to any rate increase that becomes effective on or after January 1, 1995.*

*Subd. 3. The amendment to section 256.969, subdivision 10, is effective for admissions occurring on or after October 25, 1993.*

*Subd. 4. The amendment adding subdivision 38 to section 256B.0625, relating to childhood immunizations, applies to vaccines administered after October 1, 1994.*

*Subd. 5. The amendments to section 256B.15, subdivisions 1a and 2, relating to the age of a medical assistance recipient for purposes of estate claims, are effective for persons who are age 55 or older on or after July 1, 1994, for the total amount of medical assistance rendered on or after July 1, 1994.*

*Subd. 6. Section 51 (256B.056, subdivision 3b) is effective October 1, 1993.*

*Subd. 7. Sections 55 to 58 (256B.0595, subdivisions 1, 2, 3, and 4) are effective October 1, 1993, except that the portion of section 56 (256B.0595, subdivision 2) that is subject to federal approval is effective 60 days following publication in the State Register of receipt of federal approval.*

*Subd. 8. Sections 33, (252.275, subdivision 3) 34, (252.275, subdivision 4) and 128, subdivision 1 (Repealer of 252.275, subdivisions 4a and 10) are effective the day following final enactment.*

*Subd. 9. Sections 68, 69, and 103 (256B.0625, subdivision 39; 256B.0626, subdivisions 1 and 2; 256D.03, subdivision 4) are effective January 1, 1995, except that the service restriction imposed by section 256D.03, subdivision 4, paragraph (c), is effective July 1, 1994.*

*Subd. 10. Sections 86 to 90 (256B.432, subdivisions 1, 2, 3, 5, and 6) are effective after the revisions required by section 118 (REVISE RULES 9553.0010 to 9553.0080) to Minnesota Rules, parts 9553.0010 to 9553.0080, have been adopted and filed with the secretary of state and have the force and effect of law.*

*Subd. 11. Section 95 (256B.501, subdivision 5a) is effective October 1, 1994.*

*Subd. 12. Except as otherwise provided by this subdivision, sections 32, 79, 104, 107, and 112 to 114, are effective July 1, 1994. The amendments made by these sections are intended to be clarifications of existing law or modifications governing procedures for collection of government claims against decedents' estates. These amendments are not intended to revive any claims time barred under existing law. The amendments made by section 114 apply only to estates of decedents dying on or after July 1, 1992. The amendments made by section 113 apply only to estates of decedents dying on or after July 1, 1991.*

*Subd. 13. The amendment in section 92 to Minnesota Statutes, section 256B.501, subdivision 3, creating clause (7) in paragraph (e), is effective the day after final enactment. Sections 96 and 97 are effective October 1, 1994. However, if any required federal approval has not been received before that*

*date, the amendments made by sections 96 and 97 may not be implemented until federal approval is received.*

*Subd. 14. Section 52 (256B.059, subdivision 1), the amendment to paragraph (a) prior to clause (1) in section 54 (256B.059, subdivision 5), and section 55 (256B.0595, subdivision 1), paragraph (f), are intended to clarify, rather than to change, the original intent of the statutes amended.*

*Subd. 15. Sections 45 (256.969, subdivision 8a) and 49 (256.9695, subdivision 3) are effective the day following final enactment.*

## ARTICLE 4

## REGIONAL TREATMENT CENTERS; MENTAL HEALTH; DEVELOPMENTAL DISABILITIES

Section 1. Minnesota Statutes 1993 Supplement, section 245.97, subdivision 6, is amended to read:

Subd. 6. [TERMS, COMPENSATION, REMOVAL AND EXPIRATION.] The membership terms, compensation, and removal of members of the committee and the filling of membership vacancies are governed by section 15.0575. ~~The ombudsman committee and the medical review subcommittee expire on June 30, 1994.~~

Sec. 2. Minnesota Statutes 1992, section 246.50, subdivision 5, is amended to read:

Subd. 5. [COST OF CARE.] "Cost of care" means the commissioner's charge for services provided to ~~any person admitted to a state facility~~ *resident patients, outpatients, and day care patients.*

~~For purposes of this subdivision,~~ "Charge for services" means the cost of services, treatment, maintenance, bonds issued for capital improvements, depreciation of buildings and equipment, and indirect costs related to the operation of state facilities. The commissioner may determine the charge for services on an anticipated average per diem basis as an all inclusive charge per facility, per disability group, or per treatment program. The commissioner may determine a charge per service, using a method that includes direct and indirect costs. *Charge for services for outpatient or day care patients or residents shall be on a cost-for-service basis under a schedule the commissioner shall establish.*

*For purposes of this subdivision, "resident patient" means a person who occupies a bed while housed in a state facility for observation, care, diagnosis, or treatment.*

*For purposes of this subdivision, "outpatient" or "day care patient or resident" means a person who makes use of diagnostic, therapeutic, counseling, or other service in a state facility or through state personnel but does not occupy a bed overnight.*

*For the purposes of collecting from the federal government for the care of those patients eligible for medical care under the Social Security Act, "cost of care" shall be determined as set forth in the rules and regulations of the Department of Health and Human Services or its successor agency.*

Sec. 3. Minnesota Statutes 1992, section 246.57, subdivision 1, is amended to read:

Subdivision 1. [AUTHORIZED.] The commissioner of human services may authorize any state facility operated under the authority of the commissioner to enter into agreement with other governmental entities and both nonprofit and for-profit organizations for participation in shared service agreements that would be of mutual benefit to the state, other governmental entities and organizations involved, and the public. Notwithstanding section 16B.06, subdivision 2, the commissioner of human services may delegate the execution of shared services contracts to the chief executive officers of the regional centers or state operated nursing homes. No additional employees shall be added to the legislatively approved complement for any regional center or state nursing home as a result of entering into any shared service agreement. However, positions funded by a shared service agreement may be authorized by the commissioner of finance for the duration of the shared service agreement. The charges for the services shall be on an actual cost basis. All receipts for shared services may be retained by the regional treatment center ~~or~~, state-operated nursing home, *or other facility* that provided the services, in addition to other funding the regional treatment center or state-operated nursing home receives.

Sec. 4. Minnesota Statutes 1992, section 252.025, subdivision 1, is amended to read:

Subdivision 1. State hospitals for persons with mental retardation shall be established and maintained at ~~Faribault,~~ Cambridge and Brainerd *and until June 30, 1998, at Faribault*, and notwithstanding any provision to the contrary they shall be respectively known as the Faribault regional center, the Cambridge regional human services center, and the Brainerd regional human services center. Each of the foregoing state hospitals shall also be known by the name of regional center at the discretion of the commissioner of human services. The terms "human services" or "treatment" may be included in the designation.

Sec. 5. Minnesota Statutes 1992, section 252.025, is amended by adding a subdivision to read:

*Subd. 7.* [SERVICES FOR DEVELOPMENTALLY DISABLED PERSONS; FARIBAULT REGIONAL CENTER CATCHMENT AREA.] *(a) This section governs the downsizing of the Faribault regional center (FRC). As residents are discharged from the Faribault regional center, the buildings will be transferred to the department of corrections, and the department of human services will develop a system of state-operated services that: (1) meets the needs of clients discharged from the Faribault regional center; (2) is fiscally sound; and (3) accommodates the evolving nature of the health care system.*

*(b) The Minnesota correctional facility at Faribault (MCF-FRB) shall expand its existing capacity by 300 beds. The department of human services shall transfer buildings related to this expansion according to agreements between the department of corrections and the Faribault community task force, established pursuant to section 252.51, no sooner than September 1, 1994.*

*After the city of Faribault has held a public hearing, the Minnesota correctional facility at Faribault may subsequently proceed with expansion of its capacity by an additional 300 beds, on or after a date when the commissioner of human services certifies that the Faribault regional center campus will be vacated because alternative community-based services, including those developed by the department of human services in accordance*

*with subdivision 9, will be available for the remaining residents of the Faribault regional center. The actual date on which the remainder of the Faribault regional center campus will be transferred to the commissioner of corrections shall be determined by mutual agreement between the commissioners of human services and corrections, after consultation with the exclusive representatives and the Faribault community task force. In no event shall the total capacity of the Minnesota correctional facility at Faribault exceed 1,200 beds, and the Minnesota correctional facility at Faribault shall not include any maximum security beds. The transfer of the Faribault regional center campus to the commissioner of corrections shall occur no sooner than July 1, 1998, unless negotiated with the exclusive representatives and community task force.*

*(c) The department of corrections shall provide necessary and appropriate modifications to road access on the Faribault regional center campus within the available appropriation. The city of Faribault shall not bear any cost of such modifications.*

*The department of corrections shall request necessary appropriations in future legislative sessions to provide necessary and appropriate modifications to the water-sewage system used by the Faribault regional center, the Minnesota correctional facility at Faribault, and the city of Faribault. The city of Faribault shall not bear any cost of such modifications.*

*(d) No sooner than July 1, 1995, the Faribault regional center shall transfer the operation of its power plant to the Minnesota correctional facility at Faribault contingent upon the Minnesota correctional facility at Faribault receiving a state appropriation for the full cost of necessary positions. The Faribault regional center employees in positions assigned to the power plant as of the transfer date shall be allowed to transfer to the Minnesota correctional facility at Faribault or exercise their memorandum of understanding options. All employees who transfer shall retain their current classification, employment condition, and salary upon such transfer.*

*(e) Prior to the transfer of the Faribault regional center laundry to the Minnesota correctional facility at Faribault, the Faribault regional center shall decrease laundry positions as the Faribault regional center resident population declines. However, the department of human services and the Faribault regional center laundry management shall actively pursue additional shared service contracts to offset any involuntary position reductions in the laundry. The additional laundry work done as a result of the initial 300-bed corrections expansion will also be used to offset any involuntary position reductions. Further expansion of corrections beds and the resultant increased laundry will also be used to offset any involuntary reductions. If, after the above, position reductions are necessary, they shall occur pursuant to the memorandum of understanding between the state, the department of human services, and the exclusive representatives.*

*Upon the transfer of the Faribault regional center campus to the commissioner of corrections, the Faribault regional center may transfer the laundry to the Minnesota correctional facility at Faribault. If the transfer occurs, the Minnesota correctional facility at Faribault shall operate the laundry as a prison industry. The Minnesota correctional facility at Faribault shall maintain existing shared service contracts. The shared service positions shall be maintained by the Minnesota correctional facility at Faribault unless shared service income does not support these positions. If such positions are*

*to be eliminated, such elimination shall be pursuant to the memorandum of understanding. However, other than specified above, the Minnesota correctional facility at Faribault shall only eliminate positions through attrition.*

*All Faribault regional center employees assigned to the laundry as of the transfer date shall be allowed to transfer to the Minnesota correctional facility at Faribault or exercise their memorandum of understanding options. All employees who transfer shall retain their current classification, employment condition, and salary upon such transfer.*

*(f) In consultation with the applicable exclusive representatives, the departments of corrections, human services, and employee relations shall establish training programs to enhance the opportunity of the Faribault regional center employees to obtain positions beyond entry level at the Minnesota correctional facility at Faribault. While participating in this training, individuals shall remain on the Faribault regional center payroll and the department of human services shall seek a legislative appropriation for this purpose. The department of corrections shall seek a legislative appropriation for retraining the Faribault regional center employees.*

Sec. 6. Minnesota Statutes 1992, section 252.025, is amended by adding a subdivision to read:

*Subd. 8.* [SOUTHERN CITIES COMMUNITY HEALTH CLINIC.] *The department of human services shall consult with the Faribault community task force and the exclusive representatives before making any decisions about:*

*(1) the future of the Southern Cities Community Health Clinic;*

*(2) the services currently provided by that clinic to developmentally disabled clients in the Faribault regional center catchment area; and*

*(3) changes in the model for providing those services.*

*The department of human services shall guarantee the provision of medically necessary psychiatric and dental services to developmentally disabled clients in the Faribault service area until or unless other appropriate arrangements have been made to provide those clients with those services.*

Sec. 7. Minnesota Statutes 1992, section 252.025, is amended by adding a subdivision to read:

*Subd. 9.* [STATE-OPERATED SERVICES IN THE FARIBAULT CATCHMENT AREA.] *(a) Notwithstanding subdivision 4, and in addition to the programs already developed, the department of human services shall establish the following state-operated, community-based programs in the Faribault regional center catchment area:*

*(1) state-operated community residential services to serve as a primary provider for 40 current residents of the Faribault regional center whose clinical symptoms or behaviors make them difficult to serve. Those state-operated, community-based residential services shall be configured as ten four-bed waivered services homes. The program configuration may be modified in accordance with paragraph (c).*

*Beginning July 1, 1995, in addition to the residential services for those 40 clients, the department of human services agrees to seek legislation to develop and establish state-operated, community-based residential services for any*

*other current residents of the Faribault regional center for whom the commissioner of human services finds that respective counties of financial responsibility are unable to find appropriate residential services operated by private providers. Counties shall give the strongest possible consideration to the placement preference of clients and families;*

*(2) a minimum of four state-operated day training and habilitation facilities for persons leaving the Faribault regional center as the result of downsizing and for other individuals referred by county agencies;*

*(3) crisis services for developmentally disabled persons in the Faribault regional center catchment area, including crisis beds and mobile intervention teams. These state-operated crisis services shall be configured as three four-bed programs. The program configuration may be modified in accordance with paragraph (c);*

*(4) area management services sufficient to manage state-operated, community-based programs within the existing Faribault regional center catchment area;*

*(5) area maintenance services sufficient to maintain the physical facilities housing state-operated services in the Faribault regional center catchment area; and*

*(6) technical assistance and training services for both public and private providers.*

*(b) All employees of the state-operated services established under this subdivision shall be state employees under chapters 43A and 179A and shall consist of no fewer than 182 full-time employee equivalents, excluding additional personnel that may be necessary to staff additional state-operated, community-based residential services.*

*(c) Any changes in the configuration and design of programs described in this subdivision must be negotiated and agreed to by the affected exclusive representatives. The parties also must meet and discuss ways to provide the highest quality services, while maintaining or increasing cost effectiveness.*

*(d) The department of human services shall assist the counties with financial responsibility for those Faribault regional center residents who will be discharged into state-operated, community-based residential programs in developing service options located in and around the city of Faribault.*

*The department of human services shall seek funding, including the capital bonding necessary to establish the state-operated services authorized in this subdivision, including area management services to be located in or around the city of Faribault.*

Sec. 8. [252.031] [CAMBRIDGE COMMUNITY INTEGRATION PROGRAM.]

*(a) The commissioner of human services, in collaboration with the commissioner of administration and the community group established under section 252.51, shall identify and make recommendations by February 1, 1995, with respect to the following programs to be operated by the Cambridge regional human services center:*

*(1) community integration programs to serve persons with developmental disabilities;*

*(2) programs on the campus of the Cambridge regional human services center to serve the difficult-to-serve clients who remain at or are committed to the care of the Cambridge facility;*

*(3) needed capital improvements;*

*(4) alternative uses for the buildings and land on the Cambridge campus which are not used to serve clients under clause (2); and*

*(5) other state agency services that could be operated on the Cambridge campus, including but not limited to the operation of a satellite office for local administration of MinnesotaCare.*

Sec. 9. Minnesota Statutes 1992, section 252.275, is amended by adding a subdivision to read:

*Subd. 11.* [AUTOMATIC INFLATION ADJUSTMENTS FOR SILS.] *The commissioner of finance shall include annual inflation adjustments in operating costs for semi-independent living services as a budget change request in each biennial detailed expenditure budget submitted to the legislature under section 16A.11.*

Sec. 10. Minnesota Statutes 1993 Supplement, section 252.46, subdivision 6, is amended to read:

Subd. 6. [VARIANCES.] (a) A variance from the minimum or maximum payment rates in subdivisions 2 and 3 may be granted by the commissioner when the vendor requests and the county board submits to the commissioner a written variance request on forms supplied by the commissioner with the recommended payment rates. A variance to the rate maximum may be utilized for costs associated with compliance with state administrative rules, compliance with court orders, capital costs required for continued licensure, increased insurance costs, start-up and conversion costs for supported employment, direct service staff salaries and benefits, transportation, and other program related costs when any of the criteria in clauses (1) to ~~(3)~~ *(4)* is also met:

(1) change is necessary to comply with licensing citations;

(2) *a licensed vendor currently serving fewer than 70 persons with payment rates of 80 percent or less of the statewide average rates and with clients meeting the behavioral or medical criteria under clause (3) approved by the commissioner as a significant program change under section 252.28;*

*(3)* a significant change is approved by the commissioner under section 252.28 that is necessary to provide authorized services to *a* new *client or* clients with very severe self-injurious or assaultive behavior, or medical conditions requiring delivery of physician-prescribed medical interventions requiring one-to-one staffing for at least 15 minutes each time they are performed, or to *a* new *client or* clients directly discharged to the vendor's program from a regional treatment center; ~~or~~

~~(3) a significant increase in the average level of staffing is needed~~ *(4) there is a need to maintain required staffing levels in order* to provide authorized services approved by the commissioner under section 252.28, that is necessitated by a *significant and permanent* decrease in licensed capacity or ~~loss of~~ clientele ~~when counties choose alternative services under Laws 1992, chapter 513, article 9, section 41~~.

*The county shall review the adequacy of services provided by vendors whose payment rates are 80 percent or more of the statewide average rates and 50 percent or more of the vendor's clients meet the behavioral or medical criteria in paragraph (a), clause (3).*

A variance under this paragraph may be approved only if the costs to the medical assistance program do not exceed the medical assistance costs for all clients served by the alternatives and all clients remaining in the existing services.

(b) A variance to the rate minimum may be granted when (1) the county board contracts for increased services from a vendor and for some or all individuals receiving services from the vendor lower per unit fixed costs result or (2) when the actual costs of delivering authorized service over a 12-month contract period have decreased.

(c) The written variance request under this subdivision must include documentation that all the following criteria have been met:

(1) The commissioner and the county board have both conducted a review and have identified a need for a change in the payment rates and recommended an effective date for the change in the rate.

(2) The vendor documents efforts to reallocate current staff and any additional staffing needs cannot be met by using temporary special needs rate exceptions under Minnesota Rules, parts 9510.1020 to 9510.1140.

(3) The vendor documents that financial resources have been reallocated before applying for a variance. No variance may be granted for equipment, supplies, or other capital expenditures when depreciation expense for repair and replacement of such items is part of the current rate.

(4) For variances related to loss of clientele, the vendor documents the other program and administrative expenses, if any, that have been reduced.

(5) The county board submits verification of the conditions for which the variance is requested, a description of the nature and cost of the proposed changes, and how the county will monitor the use of money by the vendor to make necessary changes in services.

(6) The county board's recommended payment rates do not exceed 95 percent of the greater of 125 percent of the current statewide median or 125 percent of the regional average payment rates, whichever is higher, for each of the regional commission districts under sections 462.381 to 462.396 in which the vendor is located except for the following: when a variance is recommended to allow authorized service delivery to new clients with severe self-injurious or assaultive behaviors or with medical conditions requiring delivery of physician prescribed medical interventions, or to persons being directly discharged from a regional treatment center to the vendor's program, those persons must be assigned a payment rate of 200 percent of the current statewide average rates. All other clients receiving services from the vendor must be assigned a payment rate equal to the vendor's current rate unless the vendor's current rate exceeds 95 percent of 125 percent of the statewide median or 125 percent of the regional average payment rates, whichever is higher. When the vendor's rates exceed 95 percent of 125 percent of the statewide median or 125 percent of the regional average rates, the maximum rates assigned to all other clients must be equal to the greater of 95 percent of 125 percent of the statewide median or 125 percent of the regional average

rates. The maximum payment rate that may be recommended for the vendor under these conditions is determined by multiplying the number of clients at each limit by the rate corresponding to that limit and then dividing the sum by the total number of clients.

~~(7) The vendor has not received a variance under this subdivision in the past 12 months.~~

(d) The commissioner shall have 60 calendar days from the date of the receipt of the complete request to accept or reject it, or the request shall be deemed to have been granted. If the commissioner rejects the request, the commissioner shall state in writing the specific objections to the request and the reasons for its rejection.

Sec. 11. Minnesota Statutes 1993 Supplement, section 252.46, is amended by adding a subdivision to read:

*Subd. 19.* [AUTOMATIC INFLATION ADJUSTMENTS FOR DAY TRAINING AND HABILITATION SERVICES.] *The commissioner of finance shall include annual inflation adjustments in operating costs for day training and habilitation services as a budget change request in each biennial detailed expenditure budget submitted to the legislature under section 16A.11.*

Sec. 12. Minnesota Statutes 1993 Supplement, section 252.46, is amended by adding a subdivision to read:

*Subd. 19.* [VENDOR APPEALS.] *With the concurrence of the county board, a vendor may appeal the commissioner's rejection of a variance request which has been submitted by the county under subdivision 6 and may appeal the commissioner's denial under subdivision 9 of a rate which has been recommended by the county. To appeal, the vendor and county board must file a written notice of appeal with the commissioner. The notice of appeal must be postmarked within 45 days of the postmark date on the commissioner's notification to the vendor and county agency that a variance request or county recommended rate has been denied. The notice of appeal must specify the reasons for the appeal, the dollar amount in dispute, and the basis in statute or rule for challenging the commissioner's decision.*

*Within 45 days of receipt of the notice of appeal, the commissioner must convene a reconciliation conference to attempt to resolve the rate dispute. If the dispute is not resolved to the satisfaction of the parties, the commissioner shall initiate a contested case proceeding under sections 14.57 to 14.69. In a contested case hearing held under this section, the appealing party must demonstrate by a preponderance of the evidence that the commissioner incorrectly applied the governing law or regulations, or that the commissioner improperly exercised the commissioner's discretion, in refusing to grant a variance or in refusing to adopt a county recommended rate.*

Sec. 13. [252.511] [CAMBRIDGE COMMUNITY PLANNING.]

*The Cambridge community planning group established under section 252.51 shall work with the commissioners of human services and administration on the facility uses specified in section 252.031 and to explore siting of a correctional facility in the Cambridge area.*

*Funds appropriated to the commissioner of human services for this purpose shall be transferred to the city of Cambridge upon receipt of evidence from the*

*city that such a group has been constituted and designated. The funds shall be used to defray the expenses of the group.*

*The membership of a community group must reflect a broad range of community interests, including, at a minimum, families of persons with developmental disabilities, state employee union members selected by their exclusive representative, providers, advocates, and counties.*

Sec. 14. Minnesota Statutes 1992, section 253.015, is amended by adding a subdivision to read:

*Subd. 3a.* [SERVICES FOR PERSONS WITH MENTAL ILLNESS AT VIRGINIA REGIONAL MEDICAL CENTER COMPLEX.] *The commissioner shall locate the state-operated inpatient psychiatric program authorized in subdivision 3, paragraph (b), in space provided in the Virginia Regional Medical Center Complex, located in Virginia, notwithstanding any contrary provisions of subdivision 3, paragraph (b). The commissioner may enter into any necessary agreements with the governing authority of the Virginia Regional Medical Center Complex and may request assistance for capital improvements in order to locate these state-operated inpatient beds at the complex. Other state-operated mental health services, as determined by the commissioner, may also be located at the complex.*

Sec. 15. [253.0155] [COMMITMENT TO COMMUNITY CARE; PLANNING AND DESIGN OF LOCAL PROJECTS.]

*Subdivision 1.* [ADVISORY GROUPS; ESTABLISHMENT AND PURPOSE.] *The commissioner of human services shall convene two advisory groups who shall assist the commissioner in designing one or more pilot projects to enable persons committed as mentally ill under sections 253B.09 and 253B.093, to be placed in community alternatives. One advisory group shall represent the counties of Carlton, Cook, Itasca, Koochiching, Lake, and St. Louis; the other advisory group shall represent the counties of Chisago, Isanti, Kanabec, Mille Lacs, and Pine; except that participation in the pilot projects shall be at county option. The planning and design of the pilot projects shall be coordinated with local mental health centers and with other county planning efforts for mental health services necessitated by the reorganization of the Moose Lake regional treatment center. The groups shall be convened beginning July 30, 1994.*

*Subd. 2.* [ADVISORY GROUPS; MEMBERSHIP.] *The advisory groups shall include county representatives from the following entities: county agencies established under chapter 393; local mental health agencies; former patients; local law enforcement agencies; local state courts; the county attorney's office; patient advocacy groups; family members of consumers; representatives of affected employee bargaining units; and local advisory councils established under section 245.466.*

*Subd. 3.* [PROJECT DESIGN.] *Projects shall be designed to enable persons from the participating counties who are committed as mentally ill under sections 253B.09 and 253B.093 to be placed directly in community settings, including service slots developed under section 253.015, subdivision 3. The project plan must ensure that beginning July 1, 1996, the county agency will ensure for each project participant:*

*(1) that the requirements of the commitment orders issued under sections 253B.09 and 253B.093 are followed;*

*(2) that the patient receives case management services as specified in section 245.4711 and community support, day treatment, and, where appropriate, residential services under sections 245.4712 and 245.472;*

*(3) that the person has a prior documented history of failure to take medication that has resulted in commitment; and*

*(4) that patients receive peer counseling on the need to continue medications and are provided with information on advance directives regarding medications in accordance with section 253B.03, subdivision 6.*

*The project design must include recommendations for funding the services needed, under what circumstances the treatment services shall be provided to the client, any proposed changes to the commitment act, and a plan for evaluating project participants, in order to compare the treatment outcomes for persons committed to community placements with those of persons committed to regional treatment centers or other inpatient hospital settings.*

*Subd. 4.* [REPORT.] *The commissioner of human services shall report to the legislature by October 15, 1995, and to the supreme court task force created to study civil commitment laws, on the project design, with timetables for implementation in the 1996-1997 biennium.*

Sec. 16. Minnesota Statutes 1992, section 256B.49, subdivision 4, is amended to read:

Subd. 4. [INFLATION ADJUSTMENT.] For the biennium ending June 30, 1993, the commissioner of human services shall not provide an annual inflation adjustment for home and community-based waivered services, except as provided in section 256B.491, subdivision 3, and except that the commissioner shall provide an inflation adjustment for the community alternatives for disabled individuals (CADI) and community alternative care (CAC) waivered services programs for the fiscal year beginning July 1, 1991. For fiscal years beginning after June 30, 1993, the commissioner of human services shall not provide automatic annual inflation adjustments for home and community-based waivered services. The commissioner of finance shall include, as a budget change request in each biennial detailed expenditure budget submitted to the legislature under section 16A.11, annual *inflation* adjustments in ~~reimbursement~~ ~~rates~~ *operating costs* for each home and community-based waivered service program.

Sec. 17. [MEMORANDUM OF UNDERSTANDING FOR CAMBRIDGE REGIONAL HUMAN SERVICES CENTER.]

*From May 1, 1994, through the fiscal year ending June 30, 1995, the commissioner of human services shall not implement the memorandum of understanding authorized under section 252.50, subdivision 11, with regard to the Cambridge regional human services center except as a mechanism to fill positions in the state-operated community services in the Cambridge regional human services center catchment area, or until the department has taken all other reasonable cost-saving measures and offers mitigation to layoff, including preferential hiring by the department of corrections at the Minnesota correctional facilities at Faribault and Lino Lakes. The voluntary components of the memorandum of understanding are not affected by this provision.*

ARTICLE 5

MENTAL HEALTH TREATMENT

Section 1. Minnesota Statutes 1992, section 13.42, subdivision 3, is amended to read:

Subd. 3. [CLASSIFICATION OF MEDICAL DATA.] Unless the data is summary data or a statute specifically provides a different classification, medical data are private but are available only to the subject of the data as provided in section 144.335, and shall not be disclosed to others except:

(a) pursuant to section 13.05;

(b) pursuant to a valid court order;

(c) to administer federal funds or programs;

(d) to the surviving spouse, parents, children, and siblings of a deceased patient or client or, if there are no surviving spouse, parents, children, or siblings, to the surviving heirs of the nearest degree of kindred;

(e) to communicate a patient's or client's condition to a family member or other appropriate person in accordance with acceptable medical practice, unless the patient or client directs otherwise; ~~or~~

*(f) data on past administration of neuroleptic medication may be released to a treating physician who must make medical decisions with respect to prescribing and administering neuroleptic medication under section 253B.03, subdivision 6c; or*

~~(f)~~ *(g)* as otherwise required by law.

Sec. 2. Minnesota Statutes 1992, section 253B.03, subdivision 6b, is amended to read:

Subd. 6b. [CONSENT FOR MENTAL HEALTH TREATMENT.] A competent person admitted ~~or committed~~ *without commitment* to a treatment facility may be subjected to intrusive mental health treatment only with the person's written informed consent. For purposes of this section, "intrusive mental health treatment" means electroshock therapy and neuroleptic medication and does not include treatment for mental retardation. An incompetent person who has prepared a directive under subdivision 6d regarding treatment with intrusive therapies must be treated in accordance with this section, except in cases of emergencies.

Sec. 3. Minnesota Statutes 1992, section 253B.03, subdivision 6c, is amended to read:

Subd. 6c. [ADMINISTRATION OF NEUROLEPTIC MEDICATIONS.] (a) Neuroleptic medications may be administered to persons committed as mentally ill or mentally ill and dangerous only as described in this subdivision.

(b) *A treating physician required to make medical judgments under this subdivision regarding the administration of neuroleptic medication has access to a patient's records on past administration of neuroleptic medication at any treatment facility. Upon request of a treating physician under this subdivision, a treatment facility shall supply complete information relating to the past*

*records on administration of neuroleptic medication of a patient subject to this subdivision.*

*(c)* A ~~neuroleptic medication may be administered~~ *treatment provider may prescribe and administer neuroleptic medication without judicial review* to a patient *or a proposed patient* who:

*(1)* is competent to consent to ~~neuroleptic medications if the patient has given written, informed consent to administration of the neuroleptic medication.~~ *the treatment and has signed a written, informed consent;*

~~(c) A neuroleptic medication may be administered to a patient who~~ *(2)* is not competent to consent to neuroleptic medications if the patient, when competent, prepared a declaration under subdivision 6d requesting the treatment or authorizing a proxy to request the treatment ~~or if a court approves the administration of the neuroleptic medication.~~ *and the proxy has requested the neuroleptic medication;*

~~(d) A neuroleptic medication may be administered without court review to a patient who~~ *(3)* has not prepared a declaration under subdivision 6d and who is not competent to consent to neuroleptic medications if:

~~(1)~~ *(i)* the patient does not object to or refuse the medication;

~~(2)~~ *(ii)* a guardian ad litem appointed by the court with authority to consent to neuroleptic medications gives written, informed consent to the administration of the neuroleptic medication; and

~~(3)~~ *(iii)* a multidisciplinary treatment review panel composed of persons who are not engaged in providing direct care to the patient gives written approval to administration of the neuroleptic medication~~.~~*; or*

~~(e) A neuroleptic medication may be administered without judicial review and without consent~~ *(4) refuses prescribed neuroleptic medication and is* in an emergency situation. *Medication may be administered* for so long as the emergency continues to exist, *up to 14 days,* if the treating physician determines that the medication is necessary to prevent serious, immediate physical harm to the patient or to others. *If a petition for authorization to administer medication is filed within the 14 days, the treating physician may continue the medication through the date of the court hearing if the emergency continues to exist.* The treatment facility shall document the emergency in the patient's medical record in specific behavioral terms.

*A treatment provider may prescribe and administer neuroleptic medications to a patient who does not object or refuse and who is under a guardianship or conservatorship, if the guardian or conservator is acting within the scope of the authority granted under section 525.5515 and has given written permission to the treatment provider or facility to administer neuroleptic medications.*

~~(f) A person who consents to treatment pursuant to this subdivision is not civilly or criminally liable for the performance of or the manner of performing the treatment. A person is not liable for performing treatment without consent if written, informed consent was given pursuant to this subdivision. This provision does not affect any other liability that may result from the manner in which the treatment is performed.~~

~~(g)~~ *(d)* The court may allow and order paid to a guardian ad litem a reasonable fee for services provided under paragraph (c), or the court may appoint a volunteer guardian ad litem.

~~(h) A medical director or patient may petition the committing court, or the court to which venue has been transferred, for a hearing concerning the administration of neuroleptic medication. A hearing may also be held pursuant to section 253B.08, 253B.09, 253B.12, or 253B.18. The hearing concerning the administration of neuroleptic medication must be held within 14 days from the date of the filing of the petition. The court may extend the time for hearing up to an additional 15 days for good cause shown.~~

*(e) A treatment facility must obtain judicial review to administer neuroleptic medication to a patient who refuses to take the medication, or when an independent medical review does not support the prescribed treatment.*

*(f) A physician on behalf of a treatment facility may file a petition requesting authorization to administer neuroleptic medication to a patient or a proposed patient who is not competent to consent to the prescribed medication, as certified by a physician, and who refuses to take the prescribed medication. A patient may also file a petition for a review of neuroleptic medication.*

*(g) A petition may be filed with the district court in the county of commitment or the county in which the patient is being held or treated. The petition may be heard as part of any other district court proceeding under this chapter. The hearing must be held within 14 days from the date of the filing of the petition. By agreement of the parties, or for good cause shown, the court may extend the time of hearing an additional 30 days.*

*(h) If the petitioning facility has a treatment review panel, the panel shall review the appropriateness of the proposed medication and submit its recommendations to the court and to the patient's counsel at least two days prior to the hearing.*

*(i) The patient must be examined by a court examiner prior to the hearing. The patient is entitled to counsel and a second examiner, if requested by the patient or patient's counsel.*

*(j) The court shall determine by clear and convincing evidence whether the patient is incompetent to consent to the neuroleptic medication and whether the involuntary administration of medication is necessary to treat the patient's mental illness. The court may base its decision on the opinion of its examiner, a member of the patient's treatment team, the patient's medical records, and any evidence which the court determines to be relevant and admissible.*

*(k) If the patient is found to be competent to decide whether to take neuroleptic medication, the treating facility may not administer medication without the patient's informed written consent or without the declaration of an emergency, or until further review by the court.*

*(l) If the patient is found incompetent to decide whether to take neuroleptic medication, the court may authorize the treating facility, and any other community facility to which the patient may be transferred or discharged, to involuntarily administer the medication to the patient. A finding of incompetence under this section must not be construed to determine the patient's competence for any other purpose.*

*(m) The court may, but is not required to, limit the maximum dosage of neuroleptic medication which may be administered.*

*(n) The court may authorize the administration of neuroleptic medication for the duration of a determinate commitment. If the patient is committed for an indeterminate period, the court may authorize treatment of neuroleptic medication for not more than two years, subject to the patient's right to petition the court for review of the order. The treatment facility must submit annual reports to be reviewed by the court, the patient, and the respective attorneys.*

*(o) If the patient is transferred to a facility that has a treatment review panel, the facility shall review the appropriateness of the patient's medication within 30 days after the patient begins treatment at the facility.*

*(p) At any time during the commitment proceedings, the court may appoint a guardian ad litem upon the request of any party, the recommendation of the prepetition screener, an examining physician, the court's examiner, or upon the court's own motion.*

Sec. 4. Minnesota Statutes 1992, section 253B.05, subdivision 2, is amended to read:

Subd. 2. [PEACE OR HEALTH OFFICER HOLD.] (a) A peace or health officer may take a person into custody and transport the person to a licensed physician or treatment facility if the officer has reason to believe, *or there is probable cause to believe based on the person's recent behavior and public knowledge of past psychiatric hospitalization,* that the person is mentally ill or mentally retarded and in imminent danger of injuring self or others if not immediately restrained. A peace or health officer or a person working under such officer's supervision, may take a person who is believed to be chemically dependent or is intoxicated in public into custody and transport the person to a treatment facility. If the person is intoxicated in public or is believed to be chemically dependent and is not in danger of causing self-harm or harm to any person or property, the peace or health officer may transport the person home. Written application for admission of the person to a treatment facility shall be made by the peace or health officer. The application shall contain a statement given by the peace or health officer specifying the reasons for and circumstances under which the person was taken into custody. If imminent danger to specific individuals is a basis for the emergency hold, the statement must include identifying information on those individuals, to the extent practicable. A copy of the statement shall be made available to the person taken into custody.

(b) A person may be admitted to a treatment facility for emergency care and treatment under this subdivision with the consent of the head of the facility under the following circumstances: a written statement is made by the medical officer on duty at the facility that after preliminary examination the person has symptoms of mental illness or mental retardation and appears to be in imminent danger of harming self or others; or, a written statement is made by the institution program director or the director's designee on duty at the facility that after preliminary examination the person has symptoms of chemical dependency and appears to be in imminent danger of harming self or others or is intoxicated in public.

Sec. 5. Minnesota Statutes 1992, section 253B.05, subdivision 3, is amended to read:

Subd. 3. [DURATION OF HOLD.] (a) Any person held pursuant to this section may be held up to 72 hours, exclusive of Saturdays, Sundays, and legal holidays, after admission unless a petition for the commitment of the person has been filed in the probate court of the county of the person's residence or of the county in which the treatment facility is located and the court issues an order pursuant to section 253B.07, subdivision 6. If the head of the treatment facility believes that commitment is required and no petition has been filed, the head of the treatment facility shall file a petition for the commitment of the person. The hospitalized person may move to have the venue of the petition changed to the probate court of the county of the person's residence, if the person is a resident of Minnesota.

(b) *The head of the treatment facility shall immediately notify the agency which employs the peace or health officer who transported the person to the treatment facility under this section, if the head of the treatment facility releases the person during the 72-hour hold period.*

*(c)* During the 72-hour hold period, a court may not release a person held under this section unless the court has received a written petition for release and held a summary hearing regarding the release. The petition must include the name of the person being held, the basis for and location of the hold, and a statement as to why the hold is improper. The petition also must include copies of any written documentation under subdivision 1 or 2 in support of the hold, unless the person holding the petitioner refuses to supply the documentation. The hearing must be held as soon as practicable and may be conducted by means of a telephone conference call or similar method by which the participants are able to simultaneously hear each other. If the court decides to release the person, the court shall issue written findings supporting the decision, but may not delay the release. Before deciding to release the person, the court shall make every reasonable effort to provide notice of the proposed release to: (1) any specific individuals identified in a statement under subdivision 1 or 2 or in the record as individuals who might be endangered if the person was not held; and (2) the examiner whose written statement was a basis for a hold under subdivision 1 or the peace or health officer who applied for a hold under subdivision 2.

Sec. 6. Minnesota Statutes 1992, section 253B.07, subdivision 1, is amended to read:

Subdivision 1. [PREPETITION SCREENING.] (a) Prior to filing a petition for commitment of a proposed patient, an interested person shall apply to the designated agency in the county of the proposed patient's residence or presence for conduct of a preliminary investigation~~, except when the proposed patient has been acquitted of a crime under section 611.026 and the county attorney is required to file a petition for commitment pursuant to subdivision 2. In any case coming within this exception, the county attorney shall apply to the designated county agency in the county in which the acquittal took place for a preliminary investigation unless substantially the same information relevant to the proposed patient's current mental condition as could be obtained by a preliminary investigation is part of the court record in the criminal proceeding or is contained in the report of a mental examination conducted in connection with the criminal proceeding~~. The designated agency shall appoint a screening team to conduct an investigation which shall include:

(i) a personal interview with the proposed patient and other individuals who

appear to have knowledge of the condition of the proposed patient. If the proposed patient is not interviewed, reasons must be documented;

(ii) identification and investigation of specific alleged conduct which is the basis for application; and

(iii) identification, exploration, and listing of the reasons for rejecting or recommending alternatives to involuntary placement.

(b) In conducting the investigation required by this subdivision, the screening team shall have access to all relevant medical records of proposed patients currently in treatment facilities. Data collected pursuant to this clause shall be considered private data on individuals.

(c) When the prepetition screening team recommends commitment, a written report shall be sent to the county attorney for the county in which the petition is to be filed.

(d) The prepetition screening team shall refuse to support a petition if the investigation does not disclose evidence sufficient to support commitment. Notice of the prepetition screening team's decision shall be provided to the prospective petitioner.

(e) If the interested person wishes to proceed with a petition contrary to the recommendation of the prepetition screening team, application may be made directly to the county attorney, who may determine whether or not to proceed with the petition. Notice of the county attorney's determination shall be provided to the interested party.

(f) *When the proposed patient has been acquitted of a crime under section 611.026, the county attorney shall file a petition for commitment pursuant to subdivision 2. In any case coming within this exception, the county attorney shall apply to the designated county agency in the county in which the acquittal took place for a preliminary investigation unless substantially the same information relevant to the proposed patient's current mental condition as could be obtained by a preliminary investigation is part of the court record in the criminal proceeding or is contained in the report of a mental examination conducted in connection with the criminal proceeding.* If a court petitions for commitment pursuant to the rules of criminal procedure or a county attorney petitions pursuant to acquittal of a criminal charge under section 611.026, the prepetition investigation, if required by this section, shall be completed within seven days after the filing of the petition.

*(g) The prepetition screening report must be distributed to the proposed patient, patient's counsel, the county attorney, any person authorized by the patient, and any other person as the court directs.*

*(h) The prepetition screening report is not admissible in any court proceedings unrelated to the commitment proceedings. This paragraph does not affect the admissibility of the information contained in the report.*

Sec. 7. Minnesota Statutes 1992, section 253B.07, subdivision 2, is amended to read:

Subd. 2. [THE PETITION.] Any interested person may file a petition for commitment in the ~~probate~~ *district* court of the county of the proposed patient's residence or presence. *The county attorney has the sole discretion to present and pursue a petition for civil commitment.* Following an acquittal of a person of a criminal charge under section 611.026, the petition shall be filed

by the county attorney of the county in which the acquittal took place and the petition shall be filed with the court in which the acquittal took place, and that court shall be the committing court for purposes of this chapter. The petition shall set forth the name and address of the proposed patient, the name and address of the patient's nearest relatives, and the reasons for the petition. The petition must contain factual descriptions of the proposed patient's recent behavior, including a description of the behavior, where it occurred, and over what period of time it occurred. Each factual allegation must be supported by observations of witnesses named in the petition. Petitions shall be stated in behavioral terms and shall not contain judgmental or conclusory statements. The petition shall be accompanied by a written statement by an examiner stating that the examiner has examined the proposed patient within the 15 days preceding the filing of the petition and is of the opinion that the proposed patient is suffering a designated disability and should be committed to a treatment facility. The statement shall include the reasons for the opinion. If a petitioner has been unable to secure a statement from an examiner, the petition shall include documentation that a reasonable effort has been made to secure the supporting statement.

Sec. 8. Minnesota Statutes 1992, section 253B.07, is amended by adding a subdivision to read:

*Subd. 2b.* [ORDER RESTRICTING ACCESS TO PETITION.] *For good cause, the county attorney may secure an ex parte order prior to the first court hearing to restrict dissemination of the petition and related information to parties other than the patient or the patient's counsel until the court hearing.*

Sec. 9. Minnesota Statutes 1992, section 253B.07, subdivision 4, is amended to read:

Subd. 4. [PREHEARING EXAMINATION; NOTICE AND SUMMONS PROCEDURE.] A summons to appear for a prehearing examination and the commitment hearing shall be served upon the proposed patient. A plain language notice of the proceedings and notice of the filing of the petition, a copy of the petition, a copy of the examiner's supporting statement, and the order for examination ~~and a copy of the prepetition screening report~~ shall be given to the proposed patient, patient's counsel, the petitioner, ~~any interested person,~~ and any other persons as the court directs. All papers shall be served personally on the proposed patient. Unless otherwise ordered by the court, the notice shall be served on the proposed patient by a nonuniformed person.

Sec. 10. Minnesota Statutes 1992, section 253B.09, subdivision 2, is amended to read:

Subd. 2. [FINDINGS.] *(a)* The court shall find the facts specifically, separately state its conclusions of law, and direct the entry of an appropriate judgment. 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.

*(b)* 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.

*(c) If the prepetition screening team has determined that a patient is not competent to consent to the administration of neuroleptic medication but would not object to or refuse the administration of neuroleptic medication, the*

*court may, at the time of commitment, appoint a guardian ad litem for purposes of section 253B.03, subdivision 6c, paragraph (c), clause (3).*

Sec. 11. Minnesota Statutes 1992, section 253B.12, subdivision 1, is amended to read:

Subdivision 1. [REPORT.] Prior to the termination of the initial commitment order or final discharge of the patient, the head of the facility shall file a written report with the committing court with a copy to the patient and patient's counsel, setting forth in detailed narrative form at least the following:

(1) the diagnosis of the patient with the supporting data;

(2) the anticipated discharge date;

(3) an individualized treatment plan;

(4) a detailed description of the discharge planning process with suggested after care plan;

(5) whether the patient is in need of further care and treatment with evidence to support the response;

(6) whether any further care and treatment must be provided in a treatment facility with evidence to support the response;

(7) whether in the opinion of the head of the facility the patient must continue to be committed to a treatment facility; ~~and~~

(8) whether in the opinion of the head of the facility the patient satisfies the statutory requirement for continued commitment, with documentation to support the opinion; *and*

*(9) whether the administration of neuroleptic medication is clinically indicated, whether the patient is able to give informed consent to that medication, and the basis for these opinions.*

Sec. 12. Minnesota Statutes 1992, section 253B.17, subdivision 1, is amended to read:

Subdivision 1. [PETITION.] Any patient, except one committed as mentally ill and dangerous to the public, or any interested person may petition the committing court or the court to which venue has been transferred for an order that the patient is not in need of continued institutionalization or for an order that an individual is no longer mentally ill, mentally retarded, or chemically dependent, or for any other relief as the court deems just and equitable. ~~A patient committed as mentally ill or mentally ill and dangerous may petition the committing court or the court to which venue has been transferred for a hearing concerning the administration of neuroleptic medication. A hearing may also be held pursuant to sections 253B.08, 253B.09, 253B.12, and 253B.18.~~

Sec. 13. Minnesota Statutes 1992, section 525.56, subdivision 3, is amended to read:

Subd. 3. The court may appoint a guardian of the person if it determines that all the powers and duties listed in this subdivision are needed to provide for the needs of the incapacitated person. The court may appoint a conservator of the person if it determines that a conservator is needed to provide for the needs of the incapacitated person through the exercise of some, but not all, of the

powers and duties listed in this subdivision. The duties and powers of a guardian or those which the court may grant to a conservator of the person include, but are not limited to:

(1) The power to have custody of the ward or conservatee and the power to establish a place of abode within or without the state, except as otherwise provided in this clause. The ward or conservatee or any person interested in the ward's or conservatee's welfare may petition the court to prevent or to initiate a change in abode. A ward or conservatee may not be admitted to a regional treatment center by the guardian or conservator except (1) after a hearing pursuant to chapter 253B; (2) for outpatient services; or (3) for the purpose of receiving temporary care for a specific period of time not to exceed 90 days in any calendar year.

(2) The duty to provide for the ward's or conservatee's care, comfort and maintenance needs, including food, clothing, shelter, health care, social and recreational requirements, and, whenever appropriate, training, education, and habilitation or rehabilitation. The guardian or conservator has no duty to pay for these requirements out of personal funds. Whenever possible and appropriate, the guardian or conservator should meet these requirements through governmental benefits or services to which the ward or conservatee is entitled, rather than from the ward's or conservatee's estate. Failure to satisfy the needs and requirements of this clause shall be grounds for removal of a private guardian or conservator, but the guardian or conservator shall have no personal or monetary liability.

(3) The duty to take reasonable care of the ward's or conservatee's clothing, furniture, vehicles, and other personal effects, and, if other property requires protection, the power to seek appointment of a guardian or conservator of the estate. The guardian or conservator must give notice in the manner required and to those persons specified in section 525.55 prior to the disposition of the ward's or conservatee's clothing, furniture, vehicles, or other personal effects. The notice must inform the person of the right to object to the disposition of the property within ten days and to petition the court for a review of the guardian's or conservator's proposed actions. Notice of the objection must be served by mail or personal service on the guardian or conservator and the ward or conservatee unless the ward or conservatee be the objector. The guardian or conservator served with notice of an objection to the disposition of the property may not dispose of the property unless the court approves the disposition after a hearing.

(4)(a) The power to give any necessary consent to enable the ward or conservatee to receive necessary medical or other professional care, counsel, treatment or service, ~~except that~~ *including neuroleptic medication.* No guardian or conservator may give consent for psychosurgery, electroshock, sterilization, or experimental treatment of any kind unless the procedure is first approved by order of the court as provided in this clause. The guardian or conservator shall not consent to any medical care for the ward or conservatee which violates the known conscientious, religious, or moral belief of the ward or conservatee.

(b) A guardian or conservator who believes a procedure described in clause (4)(a) requiring prior court approval to be necessary for the proper care of the ward or conservatee shall petition the court for an order and, in the case of a public guardianship or conservatorship under chapter 252A, obtain the written recommendation of the commissioner of human services. The court shall fix

the time and place for the hearing and shall give notice to the ward or conservatee and to the other persons specified in section 525.55, subdivision 1. The notice shall comply with the requirements of, and be served in the manner provided in section 525.55, subdivision 2. The court shall appoint an attorney to represent the ward or conservatee who is not represented by counsel. In every case the court shall determine if the procedure is in the best interests of the ward or conservatee. In making its determination, the court shall consider a written medical report which specifically considers the medical risks of the procedure, whether alternative, less restrictive methods of treatment could be used to protect the best interests of the ward or conservatee, and any recommendation of the commissioner of human services for a public ward or conservatee. The standard of proof is that of clear and convincing evidence.

(c) In the case of a petition for sterilization of a mentally retarded ward or conservatee, the court shall appoint a licensed physician, a psychologist who is qualified in the diagnosis and treatment of mental retardation, and a social worker who is familiar with the ward's or conservatee's social history and adjustment or the case manager for the ward or conservatee to examine or evaluate the ward or conservatee and to provide written reports to the court. The reports shall indicate why sterilization is being proposed, whether sterilization is necessary and is the least intrusive method for alleviating the problem presented, and whether it is in the best interests of the ward or conservatee. The medical report shall specifically consider the medical risks of sterilization, the consequences of not performing the sterilization, and whether alternative methods of contraception could be used to protect the best interests of the ward or conservatee.

(d) Any conservatee whose right to consent to a sterilization has not been restricted under this section or section 252A.101, may be sterilized only if the conservatee consents in writing or there is a sworn acknowledgment by an interested person of a nonwritten consent by the conservatee. The consent must certify that the conservatee has received a full explanation from a physician or registered nurse of the nature and irreversible consequences of the sterilization operation.

(e) A guardian or conservator or the public guardian's designee who acts within the scope of authority conferred by letters of guardianship under section 252A.101, subdivision 7, and according to the standards established in this chapter or in chapter 252A shall not be civilly or criminally liable for the provision of any necessary medical care, including but not limited to, the administration of psychotropic medication or the implementation of aversive and deprivation procedures to which the guardian or conservator or the public guardian's designee has consented.

(5) The power to approve or withhold approval of any contract, except for necessities, which the ward or conservatee may make or wish to make.

(6) The duty and power to exercise supervisory authority over the ward or conservatee in a manner which limits civil rights and restricts personal freedom only to the extent necessary to provide needed care and services.

Sec. 14. [INSTRUCTION TO REVISOR.]

*The revisor of statutes shall change the words "probate court" to "district court," where appropriate, in Minnesota Statutes 1994 and subsequent editions of the statutes.*

## ARTICLE 6

## PUBLIC HEALTH

Section 1. Minnesota Statutes 1992, section 16B.75, is amended to read:

16B.75 [INTERSTATE COMPACT ON INDUSTRIALIZED/MODULAR BUILDINGS.]

The state of Minnesota ratifies and approves the following compact:

## INTERSTATE COMPACT ON INDUSTRIALIZED/ MODULAR BUILDINGS

## ARTICLE I

## FINDINGS AND DECLARATIONS OF POLICY

(1) The compacting states find that:

(a) Industrialized/modular buildings are constructed in factories in the various states and are a growing segment of the nation's affordable housing and commercial building stock.

(b) The regulation of industrialized/modular buildings varies from state to state and locality to locality, which creates confusion and burdens state and local building officials and the industrialized/modular building industry.

(c) Regulation by multiple jurisdictions imposes additional costs, which are ultimately borne by the owners and users of industrialized/modular buildings, restricts market access and discourages the development and incorporation of new technologies.

(2) It is the policy of each of the compacting states to:

(a) Provide the states which regulate the design and construction of industrialized/modular buildings with a program to coordinate and uniformly adopt and administer the states' rules and regulations for such buildings, all in a manner to assure interstate reciprocity.

(b) Provide to the United States Congress assurances that would preclude the need for a voluntary preemptive federal regulatory system for modular housing, as outlined in Section 572 of the Housing and Community Development Act of 1987, including development of model standards for modular housing construction, such that design and performance will insure quality, durability and safety; will be in accordance with life-cycle cost-effective energy conservation standards; all to promote the lowest total construction and operating costs over the life of such housing.

## ARTICLE II

## DEFINITIONS

As used in this compact, unless the context clearly requires otherwise:

(1) "Commission" means the interstate industrialized/modular buildings commission.

(2) "Industrialized/modular building" means any building which is of closed construction, i.e. constructed in such a manner that concealed parts or processes of manufacture cannot be inspected at the site, without disassembly,

damage or destruction, and which is made or assembled in manufacturing facilities, off the building site, for installation, or assembly and installation, on the building site. "Industrialized/modular building" includes, but is not limited to, modular housing which is factory-built single-family and multi-family housing (including closed wall panelized housing) and other modular, nonresidential buildings. "Industrialized/modular building" does not include any structure subject to the requirements of the National Manufactured Home Construction and Safety Standards Act of 1974.

(3) "Interim reciprocal agreement" means a formal reciprocity agreement between a noncompacting state wherein the noncompacting state agrees that labels evidencing compliance with the model rules and regulations for industrialized/modular buildings, as authorized in Article VIII, section (9), shall be accepted by the state and its subdivisions to permit installation and use of industrialized/modular buildings. Further, the noncompacting state agrees that by legislation or regulation, and appropriate enforcement by uniform administrative procedures, the noncompacting state requires all industrialized/modular building manufacturers within that state to comply with the model rules and regulations for industrialized/modular buildings.

(4) "State" means a state of the United States, territory or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

(5) "Uniform administrative procedures" means the procedures adopted by the commission (after consideration of any recommendations from the rules development committee) which state and local officials, and other parties, in one state, will utilize to assure state and local officials, and other parties, in other states, of the substantial compliance of industrialized/modular building construction with the construction standard of requirements of such other states; to assess the adequacy of building systems; and to verify and assure the competency and performance of evaluation and inspection agencies.

(6) "Model rules and regulations for industrialized/modular buildings" means the construction standards adopted by the commission (after consideration of any recommendations from the rules development committee) which govern the design, manufacture, handling, storage, delivery and installation of industrialized/modular buildings and building components. The construction standards and any amendments thereof shall conform insofar as practicable to model building codes and referenced standards generally accepted and in use throughout the United States.

## ARTICLE III

## CREATION OF COMMISSION

The compacting states hereby create the Interstate Industrialized/Modular Buildings Commission, hereinafter called commission. Said commission shall be a body corporate of each compacting state and an agency thereof. The commission shall have all the powers and duties set forth herein and such additional powers as may be conferred upon it by subsequent action of the respective legislatures of the compacting states.

## ARTICLE IV

## SELECTION OF COMMISSIONERS

The commission shall be selected as follows. As each state becomes a

compacting state, one resident shall be appointed as commissioner. The commissioner shall be selected by the governor of the compacting state, being designated from the state agency charged with regulating industrialized/modular buildings or, if such state agency does not exist, being designated from among those building officials with the most appropriate responsibilities in the state. The commissioner may designate another official as an alternate to act on behalf of the commissioner at commission meetings which the commissioner is unable to attend.

Each state commissioner shall be appointed, suspended, or removed and shall serve subject to and in accordance with the laws of the state which said commissioner represents; and each vacancy occurring shall be filled in accordance with the laws of the state wherein the vacancy exists.

~~When~~ *For every* three state commissioners *who* have been appointed in the manner described, those state commissioners shall select one additional commissioner who shall be a representative of manufacturers of ~~industrial~~ *residential-* or commercial-use industrialized/modular buildings. ~~When~~ *For every* six state commissioners *who* have been appointed in the manner described, the state commissioners shall select ~~a second~~ *one* additional commissioner who shall be a representative of consumers of industrialized/modular buildings. ~~With each addition of three state commissioners, the state commissioners shall appoint one additional representative commissioner, alternating between a representative of manufacturers of industrialized/modular buildings and consumers of industrialized/modular buildings. The ratio between state commissioners and representative commissioners shall be three to one.~~ In the event states withdraw from the compact or, for any other reason, the number of state commissioners is reduced, the state commissioners shall remove the last added representative commissioner as necessary to maintain ~~a~~ *the* ratio of state commissioners to representative commissioners ~~of three to one~~ *described herein.*

Upon a majority vote of the state commissioners, the state commissioners may remove, fill a vacancy created by, or replace any representative commissioner, provided that any replacement is made from the same representative group and ~~a three to one ratio~~ *the ratio described herein* is maintained. Unless provided otherwise, the representative commissioners have the same authority and responsibility as the state commissioners.

In addition, the commission may have as a member one commissioner representing the United States government if federal law authorizes such representation. Such commissioner shall not vote on matters before the commission. Such commission shall be appointed by the President of the United States, or in such other manner as may be provided by Congress.

## ARTICLE V

## VOTING

Each commissioner (except the commissioner representing the United States government) shall be entitled to one vote on the commission. A majority of the commissioners shall constitute a quorum for the transaction of business. Any business transacted at any meeting of the commission must be by affirmative vote of a majority of the quorum present and voting.

ARTICLE VI

ORGANIZATION AND MANAGEMENT

The commission shall elect annually, from among its members, a chairman, a vice chairman and a treasurer. The commission shall also select a secretariat, which shall provide an individual who shall serve as secretary of the commission. The commission shall fix and determine the duties and compensation of the secretariat. The commissioners shall serve without compensation, but shall be reimbursed for their actual and necessary expenses from the funds of the commission.

The commission shall adopt a seal.

The commission shall adopt bylaws, rules, and regulations for the conduct of its business, and shall have the power to amend and rescind these bylaws, rules, and regulations.

The commission shall establish and maintain an office at the same location as the office maintained by the secretariat for the transaction of its business and may meet at any time, but in any event must meet at least once a year. The chairman may call additional meetings and upon the request of a majority of the commissioners of three or more of the compacting states shall call an additional meeting.

The commission annually shall make the governor and legislature of each compacting state a report covering its activities for the preceding year. Any donation or grant accepted by the commission or services borrowed shall be reported in the annual report of the commission and shall include the nature, amount and conditions, if any, of the donation, gift, grant or services borrowed and the identity of the donor or lender. The commission may make additional reports as it may deem desirable.

ARTICLE VII

COMMITTEES

The commission will establish such committees as it deems necessary, including, but not limited to, the following:

(1) An executive committee which functions when the full commission is not meeting, as provided in the bylaws of the commission. The executive committee will ensure that proper procedures are followed in implementing the commission's programs and in carrying out the activities of the compact. The executive committee shall be elected by vote of the commission. It shall be comprised of at least three and no more than nine commissioners, selected from ~~those commissioners who are representatives of the governor of their respective state~~ *the state commissioners and one member of the industry commissioners and one member of the consumer commissioners.*

(2) A rules development committee appointed by the commission. The committee shall be consensus-based and consist of not less than seven nor more than 21 members. Committee members will include state building regulatory officials; manufacturers of industrialized/modular buildings; private, third-party inspection agencies; and consumers. This committee may recommend procedures which state and local officials, and other parties, in one state, may utilize to assure state and local officials, and other parties, in other states, of the substantial compliance of industrialized/modular building

construction with the construction standard requirements of such other states; to assess the adequacy of building systems; and to verify and assure the competency and performance of evaluation and inspection agencies. This committee may also recommend construction standards for the design, manufacture, handling, storage, delivery and installation of industrialized/modular buildings and building components. The committee will submit its recommendations to the commission, for the commission's consideration in adopting and amending the uniform administrative procedures and the model rules and regulations for industrialized/modular buildings. The committee may also review the regulatory programs of the compacting states to determine whether those programs are consistent with the uniform administrative procedures or the model rules and regulations for industrialized/modular buildings and may make recommendations concerning the states' programs to the commission. In carrying out its functions, the rules committee may conduct public hearings and otherwise solicit public input and comment.

(3) Any other advisory, coordinating or technical committees, membership on which may include private persons, public officials, associations or organizations. Such committees may consider any matter of concern to the commission.

(4) Such additional committees as the commission's bylaws may provide.

## ARTICLE VIII

## POWER AND AUTHORITY

In addition to the powers conferred elsewhere in this compact, the commission shall have power to:

(1) Collect, analyze and disseminate information relating to industrialized/modular buildings.

(2) Undertake studies of existing laws, codes, rules and regulations, and administrative practices of the states relating to industrialized/modular buildings.

(3) Assist and support committees and organizations which promulgate, maintain and update model codes or recommendations for uniform administrative procedures or model rules and regulations for industrialized/modular buildings.

(4) Adopt and amend uniform administrative procedures and model rules and regulations for industrialized/modular buildings.

(5) Make recommendations to compacting states for the purpose of bringing such states' laws, codes, rules and regulations and administrative practices into conformance with the uniform administrative procedures or the model rules and regulations for industrialized/modular buildings, provided that such recommendations shall be made to the appropriate state agency with due consideration for the desirability of uniformity while also giving appropriate consideration to special circumstances which may justify variations necessary to meet unique local conditions.

(6) Assist and support the compacting states with monitoring of plan review programs and inspection programs, which will assure that the compacting

states have the benefit of uniform industrialized/modular building plan review and inspection programs.

(7) Assist and support organizations which train state and local government and other program personnel in the use of uniform industrialized/modular building plan review and inspection programs.

(8) Encourage and promote coordination of state regulatory action relating to manufacturers, public or private inspection programs.

(9) Create and sell labels to be affixed to industrialized/modular building units, constructed in or regulated by compacting states, where such labels will evidence compliance with the model rules and regulations for industrialized/modular buildings, enforced in accordance with the uniform administrative procedures. The commission may use receipts from the sale of labels to help defray the operating expenses of the commission.

(10) Assist and support compacting states' investigations into and resolutions of consumer complaints which relate to industrialized/modular buildings constructed in one compacting state and sited in another compacting state.

(11) Borrow, accept or contract for the services of personnel from any state or the United States or any subdivision or agency thereof, from any interstate agency, or from any institution, association, person, firm or corporation.

(12) Accept for any of its purposes and functions under this compact any and all donations, and grants of money, equipment, supplies, materials and services (conditional or otherwise) from any state or the United States or any subdivision or agency thereof, from any interstate agency, or from any institution, person, firm or corporation, and may receive, utilize and dispose of the same.

(13) Establish and maintain such facilities as may be necessary for the transacting of its business. The commission may acquire, hold, and convey real and personal property and any interest therein.

(14) Enter into contracts and agreements, including but not limited to, interim reciprocal agreements with noncompacting states.

## ARTICLE IX

## FINANCE

The commission shall submit to the governor or designated officer or officers of each compacting state a budget of its estimated expenditures for such period as may be required by the laws of that state for presentation to the legislature thereof.

Each of the commission's budgets of estimated expenditures shall contain specific recommendations of the amounts to be appropriated by each of the compacting states. The total amount of appropriations requested under any such budget shall be apportioned among the compacting states as follows: one-half in equal shares; one-fourth among the compacting states in accordance with the ratio of their populations to the total population of the compacting states, based on the last decimal federal census; and one-fourth among the compacting states in accordance with the ratio of industrialized/modular building units manufactured in each state to the total of all units manufactured in all of the compacting states.

The commission shall not pledge the credit of any compacting state. The commission may meet any of its obligations in whole or in part with funds available to it by donations, grants, or sale of labels: provided that the commission takes specific action setting aside such funds prior to incurring any obligation to be met in whole or in part in such manner. Except where the commission makes use of funds available to it by donations, grants or sale of labels, the commission shall not incur any obligation prior to the allotment of funds by the compacting states adequate to meet the same.

The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the audit and accounting procedures established under its bylaws. All receipts and disbursements of funds handled by the commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the commission.

The accounts of the commission shall be open at any reasonable time for inspection by duly constituted officers of the compacting states and any person authorized by the commission.

Nothing contained in this article shall be construed to prevent commission compliance relating to audit or inspection of accounts by or on behalf of any government contributing to the support of the commission.

## ARTICLE X

## ENTRY INTO FORCE AND WITHDRAWAL

This compact shall enter into force when enacted into law by any three states. Thereafter, this compact shall become effective as to any other state upon its enactment thereof. The commission shall arrange for notification of all compacting states whenever there is a new enactment of the compact.

Any compacting state may withdraw from this compact by enacting a statute repealing the same. No withdrawal shall affect any liability already incurred by or chargeable to a compacting state prior to the time of such withdrawal.

## ARTICLE XI

## RECIPROCITY

If the commission determines that the standards for industrialized/modular buildings prescribed by statute, rule or regulation of compacting state are at least equal to the commission's model rules and regulations for industrialized/modular buildings, and that such state standards are enforced by the compacting state in accordance with the uniform administrative procedures, industrialized/modular buildings approved by such a compacting state shall be deemed to have been approved by all the compacting states for placement in those states in accordance with procedures prescribed by the commission.

## ARTICLE XII

## EFFECT ON OTHER LAWS AND JURISDICTION

Nothing in this compact shall be construed to:

(1) Withdraw or limit the jurisdiction of any state or local court or administrative officer or body with respect to any person, corporation or other entity or subject matter, except to the extent that such jurisdiction pursuant to this compact, is expressly conferred upon another agency or body.

(2) Supersede or limit the jurisdiction of any court of the United States.

ARTICLE XIII

CONSTRUCTION AND SEVERABILITY

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any state or of the United States or the applicability thereof to any government, agency, person or circumstances is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the state affected as to all severable matters.

Sec. 2. [62A.156] [COVERAGE FOR PSYCHOLOGICAL ASSESSMENTS.]

*Subdivision 1.* [SCOPE OF COVERAGE.] *This section applies to all health plans, as defined in section 62A.011, that provide coverage to a Minnesota resident, issued, renewed, or continued as defined in section 60A.02, after August 1, 1994.*

*Subd. 2.* [REQUIRED COVERAGE.] *Every health plan included in subdivision 1 must provide coverage for psychological assessments necessary to determine eligibility to receive disability benefits under the Social Security Act.*

Sec. 3. [62A.306] [PRESCRIPTION DRUGS; EQUAL TREATMENT OF PRESCRIBERS.]

*Subdivision 1.* [SCOPE OF REQUIREMENT.] *This section applies to any of the following if issued or renewed to a Minnesota resident or to cover a Minnesota resident:*

*(1) a health plan, as defined in section 62A.011;*

*(2) coverage described in section 62A.011, subdivision 3, clause (2), (3), or (6) to (12);*

*(3) a contract of integrated service network coverage under chapter 62N.*

*Subd. 2.* [REQUIREMENT.] *Coverage described in subdivision 1 that covers prescription drugs must provide the same coverage for a prescription written by a health care provider authorized to prescribe the particular drug covered by the health coverage described in subdivision 1, regardless of the type of health care provider who wrote the prescription. This section is intended to prohibit denial of coverage based upon the prescription having been written, without limitation, by an advanced practice nurse under section 148.235 or by a physician assistant under section 147.34.*

Sec. 4. Minnesota Statutes 1992, section 62J.05, subdivision 2, is amended to read:

Subd. 2. [MEMBERSHIP.] (a) [NUMBER.] The Minnesota health care commission consists of ~~25~~ *26* members, as specified in this subdivision. A member may designate a representative to act as a member of the commission in the member's absence. The governor and legislature shall coordinate appointments under this subdivision to ensure gender balance and ensure that geographic areas of the state are represented in proportion to their population.

(b) [HEALTH PLAN COMPANIES.] The commission includes four members representing health plan companies, including one member appointed by the Minnesota Council of Health Maintenance Organizations, one member appointed by the Insurance Federation of Minnesota, one member appointed by Blue Cross and Blue Shield of Minnesota, and one member appointed by the governor.

(c) [HEALTH CARE PROVIDERS.] The commission includes ~~six~~ *seven* members representing health care providers, including one member appointed by the Minnesota Hospital Association, one member appointed by the Minnesota Medical Association, one member appointed by the Minnesota Nurses' Association, one rural physician appointed by the governor, and ~~two~~ *three* members appointed by the governor to represent providers other than hospitals, physicians, and nurses.

(d) [EMPLOYERS.] The commission includes four members representing employers, including (1) two members appointed by the Minnesota Chamber of Commerce, including one self-insured employer and one small employer; and (2) two members appointed by the governor.

(e) [CONSUMERS.] The commission includes five consumer members, including three members appointed by the governor, one of whom must represent persons over age 65; one appointed under the rules of the senate; and one appointed under the rules of the house of representatives.

(f) [EMPLOYEE UNIONS.] The commission includes three representatives of labor unions, including two appointed by the AFL-CIO Minnesota and one appointed by the governor to represent other unions.

(g) [STATE AGENCIES.] The commission includes the commissioners of commerce, employee relations, and human services.

(h) [CHAIR.] The governor shall designate the chair of the commission from among the governor's appointees.

Sec. 5. [144.394] [CHILDREN AND SECONDHAND SMOKE; MASS MEDIA PROGRAM.]

*The commissioner shall conduct a long-term mass media program to educate the public on the effects of secondhand smoke on children. The program must include, but is not limited to, the creation and use of television and radio media messages. The mass media program must be designed to last at least five years.*

Sec. 6. Minnesota Statutes 1992, section 144.804, subdivision 1, is amended to read:

Subdivision 1. [DRIVERS AND ATTENDANTS.] No publicly or privately owned basic ambulance service shall be operated in the state unless its drivers

and attendants possess a current emergency care course certificate authorized by rules adopted by the commissioner of health according to chapter 14. Until August 1, ~~1994~~ *1996*, a licensee may substitute a person currently certified by the American Red Cross in advanced first aid and emergency care or a person who has successfully completed the United States Department of Transportation first responder curriculum, and who has also been trained to use basic life support equipment as required by rules adopted by the commissioner under section 144.804, subdivision 3, for one of the persons on a basic ambulance, provided that person will function as the driver while transporting a patient. The commissioner may grant a variance to allow a licensed ambulance service to use attendants certified by the American Red Cross in advanced first aid and emergency care *and, until August 1, 1996, to use attendants who have successfully completed the United States Department of Transportation first responder curriculum, and who have been trained to use basic life support equipment as required by rules adopted by the commissioner under subdivision 3,* in order to ensure 24-hour emergency ambulance coverage. The commissioner shall study the roles and responsibilities of first responder units and report the findings by January 1, 1991. This study shall address at a minimum:

(1) education and training;

(2) appropriate equipment and its use;

(3) medical direction and supervision; and

(4) supervisory and regulatory requirements.

Sec. 7. Minnesota Statutes 1992, section 144A.47, is amended to read:

144A.47 [INFORMATION AND REFERRAL SERVICES.]

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

(1) general information and a summary of the range of prices of home care services in the state;

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

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

*(b) A home care provider is not required to provide information under paragraph (a) if the provider is (1) licensed as a licensed practical nurse under section 148.211; (2) providing home care services under the supervision of a registered nurse; and (3) is only employed by the person who receives home care services, or that person's guardian, conservator, or designated representative. For purposes of this paragraph, "employee" has the meaning given it in section 181.931.*

*(c) A home care provider described in paragraph (b) may voluntarily provide information for the purposes of paragraph (a).*

Sec. 8. [145.951] [CHILDREN HELPED IN LONG-TERM DEVELOPMENT.]

*The commissioner of health shall recommend to the legislature a plan for statewide implementation of a volunteer mentor home visiting program for the prevention of child abuse. This plan shall outline necessary state and private partnerships, home visiting program standards, mechanisms for reaching families for whom the program would be beneficial, volunteer screening, training, and ongoing support criteria, coordination of activities between home visiting programs, possible data systems and evaluation designs, as well as the fiscal impact for statewide implementation.*

*In developing recommendations for this program, the commissioner shall propose methods to ensure local administration of the program and coordination with local agencies in health, human services, and education, and careful screening and training of volunteers to provide program services. Training must prepare volunteers to:*

*(1) identify signs of abuse or other indications that a child may be at risk of abuse;*

*(2) help families develop communications skills;*

*(3) teach and reinforce healthy discipline techniques;*

*(4) provide other support a family needs to cope with stresses that increase the risk of abuse; and*

*(5) refer the family to other appropriate social services.*

*The commissioner's plan shall also include procedures whereby the local agency will provide ongoing support, supervision, and training for all volunteers. Training must be culturally appropriate and community-based and must incorporate input from parents who will be using the mentor services. The commissioner's plan shall be presented to the legislature no later than February 15, 1995, to be considered in the biennial budget plan for the department of health.*

Sec. 9. Minnesota Statutes 1992, section 145A.14, is amended by adding a subdivision to read:

*Subd. 5.* [COORDINATION OF CHILDHOOD SCREENINGS; GRANTS.] *(a) The commissioner of health shall award grants to community health boards to establish or operate programs that centralize and coordinate service delivery for childhood screenings, including those screenings required by the early childhood screening program, the early and periodic screening and treatment program, and the head start program.*

*(b) Grants must be awarded, using a request for proposal system, to community health boards with programs designed to:*

*(1) coordinate and contract with school districts, social service agencies, public health agencies, head start programs, and health providers to provide centralized delivery of all required childhood screenings;*

*(2) eliminate unnecessary duplication of childhood screenings;*

*(3) establish a centralized record keeping system;*

*(4) achieve increased childhood screening participation;*

*(5) foster early intervention to achieve specific public health goals, including, but not limited to, increased immunization rates; and*

*(6) fully access all available sources for funding of childhood screenings.*

*(c) Grant recipients must report to the commissioner of health within 45 days of the end of each year grant award period on the expenditure of the grant money and progress toward achieving the objectives under paragraph (b).*

Sec. 10. [148.631] [PURPOSE.]

*It is in the public interest to ensure that acupuncture practitioners meet the generally accepted standards of competence in the profession. The purpose of sections 148.632 to 148.637 is to limit the practice of acupuncture to those persons who meet standards of competence.*

Sec. 11. [148.632] [DEFINITIONS.]

*Subdivision 1.* [APPLICABILITY.] *The definitions in this section apply to sections 148.631 to 148.637.*

*Subd. 2.* [ACUPUNCTURE PRACTICE.] *"Acupuncture practice" means a system of health care using Oriental medical theory and its unique methods of diagnosis and treatment. Its treatment techniques include the insertion of acupuncture needles through the skin, and the use of other biophysical methods of acupuncture point stimulation, including, but not limited to, the use of moxibustion, Oriental massage techniques, electrical stimulation, laser stimulation, herbal therapies, dietary guidelines, breathing techniques, and exercise on the basis of Oriental medical principles. The object of the system is to maintain or restore health, improve physiological function, and relieve pain.*

*Subd. 3.* [ACUPUNCTURE NEEDLE.] *"Acupuncture needle" means a needle designed exclusively for acupuncture purposes. It has a solid core, with a tapered point, and is approximately 28-36 gauge in thickness.*

*Subd. 4.* [ACUPUNCTURE POINTS.] *"Acupuncture points" means specific anatomically described locations as defined by the National Commission for the Certification of Acupuncturists (NCCA) recognized acupuncture reference texts. The locations are particularly effective in influencing the body's function and health when stimulated according to Oriental theory and practice.*

*Subd. 5.* [ACUPUNCTURE PRACTITIONER.] *"Acupuncture practitioner" means a person certified to practice acupuncture as set forth under section 148.633.*

*Subd. 6.* [ADVISORY COUNCIL.] *"Advisory council" means the advisory council for acupuncture, established in section 148.634.*

*Subd. 7.* [COMMISSIONER.] *"Commissioner" means the commissioner of health.*

*Subd. 8.* [DIPLOMATE IN ACUPUNCTURE.] *"Diplomate in acupuncture" means a person is certified by the NCCA as having met the standards of*

*competence established by the NCCA, subscribes to the NCCA code of ethics, and has a current and active NCCA certification.*

*Current and active NCCA certification indicates successful completion of continued professional development and specified eligibility and academic requirements.*

*Subd. 9.* [ELECTRICAL STIMULATION.] *"Electrical stimulation" means a method of stimulating acupuncture points by the use of very low amperage electrical current. Electrical stimulation may be used by attachment of a device to an acupuncture needle or may be used transcutaneously without penetrating the skin.*

*Subd. 10.* [MOXIBUSTION.] *"Moxibustion" means the use of artemisia vulgaris alone or in combination with other herbs as a warming agent to affect acupuncture points.*

*Subd. 11.* [NATIONAL COMMISSION FOR THE CERTIFICATION OF ACUPUNCTURISTS.] *"NCCA" means the National Commission for the Certification of Acupuncturists, a nonprofit corporation organized under section 501(c)(6) of the Internal Revenue Code for scientific, educational, and testing purposes, including:*

*(1) establishing standards of competence for safe and effective practice of acupuncture and Oriental medicine;*

*(2) evaluating applicants' qualifications in relation to these established standards through the establishment and administration of national board examinations;*

*(3) certifying practitioners who are found to meet these standards; and*

*(4) acting as a consultant to state agencies in regulating, certifying, and licensing practitioners of acupuncture and Oriental medicine.*

*Subd. 12.* [ORIENTAL MEDICINE.] *"Oriental medicine" means the system of healing arts that perceives the circulation and balance of energy in the body as being fundamental to the well-being of the individual. It implements the theory through specialized methods of analyzing the energy status of the body and treating the body with acupuncture and other related modalities for the purpose of strengthening the body, improving energy balance, maintaining or restoring health, improving physiological function, and reducing pain.*

Sec. 12. [148.633] [CERTIFICATION.]

*Subdivision 1.* [CERTIFICATION REQUIRED.] *Except as provided under subdivision 2, it is unlawful for any person to engage in the practice of acupuncture after September 1, 1995, without a valid certification. Each certified acupuncture practitioner shall conspicuously display the certification in the place of practice.*

*Subd. 2.* [EXCEPTIONS.] *(a) The following persons may practice acupuncture within the scope of their practice without certification:*

*(1) physicians licensed under chapter 147;*

*(2) osteopaths licensed under chapter 147; and*

*(3) chiropractors licensed under chapter 148.*

*(b) A person who is (1) studying in a formal course of study or tutorial intern program approved by the advisory council if the acupuncture practice is limited to studying and providing an intern program supervised by a certified acupuncturist; or (2) a visiting acupuncture expert practicing acupuncture within an instructional setting for the sole purpose of teaching at a school registered with the Minnesota higher education coordinating board, may practice without a certificate for a period of one year, with two one-year extensions permitted.*

*Subd. 3.* [QUALIFICATIONS.] *An applicant must:*

*(1) be at least 21 years of age;*

*(2) have current and active certification as a diplomate in acupuncture by the NCCA by passing the NCCA examination or being certified by the NCCA credential documentation review, or have within the first two years of enactment of this law qualified for certification by meeting the following criteria:*

*(i) have an equivalent status from another country established by documentation of graduation from an acupuncture program of at least 1,350 hours at a school on the California acupuncture committee's list of approved foreign schools; and*

*(ii) has engaged in acupuncture practice for at least two years within the four years prior to application at a rate of a minimum of 500 treatments per year, which must be verifiable by patient records maintained by the applicant;*

*(3) provide documentation of successful completion of an approved clean needle technique course; and*

*(4) meet any other requirements established by the commissioner.*

*Subd. 4.* [CERTIFICATION EXPIRATION.] *Certifications issued under this section shall expire:*

*(1) as determined by the commissioner; or*

*(2) when the certificant is decertified by the NCCA.*

*Subd. 5.* [CERTIFICATION RENEWAL.] *(a)* [RENEWAL REQUIREMENTS.] *To renew a certification an applicant must:*

*(1) annually complete a renewal application on a form provided by the commissioner;*

*(2) submit the annual renewal fee;*

*(3) provide documentation of current and active NCCA certification, or in the case of those certified under the criteria for foreign acupuncture school graduates, meet the then current NCCA requirements for recertification; and*

*(4) submit any additional information requested by the commissioner to clarify information presented in the renewal application. The information must be submitted within 30 days after the commissioner's request.*

*(b)* [PENALTY FEE.] *An application submitted after the renewal deadline date must be accompanied by a penalty fee as established under section 148.637, subdivision 3.*

*(c)* [CERTIFICATION RENEWAL NOTICE.] *Certification renewal shall be on an annual basis or as determined by the commissioner. At least 30 days before the certification renewal date, the commissioner shall send out a renewal notice to the last known address of the certificant. The notice shall include a renewal application and a notice of fees required for renewal. If the certificant does not receive the renewal notice, the certificant is still required to make the deadline for renewal to qualify for continuous certification status.*

*(d)* [RENEWAL DEADLINE.] *The renewal application and fee must be postmarked on or before July 31 on the year of renewal or as determined by the commissioner.*

*Subd. 6.* [CERTIFICATE BY RECIPROCITY.] *The commissioner shall issue an acupuncture certification to a person who holds a current license or certificate as an acupuncturist from another jurisdiction if the commissioner determines that the standards for certification or licensure in the other jurisdiction meet or exceed the requirements for certification in Minnesota.*

*Subd. 7.* [INACTIVE STATUS.] *(a) A certification may be placed in inactive status upon application to the commissioner and upon payment of an inactive status fee equal to one-half the annual renewal fee.*

*(b) An inactive certification may be reactivated by the certification holder upon application to the commissioner. The application must include:*

*(1) evidence of current active NCCA certification;*

*(2) evidence of the certificate holder's payment of an inactive status fee; and*

*(3) an annual renewal fee.*

*Subd. 8.* [APPLICATION FOR CERTIFICATION.] *(a) An applicant for certification must:*

*(1) submit a completed application for certification on forms provided by the commissioner. The application must include the applicant's name, business address and phone number, home address and phone number, and a certified copy of a current NCCA certification. The commissioner may ask the applicant to provide additional information necessary to clarify information submitted in the application;*

*(2) sign a statement that the information in the application is true and correct to the best of the applicant's knowledge and belief;*

*(3) submit with the application all fees required; and*

*(4) sign a waiver authorizing the commissioner to obtain access to the applicant's records in this state or any state in which the applicant has engaged in the practice of acupuncture.*

*(b) The commissioner may investigate information provided by an applicant to determine whether the information is accurate and complete. The commissioner shall notify an applicant of action taken on the application and of the reasons for denying certification if certification is denied.*

*Subd. 9.* [USE OF TITLE.] *Only a person certified under this section shall use the title "acupuncturist" or the initials "C.A." and be allowed to advertise and represent themselves as such.*

Sec. 13. [148.634] [ADVISORY COUNCIL.]

*Subdivision 1.* [CREATION.] *An advisory council for acupuncture is created within the department of health. The advisory council shall consist of five members appointed by the commissioner. Each member shall serve a term of three years. Three members shall be certified acupuncture practitioners as defined under section 148.632; one member shall be a licensed physician or osteopath who also practices acupuncture; and one member shall be a member of the public who has received acupuncture from a diplomate of acupuncture.*

*Subd. 2.* [INITIAL ADVISORY COUNCIL APPOINTED.] *(a) The four members of the advisory council required by subdivision 1 to be acupuncture practitioners, who are appointed to the initial advisory council, need not be certified under section 148.633 but must satisfy the qualifications for certification provided in section 148.633, subdivision 3, and must have been engaged in acupuncture practice a minimum of three years.*

*(b) One member of the initial advisory council appointed shall have an initial term of one year, two members an initial term of two years, and two members an initial term of three years.*

*Subd. 3.* [ADMINISTRATION; COMPENSATION; REMOVAL; QUORUM.] *The advisory council is established and administered under section 15.059. Notwithstanding section 15.059, subdivision 5, the council shall not expire.*

*Subd. 4.* [DUTIES.] *The advisory council shall:*

*(1) advise the commissioner on issuance, renewal, revocation for cause, or placement of probationary restrictions on certifications to practice acupuncture;*

*(2) advise the commissioner on issues related to receiving, investigating, conducting hearings, and imposing disciplinary action in relation to complaints against acupuncture practitioners;*

*(3) maintain a register of acupuncture practitioners certified under section 148.633;*

*(4) maintain a record of all advisory council actions; and*

*(5) perform other duties authorized for advisory councils under chapter 214, as directed by the commissioner.*

Sec. 14. [148.635] [PROFESSIONAL CONDUCT.]

*Subdivision 1.* [PRACTICE STANDARDS.] *(a) Before a treatment of a patient, an acupuncture practitioner certified under section 148.633 shall ask whether the patient has been examined by a licensed physician or other professional, as defined by section 145.61, subdivision 2, with regard to the patient's illness or injury, and shall review the diagnosis as reported.*

*(b) An acupuncture practitioner must use sterilized equipment that meets the standards of the national Centers for Disease Control.*

*(c) An acupuncture practitioner shall comply with all applicable state and municipal requirements regarding public health.*

*(d) An acupuncture practitioner shall compile and maintain patient records. Data maintained on an acupuncture patient by an acupuncture practitioner is subject to section 144.335.*

*Subd. 2.* [GROUNDS FOR SANCTIONS OR DENIAL OF CERTIFICATION.] *The commissioner may discipline an acupuncture practitioner or deny an application for certification under procedures in subdivision 3 upon evidence of conduct prohibited by one or more of the following:*

*(1) violates any provision of sections 148.632 to 148.637 or other statutes or rules that relate to the practice of acupuncture;*

*(2) intentionally furnishes false, misleading, or incompetent information to the commissioner, the advisory council, or to the public;*

*(3) refuses to allow the commissioner to conduct inspections at reasonable times or refuses to cooperate with any investigation conducted by the commissioner or a representative of the commissioner, or fails to provide information within 30 days in response to a written request of the commissioner or representative of the commissioner;*

*(4) engages in unethical conduct, which includes conduct likely to deceive, defraud, or harm the public;*

*(5) demonstrates a willful or careless disregard for the health, safety, or welfare of a patient;*

*(6) aids or abets persons practicing acupuncture without certification, except as allowed in section 148.633, subdivision 2;*

*(7) is habitually intemperate or addicted to the use of alcohol or habit-forming drugs that impair the ability to practice acupuncture safely;*

*(8) engages in sexual conduct with a patient or in conduct that may reasonably be interpreted by the patient as sexual, or in verbal behavior that is seductive or sexually demeaning to a patient; or*

*(9) decertification by NCCA.*

*Subd. 3.* [PROCEDURE FOR SANCTIONS OR DENIAL OF CERTIFICATION.] *The commissioner shall refuse to issue or renew a certificate to an acupuncture practitioner who fails to satisfy the requirements for certification under sections 148.632 to 148.637. The commissioner may suspend, revoke, or impose probationary conditions on the certification of an acupuncture practitioner whom the commissioner determines has violated the standards of subdivision 1 or 2 or the rules promulgated by the commissioner. The commissioner shall establish a procedure for reinstating a certificate after a period of suspension. As a condition of reinstatement the commissioner may impose disciplinary or corrective measures.*

*Subd. 4.* [PENALTY.] *(a) A person who knowingly violates sections 148.632 to 148.637 is guilty of a misdemeanor.*

*(b) The commissioner or a county attorney may bring an action in the district court where the violation occurred to restrain a person from violating sections 148.632 to 148.637.*

*(c) The remedies in this section are in addition to other remedies or penalties provided by law.*

Sec. 15. [148.636] [NONDISCRIMINATION.]

*Nothing in sections 148.632 to 148.637 shall be interpreted as discriminating against, nor shall the commissioner discriminate against any person by reason of nationality, language facility, race, religion, sex or sexual preference, physical disability, except where a disability might interfere with the competent practice of acupuncture, or age, except for the minimum requirement established in section 148.633.*

Sec. 16. [148.637] [FEES.]

*Subdivision 1.* [FIRST-TIME CERTIFICATION AND APPLICANTS FOR CERTIFICATION RENEWAL.] *The commissioner shall prorate the certification fee for first-time certificants and applicants for certification renewal according to the number of months that have elapsed between the date certification is issued and the date the certificate must be renewed.*

*Subd. 2.* [ANNUAL CERTIFICATION FEE.] *The fee for initial certification and annual certification renewal is $783. Fees received must be deposited in the state treasury and credited to the state government special revenue fund.*

*Subd. 3.* [PENALTY FEE FOR LATE RENEWALS.] *The penalty fee for late submission of a renewal application shall be ten percent of the annual certification fee.*

Sec. 17. Minnesota Statutes 1993 Supplement, section 153A.14, is amended by adding a subdivision to read:

*Subd. 2a.* [EXCEPTIONS TO EXAMINATION REQUIREMENT.] *An applicant for a certificate to dispense hearing instruments may be exempted from the examination required in subdivision 2, if the applicant:*

*(1) provides the commissioner evidence of having successfully completed an equivalent examination in another jurisdiction within two years prior to the date of application for certification and possesses a current credential in active status and good standing from the credentialing authority; or*

*(2) is an audiologist registered by the commissioner and provides the commissioner evidence of having been issued a certificate of clinical competence in audiology from the American Speech-Learning-Hearing Association after January 1, 1979. If the commissioner finds that a registered audiologist has performed the services of a certified hearing instrument dispenser in an incompetent or negligent manner or in violation of any provision of this chapter, the commissioner may require that the audiologist pass the examination required by subdivision 2 before renewing a certificate.*

Sec. 18. [MANUFACTURED HOUSING STUDY; STATE ADMINISTRATION AND REGULATION.]

*The commissioner of administration shall study the current state and local oversight of manufactured housing and manufactured home parks, the regulation of manufactured housing and manufactured home parks, and the statewide enforcement of state laws on manufactured housing and manufactured home parks. Based on the findings, the commissioner shall recommend to the legislature by January 10, 1995, a plan to consolidate administrative responsibilities, regulatory duties, and enforcement of regulations for manufactured housing and manufactured home parks. In conducting the study, the commissioner shall consult with other state agencies, manufactured home park residents, associations representing manufactured home park residents,*

*manufactured home park owners, associations representing park owners, local governments, and associations representing local governments. State agencies shall cooperate with the commissioner in conducting the study and developing the recommendations. State agencies shall provide any information necessary to complete the study as required under this section. The study shall include:*

*(1) an inventory of the responsibilities for manufactured homes by agency and level of government including, but not limited to, manufactured home construction and installation standards, licensing of parks, brokers, dealers, and installers, manufactured home park standards, emergency weather procedures, other public safety concerns, consumer protection, and sales of manufactured housing;*

*(2) an assessment of delegated powers, and the effect, if any, of delegation on statewide standards and statewide application of manufactured housing laws;*

*(3) an inventory of the existing powers of state agencies and local government units to fulfill their administrative or regulatory responsibility for manufactured homes and manufactured home parks, including authority to inspect housing, parks, and severe weather shelters with an assessment of the effect, if any, of delegated powers;*

*(4) an assessment of current enforcement practices to achieve public health and safety goals; and*

*(5) an evaluation of how accessible and understandable the current system of administration and regulation is for residents of manufactured homes, park owners, local governments, and state and local officials.*

*The proposal must present a plan to coordinate the administration, regulation, and enforcement of laws on manufactured housing and manufactured home parks so that the services are delivered in a way that increases public safety and confidence, increases administrative efficiency, reduces costs, eliminates duplication of services, promotes access for residents and park owners, increases clarity in the system, and promotes accountability.*

Sec. 19. [EXPIRATION DATE.]

*Notwithstanding Minnesota Statutes, section 15.059, subdivision 5, the emergency medical services advisory council under Minnesota Statutes, section 144.8097, the maternal and child health advisory task force under Minnesota Statutes, section 145.881, and the community health advisory committee under Minnesota Statutes, section 145A.10, shall expire on June 30, 1997.*

Sec. 20. [EFFECTIVE DATE.]

*Section 1 is effective upon ratification by all signatory states to the interstate compact on industrialized/modular buildings.*

*Sections 10 to 16 are effective the day following final enactment.*

ARTICLE 7

HEALTH DEPARTMENT TECHNICAL

Section 1. Minnesota Statutes 1992, section 126A.02, subdivision 2, is amended to read:

Subd. 2. [BOARD MEMBERS.] ~~A 17 member~~ *An 18-member* board shall advise the director. The board is made up of the commissioners of the department of natural resources; the pollution control agency; the department of agriculture; the department of education; *the department of health;* the director of the office of strategic and long-range planning; the chair of the board of water and soil resources; the executive director of the higher education coordinating board; the executive secretary of the board of teaching; the director of the extension service; and eight citizen members representing diverse interests appointed by the governor. The governor shall appoint one citizen member from each congressional district. The citizen members are subject to section 15.0575. Two of the citizen members appointed by the governor must be licensed teachers currently teaching in the K-12 system. The governor shall annually designate a member to serve as chair for the next year.

Sec. 2. Minnesota Statutes 1992, section 144.0723, subdivision 1, is amended to read:

Subdivision 1. [CLIENT ~~REIMBURSEMENT~~ CLASSIFICATIONS.] The commissioner of health shall establish ~~reimbursement~~ classifications based upon the assessment of each client in intermediate care facilities for the mentally retarded conducted after December 31, 1988, under section 256B.501, subdivision 3g, ~~or under rules established by the commissioner of human services under section 256B.501, subdivision 3j~~. The ~~reimbursement~~ classifications established by the commissioner must conform to the rules established by the commissioner of human services to set payment rates for intermediate care facilities for the mentally retarded beginning on or after October 1, ~~1990~~ *1995*.

Sec. 3. Minnesota Statutes 1992, section 144.0723, subdivision 2, is amended to read:

Subd. 2. [NOTICE OF CLIENT ~~REIMBURSEMENT~~ CLASSIFICATION.] The commissioner of health shall notify each ~~client and~~ intermediate care facility for the mentally retarded ~~in which the client resides~~ of the ~~reimbursement classification~~ *classifications* established under subdivision 1 *for each client residing in the facility*. The notice must inform the ~~client~~ *intermediate care facility for the mentally retarded* of the ~~classification~~ *classifications* that ~~was~~ *are* assigned, the opportunity to review the documentation supporting the classification, the opportunity to obtain clarification from the commissioner, and the opportunity to request a reconsideration of ~~the classification~~ *any classifications assigned*. The notice of classification must be sent by first-class mail. ~~The individual client notices may be sent to the client's intermediate care facility for the mentally retarded for distribution to the client. The facility must distribute the notice to the client's case manager and to the client or to the client's representative. This notice must be distributed within three working days after the facility receives the notices from the department. For the purposes of this section, "representative" includes the client's legal representative as defined in Minnesota Rules, part 9525.0015, subpart 18, the person authorized to pay the client's facility expenses, or any other individual designated by the client.~~

Sec. 4. Minnesota Statutes 1992, section 144.0723, subdivision 3, is amended to read:

Subd. 3. [REQUEST FOR RECONSIDERATION.] The ~~client, client's representative, or the~~ intermediate care facility for the mentally retarded may request that the commissioner reconsider the assigned classification. The

request for reconsideration must be submitted in writing to the commissioner within 30 days after the receipt of the notice of client classification. The request for reconsideration must include the name of the client, the name and address of the facility in which the client resides, the reasons for the reconsideration, the requested classification changes, and documentation supporting the requested classification. The documentation accompanying the reconsideration request is limited to documentation establishing that the needs of the client *and services provided to the client* at the time of the assessment resulting in the disputed classification justify a change of classification.

Sec. 5. Minnesota Statutes 1992, section 144.0723, subdivision 4, is amended to read:

Subd. 4. [ACCESS TO INFORMATION.] *Annually, at the interdisciplinary team meeting, the intermediate care facility for the mentally retarded shall inform the client or the client's representative and case manager of the client's most recent classification as determined by the department of health.* Upon written request, the intermediate care facility for the mentally retarded must give the client's case manager, the client, or the client's representative a copy of the assessment form and the other documentation that was given to the department to support the assessment findings. ~~The facility shall also provide access to and a copy of other information from the client's record that has been requested by or on behalf of the client to support a client's reconsideration request. A copy of any requested material must be provided within three working days after the facility receives a written request for the information. If the facility fails to provide the material within this time, it is subject to the issuance of a correction order and penalty assessment. Notwithstanding this section, any order issued by the commissioner under this subdivision must require that the facility immediately comply with the request for information and that as of the date the order is issued, the facility shall forfeit to the state a $100 fine the first day of noncompliance, and an increase in the $100 fine by $50 increments for each day the noncompliance continues.~~

Sec. 6. Minnesota Statutes 1992, section 144.0723, subdivision 6, is amended to read:

Subd. 6. [RECONSIDERATION.] The commissioner's reconsideration must be made by individuals not involved in reviewing the assessment that established the disputed classification. The reconsideration must be based upon the initial assessment and upon the information provided to the commissioner under ~~subdivisions~~ *subdivision* 3 ~~and 5~~. If necessary for evaluating the reconsideration request, the commissioner may conduct on-site reviews. At the commissioner's discretion, the commissioner may review the ~~reimbursement~~ classifications assigned to all clients in the facility. Within 15 working days after receiving the request for reconsideration, the commissioner shall affirm or modify the original client classification. The original classification must be modified if the commissioner determines that the assessment resulting in the classification did not accurately reflect the status of the client at the time of the assessment. The ~~client and the~~ intermediate care facility for the mentally retarded shall be notified within five working days after the decision is made. The commissioner's decision under this subdivision is the final administrative decision of the agency.

Sec. 7. [144.1222] [PUBLIC POOLS.]

*The commissioner of health shall be responsible for the promulgation of rules and the enforcement of standards relating to the operation, maintenance,*

*design, installation, and construction of public pools and facilities related to them. The commissioner shall promulgate rules governing the collection of fees pursuant to section 144.122 to cover the cost of pool construction plan review, monitoring, and inspections.*

Sec. 8. Minnesota Statutes 1992, section 144.414, subdivision 3, is amended to read:

Subd. 3. [HEALTH CARE FACILITIES AND CLINICS.] (a) Smoking is prohibited in any area of a hospital, health care clinic, doctor's office, or other health care-related facility, other than a nursing home, boarding care facility, or licensed residential facility, except as allowed in this subdivision.

(b) Smoking by patients in a chemical dependency treatment program or mental health program may be allowed in a separated well-ventilated area pursuant to a policy established by the administrator of the program that identifies circumstances in which prohibiting smoking would interfere with the treatment of persons recovering from chemical dependency or mental illness.

*(c) Smoking by participants in peer reviewed scientific studies related to the health effects of smoking may be allowed in a separated well-ventilated area pursuant to a policy established by the administrator of the program to minimize exposure of nonsmokers to smoke.*

Sec. 9. Minnesota Statutes 1992, section 144.417, subdivision 1, is amended to read:

Subdivision 1. [RULES.] The state commissioner of health shall adopt rules necessary and reasonable to implement the provisions of sections 144.411 to 144.417, except as provided for in section 144.414.

~~The state commissioner of health may, upon request, waive the provisions of sections 144.411 to 144.417 if the commissioner determines there are compelling reasons to do so and a waiver will not significantly affect the health and comfort of nonsmokers.~~

Sec. 10. Minnesota Statutes 1993 Supplement, section 144.651, subdivision 21, is amended to read:

Subd. 21. [COMMUNICATION PRIVACY.] Patients and residents may associate and communicate privately with persons of their choice and enter and, except as provided by the Minnesota Commitment Act, leave the facility as they choose. Patients and residents shall have access, at their expense, to writing instruments, stationery, and postage. Personal mail shall be sent without interference and received unopened unless medically or programmatically contraindicated and documented by the physician in the medical record. There shall be access to a telephone where patients and residents can make and receive calls as well as speak privately. Facilities which are unable to provide a private area shall make reasonable arrangements to accommodate the privacy of patients' or residents' calls. Upon admission to a facility, ~~a patient or resident, or the patient's or resident's legal guardian or conservator, shall be given the opportunity to authorize disclosure of the patient's or resident's presence in the facility, to callers or visitors who may seek to communicate with the patient or resident. This disclosure option must be made available in all cases~~ where federal law prohibits unauthorized disclosure of patient or resident identifying information to callers and visitors, *the patient or resident, or the legal guardian or conservator of the patient or resident, shall*

*be given the opportunity to authorize disclosure of the patient's or resident's presence in the facility to callers and visitors who may seek to communicate with the patient or resident.* To the extent possible, the legal guardian or conservator of a patient or resident shall consider the opinions of the patient or resident regarding the disclosure of the patient's or resident's presence in the facility. This right is limited where medically inadvisable, as documented by the attending physician in a patient's or resident's care record. Where programmatically limited by a facility abuse prevention plan pursuant to section 626.557, subdivision 14, clause 2, this right shall also be limited accordingly.

Sec. 11. Minnesota Statutes 1993 Supplement, section 144.651, subdivision 26, is amended to read:

Subd. 26. [RIGHT TO ASSOCIATE.] Residents may meet with visitors and participate in activities of commercial, religious, political, as defined in section 203B.11 and community groups without interference at their discretion if the activities do not infringe on the right to privacy of other residents or are not programmatically contraindicated. This includes the right to join with other individuals within and outside the facility to work for improvements in long-term care. Upon admission to a facility, ~~a patient or resident, or the patient's or resident's legal guardian or conservator, shall be given the opportunity to authorize disclosure of the patient's or resident's presence in the facility, to callers or visitors who may seek to communicate with the patient or resident. This disclosure option must be made available in all cases~~ where federal law prohibits unauthorized disclosure of patient or resident identifying information to callers and visitors, *the patient or resident, or the legal guardian or conservator of the patient or resident, shall be given the opportunity to authorize disclosure of the patient's or resident's presence in the facility to callers and visitors who may seek to communicate with the patient or resident.* To the extent possible, the legal guardian or conservator of a patient or resident shall consider the opinions of the patient or resident regarding the disclosure of the patient's or resident's presence in the facility.

Sec. 12. Minnesota Statutes 1993 Supplement, section 144.99, subdivision 1, is amended to read:

Subdivision 1. [REMEDIES AVAILABLE.] The provisions of chapters 103I and 157 and sections 115.71 to 115.82; 144.12, subdivision 1, paragraphs (1), (2), (5), (6), (10), (12), (13), (14), and (15); 144.121; *144.1222;* 144.35; 144.381 to 144.385; 144.411 to 144.417; 144.491; 144.495; 144.71 to 144.76; 144.871 to 144.878; 144.992; 326.37 to 326.45; 326.57 to 326.785; 327.10 to 327.131; and 327.14 to 327.28 and all rules, orders, stipulation agreements, settlements, compliance agreements, licenses, registrations, certificates, and permits adopted or issued by the department or under any other law now in force or later enacted for the preservation of public health may, in addition to provisions in other statutes, be enforced under this section.

Sec. 13. Minnesota Statutes 1993 Supplement, section 144.99, subdivision 6, is amended to read:

Subd. 6. [CEASE AND DESIST.] The commissioner, or an employee of the department designated by the commissioner, may issue an order to cease an activity covered by subdivision 1 if continuation of the activity would result in an immediate risk to public health. An order issued under this paragraph is effective for a maximum of 72 hours. *In conjunction with the issuance of the cease and desist order, the commissioner may post a tag to cease use of or*

*cease continuation of the activity until the cease and desist order is lifted and the tag is removed by the commissioner.* The commissioner must seek an injunction or take other administrative action authorized by law to restrain activities for a period beyond 72 hours. The issuance of a cease and desist order does not preclude the commissioner from pursuing any other enforcement action available to the commissioner.

Sec. 14. Minnesota Statutes 1993 Supplement, section 157.08, is amended to read:

157.08 [LINENS, OTHER FURNISHINGS; ~~PROSECUTION~~.]

All hotels and motels in this state shall hereafter provide each bedroom with at least two clean towels daily for each guest and provide the main public washroom with clean individual towels. Individual towels shall not be less than nine inches wide and 13 inches long after being washed. This shall not prohibit the use of other acceptable hand drying devices.

All hotels, motels, lodging houses and resorts where linen is provided, hereafter shall provide each bed, bunk, cot, or sleeping place for the use of guests with pillowslips and under and top sheets; each sheet shall be not less than 99 inches long nor less than 24 inches wider than the mattress. A sheet shall not be used which measures less than 90 inches in length after being laundered; these sheets and pillowslips to be made of materials acceptable to the state commissioner of health, and all sheets and pillowslips, after being used by one guest, must be laundered in a manner acceptable to the commissioner before they are used by another guest, a clean set being furnished each succeeding guest.

All bedding, including mattresses, quilts, blankets, pillows, sheets, and comforts used in any hotel, motel, resort, or lodging house in this state must be kept clean. No bedding, including mattresses, quilts, blankets, pillows, sheets, or comforts, shall be used which are worn out or unfit for further use.

Effective measures shall be taken to eliminate any vermin infestation in any establishment licensed under this chapter. All rugs and carpets in all sleeping rooms shall be kept in good repair and maintained in a clean condition.

All tables, table linens, chairs, and other furniture, all hangings, draperies, curtains, carpets, and floors in all lodging houses, resorts, hotels, restaurants, boarding houses, or places of refreshment, shall be kept in good repair and in a clean and sanitary condition.

~~The county attorney of each county in this state shall, upon complaint on oath of the commissioner, or a duly authorized deputy, prosecute to termination before any court of competent jurisdiction, in the name of the state, a proper action or proceeding against any person or persons violating the provisions of this chapter or rules of the state commissioner of health.~~

Sec. 15. Minnesota Statutes 1993 Supplement, section 253B.03, subdivision 3, is amended to read:

Subd. 3. [VISITORS AND PHONE CALLS.] Subject to the general rules of the treatment facility, a patient has the right to receive visitors and make phone calls. The head of the treatment facility may restrict visits and phone calls on determining that the medical welfare of the patient requires it. Any limitation imposed on the exercise of the patient's visitation and phone call rights and the reason for it shall be made a part of the clinical record of the

patient. Upon admission to a facility, ~~a patient or resident, or the patient's or resident's legal guardian or conservator, shall be given the opportunity to authorize disclosure of the patient's or resident's presence in the facility, to callers or visitors who may seek to communicate with the patient or resident. This disclosure option must be made available in all cases~~ where federal law prohibits unauthorized disclosure of patient or resident identifying information to callers and visitors, *the patient or resident, or the legal guardian or conservator of the patient or resident, shall be given the opportunity to authorize disclosure of the patient's or resident's presence in the facility to callers and visitors who may seek to communicate with the patient or resident.* To the extent possible, the legal guardian or conservator of a patient or resident shall consider the opinions of the patient or resident regarding the disclosure of the patient's or resident's presence in the facility.

Sec. 16. Minnesota Statutes 1993 Supplement, section 253B.03, subdivision 4, is amended to read:

Subd. 4. [SPECIAL VISITATION; RELIGION.] A patient has the right to meet with or call a personal physician, spiritual advisor, and counsel at all reasonable times. Upon admission to a facility, ~~a patient or resident, or the patient's or resident's legal guardian or conservator, shall be given the opportunity to authorize disclosure of the patient's or resident's presence in the facility, to callers or visitors who may seek to communicate with the patient or resident. This disclosure option must be made available in all cases~~ where federal law prohibits unauthorized disclosure of patient or resident identifying information to callers and visitors, *the patient or resident, or the legal guardian or conservator of the patient or resident, shall be given the opportunity to authorize disclosure of the patient's or resident's presence in the facility to callers and visitors who may seek to communicate with the patient or resident.* To the extent possible, the legal guardian or conservator of a patient or resident shall consider the opinions of the patient or resident regarding the disclosure of the patient's or resident's presence in the facility. The patient has the right to continue the practice of religion.

Sec. 17. [OPTIONS REGARDING DISCHARGE OF NURSING HOME RESIDENTS FOR NONPAYMENT.]

*The commissioner of health shall submit to the legislature by February 15, 1995, options for amending Minnesota Statutes, section 144A.135, regarding discharge hearings for nursing home residents for nonpayment by a resident or responsible party. The options must take into consideration:*

*(1) a method for a shorter appeal process in nonpayment cases;*

*(2) a mechanism for addressing problems of financial exploitation of vulnerable adults;*

*(3) steps facilities should take to obtain payment prior to issuing a discharge notice;*

*(4) provision of services for residents facing discharge for nonpayment; and*

*(5) the feasibility of establishing an emergency fund to pay for services on a short-term basis when a discharge for nonpayment has been issued.*

Sec. 18. [TICK-BORNE DISEASE REPORT.]

*The commissioner, after consulting with representatives of local health departments, the lyme disease coalition of Minnesota, other affected state*

*agencies, the tourist industry, medical providers, and health plans, shall report to the legislature by December 15, 1994, a description of the scope and magnitude of tick-borne diseases in Minnesota, the appropriateness of current definitions of lyme disease used in Minnesota, propose measures to provide public and provider education to reduce the incidence of new tick-borne disease infections, and recommend mechanisms to fund increased tick and disease surveillance and prevention activities.*

Sec. 19. [REPEALER.]

*Minnesota Statutes 1992, section 144.0723, subdivision 5, is repealed. Minnesota Statutes 1993 Supplement, sections 157.082 and 157.09, are repealed.*"

Delete the title and insert:

"A bill for an act relating to the organization and operation of state government; appropriating money for the departments of human services and health, the ombudsman for mental health and mental retardation, the council on disability, veterans nursing homes board, housing finance, and other purposes with certain conditions; establishing and modifying certain programs; modifying the compact on industrialized/modular buildings; providing for appointments; amending Minnesota Statutes 1992, sections 13.42, subdivision 3; 16B.75; 62A.046; 62A.048; 62A.27; 62A.31, by adding a subdivision; 62J.05, subdivision 2; 126A.02, subdivision 2; 144.0723, subdivisions 1, 2, 3, 4, and 6; 144.414, subdivision 3; 144.417, subdivision 1; 144.804, subdivision 1; 144A.073, subdivisions 1, 3a, 4, 8, and by adding a subdivision; 144A.46, subdivision 2; 144A.47; 145A.14, by adding a subdivision; 148B.23, subdivisions 1 and 2; 148B.27, subdivision 2, and by adding a subdivision; 148B.60, subdivision 3; 245A.14, subdivision 7; 246.18, by adding a subdivision; 246.50, subdivision 5; 246.53, subdivision 1; 246.57, subdivision 1; 252.025, subdivision 1; and by adding subdivisions; 252.275, subdivisions 3, 4, and by adding a subdivision; 253.015, by adding a subdivision; 253B.03, subdivisions 6b and 6c; 253B.05, subdivisions 2 and 3; 253B.07, subdivisions 1, 2, 4, and by adding a subdivision; 253B.09, subdivision 2; 253B.12, subdivision 1; 253B.17, subdivision 1; 256.015, subdivisions 2 and 7; 256.045, subdivisions 3, 4, and 5; 256.74, by adding a subdivision; 256.9365, subdivisions 1 and 3; 256.9657, subdivision 4; 256.969, subdivisions 10, 16, and by adding a subdivision; 256B.042, subdivision 2; 256B.056, by adding a subdivision; 256B.059, subdivision 1; 256B.06, subdivision 4; 256B.0625, subdivisions 8, 8a, 25, and by adding subdivisions; 256B.0641, subdivision 1; 256B.0913, subdivision 8; 256B.0915, subdivision 5; 256B.15, subdivision 1a; 256B.431, subdivision 17; 256B.432, subdivisions 1, 2, 3, and 6; 256B.49, subdivision 4; 256B.501, subdivisions 1, 3, 3c, and by adding a subdivision; 256B.69, subdivision 4, and by adding a subdivision; 256D.03, subdivisions 3a and 3b; 256D.05, subdivision 3; 256D.16; 256D.425, by adding a subdivision; 256F.09; 256G.09, subdivision 1; 256H.05, subdivision 6; 257.62, subdivisions 1, 5, and 6; 257.64, subdivision 3; 257.69, subdivisions 1 and 2; 261.04, subdivision 2; 518.171, subdivision 5; 518.613, subdivision 7; 524.3-803; 524.3-1201; 525.56, subdivision 3; 528.08; 626.556, subdivisions 4, 10e, and by adding subdivisions; Minnesota Statutes 1993 Supplement, sections 13.46, subdivision 2; 62A.045; 144.651, subdivisions 21 and 26; 144.99, subdivisions 1 and 6; 144A.071, subdivisions 3 and 4a; 144A.073, subdivisions 2 and 3; 153A.14, by adding a subdivision; 157.08; 245.492, subdivisions 2, 6, 9, and 23; 245.493, subdivision 2; 245.4932, subdivisions 1, 2, 3, and 4;

245.494, subdivisions 1 and 3; 245.495; 245.496, subdivision 3, and by adding a subdivision; 245.97, subdivision 6; 246.18, subdivision 4; 252.46, subdivision 6, and by adding subdivisions; 253B.03, subdivisions 3 and 4; 256.9657, subdivision 2; 256.9685, subdivision 1; 256.969, subdivision 24; 256.9695, subdivision 3; 256B.059, subdivisions 3 and 5; 256B.0595, subdivisions 1, 2, 3, and 4; 256B.0625, subdivisions 19a, 20, and 37; 256B.0626; 256B.0911, subdivisions 2 and 7; 256B.0913, subdivisions 5 and 12; 256B.0915, subdivisions 1 and 3; 256B.15, subdivision 2; 256B.19, subdivision 1d; 256B.431, subdivisions 15, 23, and 24; 256B.432, subdivision 5; 256B.501, subdivisions 3g, 5a, and 8; 256D.03, subdivisions 3 and 4; 256I.04, subdivision 3; 256I.06, subdivision 1; 257.55, subdivision 1; 257.57, subdivision 2; 514.981, subdivisions 2 and 5; 518.171, subdivisions 1, 3, 4, 7, and 8; 518.611, subdivisions 2 and 4; 518.613, subdivision 2; 518.615, subdivision 3; 626.556, subdivision 11; proposing coding for new law in Minnesota Statutes, chapters 62A; 144; 145; 148; 245; 252; 253; 256; 256D; 461; 518; repealing Minnesota Statutes 1992, sections 62C.141; 62C.143; 62D.106; 62E.04, subdivisions 9 and 10; 144.0723, subdivision 5; 148B.23, subdivision 1a; 148B.28, subdivision 6; 252.275, subdivisions 4a and 10; 256B.501, subdivisions 3d, 3e, and 3f; 256D.065; Minnesota Statutes 1993 Supplement, sections 157.082; 157.09."

The motion prevailed. So the amendment was adopted.

H.F. No. 3210 was read the third time, as amended, and placed on its final passage.

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

The roll was called, and there were yeas 50 and nays 14, as follows:

Those who voted in the affirmative were:

| | | | | |
|---|---|---|---|---|
| Adkins | Finn | Kiscaden | Moe, R.D. | Reichgott Junge |
| Anderson | Flynn | Krentz | Mondale | Riveness |
| Beckman | Frederickson | Kroening | Morse | Sams |
| Berg | Hanson | Langseth | Murphy | Samuelson |
| Berglin | Hottinger | Larson | Neuville | Solon |
| Bertram | Janezich | Lesewski | Pappas | Spear |
| Betzold | Johnson, D.J. | Lessard | Piper | Stevens |
| Chandler | Johnson, J.B. | Luther | Pogemiller | Stumpf |
| Day | Johnston | Marty | Price | Vickerman |
| Dille | Kelly | Metzen | Ranum | Wiener |

Those who voted in the negative were:

| | | | | |
|---|---|---|---|---|
| Belanger | Johnson, D.E. | McGowan | Olson | Runbeck |
| Benson, D.D. | Knutson | Merriam | Pariseau | Terwilliger |
| Benson, J.E. | Laidig | Oliver | Robertson | |

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

## MOTIONS AND RESOLUTIONS – CONTINUED

Pursuant to Rule 10, Mr. Moe, R.D., Chair of the Committee on Rules and Administration, designated H.F. No. 2080 a Special Order to be heard immediately.

## SPECIAL ORDER

H.F. No. 2080: A bill for an act relating to agriculture; providing for uniformity of certain food laws with federal regulations; amending Minnesota

Statutes 1992, sections 31.101; 31.102, subdivision 1; 31.103, subdivision 1; and 31.104.

Mr. Frederickson moved to amend H.F. No. 2080 as follows:

Page 4, after line 11, insert:

"Sec. 5. [EFFECTIVE DATE.]

*Sections 1 to 4 are effective the day following final enactment.*"

The motion prevailed. So the amendment was adopted.

Mr. Sams moved to amend H.F. No. 2080 as follows:

Page 4, after line 11, insert:

"Sec. 5. Laws 1993, chapter 172, section 7, subdivision 4, is amended to read:

Subd. 4. Administration and Financial Service

5,818,000 5,686,000

$1,200,000 from the balance in the special account created in Minnesota Statutes, section 41.61, shall be transferred to the general fund by June 30, 1994.

$389,000 the first year and $389,000 the second year are for family farm security interest payment adjustments. If the appropriation for either year is insufficient, the appropriation for the other year is available for it. No new loans may be approved in fiscal year 1994 or 1995.

$199,000 the first year and $199,000 the second year are to manage the family farm advocacy program.

$80,000 the first year and $80,000 the second year are for grants to farmers for demonstration projects involving sustainable agriculture. If a project cost is more than $25,000, the amount above $25,000 must be cost-shared at a state-applicant ratio of one to one. Priorities must be given for projects involving multiple parties. Up to $20,000 each year may be used for dissemination of information about the demonstration grant projects. If the appropriation for either year is insufficient, the appropriation for the other is available.

$70,000 the first year and $70,000 the second year are for the Northern Crops Institute. These appropriations may be

spent to purchase equipment and are available until spent.

$150,000 the first year and $150,000 the second year are for grants to agriculture information centers. The grants are only available on a match basis. The funds may be released at the rate of two state dollars for each $1 of matching nonstate money that is raised. Any appropriated amounts not matched by April 1 of each year are available for other purposes within the department.

$45,000 the first year and $45,000 the second year are for payment of claims relating to livestock damaged by endangered animal species and agricultural crops damaged by elk. If the appropriation for either year is insufficient, the appropriation for the other year is available for it.

~~$80,000~~ *$115,000* the first year and ~~$80,000~~ *$115,000* the second year are for the seaway port authority of Duluth.

$19,000 the first year and $19,000 the second year is for a grant to the Minnesota livestock breeder's association.

Money from this appropriation may, at the discretion of the commissioner, be used for demonstration or pilot programs for farm animal waste management techniques or facilities. This money may not be used for these programs unless the commissioner has notified the chairs of the legislative committees or divisions with jurisdiction over appropriations for environmental and natural resources activities.

The unencumbered balance on June 1, 1993, of amounts authorized under Laws 1992, chapter 513, article 2, section 6, subdivision 5, for legal challenges to discriminatory aspects of the federal milk market order system are transferred to the supreme court for the same purposes.

Sec. 6. [EFFECTIVE DATE.]

*Section 5 is effective the day following final enactment.*"

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

H.F. No. 2080 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 61 and nays 0, as follows:

Those who voted in the affirmative were:

| | | | | |
|---|---|---|---|---|
| Adkins | Finn | Kroening | Murphy | Sams |
| Anderson | Flynn | Laidig | Neuville | Samuelson |
| Beckman | Frederickson | Langseth | Olson | Solon |
| Belanger | Hanson | Larson | Pappas | Spear |
| Benson, D.D. | Hottinger | Lesewski | Pariseau | Stevens |
| Benson, J.E. | Johnson, D.E. | Lessard | Piper | Stumpf |
| Berg | Johnson, D.J. | Luther | Pogemiller | Terwilliger |
| Berglin | Johnson, J.B. | Marty | Price | Vickerman |
| Bertram | Johnston | Merriam | Ranum | Wiener |
| Betzold | Kelly | Metzen | Reichgott Junge | |
| Chandler | Kiscaden | Moe, R.D. | Riveness | |
| Day | Knutson | Mondale | Robertson | |
| Dille | Krentz | Morse | Runbeck | |

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

## MOTIONS AND RESOLUTIONS – CONTINUED

Mr. Luther moved that S.F. No. 2395 be taken from the table. The motion prevailed.

S.F. No. 2395: A bill for an act relating to elections; providing for a local government election for election of county, municipal, and school district officers, and officers of all other political subdivisions except towns; superseding inconsistent general and special laws and home rule charter provisions; amending Minnesota Statutes 1992, sections 103C.301, subdivision 1; 103C.305, subdivisions 1, 2, and 6; 103C.311; 103C.315, subdivision 2; 122.23, subdivision 11; 122.25, subdivision 2; 123.34, subdivision 1; 128.01, subdivision 3; 200.01; 200.02, subdivision 10, and by adding a subdivision; 203B.05, subdivision 2; 204B.09; 204B.135, subdivision 4; 204B.14, by adding a subdivision; 204B.18, by adding a subdivision; 204B.19, subdivision 6; 204B.27, subdivisions 3 and 5; 204B.28, subdivision 1; 204B.32; 204B.34, subdivisions 2 and 4; 204B.35, subdivision 5; 204C.03, subdivision 4; 204C.28, subdivision 3; 204D.02; 204D.05, subdivisions 2 and 3; 204D.08, subdivision 6; 204D.09; 204D.10, subdivision 3; 205.02; 205.065, subdivisions 1, 2, 3, 4, and 5; 205.07, subdivision 1; 205.13, subdivisions 1, 2, and 6; 205.17, subdivision 1; 205.175, subdivision 1; 205.185, subdivisions 2 and 3; 205A.03, subdivisions 2 and 4; 205A.04, subdivision 1; 205A.06, subdivisions 1 and 5; 205A.09; 205A.10, subdivision 2; 205A.11; 365.51, subdivisions 1 and 3; 367.03, as amended; 382.01; 397.06; 397.07; 398.04; 412.02, subdivision 2; 412.021, subdivision 2; 412.571, subdivision 5; and 447.32, subdivisions 1 and 2; Minnesota Statutes 1993 Supplement, sections 122.23, subdivision 18; and 206.90, subdivision 6; proposing coding for new law in Minnesota Statutes, chapter 205; proposing coding for new law as Minnesota Statutes, chapter 204E; repealing Minnesota Statutes 1992, sections 205.07, subdivision 3; 205.17, subdivision 2; 205.18; 205.20; 205A.04, subdivision 2; 205A.06, subdivision 2; 410.21; and 447.32, subdivision 4.

Ms. Johnston moved to amend S.F. No. 2395 as follows:

Page 21, line 8, delete "; METROPOLITAN TOWNS"

Page 21, line 9, delete from "*located*" through page 21, line 10, to "*473.121*"

Page 32, line 12, delete "METROPOLITAN TOWNS" and insert "TOWNS WITH NOVEMBER ELECTIONS"

Page 32, line 13, delete from "*located*" through page 32, line 14, to "*473.121*"

The motion prevailed. So the amendment was adopted.

Mr. Betzold moved to amend S.F. No. 2395 as follows:

Page 2, lines 6 and 16, delete "*odd-numbered*" and insert "*even-numbered*"

Page 5, delete lines 20 to 30

Page 5, line 31, delete "*Subd. 2.*" and insert "*Subdivision 1.*"

Page 5, lines 32 and 36, delete "*1994*" and insert "*1995*"

Page 5, line 34, delete "*1998*" and insert "*1999*" and delete "*2000*" and insert "*2001*"

Page 6, lines 1 and 36, delete "*1998*" and insert "*1999*"

Page 6, lines 4 and 33, delete "*1994*" and insert "*1995*"

Page 6, lines 6 and 28, delete "*2000*" and insert "*1999*"

Page 6, line 8, delete "*1997*" and insert "*1996*" and delete " *2002*" and insert "*2001*"

Page 6, lines 9, 14, and 17, delete "*1996*" and insert "*1997*"

Page 6, lines 11 and 20, delete "*2000*" and insert "*2001*"

Page 6, line 12, delete "*2002*" and insert "*2003*"

Page 6, line 18, delete "*3*" and insert "*2*"

Page 6, line 19, delete "*1995*" and insert "*1996*"

Page 6, line 21, delete "*1997*" and insert "*1999*" and delete "*2002*" and insert "*2003*"

Page 6, lines 22, 27, and 31, delete "*1996*" and insert "*1995*"

Page 6, lines 23 and 26, delete "*2002*" and insert "*2001*"

Page 6, line 32, delete "*4*" and insert "*3*"

Page 6, line 34, delete "*1998*" and insert "*1999*" and delete "*2000*" and insert "*2001*"

Page 7, line 1, delete "*2000*" and insert "*2001*"

Page 7, lines 2 and 6, delete "*1994*" and insert "*1995*"

Page 7, line 3, delete "*1998*" and insert "*1999*"

Page 7, line 7, delete "*1995*" and insert "*1994*"

Page 7, line 8, delete "*2000*" and insert "*1999*"

Page 7, line 9, delete "*1997*" and insert "*1996*"

Page 7, line 10, delete "*2002*" and insert "*2001*"

Page 7, line 12, delete "*1996*" and insert "*1997*" and delete "*2000 or 2002*" and insert "*2001 or 2003*"

Page 7, line 15, delete "*2000*" and insert "*2001*" and delete "*2002*" and insert "*2003*"

Page 7, line 17, delete "*1996*" and insert "*1997*" and delete "*2000*" and insert "*2001*"

Page 7, line 20, delete "*1996*" and insert "*1997*"

Page 7, lines 32 and 33, delete "*1997*" and insert "*1998*"

Page 21, line 12, delete "*odd-numbered*" and insert "*even-numbered*"

Page 33, line 9, delete "*1997*" and insert "*1998*"

Page 36, line 21, delete "*odd-numbered*" and insert "*even-numbered*"

Page 36, lines 23, 24, 25, 26, and 28, delete "*even-numbered*" and insert "*odd-numbered*"

Page 37, line 2, delete "*even-numbered*" and insert "*odd-numbered*"

Page 37, line 3, delete "*even-numbered*" and insert "*odd-numbered*" in both places

Page 37, line 4, delete "*odd-numbered*" and insert "*even-numbered*"

Page 43, line 31, strike "even-numbered" and insert "*odd-numbered*"

Page 45, line 17, delete "*1997*" and insert "*1998*"

## CALL OF THE SENATE

Mr. Betzold imposed a call of the Senate for the balance of the proceedings on S.F. No. 2395. The Sergeant at Arms was instructed to bring in the absent members.

The question was taken on the adoption of the Betzold amendment.

The roll was called, and there were yeas 20 and nays 41, as follows:

Those who voted in the affirmative were:

| | | | | |
|---|---|---|---|---|
| Adkins | Betzold | Hottinger | Lessard | Piper |
| Beckman | Chandler | Johnston | Merriam | Ranum |
| Benson, J.E. | Finn | Kiscaden | Mondale | Stumpf |
| Berglin | Hanson | Laidig | Olson | Wiener |

Those who voted in the negative were:

| | | | | |
|---|---|---|---|---|
| Anderson | Janezich | Luther | Oliver | Samuelson |
| Belanger | Johnson, D.E. | Marty | Pariseau | Spear |
| Berg | Johnson, D.J. | McGowan | Pogemiller | Stevens |
| Bertram | Johnson, J.B. | Metzen | Price | Terwilliger |
| Cohen | Kelly | Moe, R.D. | Reichgott Junge | Vickerman |
| Day | Krentz | Morse | Riveness | |
| Dille | Kroening | Murphy | Robertson | |
| Flynn | Larson | Neuville | Runbeck | |
| Frederickson | Lesewski | Novak | Sams | |

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

Mr. Finn moved to amend S.F. No. 2395 as follows:

Page 2, lines 6 and 16, delete "*odd-numbered*" and insert "*even-numbered*"

Page 5, delete lines 20 to 30

Page 5, line 31, delete "*Subd. 2.*" and insert "*Subdivision 1.*"

Page 5, lines 32 and 36, delete "*1994*" and insert "*1995*"

Page 5, line 34, delete "*1998*" and insert "*1999*" and delete "*2000*" and insert "*2001*"

Page 6, lines 1 and 36, delete "*1998*" and insert "*1999*"

Page 6, lines 4 and 33, delete "*1994*" and insert "*1995*"

Page 6, lines 6 and 28, delete "*2000*" and insert "*1999*"

Page 6, line 8, delete "*1997*" and insert "*1996*" and delete " *2002*" and insert "*2001*"

Page 6, lines 9, 14, and 17, delete "*1996*" and insert "*1997*"

Page 6, lines 11 and 20, delete "*2000*" and insert "*2001*"

Page 6, line 12, delete "*2002*" and insert "*2003*"

Page 6, line 18, delete "*3*" and insert "*2*"

Page 6, line 19, delete "*1995*" and insert "*1996*"

Page 6, line 21, delete "*1997*" and insert "*1999*" and delete "*2002*" and insert "*2003*"

Page 6, lines 22, 27, and 31, delete "*1996*" and insert "*1995*"

Page 6, lines 23 and 26, delete "*2002*" and insert "*2001*"

Page 6, line 32, delete "*4*" and insert "*3*"

Page 6, line 34, delete "*1998*" and insert "*1999*" and delete "*2000*" and insert "*2001*"

Page 7, line 1, delete "*2000*" and insert "*2001*"

Page 7, lines 2 and 6, delete "*1994*" and insert "*1995*"

Page 7, line 3, delete "*1998*" and insert "*1999*"

Page 7, line 7, delete "*1995*" and insert "*1994*"

Page 7, line 8, delete "*2000*" and insert "*1999*"

Page 7, line 9, delete "*1997*" and insert "*1996*"

Page 7, line 10, delete "*2002*" and insert "*2001*"

Page 7, line 12, delete "*1996*" and insert "*1997*" and delete "*2000 or 2002*" and insert "*2001 or 2003*"

Page 7, line 15, delete "*2000*" and insert "*2001*" and delete "*2002*" and insert "*2003*"

Page 7, line 17, delete "*1996*" and insert "*1997*" and delete "*2000*" and insert "*2001*"

Page 7, line 20, delete "*1996*" and insert "*1997*"

Page 7, lines 32 and 33, delete "*1997*" and insert "*1998*"

Page 21, line 12, delete "*odd-numbered*" and insert "*even-numbered*"

Page 33, after line 2, insert:

"Sec. 54. Minnesota Statutes 1992, section 410.21, is amended to read:

410.21 [APPLICATION OF GENERAL ELECTION LAWS.]

The provisions of any charter of any such city adopted pursuant to this chapter shall be valid and shall control as to ~~nominations, primary elections, and~~ *the dates of* elections for municipal offices, notwithstanding that such charter provisions may be inconsistent with any general law relating thereto, and such general laws shall apply only in so far as consistent with such charter."

Page 33, line 5, after the fourth semicolon, insert "*and*"

Page 33, line 6, delete "*; and 410.21*"

Page 33, line 9, delete "*1997*" and insert "*1998*"

Renumber the sections of article 2 in sequence and correct the internal references

Page 36, line 21, delete "*odd-numbered*" and insert "*even-numbered*"

Page 36, lines 23, 24, 25, 26, and 28, delete "*even-numbered*" and insert "*odd-numbered*"

Page 37, line 2, delete "*even-numbered*" and insert "*odd-numbered*"

Page 37, line 3, delete "*even-numbered*" and insert "*odd-numbered*" in both places

Page 37, line 4, delete "*odd-numbered*" and insert "*even-numbered*"

Page 43, line 31, strike "even-numbered" and insert "*odd-numbered*"

Page 45, line 17, delete "*1997*" and insert "*1998*"

Amend the title accordingly

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 29 and nays 31, as follows:

Those who voted in the affirmative were:

| | | | | |
|---|---|---|---|---|
| Adkins | Bertram | Kiscaden | Metzen | Sams |
| Anderson | Betzold | Kroening | Olson | Samuelson |
| Beckman | Chandler | Laidig | Piper | Solon |
| Benson, D.D. | Finn | Lessard | Ranum | Vickerman |
| Benson, J.E. | Hottinger | McGowan | Riveness | Wiener |
| Berglin | Johnston | Merriam | Runbeck | |

Those who voted in the negative were:

| | | | | |
|---|---|---|---|---|
| Berg | Johnson, D.E. | Marty | Oliver | Stevens |
| Cohen | Johnson, D.J. | Moe, R.D. | Pappas | Stumpf |
| Day | Johnson, J.B. | Mondale | Pariseau | Terwilliger |
| Dille | Krentz | Morse | Price | |
| Flynn | Larson | Murphy | Reichgott Junge | |
| Frederickson | Lesewski | Neuville | Robertson | |
| Janezich | Luther | Novak | Spear | |

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

Ms. Kiscaden moved to amend S.F. No. 2395 as follows:

Page 2, line 4, delete "*city,*"

Page 2, line 5, after "*except*" insert "*cities and*"

Page 5, delete lines 31 to 36

Page 6, delete lines 1 to 17

Page 6, line 18, delete "*3*" and insert "*2*"

Page 6, line 32, delete "*4*" and insert "*3*"

Page 7, line 33, delete "*city,*"

Page 18, line 2, after "*date*" insert "*or on the first Tuesday after the second Monday in September of the even-numbered year*"

Page 19, line 6, after "*date*" insert "*or on the first Tuesday after the second Monday in September of the even-numbered year*"

Page 20, line 13, after "*date*" insert "*or on the first Tuesday after the first Monday in November of the even-numbered year*"

Amend the title as follows:

Page 1, line 3, delete ", municipal,"

Page 1, line 5, before "towns" insert "cities and"

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 13 and nays 46, as follows:

Those who voted in the affirmative were:

| | | | | |
|---|---|---|---|---|
| Benson, D.D. | Bertram | Larson | Ranum | Vickerman |
| Benson, J.E. | Betzold | Olson | Sams | |
| Berglin | Kiscaden | Pariseau | Samuelson | |

Those who voted in the negative were:

| | | | | |
|---|---|---|---|---|
| Adkins | Frederickson | Lesewski | Neuville | Solon |
| Anderson | Hanson | Lessard | Novak | Spear |
| Beckman | Janezich | Luther | Oliver | Stevens |
| Berg | Johnson, D.E. | Marty | Pappas | Stumpf |
| Chandler | Johnson, D.J. | McGowan | Piper | Terwilliger |
| Cohen | Johnson, J.B. | Merriam | Price | Wiener |
| Day | Johnston | Moe, R.D. | Reichgott Junge | |
| Dille | Krentz | Mondale | Riveness | |
| Finn | Kroening | Morse | Robertson | |
| Flynn | Laidig | Murphy | Runbeck | |

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

Mrs. Pariseau moved to amend S.F. No. 2395 as follows:

Page 2, line 3, delete "*county,*"

Page 2, line 5, after "*except*" insert "*counties and*"

Page 5, delete lines 20 to 30

Page 5, line 31, delete "*Subd. 2.*" and insert "*Subdivision 1.*"

Page 6, line 18, delete "*3*" and insert "*2*"

Page 6, line 32, delete "*4*" and insert "*3*"

Page 7, line 33, delete "*county,*"

Page 40, delete section 12

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

Amend the title as follows:

Page 1, line 3, delete "county,"

Page 1, line 5, before "towns" insert "counties and"

Page 1, line 28, delete "382.01;"

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 31 and nays 30, as follows:

Those who voted in the affirmative were:

| | | | | |
|---|---|---|---|---|
| Adkins | Betzold | Kroening | Olson | Stevens |
| Beckman | Dille | Larson | Pariseau | Stumpf |
| Benson, D.D. | Finn | Lesewski | Ranum | Vickerman |
| Benson, J.E. | Frederickson | Lessard | Runbeck | |
| Berg | Johnson, D.E. | Marty | Sams | |
| Berglin | Johnson, J.B. | McGowan | Samuelson | |
| Bertram | Kiscaden | Neuville | Spear | |

Those who voted in the negative were:

| | | | | |
|---|---|---|---|---|
| Anderson | Hottinger | Luther | Murphy | Reichgott Junge |
| Belanger | Janezich | Merriam | Novak | Riveness |
| Chandler | Johnson, D.J. | Metzen | Oliver | Robertson |
| Day | Johnston | Moe, R.D. | Pappas | Solon |
| Flynn | Krentz | Mondale | Piper | Terwilliger |
| Hanson | Laidig | Morse | Price | Wiener |

The motion prevailed. So the amendment was adopted.

S.F. No. 2395 was read the third time, as amended, and placed on its final passage.

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

The roll was called, and there were yeas 39 and nays 24, as follows:

Those who voted in the affirmative were:

| | | | | |
|---|---|---|---|---|
| Anderson | Chandler | Janezich | Kroening | Moe, R.D. |
| Beckman | Cohen | Johnson, D.J. | Langseth | Mondale |
| Belanger | Finn | Johnson, J.B. | Luther | Morse |
| Berg | Flynn | Johnston | Merriam | Novak |
| Berglin | Hottinger | Krentz | Metzen | Oliver |

| | | | | |
|---|---|---|---|---|
| Pappas | Reichgott Junge | Runbeck | Solon | Stumpf |
| Piper | Riveness | Sams | Spear | Vickerman |
| Price | Robertson | Samuelson | Stevens | |

Those who voted in the negative were:

| | | | | |
|---|---|---|---|---|
| Adkins | Day | Kiscaden | Marty | Pariseau |
| Benson, D.D. | Dille | Laidig | McGowan | Ranum |
| Benson, J.E. | Frederickson | Larson | Murphy | Terwilliger |
| Bertram | Hanson | Lesewski | Neuville | Wiener |
| Betzold | Johnson, D.E. | Lessard | Olson | |

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

## MOTIONS AND RESOLUTIONS – CONTINUED

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

## INTRODUCTION AND FIRST READING OF SENATE BILLS

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

Ms. Reichgott Junge introduced—

S.F. No. 2926: A bill for an act relating to drivers' licenses; reducing the fee for duplicate Minnesota identification cards; amending Minnesota Statutes 1992, section 171.07, subdivisions 3 and 3a; Minnesota Statutes 1993 Supplement, section 171.06, subdivision 2.

Referred to the Committee on Transportation and Public Transit.

Ms. Reichgott Junge and Mr. Knutson introduced—

S.F. No. 2927: A bill for an act relating to legislative enactments; providing for the correction of miscellaneous oversights, inconsistencies, ambiguities, unintended results, and technical errors of a noncontroversial nature; amending Minnesota Statutes 1992, section 272.488, subdivision 1, as amended.

Referred to the Committee on Rules and Administration.

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

S.F. No. 2928: A bill for an act relating to public administration; authorizing spending to acquire and to better public land and buildings and other public improvements of a capital nature with certain conditions; authorizing issuance of bonds; requiring payment for debt service; reducing certain earlier project authorizations and appropriations; establishing a library planning task force; providing for appointments; appropriating money, with certain conditions; amending Minnesota Statutes 1992, sections 16A.643, subdivision 1; 16B.24, subdivision 1; 16B.305, subdivision 2; 103G.005, by adding a subdivision; 103G.511; 103G.521, subdivision 1; 103G.535; 116.162, subdivision 2; 124.494, subdivisions 3, 4, 5, and 6; 135A.06, subdivision 4; 136.651; 167.51, subdivision 1; and 471.191, subdivision 1; Minnesota Statutes 1993 Supplement, sections 16B.335; 85.019, by adding a subdivision; 124.494, subdivisions 1, 2, and 4a; and 136.261, subdivision 1; Laws 1993, chapter 373, section 18; proposing coding for new law in Minnesota Statutes, chapters 16A; 16B; 84; 124C; 135A; 216C; and 268.

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

## 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 S.F. No. 2928 and that the rules of the Senate be so far suspended as to give S.F. No. 2928 its second and third reading and place it on its final passage. The motion prevailed.

S.F. No. 2928 was read the second time.

Mr. Merriam moved to amend S.F. No. 2928 as follows:

Page 2, line 3, delete "64,267,000" and insert "64,117,000"

Page 2, line 14, delete "5,610,000" and insert "5,760,000"

Page 12, line 55, delete "64,267,000" and insert "64,117,000"

Page 28, line 16, delete "5,610,000" and insert "5,760,000"

Page 33, line 37, delete "5,248,000" and insert "5,148,000"

The motion prevailed. So the amendment was adopted.

Mr. Merriam then moved to amend S.F. No. 2928 as follows:

Page 28, line 9, delete from "deposit" through page 28, line 10, to "the"

The motion prevailed. So the amendment was adopted.

Mr. Merriam then moved to amend S.F. No. 2928 as follows:

Page 38, line 29, delete from "*an*" though page 38, line 30, to "*bonds*" and insert "*the net proceeds of sale*"

The motion prevailed. So the amendment was adopted.

Mr. Merriam then moved to amend S.F. No. 2928 as follows:

Page 35, after line 18, insert:

"Sec. 29. Minnesota Statutes 1992, section 16A.641, subdivision 8, is amended to read:

Subd. 8. [APPROPRIATION OF PROCEEDS.] (a) The proceeds of bonds issued under each law are appropriated for the purposes described in the law and in this subdivision. This appropriation may never be canceled.

(b) Before the proceeds are received in the proper special fund, the commissioner may transfer to that fund from the general fund amounts not exceeding the expected proceeds. The commissioner shall return these amounts to the general fund by transferring proceeds when received. The amounts of these transfers are appropriated from the general fund and from the bond proceeds.

(c) Actual and necessary travel and subsistence expenses of employees and all other *nonsalary* expenses incidental to the sale, printing, execution, and delivery of bonds must be paid from the proceeds. The proceeds are appropriated for this purpose. *Bond proceeds must not be used to pay any part*

*of the salary of a state employee involved in the sale, printing, execution, or delivery of the bonds.*

(d) Bond proceeds remaining in a special fund after the purposes for which the bonds were issued are accomplished or abandoned, as certified by the head of the agency administering the special fund, or as determined by the commissioner, unless devoted under the appropriation act to another purpose designated in the act, shall be transferred to the state bond fund."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Mr. Morse moved to amend S.F. No. 2928 as follows:

Page 18, line 53, before the period, insert "or, if a suitable site is not available in Silver Bay, at another site determined by the commissioner in consultation with the North Shore Management Board"

Page 21, delete lines 52 to 55

Page 22, after line 15, insert:

"(d) No more than ten percent of this appropriation may be used for professional service costs associated with acquiring easements."

The motion prevailed. So the amendment was adopted.

Mr. Stumpf moved to amend S.F. No. 2928 as follows:

Page 5, delete lines 1 to 31 and insert:

"This appropriation is to prepare design development plans for an integrated campus in accordance with this subdivision.

(1) Rochester independent school district No. 535 and the state board of technical colleges may enter into an agreement for the sale of the Rochester technical college. The sale is contingent on state board of technical colleges' approval and passage of a referendum by the voters in Rochester school district No. 535. The sale price shall equal the appraised value, or $10,000,000, whichever is greater.

(2) It is the intent of the legislature that no technical college program reduction, apart from normal program review, shall occur as a result of this sale.

(3) The sale shall not cause the technical college to lease space or to move to any temporary site.

(4) The public post-secondary boards shall develop a master academic plan for the integrated campus. The plan shall be

submitted to the state board of technical colleges and the higher education board for approval.

(5) If the master academic plan is approved by both boards, the state board of technical colleges, in cooperation with the state board of community colleges, may proceed with the design development plans.

(6) The proceeds from the sale of the technical college to Rochester independent school district No. 535, are appropriated for the planning and construction necessary to integrate technical college programs into the university center and to add or modify space where necessary. The new technical college program space must be attached to and must maximize the current services, space, and programs of the technical college, the community college, state university, and University of Minnesota cooperative campus.

(7) The state board of technical colleges may not begin construction of this project until the legislature has reviewed the master academic plan submitted by the state board of technical colleges and the higher education board and approved the construction plans."

The motion prevailed. So the amendment was adopted.

Mr. Stumpf then moved to amend S.F. No. 2928 as follows:

Pages 60 to 62, delete section 56 and insert:

"Sec. 56. [LIBRARY PLANNING TASK FORCE.]

*Subdivision 1.* [TASK FORCE MEMBERSHIP.] *An 18-member planning task force for library and information services shall be established and shall be composed of: three representatives appointed by the chancellor of the higher education board, one of whom may be serving on the MINITEX advisory committee; two representatives appointed by the president of the University of Minnesota, one of whom may be serving on the MINITEX advisory committee; one representative appointed by the president of the Minnesota private college council; the director of MINITEX; one representative appointed by the commissioner of finance; one representative appointed by the executive director of the Minnesota higher education coordinating board; the director of the office of library development and services; five representatives of public libraries appointed by the director of library development and services; two representatives of elementary and secondary schools appointed by the commissioner of education; and one representative appointed by the governor. The executive director of the Minnesota higher education coordinating board shall confer with the other appointing author-*

*ities to ensure that at least one-half of the task force members are employed in occupations unrelated to library science. The executive director of the Minnesota higher education coordinating board shall convene the first meeting of the task force.*

*Subd. 2.* [PLAN REVIEW.] *The task force may review plans for proposed library projects, not including projects which have money available before January 1, 1995, for their construction, to ensure that they:*

*(1) provide regional and statewide access to library and information and archival services now and in the future;*

*(2) are integrated with current library and information services in Minnesota and beyond and are adaptable to future needs;*

*(3) are designed to promote coordinated exchange of information among Minnesota's post-secondary systems, public libraries, and elementary and secondary school libraries;*

*(4) include the use of appropriate technologies for current and future storage of electronic library information;*

*(5) have the capability to transmit information within and beyond Minnesota to national and international networks; and*

*(6) collaborate with multitype and regional public library systems established in Minnesota Statutes, sections 134.20 and 134.351.*

*Proposed library projects shall be considered for an appropriation after task force review. The task force shall report on its review of library projects to the legislature by December 15 each year.*

*Subd. 3.* [FINANCING SOURCE REVIEW.] *The task force may identify current library financing sources and make recommendations on how to use the money more efficiently. The task force may also identify additional financing sources. By February 1, 1995, the task force may provide recommendations to the legislature on financing structures that are designed to promote cooperation and collaboration among all libraries.*

*Subd. 4.* [ELECTRONIC LIBRARY COORDINATION PLANNING.] *The task force shall build upon the leadership initiatives provided by MINITEX and the post-secondary systems, relating to the development of electronic library and information services, and develop a vision of, and plans for, the coordinated use of electronic storage and transmission in providing library and information services. The plans shall:*

*(1) explore the feasibility of consolidating the PALS and LUMINA systems;*

*(2) provide for the selection of appropriate technology for storage of electronic library information;*

*(3) provide for the joint acquisition of electronic access to library information;*

*(4) provide for new approaches necessary to meet the needs of expanding numbers of distance learners;*

*(5) provide for, and make recommendations about, appropriate administrative structures for electronic library planning;*

*(6) explore the possibility of expanded relationships with neighboring states;*

*(7) in cooperation with the telecommunications council, the commissioner of administration, the Minnesota regional network, and other appropriate groups, plan for the coordinated use of telecommunications capability for the transmission of library and information services to Minnesota post-secondary systems, public libraries, and elementary and secondary school libraries, including appropriate connections to the INTERNET and eventually to the national information infrastructure; and*

*(8) identify, study, and make recommendations on any other matters that the task force deems necessary for coordination and expansion of electronic networks for the provision of library and information services.*

*The task force shall report to the legislature on its plans by December 15, 1995. The task force shall expire on June 30, 1999."*

The motion prevailed. So the amendment was adopted.

Mr. Berg moved to amend S.F. No. 2928 as follows:

Page 25, after line 44, insert:

"Subd. 12. Appleton Facility 20,000,000

$15,000,000 is for the state to purchase the Appleton Correctional Facility and $5,000,000 is to remodel it for state use."

Correct the section total, the summary by fund, and the bond sale authorization accordingly

## CALL OF THE SENATE

Mr. Beckman imposed a call of the Senate for the balance of the proceedings on S.F. No. 2928. The Sergeant at Arms was instructed to bring in the absent members.

The question was taken on the adoption of the Berg amendment. The motion did not prevail. So the amendment was not adopted.

Mr. Johnson, D.E. moved to amend S.F. No. 2928 as follows:

Page 11, after line 9, insert:

"(d) Mechanical Engineering 13,000,000

This appropriation is to renovate and reconstruct labs, classrooms, and offices in the older electrical engineering building. The board of regents must match the appropriation with a minimum of $6,000,000 of nonstate money. The legislature requests the board of regents to expend nonstate money prior to the expenditure of this appropriation."

Correct the subdivision and section totals, the summary by fund, and the bond sale authorization accordingly

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

Mr. Merriam moved that S.F. No. 2928 be laid on the table. The motion prevailed.

## RECESS

Mr. Moe, R.D. moved that the Senate do now recess until 5:00 p.m. The motion prevailed.

The hour of 5:00 p.m. having arrived, the President called the Senate to order.

## CALL OF THE SENATE

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

## MOTIONS AND RESOLUTIONS – CONTINUED

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

## MESSAGES FROM THE HOUSE

Mr. President:

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

S.F. No. 2289: A bill for an act relating to the environment; authorizing a person who wishes to construct or expand an air emission facility to reimburse certain costs of the pollution control agency; appropriating money; amending Minnesota Statutes 1992, section 116.07, subdivision 4d.

Senate File No. 2289 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned April 27, 1994

Mr. Merriam moved that the Senate do not concur in the amendments by the House to S.F. No. 2289, and that a Conference Committee of 3 members be appointed by the Subcommittee on Committees on the part of the Senate, to act with a like Conference Committee to be appointed on the part of the House. The motion prevailed.

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on Senate File No. 1712, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 1712: A bill for an act relating to towns; providing for financial

audits in certain circumstances; amending Minnesota Statutes 1992, section 367.36, subdivision 1.

Senate File No. 1712 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned April 27, 1994

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on Senate File No. 2303, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 2303: A bill for an act relating to highway safety; requiring persons age 55 or over to complete a refresher course in accident prevention in order to remain eligible for a reduction in private passenger vehicle insurance rates; amending Minnesota Statutes 1992, section 65B.28.

Senate File No. 2303 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned April 27, 1994

## REPORTS OF COMMITTEES

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

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

S.F. No. 2920: A bill for an act relating to legislation; providing for the engrossment, enrollment, and numbering of bills; amending Minnesota Statutes 1992, section 3C.04, subdivision 5.

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

Page 2, after line 6, insert:

"Sec. 2. Minnesota Statutes 1992, section 4.034, is amended to read:

4.034 [ENROLLED BILLS.]

When the governor signs an enrolled bill to finally enact it into law as provided by the constitution, the governor shall note on the enrolled bill the date and time of day of signing. The governor shall then file the bill with the secretary of state.

When the governor vetoes a bill, the governor shall file a notice with the secretary of state indicating the ~~chapter~~ *house file or senate file* number of the vetoed bill.

When the governor neither signs nor vetoes a bill and legislative adjournment does not prevent its return, then the governor shall file the bill with the

secretary of state with a notice that the governor is allowing the bill to become law without the governor's signature. If legislative adjournment does prevent its return, then the governor shall file a notice with the secretary of state indicating that the bill has been pocket vetoed. The notice must identify the enrolled bill by ~~chapter~~ *house file or senate file* number. The bill itself must be retained in the records of the governor's office."

Amend the title as follows:

Page 1, line 4, delete "section" and insert "sections"

Page 1, line 5, after "5" insert "; and 4.034"

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

## SECOND READING OF SENATE BILLS

S.F. No. 2920 was read the second time.

## MOTIONS AND RESOLUTIONS – CONTINUED

Mr. Marty moved that his name be stricken as a co-author to S.F. No. 2395. The motion prevailed.

Mr. Laidig moved that his name be stricken as a co-author to S.F. No. 2395. The motion prevailed.

## APPOINTMENTS

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

S.F. No. 2192: Ms. Berglin, Mr. Benson, D.D.; Ms. Piper, Mr. Sams and Ms. Kiscaden.

H.F. No. 1999: Mr. Riveness, Ms. Anderson and Mr. Larson.

H.F. No. 2046: Ms. Ranum, Mr. Laidig and Ms. Anderson.

H.F. No. 2227: Messrs. Sams, Bertram and Dille.

H.F. No. 3193: Mr. Pogemiller, Ms. Reichgott Junge and Mr. Belanger.

S.F. No. 2289: Mr. Merriam, Ms. Wiener and Mr. Laidig.

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

## MOTIONS AND RESOLUTIONS – CONTINUED

Mr. Merriam moved that S.F. No. 2928 be taken from the table. The motion prevailed.

S.F. No. 2928: A bill for an act relating to public administration; authorizing spending to acquire and to better public land and buildings and other public improvements of a capital nature with certain conditions; authorizing issuance of bonds; requiring payment for debt service; reducing certain earlier project authorizations and appropriations; establishing a library planning task force;

providing for appointments; appropriating money, with certain conditions; amending Minnesota Statutes 1992, sections 16A.643, subdivision 1; 16B.24, subdivision 1; 16B.305, subdivision 2; 103G.005, by adding a subdivision; 103G.511; 103G.521, subdivision 1; 103G.535; 116.162, subdivision 2; 124.494, subdivisions 3, 4, 5, and 6; 135A.06, subdivision 4; 136.651; 167.51, subdivision 1; and 471.191, subdivision 1; Minnesota Statutes 1993 Supplement, sections 16B.335; 85.019, by adding a subdivision; 124.494, subdivisions 1, 2, and 4a; and 136.261, subdivision 1; Laws 1993, chapter 373, section 18; proposing coding for new law in Minnesota Statutes, chapters 16A; 16B; 84; 124C; 135A; 216C; and 268.

Mr. Pogemiller moved to amend S.F. No. 2928 as follows:

Page 12, line 51, after the period, insert "The commissioner of education shall not award the grant until the school district can demonstrate to the commissioner's satisfaction that appropriate department of human services approval, including licensure, will be granted."

The motion prevailed. So the amendment was adopted.

Mrs. Benson, J.E. moved to amend S.F. No. 2928 as follows:

Page 3, line 57, delete "9,620,000" and insert "9,345,000"

Page 5, line 32, delete "225,000" and insert "500,000"

Correct the section total, the summary by fund, and the bond sale authorization accordingly

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

Ms. Pappas moved to amend S.F. No. 2928 as follows:

Page 66, line 17, after "*of*" insert "*nonprofit organizations and*"

The motion prevailed. So the amendment was adopted.

Mr. Merriam moved that S.F. No. 2928 be laid on the table. The motion prevailed.

Mr. Novak moved that his name be stricken as chief author and the name of Mr. Hottinger be shown as chief author to S.F. No. 2475. The motion prevailed.

Mr. Metzen moved that his name be stricken as a co-author to S.F. No. 2475. The motion prevailed.

Mr. Kelly moved that S.F. No. 2210 be taken from the table. The motion prevailed.

S.F. No. 2210: A bill for an act relating to health; Ramsey Health Care, Inc.; authorizing the public corporation to incorporate as a nonprofit corporation; terminating its status as a public corporation; providing for the care of the indigent of Ramsey county and other counties; providing for certain of its powers and duties; repealing Minnesota Statutes 1992, sections 246A.01; 246A.02; 246A.03; 246A.04; 246A.05; 246A.06; 246A.07; 246A.08; 246A.09; 246A.10; 246A.11; 246A.12; 246A.13; 246A.14; 246A.15; 246A.16; 246A.17; 246A.18; 246A.19; 246A.20; 246A.21; 246A.22; 246A.23; 246A.24; 246A.25; 246A.26; and 246A.27.

## CONCURRENCE AND REPASSAGE

Mr. Kelly moved that the Senate concur in the amendments by the House to S.F. No. 2210 and that the bill be placed on its repassage as amended. The motion prevailed.

S.F. No. 2210 was read the third time, as amended by the House, and placed on its repassage.

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

The roll was called, and there were yeas 62 and nays 0, as follows:

Those who voted in the affirmative were:

| | | | | |
|---|---|---|---|---|
| Adkins | Dille | Krentz | Morse | Riveness |
| Anderson | Finn | Laidig | Murphy | Robertson |
| Beckman | Flynn | Langseth | Neuville | Runbeck |
| Belanger | Frederickson | Larson | Novak | Sams |
| Benson, D.D. | Hanson | Lesewski | Oliver | Samuelson |
| Benson, J.E. | Hottinger | Lessard | Olson | Spear |
| Berg | Janezich | Luther | Pappas | Stevens |
| Berglin | Johnson, D.E. | Marty | Pariseau | Stumpf |
| Bertram | Johnson, J.B. | McGowan | Piper | Vickerman |
| Betzold | Johnston | Merriam | Pogemiller | Wiener |
| Chandler | Kelly | Metzen | Price | |
| Cohen | Kiscaden | Moe, R.D. | Ranum | |
| Day | Knutson | Mondale | Reichgott Junge | |

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

## MOTIONS AND RESOLUTIONS - CONTINUED

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

## MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 2362, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 2362 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted April 27, 1994

## CONFERENCE COMMITTEE REPORT ON H.F. NO. 2362

A bill for an act relating to animals; changing the definition of a potentially dangerous dog; changing the identification tag requirements for a dangerous dog; amending Minnesota Statutes 1992, sections 347.50, subdivision 3; and 347.51, subdivision 7.

April 25, 1994

The Honorable Irv Anderson
Speaker of the House of Representatives

The Honorable Allan H. Spear
President of the Senate

We, the undersigned conferees for H.F. No. 2362, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendment and that H.F. No. 2362 be further amended as follows:

Pages 1 and 2, delete section 2 and insert:

"Sec. 2. Minnesota Statutes 1992, section 347.51, subdivision 7, is amended to read:

Subd. 7. [TAG.] A dangerous dog registered under this section must have a standardized, easily identifiable tag identifying the dog as dangerous *and containing the uniform dangerous dog symbol,* affixed to the dog's collar at all times. *The commissioner of public safety, after consultation with animal control professionals, shall provide by rule for the design of the tag.*"

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

House Conferees: (Signed) Lyndon R. Carlson, Phyllis Kahn, Thomas Pugh

Senate Conferees: (Signed) Ember D. Reichgott Junge, James P. Metzen, Arlene J. Lesewski

Ms. Reichgott Junge moved that the foregoing recommendations and Conference Committee Report on H.F. No. 2362 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 2362 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 62 and nays 2, as follows:

Those who voted in the affirmative were:

| | | | | |
|---|---|---|---|---|
| Adkins | Flynn | Laidig | Murphy | Runbeck |
| Anderson | Frederickson | Langseth | Neuville | Sams |
| Beckman | Hanson | Larson | Novak | Samuelson |
| Belanger | Hottinger | Lesewski | Oliver | Solon |
| Benson, D.D. | Janezich | Lessard | Olson | Spear |
| Benson, J.E. | Johnson, D.E. | Luther | Pappas | Stevens |
| Berg | Johnson, J.B. | Marty | Pariseau | Stumpf |
| Bertram | Johnston | McGowan | Piper | Terwilliger |
| Betzold | Kelly | Merriam | Pogemiller | Vickerman |
| Chandler | Kiscaden | Metzen | Price | Wiener |
| Cohen | Knutson | Moe, R.D. | Ranum | |
| Day | Krentz | Mondale | Reichgott Junge | |
| Finn | Kroening | Morse | Riveness | |

Mr. Dille and Ms. Robertson voted in the negative.

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

## NOTICE OF RECONSIDERATION

Mr. Luther gave notice of intention to move for reconsideration of S.F. No. 2395.

## MOTIONS AND RESOLUTIONS – CONTINUED

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 bill was read the first time and referred to the committee indicated.

Messrs. Knutson, Pogemiller, Belanger and Ms. Wiener introduced—

S.F. No. 2929: A bill for an act relating to education; providing assistance to school districts by permitting the waiver of certain rules and statutes in response to a catastrophe; appropriating money for payment to independent school district No. 191, Burnsville; amending Minnesota Statutes 1992, section 121.11, by adding a subdivision.

Referred to the Committee on Finance.

## MEMBERS EXCUSED

Mr. Chmielewski was excused from the Session of today. Ms. Berglin was excused from the Session of today at 5:45 p.m. Mr. Johnson, D.J. was excused from the Session of today from 9:00 to 9:15 a.m. and at 4:00 p.m. Mr. Kelly was excused from the Session of today from 1:45 to 3:15 p.m. Mr. Laidig was excused from the Session of today from 9:00 to 9:30 a.m. Mr. Knutson was excused from the Session of today from 1:30 to 3:00 p.m.

## ADJOURNMENT

Mr. Moe, R.D. moved that the Senate do now adjourn until 8:30 a.m., Thursday, April 28, 1994. The motion prevailed.

Patrick E. Flahaven, Secretary of the Senate