

## Sec. 6. EFFECTIVE DATE; APPLICATION.

This act is effective the day following final enactment. Section 3 applies to a determination issued or an agreement entered into by the commissioner of the pollution control agency prior to its effective date if the determination or agreement meets the requirements of that section.

Presented to the governor April 17, 1992

Signed by the governor April 23, 1992, 11:55 a.m.

### CHAPTER 513—H.F.No. 2694

*An act relating to the organization and operation of state government; providing for programs relating to higher education; environment and natural resources; agriculture, transportation, semi-state, and regulatory agencies; economic and state affairs; health and human services; providing for regulation of certain activities and practices; making fund and account transfers; providing for fees; making grants; appropriating money and reducing earlier appropriations with certain conditions; amending Minnesota Statutes 1990, sections 3.21; 3.305; 3.736, subdivision 8; 5.09; 5.14; 10A.31, subdivision 4; 15.0597, subdivision 4; 16A.45, by adding a subdivision; 16A.48, subdivision 1; 16B.85, subdivision 5; 17.03, by adding subdivisions; 18B.26, subdivision 3; 43A.191, subdivision 2; 44A.0311; 60A.1701, subdivision 5; 72B.04, subdivision 10; 80A.28, subdivision 2; 82.21, subdivision 1; 82B.09, subdivision 1; 85A.04, subdivision 1; 89.035; 89.37, by adding a subdivision; 115D.04, subdivision 2; 116J.9673, subdivision 4; 116P.11; 136.60, by adding a subdivision; 136A.1354, subdivision 4; 136A.29, subdivision 9; 138.56, by adding a subdivision; 138.763, subdivision 1; 138.766; 141.21, by adding a subdivision; 144.122; 144.123, subdivision 2; 144A.071, subdivision 2; 144A.073, subdivisions 3, 3a, and 5; 144A.43, subdivisions 3 and 4; 144A.46, subdivision 5; 144A.51, subdivisions 4 and 6; 144A.52, subdivisions 3 and 4; 144A.53, subdivisions 2, 3, and 4; 144A.54, subdivision 1; 147.01, by adding a subdivision; 151.06, subdivision 1, and by adding a subdivision; 169.01, subdivision 55; 169.965, by adding a subdivision; 176.104, subdivision 2, and by adding subdivisions; 176.129, subdivisions 1 and 11; 176.183, subdivision 1; 182.666, subdivision 7; 204B.11, subdivision 1; 204B.27, subdivision 2; 204D.11, subdivisions 1 and 2; 237.701, subdivision 1; 240.14, subdivision 3; 245A.02, by adding subdivisions; 245A.07, subdivisions 2 and 3; 245A.11; 245A.13, subdivision 4; 252.025, subdivision 4; 254A.03, subdivision 2; 254B.06, subdivision 3; 256.12, by adding a subdivision; 256.81; 256.9655; 256.9695, subdivision 3; 256B.02, by adding subdivisions; 256B.035; 256B.056, subdivisions 1a, 2, 3, 5, and by adding a subdivision; 256B.057, by adding a subdivision; 256B.059, subdivisions 2 and 5; 256B.0595, subdivision 1; 256B.0625, by adding subdivisions; 256B.064, by adding a subdivision; 256B.092, by adding a subdivision; 256B.14, subdivision 2; 256B.15, subdivisions 1 and 2; 256B.19, by adding a subdivision; 256B.36; 256B.41, subdivisions 1 and 2; 256B.421, subdivision 1, and by adding a subdivision; 256B.431, subdivisions 2i, 4, and by adding subdivisions; 256B.432, by adding a subdivision; 256B.433, subdivisions 1, 2, and 3; 256B.48, subdivisions 1b, 2, 3, 4, and by adding subdivisions; 256B.495, subdivisions 1, 2, and by adding subdivisions; 256B.50, subdivisions 1b and 2; 256B.501, sub-*

New language is indicated by underline, deletions by ~~strikeout~~.

*division 3c, and by adding subdivisions; 256C.28, subdivisions 2 and 3; 256D.02, subdivision 8, and by adding subdivisions; 256D.03, by adding a subdivision; 256D.051, by adding a subdivision; 256D.06, subdivision 5, and by adding a subdivision; 256D.35, subdivision 11; 256D.54, subdivision 3; 256E.14; 256H.01, subdivision 9, and by adding a subdivision; 256H.10, subdivision 1; 256I.01; 256I.02; 256I.03, subdivisions 2 and 3; 256I.04, as amended; 256I.05, subdivisions 1, 3, 6, 8, 9, and by adding a subdivision; 256I.06; 270.063; 270.71; 298.221; 299E.01, subdivision 1; 299F.011, subdivision 4a; 340A.301, subdivision 6; 340A.302, subdivision 3; 340A.315, subdivision 1; 340A.317, subdivision 2; 340A.408, subdivision 4; 345.32; 345.33; 345.34; 345.35; 345.36; 345.37; 345.38; 345.39; 345.42, subdivision 3; 349.161, subdivision 4; 349.163, subdivision 2; 352.04, subdivisions 2 and 3; 353.27, subdivision 13; 356.65, subdivision 1; 357.021, subdivision 1a; 357.18, by adding a subdivision; 359.01, subdivision 3; 363.071, by adding a subdivision; 363.14, subdivisions 2 and 3; 466.06; 490.123, by adding a subdivision; 514.67; 518.551, subdivisions 7 and 10; 609.131, by adding a subdivision; 609.5315, by adding a subdivision; 611.27, by adding subdivisions; and 626.861, subdivision 3; Minnesota Statutes 1991 Supplement, sections 16A.45, subdivision 1; 16A.723, subdivision 2; 17.63; 28A.08; 41A.09, subdivision 3; 60A.14, subdivision 1; 84.0855; 89.37, subdivision 4; 121.936, subdivision 1; 135A.03, subdivisions 1a and 7; 136A.101, subdivision 8; 136A.121, subdivision 6; 136A.1353, subdivision 4; 144.50, subdivision 6; 144A.071, subdivision 3; 144A.31, subdivision 2a; 144A.46, subdivisions 1 and 2; 144A.49; 144A.51, subdivision 5; 144A.53, subdivision 1; 144A.61, subdivisions 3a and 6a; 144B.01, subdivisions 5, 6, and by adding a subdivision; 144B.10, subdivision 2; 147.03; 148.91, subdivision 3; 148.921, subdivision 2; 148.925, subdivisions 1, 2, and by adding a subdivision; 168.129, subdivisions 1 and 2; 182.666, subdivision 2; 240.13, subdivisions 5 and 6; 240.15, subdivision 6; 240.18, by adding a subdivision; 245A.03, subdivision 2; 245A.04, subdivision 3; 245A.16, subdivision 1; 251.011, subdivision 3; 252.28, subdivision 1; 252.46, subdivision 3; 252.50, subdivision 2; 254B.04, subdivision 1; 256.031, subdivision 3; 256.033, subdivisions 1, 2, 3, and 5; 256.034, subdivision 3; 256.035, subdivision 1; 256.0361, subdivision 2; 256.035, subdivision 1; 256.935, subdivision 1; 256.9656; 256.9657, subdivisions 1, 2, 3, 4, 7, and by adding a subdivision; 256.9685, subdivision 1; 256.969, subdivisions 1, 2, 9, 20, and 21; 256.9751, subdivisions 1 and 6; 256.98, subdivision 8; 256B.0625, subdivisions 2, 13, and 17; 256B.0627, subdivision 5, as amended; 256B.064, subdivision 2; 256B.0911, subdivisions 3, 8, and by adding a subdivision; 256B.0913, subdivisions 4, 5, 8, 11, 12, and 14; 256B.0915, subdivision 3, and by adding subdivisions; 256B.0917, subdivisions 3, 4, 5, 6, 7, 8, and 11; 256B.0919, subdivision 1; 256B.092, subdivisions 4 and 7; 256B.093, subdivisions 1, 2, and 3; 256B.431, subdivisions 2l, 2m, 2o, and 3f; 256B.49, subdivision 4; 256B.74, subdivisions 1 and 3; 256D.03, subdivisions 3 and 4; 256D.05, subdivision 1; 256D.051, subdivision 1; 256H.03, subdivisions 4 and 6; 256H.05, subdivision 1b, and by adding a subdivision; 256I.05, subdivisions 1a, 1b, 2, and 10; 261.035; 340A.311; 340A.316; 340A.504, subdivision 3; 349A.10, subdivision 3; 357.021, subdivision 2; 508.82; 508A.82; 611.27, subdivision 7; 626.861, subdivisions 1 and 4; Laws 1987, chapter 396, article 12, section 6, subdivision 2; Laws 1991, chapter 233, section 2, subdivision 2; Laws 1991, chapter 254, article 1, section 7, subdivision 5; and Laws 1991, chapter 356, articles 1, section 5, subdivision 4; 2, section 6, subdivision 3; and 6, section 4, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 4A; 16B; 44A; 84; 115B; 136C; 144; 144A; 149; 244; 245A; 246; 256; 256B; 256D; 256I; and 501B; repealing Minnesota Statutes 1990, sections 41A.051; 84.0885; 89.036; 136A.143; 136C.13, subdivision 2; 141.21, subdivision 2; 144A.15, subdivision 6; 211A.04, subdivision 2; 245A.14, subdivision 5; 245A.17; 252.46, subdivision 15;*

New language is indicated by underline, deletions by ~~strikeout~~.

256B.056, subdivision 3a; 256B.495, subdivision 3; 256D.09, subdivision 3; 256I.05, subdivision 7; and 270.185; Minnesota Statutes 1991 Supplement, sections 97A.485, subdivision 1a; 135A.50; 144A.071, subdivision 3a; 256.9657, subdivision 5; 256.969, subdivision 7; 256B.74, subdivisions 8 and 9; 256I.05, subdivision 7a; 326.991; and Laws 1991, chapters 292, article 4, section 77; and 356, article 3, section 14.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

---

**ARTICLE 1**

**HIGHER EDUCATION**

**Section 1. HIGHER EDUCATION APPROPRIATIONS**

The dollar amounts in the columns under "APPROPRIATIONS" are added to or, if shown in parentheses, are subtracted from the appropriations in Laws 1991, chapter 356, or other law to the specified agencies. The appropriations are from the general fund or other named fund and are available for the fiscal years indicated for each purpose. The figure 1992 or 1993 means that the addition to or subtraction from the appropriations listed under the figure are for the fiscal year ending June 30, 1992, or June 30, 1993, respectively. If only one figure is shown in the text for a specified purpose, the addition or subtraction is for 1993 unless the context intends another fiscal year.

**SUMMARY BY FUND**

	1992	1993	TOTAL
General	\$15,000	(\$29,015,000)	(\$29,000,000)
Special Revenue	(\$70,000)		(\$70,000)

**SUMMARY BY AGENCY - ALL FUNDS**

	1992	1993	TOTAL
State Board for Technical Colleges		(5,785,000)	(5,785,000)
State Board for Community Colleges		(3,503,000)	(3,503,000)
State University Board	15,000	(4,014,000)	(3,999,000)
Board of Regents of the University of Minnesota		(15,713,000)	(15,713,000)

**APPROPRIATIONS**  
Available for the Year  
Ending June 30  
1992                      1993

## Sec. 2. HIGHER EDUCATION COORDINATING BOARD

### Subdivision 1. Special Revenue Fund Cancellation

\$70,000 from the post-high school planning program is canceled to the general fund not later than June 30, 1992.

### Subd. 2. Agency Administration

The legislature intends that the higher education coordinating board dedicate at least .7 of a position for the regulation of private proprietary schools under Minnesota Statutes, chapter 141.

During the biennium, the higher education coordinating board may expend money from the agency administration appropriation to continue membership in the Western Interstate Commission for Higher Education.

### Subd. 3. State Grants

The legislature intends that the higher education coordinating board make full grant awards in fiscal year 1993. If the fiscal year 1993 appropriation is insufficient to make full awards, the commissioner of finance shall transfer up to \$4,000,000 from appropriations to the post-secondary systems, in proportion to each system's appropriation, to the state grant program. Any surplus remaining after making awards shall be returned to the systems in the same proportion in which it was transferred. The board may request an appropriation in the 1993 legislative session if the transfer is insufficient to make full awards.

During the biennium, if the cost of making full awards is less than the money available to the state grant program, the commissioner of finance shall transfer the excess appropriation from

the state grant program to the post-secondary systems, in proportion to each system's appropriation.

To provide continuity in student financial aid, students enrolled for six or seven credits during the 1992-1993 academic year shall be eligible to apply for state grants under Minnesota Statutes, section 136A.121.

**Sec. 3. STATE BOARD OF TECHNICAL COLLEGES**

Total Appropriation Changes (5,785,000)

**Sec. 4. STATE BOARD FOR COMMUNITY COLLEGES**

Subdivision 1. Total Appropriation Changes (3,503,000)

Subd. 2. Worthington Community College

The appropriation in Laws 1990, chapter 610, article 1, section 3, subdivision 12, to renovate and construct space at Worthington community college, may also be used to construct a new learning resource center.

Subd. 3. Duluth Technical College And Community College Center

The state board for community colleges and the state board of technical colleges shall develop and implement an integrated administrative structure and coordinated program delivery for the technical college and the community college center at Duluth.

**Sec. 5. STATE UNIVERSITY BOARD**

Total Appropriation Changes 15,000 (4,014,000)

The legislature directs the state university board to resolve claims associated with the Kummer landfill. This direction is not an admission of liability for

any purpose by the state or the board for any act or omission related to the release or clean up of hazardous substances, pollutants, or contaminants from the landfill.

\$15,000 is for expenses associated with the task force on post-secondary funding.

The state university board may demolish and replace the Anishinabe Center on the Bemidji State University campus. The demolition and replacement must be carried out with Bemidji State University Foundation or other non-state money. The new center must be on state university land and must be state owned.

**Sec. 6. BOARD OF REGENTS OF THE UNIVERSITY OF MINNESOTA**  
Total Appropriation Changes

(15,713,000)

**Sec. 7. POST-SECONDARY SYSTEMS**

Subdivision 1. During the biennium, it is the intent of the legislature to protect, to the extent possible, instructional and educational programs, and programs supportive of undergraduate and graduate students, by directing budget reductions at areas peripheral to the system missions.

Subd. 2. The base budget for each higher education system shall be determined as follows:

(a) Calculate the appropriation that was in effect prior to the passage of this article.

(b) Reductions due to enrollment declines shall be calculated.

(c) A comparison shall be made between the enrollment decline number and the reduction in this article.

(d) Whichever figure, from clause (b) or (c), yields the greater reduction shall be subtracted from the amount calculated in clause (a) to develop the base budget for fiscal years 1994 and 1995.

Subd. 3. Notwithstanding Minnesota Statutes, sections 136C.36 and 137.025, during the biennium, the commissioner of finance may negotiate alternative payment schedules with the state board of technical colleges and the board of regents, if there is a determination that the state will experience cash flow imbalances.

Subd. 4. The appropriation in Laws 1991, chapter 233, section 5, subdivision 8 for fiscal year 1992 for costs relating to collegiate license plates for academic excellence scholarships is available for fiscal year 1993.

Sec. 8. Minnesota Statutes 1991 Supplement, section 121.936, subdivision 1, is amended to read:

Subdivision 1. **MANDATORY PARTICIPATION.** (a) Every district shall perform financial accounting and reporting operations on a financial management accounting and reporting system utilizing multidimensional accounts and records defined in accordance with the uniform financial accounting and reporting standards adopted by the state board pursuant to sections 121.90 to 121.917.

(b) Every school district shall be affiliated with one and only one regional management information center. This affiliation shall include at least the following components:

(1) the center shall provide financial management accounting reports to the department of education for the district to the extent required by the data acquisition calendar;

(2) the district shall process every detailed financial transaction using, at the district's option, either the ESV-IS finance subsystem through the center or an alternative system approved by the state board.

Notwithstanding the foregoing, a district may process and submit its financial data to a region or the state in summary form if it operates an approved alternative system or participates in a state approved pilot test of an alternative system and is reporting directly to the state as of January 1, 1987. A joint vocational technical district shall process and submit its financial data to a region or directly to the state board of technical colleges.

New language is indicated by underline, deletions by ~~strikeout~~.

(c) The provisions of this subdivision shall not be construed to prohibit a district from purchasing services other than those described in clause (b) from a center other than the center with which it is affiliated pursuant to clause (b).

Districts operating an approved alternative system may transfer their affiliation from one regional management information center to another. At least one year prior to July 1 of the year in which the transfer is to occur, the district shall give written notice to its current region of affiliation of its intent to transfer to another region. The one year notice requirement may be waived if the two regions mutually agree to the transfer.

Sec. 9. Minnesota Statutes 1991 Supplement, section 135A.03, subdivision 1a, is amended to read:

Subd. 1a. **APPROPRIATIONS FOR CERTAIN ENROLLMENTS.** The state share of the cost of instruction shall be 32 percent for the following categories:

(1) enrollment in credit bearing courses at an off-campus site or center, except those courses at Cambridge, Duluth, and Fond du Lac centers; the Arrowhead and Rochester 2 + 2 programs; those offered through telecommunications; those offered by the technical colleges; and those offered as part of a joint degree program; and

(2) enrollment of students who are concurrently enrolled in a secondary school and for whom the institution is receiving any compensation under the post-secondary enrollment options act.

Sec. 10. Minnesota Statutes 1991 Supplement, section 135A.03, subdivision 7, is amended to read:

Subd. 7. **RESIDENCY RESTRICTIONS.** In calculating student enrollment for appropriations, only the following may be included:

(1) students who resided in the state for at least one calendar year prior to applying for admission;

(2) Minnesota residents who can demonstrate that they were temporarily absent from the state without establishing residency elsewhere; ~~and~~

(3) residents of other states who are attending a Minnesota institution under a tuition reciprocity agreement; and

(4) students who have been in Minnesota as migrant farmworkers, as defined in Code of Federal Regulations, title 20, section 633.104, over a period of at least two years immediately before admission or readmission to a Minnesota public post-secondary institution, or students who are dependents of such migrant farmworkers.

Sec. 11. Minnesota Statutes 1990, section 136.60, is amended by adding a subdivision to read:

New language is indicated by underline, deletions by ~~strikeout~~.



**Subd. 4. COMMUNITY COLLEGE CENTERS.** A community college center shall be located at Duluth.

Sec. 12. Minnesota Statutes 1991 Supplement, section 136A.101, subdivision 8, is amended to read:

Subd. 8. "Resident student" means a student who meets one of the following conditions:

(1) an independent student who has resided in Minnesota for purposes other than post-secondary education for at least 12 months;

(2) a dependent student whose parent or legal guardian resides in Minnesota at the time the student applies;

(3) a student who graduated from a Minnesota high school, ~~unless if the student is a resident of a bordering state attending a~~ was a resident of Minnesota during the student's period of attendance at the Minnesota high school; or

(4) a student who, after residing in the state for a minimum of one year, earned a high school equivalency certificate in Minnesota.

Sec. 13. Minnesota Statutes 1991 Supplement, section 136A.121, subdivision 6, is amended to read:

Subd. 6. **COST OF ATTENDANCE.** The cost of attendance consists of allowances specified by the board for room and board and miscellaneous expenses, and

(1) for public institutions, tuition and fees charged by the institution; or

(2) for private institutions, an allowance for tuition and fees equal to the lesser of the actual tuition and fees charged by the institution, or the instructional costs per full-year equivalent student in comparable public institutions.

For ~~students~~ a student attending less than full time, the board shall prorate the cost of attendance to the actual number of credits for which the student is enrolled.

Sec. 14. Minnesota Statutes 1991 Supplement, section 136A.1353, subdivision 4, is amended to read:

Subd. 4. **RESPONSIBILITIES OF THE HIGHER EDUCATION COORDINATING BOARD.** The higher education coordinating board shall distribute funds each year to the schools, colleges, or programs of nursing applying to participate in the nursing grant program based on the last academic year's enrollment of students in educational programs that would lead to licensure as a registered nurse. Money not used by a recipient nursing program must be returned to the higher education coordinating board for redistribution under this section. The board shall establish an application process for interested schools,

New language is indicated by underline, deletions by ~~strikeout~~.

colleges, or programs of nursing. Initial applications are due by ~~January 1, 1991,~~ and by January 1 of each later year. By ~~March 1, 1991, and by March 1~~ June 30 of each ~~later~~ year, the board shall notify each applicant school, college, or program of nursing of its approximate allocation of funds in order to allow the school, college, or program to determine the number of students that can be supported by the allocation. The board shall distribute funds to the schools, colleges, or programs of nursing by ~~August 1, 1991, and by August 1~~ of each ~~later~~ year.

Sec. 15. Minnesota Statutes 1990, section 136A.1354, subdivision 4, is amended to read:

Subd. 4. **RESPONSIBILITIES OF THE HIGHER EDUCATION COORDINATING BOARD.** The higher education coordinating board shall distribute funds each year to the schools or colleges of nursing, or programs of advanced nursing education, applying to participate in the nursing grant program based on the last academic year's enrollment of registered nurses in schools or colleges of nursing, or programs of advanced nursing education. Money not used by a recipient nursing program must be returned to the higher education coordinating board for redistribution under this section. The board shall establish an application process for interested schools or colleges of nursing, or programs of advanced nursing education. Initial applications are due by ~~January 1, 1991,~~ and by January 1 of each later year. By ~~March 1, 1991, and by March 1~~ June 30 of each ~~later~~ year, the board shall notify each applicant school or college of nursing, or program of advanced nursing education, of its approximate allocation of money to allow the school, college, or program to determine the number of students that can be supported by the allocation. The board shall distribute money to the schools or colleges of nursing, or programs of advanced nursing education, by August 1, 1991, and by August 1 of each ~~later~~ year.

Sec. 16. Minnesota Statutes 1990, section 136A.29, subdivision 9, is amended to read:

Subd. 9. The authority is authorized and empowered to issue revenue bonds whose aggregate principal amount at any time shall not exceed ~~\$250,000,000~~ \$350,000,000 and to issue notes, bond anticipation notes, and revenue refunding bonds of the authority under the provisions of sections 136A.25 to 136A.42, to provide funds for acquiring, constructing, reconstructing, enlarging, remodeling, renovating, improving, furnishing, or equipping one or more projects or parts thereof.

Sec. 17. **[136C.51] WORKPLACE LITERACY RESOURCE CENTER; ESTABLISHMENT; PURPOSE.**

A workplace literacy resource center is established at Northeast Metro Technical College. The resource center must act as a clearinghouse for Minnesota and neighboring states or entities to provide information on workplace skills enhancement curricula, available services, and methods of delivery.

New language is indicated by underline, deletions by ~~strikeout~~.

The center may offer the following: (1) formal classroom workplace literacy training; (2) functional literacy training; (3) workplace skills enhancement; (4) prevocational training and upgrading; (5) assessment and evaluation; (6) career exploration; and (7) preapprenticeship counseling. The center shall not offer any program for credit.

Sec. 18. Minnesota Statutes 1990, section 141.21, is amended by adding a subdivision to read:

Subd. 1a. BOARD. "Board" means the higher education coordinating board.

Sec. 19. Minnesota Statutes 1991 Supplement, section 168.129, subdivision 1, is amended to read:

Subdivision 1. **GENERAL REQUIREMENTS AND PROCEDURES.** The commissioner of public safety shall issue special collegiate license plates to an applicant who:

(1) is an owner or joint owner of a passenger automobile, pickup truck, or van;

(2) pays a fee determined by the commissioner to cover the costs of handling and manufacturing the plates;

(3) pays the registration tax required under section 168.12;

(4) pays the fees required under this chapter;

(5) contributes at least ~~\$100~~ \$25 annually to the scholarship account established in subdivision 6; and

(6) complies with laws and rules governing registration and licensing of vehicles and drivers.

Sec. 20. Minnesota Statutes 1991 Supplement, section 168.129, subdivision 2, is amended to read:

Subd. 2. **DESIGN.** After consultation with each participating college, university or post-secondary system, the commissioner shall design the special collegiate plates.

In consultation with the commissioner, a participating college or university annually shall indicate the anticipated number of plates needed. ~~Plates will be produced when the commissioner has received at least 200 applications.~~

Sec. 21. Minnesota Statutes 1990, section 169.965, is amended by adding a subdivision to read:

Subd. 8. ALLOCATION OF FINES. The fines collected in Hennepin, St. Louis, and Stevens counties shall be paid into the treasury of the University of Minnesota, except that the portion of the fines necessary to cover all costs and

New language is indicated by underline, deletions by ~~strikeout~~.

disbursements incurred in processing and prosecuting the violations in the court shall be transferred to the court administrator.

Sec. 22. Laws 1987, chapter 396, article 12, section 6, subdivision 2, is amended to read:

Subd. 2. **PRIVATE CONTRIBUTIONS REQUIRED.** The appropriation under subdivision 1 is not effective until sufficient private contributions or pledges have been made so that the private contributions and pledges, plus the appropriation under subdivision 1, are sufficient to establish the endowment for a chair in sustainable agriculture. The appropriation cancels on June 30, ~~1992~~ 1994, if sufficient private contributions and pledges have not been made.

Sec. 23. Laws 1991, chapter 356, article 1, section 5, subdivision 4, is amended to read:

Subd. 4. Campus Initiatives

The state university board may begin implementation of its quality education plans through campus initiatives that enhance the quality of student and institutional performances. The state university board may internally allocate ~~up to~~ \$250,000 for money during the biennium to provide funding for these initiatives. The board shall evaluate the results of the initiatives and report its findings to the education divisions of the appropriations and finance committees by January 15, 1993.

Sec. 24. Laws 1991, chapter 356, article 2, section 6, subdivision 3, is amended to read:

Subd. 3. **REPORT.** The task force shall report its recommendations to the appropriations and finance committees of the legislature by September 1, ~~1992~~ 1993.

Sec. 25. Laws 1991, chapter 356, article 6, section 4, is amended by adding a subdivision to read:

Subd. 3a. **CURRENT EMPLOYEES.** It is the policy of the state of Minnesota that restructuring of peace officer education be accomplished while ensuring that fair and equitable arrangements are carried out to protect the interests of higher education system employees, and while facilitating the best possible service to the public. The affected governing boards shall make every effort to train and retrain existing employees for a changing work environment.

Options presented to employees whose positions might be eliminated by

New language is indicated by underline, deletions by ~~strikeout~~.

integrating peace officer education programs must include, but not be limited to, job and training opportunities necessary to qualify for another job within their current institution or a similar job in another institution.

**Sec. 26. LICENSING PRIVATE BUSINESS, TRADE, AND CORRESPONDENCE SCHOOLS; RESPONSIBILITIES TRANSFERRED.**

The responsibilities of the commissioner of education, the department of education, and the state board of education conferred and specified under Minnesota Statutes, chapter 141, are transferred under Minnesota Statutes, section 15.039, to the higher education coordinating board.

**Sec. 27. INSTRUCTION TO REVISOR.**

The revisor of statutes is directed to change the terms "commissioner," "commissioner's," "department," and "state board of education" wherever they appear in Minnesota Statutes, chapter 141, to "board" or "board's," as appropriate.

**Sec. 28. REPEALER.**

Minnesota Statutes 1990, sections 136A.143, 136C.13, subdivision 2; and 141.21, subdivision 2; Minnesota Statutes 1991 Supplement, section 135A.50; and Laws 1991, chapter 356, article 3, section 14, are repealed.

**Sec. 29. EFFECTIVE DATE.**

This article is effective the day following final enactment, except that sections 10, 13, 18, and 26 to 28 are effective July 1, 1992, section 11 is effective July 1, 1993, and section 21 is effective July 1, 1992, for offenses committed on or after that date.

---

**ARTICLE 2**

**ENVIRONMENT AND NATURAL RESOURCES**

**Section 1. APPROPRIATIONS.**

Unless otherwise indicated, all sums set forth in the columns designated "1992 and 1993 APPROPRIATION CHANGE" are to be added to or reduced from general fund appropriations made by Laws 1991, chapter 254, or other law, for the fiscal years ending June 30, 1992 and June 30, 1993, respectively. Amounts to be reduced are designated by parentheses.

New language is indicated by underline, deletions by ~~strikeout~~.

## SUMMARY BY FUND

	1992	1993	TOTAL
APPROPRIATION			
CHANGE	\$ (3,576,000)	\$ (4,550,000)	\$ ( 8,126,000)
General-Direct	\$ (4,734,000)	\$ (6,382,000)	\$ (11,116,000)
Environmental	\$ 50,000	\$ 1,499,000	\$ 1,549,000
Natural Resources	\$ 306,000	\$ 281,000	\$ 587,000
Game and Fish	\$ 42,000	\$ 52,000	\$ 94,000
Minnesota Resources	\$ 760,000	\$	\$ 760,000
		APPROPRIATION CHANGE	
		1992	1993

Sec. 2. POLLUTION CONTROL  
AGENCY

Subdivision 1. Total Appropriation Change	(639,000)	689,000
--	-----------	---------

The amounts in subdivision 1 are distributed among agency programs as specified in the following subdivisions.

## Summary by Fund

General	(639,000)	(511,000)
Environmental		1,200,000

The approved environmental fund complement is increased by 18 positions effective July 1, 1992.

Subd. 2. Water Pollution Control	(186,000)	(146,000)
----------------------------------	-----------	-----------

The appropriation in fiscal year 1992 for grants to local units of government for the clean water partnership program is reduced by \$134,000.

The appropriation in fiscal year 1993 must provide \$24,000 for a grant to the city of Garrison for ongoing testing of the sewage system.

Subd. 3. Groundwater and Solid Waste Pollution Control	(98,000)	1,015,000
---	----------	-----------

Summary by Fund

General	(98,000)	(185,000)
Environmental		1,200,000

\$1,200,000 is appropriated in fiscal year 1993 from the landfill cleanup account for evaluation of mixed municipal solid waste disposal facilities to determine the adequacy of final cover, slopes, vegetation, and erosion control; to determine the presence and concentration of hazardous substances, pollutants or contaminants, and decomposition gases; and to determine the boundaries of fill areas.

The appropriation for a grant to the department of administration for assistance in funding a central materials recovery facility is not reduced.

Subd. 4. Hazardous Waste Pollution Control	(250,000)	(75,000)
---	-----------	----------

Subd. 5. General Support	(105,000)	(105,000)
--------------------------	-----------	-----------

Any unencumbered balance of the fiscal year 1992 appropriation authorized in Laws 1991, chapter 347, article 3, section 5, subdivision 1, paragraph (a), is available for fiscal year 1993.

The pollution control agency shall continue its regionalization efforts and shall report to the legislature by January 15, 1993, on the progress made toward implementing Phase II as described in the agency's regionalization report dated January 1992.

Sec. 3. OFFICE OF WASTE MANAGEMENT	(238,000)	(158,000)
---------------------------------------	-----------	-----------

Summary by Fund

General	(288,000)	(308,000)
Environmental	50,000	150,000

The appropriation for SCORE block grants is not changed by these reductions.

\$50,000 the first year and \$150,000 the second year is from the pollution prevention account in the environmental fund. The complement is increased by an additional position for citizen education in the pollution prevention area, effective July 1, 1992.

Sec. 4. ZOOLOGICAL BOARD		(3,468,000)
--------------------------	--	-------------

This reduction is partially offset by a reduction in nondedicated general fund revenue of \$3,174,000.

Board action to increase admission fees effective April 1, 1992, is estimated to increase nondedicated general fund revenue by \$182,000 in fiscal year 1992. An additional \$160,000 is expected through increased attendance.

The approved general fund complement is decreased by 49 positions and the approved special revenue fund complement is increased by 80 positions.

Sec. 5. NATURAL RESOURCES

Subdivision 1. Total Appropriation Change	(1,962,000)	(1,435,000)
--	-------------	-------------

Summary by Fund

General	(2,310,000)	(1,768,000)
Natural Resources	306,000	281,000
Game and Fish	42,000	52,000

The amounts in subdivision 1 are to be



distributed among agency programs as specified in the following subdivisions.

Subd. 2. Mineral Resources Management	(271,000)	(270,000)
Subd. 3. Water Resources Management	(375,000)	(375,000)
Subd. 4. Forest Management	(300,000)	139,000

\$300,000 the first year and \$821,000 the second year are reduced from the forest management appropriation.

\$960,000 in the second year is appropriated exclusively for reforestation under Minnesota Statutes, section 89.002.

The commissioner shall continue to sell fuelwood on state lands.

Department of natural resources forestry area and district boundaries existing on January 1, 1992, may not be changed unless supported by a cost-benefit analysis of delivery of services within the current boundaries and the proposed boundaries. Proposed boundary changes may be implemented 90 days after the proposal and supporting cost-benefit analysis have been provided to the chairs of the environment and natural resources divisions of the senate finance and house appropriations committees.

Subd. 5. Parks and Recreation Management	(400,000)	195,000
--	-----------	---------

Hill Annex Mine state park must be kept open and operated with no state appropriations used for water pumping. No more than \$110,000 may be spent for operating the park in fiscal year 1993.

The commissioner shall not utilize appropriations from the general fund for the purpose of hiring or contracting

for staff to administer or manage the adopt-a-park program as provided in Minnesota Statutes, section 85.045.

Subd. 6. Trails and Waterways	(39,000)	27,000
-------------------------------	----------	--------

The appropriation in fiscal year 1993 must provide \$120,000 for construction of shore fishing structure projects on the Mississippi river in South St. Paul and Brooklyn Center.

Subd. 7. Fish and Wildlife Management	(32,000)	(33,000)
---------------------------------------	----------	----------

#### Summary by Fund

General	(198,000)	(199,000)
Natural Resources	166,000	166,000

\$166,000 for the fiscal year ending June 30, 1992, and \$166,000 for the fiscal year ending June 30, 1993, are appropriated to the commissioner of natural resources from the water recreation account for control, public awareness, law enforcement, monitoring, and research of nuisance aquatic exotic species such as zebra mussel, purple loosestrife, and Eurasian water milfoil in public waters and public wetlands. Any unencumbered balance in the first year does not cancel and is available for the second year.

Subd. 8. Field Operations Support	(106,000)	(485,000)
-----------------------------------	-----------	-----------

Subd. 9. Regional Operations Support	(151,000)	(160,000)
--------------------------------------	-----------	-----------

Subd. 10. Special Services and Programs	(190,000)	(190,000)
---	-----------	-----------

Any reductions in the department of natural resources' agency operating budget or reductions in agency program efforts prompted by specific legislative action or economic conditions during the biennium shall not be applied

against the budget for the Minnesota Conservation Corps in a greater proportion than the average if applied against all of the department's general fund programs. Any reductions must be accomplished in a manner that does not reduce the amount of federal grants for which the department is eligible.

Subd. 11. Administrative Management Services

82,000

67,000

Summary by Fund

General	(100,000)	(100,000)
Natural Resources	140,000	115,000
Game and Fish	42,000	52,000

\$140,000 the first year and \$115,000 the second year are appropriated from the water recreation account in the natural resources fund for watercraft titling.

\$42,000 the first year and \$52,000 the second year are appropriated from the game and fish fund for hunting license administration.

Subd. 12. Wetland Administration

(180,000)

(350,000)

These reductions are from the appropriation in Laws 1991, chapter 354, article 11, section 1, subdivision 2, paragraph (b). These are one-time reductions and must not be considered reductions in the department of natural resources' base budget for the 1994-1995 biennium.

Subd. 13. Miscellaneous

The commissioners of transportation and natural resources shall confer and make every reasonable effort to obtain a permanent resolution of the problem of excessive sedimentation and vegetation in the Mississippi river resulting from the construction of a bridge over the

river on marked trunk highway No. 10 near the city of Little Falls.

If the commissioners of transportation and natural resources are unable to reach a mutually agreeable resolution by February 1, 1993, the commissioner of natural resources shall file with the commissioner of transportation, the chair of the house committee on appropriations, and the senate committee on finance, a notification that specifies the project or projects that in the judgment of the commissioner of natural resources must be undertaken to achieve a permanent resolution of the excessive sedimentation and vegetation. The notification must contain an estimate of the total cost of the project or projects.

As part of the budget process for the 1994-1995 biennium, the department of natural resources shall meet and confer to develop a plan in cooperation with representatives of employee bargaining units for the consolidation, enhancement, and realignment of division, region, and area responsibilities. The plan must specify how DNR direct services are increased and management and supervisory positions minimized. The department is not precluded from taking actions, after meeting and conferring with representatives of employee bargaining units, before submission of the 1994-1995 biennial budget. A report with specific recommendations shall be submitted to the environment and natural resources division of the house appropriations committee and to the environment and natural resources division of the senate finance committee by January 15, 1993.

## Sec. 6. AGRICULTURE

## Subdivision 1. Total Appropriation

Change	(357,000)	100,000
--------	-----------	---------

## Summary by Fund

General	(357,000)	(49,000)
Environmental		149,000

The amounts in subdivision 1 are to be distributed among agency programs as specified in the following subdivisions.

Subd. 2. Protection Service	(240,000)	(42,000)
-----------------------------	-----------	----------

## Summary by Fund

General	(240,000)	(191,000)
Environmental		149,000

\$149,000 the second year is from the environmental response, compensation, and compliance account in the environmental fund. The approved complement in the environmental fund is increased by two positions effective July 1, 1992.

Subd. 3. Promotion and Marketing	(36,000)	(55,000)
----------------------------------	----------	----------

\$50,000 shall be spent in fiscal year 1993 for the WIC Coupon program in the Minnesota Grown budget activity.

Subd. 4. Family Farm Services	(67,000)	10,000
-------------------------------	----------	--------

\$2,200,000 from the balance in the special account created in Minnesota Statutes, section 41.61, shall be transferred to the general fund by June 30, 1992.

Authority to charge fees for farm crisis assistance services authorized elsewhere in this legislation is expected to increase nondedicated general fund revenues by \$100,000 in fiscal year 1993.

\$200,000 is appropriated in fiscal year 1993 for transfer to the Minnesota extension service for farmer-lender

mediation services. This is a one-time appropriation and is not part of the department's base budget for the 1994-1995 biennium.

Amounts available for agricultural information centers must be divided equally between the centers in Thief River Falls and St. Charles.

Subd. 5. Administrative Support and Grants

(14,000) 187,000

The appropriation in fiscal year 1993 must provide \$50,000 to the commissioner of agriculture for legal challenges to discriminatory aspects of the current federal milk market order system. This amount, in whole or in part, may be used at the discretion of the commissioner as a contribution to the costs of initiating or continuing court challenges in cooperation with Minnesota or regional dairy organizations. The commissioner may use up to an additional \$50,000 from the dairy industry unfair trade practices account established under Minnesota Statutes, section 32A.05, subdivision 4.

\$150,000 the second year is for the commissioner of agriculture to conduct, in consultation with the commissioners of transportation, public service, and the pollution control agency, a public outreach and training program to educate the public, automobile mechanics, and representatives of the gasoline distribution network about the oxygenated gasoline program. This is a one-time appropriation and is not part of the department's base budget for the 1994-1995 biennium.

Sec. 7. CITIZENS COUNCIL ON VOYAGEURS NATIONAL PARK

(10,000) (8,000)

Unencumbered balances remaining at the end of the first year do not cancel but are available for the second year.

The council must retain its headquarters in International Falls.

Sec. 8. SCIENCE MUSEUM OF MINNESOTA

(30,000) (30,000)

Sec. 9. MINNESOTA RESOURCES

The following amounts are appropriated from the Minnesota future resources fund. The appropriations are available immediately following enactment and are otherwise subject to the provisions of Laws 1991, chapter 254, article 1, section 14.

Upper Mississippi River  
Environmental Education Center

600,000

This appropriation is to the commissioner of natural resources for a grant to the city of Winona to develop detailed architectural designs necessary to obtain federal construction funding for an Upper Mississippi River Environmental Education Center. This appropriation is contingent upon federal commitment of at least \$6,000,000 for construction and for future operation and maintenance. The deadline for the contingent match commitment is January 1, 1993.

Biological Control of Eurasian  
Water Milfoil

160,000

This appropriation is to the commissioner of natural resources for a research program leading to biological control of Eurasian water milfoil.

As cash flow in the Minnesota future resources fund permits, but no later than June 30, 1993, the commissioner of finance, in consultation with the director of the legislative commission on Minnesota resources, shall transfer \$876,000 from the unencumbered balance in the fund to the general fund. This transfer is in addition to the transfer specified in Laws 1991, chapter 254, article 1, section 14, subdivision 15.

Sec. 10. BOARD OF WATER AND  
SOIL RESOURCES

(1,100,000)

200,000

\$100,000 of this appropriation is for grants to the Minnesota association of soil and water conservation districts for education and training of local government officials relating to the implementation of Laws 1991, chapter 354.

\$100,000 is for grants to counties for local administration and enforcement of Laws 1991, chapter 354.

\$1,100,000 appropriated in Laws 1991, chapter 354, article 11, section 1, subdivision 2, paragraph (a), clause (3), is canceled.

Sec. 11. BOARD OF ANIMAL  
HEALTH

10,000

This appropriation is to cover the cost of testing turkeys and chickens in Minnesota for avian influenza.

Sec. 12. Minnesota Statutes 1990, section 17.03, is amended by adding a subdivision to read:

Subd. 9. FARM CRISIS ASSISTANCE FEES; LIABILITY. (a) The department may charge a fee for farm crisis assistance services it provides to persons outside of the department.

(b) The state is not liable for the actions of persons under contract with the department who provide farm crisis assistance services as part of their contractual duties. Persons who provide farm crisis assistance are not subject to liability for their actions that are within the scope of their contract. The immunity from liability in this subdivision is in addition to and not a limitation of immunity otherwise accorded to the state and its contractors under law.

(c) Fees collected by the department under this subdivision must be deposited in the general fund.

Sec. 13. Minnesota Statutes 1990, section 17.03, is amended by adding a subdivision to read:

Subd. 10. GIFTS; PUBLICATION FEES; ADVERTISING; APPROPRIATION. (a) The commissioner may accept for and on behalf of the state any gift, bequest, devise, grant, or interest in money or personal property of any kind tendered to the state for any purpose pertaining to the activities of the department of agriculture or any of its divisions.

New language is indicated by underline, deletions by ~~strikeout~~.



(b) The commissioner may charge a fee for reports, publications, or other promotional or informational material produced by the department of agriculture. The commissioner may solicit and accept advertising revenue for any departmental publications or promotional materials.

(c) The fees collected by the commissioner under this section are to recover all or part of the costs of providing services for which the fees are paid. These fees are not subject to chapter 14 or sections 16A.128 and 16A.1281.

(d) Money received by the commissioner for these activities may be credited to one or more special accounts in the state treasury. Money in those special accounts is annually appropriated to the commissioner to provide the services for which the money was received.

Sec. 14. Minnesota Statutes 1991 Supplement, section 17.63, is amended to read:

#### 17.63 REFUND OF FEES.

(a) Any producer, except a producer of potatoes in area number one, as listed in section 17.54, subdivision 9, or a producer of paddy wild rice, may, by the use of forms to be provided by the commissioner and upon presentation of such proof as the commissioner requires, have the checkoff fee paid pursuant to sections 17.51 to 17.69 fully or partially refunded, provided the checkoff fee was remitted on a timely basis. The request for refund must be received in the office of the commissioner within the time specified in the promotion order following the payment of the checkoff fee. In no event shall these requests for refund be accepted more often than 12 times per year. Refund shall be made by the commissioner and council within 30 days of the request for refund provided that the checkoff fee sought to be refunded has been received. Rules governing the refund of checkoff fees for all commodities shall be formulated by the commissioner, shall be fully outlined in the promotion order, and shall be available for the information of all producers concerned with the referendum.

(b) The commissioner must allow partial refund requests from corn producers who have checked off and must allow for assignment of payment to the Minnesota corn growers association if the Minnesota corn research and promotion council requests such action by the commissioner.

(c) The Minnesota corn research and promotion council shall not elect to impose membership on any individual producer not requesting a partial refund or assignment of payment to the association.

Sec. 15. Minnesota Statutes 1990, section 18B.26, subdivision 3, is amended to read:

Subd. 3. APPLICATION FEE. (a) A registrant shall pay an annual application fee for each pesticide to be registered, and this fee is set at one-tenth of one percent for calendar year 1990 ~~and~~, at one-fifth of one percent for calendar

New language is indicated by underline, deletions by ~~strikeout~~.

year 1991, and at two-fifths of one percent for calendar year 1992 and thereafter of annual gross sales within the state and annual gross sales of pesticides used in the state, with a minimum nonrefundable fee of ~~\$150 plus an additional one-tenth of one percent for each pesticide for which the United States Environmental Protection Agency, Office of Water, has published a Health Advisory Summary by December 1 of the previous year~~ \$250. The registrant shall determine when and which pesticides are sold or used in this state. The registrant shall secure sufficient sales information of pesticides distributed into this state from distributors and dealers, regardless of distributor location, to make a determination. Sales of pesticides in this state and sales of pesticides for use in this state by out-of-state distributors are not exempt and must be included in the registrant's annual report, as required under paragraph (c), and fees shall be paid by the registrant based upon those reported sales. Sales of pesticides in the state for use outside of the state are exempt from the application fee in this paragraph if the registrant properly documents the sale location and distributors. A registrant paying more than the minimum fee shall pay the balance due by March 1 based on the gross sales of the pesticide by the registrant for the preceding calendar year. The fee for disinfectants and sanitizers ~~is \$150~~ shall be the minimum. The minimum fee is due by December 31 preceding the year for which the application for registration is made. Of the amount collected after calendar year 1990, ~~\$600,000~~ at least \$500,000 per fiscal year must be credited to the waste pesticide account under section 18B.065, subdivision 5, ~~and the additional amount collected for pesticides with Health Advisory Summaries and \$100,000 per fiscal year~~ shall be credited to the agricultural project utilization account under section 116O.13 to be used for pesticide use reduction grants by the agricultural utilization research institute.

(b) An additional fee of \$100 must be paid by the applicant for each pesticide to be registered if the application is a renewal application that is submitted after December 31.

(c) A registrant must annually report to the commissioner the amount and type of each registered pesticide sold, offered for sale, or otherwise distributed in the state. The report shall be filed by March 1 for the previous year's registration. The commissioner shall specify the form of the report and require additional information deemed necessary to determine the amount and type of pesticides annually distributed in the state. The information required shall include the brand name, amount, and formulation of each pesticide sold, offered for sale, or otherwise distributed in the state, but the information collected, if made public, shall be reported in a manner which does not identify a specific brand name in the report.

#### Sec. 16. INCREASE IN PESTICIDE REGISTRATION FEES.

A registrant may not charge a customer for the increase in fees under section 15 for sales made before the effective date of that section.

Sec. 17. Minnesota Statutes 1991 Supplement, section 28A.08, is amended to read:

New language is indicated by underline, deletions by ~~strikeout~~.

## 28A.08 LICENSE FEES; PENALTIES.

License fees, penalties for late renewal of licenses, and penalties for not obtaining a license before conducting business in food handling that are set in this section apply to the sections named except as provided under section 28A.09. Except as specified herein, bonds and assessments based on number of units operated or volume handled or processed which are provided for in said laws shall not be affected, nor shall any penalties for late payment of said assessments, nor shall inspection fees, be affected by this chapter. The penalties may be waived by the commissioner.

Type of food handler	License Fee	Penalties	
		Late Renewal	No License
1. Retail food handler			
(a) Having gross sales of only prepackaged nonperishable food of less than \$15,000 for the immediately previous license or fiscal year and filing a statement with the commissioner	\$ 40	\$ 15	\$ 25
(b) Having under \$15,000 gross sales including food preparation or having \$15,000 to \$50,000 gross sales for the immediately previous license or fiscal year	\$ 55	\$ 15	\$ 25
(c) Having \$50,000 to \$250,000 gross sales for the immediately previous license or fiscal year	\$105	\$ 35	\$ 75
(d) Having \$250,000 to \$1,000,000 gross sales for the immediately previous license or fiscal year	\$180	\$ 50	\$100
(e) Having \$1,000,000 to \$5,000,000 gross sales for the immediately previous license or fiscal year	\$500	\$100	\$175
(f) Having \$5,000,000 to \$10,000,000 gross sales for the immediately previous license or fiscal year	\$700	\$150	\$300
(g) Having over \$10,000,000 gross sales for the immediately previous license or fiscal year	\$800	\$200	\$350

New language is indicated by underline, deletions by ~~strikeout~~.

2.	Wholesale food handler			
	(a) Having gross sales or service of less than \$250,000 for the immediately previous license or fiscal year	\$200	\$ 50	\$100
	(b) Having \$250,000 to \$1,000,000 gross sales or service for the immediately previous license or fiscal year	\$400	\$100	\$200
	(c) Having \$1,000,000 to \$5,000,000 gross sales or service for the immediately previous license or fiscal year	\$500	\$125	\$250
	(d) Having over \$5,000,000 gross sales for the immediately previous license or fiscal year	\$575	\$150	\$300
3.	Food broker	\$100	\$ 30	\$ 50
4.	Wholesale food processor or manufacturer			
	(a) Having gross sales of less than \$250,000 for the immediately previous license or fiscal year	\$275	\$ 75	\$150
	(b) Having \$250,000 to \$1,000,000 gross sales for the immediately previous license or fiscal year	\$400	\$100	\$200
	(c) Having \$1,000,000 to \$5,000,000 gross sales for the immediately previous license or fiscal year	\$500	\$125	\$250
	(d) Having over \$5,000,000 gross sales for the immediately previous license or fiscal year	\$575	\$150	\$300
5.	Wholesale food processor of meat or poultry products under supervision of the U. S. Department of Agriculture			
	(a) Having gross sales of less than \$250,000 for the immediately previous license or fiscal year	\$150	\$ 50	\$ 75
	(b) Having \$250,000 to \$1,000,000 gross sales for the immediately previous license or fiscal year	\$225	\$ 75	\$125
	(c) Having \$1,000,000 to \$5,000,000 gross sales for the immediately previous license or fiscal year	\$275	\$ 75	\$150

New language is indicated by underline, deletions by ~~strikeout~~.

	(d) Having over \$5,000,000 gross sales for the immediately previous license or fiscal year	\$325	\$100	\$175
6.	Wholesale food manufacturer having the permission of the commissioner to use the name Minnesota farmstead cheese	\$ 30	\$ 10	\$ 15
7.	Nonresident frozen dairy manufacturer	\$200	\$ 50	\$ 75
8.	<u>Wholesale food manufacturer processing less than 70,000 pounds per year of cultured dairy food as defined in section 32.486, subdivision 1, paragraph (b)</u>	<u>\$ 30</u>	<u>\$ 10</u>	<u>\$ 15</u>
9.	<u>A milk marketing organization without facilities for processing or manufacturing that purchases milk from milk producers for delivery to a licensed wholesale food processor or manufacturer</u>	<u>\$ 50</u>	<u>\$ 15</u>	<u>\$ 25</u>

Sec. 18. Minnesota Statutes 1991 Supplement, section 41A.09, subdivision 3, is amended to read:

Subd. 3. **PAYMENTS FROM ACCOUNT.** The commissioner of revenue shall make cash payments from the account to producers of ethanol or wet alcohol located in the state. These payments shall apply only to ethanol or wet alcohol fermented in the state. The amount of the payment for each producer's annual production shall be as follows:

(a) For each gallon of ethanol produced on or before June 30, 2000, 20 cents per gallon.

(b) For each gallon produced of wet alcohol on or before June 30, 2000, a payment in cents per gallon calculated by the formula "alcohol purity in percent divided by five," and rounded to the nearest cent per gallon, but not less than 11 cents per gallon. The producer payment for wet alcohol under this section may be paid to either the original producer of wet alcohol or the secondary processor, at the option of the original producer, but not to both.

(c) The total payments from the account to all producers during the period beginning July 1, 1991 and ending June 30, 1993 may not exceed ~~\$9,000,000~~ \$8,550,000. This amount may be paid in either fiscal year of the biennium. Total payments from the account to any producer in each fiscal year may not exceed \$3,000,000.

(d) The total payments from the account to all producers may not exceed

New language is indicated by underline, deletions by ~~strikeout~~.

\$10,000,000 in any fiscal year during the period beginning July 1, 1993, and ending June 30, 2000. Total payments from the account to any producer in any fiscal year may not exceed \$3,000,000.

By the last day of October, January, April, and July, each producer shall file a claim for payment for production during the preceding three calendar months. The volume of production must be verified by a certified financial audit performed by an independent certified public accountant using generally accepted accounting procedures.

Payments shall be made November 15, February 15, May 15, and August 15.

Sec. 19. Minnesota Statutes 1991 Supplement, section 84.0855, is amended to read:

**84.0855 SPECIAL RECEIPTS; APPROPRIATION.**

Money received by the commissioner of natural resources as fees for seminars or workshops, from the sale of publications and maps, from the sale of other natural resource related merchandise ~~at the state fair~~, or to buy supplies for the use of volunteers, may be credited to one or more special accounts in the state treasury and is appropriated to the commissioner for the purposes for which the money was received. Money received from sales at the state fair shall be available for state fair related costs.

**Sec. 20. [84.0887] YOUTH PROGRAMS.**

Subdivision 1. PROGRAM CONTENT. The commissioner shall operate youth corps programs which may include summer youth programs and year-round young adult programs. The commissioner shall insure that youths in all parts of the state have an equal opportunity for employment and that equal numbers of male and female youth are selected for the summer programs. Youth corps members must be 15 to 18 years old and young adult corps members must be 18 to 26 years old. Corps members are not public employees under chapter 43A or 179A. Youth corps programs may provide services that include but are not limited to the following:

(1) conservation, rehabilitation, and the improvement of wildlife habitat, prairie, parks, and recreational areas;

(2) urban and rural revitalization, historical and cultural site preservation, and reforestation of both urban and rural areas;

(3) fish culture, wildlife habitat maintenance and improvement, and other fishery assistance;

(4) road and trail development, maintenance, and improvement;

(5) erosion, flood, drought, and storm damage assistance and controls;

New language is indicated by underline, deletions by ~~strikeout~~.

- (6) stream, lake, waterfront harbor, and port improvement;
- (7) wetlands protection and pollution control;
- (8) insect, disease, rodent, and fire prevention and control;
- (9) the improvement of abandoned railroad beds and rights-of-way;
- (10) energy conservation projects, renewable resource enhancement, and recovery of biomass;
- (11) reclamation and improvement of strip-mined land; and
- (12) forestry, nursery, and cultural operations.

Subd. 2. ADDITIONAL SERVICES. In addition to services under subdivision 1, youth corps programs may coordinate with or provide services to:

- (1) making public facilities accessible to individuals with disabilities;
- (2) federal, state, local, and regional governmental agencies;
- (3) nursing homes, hospices, senior centers, hospitals, local libraries, parks, recreational facilities, child and adult day care centers, programs servicing individuals with disabilities, and schools;
- (4) law enforcement agencies, and penal and probation systems;
- (5) private nonprofit organizations that primarily focus on social service such as community action agencies;
- (6) activities that focus on the rehabilitation or improvement of public facilities, neighborhood improvements, literacy training that benefits educationally disadvantaged individuals, weatherization of and basic repairs to low-income housing including housing occupied by older adults, activities that focus on drug and alcohol abuse education, prevention, and treatment; and
- (7) any other nonpartisan civic activities and services that the commissioner determines to be of a substantial social benefit in meeting unmet human, educational, or environmental needs, particularly needs related to poverty, or in the community where volunteer service is to be performed.

Subd. 3. INELIGIBLE SERVICES. Ineligible service categories include:

- (1) business organized for profit;
- (2) labor unions;
- (3) partisan political organizations;
- (4) organizations engaged in religious activities, unless such activities do not involve the use of funds provided under this title by program participants and program staff to give religious instruction, conduct worship services, or engage in any form of proselytization; or

New language is indicated by underline, deletions by ~~strikeout~~.

(5) domestic or personal service companies or organizations.

**Subd. 4. ADVISORY COMMITTEE.** The commissioner shall establish a youth corps advisory committee with broad state representation including youth.

**Subd. 5. OLDER MEMBERS.** Youth corps programs may enroll a limited number of special corps members over age 26 so that the corps may draw on their unique knowledge, skills, or abilities to fulfill the purposes of the programs.

**Subd. 6. EXPENDITURES FROM SPECIAL FUNDS.** An appropriation from a special revenue fund or account to the commissioner for youth corps programs must be spent for projects that are consistent with the purposes of the fund or account from which the appropriation was made.

**Sec. 21. [84.525] MAINTENANCE OF CAMPSITES IN THE BWCA.**

All reservation fees paid to the state attributable to state-owned lands within the boundary waters canoe area must be credited to an account in the special revenue fund and are appropriated to the commissioner of natural resources for maintenance of state-owned campsites within the boundary waters canoe area. The commissioner may enter into cooperative agreements with the federal government for maintenance of the campsites.

**Sec. 22.** Minnesota Statutes 1990, section 85A.04, subdivision 1, is amended to read:

**Subdivision 1. DEPOSIT.** All receipts from parking and admission to the Minnesota zoological garden shall be deposited in the state treasury and credited to an account in the general special revenue fund, and are annually appropriated to the board for operations and maintenance.

**Sec. 23.** Minnesota Statutes 1990, section 89.035, is amended to read:

**89.035 INCOME FROM STATE FOREST LANDS, DISPOSITION.**

All income which may be received from lands acquired by the state heretofore or hereafter for state forest purposes by gift, purchase or eminent domain and tax-forfeited lands to which the county has relinquished its equity to the state for state forest purposes shall be paid into the state treasury and credited to the ~~state forest account~~ general fund except where the conveyance to and acceptance by the state of lands for state forest purposes provides for other disposition of receipts.

**Sec. 24.** Minnesota Statutes 1991 Supplement, section 89.37, subdivision 4, is amended to read:

**Subd. 4. PROCEEDS OF SALE.** All moneys received in payment for tree planting stock supplied under this section shall be deposited in the state treasury and credited to ~~the state a forest nursery account pursuant to section 89.035 and~~

New language is indicated by underline, deletions by ~~strikeout~~.



are available to the commissioner of natural resources for the purposes of sections 89.35 to 89.37.

Sec. 25. Minnesota Statutes 1990, section 89.37, is amended by adding a subdivision to read:

Subd. 5. INVESTMENT INCOME. Income earned from the investment of funds in the forest nursery account beginning July 1, 1989, shall be credited to the account and are annually appropriated to the commissioner of natural resources for the purposes of sections 89.35 to 89.37.

Sec. 26. [115B.42] LANDFILL CLEANUP ACCOUNT.

Subdivision 1. ESTABLISHMENT. The landfill cleanup account is established in the environmental fund in the state treasury. The account consists of money credited to the account and interest earned on the money in the account.

Subd. 2. EXPENDITURES. Subject to appropriation, money in the account may be spent for inspection of mixed municipal solid waste disposal facilities to:

(1) evaluate the adequacy of final cover, slopes, vegetation, and erosion control;

(2) determine the presence and concentration of hazardous substances, pollutants or contaminants, and decomposition gases; and

(3) determine the boundaries of fill areas.

Sec. 27. Minnesota Statutes 1990, section 116P.11, is amended to read:

116P.11 AVAILABILITY OF FUNDS FOR DISBURSEMENT.

(a) The amount biennially available from the trust fund for the budget plan developed by the commission consists of the interest earnings generated from the trust fund.

(b) For funding projects through fiscal year 1997, the following additional amounts are available from the trust fund for the budget plans developed by the commission:

(1) for the 1991-1993 biennium, up to 25 percent of the revenue deposited in the trust fund in fiscal years 1990 and 1991;

(2) for the 1993-1995 biennium, up to 20 percent of the revenue deposited in the trust fund in fiscal year 1992 and up to 15 percent of the revenue deposited in the fund in fiscal year 1993; ~~and~~

(3) for the 1993-1995 biennium, up to 25 percent of the revenue deposited in the trust fund in fiscal years 1994 and 1995, to be expended only for capital investments in parks and trails; and

New language is indicated by underline, deletions by ~~strikeout~~.

(4) for the 1995-1997 biennium, up to ten percent of the revenue deposited in the fund in fiscal year ~~1994~~ and up to five percent of the revenue deposited in the fund in fiscal year ~~1995~~ 1996.

(c) Any appropriated funds not encumbered in the biennium in which they are appropriated cancel and must be credited to the principal of the trust fund.

Sec. 28. Laws 1991, chapter 254, article 1, section 7, subdivision 5, is amended to read:

Subd. 5. Administrative Support and Grants

5,688,000	5,533,000
-----------	-----------

Summary by Fund

General	5,503,000	5,348,000
Special Revenue	185,000	185,000

\$185,000 the first year and \$185,000 the second year are from the commodities research and promotion account in the special revenue fund.

\$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.

The unexpended balance appropriated for grants to farmers for demonstration projects involving sustainable agriculture in Laws 1989, chapter 269, section 7, subdivision 5, does not cancel and is reappropriated to the commissioner and added to other appropriations for the biennium ending June 30, 1993, to carry out such demonstrations to be used in either year of the biennium.

New language is indicated by underline, deletions by ~~strikeout~~.

\$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.

\$40,000 the first year and \$40,000 the second year are for payment of claims relating to livestock damaged by endangered animal species. If the appropriation for either year is insufficient, the appropriation for the other year is available for it.

\$80,000 the first year and \$80,000 the second year are for the seaway port authority of Duluth.

\$10,000 the first year is for payment of claims relating to agricultural crops damaged by elk and is available until June 30, 1993.

\$19,000 the first year and \$19,000 the second year is for a grant to the Minnesota livestock breeder's association.

\$100,000 the first year and \$100,000 the second year are for a base adjustment to grants to the state agricultural society to be spent as grants to county agricultural societies for premiums for county fair competitions in arts and crafts. This appropriation must be included in the 1994-1995 biennial budget base.

\$160,000 the first year is for farm safety programs. \$120,000 is for payment to instructors in a youth farm safety program and \$40,000 is for a farm safety audit pilot project. This appropriation is available for either year of the biennium. If any amount of the appropriation for either program remains unencumbered on September 1, 1992, it becomes available for the other program or for other farm safety projects and programs at the discretion of the commissioner.

New language is indicated by underline, deletions by ~~strikeout~~.

**Sec. 29. CHECKOFF FEE REFUND TRANSFER POLICY; REPORT.**

Not later than August 1, 1992, the commissioner of agriculture shall appoint a task force to review the issue of direct transfer of commodity checkoff fee refunds to commodity associations and/or farm organizations. The task force must include representatives of farm organizations, research and promotion councils, commodity associations, and commodity producers. Not later than February 1, 1993, the commissioner shall report to the legislature on the findings and recommendations of the task force.

**Sec. 30. SOLID WASTE FEES.**

Subdivision 1. METROPOLITAN AREA LANDFILLS. (a) The proceeds of fees paid from July 1, 1992 to June 30, 1993, under Minnesota Statutes, section 473.843, including interest and penalties, must be deposited as follows:

(1) three-fourths of the proceeds must be deposited in the metropolitan landfill abatement account established in Minnesota Statutes, section 473.844;

(2) an amount equal or equivalent to 20 cents per cubic yard of waste subject to the fees must be deposited as provided in subdivision 4; and

(3) the remainder of the proceeds must be deposited in the metropolitan landfill contingency action trust fund established in Minnesota Statutes, section 473.845.

(b) The amount of the fee in Minnesota Statutes, section 473.843, subdivision 1, must be reduced by 20 cents per cubic yard, or the equivalent, and paragraph (a), clause (2), does not apply, for waste for which the fee in subdivision 3 has been paid.

Subd. 2. NONMETROPOLITAN AREA LANDFILLS. (a) From July 1, 1992 to June 30, 1993, a county, statutory or home rule charter city, or sanitary district that receives fees under Minnesota Statutes, section 115A.923, may impose a surcharge of up to 20 cents per cubic yard, or the equivalent, of solid waste subject to the fees.

(b) From July 1, 1992 to June 30, 1993, a county, statutory or home rule charter city, or sanitary district that receives fees under Minnesota Statutes, section 115A.923, shall remit to the commissioner of revenue an amount equal or equivalent to 20 cents per cubic yard of solid waste that is subject to the fees and on which the fee in subdivision 3 has not been paid. The remittance must be made on or before the 20th day of each month for fees received the previous month, using a form provided by the commissioner.

(c) The amount of the fee in Minnesota Statutes, section 115A.923, subdivision 1, must be reduced by 20 cents per cubic yard, or the equivalent, for waste for which the fee in subdivision 3 has been paid.

Subd. 3. OTHER FACILITIES. (a) Except as provided in paragraph (b),

New language is indicated by underline, deletions by ~~strikeout~~.

the operator of a mixed municipal solid waste processing facility that is permitted by the pollution control agency shall pay a fee in an amount equal or equivalent to 20 cents per cubic yard of solid waste accepted for processing at the facility from July 1, 1992 to June 30, 1993.

(b) The fee does not apply to:

(1) waste that has previously been accepted at another mixed municipal solid waste processing facility; or

(2) waste residue from a recycling facility at which recyclable materials are separated or processed for the purposes of recycling, if there is at least an 85 percent volume reduction in the solid waste processed at the facility.

To qualify for exemption under this clause, the waste residue must be brought separately to the processing facility in paragraph (a). The commissioner of revenue, with the advice and assistance of the metropolitan council, the director of the office of waste management, and the commissioner of the pollution control agency, shall prescribe procedures for determining the amount of waste residue qualifying for exemption under this clause.

(c) The fee must be remitted to the commissioner of revenue on or before the 20th day of each month for waste accepted at the facility during the previous month, using a form provided by the commissioner.

Subd. 4. DISPOSITION OF PROCEEDS. Of the amounts specified in subdivisions 1, clause (2); 2, paragraph (b); and 3:

(1) \$360,000 must be deposited in the environmental fund for appropriations made under Laws 1991, chapter 254, article 1, section 2, subdivision 4; and

(2) the remainder must be credited to the landfill cleanup account established in Minnesota Statutes, section 115B.42.

The amount in clause (1) includes indirect costs.

Sec. 31. Minnesota Statutes 1990, section 115D.04, subdivision 2, is amended to read:

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

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

(2) a program to provide technical research and assistance, including on-site consultations to identify alternative methods that may be applied to prevent pollution and to provide assistance for planning under section 115D.07, excluding design engineering services; and

New language is indicated by underline, deletions by ~~strikeout~~.

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

Sec. 32. **REPEALER.**

(a) Minnesota Statutes 1990, section 84.0885, is repealed.

(b) Minnesota Statutes 1990, section 89.036, is repealed.

Sec. 33. **EFFECTIVE DATES.**

This article is effective the day following final enactment, except that sections 4 and 22 are effective July 1, 1992, and sections 23 and 32, paragraph (b), are effective July 15, 1992.

**ARTICLE 3**

**INFRASTRUCTURE AND REGULATION**

**Section 1. TRANSPORTATION AND OTHER AGENCIES; APPROPRIATIONS.**

Unless otherwise indicated, all sums set forth in the columns designated "1992 and 1993 APPROPRIATION CHANGE" are to be added to or reduced from general fund appropriations made by Laws 1991, chapter 233, or another named law, for the fiscal years ending June 30, 1992, and June 30, 1993, respectively. Amounts to be reduced are designated by parentheses.

**SUMMARY BY FUND**

	1992	1993	TOTAL
APPROPRIATION CHANGE	\$ (1,112,000)	\$ (3,820,000)	\$ (4,932,000)
GENERAL FUND TRUNK HIGHWAY FUND	\$ (3,112,000)	\$ (11,255,000)	\$ (14,367,000)
WORKERS' COMPENSATION STATE AIRPORTS FUND	\$ 2,000,000	\$	\$ 2,000,000
SPECIAL REVENUE FUND	\$	\$ 3,274,000	\$ 3,274,000
REVENUE CHANGE	\$ 10,000	\$ 10,000	\$ 10,000
	\$	\$ 4,151,000	\$ 4,151,000
	\$ 49,000	\$ 8,961,000	\$ 9,010,000

New language is indicated by underline, deletions by ~~strikeout~~.

GENERAL FUND	\$ 49,000	\$ 2,596,000	\$ 2,645,000
WORKERS'			
COMPENSATION	\$	\$ 2,214,000	\$ 2,214,000
SPECIAL REVENUE			
FUND	\$	\$ 4,151,000	\$ 4,151,000
		APPROPRIATION CHANGE	
		1992	1993

## Sec. 2. TRANSPORTATION

### Subdivision 1. Total Appropriation Changes

2,000,000

The amounts in subdivision 1 are to be distributed among agency programs as specified in the following subdivisions.

### Subd. 2. State Road Construction

1992	1993
(1,700,000)	(4,800,000)

This appropriation is from the trunk highway fund.

### Subd. 3. Construction Engineering

1,700,000	4,800,000
-----------	-----------

This appropriation is from the trunk highway fund.

### Subd. 4. State Road Operations

2,000,000

This appropriation is from the trunk highway fund.

The commissioner of transportation shall hold at least one public hearing in each department of transportation construction district before December 31, 1992. At each hearing the commissioner or the commissioner's designees shall explain to persons attending the hearing the commissioner's most recent two-year highway improvement program and six-year highway improvement work program, including the process used to determine the final programs; the sources of funding available to finance the programs and any major

expansions of the programs, including anticipated federal highway funds; and the status of the designation in Minnesota of highways to be included in the national highway system established under the federal Intermodal Surface Transportation Efficiency Act of 1991, and the process to be used in making these designations. The commissioner shall receive public comment on these programs, processes, systems, and funding sources.

The commissioner of transportation shall establish an advisory board to advise the commissioner on designation in Minnesota of highways to be included in the national highway system established under the federal Intermodal Surface Transportation Efficiency Act of 1991. The committee must be composed of citizens who have demonstrated an interest and involvement in the improvement of highways and other forms of surface transportation in Minnesota. No more than 20 percent of the members may be highway engineers. The advisory committee shall function from the date of the commissioner's appointments to it until November 30, 1993. The commissioner shall not propose to the United States secretary of transportation any highways in Minnesota for inclusion in the national highway system, or take any other steps that would lead to such a designation, without first consulting with the advisory board.

Subd. 5. Aeronautics

10,000

This appropriation is from the state airports fund for the advisory council on metropolitan airports planning.

Subd. 6. Greater Minnesota Transit Assistance

440,000



This appropriation is from the general fund.

Sec. 3. REGIONAL TRANSIT BOARD

1,500,000

This appropriation is for Metro Mobility, and is notwithstanding any restriction in Laws 1991, chapter 233, section 3. Any unencumbered balance remaining in the first year does not cancel but is available for the second year of the biennium.

Sec. 4. PUBLIC SAFETY

Subdivision 1. Total Appropriation Changes

(1,420,000) (998,000)

The amounts in this subdivision are to be distributed among agency programs as specified in the following subdivisions.

Subd. 2. Emergency Management

88,000 54,000

Any unencumbered balance remaining in the first year does not cancel but is available for the second year.

This appropriation is to match federal funds for winter storm damage as provided in the Presidential Disaster Declaration awarded on December 26, 1991.

Subd. 3. Emergency Management and Emergency Response Reduction

(173,000) (45,000)

The commissioner of public safety shall consolidate the emergency response commission with the division of emergency management into a single division known as the division of emergency management.

Subd. 4. Criminal Apprehension

(590,000) (500,000)

Subd. 5. Fire Marshal  
(69,000) (7,000)

Subd. 6. Driver and Vehicle Services  
(399,000) (299,000)

The appropriation in Laws 1991, chapter 233, section 5, subdivision 8, for fiscal year 1992 for costs relating to collegiate plates for academic excellence scholarships is available for fiscal year 1993.

Subd. 7. Liquor Control  
(40,000) (70,000)

Subd. 8. Drug Policy  
(10,000) (20,000)

Subd. 9. Private Detective Board  
(3,000)

Subd. 10. State Patrol  
(16,000) (40,000)

Subd. 11. Capitol Security  
(75,000)

Subd. 12. Gambling Enforcement  
(130,000)

Subd. 13. General Reductions  
(3,000) (71,000)

**Sec. 5. BOARD OF PEACE OFFICER STANDARDS AND TRAINING**

Subdivision 1. Total Appropriation Changes (151,000) 669,000

**Summary by Fund**

General Fund	(151,000)	(3,482,000)
Special Revenue Fund		4,151,000

This appropriation is from the peace officers training account in the special revenue fund.

Any funds deposited into the peace officer training account in the special revenue fund in fiscal year 1993 in excess of \$4,151,000 must be transferred and credited to the general fund.

Sec. 6. COMMERCE

Subdivision 1. Registration and Analysis		275,000
--	--	---------

This appropriation is for unclaimed property administrative expenses.

The approved general fund complement is increased by two positions effective July 1, 1992.

Sec. 7. NON-HEALTH-RELATED BOARDS

Subdivision 1. Total for this section	59,000	88,000
Subd. 2. Board of Accountancy	10,000	14,000
Subd. 3. Board of Architecture, Engineering, Land Surveying, and Landscape Architecture	49,000	74,000

Sec. 8. PUBLIC SERVICE

Subdivision 1. Total Appropriation Changes	(87,000)	196,000
--	----------	---------

The approved general fund complement is increased by five positions in the classified service, effective July 1, 1992.

The amounts in subdivision 1 are to be distributed among agency programs as specified in the following subdivisions.

Except for the weights and measures division, the department of public service shall maintain its offices in the same building in which the public utilities commission maintains its offices.

Subd. 2. Information and Operations Management	(15,000)	(15,000)
--	----------	----------

Subd. 3. Energy  
(72,000) (72,000)

Subd. 4. Weights and Measures  
283,000

This appropriation is for gasoline octane and oxygenated fuels enforcement.

\$111,000 of this appropriation is for the first-year cost of the purchase of equipment through lease-purchase with a term of five years or less.

**Sec. 9. MINNESOTA HISTORICAL SOCIETY**

Subdivision 1. Total Appropriation  
Changes (45,000) (25,000)

Subd. 2. General Reduction (95,000) (95,000)

The reduction specified in this section can be taken in either year of the 1992-1993 biennium.

This reduction shall not apply to the fiscal agent program.

Subd. 3. Greater Cloquet-Moose Lake Forest Fire Center 20,000

The society shall spend this amount as a grant to the city of Cloquet to complete planning and design for development of the center.

Subd. 4. Statewide Outreach 50,000 50,000

These appropriations are for historic site grants to encourage local historic preservation projects. To be eligible for a grant, a county or local project group must provide a 50 percent match, in accordance with the historical society's guidelines. Any unencumbered balance remaining in the first year does not cancel but is available for the second year.

Sec. 10. MINNESOTA HUMANITIES COMMISSION (10,000)

The reduction specified in this section can be taken in either year of the 1992-1993 biennium.

Sec. 11. BOARD OF THE ARTS

Subdivision 1. Total Appropriation Changes (55,000)

Subd. 2. General Reduction (75,000)

The reduction specified in this subdivision can be taken in either year of the 1992-1993 biennium.

Subd. 3. Kee Theatre 20,000

The board shall spend this amount as a grant for the restoration of the Kee Theatre in Kiester. It is the intent of the legislature that no further direct appropriation will be made for this purpose. The board may not use any part of this sum for administrative expenses.

Sec. 12. MINNESOTA TECHNOLOGY, INC. (3,361,000) (4,490,000)

(a) \$3,000,000 of the appropriation reduction in fiscal year 1992 is to be replaced by money from the agency's fund balance. The remainder of the reductions in fiscal year 1992 are expenditure reductions to be allocated by the agency's board among agency operations and grants.

(b) Agricultural Utilization Research Institute (1,000,000)

The reduction of this grant is intended to be a one-time appropriation reduction and shall be reinstated in the base appropriation for the next biennium.

(c) General Reduction (361,000) (540,000)

(d) Minnesota High Technology Corridor Corporation

50,000

(e) The remainder of the reduction in fiscal year 1993 is intended as a one-time reduction and may be replaced by money from the agency's fund balance or the agency's seed capital account, or taken as reductions in agency operations expenditures, as determined by the agency's board.

(f) Grants to the organizations required to receive grants and funding by Laws 1991, chapter 233, section 21, subdivision 1, and Laws 1991, chapter 322, section 18, other than grants to the agricultural utilization research institute, must not be reduced by more than 6.3 percent, and must not be included in the \$3,000,000 reduction for the second year. Grants to the agricultural utilization research institute may not be reduced by more than the amount specified in paragraph (b).

### Sec. 13. WORLD TRADE CENTER CORPORATION

Subdivision 1. Total Appropriation Changes

530,000

Subd. 2. General Reduction

(50,000)

This reduction is from the money appropriated from the general fund for the regional international trade service center pilot project in Laws 1991, chapter 348, section 2, paragraph (a).

Subd. 3. Privatization of corporation

580,000

(a) The commissioner of finance shall release all or part of this appropriation as provided in this subdivision. Any portion of the appropriation not released reverts to the general fund.

(b) The commissioner of finance shall

release \$220,000 of this appropriation on the day following final enactment of this act. Of this amount (1) \$120,000 is for preservation of the assets of the corporation during the 90 days following the day following final enactment of this act, and (2) \$100,000 shall be used to conduct an analysis of the feasibility of privatizing (through merger, asset sale, or public offering) all or part of the corporation. That analysis must include a full market value accounting study of the corporations's assets, liabilities, liens, and encumbrances. Subject to the approval of the commissioner of administration, the World Trade Center Corporation board shall select an investment advisor to perform the privatization analysis required under clause (2).

The study must be delivered to the board and the commissioner of administration not later than 90 days after the release of funds under this paragraph.

(c) Should the commissioner of administration determine that the study conducted under paragraph (b) shows a reasonable potential for the state to recover a significant proportion of its investment in the World Trade Center Corporation in a sale of all or part of the corporation, the commissioner of administration shall request the commissioner of finance to release an additional \$240,000 of this appropriation. The World Trade Center Corporation board shall utilize this amount during the 180 days following the expiration of the period described in paragraph (b) to prepare and execute a plan for accomplishing the privatization and to preserve the assets and goodwill of the corporation.

(d) If the commissioner of administration determines the release of the

remaining \$120,000 of this appropriation is necessary during the 90 days following the completion of the period described in paragraph (c) to preserve the assets and goodwill of the corporation and to facilitate the sale of all or part of the corporation, the commissioner of administration may request the commissioner of finance to release the remaining \$120,000 of this appropriation.

(e) This appropriation is available until expended.

(f) Any money remaining in the World Trade Center Corporation account in the special revenue fund after sale of the assets or ownership of the corporation reverts to the general fund under Minnesota Statutes, section 44A.0311, as amended by this act.

(g) The proceeds of the sale must be applied in the following order:

(1) Any liabilities and obligations of the corporation must be paid, satisfied, or discharged or adequate provision must be made to do so; and

(2) Any remaining proceeds must be deposited in the general fund.

#### Sec. 14. LABOR AND INDUSTRY

##### Subdivision 1. Total Appropriation

Changes	(80,000)	385,000
---------	----------	---------

##### Summary by Fund

General	(80,000)	(2,889,000)
Workers' Compensation		3,274,000

The approved general fund complement is decreased by 62.5 positions and the approved workers' compensation fund complement is increased by 101.5 positions effective July 1, 1992.



The amounts in subdivision 1 are to be distributed among agency programs as specified in the following subdivisions.

**Subd. 2. Workers' Compensation Regulation and Enforcement**

**Summary by Fund**

General Fund	(1,458,000)
Workers' Compensation	1,633,000

The general fund reduction is from the money appropriated in Laws 1991, chapter 292, article 1, section 5, subdivision 1.

The appropriation of \$1,633,000 in the second year is for the Workers' Compensation Vocational Rehabilitation Unit which is funded from the workers' compensation fund effective July 1, 1992.

**Subd. 3. Workplace Regulation and Enforcement**

**Summary by Fund**

General Fund	(40,000)	(1,431,000)
Workers' Compensation		1,641,000

The appropriation of \$1,641,000 in the second year is for the Occupational Safety and Health Act program which is funded from the workers' compensation fund effective July 1, 1992.

**Subd. 4. General Support General Fund** (40,000)

**Sec. 15. SECRETARY OF STATE**

**Subdivision 1. General Reduction** (248,000)

The reduction specified in this section can be taken in either year of the 1992-1993 biennium.

Sec. 16. Laws 1991, chapter 233, section 2, subdivision 2, is amended to read:

## Subd. 2. Aeronautics

15,814,000

15,562,000

This appropriation is from the state airports fund.

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

(a) Airport Development and Assistance	1992	1993
	11,892,000	11,645,000

~~\$1,749,000~~ \$1,834,000 the first year and  
~~\$1,752,000~~ \$1,837,000 the second year  
are for navigational aids.

~~\$6,089,000~~ \$7,200,000 the first year and  
~~\$6,089,000~~ \$7,200,000 the second year  
are for airport construction grants.

~~\$1,773,000~~ \$2,100,000 the first year and  
~~\$1,773,000~~ \$2,100,000 the second year  
are for airport maintenance grants.

If the appropriation for either year for navigational aids, airport construction grants, or airport maintenance grants is insufficient, the appropriation for the other year is available for it. The appropriations for construction grants and maintenance grants must be expended only for grant-in-aid programs for airports that are not state owned.

These appropriations must be expended in accordance with Minnesota Statutes, section 360.305, subdivision 4.

The commissioner of transportation may transfer unencumbered balances among the appropriations for airport development and assistance with the approval of the governor after consultation with the legislative advisory commission.

\$8,000 the first year and \$8,000 the second year are for maintenance of the Pine Creek Airport.

New language is indicated by underline, deletions by ~~strikeout~~.

\$500,000 the first year and \$500,000 the second year are for air service grants.

\$15,000 the first year and \$15,000 the second year are for the advisory council on metropolitan airport planning.

(b) Civil Air Patrol  
65,000                      65,000

(c) Aeronautics Administration  
3,857,000                  3,852,000

\$15,000 the first year and \$25,000 the second year are for the advisory council on metropolitan airport planning. The commissioner of transportation shall transfer these funds to the legislative coordinating commission by July 15, 1992.

Sec. 17. Minnesota Statutes 1990, section 3.21, is amended to read:

3.21 NOTICE.

At least four months before the election, the attorney general shall furnish to the secretary of state a statement of the purpose and effect of all amendments proposed, showing clearly the form of the existing sections and how they will read if amended. If a section to which an amendment is proposed exceeds 150 words in length, the statement shall show the part of the section in which a change is proposed, both its existing form and as it will read when amended, together with the portions of the context that the attorney general deems necessary to understand the amendment. ~~In October before the election, the secretary of state shall publish the statement once in all qualified newspapers of the state. The secretary of state shall furnish the statement to the newspapers in reproducible form approved by the secretary of state, set in 7-1/2-point type on an 8-point body. The maximum rate for publication is that provided in section 331A.06 or 18 cents per standard line, whichever is less. If a newspaper refuses to publish the amendments, the refusal shall have no effect on the validity of the amendments. The secretary of state shall also forward to each county auditor enough copies of the statement, in poster form, to supply each election district of the county with two copies. The auditor shall have two copies conspicuously posted at or near each polling place on election day. Willful or negligent failure by an official named to perform a duty imposed by this section is a misdemeanor.~~

Sec. 18. Minnesota Statutes 1990, section 5.09, is amended to read:

New language is indicated by underline, deletions by ~~strikeout~~.

**5.09 LEGISLATIVE MANUAL, STUDENTS' EDITION.**

The secretary of state, ~~subject to the approval of the president of the senate and speaker of the house of representatives,~~ shall may prepare, compile, edit, and distribute a brief edition of the legislative manual, as provided in section 5.08, suitable for school pupils.

Sec. 19. Minnesota Statutes 1990, section 5.14, is amended to read:

**5.14 TRANSACTION SURCHARGE.**

The secretary of state may impose a surcharge of ~~55~~ \$10 on each transaction involving over-the-counter expedited service, other than simple copying requests, that takes place at the office of the secretary of state.

Sec. 20. Minnesota Statutes 1990, section 10A.31, subdivision 4, is amended to read:

Subd. 4. The amounts designated by individuals for the state elections campaign fund, less three percent, are appropriated from the general fund and shall be credited to the appropriate account in the state elections campaign fund and annually appropriated for distribution as set forth in subdivisions 5, 6 and 7. An amount equal to three percent shall be retained in the general fund for administrative costs.

Sec. 21. Minnesota Statutes 1990, section 15.0597, subdivision 4, is amended to read:

Subd. 4. **NOTICE OF VACANCIES.** The chair of an existing agency, shall notify the secretary of a vacancy scheduled to occur in the agency as a result of the expiration of membership terms at least 45 days before the vacancy occurs. The chair of an existing agency shall give written notification to the secretary of each vacancy occurring as a result of newly created agency positions and of every other vacancy occurring for any reason other than the expiration of membership terms as soon as possible upon learning of the vacancy and in any case within 15 days after the occurrence of the vacancy. The appointing authority for newly created agencies shall give written notification to the secretary of all vacancies in the new agency within 15 days after the creation of the agency. ~~Every 24 days;~~ The secretary shall publish monthly in the State Register a list of all vacancies of which the secretary has been so notified. Only one notice of a vacancy shall be so published, unless the appointing authority rejects all applicants and requests the secretary to republish the notice of vacancy. One copy of the listing shall be made available at the office of the secretary to any interested person. The secretary shall distribute by mail copies of the listings to requesting persons. The listing for all vacancies scheduled to occur in the month of January shall be published in the State Register together with the compilation of agency data required to be published pursuant to subdivision 3.

Sec. 22. Minnesota Statutes 1990, section 44A.0311, is amended to read:

New language is indicated by underline, deletions by ~~strikeout~~.

## 44A.0311 WORLD TRADE CENTER CORPORATION ACCOUNT.

The world trade center corporation account is in the special revenue fund. All money received by the corporation, including money generated from the use of the conference and service center, except money generated from the use of the center by the Minnesota trade division and by the sale of the assets or ownership of the corporation under section 44A.12, must be deposited in the account. Money in the account including interest earned is appropriated to the board and must be used exclusively for corporation purposes. Any money remaining in the account after sale of the assets or ownership of the corporation under section 44A.12 shall revert to the general fund.

## Sec. 23. [44A.12] PRIVATIZATION OF CORPORATION.

Subdivision 1. SALE OF CORPORATION. The board shall privatize the corporation through a sale of the assets or ownership of the corporation, on or before December 31, 1993.

Subd. 2. REQUESTS FOR PROPOSALS. The board shall solicit proposals to privatize the corporation under subdivision 1.

Subd. 3. EVALUATION FACTORS. Proposals shall be evaluated according to, but not limited to, the following factors:

(1) the ability of the proposed buyer to maintain the mission and vision of the world trade center;

(2) the price offered by the proposed buyer for the assets or ownership of the corporation;

(3) the extent to which the proposed buyer will assume any liabilities and obligations of the corporation;

(4) the ability of the proposed buyer to provide the capital needed for continuing development, promotion and marketing of world trade center programs, services, and business activities; and

(5) the ability of the proposed buyer to maintain and expand employment in the state of Minnesota using the assets or ownership purchased from the corporation.

Subd. 4. EVALUATION METHODS. The board, in conjunction with the commissioner of the department of administration, shall establish:

(1) the relative importance of each factor in subdivision 3; and

(2) other procedures to be used to review and evaluate proposals.

Subd. 5. DISTRIBUTION OF PROCEEDS. The proceeds of the sale must be applied in the following order:

New language is indicated by underline, deletions by ~~strikeout~~.

(1) any liabilities and obligations of the corporation must be paid, satisfied, or discharged or adequate provision must be made to do so; and

(2) any remaining proceeds must be deposited in the general fund.

Subd. 6. APPROVAL. A final agreement for sale under this section is not effective until it has been approved by the board of the World Trade Center Corporation and the commissioner of administration.

Sec. 24. Minnesota Statutes 1991 Supplement, section 60A.14, subdivision 1, is amended to read:

Subdivision 1. **FEES OTHER THAN EXAMINATION FEES.** In addition to the fees and charges provided for examinations, the following fees must be paid to the commissioner for deposit in the general fund:

(a) by township mutual fire insurance companies:

(1) for filing certificate of incorporation \$25 and amendments thereto, \$10;

(2) for filing annual statements, \$15;

(3) for each annual certificate of authority, \$15;

(4) for filing bylaws \$25 and amendments thereto, \$10.

(b) by other domestic and foreign companies including fraternal and reciprocal exchanges:

(1) for filing certified copy of certificate of articles of incorporation, \$100;

(2) for filing annual statement, \$225;

(3) for filing certified copy of amendment to certificate or articles of incorporation, \$100;

(4) for filing bylaws, \$75 or amendments thereto, \$75;

(5) for each company's certificate of authority, \$575, annually.

(c) the following general fees apply:

(1) for each certificate, including certified copy of certificate of authority, renewal, valuation of life policies, corporate condition or qualification, ~~\$15~~ \$25;

(2) for each copy of paper on file in the commissioner's office 50 cents per page, and \$2.50 for certifying the same;

(3) for license to procure insurance in unadmitted foreign companies, \$575;

(4) for receiving and forwarding each notice, proof of loss, summons, complaint or other process served upon the commissioner of commerce, as attorney

New language is indicated by underline, deletions by ~~strikeout~~.

for service of process upon any nonresident agent or insurance company, including reciprocal exchanges, \$15 plus the cost of effectuating service by certified mail, which amount must be paid by the party serving the notice and may be taxed as other costs in the action;

(5) for valuing the policies of life insurance companies, one cent per \$1,000 of insurance so valued, provided that the fee shall not exceed \$13,000 per year for any company. The commissioner may, in lieu of a valuation of the policies of any foreign life insurance company admitted, or applying for admission, to do business in this state, accept a certificate of valuation from the company's own actuary or from the commissioner of insurance of the state or territory in which the company is domiciled;

(6) for receiving and filing certificates of policies by the company's actuary, or by the commissioner of insurance of any other state or territory, \$50;

(7) for issuing an initial license to an individual agent, ~~\$25~~ \$30 per license, for issuing an initial agent's license to a partnership or corporation, ~~\$50~~ \$100, and for issuing an amendment (variable annuity) to a license, ~~\$25~~ \$50, and for renewal of amendment, \$25;

(8) for each appointment of an agent filed with the commissioner, a domestic insurer shall remit \$5 and all other insurers shall remit \$3;

(9) for renewing an individual agent's license, ~~\$25~~ \$30 per year per license, and for renewing a license issued to a corporation or partnership, ~~\$50~~ \$60 per year;

(10) for issuing and renewing a surplus lines agent's license, ~~\$150~~ \$250;

(11) for issuing duplicate licenses, ~~\$5~~ \$10;

(12) for issuing licensing histories, ~~\$10~~ \$20;

(13) for filing forms and rates, \$50 per filing;

(14) for annual renewal of surplus lines insurer license, \$300.

The commissioner shall adopt rules to define filings that are subject to a fee.

Sec. 25. Minnesota Statutes 1990, section 60A.1701, subdivision 5, is amended to read:

Subd. 5. **POWERS OF THE ADVISORY TASK FORCE.** (a) Applications for approval of individuals responsible for monitoring course offerings must be submitted to the commissioner on forms prescribed by the commissioner and must be accompanied by a fee of not more than ~~\$50~~ \$100 payable to the state of Minnesota for deposit in the general fund. A fee of ~~\$5~~ \$10 for each hour or fraction of one hour of course approval sought must be forwarded with the application for course approval. If the advisory task force is created, it shall make

New language is indicated by underline, deletions by ~~strikeout~~.

recommendations to the commissioner regarding the accreditation of courses sponsored by institutions, both public and private, which satisfy the criteria established by this section, the number of credit hours to be assigned to the courses, and rules which may be promulgated by the commissioner. The advisory task force shall seek out and encourage the presentation of courses.

(b) If the advisory task force is created, it shall make recommendations and provide subsequent evaluations to the commissioner regarding procedures for reporting compliance with the minimum education requirement.

(c) The advisory task force shall recommend the approval or disapproval of professional designation examinations that meet the criteria established by this section and the number of continuing education credit hours to be awarded for passage of the examination. In order to be approved, a professional designation examination must:

(1) lead to a recognized insurance or financial planning professional designation used by agents; and

(2) conclude with a written examination that is proctored and graded.

Sec. 26. Minnesota Statutes 1990, section 72B.04, subdivision 10, is amended to read:

Subd. 10. **FEES.** A fee of ~~\$20~~ \$40 is imposed for each initial license or temporary permit and ~~\$20~~ \$25 for each renewal thereof or amendment thereto. A fee of \$20 is imposed for each examination taken. A fee of \$20 is imposed for the registration of each nonlicensed adjuster who is required to register under section 72B.06. All fees shall be transmitted to the commissioner and shall be payable to the state treasurer. If a fee is paid for an examination and if within one year from the date of that payment no written request for a refund is received by the commissioner or the examination for which the fee was paid is not taken, the fee is forfeited to the state of Minnesota.

Sec. 27. Minnesota Statutes 1990, section 80A.28, subdivision 2, is amended to read:

Subd. 2. Every applicant for an initial or renewal license shall pay a filing fee of \$200 in the case of a broker-dealer, \$50 in the case of an agent, and \$100 in the case of an investment adviser. When an application is denied or withdrawn, the filing fee shall be retained. A licensed agent who has terminated employment with one broker-dealer shall, before beginning employment with another broker-dealer, pay a transfer fee of ~~\$20~~ \$25.

Sec. 28. Minnesota Statutes 1990, section 82.21, subdivision 1, is amended to read:

Subdivision 1. **AMOUNTS.** The following fees shall be paid to the commissioner:

New language is indicated by underline, deletions by ~~strikeout~~.



(a) A fee of ~~\$50~~ \$100 for each initial individual broker's license, and a fee of ~~\$25~~ \$50 for each annual renewal thereof;

(b) A fee of ~~\$25~~ \$50 for each initial salesperson's license, and a fee of ~~\$10~~ \$20 for each annual renewal thereof;

(c) A fee of ~~\$25~~ \$55 for each initial real estate closing agent license, and a fee of ~~\$10~~ \$30 for each annual renewal;

(d) A fee of ~~\$50~~ \$100 for each initial corporate or partnership license, and a fee of ~~\$25~~ \$50 for each annual renewal thereof;

(e) A fee not to exceed \$40 per year for payment to the education, research and recovery fund in accordance with section 82.34;

(f) A fee of ~~\$10~~ \$20 for each transfer;

(g) A fee of ~~\$25~~ \$50 for a corporation or partnership name change;

(h) A fee of ~~\$5~~ \$10 for an agent name change;

(i) A fee of ~~\$10~~ \$20 for a license history;

(j) A fee of ~~\$5~~ \$10 for a duplicate license; ~~and~~

(k) A fee of \$50 for license reinstatement;

(l) A fee of \$20 for reactivating a corporate or partnership license without land;

(m) A fee of \$100 for course coordinator approval; and

(n) A fee of \$5 \$10 for each hour or fraction of one hour of course approval sought.

Sec. 29. Minnesota Statutes 1990, section 82B.09, subdivision 1, is amended to read:

Subdivision 1. **AMOUNTS.** The following fees must be paid to the commissioner:

(1) a fee of ~~\$50~~ \$100 for each initial individual real estate appraiser's license and a fee of ~~\$25~~ \$50 for each annual renewal;

(2) a fee of ~~\$5~~ \$10 for a change in personal name or trade name or personal address or business location;

(3) a fee of \$10 for a license history; ~~and~~

(4) a fee of ~~\$20~~ \$25 for a duplicate license;

(5) a fee of \$100 for appraiser course coordinator approval; and

New language is indicated by underline, deletions by ~~strikeout~~.

(6) a fee of \$10 for each hour or fraction of one hour of course approval sought.

Sec. 30. Minnesota Statutes 1990, section 138.56, is amended by adding a subdivision to read:

Subd. 18. DESIGNATION. The former Sibley county courthouse located on land owned by the city of Henderson in Sibley county is designated as the Joseph R. Brown historical interpretive center.

Sec. 31. Minnesota Statutes 1990, section 138.763, subdivision 1, is amended to read:

Subdivision 1. **MEMBERSHIP.** There is a St. Anthony Falls heritage board consisting of ~~ten~~ thirteen members with the director of the Minnesota historical society as chair. The members include the mayor, the chairman of the Hennepin county board of commissioners, two members each from the city council, the Hennepin county board, and the park board, and one each from the preservation commission, the preservation office, Hennepin county historical society, and the society.

Sec. 32. Minnesota Statutes 1990, section 138.766, is amended to read:

**138.766 MATCH.**

The city of Minneapolis, Hennepin county, and the park board shall provide match in money or in kind for the project under sections 138.761 to 138.765 on a dollar for dollar basis.

Sec. 33. Minnesota Statutes 1990, section 169.01, subdivision 55, is amended to read:

Subd. 55. **IMPLEMENT OF HUSBANDRY.** (a) "Implement of husbandry" means every vehicle designed and adapted exclusively for agricultural, horticultural, or livestock-raising operations or for lifting or carrying an implement of husbandry and in either case not subject to registration if used upon the highways.

(b) A towed vehicle meeting the description in paragraph (a) is an implement of husbandry without regard to whether the vehicle is towed by an implement of husbandry or by a registered motor vehicle.

Sec. 34. Minnesota Statutes 1990, section 176.104, subdivision 2, is amended to read:

Subd. 2. **LIABILITY FOR PAST REHABILITATION; LIEN.** (a) If liability is determined after the employee has commenced rehabilitation under this section the liable party is responsible for the cost of rehabilitation provided. Future rehabilitation after liability is established is governed by section 176.102.

New language is indicated by underline, deletions by ~~strikeout~~.

(b) If the employer, insurer, or defendant is given written notice by the department of a claim for rehabilitation services or disbursements, the claim is a lien against the amount paid or payable as compensation.

Sec. 35. Minnesota Statutes 1990, section 176.104, is amended by adding a subdivision to read:

Subd. 3. REIMBURSEMENTS. All money received under this section must be credited to the special compensation fund.

Sec. 36. Minnesota Statutes 1990, section 176.104, is amended by adding a subdivision to read:

Subd. 4. VOCATIONAL REHABILITATION UNIT FUNDING. The cost of the vocational rehabilitation unit shall be financed by the special compensation fund beginning July 1, 1992.

Sec. 37. Minnesota Statutes 1990, section 176.129, subdivision 1, is amended to read:

Subdivision 1. **DEPOSIT OF FUNDS.** The special compensation fund is created for the purposes provided for in this chapter and chapter 182. The state treasurer is the custodian of the special compensation fund. Sums paid to the commissioner pursuant to this section shall be deposited with the state treasurer for the benefit of the fund and used to pay the benefits under this chapter and administrative costs pursuant to subdivision 11. Any interest or profit accruing from investment of these sums shall be credited to the special compensation fund. Subject to the provisions of this section, all the powers, duties, functions, obligations, and rights vested in the special compensation fund immediately prior to January 1, 1984 are transferred to and vested in the special compensation fund recreated by this section. All rights and obligations of employers with regard to the special compensation fund which existed immediately prior to January 1, 1984, continue, subject to the provisions of this section.

Sec. 38. Minnesota Statutes 1990, section 176.129, subdivision 11, is amended to read:

Subd. 11. **ADMINISTRATIVE PROVISIONS.** The accounting, investigation, and legal costs necessary for the administration of the programs financed by the special compensation fund shall be paid from the fund during each biennium commencing July 1, 1981. Staffing and expenditures related to the administration of the special compensation fund shall be approved through the regular budget and appropriations process. All sums recovered by the special compensation fund as a result of action under section 176.061, or recoveries of payments made by the special compensation fund under section 176.183 or 176.191, or sums recovered under chapter 182, shall be credited to the special compensation fund.

Sec. 39. Minnesota Statutes 1990, section 176.183, subdivision 1, is amended to read:

New language is indicated by underline, deletions by ~~strikeout~~.

Subdivision 1. When any employee sustains an injury arising out of and in the course of employment while in the employ of an employer, other than the state or its political subdivisions, not insured or self-insured as provided for in this chapter, the employee or the employee's dependents shall nevertheless receive benefits as provided for in this chapter from the special compensation fund, and the commissioner has a cause of action against the employer for reimbursement for all moneys paid out or to be paid out, and, in the discretion of the court, as punitive damages an additional amount not exceeding 50 percent of all moneys paid out or to be paid out. As used in this subdivision, "employer" includes officers of corporations who have legal control, either individually or jointly with another or others, of the payment of wages. An action to recover the moneys shall be instituted unless the commissioner determines that no recovery is possible. ~~All moneys recovered shall be deposited in the general fund.~~ There shall be no payment from the special compensation fund if there is liability for the injury under the provisions of section 176.215, by an insurer or self-insurer.

Sec. 40. Minnesota Statutes 1991 Supplement, section 182.666, subdivision 2, is amended to read:

Subd. 2. Any employer who has received a citation for a serious violation of its duties under section 182.653, or any standard, rule, or order adopted under the authority of the commissioner as provided in this chapter, shall be assessed a fine not to exceed \$7,000 for each violation. If the violation causes or contributes to the cause of the death of an employee, the employer shall be assessed a fine of up to ~~\$10,000~~ \$25,000.

Sec. 41. Minnesota Statutes 1990, section 182.666, subdivision 7, is amended to read:

Subd. 7. Fines imposed under this chapter shall be paid to the commissioner for deposit in the ~~general~~ special compensation fund and may be recovered in a civil action in the name of the department brought in the district court of the county where the violation is alleged to have occurred or the district court where the commissioner has an office. Unpaid fines shall be increased to 125 percent of the original assessed amount if not paid within 60 days after the fine becomes a final order. After that 60 days, unpaid fines shall accrue an additional penalty of ten percent per month compounded monthly until the fine is paid in full.

Sec. 42. Minnesota Statutes 1990, section 204B.11, subdivision 1, is amended to read:

Subdivision 1. **AMOUNT; DISHONORED CHECKS; CONSEQUENCES.** Except as provided by subdivision 2, a filing fee shall be paid by each candidate who files an affidavit of candidacy. The fee shall be paid at the time the affidavit is filed. The amount of the filing fee shall vary with the office sought as follows:

- (a) for the office of governor, lieutenant governor, attorney general, state

New language is indicated by underline, deletions by ~~strikeout~~.

auditor, state treasurer, secretary of state, representative in congress, judge of the supreme court, judge of the court of appeals, judge of the district court, or judge of the county municipal court of Hennepin county, ~~\$200~~ \$300;

(b) for the office of senator in congress, ~~\$300~~ \$400;

(c) for office of senator or representative in the legislature, ~~\$75~~ \$100;

(d) for a county office, \$50; and

(e) for the office of soil and water conservation district supervisor, \$20.

For the office of presidential elector, and for those offices for which no compensation is provided, no filing fee is required.

The filing fees received by the county auditor shall immediately be paid to the county treasurer. The filing fees received by the secretary of state shall immediately be paid to the state treasurer.

When an affidavit of candidacy has been filed with the appropriate filing officer and the requisite filing fee has been paid, the filing fee shall not be refunded. If a candidate's filing fee is paid with a check, draft, or similar negotiable instrument for which sufficient funds are not available or that is dishonored, notice to the candidate of the worthless instrument must be sent by the filing officer via registered mail no later than immediately upon the closing of the filing deadline with return receipt requested. The candidate will have five days from the time the filing officer receives proof of receipt to issue a check or other instrument for which sufficient funds are available. The candidate issuing the worthless instrument is liable for a service charge pursuant to section 332.50. If adequate payment is not made, the name of the candidate must not appear on any official ballot and the candidate is liable for all costs incurred by election officials in removing the name from the ballot.

Sec. 43. Minnesota Statutes 1990, section 204B.27, subdivision 2, is amended to read:

Subd. 2. **ELECTION LAW AND INSTRUCTIONS.** The secretary of state shall prepare and publish a volume containing all state general laws relating to elections. The attorney general shall provide annotations to the secretary of state for this volume. On or before July 1 of every even numbered year the secretary of state shall furnish to the county auditors and municipal clerks enough copies of this volume so that each county auditor and municipal clerk will have at least one copy. ~~The secretary of state shall prepare an extract of this volume containing all the election laws related to the duties of election judges. On or before August 1 of every even-numbered year, the secretary of state shall furnish to the county auditors and municipal clerks enough copies of this extract so that each election precinct will have at least one copy. The secretary of state shall determine the manner in which the volume and extract are distributed.~~ The secretary of state may prepare and transmit to the county auditors and municipal clerks

New language is indicated by underline, deletions by ~~strikeout~~.

detailed written instructions for complying with election laws relating to the conduct of elections, conduct of voter registration and voting procedures.

Sec. 44. Minnesota Statutes 1990, section 204D.11, subdivision 1, is amended to read:

Subdivision 1. **WHITE BALLOT; RULES; REIMBURSEMENT.** The names of the candidates for all partisan offices voted on at the state general election shall be placed on a single ballot printed on white paper which shall be known as the "white ballot." This ballot shall be prepared by the county auditor subject to the rules of the secretary of state. ~~The state shall contribute to the cost of preparing the white ballot and the envelopes required for the returns of that ballot.~~ The secretary of state shall adopt rules for preparation and time of delivery of the white ballot ~~and for establishing a basis for distributing to the counties the money appropriated by the state for white ballot costs.~~ ~~The appropriation shall be available both years of the biennium and shall be used for all state general and special elections.~~ ~~The secretary of state shall report to the chairs of the senate finance and house appropriations committees on all money used for special elections.~~

Sec. 45. Minnesota Statutes 1990, section 204D.11, subdivision 2, is amended to read:

Subd. 2. **PINK BALLOTS.** Amendments to the state constitution shall be placed on a ballot printed on pink paper which shall be known as the "pink ballot." ~~The pink ballot shall be prepared by the secretary of state.~~

Sec. 46. Minnesota Statutes 1991 Supplement, section 240.13, subdivision 5, is amended to read:

Subd. 5. **PURSES.** (a) From the amounts deducted from all pari-mutuel pools by a licensee, an amount equal to not less than the following percentages of all money in all pools must be set aside by the licensee and used for purses for races conducted by the licensee, provided that a licensee may agree by contract with an organization representing a majority of the horsepersons racing the breed involved to set aside amounts in addition to the following percentages:

(1) for live races conducted at a class A facility, and for races that are part of full racing card simulcasting or full racing card telerace simulcasting that takes place within the time period of the live races, 8.4 percent;

(2) for simulcasts and telerace simulcasts conducted during the racing season other than as provided for in clause (1), 50 percent of the takeout remaining after deduction for taxes on pari-mutuel pools, payment to the breeders fund, and payment to the sending out-of-state racetrack for receipt of the signal; and

(3) for simulcasts and telerace simulcasts conducted outside of the racing season, 25 percent of the takeout remaining after deduction for the state pari-mutuel tax, payment to the breeders fund, payment to the sending out-of-state

New language is indicated by underline, deletions by ~~strikeout~~.

racetrack for receipt of the signal and, before January 1, 2005, a further deduction of eight percent of all money in all pools; provided, however, that in the event that wagering on simulcasts and telerace simulcasts outside of the racing season exceeds \$125 million in any calendar year, the amount set aside for purses by this formula is increased to 30 percent on amounts between \$125,000,000 and \$150,000,000 wagered; 40 percent on amounts between \$150,000,000 and \$175,000,000 wagered; and 50 percent on amounts in excess of \$175,000,000 wagered. In lieu of the eight percent deduction, a deduction as agreed to between the licensee and the horsepersons' organization representing the majority of horsepersons racing at the licensee's class A facility during the preceding 12 months, is allowed after December 31, 2004.

The commission may by rule provide for the administration and enforcement of this subdivision. The deductions for payment to the sending out-of-state racetrack must be actual, except that when there exists any overlap of ownership, control, or interest between the sending out-of-state racetrack and the receiving licensee, the deduction must not be greater than three percent unless agreed to between the licensee and the horsepersons' organization representing the majority of horsepersons racing the breed racing the majority of races during the existing racing meeting or, if outside of the racing season, during the most recent racing meeting.

In lieu of the amount the licensee must pay to the commission for deposit in the Minnesota breeders fund under section 240.15, subdivision 1, the licensee shall pay 5-1/2 percent of the takeout from all pari-mutuel pools generated by wagering at the licensee's facility on full racing card simulcasts and full racing card telerace simulcasts of races not conducted in this state.

(b) From the money set aside for purses, the licensee shall pay to the horseperson's organization representing the majority of the horsepersons racing the breed involved and contracting with the licensee with respect to purses and the conduct of the racing meetings and providing representation, benevolent programs, benefits, and services for horsepersons and their on-track employees, an amount, sufficient to perform these services, as may be determined by agreement by the licensee and the horseperson's organization. The amount paid may be deducted only from the money set aside for purses to be paid in races for the breed represented by the horseperson's organization. With respect to racing meetings where more than one breed is racing, the licensee may contract independently with the horseperson's organization representing each breed racing.

(c) Notwithstanding sections 325D.49 to 325D.66, a horseperson's organization representing the majority of the horsepersons racing a breed at a meeting, and the members thereof, may agree to withhold horses during a meeting.

(d) Money set aside for purses from wagering, during the racing season, on simulcasts and telerace simulcasts must be used for purses for live races conducted at the licensee's class A facility during the same racing season, over and above the 8.4 percent purse requirement or any higher requirement to which the

New language is indicated by underline, deletions by ~~strikeout~~.

parties agree, for races conducted in this state. Money set aside for purses from wagering, outside of the racing season, on simulcasts and telerace simulcasts must be for purses for live races conducted at the licensee's class A facility during the next racing season, over and above the 8.4 percent purse requirement or any higher requirement to which the parties agree, for races conducted in this state.

(e) Money set aside for purses from wagering on simulcasts and telerace simulcasts must be used for purses for live races involving the same breed involved in the simulcast or telerace simulcast except that money set aside for purses and payments to the breeders fund from wagering on full racing card simulcasts and full racing card telerace simulcasts of races not conducted in this state, occurring during a live mixed meet, must be allotted to the purses and breeders fund for each breed participating in the mixed meet in the same proportion that the number of live races run by each breed bears to the total number of live races conducted during the period of the mixed meet.

(f) The allocation of money set aside for purses to particular racing meets may be adjusted, relative to overpayments and underpayments, by contract between the licensee and the horsepersons' organization representing the majority of horsepersons racing the breed involved at the licensee's facility.

(g) Subject to the provisions of this chapter, money set aside from pari-mutuel pools for purses must be for the breed involved in the race that generated the pool, except that if the breed involved in the race generating the pari-mutuel pool is not racing in the current racing meeting, or has not raced within the preceding 12 months at the licensee's class A facility, money set aside for purses ~~must~~ may be distributed proportionately to those breeds that have run during the preceding 12 months or paid to the commission and used for purses or to promote racing for the breed involved in the race generating the pari-mutuel pool, or both, in a manner prescribed by the commission.

Sec. 47. Minnesota Statutes 1991 Supplement, section 240.13, subdivision 6, is amended to read:

Subd. 6. **SIMULCASTING.** The commission may permit an authorized licensee to conduct simulcasting or telerace simulcasting at the licensee's facility on any day authorized by the commission. All simulcasts and telerace simulcasts must comply with the Interstate Horse Racing Act of 1978, United States Code, title 15, sections 3001 to 3007. In addition to teleracing programs featuring live racing conducted at the licensee's class A facility, the class E licensee may conduct not more than seven teleracing programs per week during the racing season, unless additional telerace simulcasting is authorized by the director and approved by the horsepersons' organization representing the majority of horsepersons racing the breed racing the majority of races at the licensee's class A facility during the preceding 12 months. The commission may not authorize any day for simulcasting at a class A facility during the racing season, and a licensee may not be allowed to transmit out-of-state telecasts of races the licensee con-

New language is indicated by underline, deletions by ~~strikeout~~.



ducts, unless the licensee has obtained the approval of the horsepersons' organization representing the majority of the horsepersons racing the breed involved at the licensed racetrack during the preceding 12 months. The licensee may pay fees and costs to an entity transmitting a telecast of a race to the licensee for purposes of conducting pari-mutuel wagering on the race. The licensee may deduct fees and costs related to the receipt of televised transmissions from a pari-mutuel pool on the televised race, provided that one-half of any amount recouped in this manner must be added to the amounts required to be set aside for purses.

With the approval of the commission and subject to the provisions of this subdivision, a licensee may transmit telecasts of races it conducts, for wagering purposes, to locations outside the state, and the commission may allow this to be done on a commingled pool basis.

Except as otherwise provided in this section, simulcasting and telerece simulcasting may be conducted on a separate pool basis or, with the approval of the commission, on a commingled pool basis. All provisions of law governing pari-mutuel betting apply to simulcasting and telerece simulcasting except as otherwise provided in this subdivision or in the commission's rules. If pools are commingled, wagering at the licensed facility must be on equipment electronically linked with the equipment at the licensee's class A facility or with the sending racetrack via the totalizator computer at the licensee's class A facility. Subject to the approval of the commission, the types of betting, takeout, and distribution of winnings on commingled pari-mutuel pools are those in effect at the sending racetrack. Breakage for pari-mutuel pools on a televised race must be calculated in accordance with the law or rules governing the sending racetrack for these pools, and must be distributed in a manner agreed to between the licensee and the sending racetrack. Notwithstanding subdivision 7 and section 240.15, subdivision 5, the commission may approve procedures governing the definition and disposition of unclaimed tickets that are consistent with the law and rules governing unclaimed tickets at the sending racetrack. For the purposes of this section, "sending racetrack" is either the racetrack outside of this state where the horse race is conducted or, with the consent of the racetrack, an alternative facility that serves as the racetrack for the purpose of commingling pools.

If there is more than one class B licensee conducting racing within the seven-county metropolitan area, simulcasting and telerece simulcasting may be conducted only on races run by a breed that ran at the licensee's class A facility within the 12 months preceding the event. ~~That portion of the takeout allocated for purses from pari-mutuel pools generated by wagering on standardbreds must be set aside and must be paid to the racing commission and used for purses as otherwise provided by this section or to promote standardbred racing or both, in a manner prescribed by the commission. In the event that a licensee conducts live standardbred racing, pools generated by live, simulcast, or telerece simulcasting at the licensee's facilities on standardbred racing are subject to the purse set-aside requirements otherwise provided by law.~~

New language is indicated by underline, deletions by ~~strikeout~~.

Contractual agreements between licensees and horsepersons' organizations entered into before June 5, 1991, regarding money to be set aside for purses from pools generated by simulcasts at a class A facility, are controlling regarding purse requirements through the end of the 1992 racing season.

Sec. 48. Minnesota Statutes 1990, section 240.14, subdivision 3, is amended to read:

Subd. 3. **COUNTY FAIR RACING DAYS.** The commission may assign to a class D licensee the following racing days:

(1) those racing days, not to exceed ten racing days, that coincide with the days on which the licensee's county fair is running; and

(2) additional racing days; ~~not to exceed ten racing days, immediately before or after the days on which the licensee's county fair is running.~~

~~In no event shall the number of racing days assigned by the commission exceed 20 days.~~

~~The commission may not assign any days before July 1, 1989, as racing days to a class D licensee.~~

Sec. 49. Minnesota Statutes 1991 Supplement, section 240.15, subdivision 6, is amended to read:

Subd. 6. **DISPOSITION OF PROCEEDS.** The commission shall distribute all money received under this section, and all money received from license fees and fines it collects, as follows: all money designated for deposit in the Minnesota breeders fund must be paid into that fund for distribution under section 240.18 except that all money generated by full racing card simulcasts, or full racing card telrace simulcasts of races not conducted in this state, must be distributed as provided in section 240.18, ~~clause (2), paragraphs (a), (b), and (c) subdivisions 2, paragraph (d), clauses (1), (2), and (3); and 3.~~ Revenue from an admissions tax imposed under subdivision 1 must be paid to the local unit of government at whose request it was imposed, at times and in a manner the commission determines. All other revenues received under this section by the commission, and all license fees, fines, and other revenue it receives, must be paid to the state treasurer for deposit in the general fund.

Sec. 50. Minnesota Statutes 1991 Supplement, section 240.18, is amended by adding a subdivision to read:

Subd. 3a. OTHER CATEGORIES. Available money apportioned to breeds other than breeds contained in subdivisions 2 and 3 must be distributed as financial incentives to encourage horse racing and horse breeding for such breeds.

Sec. 51. Minnesota Statutes 1990, section 298.221, is amended to read:

New language is indicated by underline, deletions by ~~strikeout~~.

298.221 RECEIPTS FROM CONTRACTS; APPROPRIATION.

(a) All moneys paid to the state of Minnesota pursuant to the terms of any contract entered into by the state under authority of Laws 1941, chapter 544, section 4, or of said section as amended and any fees which may, in the discretion of the commissioner of iron range resources and rehabilitation, be charged in connection with any project pursuant to that section as amended, shall be deposited in the state treasury to the credit of the iron range resources and rehabilitation board account in the special revenue fund and are hereby appropriated for the purposes of section 298.22.

(b) Notwithstanding section 7.09, merchandise may be accepted by the commissioner of the iron range resources and rehabilitation board for payment of advertising contracts if the commissioner determines that the merchandise can be used for special event prizes or mementos at facilities operated by the board. Nothing in this paragraph authorizes the commissioner or a member of the board to receive merchandise for personal use.

Sec. 52. Minnesota Statutes 1990, section 299E.01, subdivision 1, is amended to read:

Subdivision 1. A division in the department of public safety to be known as the capitol complex security division is ~~hereby created~~, under the supervision and control of the director of capitol complex security, who must be a member of the state patrol and to whom ~~shall be~~ are assigned the duties and responsibilities described in this section. The commissioner may place the director's position in the unclassified service if the position meets the criteria of section 43A.08, subdivision 1a.

Sec. 53. Minnesota Statutes 1990, section 340A.301, subdivision 6, is amended to read:

Subd. 6. FEES. The annual fees for licenses under this section are as follows:

(a) Manufacturers (except as provided in clauses (b) and (c))	\$ <del>7,500</del> <u>15,000</u>
Duplicates	\$ 3,000
(b) Manufacturers of wines of not more than 25 percent alcohol by volume	\$ 500
(c) Brewers other than those described in clause (d)	\$ <del>4,250</del> <u>2,500</u>
(d) Brewers who also hold a retail on-sale license and who manufacture fewer than 2,000 barrels of malt liquor in a year, the entire production of which is solely for consumption on tap on the licensed premises	\$ <del>250</del> <u>500</u>

New language is indicated by underline, deletions by ~~strikeout~~.

(e) Wholesalers (except as provided in clauses (f), (g), and (h))	\$ <del>7,500</del> <u>15,000</u>
Duplicates	\$ 3,000
(f) Wholesalers of wines of not more than 25 percent alcohol by volume	\$ <del>750</del> <u>2,000</u>
(g) Wholesalers of intoxicating malt liquor	\$ <del>300</del> <u>600</u>
Duplicates	\$ <del>15</del> <u>25</u>
(h) Wholesalers of nonintoxicating malt liquor	\$ 10

If a business licensed under this section is destroyed, or damaged to the extent that it cannot be carried on, or if it ceases because of the death or illness of the licensee, the commissioner may refund the license fee for the balance of the license period to the licensee or to the licensee's estate.

Sec. 54. Minnesota Statutes 1990, section 340A.302, subdivision 3, is amended to read:

Subd. 3. **FEES.** Annual fees for licenses under this section are as follows:

Importers of distilled spirits, wine, or ethyl alcohol	\$ <del>300</del> <u>420</u>
Importers of malt liquor	\$ <del>200</del> <u>800</u>

Sec. 55. Minnesota Statutes 1991 Supplement, section 340A.311, is amended to read:

#### 340A.311 BRAND REGISTRATION.

(a) A brand of intoxicating liquor or nonintoxicating malt liquor may not be manufactured, imported into, or sold in the state unless the brand label has been registered with and approved by the commissioner. A brand registration must be renewed every three years in order to remain in effect. The fee for an initial brand registration is ~~\$20~~ \$30. The fee for brand registration renewal is \$20. The brand label of a brand of intoxicating liquor or nonintoxicating malt liquor for which the brand registration has expired, is conclusively deemed abandoned by the manufacturer or importer.

(b) In this section "brand" and "brand label" include trademarks and designs used in connection with labels.

(c) The label of any brand of wine or intoxicating or nonintoxicating malt beverage may be registered only by the brand owner or authorized agent. No such brand may be imported into the state for sale without the consent of the brand owner or authorized agent. This section does not limit the provisions of section 340A.307.

Sec. 56. Minnesota Statutes 1990, section 340A.315, subdivision 1, is amended to read:

New language is indicated by underline, deletions by ~~strikeout~~.

Subdivision 1. **LICENSES.** The commissioner may issue a farm winery license to the owner or operator of a farm winery located within the state and producing table or sparkling wines. Licenses may be issued and renewed for an annual fee of ~~\$25~~ \$50, which is in lieu of all other license fees required by this chapter.

Sec. 57. Minnesota Statutes 1991 Supplement, section 340A.316, is amended to read:

**340A.316 SACRAMENTAL WINE.**

The commissioner may issue licenses for the importation and sale of wine exclusively for sacramental purposes. The holder of a sacramental wine license may sell wine only to a rabbi, priest, or minister of a church, or other established religious organization, or individual members of a religious organization who conduct ceremonies in their homes, if the purchaser certifies in writing that the wine will be used exclusively for sacramental purposes in religious ceremonies. The annual fee for a sacramental wine license is ~~\$25~~ \$50.

A rabbi, priest, or minister of a church or other established religious organization may import wine exclusively for sacramental purposes without a license.

Sec. 58. Minnesota Statutes 1990, section 340A.317, subdivision 2, is amended to read:

Subd. 2. **LICENSE REQUIRED.** All brokers and their employees must obtain a license from the commissioner. The annual license fee for a broker is ~~\$300~~ \$600, for an employee of a broker the license fee is ~~\$12~~ \$20. An application for a broker's license must be accompanied by a written statement from the distillery, winery, or importer the applicant proposes to represent verifying the applicant's contractual arrangement, and must contain a statement that the distillery, winery, or importer is responsible for the actions of the broker. The license shall be issued for one year. The broker, or employee of the broker may promote a vendor's product and may call upon licensed retailers to insure product identification, give advance notice of new products or product changes, and share other pertinent market information. The commissioner may revoke or suspend for up to 60 days a broker's license or the license of an employee of a broker if the broker or employee has violated any provision of this chapter, or a rule of the commissioner relating to alcoholic beverages. The commissioner may suspend for up to 60 days, the importation license of a distillery or winery on a finding by the commissioner that its broker or employee of its broker has violated any provision of this chapter, or rule of the commissioner relating to alcoholic beverages.

Sec. 59. Minnesota Statutes 1990, section 340A.408, subdivision 4, is amended to read:

Subd. 4. **LAKE SUPERIOR TOUR BOATS; COMMON CARRIERS.** (a) The annual license fee for licensing of Lake Superior tour boats under section 340A.404, subdivision 8, shall be \$1,000.

New language is indicated by underline, deletions by ~~strikeout~~.

(b) The annual license fee for common carriers licensed under section 340A.407 is:

(1) ~~\$25~~ \$50 for nonintoxicating malt liquor, and ~~\$2~~ \$20 for a duplicate license; and

(2) ~~\$100~~ \$200 for intoxicating liquor, and ~~\$10~~ \$20 for a duplicate license.

Sec. 60. Minnesota Statutes 1991 Supplement, section 340A.504, subdivision 3, is amended to read:

Subd. 3. **INTOXICATING LIQUOR; SUNDAY SALES; ON-SALE.** (a) A restaurant, club, bowling center, or hotel with a seating capacity for at least 30 persons and which holds an on-sale intoxicating liquor license may sell intoxicating liquor for consumption on the premises in conjunction with the sale of food between the hours of 12:00 noon on Sundays and 1:00 a.m. on Mondays.

(b) The governing body of a municipality may after one public hearing by ordinance permit a restaurant, hotel, bowling center, or club to sell intoxicating liquor for consumption on the premises in conjunction with the sale of food between the hours of 10:00 a.m. on Sundays and 1:00 a.m. on Mondays, provided that the licensee is in conformance with the Minnesota clean air act.

(c) An establishment serving intoxicating liquor on Sundays must obtain a Sunday license. The license must be issued by the governing body of the municipality for a period of one year, and the fee for the license may not exceed \$200.

(d) A city may issue a Sunday intoxicating liquor license only if authorized to do so by the voters of the city voting on the question at a general or special election. A county may issue a Sunday intoxicating liquor license in a town only if authorized to do so by the voters of the town as provided in paragraph (e). A county may issue a Sunday intoxicating liquor license in unorganized territory only if authorized to do so by the voters of the election precinct that contains the licensed premises, voting on the question at a general or special election.

(e) An election conducted in a town on the question of the issuance by the county of Sunday sales licenses to establishments located in the town must be held on the day of the annual election of town officers.

(f) Voter approval is not required for licenses issued by the metropolitan airports commission or common carrier licenses issued by the commissioner. Common carriers serving intoxicating liquor on Sunday must obtain a Sunday license from the commissioner at an annual fee of \$50, plus ~~\$5~~ \$20 for each duplicate.

Sec. 61. Minnesota Statutes 1990, section 345.32, is amended to read:

**345.32 PROPERTY HELD BY BANKING OR FINANCIAL ORGANIZATIONS OR BY BUSINESS ASSOCIATIONS.**

New language is indicated by underline, deletions by ~~strikeout~~.

The following property held or owing by a banking or financial organization or by a business association is presumed abandoned:

(a) Any demand, savings or matured time deposit made in this state with a banking organization, together with any interest or dividend thereon, excluding contracted service charges which may be deducted for a period not to exceed one year, unless the owner has, within ~~five~~ three years:

(1) increased or decreased the amount of the deposit, or presented the pass-book or other similar evidence of the deposit for the crediting of interest; or

(2) corresponded in writing with the banking organization concerning the deposit; or

(3) otherwise indicated an interest in the deposit as evidenced by a memorandum on file with the banking organization; or

(4) received tax reports or regular statements of the deposit by mail from the banking or financial organization regarding the deposit. Receipt of the statement by the owner should be presumed if the statement is mailed first class by the banking or financial organization and not returned; or

(5) acted as provided in paragraphs (1), (2), (3) and (4) of this subsection in regard to another demand, savings or time deposit made with the banking or financial organization.

(b) Any funds or dividends deposited or paid in this state toward the purchase of shares or other interest in a business association where the stock certificates or other evidence of interest in the business have not been issued, or in a financial organization, and any interest or dividends thereon, excluding contracted service charges which may be deducted for a period not to exceed one year, unless the owner has within ~~five~~ three years:

(1) increased or decreased the amount of the funds or deposit, or presented an appropriate record for the crediting of interest or dividends; or

(2) corresponded in writing with the financial organization concerning the funds or deposit; or

(3) otherwise indicated an interest in the funds or deposit as evidenced by a memorandum on file with the financial organization; or

(4) received tax reports or regular statements of the deposit or accounting by mail from the financial organization or business association regarding the deposit. Receipt of the statement by the owner should be presumed if the statement is mailed first class by the financial organization or business association and not returned.

(c) Any sum, excluding contracted service charges which may be deducted for a period not to exceed one year, payable on checks certified in this state or

New language is indicated by underline, deletions by ~~strikeout~~.

on written instruments issued in this state, or issued in any other state the law in which for any reason does not apply to the abandonment of sums payable on checks certified in that state or written instruments issued in that state, on which a banking or financial organization or business association is directly liable, including, by way of illustration but not of limitation, drafts, money orders and traveler's checks, that has been outstanding for more than ~~five~~ three years from the date it was payable, or from the date of its issuance if payable on demand, or, in the case of traveler's checks, has been outstanding for more than 15 years from the date of its issuance, or, in the case of money orders, has been outstanding for more than seven years from the date of its issuance, unless the owner has within ~~five~~ three years, or within 15 years in the case of traveler's checks, or within seven years in the case of money orders, corresponded in writing with the banking or financial organization or business association concerning it, or otherwise indicated an interest as evidenced by a memorandum on file with the banking or financial organization or business association.

(d) Any funds or other personal property, tangible or intangible, removed from a safe deposit box or any other safekeeping repository in this state on which the lease or rental period has expired due to nonpayment of rental charges or other reason, that have been unclaimed by the owner for more than five years from the date on which the lease or rental period expired.

(1) If the amount due for the use or rental of a safe deposit box has remained unpaid for a period of six months, the bank, savings bank, trust company, savings and loan, or safe deposit company shall, within 60 days of the expiration of that period, send by certified mail, addressed to the renter or lessee of the safe deposit box, directed to the address standing on its books, a written notice that, if the amount due for the use or rental of the safe deposit box is not paid within 60 days after the date of the mailing of the notice, it will cause the safe deposit box to be opened and its contents placed in one of its general safe deposit boxes.

(2) Upon the expiration of 60 days from the date of mailing the notice, and in default of payment within the 60 days of the amount due for the use or rental of the safe deposit box, the bank, savings bank, trust company, savings and loan, or safe deposit company, in the presence of its president, vice-president, secretary, treasurer, assistant secretary, assistant treasurer or superintendent, or such other person as specifically designated by its board of directors, and of a notary public not in its employ, shall cause the safe deposit box to be opened and the contents thereof, to be removed and sealed by the notary public in a package, in which the notary public shall enclose a detailed description of the contents of the safe deposit box and upon which the notary public shall mark the name of the renter or lessee and, in the presence of one of the bank officers listed above, the notary public shall place the package in one of the bank's general safe deposit boxes and set out the proceedings in a certificate under the notary public's official seal, which shall be delivered to the bank, savings bank, trust company, savings and loan, or safe deposit company.

New language is indicated by underline, deletions by ~~strikeout~~.



(3) The bank, savings bank, trust company, savings and loan, or safe deposit company shall hold the contents of abandoned safe deposit boxes until they are claimed by the owner or the bank turns them over to the commissioner pursuant to this chapter.

Sec. 62. Minnesota Statutes 1990, section 345.33, is amended to read:

**345.33 UNCLAIMED FUNDS HELD BY LIFE INSURANCE CORPORATIONS.**

(a) Unclaimed funds, as defined in this section, held and owing by a life insurance corporation shall be presumed abandoned if the last known address, according to the records of the corporation, of the person entitled to the funds is within this state. If a person other than the insured or annuitant is entitled to the funds and no address of such person is known to the corporation or if it is not definite and certain from the records of the corporation what person is entitled to the funds, it is presumed that the last known address of the person entitled to the funds is the same as the last known address of the insured or annuitant according to the records of the corporation.

(b) "Unclaimed funds," as used in this section, means all moneys held and owing by any life insurance corporation unclaimed and unpaid for more than ~~five~~ three years after the moneys became due and payable as established from the records of the corporation under any life or endowment insurance policy or annuity contract which has matured. A life insurance policy not matured by actual proof of the death of the insured is deemed to be matured and the proceeds thereof are deemed to be due and payable if such policy was in force when the insured attained the limiting age under the mortality table on which the reserve is based, unless the person appearing entitled thereto has within the preceding ~~five~~ three years, (1) assigned, readjusted or paid premiums on the policy, or subjected the policy to loan, or (2) corresponded in writing with the life insurance corporation concerning the policy. Moneys or drafts otherwise payable according to the records of the corporation are deemed due and payable although the policy or contract has not been surrendered as required.

Sec. 63. Minnesota Statutes 1990, section 345.34, is amended to read:

**345.34 DEPOSITS HELD BY UTILITIES.**

Any deposit held or owing by any utility made by a subscriber ~~after January 1, 1960,~~ to secure payment for, or any sum paid in advance for, utility services to be furnished in this state, excluding any charges that may lawfully be withheld, that has remained unclaimed by the person appearing on the records of the utility entitled thereto for more than one year after the termination of the services for which the deposit or advance payment was made is presumed abandoned.

Sec. 64. Minnesota Statutes 1990, section 345.35, is amended to read:

New language is indicated by underline, deletions by ~~strikeout~~.

**345.35 STOCK AND OTHER INTANGIBLE INTERESTS IN BUSINESS ASSOCIATIONS.**

(a) Except as provided in paragraphs (b) and (e), stock or other intangible ownership interest in a business association, the existence of which is evidenced by records available to the association, is presumed abandoned and, with respect to the interest, the association is the holder, if a dividend distribution or other sum payable as a result of the interest has remained unclaimed by the owner for ~~seven~~ three years and the owner within ~~seven~~ three years has not:

(1) communicated in writing with the association regarding the interest or a dividend, distribution, or other sum payable as a result of the interest; or

(2) otherwise communicated with the association regarding the interest or a dividend, distribution, or other sum payable as a result of the interest, as evidenced by a memorandum or other record on file with the association prepared by an employee of the association.

(b) At the expiration of a ~~seven-year~~ three-year period following the failure of the owner to claim a dividend, distribution, or other sum payable to the owner as a result of the interest, the interest is not presumed abandoned unless there have been at least ~~seven~~ three dividends, distributions, or other sums paid during the period, none of which has been claimed by the owner. If ~~seven~~ three dividends, distributions, or other sums are paid during the ~~seven-year~~ three-year period, the period leading to a presumption of abandonment commences on the date payment of the first such unclaimed dividend, distribution, or other sum became due and payable. If ~~seven~~ three dividends, distributions, or other sums are not paid during the presumptive period, the period continues to run until there have been ~~seven~~ three dividends, distributions, or other sums that have not been claimed by the owner.

(c) The running of the ~~seven-year~~ three-year period of abandonment ceases immediately upon the occurrence of a communication referred to in paragraph (a). If any future dividend, distribution, or other sum payable to the owner as a result of the interest is subsequently not claimed by the owner, a new period of abandonment commences and relates back to the time a subsequent dividend, distribution, or other sum became due and payable.

(d) At the time an interest is presumed abandoned under this section, any dividend, distribution, or other sum then held for or owing to the owner as a result of the interest, and not previously presumed abandoned, is presumed abandoned.

(e) This section does not apply to any stock or other intangible ownership interest enrolled in a plan that provides for the automatic reinvestment of dividends, distributions, or other sums payable as a result of the interest unless the records available to the administrator of the plan show, with respect to any intangible ownership interest not enrolled in the reinvestment plan, that the owner has not within ~~seven~~ three years communicated in any manner described in paragraph (a).

New language is indicated by underline, deletions by ~~strikeout~~.

(f) For purposes of this section, stock or other intangible ownership interest in a business association is presumed abandoned if:

(1) it is held or owing by a business association organized under the laws of or created in this state; or

(2) it is held or owing by a business association doing business in this state, but not organized under the laws of or created in this state, and the records of the business association indicate that the last known address of the person entitled thereto is in this state.

Sec. 65. Minnesota Statutes 1990, section 345.36, is amended to read:

**345.36 PROPERTY OF BUSINESS ASSOCIATIONS AND BANKING OR FINANCIAL ORGANIZATIONS HELD IN COURSE OF DISSOLUTION.**

All intangible personal property distributable in the course of a voluntary dissolution of a business association, banking organization or financial organization organized under the laws of or created in this state, that is unclaimed by the owner within ~~two years~~ six months after the date for final distribution, is presumed abandoned.

Sec. 66. Minnesota Statutes 1990, section 345.37, is amended to read:

**345.37 PROPERTY HELD BY FIDUCIARIES.**

All intangible personal property and any income or increment thereon, held in a fiduciary capacity for the benefit of another person is presumed abandoned unless the owner has, within ~~five~~ three years after it becomes payable or distributable, increased or decreased the principal, accepted payment of principal or income, corresponded in writing concerning the property, or otherwise indicated an interest as evidenced by a memorandum on file with the fiduciary if:

(a) the property is held by a banking organization or a financial organization or by a business association organized under the laws of or created in this state; or

(b) it is held by a business association, doing business in this state, but not organized under the laws of or created in this state, and the records of the business association indicate that the last known address of the person entitled thereto is in this state; or

(c) it is held in this state by any other person.

Sec. 67. Minnesota Statutes 1990, section 345.38, is amended to read:

**345.38 PROPERTY HELD BY STATE COURTS AND PUBLIC OFFICERS AND AGENCIES.**

Subdivision 1. All intangible personal property held for the owner by any

New language is indicated by underline, deletions by ~~strikeout~~.

court, public corporation, public authority or public officer of this state, or a political subdivision thereof, that has remained unclaimed by the owner for more than ~~five~~ three years is presumed abandoned except as provided in section 524.3-914.

Subd. 2. This section shall not apply to property held for persons while residing in public correctional or other institutions. As to such persons, said property shall be presumed abandoned if it has remained unclaimed by the owner for more than ~~five~~ three years after such residence ceases.

Subd. 3. All intangible personal property held for the owner by any government or political subdivision or agency, that has remained unclaimed by the owner for more than ~~five~~ three years is presumed abandoned and is reportable pursuant to section 345.41, if:

(a) the last known address as shown on the records of the holder of the apparent owner is in this state; or

(b) no address of the apparent owner appears on the records of the holder; and

(1) the last known address of the apparent owner is in this state; or

(2) the holder is domiciled in this state and has not previously transferred the property to the state of the last known address of the apparent owner.

Sec. 68. Minnesota Statutes 1990, section 345.39, is amended to read:

#### **345.39 MISCELLANEOUS PERSONAL PROPERTY HELD FOR ANOTHER PERSON.**

Subdivision 1. **PRESUMED ABANDONMENT.** All intangible personal property, not otherwise covered by sections 345.31 to 345.60, including any income or increment thereon, but excluding any charges that may lawfully be withheld, that is held or owing in this state in the ordinary course of the holder's business and has remained unclaimed by the owner for more than ~~five~~ three years after it became payable or distributable is presumed abandoned. Property covered by this section includes, but is not limited to: (a) unclaimed ~~wages or~~ worker's compensation; (b) deposits or payments for repair or purchase of goods or services; (c) credit checks or memos, or customer overpayments; (d) unidentified remittances, unrefunded overcharges; (e) unpaid claims, unpaid accounts payable or unpaid commissions; (f) unpaid mineral proceeds, royalties or vendor checks; and (g) credit balances, accounts receivable and miscellaneous outstanding checks. This section does not include money orders.

Subd. 2. **COOPERATIVE PROPERTY.** Notwithstanding subdivision 1, any profit, distribution, or other sum held or owing by a cooperative for or to a participating patron of the cooperative is presumed abandoned only if it has remained unclaimed by the owner for more than seven years after it became payable or distributable.

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 3. UNPAID COMPENSATION. Notwithstanding subdivision 1, unpaid compensation for personal services or wages, including wages represented by unrepresented payroll checks, owing in the ordinary course of the holder's business that remain unclaimed by the owner for more than one year after becoming payable are presumed abandoned.

Sec. 69. Minnesota Statutes 1990, section 345.42, subdivision 3, is amended to read:

Subd. 3. On or before April 1 of each year, the commissioner ~~shall~~ may mail a notice to each person having an address listed therein who appears to be entitled to property of the value of \$25 or more presumed abandoned under sections 345.31 to 345.60. Said notice shall contain:

(a) a statement that, according to a report filed with the commissioner, property is being held to which the addressee appears entitled;

(b) the name and address of the person holding the property and any necessary information regarding changes of name and address of the holder; and

(c) a statement that, if satisfactory proof of claim is not presented by the owner to the holder by the date specified in the published notice, the property will be placed in the custody of the commissioner to whom all further claims must be directed.

Sec. 70. Minnesota Statutes 1991 Supplement, section 349A.10, subdivision 3, is amended to read:

Subd. 3. **LOTTERY OPERATIONS.** (a) The director shall establish a lottery operations account in the lottery fund. The director shall pay all costs of operating the lottery, including payroll costs or amounts transferred to the state treasury for payroll costs, but not including lottery prizes, from the lottery operating account. The director shall credit to the lottery operations account amounts sufficient to pay the operating costs of the lottery.

(b) The director may not credit in ~~any~~ any fiscal year ~~1993~~ amounts to the lottery operations account which when totaled exceed ~~45~~ 14.5 percent of gross revenue to the lottery fund. The director may not credit in any fiscal year thereafter amounts to the lottery operations account which when totaled exceed 15 percent of gross revenue to the lottery fund in that fiscal year. In computing total amounts credited to the lottery operations account under this paragraph the director shall disregard amounts transferred to or retained by lottery retailers as sales commissions or other compensation.

(c) The director of the lottery may not expend after July 1, 1991, more than 2-3/4 percent of gross revenues in a fiscal year for contracts for the preparation, publication, and placement of advertising.

(d) Except as the director determines, the division is not subject to chapter 16A relating to budgeting, payroll, and the purchase of goods and services.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 71. Minnesota Statutes 1991 Supplement, section 357.021, subdivision 2, is amended to read:

Subd. 2. **FEE AMOUNTS.** The fees to be charged and collected by the court administrator shall be as follows:

(1) In every civil action or proceeding in said court, the plaintiff, petitioner, or other moving party shall pay, when the first paper is filed for that party in said action, a fee of \$85.

The defendant or other adverse or intervening party, or any one or more of several defendants or other adverse or intervening parties appearing separately from the others, shall pay, when the first paper is filed for that party in said action, a fee of \$85.

The party requesting a trial by jury shall pay \$30.

The fees above stated shall be the full trial fee chargeable to said parties irrespective of whether trial be to the court alone, to the court and jury, or disposed of without trial, and shall include the entry of judgment in the action, but does not include copies or certified copies of any papers so filed or proceedings under chapter 103E, except the provisions therein as to appeals.

(2) Certified copy of any instrument from a civil or criminal proceeding, \$5, plus 25 cents per page after the first page, and \$3.50, plus 25 cents per page after the first page for an uncertified copy.

(3) Issuing a subpoena, \$3 for each name.

(4) Issuing an execution and filing the return thereof; issuing a writ of attachment, injunction, habeas corpus, mandamus, quo warranto, certiorari, or other writs not specifically mentioned, \$10.

(5) Issuing a transcript of judgment, or for filing and docketing a transcript of judgment from another court, \$7.50.

(6) Filing and entering a satisfaction of judgment, partial satisfaction, or assignment of judgment, \$5.

(7) Certificate as to existence or nonexistence of judgments docketed, \$5 for each name certified to.

(8) Filing and indexing trade name; ~~or recording notary commission;~~ or recording basic science certificate; or recording certificate of physicians, osteopaths, chiropractors, veterinarians, or optometrists, \$5.

(9) For the filing of each partial, final, or annual account in all trusteeships, \$10.

(10) For the deposit of a will, \$5.

New language is indicated by underline, deletions by ~~strikeout~~.

(11) For recording notary commission, \$25, of which, notwithstanding subdivision 1a, paragraph (b), \$20 must be forwarded to the state treasurer to be deposited in the state treasury and credited to the general fund.

(12) All other services required by law for which no fee is provided, such fee as compares favorably with those herein provided, or such as may be fixed by rule or order of the court.

Sec. 72. Minnesota Statutes 1990, section 359.01, subdivision 3, is amended to read:

Subd. 3. **FEES.** The fee for each commission shall not exceed ~~\$10~~ \$40.

Sec. 73. Minnesota Statutes 1990, section 514.67, is amended to read:

**514.67 INSPECTIONS, EXAMINATIONS, OR OTHER GOVERNMENTAL SERVICES.**

All charges and expenses for any inspection, examination, or other governmental service of any nature now or hereafter authorized or required by law, including services performed by a deputy registrar of motor vehicles in handling an application for registration of a motor vehicle under section 168.33, shall constitute and be a first and prior lien from the date of such inspection, examination, or service upon all property in this state subject to taxation as the property of the person from whom such charges and expenses are by law authorized or required to be collected. No record of such lien shall be deemed necessary, but the same shall be duly presented or proven in any bankruptcy, insolvency, receivership, or other similar proceeding, or be barred thereby.

As used in this section the following words and terms have the following meanings:

(1) "Person" means and includes any natural person in any individual or representative capacity, and any firm, copartnership, corporation, or other association of any nature or kind.

(2) The term "first and prior lien" means a lien equivalent to, and of the same force and effect as a lien for taxes; but any such lien or claim shall be deemed barred unless proceedings to enforce same shall have been commenced within two years from the date when such claim becomes due.

For purposes of this section, the charges and expenses for services performed by a deputy registrar of motor vehicles in handling an application for registration of a motor vehicle includes the entire amount paid to the deputy registrar for the registration of a motor vehicle, including all license taxes, filing fees, and other fees, charges, and taxes required to be paid for registration of the motor vehicle.

Sec. 74. Minnesota Statutes 1991 Supplement, section 626.861, subdivision 1, is amended to read:

New language is indicated by underline, deletions by ~~strikeout~~.

Subdivision 1. **LEVY OF ASSESSMENT.** There is levied a penalty assessment of ~~12~~ 15 percent on each fine imposed and collected by the courts of this state for traffic offenses in violation of chapters 168 to 173 or equivalent local ordinances, other than a fine or forfeiture for a violation of a local ordinance or other law relating to the parking of a vehicle. In cases where the defendant is convicted but a fine is not imposed, or execution of the fine is stayed, the court shall impose a penalty assessment of not less than \$5 nor more than \$10 when the conviction is for a misdemeanor or petty misdemeanor, and shall impose a penalty assessment of not less than \$10 but not more than \$50 when the conviction is for a gross misdemeanor or felony. Where multiple offenses are involved, the penalty assessment shall be assessed separately on each offense for which the defendant is sentenced. If imposition or execution of sentence is stayed for all of the multiple offenses, the penalty assessment shall be based upon the most serious offense of which the defendant was convicted. Where the court suspends a portion of a fine, the suspended portion shall not be counted in determining the amount of the penalty assessment unless the offender is ordered to pay the suspended portion of the fine. Suspension of an entire fine shall be treated as a stay of execution for purposes of computing the amount of the penalty assessment.

Sec. 75. Minnesota Statutes 1990, section 626.861, subdivision 3, is amended to read:

Subd. 3. **COLLECTION BY COURT.** After a determination by the court of the amount of the fine or penalty assessment due, the court administrator shall collect the appropriate penalty assessment and transmit it to the county treasurer separately with designation of its origin as a penalty assessment, but with the same frequency as fines are transmitted. Amounts collected under this subdivision shall then be transmitted to the state treasurer for deposit ~~in the general fund~~ for peace officers training, in the same manner as fines collected for the state by a county. The state treasurer shall identify and report to the commissioner of finance all amounts deposited in the general fund under this section.

Sec. 76. Minnesota Statutes 1991 Supplement, section 626.861, subdivision 4, is amended to read:

Subd. 4. **PEACE OFFICERS TRAINING ACCOUNT.** Receipts from penalty assessments must be credited to ~~the general fund~~ a peace officer training account in the special revenue fund. For fiscal years 1993 and 1994, the peace officers standards and training board shall, and after fiscal year 1994 may, allocate from ~~funds~~ appropriated funds, net of operating expenses, as follows:

(a) ~~Up to 30~~ (1) at least 25 percent ~~may be provided~~ for reimbursement to board approved skills courses; and

(b) ~~Up to 15~~ (2) at least 13.5 percent ~~may be used~~ for the school of law enforcement.

(c) The balance may be used to pay each local unit of government an

New language is indicated by underline, deletions by ~~strikeout~~.



amount in proportion to the number of licensed peace officers and constables employed, at a rate to be determined by the board. The disbursed amount must be used exclusively for reimbursement of the cost of in-service training required under this chapter and chapter 214.

**Sec. 77. STONE ARCH BRIDGE.**

Notwithstanding any other law to the contrary, the board of Hennepin county commissioners, in its capacity as the county board or as the Hennepin county regional rail authority, shall transfer legal title to the James J. Hill stone arch bridge to the commissioner of transportation for a consideration of \$1,001. The deed of conveyance shall provide for reversion of the property to the county in the event the county has need of the bridge for light rail transit.

**Sec. 78. LOTTERY ADVERTISING EXPENDITURES.**

The director of the state lottery may not reduce expenditures for advertising in fiscal year 1993 in order to comply with the requirement in section 70 that amounts credited to the lottery operations account in fiscal year 1993 not exceed 14.5 percent of gross revenue in that fiscal year.

**Sec. 79. REPEALER.**

Minnesota Statutes 1990, section 211A.04, subdivision 2, is repealed. Minnesota Statutes 1991 Supplement, section 97A.485, subdivision 1a, is repealed.

**Sec. 80. EFFECTIVE DATES.**

(a) Except as provided in paragraph (b), this article is effective the day following final enactment.

(b) Sections 19, 24 to 29, 34 to 45, 52 to 72, and 74 to 79 are effective July 1, 1992. Section 20 is effective for taxable years after December 31, 1989.

---

**ARTICLE 4**

**STATE GOVERNMENT AFFAIRS**

**Section 1. STATE GOVERNMENT AFFAIRS; APPROPRIATIONS.**

Unless otherwise indicated, all sums set forth in the columns designated "1992 and 1993 APPROPRIATION CHANGE" are to be added to or reduced from general fund appropriations made by Laws 1991, chapter 345, or another named law, for the fiscal years ending June 30, 1992, and June 30, 1993, respectively. Amounts to be reduced are designated by parentheses.

New language is indicated by underline, deletions by ~~strikeout~~.

## SUMMARY BY FUND

	1992	1993	TOTAL
APPROPRIATION			
CHANGE	\$ (1,611,000)	\$ (806,000)	\$ (2,417,000)
		APPROPRIATION CHANGE	
		1992	1993
Sec. 2. LEGISLATURE			(3,564,000)

Any part of this reduction may be taken from balances carried forward.

After the effective date of this section, the information policy office is responsible for the administration of the state information systems project. By November 1, 1992, the information policy office will evaluate the usefulness of continuing this information systems directory and report its findings to the legislature and the commissioner of administration.

## Sec. 3. SUPREME COURT

600,000

\$5,000 is for alternative dispute resolution in Anoka county.

\$50,000 is for a judges workload, updated weighted caseload time survey, and telecommunications study.

\$625,000 is to be distributed to qualified legal services programs according to the percentages in Minnesota Statutes, section 480.242, subdivision 2, paragraphs (a) and (b).

The supreme court, in consultation with representatives of official and free lance court reporters, shall study and report to the legislature on the certification of shorthand court reporters by January 1, 1993. The study shall consider testing, registration, continuing education, discipline, and fees necessary to offset the cost of the certification program.

By January 1, 1993, the supreme court shall adopt rules governing vacation leave of judges and paid judicial leave for educational and other professional purposes. In developing these rules, the supreme court shall consider employee leave plans of the legislative and executive branches, including graduated accrual systems.

By January 1, 1993, the supreme court shall adopt rules governing the acceptance of fees, honoraria, or other compensation for work performed by judges on time for which they are compensated by the state or related in any way to their official positions or duties. In developing these rules, the supreme court shall consider the prohibitions in Minnesota Statutes, section 43A.38, subdivision 2.

Sec. 4. COURT OF APPEALS		(28,000)
Sec. 5. DISTRICT COURTS	180,000	(247,000)
Sec. 6. BOARD OF PUBLIC DEFENSE		60,000

Approved complement addition:

General fund - 1

\$140,000 is for an automated data collection system and transfer of fiscal agent functions from the counties to the state.

\$160,000 is for costs associated with defense of persons involved in the sting operation at Stillwater correctional facility.

The board of public defense may forward to the respective host counties in the multicounty judicial districts one-half of the individual districts' allotted funding for fiscal year 1993 as close to July 1, 1992, as possible. Expenses of

district public defender offices in the multicounty districts shall be paid from these funds through December 31, 1992. The host counties may use interest earnings on these funds for public defense related expenses which occur prior to January 1, 1993, but which may be paid after January 1, 1993. After December 31, 1992, the board may only pay expenses which occur on or after January 1, 1993.

Notwithstanding any law to the contrary, district public defenders in multicounty districts who currently have fringe benefits provided through a county program shall continue to be eligible to receive these benefits after December 31, 1992. Persons hired in these positions after the effective date of this section are eligible to receive these benefits under the same conditions as those hired before. Participation is subject to Minnesota Statutes, section 611.26, subdivision 9. After December 31, 1992, premiums may be billed by the counties to the board of public defense in a manner prescribed by the board.

District public defenders in multicounty districts who currently participate in the public employee retirement association may continue their participation after December 31, 1992. District public defenders in multicounty districts hired after the effective date of this section may participate in the public employees retirement association under the same conditions as those hired before.

The board may transfer funds among appropriations and programs.

\$50,000 the second year is for one position relating to planning and technical services.

Sec. 7. GOVERNOR AND LIEUTENANT GOVERNOR

503,000                      105,000

\$503,000 in fiscal year 1992 is for plaintiffs' fee award for attorneys' fees and expenses in the case of Jane Hodgson et al. vs. State of Minnesota.

\$365,000 the second year is to cover costs of employees in the governor's office who are currently being charged to other agencies.

On August 15 of each year the commissioner of finance shall report to the chairs of the economic and state affairs division of the senate finance committee and the state government division of the house appropriations committee those personnel costs incurred by the office of the governor and the lieutenant governor that were supported by appropriations of other agencies during the previous fiscal year. The office of the governor shall inform the chairs of the divisions before initiating any interagency agreements.

Sec. 8. STATE AUDITOR (30,000)

Sec. 9. STATE TREASURER (63,000)

Sec. 10. ATTORNEY GENERAL 50,000 (600,000)

\$50,000 is to pay the costs of appealing the trial court decision in the case of Sheridan and Dianne Skeen vs. State of Minnesota.

Sec. 11. OFFICE OF STRATEGIC AND LONG-RANGE PLANNING (60,000)

No reductions may be made to the environmental quality board.

\$50,000 of appropriations previously made must be used to pay for services previously rendered by the Minneapolis public library.

The temporary unclassified position currently used to administer the generic environmental impact study on timber harvesting must be continued with the current incumbent until the study is completed. Upon completion of the study, responsibility for analyzing and implementing study recommendations is transferred to the department of natural resources under Minnesota Statutes, section 15.039, at which time the complement of the office of strategic and long-range planning must be reduced by one and the complement of the department of natural resources must be increased by one.

Sec. 12. BOARD OF INVESTMENT	(20,000)
Sec. 13. ADMINISTRATION	826,000

The balance of the appropriation made to the commissioner of administration by Laws 1991, chapter 345, article 1, section 17, subdivision 4, for the development of a framework for an integrated infrastructure management system is available until June 30, 1993, to improve the capital budget planning process.

\$85,000 of the appropriation in fiscal year 1993 is to be used to manage the costs of freight for state purchases.

No reductions may be made for the intergovernmental information systems advisory council.

No reductions may be made to the land management information center.

\$13,781,000 of the appropriation for costs relating to agency relocation, consolidation, and collocation in Laws 1991, chapter 345, article 1, section 17, subdivision 4, is available until expended. \$75,000 of this amount is for

a grant to Itasca county to plan and do other preliminary work for construction of the Itasca Center.

Up to \$50,000 of this amount is for a grant to the city of St. Paul for the stabilization and renovation of the Warren Burger House, available upon receipt of dollar-for-dollar nonstate funds as a cash match or in-kind contribution of materials and supplies.

The commissioner of administration is directed to review existing general project fund accounts for repairs, betterments and relocation of agencies, to cancel unobligated funding no longer required for specific projects, and to transfer \$300,000 to the general fund by June 30, 1992.

\$240,000 is for matching grants to public television stations.

\$720,000 is for public television equipment needs. Equipment grant allocations shall be made after considering the recommendations of the Minnesota Public Television Association.

\$116,000 the second year is for equipment grants to public educational radio stations, which must be allocated after considering the recommendations of the Association of Minnesota Public Educational Radio Stations.

\$278,000 the second year is for equipment grants to affiliate stations of Minnesota Public Radio, Incorporated, which must be allocated after considering the recommendations of Minnesota Public Radio, Incorporated.

The commissioner of administration is directed to transfer \$82,000 in fiscal year 1992 and \$186,000 in fiscal year 1993 from the special revenue parking fund to the general fund and to provide

for a reserve for replacement of parking facilities from the proceeds of the fee increases.

The commissioner of administration is directed to transfer travel provider rebates of \$40,000 in fiscal year 1992 and \$45,000 in fiscal year 1993 from the motor pool to the general fund. Future rebates will be transferred annually.

The commissioner of administration is directed to transfer bookstore excess earnings of \$250,000 in fiscal year 1992 and \$50,000 in fiscal year 1993 to the general fund. Future excess earnings exceeding amounts necessary for cash flow purposes will be transferred annually.

The commissioner of administration shall study the possible purchase and staffing of a bookmobile; rental of space in St. Paul, Minneapolis, or other high traffic locations; advertising, participation in book fairs, and displays at events. Consideration may be given to use of future excess revenues as debt service for a new retail location.

The matching requirements in Laws 1991, chapter 345, article 1, section 17, subdivision 9, need not be met in either year of the biennium.

\$200,000 is to be divided equally between the Northeast STARS region and the Southeast STARS region to install and administer a regional telecommunications network pilot project to validate the STARS telecommunications regions development study findings in the regions and continue work on the master plan for regional telecommunications. The funds must be matched in-kind or monetarily dollar-for-dollar by the region.



The master plan must include a technology assessment that compares the function, performance, benefits, and costs of available telecommunications technologies, including full and fractional DS1 narrowband communications, DS3 wideband communications, and AM and FM video on fiber optics. The master plan should review regional requirements for telecommunications and make recommendations on the standardization of telecommunications architecture in relation to the technology assessment. The master plan must establish a policy for participation in a communications system.

Selection of participants shall be based on geographical proximity and natural connections within the general regional areas surrounding Duluth and Rochester. Participants shall be selected from the following categories: education, state and local governments, and other public service entities including but not limited to libraries, courts and criminal justice agencies, health and human services, community and economic development entities, and cultural and nonprofit organizations or institutions. Participants shall demonstrate collaboration with one or more other entities in making their connections to the regional system. Participants in the pilot project and master plan must be represented on the regional advisory organization and together determine the design of the pilot and future master plan of regional telecommunications network systems.

If successful, this matching fund program for pilot projects and master planning must be considered for replication statewide in the next biennium.

\$4,000 the second year is for the state band.

## Sec. 14. FINANCE

(176,000)

2,096,000

Approved complement addition:

General fund - 1

\$1,800,000 in fiscal year 1993 is for the continuation of the statewide systems project. This appropriation is available until expended.

Reductions of \$176,000 in fiscal year 1992 and \$176,000 in fiscal year 1993 are from administrative expenditures.

The position of deputy commissioner is reestablished in the department of finance.

An estimated \$166,000 will be transferred to the general fund in fiscal year 1993 through a comprehensive review of statewide indirect costs. \$42,000 in fiscal year 1993 is for implementation of a comprehensive review of statewide indirect cost allocation policies and collection methodologies to increase recoveries to the general fund.

\$1,450,000 shall be reimbursed to the general fund in fiscal year 1993 through a six-month write-off cycle for unclaimed warrants. \$20,000 in fiscal year 1993 is for temporary staff to handle one-time additional workload to process claims for warrants.

\$10,000 is for a refund to the city of Redwood Falls of the application fee and deposit for allocation No. 378 received by the department of finance during calendar year 1991 from the city under Minnesota Statutes, section 474A.091.

Up to \$300,000 is to support enhanced collection activities in the departments of finance, human services, and revenue. Any unspent balance for these collection activities may be transferred to

the accounts receivable restructuring study. This appropriation is available upon enactment.

\$100,000 is for the attorney general and the commissioners of finance, revenue, and human services, under the supervision of the legislative commission on planning and fiscal policy, to conduct a study to identify long-term options on restructuring the state of Minnesota accounts receivable process and recommend changes in policies governing management of receivables. The study should address organizational changes that may improve collections, accounting mechanisms that would better monitor agency performance, and incentive structures to improve the level of performance. The results of the study must be reported to the legislative commission on planning and fiscal policy.

Sec. 15. EMPLOYEE RELATIONS

(269,000)

Approved complement addition:

Special revenue - 3

In order to control bureaucratic bloat, i.e., top-heavy bureaucracies, the department shall present an analysis of a span of control ratio (number of employees per manager) throughout state government. The commissioner shall prepare a report indicating the ratio of managers and supervisors to other employees in state government by agency program. The department shall report to the appropriate committees of the legislature by January 1, 1993. The report must recommend an appropriate ratio and a plan to control bureaucratic bloat where it exists.

\$500,000 appropriated by Laws 1987, chapter 404, section 19, subdivision 5; \$116,000 appropriated by Laws 1988, chapter 686, article 1, section 9, item

(a); and \$40,000 appropriated by Laws 1989, chapter 335, article 1, section 18, subdivision 3, to establish the statewide fringe benefit plan must be transferred from the employee insurance trust fund to the general fund by January 1, 1993.

Notwithstanding any law to the contrary, during fiscal year 1993 \$944,000 in excess police state aid collected by the public employees retirement association must be transferred to the general fund.

Sec. 16. REVENUE	(580,000)	(580,000)
------------------	-----------	-----------

The revolving fund which is used to pay the initial costs of local property tax assessment ordered by the department of revenue is abolished and the balance of \$250,000 in fiscal year 1993 is transferred to the general fund.

The department of revenue is directed to add collection activities and to increase or redirect collections initiatives as necessary to increase revenue collections by \$1,800,000 in fiscal year 1993.

#### Sec. 17. TRADE AND ECONOMIC DEVELOPMENT

Subdivision 1. Total Appropriation Changes	(1,046,000)	2,619,000
--	-------------	-----------

##### Subd. 2. Community Development

The appropriation reduction in fiscal year 1992 includes a reduction of \$200,000 for a grant to the World Trade Center Corporation for establishment of an annual medical exposition, trade fair, and health care congress to begin in 1993. The remainder of this appropriation does not cancel but is available to the World Trade Center Corporation until expended.

\$50,000 of the unobligated balance in the economic recovery grant account in the special revenue fund shall be transferred to the general fund by June 30, 1992.

\$1,422,000 is for grants to the cities of Minneapolis and St. Paul for debt service payments due on bonds issued for metropolitan area parks.

\$2,356,000 the second year is for payment of a grant to the metropolitan council for metropolitan area regional parks maintenance and operation.

From money previously appropriated for economic recovery grants, the commissioner shall make up to \$500,000 available for grants of up to \$50,000 to assist in the purchase of advanced technology used in production operations located in facilities outside the seven-county metropolitan area. The amount of each grant shall not exceed 50 percent of the purchase price of eligible equipment. Requests for the grants must be accompanied by a synopsis of a plan for any necessary employee retraining. The commissioner shall develop criteria for awarding grants and is encouraged to coordinate the awards with other programs such as the job skills partnership program under Minnesota Statutes, chapter 116L. A company may receive no more than one grant per year. Any funds not obligated by May 31, 1993, may be used for economic recovery grants.

\$200,000 of the unobligated balance in the agricultural and economic development account in the special revenue fund shall be transferred to the general fund by June 30, 1992.

The department of trade and economic development shall provide \$50,000

from the economic recovery grant program to the city of Brooklyn Center to serve as the project coordinator of the first stage of a four-city business retention and local market expansion pilot project. The city shall share all results and written reports with the department of trade and economic development.

\$250,000 the first year and \$250,000 the second year are for transfer to the commissioner of jobs and training for a wage subsidy program to alleviate summer youth unemployment under Minnesota Statutes, section 268.552. No more than five percent of this appropriation may be used for administration.

#### Subd. 3. Minnesota Trade Office

The appropriation for grants to non-profit organizations to support international cultural and educational exchange programs and to make grants to and loans to qualifying Minnesota businesses for the support of the international partnership program is reduced by \$20,000.

Any balance in excess of \$1,000,000 in the export finance working capital account on June 30 of each year must be transferred by the commissioner to the general fund. It is estimated that \$225,000 will transfer in fiscal year 1992, and \$70,000 will transfer in fiscal year 1993.

#### Subd. 4. Tourism

The office of tourism shall meet with representatives from department of natural resources-operated parks, hotel and motel associations, Indian gaming associations, and other organizations to plan a unified state-based telephone/electronic mail reservation system. The office shall report to the appropriate legislative committees by January 15, 1993.

The department shall define beneficiaries of state appropriations for the promotion of significant tourism-related events and attempt to recover those appropriations. Money recovered, and money returned under contracts to host major events, must be credited to a special account to be used, when directly appropriated, to attract and host significant tourism-related events.

The department shall assist in the reestablishment and promotion of the Northern League, a baseball minor league, which will begin operations in the Upper Midwest in 1993.

\$150,000 the second year is for a grant to Nicollet county to establish a tourist information and interpretive center on the site of the treaty of Traverse des Sioux. The grant is available only as matched by \$2 of nonstate money for each \$1 of this appropriation.

#### Subd. 5. Business Development and Analysis

\$50,000 is reduced from the fiscal year 1992 appropriation for Minnesota jobs skills partnership grants.

\$125,000 is reduced from the fiscal year 1992 appropriation for a grant to Advantage Minnesota, Inc.

The department shall proceed with the small business incubator pilot project authorized in Laws 1991, chapter 345, article 1, section 23, subdivision 5, and need not adopt rules for the project.

The unobligated appropriation balance in Laws 1983, chapter 334, section 6, for jobs skills partnership grants shall cancel to the general fund. The estimated cancellation is \$43,000.

The unobligated appropriation balance

in Laws 1987, chapter 386, article 10, section 9, with carry forward authority in Laws 1989, chapter 335, article 1, section 25, subdivision 3, for jobs skills partnership grants shall cancel to the general fund. The estimated cancellation is \$20,000.

No reductions may be made to the Minnesota motion picture board.

The Minnesota motion picture board shall investigate and promote the use of rural Minnesota as a setting for video, film, and television production and location.

The Minnesota motion picture board shall study and make recommendations for the establishment of an annual Asian film festival. The board shall report and make recommendations to the appropriate committees of the legislature by January 15, 1993.

**Sec. 18. MILITARY AFFAIRS**

(542,000)

(842,000)

The reduction of \$542,000 in fiscal year 1992 and \$542,000 in fiscal year 1993 is associated with the closing of armories and the expenses attributed to maintenance and operation of armories.

Except for reduction of the tuition reimbursement for enlistment or reenlistment, reductions totaling \$300,000 in either fiscal year 1992 or 1993 shall be allocated at the discretion of the department.

**Sec. 19. VETERANS AFFAIRS**

(29,000)

**Sec. 20. POLICE AND FIRE AMORTIZATION AID**

(2,020,000)

This reduction is due to excess investment earnings by the Minneapolis police and fire relief associations and reduces the aid apportionment other-



wise payable to the city of Minneapolis on July 15, September 15, and November 15, 1992.

Sec. 21. CONTINGENT  
ACCOUNTS

1,240,000

This appropriation is available with the approval of the governor after receiving the recommendation of the legislative advisory commission under Minnesota Statutes, section 3.30.

\$800,000 is for expenses of the commission on reform and efficiency.

Sec. 22. CANCELLATIONS

Subdivision 1. Freight expense

The commissioner of administration through executive authority is directed to improve management of freight costs by developing an aggressive freight management program. The commissioner of administration shall identify projected savings from this program and provide a listing to the commissioner of finance. The commissioner of finance shall direct the agencies to reduce allotments as these savings occur and cancel them to the general fund at the end of the fiscal year. Projected saving for this program is \$1,901,000 in fiscal year 1993.

Subd. 2. Intertech

The commissioner of finance shall direct agencies to reduce allotments to reflect a credit in Intertech billings of \$2,000,000 which will result in savings to the general fund by June 30, 1993. This credit is based upon extra earnings made in the prior fiscal year that caused certain services to exceed their net revenue projections.

Subd. 3. Plant management retained earnings

The commissioner of administration is directed to refund in fiscal year 1993 \$1,400,000 of excess earnings in the plant management internal service fund of which \$1,000,000 will be savings to the general fund. The commissioner of administration shall furnish a list of the general fund refunds prior to preparation of agencies' 1993 annual budget plans and the commissioner of finance shall direct the agencies to reduce their fiscal year 1993 allotments.

Subd. 4. Improve workers' compensation case management

The commissioner of employee relations is directed to conduct comprehensive medical utilization reviews of state employee workers' compensation medical claims. Any other law to the contrary notwithstanding, reductions to original medical billings resulting from utilization reviews shall be accounted for by the commissioner and deposited in a separate account within the special revenue fund according to procedures specified by the commissioner of finance. Deposits to this account shall be transferred to the appropriate funds in proportion to the claims savings attributable. The commissioner shall provide staff to administer a return-to-work unit within the health, safety, and workers' compensation program to enhance procedures and agency personnel practices in order to facilitate the return of claimants to suitable state employment. It is estimated that the general fund savings attributable to this program will yield a net savings to the general fund of \$222,000 in fiscal year 1992 and \$1,350,000 in fiscal year 1993. Three new positions are to staff and implement a return-to-work unit which will manage internal file review and reduce costs.

**Subd. 5. Prior injuries and illnesses**

The commissioner of employee relations is directed to develop and coordinate implementation procedures to enhance agency registrations of state employees' prior injuries and illnesses. The commissioner shall also develop and implement procedures for medical claim file reviews, intensive monitoring of potential second injury claims, and expedition of second injury and supplemental reimbursement applications from the special compensation fund administered by the commissioner of labor and industry. Implementation of the procedures required under this section are expected to yield savings to the general fund of \$708,000 in fiscal year 1992 and \$465,000 in fiscal year 1993. Any other law to the contrary notwithstanding, reimbursements in excess of the total obtained in fiscal year 1991 shall be deposited in a special account within the special revenue fund and transferred to the appropriate funds from which associated claims originate according to procedures and by dates specified by the commissioner of finance.

**Subd. 6. Pretax FICA and Medicare savings**

The commissioner of employee relations, in conjunction with the commissioner of finance, shall develop and implement procedures to account for the savings accruing to agency budgets due to reductions to federal old age, survivors, disability, and health insurance program and supplemental Medicare obligations that occur as a result of reductions to taxable gross income for employees participating in health, dental, and life plans administered by the commissioner of employee relations. The savings that accrue to agencies'

budgets shall be accounted for, unallotted, and canceled to the appropriate funds according to the procedures and dates specified by the commissioner of finance. It is expected that savings to the general fund resulting from the actions required under this section will be \$576,000 in fiscal year 1993.

#### Subd. 7. Insurance Premiums

This reduction is to agency budgets to account for premium holidays to be declared by the commissioner of employee relations. For periods deemed appropriate by the commissioner of employee relations to adjust balances in the accounts of the insurance trust fund, the commissioner shall declare premium holidays in the basic life and dental insurance plans in the health and benefits program within the current biennium. The commissioner of finance shall reduce agency allotments and cancel to the respective funds savings accruing to agency budgets as a result of premium holidays or reductions made effective by the commissioner of employee relations. It is estimated that these cancellations will save the general fund \$623,000 the first year and \$4,900,000 the second year.

#### Subd. 8. MSRS

The commissioner of finance shall reduce agencies' fiscal year 1993 annual spending plans by the amount of the savings attributable to reductions to the employer retirement contribution rate to the state employees retirement fund. It is estimated that the savings to the general fund will be \$1,731,000 in fiscal year 1993.

#### Subd. 9. Governor's office employees

\$365,000, representing the cost of

employees in the governor's office who are currently being charged to other agencies, must be taken from allotments to those agencies and canceled to the general fund.

#### Sec. 23. BUILDING PROJECT

Effective July 1, 1992, no state agency or department shall propose and the legislature shall not consider building or relocation projects without reviewing implications of utilizing information technology on space utilization.

#### Sec. 24. MANAGING REDUCTIONS.

The general fund appropriation reductions to an agency in this article may be taken by the agency in either year of the biennium, except that an agency in the executive branch, other than a constitutional officer, must obtain the advance approval of the commissioner of finance before moving a reduction to a different fiscal year. Moving a reduction out of fiscal year 1993 does not increase the agency's appropriation base for the 1994-1995 biennium.

Sec. 25. Minnesota Statutes 1990, section 3.305, is amended to read:

#### **3.305 LEGISLATIVE COORDINATING COMMISSION; BUDGET REVIEW AUTHORITY.**

Subdivision 1. REVIEW. The administrative budget request of any statutory commission the majority of whose members are members of the legislature shall be submitted to the legislative coordinating commission for review and comment before its submission to the finance committee of the senate and the appropriations committee of the house of representatives. No such commission shall employ additional personnel without first having received the recommendation of the legislative coordinating commission. The commission shall establish the compensation of all employees of any statutory commission, except classified employees of the legislative audit commission, the majority of whose members are members of the legislature.

Subd. 2. TRANSFERS. The legislative coordinating commission may transfer unobligated balances among general fund appropriations to the legislature.

Sec. 26. Minnesota Statutes 1990, section 3.736, subdivision 8, is amended to read:

Subd. 8. **LIABILITY INSURANCE.** A state agency, including an entity defined as a part of the state in section 3.732, subdivision 1, clause (1), may procure insurance against liability of the agency and its employees for damages

New language is indicated by underline, deletions by ~~strikeout~~.

resulting from the torts of the agency and its employees. Procurement of the insurance is a waiver of the defense limits of governmental immunity liability under subdivisions 4 and 4a only to the extent of the liability stated in the policy but that valid and collectible insurance, including where applicable, proceeds from the Minnesota Guarantee Fund, exceeds those limits and covers the claim. Purchase of insurance has no other effect on the liability of the agency and its employees beyond the coverage provided by the policy. Procurement of commercial insurance, participation in the risk management fund under section 16B.85, or provisions of an individual self-insurance plan with or without a reserve fund or reinsurance does not constitute a waiver of any governmental immunities or exclusions.

Sec. 27. **[4A.04] COOPERATIVE CONTRACTS.**

(a) The director may apply for, receive, and expend money from municipal, county, regional, and other planning agencies; apply for, accept, and disburse grants and other aids for planning purposes from the federal government and from other public or private sources; and may enter into contracts with agencies of the federal government, local governmental units, the University of Minnesota, and other educational institutions, and private persons as necessary to perform the director's duties. Contracts made pursuant to this section are not subject to the provisions of chapter 16B, as they relate to competitive bidding.

(b) The director may apply for, receive, and expend money made available from federal sources or other sources for the purposes of carrying out the duties and responsibilities of the director relating to local and urban affairs.

(c) All money received by the director pursuant to this section shall be deposited in the state treasury and is appropriated to the director for the purposes for which the money has been received. The money shall not cancel and is available until expended.

Sec. 28. Minnesota Statutes 1991 Supplement, section 16A.45, subdivision 1, is amended to read:

Subdivision 1. **CANCEL; CREDIT.** Once each fiscal year the commissioner and the treasurer shall cancel upon their books all outstanding unpaid commissioner's warrants, except warrants issued for federal assistance programs, that have been issued and delivered for more than five years six months prior to that date and credit to the general fund the respective amounts of the canceled warrants. These warrants are presumed abandoned under section 345.38 and are subject to the provisions of sections 345.31 to 345.60. The commissioner and the treasurer shall cancel upon their books all outstanding unpaid commissioner's warrants issued for federal assistance programs that have been issued and delivered for more than the period of time set pursuant to the federal program and credit to the general fund and the appropriate account in the federal fund, the amount of the canceled warrants.

Sec. 29. Minnesota Statutes 1990, section 16A.45, is amended by adding a subdivision to read:

New language is indicated by underline, deletions by ~~strikeout~~.

**Subd. 4. LOCATING UNPAID WARRANTS.** A person may not seek or receive from another person, or contract with a person for, a fee or compensation for locating outstanding unpaid commissioner's warrants before the warrants have been reported to the commissioner of commerce under section 345.41.

Sec. 30. Minnesota Statutes 1990, section 16A.48, subdivision 1, is amended to read:

Subdivision 1. **PROCEDURE.** A verified claim may be submitted to the concerned agency head for refund of money in the treasury to which the state is not entitled. The claimant must submit with the claim a complete statement of facts and reasons for the refund. The agency head shall consider and approve or disapprove the claim, attach a statement of reasons, and forward the claim to the commissioner for settlement. ~~No claim may be approved unless the agency head first obtains from the attorney general written certification that the refund will not jeopardize any rights of setoff or recoupment held by the state and any subdivision thereof, including local governments. Upon the exercise of any set-off or recoupment, the attorney general shall certify the amount of the remainder, if any, that may be appropriated and paid.~~

Sec. 31. Minnesota Statutes 1991 Supplement, section 16A.723, subdivision 2, is amended to read:

Subd. 2. **APPROPRIATION.** The reimbursements collected under subdivision 1 are appropriated for payment of residence expenses relating to, including dry cleaning, carpet cleaning, and the repair and replacement of household equipment and supplies used for events conducted at the governor's residence.

Sec. 32. Minnesota Statutes 1990, section 16B.85, subdivision 5, is amended to read:

Subd. 5. **RISK MANAGEMENT FUND NOT CONSIDERED INSURANCE.** A state agency, including an entity defined as a part of the state in section 3.732, subdivision 1, clause (1), may procure insurance against liability of the agency and its employees for damages resulting from the torts of the agency and its employees. The procurement of this insurance constitutes a waiver of the limits ~~of~~ of governmental liability under section 3.736, subdivisions 4 and 4a, only to the extent of the liability stated in the policy but that valid and collectible insurance, including where applicable, proceeds from the Minnesota Guarantee Fund, exceeds those limits and covers the claim. Purchase of insurance has no other effect on the liability of the agency and its employees ~~beyond the coverage as provided.~~ Procurement of commercial insurance, participation in the risk management fund under this section, or provisions of an individual self-insurance plan with or without a reserve fund or reinsurance does not constitute a waiver of any of the governmental immunities or exclusions ~~under section 3.736.~~

Sec. 33. Minnesota Statutes 1990, section 116J.9673, subdivision 4, is amended to read:

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 4. **WORKING CAPITAL ACCOUNT.** An export finance authority working capital account is created as a special account in the state treasury. All premiums and interest collected under subdivision 3, clause (6), must be deposited into this account. Fees collected must be credited to the general fund. The balance in the account may exceed \$1,000,000 through accumulated earnings. Any balance in excess of \$1,000,000 on June 30 of every year must be transferred to the general fund. Money in the account including interest earned and appropriations made by the legislature for the purposes of this section, is appropriated annually to the finance authority for the purposes of this section. The balance in the account may decline below \$1,000,000 as required to pay defaults on guaranteed loans.

Sec. 34. Minnesota Statutes 1990, section 270.063, is amended to read:

**270.063 COLLECTION OF DELINQUENT TAXES.**

For the purpose of collecting delinquent state tax liabilities, there is appropriated to the commissioner of revenue an amount representing the cost of collection; ~~not to exceed one-third of the amount collected~~ by contract with collection agencies, revenue departments of other states, or attorneys to enable the commissioner to reimburse these agencies, departments, or attorneys for this service, or provide for the operating costs of collection activities of the department of revenue. The commissioner shall report quarterly on the status of this program to the chair of the house tax and appropriation committees and senate tax and finance committees.

Notwithstanding section 16A.15, subdivision 3, the commissioner of revenue may authorize the prepayment of sheriff's fees, attorney fees, fees charged by revenue departments of other states, or court costs to be incurred in connection with the collection of delinquent tax liabilities owed to the commissioner of revenue.

Sec. 35. Minnesota Statutes 1990, section 270.71, is amended to read:

**270.71 ACQUISITION AND RESALE OF SEIZED PROPERTY.**

For the purpose of enabling the commissioner of revenue to purchase or redeem seized property in which the state of Minnesota has an interest arising from a lien for unpaid taxes, or to provide for the operating costs of collection activities of the department of revenue, there is appropriated to the commissioner an amount representing the cost of such purchases ~~or~~, redemptions, or collection activities. Seized property acquired by the state of Minnesota to satisfy unpaid taxes shall be resold by the commissioner. The commissioner shall preserve the value of seized property while controlling it, including but not limited to the procurement of insurance. For the purpose of refunding the proceeds from the sale of levied or redeemed property which are in excess of the actual tax liability plus costs of acquiring the property, there is hereby created a levied and redeemed property refund account in the agency fund. All amounts deposited into this account are appropriated to the commissioner of revenue. The

New language is indicated by underline, deletions by ~~strikeout~~.



commissioner shall report quarterly on the status of this program to the chairs of the house taxes and appropriations committees and senate taxes and tax laws and finance committees.

Sec. 36. Minnesota Statutes 1990, section 349.161, subdivision 4, is amended to read:

Subd. 4. **FEES.** The annual fee for a distributor's license is ~~\$2,500~~ \$3,500.

Sec. 37. Minnesota Statutes 1990, section 349.163, subdivision 2, is amended to read:

Subd. 2. **LICENSE; FEE.** A license under this section is valid for one year. The annual fee for the license is ~~\$2,500~~ \$5,000.

Sec. 38. Minnesota Statutes 1990, section 352.04, subdivision 2, is amended to read:

Subd. 2. **EMPLOYEE CONTRIBUTIONS.** The employee contribution to the fund must be equal to ~~4.15~~ 3.99 percent of salary. These contributions must be made by deduction from salary as provided in subdivision 4.

Sec. 39. Minnesota Statutes 1990, section 352.04, subdivision 3, is amended to read:

Subd. 3. **EMPLOYER CONTRIBUTIONS.** (a) The employer contribution to the fund must be equal to ~~4.29~~ 4.12 percent of salary.

(b) By January 1 of each year, the board of directors shall report to the legislative commission on pensions and retirement, the chair of the committee on appropriations of the house of representatives, and the chair of the committee on finance of the senate on the amount raised by the employer and employee contribution rates in effect and whether the total amount is less than, the same as, or more than the actuarial requirement determined under section 356.215.

(c) If the legislative commission on pensions and retirement, based on the most recent valuation performed by its actuary, determines that the total amount raised by the employer and employee contributions under subdivision 2 and paragraph (b) is less than the actuarial requirements determined under section 356.215, the employer and employee rates must be increased by equal amounts as necessary to meet the actuarial requirements. The employee rate may not exceed 4.15 percent of salary and the employer rate may not exceed 4.29 percent of salary. The increases are effective on the next January 1 following the determination by the commission. The executive director of the Minnesota state retirement system shall notify employing units of any increases under this paragraph.

Sec. 40. Minnesota Statutes 1990, section 353.27, subdivision 13, is amended to read:

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 13. **CERTAIN WARRANTS CANCELED.** A warrant payable from the retirement fund remaining unpaid for a period of ~~five years~~ six months must be canceled into the retirement fund and not into the general fund.

Sec. 41. Minnesota Statutes 1990, section 356.65, subdivision 1, is amended to read:

Subdivision 1. **DEFINITIONS.** For purposes of this section, unless the context clearly indicates otherwise, the following terms shall have the meanings given to them:

(a) "Public pension fund" means any public pension plan as defined in section 356.61 and any Minnesota volunteer firefighters relief association which is established pursuant to chapter 424A and governed pursuant to sections 69.771 to 69.776.

(b) "Unclaimed public pension fund amounts" means any amounts representing accumulated member contributions, any outstanding unpaid annuity, service pension or other retirement benefit payments, including those made on warrants issued by the commissioner of finance, which have been issued and delivered for more than ~~six years~~ six months prior to the date of the end of the fiscal year applicable to the public pension fund, and any applicable interest to the credit of:

(1) an inactive or former member of a public pension fund who is not entitled to a defined retirement annuity and who has not applied for a refund of those amounts within five years after the last member contribution was made;

(2) a deceased inactive or former member of a public pension fund if no survivor is entitled to a survivor benefit and no survivor, designated beneficiary or legal representative of the estate has applied for a refund of those amounts within five years after the date of death of the inactive or former member.

Sec. 42. Minnesota Statutes 1991 Supplement, section 357.021, subdivision 2, is amended to read:

Subd. 2. **FEE AMOUNTS.** The fees to be charged and collected by the court administrator shall be as follows:

(1) In every civil action or proceeding in said court, the plaintiff, petitioner, or other moving party shall pay, when the first paper is filed for that party in said action, a fee of ~~\$85~~ \$110.

The defendant or other adverse or intervening party, or any one or more of several defendants or other adverse or intervening parties appearing separately from the others, shall pay, when the first paper is filed for that party in said action, a fee of ~~\$85~~ \$110.

The party requesting a trial by jury shall pay \$30.

New language is indicated by underline, deletions by ~~strikeout~~.

The fees above stated shall be the full trial fee chargeable to said parties irrespective of whether trial be to the court alone, to the court and jury, or disposed of without trial, and shall include the entry of judgment in the action, but does not include copies or certified copies of any papers so filed or proceedings under chapter 103E, except the provisions therein as to appeals.

(2) Certified copy of any instrument from a civil or criminal proceeding, \$5, plus 25 cents per page after the first page, and \$3.50, plus 25 cents per page after the first page for an uncertified copy.

(3) Issuing a subpoena, \$3 for each name.

(4) Issuing an execution and filing the return thereof; issuing a writ of attachment, injunction, habeas corpus, mandamus, quo warranto, certiorari, or other writs not specifically mentioned, \$10.

(5) Issuing a transcript of judgment, or for filing and docketing a transcript of judgment from another court, \$7.50.

(6) Filing and entering a satisfaction of judgment, partial satisfaction, or assignment of judgment, \$5.

(7) Certificate as to existence or nonexistence of judgments docketed, \$5 for each name certified to.

(8) Filing and indexing trade name; or recording notary commission; or recording basic science certificate; or recording certificate of physicians, osteopaths, chiropractors, veterinarians, or optometrists, \$5.

(9) For the filing of each partial, final, or annual account in all trusteeships, \$10.

(10) For the deposit of a will, \$5.

(11) All other services required by law for which no fee is provided, such fee as compares favorably with those herein provided, or such as may be fixed by rule or order of the court.

The fees in clauses (3) and (4) need not be paid by a public authority or the party the public authority represents.

Sec. 43. Minnesota Statutes 1990, section 357.18, is amended by adding a subdivision to read:

Subd. 3. SURCHARGE. In addition to the fees imposed in subdivision 1, a \$2 surcharge shall be collected; on each fee charged under subdivision 1, clauses (1) and (6), and for each abstract certificate under subdivision 1, clause (4). Forty cents of each surcharge shall be retained by the county to cover its administrative costs and \$1.60 shall be paid to the state treasury and credited to the general fund.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 44. Minnesota Statutes 1990, section 466.06, is amended to read:

**466.06 LIABILITY INSURANCE.**

The governing body of any municipality may procure insurance against liability of the municipality and its officers, employees, and agents for damages, including punitive damages, resulting from its torts and those of its officers, employees, and agents, including torts specified in section 466.03 for which the municipality is immune from liability. The insurance may provide protection in excess of the limit of liability imposed by section 466.04. If a municipality other than a school district has the authority to levy taxes, the premium costs for such insurance may be levied in excess of any per capita or local tax rate tax limitation imposed by statute or charter. Any independent board or commission in the municipality having authority to disburse funds for a particular municipal function without approval of the governing body may similarly procure liability insurance with respect to the field of its operation. The procurement of such insurance constitutes a waiver of the limits of governmental liability under section 466.04 only to the extent of the liability stated in the policy but that valid and collectible insurance, including where applicable, proceeds from the Minnesota Guarantee Fund, exceeds those limits and covers the claim. The purchase of insurance has no other effect on the liability of the municipality beyond the coverage so provided or its employees. Procurement of commercial insurance, participation in a self-insurance pool pursuant to section 471.981, or provision for an individual self-insurance plan with or without a reserve fund or reinsurance shall not constitute a waiver of any of the governmental immunities conferred under section 466.03 or exclusions.

Sec. 45. Minnesota Statutes 1990, section 490.123, is amended by adding a subdivision to read:

**Subd. 1c. JUDGES NOT PARTICIPATING IN POSTRETIREMENT FUND.** For retired judges not participating in the postretirement fund, as defined in section 11A.18, the amount necessary to pay retirement benefits is appropriated from the general fund to the executive director of the Minnesota state retirement system. The executive director shall certify to the commissioner of finance the total amount required to pay such benefits each year on or before July 15. The certification shall include the number of anticipated benefit recipients, including survivors and designated beneficiaries, the total estimated requirements for each recipient group, and the total amount for all groups. The commissioner of finance shall, after any necessary reconciling adjustments or corrections, transfer the total required amount to a separate account within the judges' retirement fund. Any unencumbered balance at the end of the first year does not cancel, but is available for the second year. Any unencumbered balance remaining on June 30 of the second year of a biennium cancels and shall be credited to the general fund.

Sec. 46. Minnesota Statutes 1991 Supplement, section 508.82, is amended to read:

New language is indicated by underline, deletions by ~~strikeout~~.

**508.82 REGISTRAR'S FEES.**

The fees to be paid to the registrar shall be as follows:

(1) of the fees provided herein, five percent of the fees collected under clauses (3), (4), (11), (13), (14), (15), (17), (18), and (19), for filing or memorializing shall be paid to the state treasurer and credited to the general fund; plus a \$2 surcharge shall be charged and collected in addition to the total fees charged for each transaction under clauses (2) to (4), (6), (11), (13), (15), and (19), with 40 cents of this surcharge to be retained by the county to cover its administrative costs and \$1.60 to be paid to the state treasury and credited to the general fund;

(2) for registering each original certificate of title, and issuing a duplicate of it, \$30;

(3) for registering each instrument transferring the fee simple title for which a new certificate of title is issued and for the issuance and registration of the new certificate of title, \$30;

(4) for the entry of each memorial on a certificate and endorsements upon duplicate certificates, \$15;

(5) for issuing each mortgagee's or lessee's duplicate, \$10;

(6) for issuing each residue certificate, \$20;

(7) for exchange certificates, \$10 for each certificate canceled and \$10 for each new certificate issued;

(8) for each certificate showing condition of the register, \$10;

(9) for any certified copy of any instrument or writing on file in the registrar's office, the same fees allowed by law to county recorders for like services;

(10) for a noncertified copy of any instrument or writing on file in the office of the registrar of titles, or any specified page or part of it, an amount as determined by the county board for each page or fraction of a page specified. If computer or microfilm printers are used to reproduce the instrument or writing, a like amount per image;

(11) for filing two copies of any plat in the office of the registrar, \$30;

(12) for any other service under this chapter, such fee as the court shall determine;

(13) for issuing a duplicate certificate of title pursuant to the directive of the examiner of titles in counties in which the compensation of the examiner is paid in the same manner as the compensation of other county employees, \$50, plus \$10 to memorialize;

(14) for issuing a duplicate certificate of title pursuant to the directive of the

New language is indicated by underline, deletions by ~~strikeout~~.

examiner of titles in counties in which the compensation of the examiner is not paid by the county or pursuant to an order of the court, \$10;

(15) for filing a condominium plat or an amendment to it in accordance with chapter 515, \$30;

(16) for a copy of a condominium plat filed pursuant to chapters 515 and 515A, the fee shall be \$1 for each page of the condominium plat with a minimum fee of \$10;

(17) for filing a condominium declaration and plat or an amendment to it in accordance with chapter 515A, \$10 for each certificate upon which the document is registered and \$30 for the filing of the condominium plat or an amendment thereto;

(18) for the filing of a certified copy of a plat of the survey pursuant to section 508.23 or 508.671, \$10;

(19) for filing a registered land survey in triplicate in accordance with section 508.47, subdivision 4, \$30;

(20) for furnishing a certified copy of a registered land survey in accordance with section 508.47, subdivision 4, \$10.

Sec. 47. Minnesota Statutes 1991 Supplement, section 508A.82, is amended to read:

**508A.82 REGISTRAR'S FEES.**

The fees to be paid to the registrar shall be as follows:

(1) of the fees provided herein, five percent of the fees collected under clauses (3), (4), (11), (13), (14), (15), (17), and (19), for filing or memorializing shall be paid to the state treasurer and credited to the general fund; plus a \$2 surcharge shall be charged and collected in addition to the total fees charged for each transaction under clauses (2) to (4), (6), (11), (13), (15), and (19), with 40 cents of this surcharge to be retained by the county to cover its administrative costs and \$1.60 to be paid to the state treasury and credited to the general fund;

(2) for registering each original CPT, and issuing a duplicate of it, \$30;

(3) for registering each instrument transferring the fee simple title for which a new CPT is issued and for the issuance and registration of the new CPT, \$30;

(4) for the entry of each memorial on a certificate and endorsements upon duplicate CPTs, \$15;

(5) for issuing each mortgagee's or lessee's duplicate, \$10;

(6) for issuing each residue CPT, \$20;

New language is indicated by underline, deletions by ~~strikeout~~.

(7) for exchange CPTs, \$10 for each CPT canceled and \$10 for each new CPT issued;

(8) for each certificate showing condition of the register, \$10;

(9) for any certified copy of any instrument or writing on file in the registrar's office, the same fees allowed by law to county recorders for like services;

(10) for a noncertified copy of any instrument or writing on file in the office of the registrar of titles, or any specified page or part of it, an amount as determined by the county board for each page or fraction of a page specified. If computer or microfilm printers are used to reproduce the instrument or writing, a like amount per image;

(11) for filing two copies of any plat in the office of the registrar, \$30;

(12) for any other service under sections 508A.01 to 508A.85, the fee the court shall determine;

(13) for issuing a duplicate CPT pursuant to the directive of the examiner of titles in counties in which the compensation of the examiner is paid in the same manner as the compensation of other county employees, \$50, plus \$10 to memorialize;

(14) for issuing a duplicate CPT pursuant to the directive of the examiner of titles in counties in which the compensation of the examiner is not paid by the county or pursuant to an order of the court, \$10;

(15) for filing a condominium plat or an amendment to it in accordance with chapter 515, \$30;

(16) for a copy of a condominium plat filed pursuant to chapters 515 and 515A, the fee shall be \$1 for each page of the plat with a minimum fee of \$10;

(17) for filing a condominium declaration and condominium plat or an amendment to it in accordance with chapter 515A, \$10 for each certificate upon which the document is registered and \$30 for the filing of the condominium plat or an amendment to it;

(18) in counties in which the compensation of the examiner of titles is paid in the same manner as the compensation of other county employees, for each parcel of land contained in the application for a CPT, as the number of parcels is determined by the examiner, a fee which is reasonable and which reflects the actual cost to the county, established by the board of county commissioners of the county in which the land is located;

(19) for filing a registered land survey in triplicate in accordance with section 508A.47, subdivision 4, \$30;

(20) for furnishing a certified copy of a registered land survey in accordance with section 508A.47, subdivision 4, \$10.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 48. Minnesota Statutes 1990, section 609.131, is amended by adding a subdivision to read:

Subd. 1a. PETTY MISDEMEANOR SCHEDULE. Prior to August 1, 1992, the conference of chief judges shall establish a schedule of misdemeanors that shall be treated as petty misdemeanors. A person charged with a violation that is on the schedule is not eligible for court-appointed counsel.

Sec. 49. Minnesota Statutes 1990, section 609.5315, is amended by adding a subdivision to read:

Subd. 6. REPORTING REQUIREMENT. The appropriate agency shall provide a written record of each forfeiture incident to the state auditor. The record shall include the amount forfeited, date, and a brief description of the circumstances involved. Reports shall be made on a monthly basis in a manner prescribed by the state auditor. The state auditor shall report annually to the legislature on the nature and extent of forfeitures.

Sec. 50. Minnesota Statutes 1991 Supplement, section 611.27, subdivision 7, is amended to read:

Subd. 7. PUBLIC DEFENDER SERVICES; RESPONSIBILITY. Notwithstanding subdivision 4, the state's obligation for the costs of the public defender services is limited to the appropriations made to the board of public defense. Services and expenses beyond those appropriated for in cases where adequate representation cannot be provided by the district public defender shall be the responsibility of the counties within a judicial district. Expenses shall be distributed among the counties in proportion to their populations state board of public defense.

Sec. 51. Minnesota Statutes 1990, section 611.27, is amended by adding a subdivision to read:

Subd. 8. PUBLIC DEFENDER SERVICES; STATE PUBLIC DEFENDER REVIEW. In a case where the chief district public defender does not believe that the office can provide adequate representation the chief public defender of the district shall immediately notify the state public defender.

Sec. 52. Minnesota Statutes 1990, section 611.27, is amended by adding a subdivision to read:

Subd. 9. PUBLIC DEFENDER SERVICES; REQUEST TO THE COURT. The chief district public defender with the approval of the state public defender may request that the chief judge of the district court, or a district court judge designated by the chief judge, authorize appointment of counsel other than the district public defender in such cases.

Sec. 53. Minnesota Statutes 1990, section 611.27, is amended by adding a subdivision to read:

New language is indicated by underline, deletions by ~~strikeout~~.



**Subd. 10. PUBLIC DEFENDER SERVICES; NO PERMANENT STAFF.** The chief public defender may not request the court nor may the court order the addition of permanent staff under subdivision 7.

Sec. 54. Minnesota Statutes 1990, section 611.27, is amended by adding a subdivision to read:

**Subd. 11. PUBLIC DEFENDER SERVICES; APPOINTMENT OF COUNSEL.** If the court finds that the provision of adequate legal representation, including associated services, is beyond the ability of the district public defender to provide, the court shall order counsel to be appointed, with compensation and expenses to be paid under the provisions of this subdivision and subdivision 7. Counsel in such cases shall be appointed by the chief district public defender. If the court issues an order denying the request, the court shall make written findings of fact and conclusions of law. Upon denial, the chief district public defender may immediately appeal the order denying the request to the court of appeals and may request an expedited hearing.

Sec. 55. Minnesota Statutes 1990, section 611.27, is amended by adding a subdivision to read:

**Subd. 12. PUBLIC DEFENDER SERVICES; COMPENSATION AND EXPENSES.** Counsel appointed under this subdivision shall document the time worked and expenses incurred in a manner prescribed by the chief district public defender.

Sec. 56. Minnesota Statutes 1990, section 611.27, is amended by adding a subdivision to read:

**Subd. 13. PUBLIC DEFENSE SERVICES; CORRECTIONAL FACILITY INMATES.** All billings for services rendered and ordered under subdivision 7 shall require the approval of the chief district public defender before being forwarded on a monthly basis to the state public defender. In cases where adequate representation cannot be provided by the district public defender and where counsel has been appointed under a court order, the state public defender shall forward to the commissioner of finance all billings for services rendered under the court order. The commissioner shall pay for services from county criminal justice aid retained by the commissioner of revenue for that purpose under section 477A.0121, subdivision 4.

The costs of appointed counsel and associated services in cases arising from new criminal charges brought against indigent inmates who are incarcerated in a Minnesota state correctional facility are the responsibility of the state board of public defense. In such cases the state public defender may follow the procedures outlined in this section for obtaining court-ordered counsel.

Sec. 57. Minnesota Statutes 1990, section 611.27, is amended by adding a subdivision to read:

New language is indicated by underline, deletions by ~~strikeout~~.

**Subd. 14. PUBLIC DEFENDER SERVICES; REPORT.** The state public defender shall report to the legislature in the supplemental budget or the biennial budget document the number and costs of all successful petitions during the previous fiscal year.

**Sec. 58. FINDINGS.**

The legislature finds that the state of Minnesota faces immediate and serious financial problems. As a result, public employers may have insufficient resources to maintain their work forces at the current level. The legislature determines that the public interest is best served if public employers' budgets can be balanced without layoffs of public employees. This section and section 59 are enacted as a temporary measure to help solve the financial crisis facing units of state and local government, while minimizing layoffs of public employees.

**Sec. 59. EMPLOYER-PAID HEALTH INSURANCE.**

**Subdivision 1. STATE EMPLOYEES.** A state employee, as defined in Minnesota Statutes, section 43A.02, subdivision 21, or an employee of the state university system, community college system, higher education board, Minnesota state retirement system, the teachers retirement association, or the public employees retirement association, is eligible for state-paid hospital, medical, and dental benefits if the person:

(1) is eligible for state-paid insurance under Minnesota Statutes, section 43A.18, or other law;

(2) (i) has at least 25 years of service in the state civil service as defined in Minnesota Statutes, section 43A.02, subdivision 10; or (ii) has at least 25 years of service as an employee of the Minnesota state retirement system, the teachers retirement association, or the public employees retirement association; or (iii) has at least 25 years of service credit in the public pension plan that the person is a member of on the day before retirement;

(3) upon retirement is immediately eligible for a retirement annuity;

(4) is at least 55 and not yet 65 years of age; and

(5) retires on or after July 1, 1992, and before October 1, 1992.

During the biennium ending June 30, 1993, an executive branch state agency may not hire a replacement for a person who retires under this subdivision, except under conditions specified by the commissioners of finance and employee relations.

**Subd. 2. OTHER PUBLIC EMPLOYEES.** The University of Minnesota or the governing body of a city, county, school district, joint vocational technical district formed under Minnesota Statutes, sections 136C.60 to 136C.69, or other political subdivision of the state may provide employer-paid hospital, medical, and dental benefits to a person who:

New language is indicated by underline, deletions by ~~strikeout~~.

(1) is eligible for employer-paid insurance under collective bargaining agreements or personnel plans in effect on the day before the effective date of this section;

(2) has at least 25 years of service credit in the public pension plan that the person is a member of on the day before retirement; or in the case of a teacher has a total of at least 25 years of service credit in the teachers retirement association, a first-class city teacher retirement fund, or any combination of these groups;

(3) upon retirement is immediately eligible for a retirement annuity;

(4) is at least 55 and not yet 65 years of age; and

(5) in the case of a school district employee, retires on or after May 15, 1992, and before July 21, 1992; and in the case of an employee of another employer in this subdivision, retires on or after July 1, 1992, and before October 1, 1992.

An employer that pays for insurance under this subdivision may not exclude any eligible employees.

Subd. 3. CONDITIONS; COVERAGE. An employee who is eligible both for the health insurance benefit under this section and for an early retirement incentive under a collective bargaining agreement or personnel plan established by the employer must select either the early retirement incentive in the collective bargaining agreement, personnel plan, or the incentive provided under this section, but may not receive both. For purposes of this section, a person retires when the person terminates active employment and applies for retirement benefits. The retired employee is eligible for single and dependent coverages and employer payments to which the person was entitled immediately before retirement, subject to any changes in coverage and employer and employee payments through collective bargaining or personnel plans, for employees in positions equivalent to the position from which the employee retired. The retired employee is not eligible for employer-paid life insurance. Eligibility ceases when the retired employee attains the age of 65, or when the employee chooses not to receive the retirement benefits for which the employee has applied, or when the employee is eligible for employer-paid health insurance from a new employer. Coverages must be coordinated with relevant health insurance benefits provided through the federally sponsored Medicare program. Nothing in this section obligates, limits, or otherwise affects the right of the University of Minnesota to provide employer-paid hospital, medical, dental benefits, and life insurance to any person.

Subd. 4. RULE OF 90. An employee who retires under this section using the rule of 90 must not be included in the calculations required by Minnesota Statutes, section 356.85.

Subd. 5. APPLICATION OF OTHER LAWS. Unilateral implementation

New language is indicated by underline, deletions by ~~strikeout~~.

of this section by a public employer is not an unfair labor practice for purposes of Minnesota Statutes, chapter 179A. The authority provided in this section for an employer to pay health insurance costs for certain retired employees is not subject to the limits in Minnesota Statutes, section 179A.20, subdivision 2a.

Sec. 60. **REPEALER.**

Minnesota Statutes 1990, section 41A.051, is repealed. Minnesota Statutes 1990, section 270.185, is repealed effective January 1, 1993. On that date, any balance in the reassessment account of the special revenue fund is transferred to the general fund. The repeal of Minnesota Statutes 1991 Supplement, section 326.991, provided for in Laws 1991, chapter 306, section 26, is postponed until July 31, 1994.

Sec. 61. **LAYOFFS.**

It is the policy of the legislature to maximize the delivery of services to the public. If layoffs of state employees as defined in Minnesota Statutes, chapter 43A, are necessary in an agency with 50 or more employees, the agency shall make an effort to reduce at least the same percentage of management and supervisory personnel as line and support personnel for the biennium ending June 30, 1993. This section does not modify any employee rights contained in any other law or collective bargaining agreement under Minnesota Statutes, chapter 179A.

Sec. 62. **LEGISLATIVE INTENT.**

The amendments in this article to Minnesota Statutes, sections 3.736, 16B.85, and 466.06, are intended to clarify, rather than to change, the original intent of the statutes amended.

Sec. 63. **EFFECTIVE DATE.**

This article is effective the day following final enactment, except that sections 36, 37, 42, 43, 46, and 47, are effective July 1, 1992.

Sections 26, 32, and 44 apply to cases pending or brought on or after their effective date.

---

**ARTICLE 5**

**HUMAN DEVELOPMENT**

**Section 1. HUMAN DEVELOPMENT; APPROPRIATIONS.**

The sums shown in the columns marked "APPROPRIATIONS" are appropriated from the general fund, or another fund named, to the agencies and for the purposes specified in this act, to be available for the fiscal years indicated for each purpose. The figures "1992" and "1993," where used in this article, mean

New language is indicated by underline, deletions by ~~strikeout~~.

that the appropriation or appropriations listed under them are available for the year ending June 30, 1992, or June 30, 1993, respectively. Where a dollar amount appears in parenthesis, it means a reduction of an appropriation.

SUMMARY BY FUND

	1992	1993	TOTAL
APPROPRIATION CHANGE			
General	(\$1,799,000)	\$3,802,000	\$2,003,000
Special Revenue	63,000	755,000	818,000
		APPROPRIATIONS	
		Available for the Year	
		Ending June 30	
		1992	1993

Sec. 2. HUMAN SERVICES

Subdivision 1. Total General Fund  
Appropriation

1,639,000 (2,497,000)

This appropriation is added to the appropriation in Laws 1991, chapter 292, article 1, section 2.

For the fiscal year ending June 30, 1993, total state spending is offset by \$65,000,000 in provider payments deposited in the general fund under the broad-based health care provider tax program.

The commissioner of finance shall prepare a biennial budget for fiscal years 1994-1995 that does not include revenues from the provider surcharge that exceed the estimated cost associated with the Healthright program. The commissioner of finance shall also prepare a plan to phase out the non-Healthright provider surcharges by June 30, 1995.

Subd. 2. Human Services Administration

(2,150,000) (3,939,000)

Up to \$500,000 may be transferred within the department as the commissioner considers necessary, with the advance approval of the commissioner of finance.

\$75,000 is appropriated to the commissioner for a cooperative project with Alexandria technical college regarding MAXIS data. If the commissioner and the college jointly develop a feasible project, the commissioner may transfer the \$75,000 to the college and may transfer summary data from the MAXIS data system to the college for the purpose of developing graphic representation of the data for legislative and executive branch use, as requested, utilizing geographic information systems. For purposes of this section, summary data has the meaning given it in Minnesota Statutes, section 13.02, subdivision 19.

Subd. 3. Finance and Management Administration		(180,000)
--	--	-----------

Subd. 4. Economic Support and Services to the Elderly		(32,000)
---	--	----------

Because nine percent or more of the total preadmission screenings done for a SAIL county under Minnesota Statutes, section 256B.0917, subdivision 4, in fiscal year 1991 were not listed in the October 17, 1991, printing of OD-8043 (State of Minnesota, Department of Human Services Long Term Care Management Division, Preadmission Screening Records for MA and Private Pay Persons Reconciliation List) due to computer error, the commissioner shall make a one-time adjustment on May 1, 1992, to that county's fiscal year 1992 estimated number of preadmission screenings by the actual number of county-verified unlisted names.

Subd. 5. Services to Special Needs Adults	(2,803,000)	(2,227,000)
---	-------------	-------------

Subd. 6. Economic Support and Transition Services for Families and Individuals	(12,989,000)	(11,611,000)
--	--------------	--------------

Unexpended fiscal year 1991 start work grant funds may be used to pay fiscal year 1991 work readiness services obligations.

For the biennium ending June 30, 1993, general assistance grant funds are appropriated to the commissioner of human services to cover the costs of the refugee cash assistance and refugee medical assistance programs that exceed the federal fiscal year 1992 appropriation for those programs. Federal funds received on or after September 30, 1992, as reimbursement for the federal fiscal year 1992 refugee cash assistance and refugee medical assistance costs must be deposited in the general assistance grant account and are appropriated for general assistance grants.

The commissioner shall transfer up to \$2,800,000 of state funds from the basic sliding fee program to the AFDC child care program to establish the base for the non-STRIDE AFDC child care program. The department shall make the transfer over the biennium ending June 30, 1993. The amount of federal child care and development block grant funds committed to the basic sliding fee program must be increased by an amount equivalent to the transfer. The state funds transferred to the AFDC child care program will provide state matching funds for additional federal funds earned by the department pursuant to Public Law Number 100-485.

Money appropriated for fiscal year 1992 for paying contract institutions fees for cashing public assistance warrants under Laws 1991, chapter 292, article 1, section 2, subdivision 4, does not cancel, but is available for that purpose in fiscal year 1993.

Any unexpended balance of the \$50,000

appropriation in Laws 1991, chapter 292, article 1, section 2, subdivision 5, in fiscal year 1992 for modifications to adult foster care homes under provisions of Minnesota Statutes 1991 Supplement, section 256B.0917, does not cancel and is available for these purposes for fiscal year 1993.

Subd. 7. Health Care for Families and Individuals

23,026,000

24,108,000

A nursing facility downsized under Minnesota Statutes, section 256B.431, subdivision 2m, and ineligible for the OBRA adjustments in Minnesota Statutes, section 256B.431, subdivision 7, shall receive a one-time state grant of \$50,600 to cover the up-front costs of meeting OBRA requirements.

The commissioner of human services shall submit a plan to the legislature to downsize an existing 48 bed intermediate care facility for persons with mental retardation or related conditions located in Dakota county. The plan must include the projected costs of the facility's rate adjustment and the alternative services for the residents being relocated, and the impact of the downsizing of the facility on the quality of care for clients.

For fiscal year 1993, the commissioner may transfer up to \$250,000 from the Minnesota supplemental aid grants account to the medical assistance grants account to reimburse the medical assistance account for nursing facility receivership costs incurred by counties. These transfers must be made from the account of the county of financial responsibility for particular receivership costs and in the amount of individual county cost.

For the fiscal year ending June 30,



1993, \$390,000 is transferred from Minnesota supplemental aid group residential housing grants to Rule 14 supported housing grants. This amount represents Minnesota supplemental aid payments for 170 unlicensed supported housing beds which are permanently removed from the group residential housing census. These beds must not be replaced by other group residential housing agreements.

Up to \$30,000 of the appropriation for preadmission screening alternative care for fiscal year 1992 contained in Laws 1991, chapter 292, article 1, section 2, subdivision 6, may be transferred to the health care administration account to pay the state's share of county claims for conducting nursing home assessments for persons with mental illness or mental retardation as required by Public Law Number 100-203.

For the fiscal year ending June 30, 1993, a newly constructed or newly established intermediate care facility for the mentally retarded that is developed and financed during that period shall not be subject to the equity requirements in Minnesota Statutes, 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.

The paragraph in Laws 1991, chapter 292, article 1, section 2, subdivision 9, providing for the implementation of a reduced reimbursement rate for therapy services provided by a physical or occupational therapy assistant is repealed. Services provided by a physical therapy assistant shall be reimbursed at the same rate as services performed by a

physical therapist when the services of the physical therapy assistant are provided under the direction of a physical therapist who is on the premises. Services provided by a physical therapy assistant that are provided under the direction of a physical therapist who is not on the premises shall be reimbursed at 65 percent of the physical therapist rate. Services provided by an occupational therapy assistant shall be reimbursed at the same rate as services performed by an occupational therapist when the services of the occupational therapy assistant are provided under the direction of the occupational therapist who is on the premises. Services provided by an occupational therapy assistant that are not provided under the direction of an occupational therapist who is not on the premises shall be reimbursed at 65 percent of the occupational therapist rate.

During the biennium ending June 30, 1993, the commissioner shall identify long-term care providers with high mortgage rates on existing debt and work with them and their mortgagees or other lenders to negotiate debt refinancing at lower interest rates that produce annual interest expense savings under existing laws.

Effective for the biennium beginning July 1, 1993, the commissioner shall allocate sufficient home- and community-based waived service openings and money to serve persons who are being relocated from existing intermediate care facilities for the mentally retarded that are projected to close and who otherwise would have been required to be relocated into newly developed intermediate care facilities for the mentally retarded.

In the event that a large community-

based facility licensed under Minnesota Rules, parts 9525.0215 to 9525.0355, for more than 16 beds but not certified as an intermediate care facility for persons with mental retardation or related conditions closes and alternative services for the residents are necessary, the commissioner may transfer on a quarterly basis to the medical assistance state account from each affected county's community social service allocation an amount equal to the state share of medical assistance reimbursement for residential and day habilitation services funded by medical assistance and provided to clients for whom the county is financially responsible.

For the fiscal year ending June 30, 1993, if a facility which is in receivership under Minnesota Statutes, section 245A.12 or 245A.13, is sold to an unrelated organization: (a) the facility shall be considered a newly established facility for rate setting purposes notwithstanding any provisions to the contrary in Minnesota Statutes, section 256B.501, subdivision 11; and (b) 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.

The number of home- and community-based waiver openings used for persons with mental retardation or related conditions who are being discharged from nursing homes shall not exceed 50 openings in fiscal year 1992 and 80 openings in fiscal year 1993.

The commissioner shall not spend

money to study and shall not implement a system to pay hospitals under the medical assistance and general assistance medical care programs on a peer grouping basis during the biennium ending June 30, 1993.

The money appropriated to health care management to increase federal medical assistance reimbursement may not be included in the base for the biennium beginning July 1, 1993. The commissioner shall request continued funding based upon the results of the increased effort to maximize federal funding and shall include an evaluation of those results when requesting additional funding.

Before implementing the managed care initiatives for people with developmental disabilities or mental illness, the commissioner shall report to the chair of the house of representatives human resources division of the appropriations committee and the chair of the senate human resources division of the finance committee regarding the proposed program. The report should include the number of people likely to be affected by the program and the effects of the proposal on the services they receive. Fiscal information should be provided, including the projected costs and savings under the proposal for the biennium ending June 30, 1995.

Effective January 1, 1993, and contingent upon federal approval of adding preplacement case management activities for persons with mental retardation or a related condition to the state Medicaid plan under title XIX of the Social Security Act, the commissioner shall transfer \$600,000 of Community Social Services Act funds, appropriated for grants for case management established under Minnesota Statutes, section

256E.14, to the state medical assistance account. This transfer is for the purpose of providing funding through June 30, 1993, for the state match necessary for preplacement activity.

The commissioner of human services may implement demonstration projects designed to create alternative delivery systems for acute and long-term care services to elderly and disabled persons which provide increased coordination, improve access to quality services, and mitigate future cost increases. Before implementing the projects, the commissioner must provide to the legislature information regarding the projects, as part of the department's fiscal year 1994-1995 biennial budget request. Demonstrations affecting elderly persons must be integrated with the provisions of Minnesota Statutes 1991 Supplement, section 256B.0917. The report must address the feasibility of and time lines for expansion of the projects or similar projects as part of a long-range strategy for reforming the long-term care delivery system.

Subd. 8. State Operated Residential Care for Special Needs Populations

(3,445,000)

(8,616,000)

For the fiscal year ending June 30, 1993, money collected as rent under Minnesota Statutes, section 16B.24, subdivision 5, for state property at any of the regional treatment centers or state nursing homes administered by the commissioner of human services is dedicated to the facility generating the rental income and is appropriated for the express purpose of maintaining the property. Any balance remaining at the end of the fiscal year shall not cancel and is available until expended.

Notwithstanding Laws 1991, chapter 292, article 1, section 2, subdivision 8,

the language contained in that subdivision providing that receipts received for the state-operated community services program are appropriated to the commissioner for that purpose is of no effect. These receipts are deposited and appropriated to the commissioner as provided under Minnesota Statutes, section 246.18.

Of the \$700,000 reduction in regional treatment center salary accounts, \$600,000 must be taken from the regional treatment center appropriation for central office administrative costs.

Notwithstanding Laws 1991, chapter 292, article 1, section 2, subdivision 8, regarding the transfer of facilities at Faribault regional treatment center, the commissioner of human services may transfer the Birch facility to the commissioner of corrections on July 1, 1992, the Willow facility on December 1, 1992, and the hospital facility upon completion of the 34 skilled nursing and ten infirmary bed annex at Rice County District 1 Hospital.

The commissioner shall continue utilizing the Brainerd regional laundry to provide laundry services for the regional treatment centers at Brainerd, Cambridge, Fergus Falls, and Moose Lake and the state nursing home at Ah-Gwah-Ching unless an alternative method is specifically authorized by law. The commissioner shall not contract with a private entity for laundry services for any of these facilities unless specifically authorized by the legislature.

The commissioners of human services and corrections and the veterans nursing homes board shall continue utilizing the Faribault regional laundry to provide laundry services for the Faribault regional treatment center, the Anoka-

metro regional treatment center, the Minnesota correctional facility at Faribault, and the veterans homes at Minneapolis and Hastings unless an alternative option is specifically authorized by law. Any other state agencies utilizing the Faribault laundry shall also continue to do so unless an alternative option is authorized by law. The state agencies named or referred to in this paragraph shall not contract with a private entity for laundry services for any of these facilities unless specifically authorized by the legislature.

The commissioner of human services may not limit admissions to any regional treatment center or state-operated nursing home, except as provided by law.

The commissioner shall use the fiscal year 1993 appropriation for regional treatment center programs to offset any regional treatment center operating deficit and to assure maintenance of regional treatment center chemical dependency programs, including specialized chemical dependency programs.

For the fiscal year ending June 30, 1992, the commissioner of finance is authorized to transfer \$4,100,000 from the regional treatment centers chemical dependency treatment enterprise fund account to the general fund. Any remaining unspent money in the account does not cancel but is available for the fiscal year ending June 30, 1993.

There shall be at least one complement position in the department of human services to provide staff support to the state advisory council on mental health in order to coordinate activities with and provide technical assistance to the local advisory councils on mental health.

The commissioner of finance shall transfer up to \$1,750,000 annually from the general fund to the enterprise fund for the specific purpose of providing for the cash flow requirements of the chemical dependency programs operated by the regional treatment centers. All transfers are subject to the commissioner's assessment of the amount of funding needed for cash flow needs, equivalent to two months of account receivables and the ability of the programs to repay the advances from earnings. The chemical dependency programs at the regional treatment centers must repay any advances from the general fund. The commissioner shall report to the legislature by January 1, 1993, regarding the financial status of the chemical dependency programs operated by the regional treatment centers.

Subd. 9. Total Special Revenue Fund Appropriation		134,000
Sec. 3. MR/MH OMBUDSMAN		(50,000)
Sec. 4. VETERANS NURSING HOMES BOARD		
Total General Fund Appropriation	(116,000)	(265,000)

The \$300,000 reduction for the Luverne veterans nursing home in fiscal year 1993 is a one-time reduction and does not reduce the base for the 1994-1995 biennium.

Sec. 5. COMMISSIONER OF JOBS AND TRAINING		
Total General Fund Appropriation		1,325,000

This appropriation is added to the appropriation in Laws 1991, chapter 292, article 1, section 5.

The amount of the appropriation for vocational rehabilitation services that is



designated for mental illness demonstration grants may be used for innovative programs to serve persons with serious and persistent mental illness, but only if the money will be matched by federal funds.

The commissioners of jobs and training, human services, and finance in consultation with extended employment providers and day training and habilitation providers shall develop a plan for the programs of extended employment and day training and habilitation which will serve the greatest number of individuals at an appropriate level within the current state appropriation. Staff of the governor and the legislature must be consulted in developing this plan. This plan must be delivered to the governor by December 1, 1992. Recommendations from the plan may be used in setting the 1994-1995 biennial budget.

The additional funding for the head start program must be distributed as provided in Minnesota Statutes, section 268.914, subdivision 1, paragraph (a), and must not be used for innovative programs under Minnesota Statutes, section 268.914, subdivision 1, paragraph (b), or service expansion grants under Minnesota Statutes, section 268.914, subdivision 2.

The appropriation for the head start program in Laws 1991, chapter 292, article 1, section 5, subdivision 3, for fiscal year 1993 must be used to fund center-based head start programs that received service expansion grants in fiscal year 1992 at the same level as fiscal year 1992 plus any additional amounts based upon formula allocations of state and federal funds. The additional funds provided to a grantee under Minnesota Statutes, section 268.914, subdivision 2, in fiscal year 1992 must be considered

part of the grantee's funding base for future formula allocations of state and federal funds.

#### Sec. 6. CORRECTIONS

Total General Fund Appropriation	(1,500,000)	4,450,000
----------------------------------	-------------	-----------

This appropriation is added to the appropriation in Laws 1991, chapter 292, article 1, section 6.

\$1,500,000 in the community correction act account shall not carry forward but shall cancel to the general fund. Any remaining balance in the account that does not cancel to the general fund and is not held for counties is appropriated to the commissioner.

Of this appropriation, \$3,450,000 is for operating costs at the correctional facility at Faribault to meet expanding capacity and population requirements. This appropriation is contingent on authorization by the legislature and the governor for the commissioner of finance to issue general obligation bonds in fiscal year 1993 to remodel and renovate two additional living units to house up to 160 inmates, and the transfer of administrative authority for the same space from the commissioner of human services to the commissioner of corrections.

#### Sec. 7. HEALTH

Subdivision 1. Total General Fund Appropriation	(1,072,000)	871,000
---	-------------	---------

This appropriation is added to the appropriation in Laws 1991, chapter 292, article 1, section 9.

The commissioner shall postpone administration of the Minnesota department of health residential care home rule until fiscal year 1995.

The commissioner must report to the legislature by February 15, 1993, on options for home care licensure fees and their impact on home care providers.

Notwithstanding Laws 1985, First Special Session chapter 14, article 19, section 19, subdivision 8, of the unobligated balance in the Maternal and Child Health account, \$400,000 shall cancel to the general fund.

The commissioner of health shall contract with a nonprofit organization in the area of urinary incontinence assessment and management to conduct a demonstration relating to the potential for improving the quality of life of nursing home residents and for cost savings through improved assessment and management of urinary incontinence in nursing homes. The demonstration shall include the development of a treatment protocol by medical professionals, the evaluation and assessment of volunteer patients in nursing homes who are incontinent, the application of appropriate treatment and management practices as prescribed by the treatment protocol, and analysis of the quality of life and economic and medical benefits of the demonstration. The commissioner shall report results of the demonstration to the legislature not later than February 1, 1994. \$50,000 is appropriated to the commissioner for purposes of the demonstration. This money shall be available only upon the showing by the contract recipient that it has \$250,000 of matching private funds and in-kind services for purposes of the demonstration.

The unobligated balance of the \$45,000 appropriated from the state government special revenue fund in Laws 1991, chapter 292, article 1, section 9, subdivision 3, for the physician assistant reg-

istration rules shall not cancel, but shall be available until June 30, 1993.

Notwithstanding the provisions of Minnesota Statutes, sections 144.122 and 144.53, the commissioner of health shall increase the annual licensure fee charged to a hospital accredited by the joint commission on accreditation of health care organizations by \$520 and shall increase the annual licensure fee charged to nonaccredited hospitals by \$225.

In determining base adjustments for the volunteer ambulance training reimbursement, the commissioner of finance shall carry forward as a permanent reduction only \$20,000.

\$40,000 is appropriated from the general fund for the fiscal year ending June 30, 1993, to the commissioner of health for local deliverers of the WIC program to purchase federally authorized nutritional supplements requiring no refrigeration or cooking to be distributed to eligible women and children who are homeless or living in temporary or emergency shelter.

\$5,000 is appropriated to the commissioner of health. The commissioner shall use this money to prepare and distribute materials designed to provide information to retail business on the requirements of Minnesota Statutes, sections 145.385 to 145.40.

The health department will closely monitor the water testing program and report on the actual funds expended. The department shall work with affected local units of government to determine the most cost-effective manner for financing the program. The commissioner shall report to the legislature by January 15, 1993, on these matters.

The legislative commission on water shall investigate and recommend alternative future funding sources for the water testing program. They shall include, but not be limited to, volume-based fees, expansion of fees to non-municipal water systems, a statewide water testing fund, caps on total fees for municipalities, and use of general fund sources.

The health department shall work with the legislative water commission to investigate ways to incorporate technical colleges, agricultural extension agents, and others to develop an alternative approach to testing. They shall also look at approaches used in other states.

Subd. 2. Total Special Revenue Fund Appropriation

10,000                      201,000

Of this appropriation, \$70,000 is for two positions and support costs to develop a licensing and certifying program described below. The commissioner shall apply for federal grants for the purpose of lead abatement and report annually to the legislature the level of such grants to Minnesota and the expected receipt of such grants the next year.

To perform abatement as defined in Minnesota Statutes, section 144.871, subdivision 2, abatement contractors must be licensed and their employees must be certified by the commissioner. The commissioner must adopt rules that establish criteria for issuing, suspending, and revoking for cause licenses and certificates. The commissioner must establish, collect, and deposit into the state government special revenue fund fees to pay for the cost of administering lead abatement licensing and certifying.

## Sec. 8. HEALTH RELATED BOARDS

Subdivision 1. Total Special Revenue Fund Appropriation	53,000	420,000
---	--------	---------

The boards of medical practice, dentistry, nursing, and podiatric medicine shall increase fees to recover the cost of the appropriations for the reporting and monitoring of health care workers infected with the human immunodeficiency virus (HIV) or hepatitis B virus.

Subd. 2. Board of Social Work		
	16,000	28,000

Subd. 3. Board of Psychology		
	37,000	185,000

Subd. 4. Board of Chiropractic Examiners		
		14,000

Subd. 5. Board of Dentistry		
		11,000

Subd. 6. Board of Medical Practice		
		94,000

Subd. 7. Board of Nursing		
		86,000

Subd. 8. Board of Podiatric Medicine		
		2,000

Sec. 9. COMMISSIONER OF HOUSING FINANCE AGENCY	(750,000)	
--	-----------	--

Notwithstanding Laws 1991, chapter 292, article 1, section 17, for the biennium ending June 30, 1993, \$225,000 is available each year for the urban Indian housing program and \$187,000 each year for the urban and rural homesteading program.

\$750,000 the second year is for a demonstration project to remove blighted residential property under Minnesota

Statutes, section 462A.05, subdivision 37, that is multiple-unit rental property. The agency shall report to the legislature by January 15, 1993, on the results of the demonstration project.

Sec. 10. HUMAN RIGHTS

(32,000)

Sec. 11. Minnesota Statutes 1990, section 237.701, subdivision 1, is amended to read:

Subdivision 1. **TELEPHONE ASSISTANCE FUND.** The telephone assistance fund is created as a separate account in the state treasury to consist of amounts received by the department of administration representing the surcharge authorized by section 237.70, subdivision 6, and amounts earned on the fund assets. Money in the fund may be used only for:

- (1) reimbursement to telephone companies for expenses and credits allowed in section 237.70, subdivision 7, paragraph (d), clause (5);
- (2) reimbursement of the administrative expenses of the department of human services to implement sections 237.69 to 237.71, not to exceed ~~\$180,000~~ \$314,000 annually; and
- (3) reimbursement of the administrative expenses of the commission not to exceed \$25,000 annually.

Sec. 12. **EFFECTIVE DATE.**

This article is effective the day following final enactment.

---

**ARTICLE 6**

**HEALTH DEPARTMENT**

Section 1. Minnesota Statutes 1990, section 144.122, is amended to read:

**144.122 LICENSE AND PERMIT FEES.**

(a) The state commissioner of health, by rule, may prescribe reasonable procedures and fees for filing with the commissioner as prescribed by statute and for the issuance of original and renewal permits, licenses, registrations, and certifications issued under authority of the commissioner. The expiration dates of the various licenses, permits, registrations, and certifications as prescribed by the rules shall be plainly marked thereon. Fees may include application and examination fees and a penalty fee for renewal applications submitted after the expiration date of the previously issued permit, license, registration, and certification. The commissioner may also prescribe, by rule, reduced fees for permits, licenses,

New language is indicated by underline, deletions by ~~strikeout~~.

registrations, and certifications when the application therefor is submitted during the last three months of the permit, license, registration, or certification period. Fees proposed to be prescribed in the rules shall be first approved by the department of finance. All fees proposed to be prescribed in rules shall be reasonable. The fees shall be in an amount so that the total fees collected by the commissioner will, where practical, approximate the cost to the commissioner in administering the program. All fees collected shall be deposited in the state treasury and credited to the general fund unless otherwise specifically appropriated by law for specific purposes.

(b) The commissioner may charge a fee for voluntary certification of medical laboratories and environmental laboratories, and for environmental and medical laboratory services provided by the department, without complying with paragraph (a) or chapter 14. Fees charged for environment and medical laboratory services provided by the department must be approximately equal to the costs of providing the services.

(c) The commissioner may develop a schedule of fees for diagnostic evaluations conducted at clinics held by the services for children with handicaps program. All receipts generated by the program are annually appropriated to the commissioner for use in the maternal and child health program.

(d) The commissioner, for fiscal years 1993 and beyond, shall set license fees for hospitals and nursing homes that are not boarding care homes at a level sufficient to recover, over a two-year period, the deficit associated with the collection of license fees from these facilities. The license fees for these facilities shall be set at the following levels:

<u>Joint Commission on Accreditation of Healthcare Organizations (JCAHO hospitals)</u>	\$2,142
<u>Non-JCAHO hospitals</u>	\$2,228 plus \$138 per bed
<u>Nursing home</u>	\$324 plus \$76 per bed

For fiscal years 1993 and beyond, the commissioner shall set license fees for outpatient surgical centers, boarding care homes, and supervised living facilities at a level sufficient to recover, over a four-year period, the deficit associated with the collection of license fees from these facilities. The license fees for these facilities shall be set at the following levels:

<u>Outpatient surgical centers</u>	\$1,645
<u>Boarding care homes</u>	\$249 plus \$58 per bed
<u>Supervised living facilities</u>	\$249 plus \$58 per bed.

Sec. 2. Minnesota Statutes 1990, section 144.123, subdivision 2, is amended to read:

Subd. 2. **RULES FOR FEE AMOUNTS.** The commissioner of health shall promulgate rules, in accordance with chapter 14, which shall specify the amount of the handling fee prescribed in subdivision 1. The fee shall approximate the costs to the department of handling specimens including reporting, postage,

New language is indicated by underline, deletions by ~~strikeout~~.



specimen kit preparation, and overhead costs. The fee prescribed in subdivision 1 shall be ~~\$5~~ \$15 per specimen until the commissioner promulgates rules pursuant to this subdivision.

Sec. 3. **[144.3831] FEES.**

Subdivision 1. FEE SETTING. The commissioner of health may assess an annual fee of \$5.21 for every service connection to a public water supply that is owned or operated by a home rule or charter city, a statutory city, a city of the first class, or a town. The commissioner of health may also assess an annual fee for every service connection served by a water user district defined in section 110A.02.

Subd. 2. COLLECTION AND PAYMENT OF FEE. The public water supply described in subdivision 1 shall:

(1) collect the fees assessed on its service connections;

(2) pay the department of revenue an amount equivalent to the fees based on the total number of service connections. The service connections for each public water supply described in subdivision 1 shall be verified every four years by the department of health; and

(3) pay one-fourth of the total yearly fee to the department of revenue each calendar quarter. The first quarterly payment is due on or before September 30, 1992. In lieu of quarterly payments, a public water supply described in subdivision 1 with fewer than 50 service connections may make a single annual payment by June 30 each year, starting in 1993. The fees payable to the department of revenue shall be deposited in the state treasury as nondedicated general fund revenues.

Subd. 3. LATE FEE. The public water supply described in subdivision 1 shall pay a late fee in the amount of five percent of the amount of the fees due from the public water supply if the fees due from the public water supply are not paid within 30 days of the payment dates in subdivision 2, clause (3). The late fee that the public water supply shall pay shall be assessed only on the actual amount collected by the public water supply through fees on service connections.

Sec. 4. Minnesota Statutes 1991 Supplement, section 144.50, subdivision 6, is amended to read:

Subd. 6. **SUPERVISED LIVING FACILITY LICENSES.** (a) The commissioner may license as a supervised living facility a facility seeking medical assistance certification as an intermediate care facility for persons with mental retardation or related conditions for four or more persons as authorized under section 252.291.

(b) ~~Class B supervised living facilities seeking medical assistance certification as an intermediate care facility for persons with mental retardation or~~

New language is indicated by underline, deletions by ~~strikeout~~.

~~related conditions~~ shall be classified as follows for purposes of the state building code:

(1) Class B supervised living facilities for six or less persons must meet Group R, Division 3, occupancy requirements; and

(2) Class B supervised living facilities for seven to 16 persons must meet Group R, Division 1, occupancy requirements.

(c) Class B facilities classified under paragraph (b), clauses (1) and (2), must meet the fire protection provisions of chapter 21 of the 1985 life safety code, NFPA 101, for facilities housing persons with impractical evacuation capabilities, except that Class B facilities licensed prior to July 1, 1990, need only continue to meet institutional fire safety provisions. Class B supervised living facilities shall provide the necessary physical plant accommodations to meet the needs and functional disabilities of the residents. For Class B supervised living facilities licensed after July 1, 1990, and housing nonambulatory or nonmobile persons, the corridor access to bedrooms, common spaces, and other resident use spaces must be at least five feet in clear width, except that a waiver may be requested in accordance with Minnesota Rules, part 4665.0600.

(d) The commissioner may license as a Class A supervised living facility a residential program for chemically dependent individuals that allows children to reside with the parent receiving treatment in the facility. The licensee of the program shall be responsible for the health, safety, and welfare of the children residing in the facility. The facility in which the program is located must be provided with a sprinkler system approved by the state fire marshal. The licensee shall also provide additional space and physical plant accommodations appropriate for the number and age of children residing in the facility. For purposes of license capacity, each child residing in the facility shall be considered to be a resident.

Sec. 5. Minnesota Statutes 1990, section 144A.43, subdivision 3, is amended to read:

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

- (1) nursing services, including the services of a home health aide;
- (2) personal care services not included under sections 148.171 to 148.285;
- (3) physical therapy;
- (4) speech therapy;
- (5) respiratory therapy;
- (6) occupational therapy;

New language is indicated by underline, deletions by ~~strikeout~~.

(7) nutritional services;

(8) home management services when provided to a person who is unable to perform these activities due to illness, disability, or physical condition. Home management services include at least two of the following services: housekeeping, meal preparation, ~~laundry, and shopping, and other similar services;~~

(9) medical social services;

(10) the provision of medical supplies and equipment when accompanied by the provision of a home care service;

(11) the provision of a hospice program as specified in section 144A.48; and

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

Sec. 6. Minnesota Statutes 1990, section 144A.43, subdivision 4, is amended to read:

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

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

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

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

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

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

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

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

New language is indicated by underline, deletions by ~~strikeout~~.

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

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

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

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

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

(12) an individual who provides home care services to a person with a developmental disability who lives in a place of residence with a family, foster family, or primary caregiver.

Sec. 7. Minnesota Statutes 1991 Supplement, section 144A.46, subdivision 1, is amended to read:

Subdivision 1. **LICENSE REQUIRED.** (a) A home care provider may not operate in the state without a current license issued by the commissioner of health.

(b) Within ten days after receiving an application for a license, the commissioner shall acknowledge receipt of the application in writing. The acknowledgment must indicate whether the application appears to be complete or whether additional information is required before the application will be considered complete. Within 90 days after receiving a complete application, the commissioner shall either grant or deny the license. If an applicant is not granted or denied a license within 90 days after submitting a complete application, the license must be deemed granted. An applicant whose license has been deemed granted must provide written notice to the commissioner before providing a home care service.

(c) Each application for a home care provider license, or for a renewal of a license, shall be accompanied by a fee to be set by the commissioner under section 144.122; ~~except that the commissioner shall not charge a licensure fee to a home care provider operated by a statutory or home rule charter city, county, town, or other governmental entity.~~

Sec. 8. Minnesota Statutes 1991 Supplement, section 144A.46, subdivision 2, is amended to read:

New language is indicated by underline, deletions by ~~strikeout~~.

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 person who provides services to a person with mental retardation under a program of a provider that is licensed by the commissioner of human services to provide semi-independent living services regulated by under Minnesota Rules, parts 9525.0500 to 9525.0660 when providing home care services to a person with a developmental disability; or~~

(6) ~~a person who provides services to a person with mental retardation under contract with a county provider that is licensed by the commissioner of human services to provide home- and community-based services that are reimbursed under the medical assistance program, chapter 256B, and regulated by Minnesota Rules, parts 9525.1800 9525.2000 to 9525.1930 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 5.

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

Sec. 9. Minnesota Statutes 1990, section 144A.46, subdivision 5, is amended to read:

Subd. 5. **PRIOR CRIMINAL CONVICTIONS.** ~~An applicant for a home care provider license shall disclose to the commissioner all criminal convictions of persons involved in the management, operation, or control of the provider. A home care provider shall require employees of the provider and applicants for employment in positions that involve contact with recipients of home care services to disclose all criminal convictions. (a) All persons who have or will have direct contact with clients, including the home care provider, employees of the~~

New language is indicated by underline, deletions by ~~strikeout~~.

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

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

#### Sec. 10. [144A.461] REGISTRATION.

A person or organization that provides only home management services defined as home care services under section 144A.43, subdivision 3, clause (8), may not operate in the state without a current certificate of registration issued by the commissioner of health. To obtain a certificate of registration, the person or organization must annually submit to the commissioner the name, address, and telephone number of the person or organization and a signed statement declaring that the person or organization is aware that the home care bill of rights applies to their clients and that the person or organization will comply with the bill of rights provisions contained in section 144A.44. A person who provides home management services under this section must, within 120 days after beginning to provide services, attend an orientation session approved by

New language is indicated by underline, deletions by strikeout.

the commissioner that provides training on the bill of rights and an orientation on the aging process and the needs and concerns of elderly and disabled persons. An organization applying for a certificate must also provide the name, business address, and telephone number of each of the individuals responsible for the management or direction of the organization. The commissioner shall charge an annual registration fee of \$20 for individuals and \$50 for organizations. A home care provider that provides home management services and other home care services must be licensed, but licensure requirements other than the home care bill of rights do not apply to those employees or volunteers who provide only home management services to clients who do not receive any other home care services from the provider. A licensed home care provider need not be registered as a home management service provider, but must provide an orientation on the home care bill of rights to its employees or volunteers who provide home management services. The commissioner may suspend or revoke a provider's certificate of registration or assess fines for violation of the home care bill of rights. Any fine assessed for a violation of the bill of rights by a provider registered under this section shall be in the amount established in the licensure rules for home care providers. As a condition of registration, a provider must cooperate fully with any investigation conducted by the commissioner, including providing specific information requested by the commissioner on clients served and the employees and volunteers who provide services. The commissioner may use any of the powers granted in sections 144A.43 to 144A.49 to administer the registration system and enforce the home care bill of rights under this section.

Sec. 11. Minnesota Statutes 1991 Supplement, section 144A.49, is amended to read:

#### 144A.49 TEMPORARY PROCEDURES.

For purposes of this section, "home care providers" shall mean the providers described in section 144A.43, subdivision 4, including hospice programs described in section 144A.48. Home care providers are exempt from the licensure requirement in section 144A.46, subdivision 1, until 90 days after the effective date of the licensure rules. Beginning July 1, 1987, no home care provider, as defined in section 144A.43, subdivision 4, except a provider exempt from licensure under section 144A.46, subdivision 2, may provide home care services in this state without registering with the commissioner. A home care provider is registered with the commissioner when the commissioner has received in writing the provider's name; the name of its parent corporation or sponsoring organization, if any; the street address and telephone number of its principal place of business; the street address and telephone number of its principal place of business in Minnesota; the counties in Minnesota in which it may render services; the street address and telephone number of all other offices in Minnesota; and the name, educational background, and ten-year employment history of the person responsible for the management of the agency. A registration fee must be submitted with the application for registration; ~~except that the commissioner shall not collect a registration fee from a home care provider operated by a statutory or home rule charter city, county, town, or other governmental entity. The~~

New language is indicated by underline, deletions by ~~strikeout~~.

fee must be established pursuant to section 144.122 and must be based on a consideration of the following factors: the number of clients served by the home care provider, the number of employees, the number of services offered, and annual revenues of the provider. The registration is effective until 90 days after licensure rules are effective. In order to maintain its registration and provide services in Minnesota, a home care provider must comply with section 144A.44 and comply with requests for information under section 144A.47. A registered home care provider is subject to sections 144A.51 to 144A.54. Registration under this section does not exempt a home care provider from the licensure and other requirements later adopted by the commissioner.

Within 90 days after the effective date of the licensure rules under section 144A.45, the commissioner of health shall issue provisional licenses to all home care providers registered with the department as of that date. The provisional license shall be valid until superseded by a license issued under section 144A.46 or for a period of one year, whichever is shorter. Applications for licensure as a home care provider received on or after the effective date of the home care licensure rules, shall be issued under section 144A.46, subdivision 1.

Sec. 12. Minnesota Statutes 1990, section 144A.51, subdivision 4, is amended to read:

Subd. 4. "Health care provider" means any professional licensed by the state to provide medical or health care services who does provide the services to a resident of a health facility or a residential care home.

Sec. 13. Minnesota Statutes 1991 Supplement, section 144A.51, subdivision 5, is amended to read:

Subd. 5. "Health facility" means a facility or that part of a facility which is required to be licensed pursuant to sections 144.50 to 144.58, and a facility or that part of a facility which is required to be licensed under any law of this state which provides for the licensure of nursing homes; ~~and a residential care home licensed under sections 144B.10 to 144B.17.~~

Sec. 14. Minnesota Statutes 1990, section 144A.51, subdivision 6, is amended to read:

Subd. 6. "Resident" means any resident or patient of a health facility or a residential care home, or a consumer of services provided by a home care provider, or the guardian or conservator of the resident, patient, or consumer, if one has been appointed.

Sec. 15. Minnesota Statutes 1990, section 144A.52, subdivision 3, is amended to read:

Subd. 3. The director may delegate to members of the staff any of the authority or duties of the director except the duty of formally making recommendations to the legislature, administrative agencies, health facilities, residen-

New language is indicated by underline, deletions by ~~strikeout~~.



tial care homes, health care providers, home care providers, and the state commissioner of health.

Sec. 16. Minnesota Statutes 1990, section 144A.52, subdivision 4, is amended to read:

Subd. 4. The director shall attempt to include staff persons with expertise in areas such as law, health care, social work, dietary needs, sanitation, financial audits, health-safety requirements as they apply to health facilities, residential care homes, and any other relevant fields. To the extent possible, employees of the office shall meet federal training requirements for health facility surveyors.

Sec. 17. Minnesota Statutes 1991 Supplement, section 144A.53, subdivision 1, is amended to read:

Subdivision 1. **POWERS.** The director may:

(a) Promulgate by rule, pursuant to chapter 14, and within the limits set forth in subdivision 2, the methods by which complaints against health facilities, health care providers, home care providers, or residential care homes, or administrative agencies are to be made, reviewed, investigated, and acted upon; provided, however, that a fee may not be charged for filing a complaint.

(b) Recommend legislation and changes in rules to the state commissioner of health, legislature, governor, administrative agencies or the federal government.

(c) Investigate, upon a complaint or upon initiative of the director, any action or failure to act by a health care provider, home care provider, residential care home, or a health facility.

(d) Request and receive access to relevant information, records, incident reports, or documents in the possession of an administrative agency, a health care provider, a home care provider, a residential care home, or a health facility, and issue investigative subpoenas to individuals and facilities for oral information and written information, including privileged information which the director deems necessary for the discharge of responsibilities. For purposes of investigation and securing information to determine violations, the director need not present a release, waiver, or consent of an individual. The identities of patients or residents must be kept private as defined by section 13.02, subdivision 12.

(e) Enter and inspect, at any time, a health facility or residential care home and be permitted to interview staff; provided that the director shall not unduly interfere with or disturb the provision of care and services within the facility or home or the activities of a patient or resident unless the patient or resident consents.

(f) Issue correction orders and assess civil fines pursuant to section 144.653 or any other law which provides for the issuance of correction orders to health

New language is indicated by underline, deletions by ~~strikeout~~.

facilities or home care provider, or under section 144A.45. A facility's or home's refusal to cooperate in providing lawfully requested information may also be grounds for a correction order.

(g) Recommend the certification or decertification of health facilities pursuant to Title XVIII or XIX of the United States Social Security Act.

(h) Assist patients or residents of health facilities or residential care homes in the enforcement of their rights under Minnesota law.

(i) Work with administrative agencies, health facilities, home care providers, residential care homes, and health care providers and organizations representing consumers on programs designed to provide information about health facilities to the public and to health facility residents.

Sec. 18. Minnesota Statutes 1990, section 144A.53, subdivision 2, is amended to read:

Subd. 2. **COMPLAINTS.** The director may receive a complaint from any source concerning an action of an administrative agency, a health care provider, a home care provider, a residential care home, or a health facility. The director may require a complainant to pursue other remedies or channels of complaint open to the complainant before accepting or investigating the complaint.

The director shall keep written records of all complaints and any action upon them. After completing an investigation of a complaint, the director shall inform the complainant, the administrative agency having jurisdiction over the subject matter, the health care provider, the home care provider, the residential care home, and the health facility of the action taken.

Sec. 19. Minnesota Statutes 1990, section 144A.53, subdivision 3, is amended to read:

Subd. 3. **RECOMMENDATIONS.** If, after duly considering a complaint and whatever material the director deems pertinent, the director determines that the complaint is valid, the director may recommend that an administrative agency, a health care provider, a home care provider, a residential care home, or a health facility should:

- (a) Modify or cancel the actions which gave rise to the complaint;
- (b) Alter the practice, rule or decision which gave rise to the complaint;
- (c) Provide more information about the action under investigation; or
- (d) Take any other step which the director considers appropriate.

If the director requests, the administrative agency, a health care provider, a home care provider, residential care home, or health facility shall, within the time specified, inform the director about the action taken on a recommendation.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 20. Minnesota Statutes 1990, section 144A.53, subdivision 4, is amended to read:

Subd. 4. **REFERRAL OF COMPLAINTS.** If a complaint received by the director relates to a matter more properly within the jurisdiction of an occupational licensing board or other governmental agency, the director shall forward the complaint to that agency and shall inform the complaining party of the forwarding. The agency shall promptly act in respect to the complaint, and shall inform the complaining party and the director of its disposition. If a governmental agency receives a complaint which is more properly within the jurisdiction of the director, it shall promptly forward the complaint to the director, and shall inform the complaining party of the forwarding. If the director has reason to believe that an official or employee of an administrative agency, a home care provider, residential care home, or health facility has acted in a manner warranting criminal or disciplinary proceedings, the director shall refer the matter to the state commissioner of health, the commissioner of human services, an appropriate prosecuting authority, or other appropriate agency.

Sec. 21. Minnesota Statutes 1990, section 144A.54, subdivision 1, is amended to read:

Subdivision 1. Except as otherwise provided by this section, the director may determine the form, frequency, and distribution of the conclusions and recommendations. The director shall transmit the conclusions and recommendations to the state commissioner of health and the legislature. Before announcing a conclusion or recommendation that expressly or by implication criticizes an administrative agency, a health care provider, a home care provider, a residential care home, or a health facility, the director shall consult with that agency, health care provider, home care provider, home, or facility. When publishing an opinion adverse to an administrative agency, a health care provider, a home care provider, a residential care home, or a health facility, the director shall include in the publication any statement of reasonable length made to the director by that agency, health care provider, home care provider, residential care home, or health facility in defense or explanation of the action.

Sec. 22. Minnesota Statutes 1991 Supplement, section 144A.61, subdivision 3a, is amended to read:

Subd. 3a. **COMPETENCY EVALUATION PROGRAM.** The commissioner of health shall approve the competency evaluation program. A competency evaluation must be administered to nursing assistants who desire to be listed in the nursing assistant registry and who have done one of the following: (1) completed an approved training program; (2) been listed on the nursing assistant registry maintained by another state; or (3) completed a training program in nursing assistant skills other than the approved course. The tests may only be administered by technical colleges, community colleges, or other organizations approved by the department of health. ~~After January 1, 1992,~~ A competency evaluation for a person, other than an individual enrolled in a licensed nurse

New language is indicated by underline, deletions by ~~strikeout~~.

education program, who has not completed an approved nursing assistant training program, must include an evaluation of all clinical skills.

Sec. 23. Minnesota Statutes 1991 Supplement, section 144A.61, subdivision 6a, is amended to read:

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

Sec. 24. Minnesota Statutes 1991 Supplement, section 144B.01, subdivision 5, is amended to read:

Subd. 5. **RESIDENTIAL CARE HOME OR HOME.** "Residential care home" or "home" means an establishment with a minimum of five beds, where adult residents are provided sleeping accommodations and ~~two~~ three or more meals per day and where at least two or more supportive services or at least one health-related service are provided or offered to all residents by the facility home. A residential care home is not required to offer every supportive or health-related service. A "residential care home" does not include:

(1) a board and lodging establishment licensed under chapter 157 and ~~also licensed by the commissioner of human services under chapter 245A~~ the provisions of Minnesota Rules, parts 9530.4100 to 9530.4450;

(2) a boarding care home or a supervised living facility licensed under chapter 144;

(3) a home care provider licensed under chapter 144A; ~~and~~

(4) any housing arrangement which consists of apartments containing a separate kitchen or kitchen equipment that will allow residents to prepare meals and where supportive services may be provided, on an individual basis, to residents in their living units either by the management of the residential care home or by home care providers under contract with the home's management; and

(5) a board or lodging establishment which serves as a shelter for battered women or other similar purpose.

Sec. 25. Minnesota Statutes 1991 Supplement, section 144B.01, subdivision 6, is amended to read:

Subd. 6. **SUPPORTIVE SERVICES.** "Supportive services" means the provision of supervision and minimal assistance with independent living skills. Supportive services include assistance with transportation, arranging for meetings and appointments, arranging for medical and social services, help with laundry, ~~managing money~~ handling personal funds of residents, and personal shopping assistance. ~~In addition, supportive services include, if needed, assistance with~~

New language is indicated by underline, deletions by ~~strikeout~~.

walking, grooming, dressing, eating, bathing, toileting, and providing reminders to residents to take medications. Supportive services also include other health-related support services identified by the commissioner in rule.

Sec. 26. Minnesota Statutes 1991 Supplement, section 144B.01, is amended by adding a subdivision to read:

**Subd. 7. HEALTH-RELATED SERVICES.** “Health-related services” include provision of or arrangement, if needed, of assistance with walking, grooming, dressing, eating, bathing, toileting, storing medications, providing reminders to take medications, administering medications, and other services identified by the commissioner in rule.

Sec. 27. Minnesota Statutes 1991 Supplement, section 144B.10, subdivision 2, is amended to read:

**Subd. 2. PERIODIC INSPECTION.** (a) All homes required to be licensed under sections 144B.01 to 144B.17 shall be periodically inspected by the commissioner to ensure compliance with rules and standards. Inspections shall occur at different times throughout the calendar year.

(b) Within the limits of the resources available to the commissioner, the commissioner shall conduct inspections and reinspections with a frequency and in a manner calculated to produce the greatest benefit to residents. In performing this function, the commissioner may devote proportionately more resources to the inspection of those homes in which conditions present the most serious concerns with respect to resident health, safety, comfort, and well-being, including:

- (1) change in ownership;
- (2) frequent change in management or staff;
- (3) complaints about care, safety, or rights;
- (4) previous inspections or reinspections which have resulted in correction orders related to care, safety, or rights; and
- (5) indictment of persons involved in ownership or operation of the home for alleged criminal activity.

(c) A home that does not have any of the conditions in paragraph (b) or any other condition established by the commissioner that poses a risk to resident care, safety, or rights shall be inspected once every ~~two~~ three years.

Sec. 28. Minnesota Statutes 1991 Supplement, section 147.03, is amended to read:

**147.03 LICENSURE BY ENDORSEMENT; RECIPROCITY; TEMPORARY PERMIT.**

New language is indicated by underline, deletions by ~~strikeout~~.

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

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

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

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

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

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

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

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

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

(f) The applicant must not have engaged in conduct warranting disciplinary action against a licensee, or have been subject to disciplinary action in another state other than as specified in paragraph (e). If an applicant does not satisfy the requirements stated in this ~~clause~~ paragraph, the board may ~~refuse to~~ issue a license unless it determines only on the applicant's showing that the public will be protected through issuance of a license with conditions or limitations the board considers appropriate.

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

Sec. 29. Minnesota Statutes 1991 Supplement, section 148.91, subdivision 3, is amended to read:

Subd. 3. FEE; TERM OF LICENSE. An applicant shall pay a nonrefundable application fee set by the board. ~~The licenses granted by the board shall be for a period of three years and shall be renewed on a three-year basis.~~ The fee and term for a license and for renewal shall be set by the board.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 30. Minnesota Statutes 1991 Supplement, section 148.921, subdivision 2, is amended to read:

Subd. 2. **PERSONS PREVIOUSLY QUALIFIED.** The board shall grant a license for a licensed psychologist without further examination to a person who:

(1) before November 1, 1991, entered a graduate program granting a master's degree with a major in psychology at an educational institution meeting the standards the board has established by rule and earned a master's degree or a master's equivalent in a doctoral program;

(2) before November 1, 1992, filed with the board a written declaration of intent to seek licensure under this subdivision;

(3) complied with all requirements of section 148.91, subdivisions 2 to 4, before December 31, 1997; and

(4) completed at least two full years or their equivalent of post-master's supervised psychological employment before December 31, 1998.

Sec. 31. Minnesota Statutes 1991 Supplement, section 148.925, subdivision 1, is amended to read:

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

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

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

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

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

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

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

Sec. 32. Minnesota Statutes 1991 Supplement, section 148.925, subdivision 2, is amended to read:

Subd. 2. **SUPERVISORY CONSULTATION.** (a) Supervisory consultation

New language is indicated by underline, deletions by ~~strikeout~~.

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

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

Sec. 33. Minnesota Statutes 1991 Supplement, section 148.925, is amended by adding a subdivision to read:

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

Sec. 34. **CONSOLIDATION OF REGULATION OF HOME CARE SERVICES AND RESIDENTIAL CARE HOMES.**

The commissioner of health, in consultation with the commissioner of human services, shall submit a report to the legislature by November 1, 1992, on the advisability and feasibility of consolidating licensure and regulation of home care services and residential care homes into one activity with the goal of avoiding contradictory or duplicative regulation and allowing flexibility for creative service development by regulating services rather than institutions. If the commissioner determines that consolidation of the two systems is feasible and desirable, the commissioner shall submit recommendations for changes in laws and regulations that are necessary to consolidate the systems. In developing the report and recommendations, the commissioner shall consider methods of enforcing physical plant and fire safety standards that are appropriate to congregating living settings and that reflect the needs and characteristics of different populations served in residential care homes. The commissioner shall also consider the need to modify home care rules to allow a social model for providing services as an alternative to a medical model for certain supportive services provided in residential care homes and home care settings. The commissioner of health shall consult with the commissioner of human services regarding the impact of changes on costs and payment mechanisms.

New language is indicated by underline, deletions by ~~strikeout~~.



Sec. 35. EFFECTIVE DATES.

Sections 1, 2, and 3 are effective July 1, 1993. The remaining sections are effective the day following final enactment.

ARTICLE 7

MEDICAL PROGRAMS

Section 1. [144.0505] COOPERATION WITH COMMISSIONER OF HUMAN SERVICES.

The commissioner shall promptly provide to the commissioner of human services upon request information on hospital revenues, nursing home licensure, and health maintenance organization revenues specifically required by the commissioner of human services to operate the provider surcharge program.

Sec. 2. Minnesota Statutes 1990, section 144A.071, subdivision 2, is amended to read:

Subd. 2. **MORATORIUM.** The commissioner of health, in coordination with the commissioner of human services, shall deny each request by a nursing home or boarding care home, except an intermediate care facility for the mentally retarded, for addition of new certified beds or for a change or changes in the certification status of existing beds except as provided in subdivision 3. The total number of certified beds in the state shall remain at or decrease from the number of beds certified on May 23, 1983, except as allowed under subdivision 3. "Certified bed" means a nursing home bed or a boarding care bed certified by the commissioner of health for the purposes of the medical assistance program, under United States Code, title 42, sections 1396 et seq.

The commissioner of human services, in coordination with the commissioner of health, shall deny any request to issue a license under sections 245A.01 to 245A.16 and 252.28 to a nursing home or boarding care home, if that license would result in an increase in the medical assistance reimbursement amount. The commissioner of health shall deny each request for licensure of nursing home beds except as provided in subdivision 3.

In addition, the commissioner of health must not approve any construction project whose cost exceeds \$500,000, or 25 percent of the facility's appraised value, whichever is less, unless the project:

- (1) has been approved through the process described in section 144A.073;
- (2) meets an exception in subdivision 3;
- (3) is necessary to correct violations of state or federal law issued by the commissioner of health;

New language is indicated by underline, deletions by ~~strikeout~~.

(4) is necessary to repair or replace a portion of the facility that was destroyed by fire, lightning, or other hazards provided that the provisions of subdivision 3, clause (g), are met; or

(5) as of May 1, 1992, the facility has submitted to the commissioner of health written documentation evidencing that the facility meets the "commenced construction" definition as specified in subdivision 3, clause (b), or that substantial steps have been taken prior to April 1, 1992, relating to the construction project. "Substantial steps" require that the facility has made arrangements with outside parties relating to the construction project and include the hiring of an architect or construction firm, submission of preliminary plans to the department of health or documentation from a financial institution that financing arrangements for the construction project have been made.

Prior to the approval of any construction project, the commissioner of health shall be provided with an itemized cost estimate for the construction project. If a construction project is anticipated to be completed in phases, the total estimated cost of all phases of the project shall be submitted to the commissioner and shall be considered as one construction project. Once the construction project is completed and prior to the final clearance by the commissioner, the total actual costs for the construction project shall be submitted to the commissioner. If the final construction cost exceeds the threshold in this subdivision, the commissioner of human services shall not recognize any of the construction costs or the related financing costs in excess of this threshold in establishing the facility's property-related payment rate.

The commissioner of health shall adopt emergency or permanent rules to implement this section or to amend the emergency rules for granting exceptions to the moratorium on nursing homes under section 144A.073. The authority to adopt emergency rules continues to December 30, 1992.

Sec. 3. Minnesota Statutes 1991 Supplement, section 144A.071, subdivision 3, is amended to read:

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

(a) to replace a bed decertified after May 23, 1983, or to address an extreme hardship situation, in a particular county that, together with all contiguous Minnesota counties, has fewer nursing home beds per 1,000 elderly than the number that is ten percent higher than the national average of nursing home beds per 1,000 elderly individuals. For the purposes of this section, the national average of nursing home beds shall be the most recent figure that can be supplied by the federal health care financing administration and the number of elderly in the county or the nation shall be determined by the most recent federal census or the most recent estimate of the state demographer as of July 1, of each year of persons age 65 and older, whichever is the most recent at the time of the request

New language is indicated by underline, deletions by ~~strikeout~~.

for replacement. In allowing replacement of a decertified bed, the commissioners shall ensure that the number of added or recertified beds does not exceed the total number of decertified beds in the state in that level of care. An extreme hardship situation can only be found after the county documents the existence of unmet medical needs that cannot be addressed by any other alternatives;

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

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

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

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

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

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

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

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

New language is indicated by underline, deletions by ~~strikeout~~.

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

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

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

(h) to license or certify beds that are moved from one location to another within a nursing home facility, provided the total costs of remodeling performed in conjunction with the relocation of beds does not exceed ~~ten 25~~ percent of the appraised value of the facility or ~~\$200,000~~ \$500,000, whichever is less, or to license or certify beds in a facility for which the total costs of remodeling or renovation exceed ~~ten 25~~ percent of the appraised value of the facility or ~~\$200,000~~ \$500,000, whichever is less, if the facility makes a written commitment to the commissioner of human services that it will not seek to receive an increase in its property-related payment rate by reason of the remodeling or renovation;

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

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

(k) to license nursing home beds in a hospital facility that are relocated from a different hospital facility under common ownership or affiliation, provided:

(1) the nursing home beds are not certified for participation in the medical assistance program; and

(2) the relocation of nursing home beds under this clause should not exceed a radius of six miles;

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

New language is indicated by underline, deletions by ~~strikeout~~.

ing home beds under this clause is subject to the limitations in section 144A.073, subdivision 5;

(m) to license or certify beds that are moved from an existing state nursing home to a different state facility, provided there is no net increase in the number of state nursing home beds. The relocated beds need not be licensed and certified at the new location simultaneously with the delicensing and decertification of the old beds and may be licensed and certified at any time after the old beds are delicensed and decertified;

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

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

(p) to certify and license as nursing home beds boarding care beds in a certified boarding care facility if the beds meet the standards for nursing home licensure, 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 ~~ten~~ 25 percent of the appraised value of the facility or \$200,000 \$500,000, whichever is less; or to license as nursing home beds boarding care beds in a facility with an addendum to its provider agreement effective beginning July 1, 1983, if the boarding care beds to be upgraded meet the standards for nursing home licensure. If boarding care beds are licensed as nursing home beds, the number of boarding care beds in the facility must not increase in the future. The provisions contained in section 144A.073 regarding the upgrading of the facilities do not apply to facilities that satisfy these requirements;

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

New language is indicated by underline, deletions by ~~strikeout~~.

(r) to license and certify nursing home beds to replace currently licensed and certified boarding care beds which may be located either in a remodeled or renovated boarding care or nursing home facility or in a remodeled, renovated, newly constructed, or replacement nursing home facility within the identifiable complex of health care facilities in which the currently licensed boarding care beds are presently located, provided that the number of boarding care beds in the facility or complex are decreased by the number to be licensed as nursing home beds and further provided that, if the total costs of new construction, replacement, remodeling, or renovation exceed ten percent of the appraised value of the facility or \$200,000, whichever is less, the facility makes a written commitment to the commissioner of human services that it will not seek to receive an increase in its property-related payment rate by reason of the new construction, replacement, remodeling, or renovation. The provisions contained in section 144A.073 regarding the upgrading of facilities do not apply to facilities that satisfy these requirements;

(s) to license or certify beds that are moved from a nursing home to a separate facility under common ownership or control that was formerly licensed as a hospital and is currently licensed as a nursing facility and that is located within eight miles of the original facility, provided the original nursing home building will no longer be operated as a nursing home. As a condition of receiving a license or certification under this clause, the facility must make a written commitment to the commissioner of human services that it will not seek to receive an increase in its property-related payment rate as a result of the relocation; or

(t) 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;

(u) 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;

(v) 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; or

(w) 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.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 4. Minnesota Statutes 1990, section 144A.073, subdivision 3, is amended to read:

Subd. 3. **REVIEW AND APPROVAL OF PROPOSALS.** Within the limits of money specifically appropriated to the medical assistance program for this purpose, the interagency board for quality assurance may recommend that the commissioner of health grant exceptions to the nursing home licensure or certification moratorium for proposals that satisfy the requirements of this section. The interagency board shall appoint an advisory review panel composed of representatives of consumers and providers to review proposals and provide comments and recommendations to the board. The commissioners of human services and health shall provide staff and technical assistance to the board for the review and analysis of proposals. The interagency board shall hold a public hearing before submitting recommendations to the commissioner of health on project requests. The board shall submit recommendations within 150 days of the date of the publication of the notice, based on a comparison and ranking of proposals using the criteria in subdivision 4. The commissioner of health shall approve or disapprove a project within 30 days after receiving the board's recommendations. The cost to the medical assistance program of the proposals approved must be within the limits of the appropriations specifically made for this purpose. Approval of a proposal expires ~~42~~ 18 months after approval by the commissioner of health unless the facility has commenced construction as defined in section 144A.071, subdivision 3, paragraph (b). The board's report to the legislature, as required under section 144A.31, must include the projects approved, the criteria used to recommend proposals for approval, and the estimated costs of the projects, including the costs of initial construction and remodeling, and the estimated operating costs during the first two years after the project is completed.

Sec. 5. Minnesota Statutes 1990, section 144A.073, subdivision 3a, is amended to read:

Subd. 3a. **EXTENSION OF APPROVAL OF A PROJECT REQUIRING AN EXCEPTION TO THE NURSING HOME MORATORIUM.** Notwithstanding subdivision 3, a construction project that was approved by the commissioner under the moratorium exception approval process in this section prior to ~~February 1, 1990~~ July 1, 1992, may be commenced more than ~~42~~ 18 months after the date of the commissioner's approval but no later than July 1, ~~1992~~ 1994, or 12 months after the effective date of a nursing home property-related payment system enacted to replace the current rate freeze in section 256B.431, subdivision 12, whichever is later.

Sec. 6. Minnesota Statutes 1990, section 144A.073, subdivision 5, is amended to read:

Subd. 5. **REPLACEMENT RESTRICTIONS.** (a) Proposals submitted or approved under this section involving replacement must provide for replacement of the facility on the existing site except as allowed in this subdivision.

New language is indicated by underline, deletions by ~~strikeout~~.

(b) Facilities located in a metropolitan statistical area other than the Minneapolis-St. Paul seven-county metropolitan area may relocate to a site within the same census tract or a contiguous census tract.

(c) Facilities located in the Minneapolis-St. Paul seven-county metropolitan area may relocate to a site within the same or contiguous health planning area as adopted in March 1982 by the metropolitan council.

(d) Facilities located outside a metropolitan statistical area may relocate to a site within the same city or township, or within a contiguous township.

(e) A facility relocated to a different site under paragraph (b), (c), or (d) must not be relocated to a site more than six miles from the existing site.

(f) The relocation of part of an existing first facility to a second location, under paragraphs (d) and (e), may include the relocation to the second location of up to four beds from part of an existing third facility located in a township contiguous to the location of the first facility. The six-mile limit in paragraph (e) does not apply to this relocation from the third facility.

#### Sec. 7. [144A.154] RATE RECOMMENDATION.

The commissioner may recommend to the commissioner of human services a review of the rates for a nursing home or boarding care home that participates in the medical assistance program that is in voluntary or involuntary receivership, and that has needs or deficiencies documented by the department of health. If the commissioner of health determines that a review of the rate under section 256B.495 is needed, the commissioner shall provide the commissioner of human services with:

(1) a copy of the order or determination that cites the deficiency or need; and

(2) the commissioner's recommendation for additional staff and additional annual hours by type of employee and additional consultants, services, supplies, equipment, or repairs necessary to satisfy the need or deficiency.

Sec. 8. Minnesota Statutes 1991 Supplement, section 144A.31, subdivision 2a, is amended to read:

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

The committee shall also:

New language is indicated by underline, deletions by ~~strikeout~~.



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

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

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

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

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

Sec. 9. Minnesota Statutes 1990, section 147.01, is amended by adding a subdivision to read:

Subd. 6. LICENSE SURCHARGE. In addition to any fee established under section 214.06, the board shall assess an annual license surcharge of \$400 against each physician licensed under this chapter as follows:

(1) a physician whose license is issued or renewed between April 1 and September 30 shall be billed on or before November 15, and the physician must pay the surcharge by December 15; and

(2) a physician whose license is issued or renewed between October 1 and March 31 shall be billed on or before May 15, and the physician must pay the surcharge by June 15.

The board shall provide that the surcharge payment must be remitted to the commissioner of human services to be deposited in the general fund under section 256.9656. The board shall not renew the license of a physician who has not paid the surcharge required under this section. The board shall promptly provide to the commissioner of human services upon request information available to the board and specifically required by the commissioner to operate the provider surcharge program. The board shall limit the surcharge to physicians residing in Minnesota and the states contiguous to Minnesota upon notification from the commissioner of human services that the federal government has approved a waiver to allow the surcharge to be applied in that manner.

Sec. 10. Minnesota Statutes 1990, section 151.06, subdivision 1, is amended to read:

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

New language is indicated by underline, deletions by ~~strikeout~~.

(1) to regulate the practice of pharmacy;

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

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

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

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

(6) to license wholesale drug distributors;

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

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

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

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

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

(v) unprofessional conduct or conduct endangering public health;

(vi) gross immorality;

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

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

New language is indicated by underline, deletions by ~~strikeout~~.

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

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

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

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

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

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

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

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

Sec. 11. Minnesota Statutes 1990, section 151.06, is amended by adding a subdivision to read:

Subd. 1a. DISCIPLINARY ACTION. It shall be grounds for disciplinary action by the board of pharmacy against the registration of the pharmacy if the board of pharmacy determines that any person with supervisory responsibilities at the pharmacy sets policies that prevent a licensed pharmacist from providing drug utilization review and patient counseling as required by rules adopted under subdivision 1. The board of pharmacy shall follow the requirements of chapter 14 in any disciplinary actions taken under this section.

Sec. 12. Minnesota Statutes 1991 Supplement, section 252.46, subdivision 3, is amended to read:

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 3. **RATE MAXIMUM.** Unless a variance is granted under subdivision 6, the maximum payment rates for each vendor for a calendar year must be equal to the payment rates approved by the commissioner for that vendor in effect December 1 of the previous calendar year ~~increased by no more than.~~ 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 for each vendor, based upon the projected percentage change in the urban consumer price index, all items, published by the United States Department of Labor, for the upcoming calendar year over the current calendar year. The commissioner shall not provide an annual inflation adjustment for the biennium ending June 30, 1993.

Sec. 13. Minnesota Statutes 1990, section 254B.06, subdivision 3, is amended to read:

Subd. 3. **PAYMENT; DENIAL.** The commissioner shall pay eligible vendors for placements made by local agencies under section 254B.03, subdivision 1, and placements by tribal designated agencies according to section 254B.09. The commissioner may reduce or deny payment of the state share when services are not provided according to the placement criteria established by the commissioner. The commissioner may pay for all or a portion of improper county chemical dependency placements and bill the county for the entire payment made when the placement did not comply with criteria established by the commissioner. The commissioner shall not pay vendors until private insurance company claims have been settled.

Sec. 14. Minnesota Statutes 1990, section 256.9655, is amended to read:

**256.9655 PAYMENTS TO MEDICAL PROVIDERS.**

Subdivision 1. DUTIES OF COMMISSIONER. The commissioner shall establish procedures to analyze and correct problems associated with medical care claims preparation and processing under the medical assistance, general assistance medical care, and children's health plan programs. At a minimum, the commissioner shall:

- (1) designate a full-time position as a liaison between the department of human services and providers;
- (2) analyze impediments to timely processing of claims, provide information and consultation to providers, and develop methods to resolve or reduce problems;
- (3) provide to each acute care hospital a quarterly listing of claims received and identify claims that have been suspended and the reason the claims were suspended;
- (4) provide education and information on reasons for rejecting and suspending claims and identify methods that would avoid multiple submissions of claims; and

New language is indicated by underline, deletions by ~~strikeout~~.

(5) for each acute care hospital, identify and prioritize claims that are in jeopardy of exceeding time factors that eliminate payment.

Subd. 2. ELECTRONIC CLAIM SUBMISSION. Medical providers designated by the commissioner of human services are permitted to purchase authorized materials through commodity contracts administered by the commissioner of administration for the purpose of submitting electronic claims to the medical programs designated in subdivision 1. Providers so designated must be actively enrolled and participating in the medical programs and must sign a hardware purchase and electronic biller agreement with the commissioner of human services prior to purchase from the contract.

Sec. 15. Minnesota Statutes 1991 Supplement, section 256.9656, is amended to read:

**256.9656 DEPOSITS INTO THE GENERAL FUND.**

All money collected under section 256.9657 shall be deposited in the general fund ~~and is appropriated to the commissioner of human services for the purposes of section 256B.74.~~ Deposits do not cancel and are available until expended.

Sec. 16. Minnesota Statutes 1991 Supplement, section 256.9657, subdivision 1, is amended to read:

Subdivision 1. NURSING FACILITY HOME LICENSE SURCHARGE. Effective July October 1, 1991 1992, each non-state-operated nursing facility subject to the reimbursement principles in Minnesota Rules, parts 9549.0010 to 9549.0080, home licensed under chapter 144A shall pay to the commissioner an annual surcharge according to the schedule in subdivision 4. The surcharge shall be calculated as \$500 \$535 per bed licensed on the previous April July 1, except that if the number of licensed beds is reduced after July 1 but prior to August 1, the surcharge shall be based on the number of remaining licensed beds. A nursing home entitled to a reduction in the number of beds subject to the surcharge under this provision must demonstrate to the satisfaction of the commissioner by August 5 that the number of beds has been reduced.

Sec. 17. Minnesota Statutes 1991 Supplement, section 256.9657, is amended by adding a subdivision to read:

Subd. 1a. WAIVER REQUEST. The commissioner shall request a waiver from the secretary of health and human services to: (1) exclude from the surcharge under subdivision 1 a nursing home that provides all services free of charge; (2) make a pro rata reduction in the surcharge paid by a nursing home that provides a portion of its services free of charge; (3) limit the hospital surcharge to acute care hospitals only; and (4) limit the physician license surcharge under section 147.01, subdivision 6, to physicians licensed in Minnesota and residing in Minnesota or a state contiguous to Minnesota. If a waiver is approved under this subdivision, the commissioner shall adjust the nursing home surcharge accordingly or shall direct the board of medical practice to adjust the physician license surcharge under section 147.01, subdivision 6,

New language is indicated by underline, deletions by ~~strikeout~~.

accordingly. Any waivers granted by the federal government shall be effective on or after October 1, 1992.

Sec. 18. Minnesota Statutes 1991 Supplement, section 256.9657, subdivision 2, is amended to read:

Subd. 2. **HOSPITAL SURCHARGE.** (a) ~~Effective July 1, 1991~~ Effective July 1, 1991 ~~October 1, 1992~~, each Minnesota and local trade area hospital except facilities of the federal Indian Health Service and regional treatment centers shall pay to the medical assistance account a surcharge equal to ~~ten~~ 1.4 percent of medical assistance payments issued to net patient revenues excluding net Medicare revenues reported by that provider for inpatient services to the health care cost information system according to the schedule in subdivision 4. ~~Medicare crossovers and indigent care payments paid under section 256B.74 are excluded from the amount of medical assistance payments issued.~~

(b) ~~Effective July 1, 1991~~, each Minnesota and local trade area hospital except facilities of the federal Indian Health Service and regional treatment centers shall pay to the medical assistance account a surcharge equal to five percent of medical assistance payments issued to that provider for outpatient services according to the schedule in subdivision 4. Medicare crossovers are excluded from the amount of medical assistance payments issued.

Sec. 19. Minnesota Statutes 1991 Supplement, section 256.9657, subdivision 3, is amended to read:

Subd. 3. **HEALTH PLAN MAINTENANCE ORGANIZATION SURCHARGE.** ~~Effective July 1, 1991~~ Effective July 1, 1991 ~~October 1, 1992~~, each health plan under contract with maintenance organization with a certificate of authority issued by the commissioner of health under chapter 62D shall pay to the commissioner of human services a surcharge equal to ~~the equivalent value of the surcharges described in subdivision 2 for each medical assistance rate cell payment six-tenths of one percent of the total premium revenues of the health maintenance organization as reported to the commissioner of health~~ according to the schedule in subdivision 4. ~~The surcharge for each quarter or month of a fiscal year shall be calculated based on the payments due in September of the same fiscal year under subdivision 2.~~

Sec. 20. Minnesota Statutes 1991 Supplement, section 256.9657, subdivision 4, is amended to read:

Subd. 4. **PAYMENTS INTO THE ACCOUNT.** Payments to the commissioner under ~~subdivision~~ subdivisions 1 to 3 must be paid in monthly installments due on the 15th of the month beginning ~~August 15, 1991~~ 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 paid as follows: ~~the first payment is a quarterly payment due September 15, 1991, with subsequent payments due monthly on the fifteenth of each month. The September 15, 1991, payment under subdivisions 2 and 3 shall be determined by taking the amount of medical assistance payments issued to~~

New language is indicated by underline, deletions by strikethrough.

each provider in the calendar quarter beginning six months prior to the quarter in which the payment is due multiplied by the percentage surcharge for each provider. The subsequent monthly payments shall be determined by taking the amount of medical assistance payments issued to each provider in the month beginning six months prior to the month in which the payment is due multiplied by the percentage surcharge for each provider 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.

Sec. 21. Minnesota Statutes 1991 Supplement, section 256.9657, subdivision 7, is amended to read:

Subd. 7. **ENFORCEMENT COLLECTION; CIVIL PENALTIES.** The commissioner shall bring action in district court to collect provider payments due under subdivisions 1 to 3 that are more than 30 days in arrears. The provisions of sections 289A.35 to 289A.50 relating to the authority to audit, assess, collect, and pay refunds of other state taxes may be implemented by the commissioner of human services with respect to the tax, penalty, and interest imposed by this section and section 147.01, subdivision 6. The commissioner of human services shall impose civil penalties for violation of this section or section 147.01, subdivision 6, as provided in section 289A.60, and the tax and penalties are subject to interest at the rate provided in section 270.75.

Sec. 22. Minnesota Statutes 1991 Supplement, section 256.9685, subdivision 1, is amended to read:

Subdivision 1. **AUTHORITY.** The commissioner shall establish procedures for determining medical assistance and general assistance medical care payment rates under a prospective payment system for inpatient hospital services in hospitals that qualify as vendors of medical assistance. The commissioner shall establish, by rule, procedures for implementing this section and sections 256.9686, 256.969, and 256.9695. The medical assistance payment rates must be based on methods and standards that the commissioner finds are adequate to provide for the costs that must be incurred for the care of recipients in efficiently and economically operated hospitals. Services must meet the requirements of section 256B.04, subdivision 15, or 256D.03, subdivision 7, paragraph (b), to be eligible for payment except the commissioner may establish exemptions to specific requirements based on diagnosis, procedure, or service after notice in the State Register and a 30-day comment period. The commissioner may establish an administrative reconsideration process for appeals of inpatient hospital services determined to be medically unnecessary. The reconsideration process shall take place prior to the contested case procedures of chapter 14 and shall be conducted by physicians that are independent of the case under reconsideration. A majority decision by the physicians is necessary to make a determination that the services were not medically necessary. Notwithstanding section 256B.72, the commissioner may recover inpatient hospital payments for services that have been determined to be medically unnecessary under the reconsideration process.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 23. Minnesota Statutes 1991 Supplement, section 256.969, subdivision 1, is amended to read:

Subdivision 1. **HOSPITAL COST INDEX.** (a) The hospital cost index shall be obtained from an independent source and shall represent a weighted average of historical, as limited to statutory maximums, and projected cost change estimates determined for expense categories to include wages and salaries, employee benefits, medical and professional fees, raw food, utilities, insurance including malpractice insurance, and other applicable expenses as determined by the commissioner. The index shall reflect Minnesota cost category weights. Individual indices shall be specific to Minnesota if the commissioner determines that sufficient accuracy of the hospital cost index is achieved. The hospital cost index ~~shall~~ may be used to adjust the base year operating payment rate through the rate year on an annually compounded basis. Notwithstanding section 256.9695, subdivision 3, paragraph (c), the hospital cost index shall not be effective under the general assistance medical care program for admissions occurring during the biennium ending June 30, 1993, and the hospital cost index under medical assistance, excluding general assistance medical care, shall be increased by one percentage point to reflect changes in technology for admissions occurring after September 30, 1992.

(b) For fiscal years beginning on or after July 1, 1993, the commissioner of human services shall not provide automatic annual inflation adjustments for hospital payment rates under medical assistance, excluding the technology factor under paragraph (a), nor under general assistance medical care. 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 hospital payment rates under medical assistance and general assistance medical care, based upon the hospital cost index.

Sec. 24. Minnesota Statutes 1991 Supplement, section 256.969, subdivision 2, is amended to read:

Subd. 2. **DIAGNOSTIC CATEGORIES.** The commissioner shall use to the extent possible existing diagnostic classification systems, including the system used by the Medicare program to determine the relative values of inpatient services and case mix indices. The commissioner may combine diagnostic classifications into diagnostic categories and may establish separate categories and numbers of categories based on program eligibility or hospital peer group. Relative values shall be recalculated when the base year is changed. Relative value determinations shall include paid claims for admissions during each hospital's base year. The commissioner may extend the time period forward to obtain sufficiently valid information to establish relative values. Relative value determinations shall not include property cost data, Medicare crossover data, and data on admissions that are paid a per day transfer rate under subdivision ~~13~~ 14. The computation of the base year cost per admission must include identified outlier cases and their weighted costs up to the point that they become outlier cases, but must exclude costs recognized in outlier payments beyond that point. The com-

New language is indicated by underline, deletions by ~~strikeout~~.



missioner may recategorize the diagnostic classifications and recalculate relative values and case mix indices to reflect actual hospital practices, the specific character of specialty hospitals, or to reduce variances within the diagnostic categories after notice in the State Register and a 30-day comment period.

Sec. 25. Minnesota Statutes 1991 Supplement, section 256.969, subdivision 9, is amended to read:

Subd. 9. **DISPROPORTIONATE NUMBERS OF LOW-INCOME PATIENTS SERVED.** For admissions occurring on or after ~~July 1, 1989~~ October 1, 1992, the medical assistance disproportionate population adjustment shall comply with federal law ~~at fully implemented rates and shall be paid to a hospital, excluding regional treatment centers and facilities of the federal Indian Health Service, with a medical assistance inpatient utilization rate in excess of the arithmetic mean. The adjustment must be determined as follows:~~

(1) for a hospital with a medical assistance inpatient utilization rate above the arithmetic mean for all hospitals excluding regional treatment centers and facilities of the federal Indian Health Service but less than or equal to one standard deviation above the mean, the adjustment must be determined by multiplying the total of the operating and property payment rates by the difference between the hospital's actual medical assistance inpatient utilization rate and the arithmetic mean for all hospitals excluding regional treatment centers and facilities of the federal Indian Health Service; and

(2) for a hospital with a medical assistance inpatient utilization rate above one standard deviation above the mean, the adjustment must be determined by multiplying the adjustment that would be determined under clause (1) for that hospital by 1.1. If federal matching funds are not available for all adjustments under this subdivision, the commissioner shall reduce payments on a pro rata basis so that all adjustments qualify for federal match. The commissioner may establish a separate disproportionate population operating payment rate adjustment under the general assistance medical care program. For purposes of this subdivision medical assistance does not include general assistance medical care. The commissioner shall report annually on the number of hospitals likely to receive the adjustment authorized by this section. The commissioner shall specifically report on the adjustments received by public hospitals and public hospital corporations located in cities of the first class.

Sec. 26. Minnesota Statutes 1991 Supplement, section 256.969, subdivision 20, is amended to read:

Subd. 20. **INCREASES IN MEDICAL ASSISTANCE INPATIENT PAYMENTS; CONDITIONS.** (a) Medical assistance inpatient payments shall increase 20 percent for inpatient hospital originally paid admissions, excluding Medicare crossovers, that occurred between July 1, 1988, and December 31, 1990, if: (i) the hospital had 100 or fewer Minnesota medical assistance annualized paid admissions, excluding Medicare crossovers, that were paid by March 1, 1988, for the period January 1, 1987, to June 30, 1987; (ii) the hospital had

New language is indicated by underline, deletions by ~~strikeout~~.

100 or fewer licensed beds on March 1, 1988; (iii) the hospital is located in Minnesota; and (iv) the hospital is not located in a city of the first class as defined in section 410.01. For this paragraph, medical assistance does not include general assistance medical care.

(b) Medical assistance inpatient payments shall increase 15 percent for inpatient hospital originally paid admissions, excluding Medicare crossovers, that occurred between July 1, 1988, and December 31, 1990, if: (i) the hospital had more than 100 but fewer than 250 Minnesota medical assistance annualized paid admissions, excluding Medicare crossovers, that were paid by March 1, 1988, for the period January 1, 1987, to June 30, 1987; (ii) the hospital had 100 or fewer licensed beds on March 1, 1988; (iii) the hospital is located in Minnesota; and (iv) the hospital is not located in a city of the first class as defined in section 410.01. For this paragraph, medical assistance does not include general assistance medical care.

(c) Medical assistance inpatient payment rates shall increase 20 percent for inpatient hospital originally paid admissions, excluding Medicare crossovers, that occur on or after October 1, 1992, if: (i) the hospital had 100 or fewer Minnesota medical assistance annualized paid admissions, excluding Medicare crossovers, that were paid by March 1, 1988, for the period January 1, 1987, to June 30, 1987; (ii) the hospital had 100 or fewer licensed beds on March 1, 1988; (iii) the hospital is located in Minnesota; and (iv) the hospital is not located in a city of the first class as defined in section 410.01. For a hospital that qualifies for an adjustment under this paragraph and under subdivision 9, the hospital must be paid the adjustment under subdivision 9 plus any amount by which the adjustment under this paragraph exceeds the adjustment under subdivision 9. For this paragraph, medical assistance does not include general assistance medical care.

(d) Medical assistance inpatient payments shall increase 15 percent for inpatient hospital originally paid admissions, excluding Medicare crossovers, that occur after September 30, 1992, if: (i) the hospital had more than 100 but fewer than 250 Minnesota medical assistance annualized paid admissions, excluding Medicare crossovers, that were paid by March 1, 1988, for the period January 1, 1987, to June 30, 1987; (ii) the hospital had 100 or fewer licensed beds on March 1, 1988; (iii) the hospital is located in Minnesota; and (iv) the hospital is not located in a city of the first class as defined in section 410.01. For a hospital that qualifies for an adjustment under this paragraph and under subdivision 9, the hospital must be paid the adjustment under subdivision 9 plus any amount by which the adjustment under this paragraph exceeds the adjustment under subdivision 9. For this paragraph, medical assistance does not include general assistance medical care.

Sec. 27. Minnesota Statutes 1991 Supplement, section 256.969, subdivision 21, is amended to read:

**Subd. 21. MENTAL HEALTH OR CHEMICAL DEPENDENCY**

New language is indicated by underline, deletions by ~~strikeout~~.

**ADMISSIONS; RATES.** Admissions occurring on or after July 1, 1990, that are classified to a diagnostic category of mental health or chemical dependency shall have rates established according to the methods of subdivision 14, except the per day rate shall be multiplied by a factor of 2, provided that the total of the per day rates shall not exceed the per admission rate. This methodology shall also apply when a hold or commitment is ordered by the court for the days that inpatient hospital services are medically necessary. Stays Mental health and chemical dependency inpatient hospital services for a hold or commitment ordered by the court which are medically necessary for inpatient hospital services and covered by medical assistance shall not be billable to any other governmental entity. Medical necessity shall be determined under criteria established to meet the requirements of section 256B.04, subdivision 15, or 256D.03, subdivision 7, paragraph (b).

Sec. 28. Minnesota Statutes 1990, section 256.9695, subdivision 3, is amended to read:

Subd. 3. **TRANSITION.** Except as provided in section 256.969, subdivision 6a, paragraph (a), clause (3), the commissioner shall establish a transition period for the calculation of payment rates from July 1, 1989, to 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, subdivision 6a, paragraph (a), clauses (1), (2), (4), (5), (6), and (8), shall not be implemented, except as provided in section 256.969, subdivision 6a, paragraph (a), clause (7), and paragraph (i).

(b) 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, shall not be adjusted by the one percent technology factor included in the hospital cost index and 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 ~~6a~~ 20, paragraphs ~~(g)~~ (a) and ~~(h)~~ (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.

New language is indicated by underline, deletions by ~~strikeout~~.

(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 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 based on the change in rates from July 1, 1992, to the rebased rates in effect under the systems upgrade. The adjustment shall reflect payments under clause (1), differences in the hospital cost index and dissimilar rate establishment procedures such as the variable outlier and the treatment of births and rehabilitation units of hospitals. The adjustment shall be in effect for a period not to exceed the amount of time from July 1, 1992, to the systems upgrade.

Sec. 29. Minnesota Statutes 1991 Supplement, section 256.9751, subdivision 1, is amended to read:

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

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

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

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

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

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 30. Minnesota Statutes 1991 Supplement, section 256.9751, subdivision 6, is amended to read:

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

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

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

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

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

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

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

Sec. 31. Minnesota Statutes 1990, section 256B.02, is amended by adding a subdivision to read:

Subd. 14. GROUP HEALTH PLAN. "Group health plan" means any plan of, or contributed to by, an employer, including a self-insured plan, to provide health care directly or otherwise to the employer's employees, former employees, or the families of the employees or former employees, and includes continuation coverage pursuant to title XXII of the Public Health Service Act, section 4980B of the Internal Revenue Code of 1986, or title VI of the Employee Retirement Income Security Act of 1974.

Sec. 32. Minnesota Statutes 1990, section 256B.02, is amended by adding a subdivision to read:

Subd. 15. COST-EFFECTIVE. "Cost-effective" means that the amount paid by the state for premiums, coinsurance, deductibles, other cost sharing obligations under a health insurance plan, and other administrative costs is likely to be less than the amount paid for an equivalent set of services paid by medical assistance.

Sec. 33. Minnesota Statutes 1990, section 256B.035, is amended to read:

**256B.035 MANAGED CARE.**

The commissioner of human services may contract with public or private entities ~~for health care services for~~ or operate a preferred provider program to

New language is indicated by underline, deletions by ~~strikeout~~.

deliver health care services to medical assistance and, general assistance medical care, and children's health plan recipients identified by the commissioner as inappropriately using health care services. The commissioner may enter into risk-based and non-risk-based contracts. Contracts may be for the full range of health services, or a portion thereof, for medical assistance and general assistance medical care populations to determine the effectiveness of various provider reimbursement and care delivery mechanisms. The commissioner may seek necessary federal waivers and implement projects when approval of the waivers is obtained from the Health Care Financing Administration of the United States Department of Health and Human Services.

Sec. 34. Minnesota Statutes 1990, section 256B.056, subdivision 1a, is amended to read:

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

Sec. 35. Minnesota Statutes 1990, section 256B.056, subdivision 2, is amended to read:

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

- (a) the spouse;
- (b) a child under age 21;
- (c) a child of any age who is blind or permanently and totally disabled as defined in the supplemental security income program;
- (d) a sibling who has equity interest in the home and who resided in the

New language is indicated by underline, deletions by ~~strikeout~~.

home for at least one year immediately before the date of the person's admission to the facility; or

(e) a child of any age, or, subject to federal approval, a grandchild of any age, who resided in the home for at least two years immediately before the date of the person's admission to the facility, and who provided care to the person that permitted the person to reside at home rather than in an institution.

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

Sec. 36. Minnesota Statutes 1990, section 256B.056, subdivision 3, is amended to read:

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

- (a) The homestead is not considered.
- (b) Household goods and personal effects are not considered.
- (c) Personal property used as a regular abode by the applicant or recipient is not considered.
- (d) A lot in a burial plot for each member of the household is not considered.

New language is indicated by underline, deletions by ~~strikeout~~.

(e) (b) Capital and operating assets of a trade or business that the local agency determines are necessary to the person's ability to earn an income are not considered.

(f) ~~Insurance settlements to repair or replace damaged, destroyed, or stolen property are considered to the same extent as in the related cash assistance programs.~~

(g) ~~One motor vehicle that is licensed pursuant to chapter 168 and defined as: (1) passenger automobile, (2) station wagon, (3) motorcycle, (4) motorized bicycle or (5) truck of the weight found in categories A to E, of section 168.013, subdivision 1e, and that is used primarily for the person's benefit is not considered.~~

~~To be excluded, the vehicle must have a market value of less than \$4,500; be necessary to obtain medically necessary health services; be necessary for employment; be modified for operation by or transportation of a handicapped person; or be necessary to perform essential daily tasks because of climate, terrain, distance, or similar factors. The equity value of other motor vehicles is counted against the asset limit.~~

(h) ~~Life insurance policies and assets designated as burial expenses, according to the standards and restrictions of the supplemental security income (SSI) program.~~

(i) ~~Other items excluded by federal law are not considered.~~

(c) Motor vehicles are excluded to the same extent excluded by the supplemental security income program.

(d) Assets designated as burial expenses are excluded to the same extent excluded by the supplemental security income program.

Sec. 37. Minnesota Statutes 1990, section 256B.056, subdivision 5, is amended to read:

Subd. 5. **EXCESS INCOME.** A person who has excess income is eligible for medical assistance if the person has expenses for medical care that are more than the amount of the person's excess income, computed by deducting incurred medical expenses from the excess income to reduce the excess to the income standard specified in subdivision 4. The person shall elect to have the medical expenses deducted at the beginning of a one-month budget period or at the beginning of a six-month budget period. Until June 30, 1993, or the date the Medicaid Management Information System (MMIS) upgrade is implemented, whichever occurs last, the commissioner shall ~~seek applicable waivers from the Secretary of Health and Human Services to allow persons eligible for assistance on a one-month spend-down basis under this subdivision to elect to pay the monthly spend-down amount in advance of the month of eligibility to the local agency in order to maintain eligibility on a continuous basis for medical assistance and to simplify payment to health care providers.~~ If the local agency has

New language is indicated by underline, deletions by ~~strikeout~~.



not received payment of the spend-down amount by the 15th day of the month recipient does not pay the spend-down amount on or before the 20th of the month, the recipient is ineligible for this option for the following month. The commissioner may seek a waiver of the requirement of the Social Security Act that all requirements be uniform statewide, to phase in this option over a six-month period. The local agency must deposit spend-down payments into its treasury and issue a monthly payment to the state agency with the necessary individual account information. The local agency shall code the client eligibility system to indicate that the spend-down obligation has been satisfied for the month paid. The state agency shall convey this information to providers through eligibility cards which list no remaining spend-down obligation. After the implementation of the MMIS upgrade, the recipient may elect to pay the state agency the monthly spend-down amount. The recipient must make the payment on or before the 20th of the month in order to be eligible for this option in the following month.

Sec. 38. Minnesota Statutes 1990, section 256B.056, is amended by adding a subdivision to read:

**Subd. 8. COOPERATION.** To be eligible for medical assistance, 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, unless good cause for noncooperation is determined according to Code of Federal Regulations, title 42, part 433.147. "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. Cooperation also includes providing information about a group health plan for which the person may be eligible and if the plan is determined cost-effective by the state agency and premiums are paid by the local agency or there is no cost to the recipient, they must enroll or remain enrolled with the group. Cost-effective insurance premiums approved for payment by the state agency and paid by the local agency are eligible for reimbursement according to section 256B.19.

Sec. 39. Minnesota Statutes 1990, section 256B.057, is amended by adding a subdivision to read:

**Subd. 3a. ELIGIBILITY FOR PAYMENT OF MEDICARE PART B PREMIUMS.** A person who would otherwise be eligible as a qualified Medicare beneficiary under subdivision 3, except the person's income is in excess of the limit, is eligible for medical assistance reimbursement of Medicare part B premiums if the person's income is less than 110 percent of the official federal poverty guidelines for the applicable family size. The income limit shall increase to 120 percent of the official federal poverty guidelines for the applicable family size on January 1, 1995.

Sec. 40. Minnesota Statutes 1990, section 256B.059, subdivision 2, is amended to read:

New language is indicated by underline, deletions by ~~strikeout~~.

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

Sec. 41. Minnesota Statutes 1990, section 256B.059, subdivision 5, is amended to read:

Subd. 5. **ASSET AVAILABILITY.** (a) At the time of application for medical assistance benefits, assets considered available to the institutionalized spouse shall be the total value of all assets in which either spouse has an ownership interest, reduced by the greater of:

(1) \$12,000; or

(2) the lesser of the spousal share or \$60,000; or

(3) the amount required by court order to be paid to the community spouse. If the community spouse asset allowance has been increased under subdivision 4, then the assets considered available to the institutionalized spouse under this subdivision shall be further reduced by the value of additional amounts allowed under subdivision 4.

(b) An institutionalized spouse may be found eligible for medical assistance even though assets in excess of the allowable amount are found to be available under paragraph (a) if the assets are owned jointly or individually by the community spouse, and the institutionalized spouse cannot use those assets to pay for the cost of care without the consent of the community spouse, and if: (i) the institutionalized spouse assigns to the commissioner the right to support from the community spouse under section 256B.14, subdivision 2; (ii) the institutionalized spouse lacks the ability to execute an assignment due to a physical or mental impairment; or (iii) the denial of eligibility would cause an imminent threat to the institutionalized spouse's health and well-being.

(c) After the month in which the institutionalized spouse is determined eligible for medical assistance, during the continuous period of institutionalization, no assets of the community spouse are considered available to the institutionalized spouse, unless the institutionalized spouse has been found eligible under clause (b).

(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.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 42. Minnesota Statutes 1990, section 256B.0595, subdivision 1, is amended to read:

Subdivision 1. **PROHIBITED TRANSFERS.** (a) 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, 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) This section applies to transfers, for less than fair market value, of income or assets that are considered income in the month received, such as inheritances, court settlements, and retroactive benefit payments.

(c) 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.

(d) This section applies to the portion of any asset or interest that a person or a person's spouse transfers to an irrevocable trust, annuity, or other instrument, that exceeds the value of the benefit likely to be returned to the person or spouse during his or her lifetime, based on his or her 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.

(e) For purposes of this section, long-term care services include nursing facility services, and ~~home~~ home- and community-based services provided pursuant to section 256B.491. For purposes of this subdivision and subdivisions 2, 3, and 4, "institutionalized person" includes a person who is an inpatient in a nursing facility, or who is receiving ~~home~~ home- and community-based services under section 256B.491.

Sec. 43. Minnesota Statutes 1991 Supplement, section 256B.0625, subdivision 2, is amended to read:

Subd. 2. **SKILLED AND INTERMEDIATE NURSING CARE.** Medical assistance covers skilled nursing home services and services of intermediate care facilities, including training and habilitation services, as defined in section 252.41, subdivision 3, for persons with mental retardation or related conditions who are residing in intermediate care facilities for persons with mental retarda-

New language is indicated by underline, deletions by ~~strikeout~~.

tion or related conditions. Medical assistance must not be used to pay the costs of nursing care provided to a patient in a swing bed as defined in section 144.562, unless (a) the facility in which the swing bed is located is eligible as a sole community provider, as defined in Code of Federal Regulations, title 42, section 412.92, or the facility is a public hospital owned by a governmental entity with 15 or fewer licensed acute care beds; (b) the health care financing administration approves the necessary state plan amendments; (c) the patient was screened as provided by law; (d) the patient no longer requires acute care services; and (e) no nursing home beds are available within 25 miles of the facility. Medical assistance also covers up to ten days of nursing care provided to a patient in a swing bed if: (1) the patient's physician certifies that the patient has a terminal illness or condition that is likely to result in death within 30 days and that moving the patient would not be in the best interests of the patient and patient's family; (2) no open nursing home beds are available within 25 miles of the facility; and (3) no open beds are available in any Medicare hospice program within 50 miles of the facility. The daily medical assistance payment for nursing care for the patient in the swing bed is the statewide average medical assistance skilled nursing care per diem as computed annually by the commissioner on July 1 of each year.

Sec. 44. Minnesota Statutes 1991 Supplement, section 256B.0625, subdivision 13, is amended to read:

Subd. 13. **DRUGS.** (a) Medical assistance covers drugs if prescribed by a licensed practitioner and dispensed by a licensed pharmacist, or by a physician enrolled in the medical assistance program as a dispensing physician. The commissioner, after receiving recommendations from the Minnesota medical association and the Minnesota pharmacists association, shall designate a formulary committee to advise the commissioner on the names of drugs for which payment is made, recommend a system for reimbursing providers on a set fee or charge basis rather than the present system, and develop methods encouraging use of generic drugs when they are less expensive and equally effective as trademark drugs. The commissioner shall appoint the formulary committee members no later than 30 days following July 1, 1981. The formulary committee shall consist of nine members, four of whom shall be physicians who are not employed by the department of human services, and a majority of whose practice is for persons paying privately or through health insurance, three of whom shall be pharmacists who are not employed by the department of human services, and a majority of whose practice is for persons paying privately or through health insurance, a consumer representative, and a nursing home representative. Committee members shall serve two-year terms and shall serve without compensation. The commissioner shall establish a drug formulary. Its establishment and publication shall not be subject to the requirements of the administrative procedure act, but the formulary committee shall review and comment on the formulary contents. The formulary committee shall review and recommend drugs which require prior authorization. The formulary committee may recommend drugs for prior authorization directly to the commissioner, as long as opportunity for public input is provided. Prior authorization may be requested by the commissioner

New language is indicated by underline, deletions by ~~strikeout~~.

based on medical and clinical criteria before certain drugs are eligible for payment. Before a drug may be considered for prior authorization at the request of the commissioner:

(1) the drug formulary committee must develop criteria to be used for identifying drugs; the development of these criteria is not subject to the requirements of chapter 14, but the formulary committee shall provide opportunity for public input in developing criteria;

(2) the drug formulary committee must hold a public forum and receive public comment for an additional 15 days; and

(3) the commissioner must provide information to the formulary committee on the impact that placing the drug on prior authorization will have on the quality of patient care and information regarding whether the drug is subject to clinical abuse or misuse. Prior authorization may be required by the commissioner before certain formulary drugs are eligible for payment. The formulary shall not include: drugs or products for which there is no federal funding; over-the-counter drugs, except for antacids, acetaminophen, family planning products, aspirin, insulin, products for the treatment of lice, and vitamins for children under the age of seven and pregnant or nursing women; or any other over-the-counter drug identified by the commissioner, in consultation with the drug formulary committee as necessary, appropriate and cost effective for the treatment of certain specified chronic diseases, conditions or disorders, and this determination shall not be subject to the requirements of chapter 14, the administrative procedure act; nutritional products, except for those products needed for treatment of phenylketonuria, hyperlysinemia, maple syrup urine disease, a combined allergy to human milk, cow milk, and soy formula, or any other childhood or adult diseases, conditions, or disorders identified by the commissioner as requiring a similarly necessary nutritional product; anorectics; and drugs for which medical value has not been established. Nutritional products needed for the treatment of a combined allergy to human milk, cow's milk, and soy formula require prior authorization. Separate payment shall not be made for nutritional products for residents of long-term care facilities; payment for dietary requirements is a component of the per diem rate paid to these facilities. Payment to drug vendors shall not be modified before the formulary is established except that the commissioner shall not permit payment for any drugs which may not by law be included in the formulary, and the commissioner's determination shall not be subject to chapter 14, the administrative procedure act. The commissioner shall publish conditions for prohibiting payment for specific drugs after considering the formulary committee's recommendations.

(b) The basis for determining the amount of payment shall be the lower of the actual acquisition costs of the drugs plus a fixed dispensing fee established by the commissioner, the maximum allowable cost set by the federal government or by the commissioner plus the fixed dispensing fee or the usual and customary price charged to the public. Actual acquisition cost includes quantity and other special discounts except time and cash discounts. The actual acquisition

New language is indicated by underline, deletions by ~~strikeout~~.

cost of a drug may be estimated by the commissioner. The maximum allowable cost of a multisource drug may be set by the commissioner and it shall be comparable to, but no higher than, the maximum amount paid by other third party payors in this state who have maximum allowable cost programs. Establishment of the amount of payment for drugs shall not be subject to the requirements of the administrative procedure act. An additional dispensing fee of \$.30 may be added to the dispensing fee paid to pharmacists for legend drug prescriptions dispensed to residents of long-term care facilities when a unit dose blister card system, approved by the department, is used. Under this type of dispensing system, the pharmacist must dispense a 30-day supply of drug. The National Drug Code (NDC) from the drug container used to fill the blister card must be identified on the claim to the department. The unit dose blister card containing the drug must meet the packaging standards set forth in Minnesota Rules, part 6800.2700, that govern the return of unused drugs to the pharmacy for reuse. The pharmacy provider will be required to credit the department for the actual acquisition cost of all unused drugs that are eligible for reuse. Over-the-counter medications must be dispensed in the manufacturer's unopened package. The commissioner may permit the drug clozapine to be dispensed in a quantity that is less than a 30-day supply. Whenever a generically equivalent product is available, payment shall be on the basis of the actual acquisition cost of the generic drug, unless the prescriber specifically indicates "dispense as written - brand necessary" on the prescription as required by section 151.21, subdivision 2. Implementation of any change in the fixed dispensing fee that has not been subject to the administrative procedure act is limited to not more than 180 days, unless, during that time, the commissioner initiates rulemaking through the administrative procedure act.

(c) Until January 4, 1993, or the date the Medicaid Management Information System (MMIS) upgrade is implemented, whichever occurs last, a pharmacy provider may require individuals who seek to become eligible for medical assistance under a one-month spend-down, as provided in section 256B.056, subdivision 5, to pay for services to the extent of the spend-down amount at the time the services are provided. A pharmacy provider choosing this option shall file a medical assistance claim for the pharmacy services provided. If medical assistance reimbursement is received for this claim, the pharmacy provider shall return to the individual the total amount paid by the individual for the pharmacy services reimbursed by the medical assistance program. If the claim is not eligible for medical assistance reimbursement because of the provider's failure to comply with the provisions of the medical assistance program, the pharmacy provider shall refund to the individual the total amount paid by the individual. Pharmacy providers may choose this option only if they apply similar credit restrictions to private pay or privately insured individuals. A pharmacy provider choosing this option must inform individuals who seek to become eligible for medical assistance under a one-month spend-down of (1) their right to appeal the denial of services on the grounds that they have satisfied the spend-down requirement, and (2) their potential eligibility for the health right program or the children's health plan.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 45. Minnesota Statutes 1990, section 256B.0625, is amended by adding a subdivision to read:

Subd. 13a. DRUG UTILIZATION REVIEW BOARD. A 12-member drug utilization review board is established. The board is comprised of six licensed physicians actively engaged in the practice of medicine in Minnesota; five licensed pharmacists actively engaged in the practice of pharmacy in Minnesota; and one consumer representative. The board shall be staffed by an employee of the department who shall serve as an ex officio nonvoting member of the board. The members of the board shall be appointed by the commissioner and shall serve three-year terms. The physician members shall be selected from a list submitted by the Minnesota medical association. The pharmacist members shall be selected from a list submitted by the Minnesota pharmacist association. The commissioner shall appoint the initial members of the board for terms expiring as follows: four members for terms expiring June 30, 1995; four members for terms expiring June 30, 1994; and four members for terms expiring June 30, 1993. Members may be reappointed once. The board shall annually elect a chair from among the members.

The commissioner shall, with the advice of the board:

(1) implement a medical assistance retrospective and prospective drug utilization review program as required by United States Code, title 42, section 1396r-8(g)(3);

(2) develop and implement the predetermined criteria and practice parameters for appropriate prescribing to be used in retrospective and prospective drug utilization review;

(3) develop, select, implement, and assess interventions for physicians, pharmacists, and patients that are educational and not punitive in nature;

(4) establish a grievance and appeals process for physicians and pharmacists under this section;

(5) publish and disseminate educational information to physicians and pharmacists regarding the board and the review program;

(6) adopt and implement procedures designed to ensure the confidentiality of any information collected, stored, retrieved, assessed, or analyzed by the board, staff to the board, or contractors to the review program that identifies individual physicians, pharmacists, or recipients;

(7) establish and implement an ongoing process to (i) receive public comment regarding drug utilization review criteria and standards, and (ii) consider the comments along with other scientific and clinical information in order to revise criteria and standards on a timely basis; and

(8) adopt any rules necessary to carry out this section.

New language is indicated by underline, deletions by ~~strikeout~~.

The board may establish advisory committees. The commissioner may contract with appropriate organizations to assist the board in carrying out the board's duties. The commissioner may enter into contracts for services to develop and implement a retrospective and prospective review program.

The board shall report to the commissioner annually on December 1. The commissioner shall make the report available to the public upon request. The report must include information on the activities of the board and the program; the effectiveness of implemented interventions; administrative costs; and any fiscal impact resulting from the program.

Sec. 46. Minnesota Statutes 1991 Supplement, section 256B.0625, subdivision 17, is amended to read:

Subd. 17. **TRANSPORTATION COSTS.** (a) Medical assistance covers transportation costs incurred solely for obtaining emergency medical care or transportation costs incurred by nonambulatory persons in obtaining emergency or nonemergency medical care when paid directly to an ambulance company, common carrier, or other recognized providers of transportation services. For the purpose of this subdivision, a person who is incapable of transport by taxi-cab or bus shall be considered to be nonambulatory.

(b) Medical assistance covers special transportation, as defined in Minnesota Rules, part 9505.0315, subpart 1, item F, if the provider receives and maintains a current physician's order by the recipient's attending physician. The commissioner shall establish maximum medical assistance reimbursement rates for special transportation services for persons who need a wheelchair lift van or stretcher-equipped vehicle and for those who do not need a wheelchair lift van or stretcher-equipped vehicle. The average of these two rates must not exceed ~~\$12.50~~ \$13 for the base rate and \$1 per mile. Special transportation provided to nonambulatory persons who do not need a wheelchair lift van or stretcher-equipped vehicle, may be reimbursed at a lower rate than special transportation provided to persons who need a wheelchair lift van or stretcher-equipped vehicle.

Sec. 47. Minnesota Statutes 1990, section 256B.0625, is amended by adding a subdivision to read:

Subd. 19b. NO AUTOMATIC ADJUSTMENT. For fiscal years beginning on or after July 1, 1993, the commissioner of human services shall not provide automatic annual inflation adjustments for home care 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 care services.

Sec. 48. Minnesota Statutes 1990, section 256B.0625, is amended by adding a subdivision to read:

Subd. 19c. PERSONAL CARE. Medical assistance covers personal care services provided by an individual who is qualified to provide the services

New language is indicated by underline, deletions by ~~strikeout~~.



according to subdivision 19a and section 256B.0627, where the services are prescribed by a physician in accordance with a plan of treatment and are supervised by a registered nurse.

Sec. 49. Minnesota Statutes 1990, section 256B.0625, is amended by adding a subdivision to read:

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

Sec. 50. Minnesota Statutes 1991 Supplement, section 256B.0627, subdivision 5, as amended by Laws 1992, chapter 391, section 5, is amended to read:

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

(a) **EXEMPTION FROM PAYMENT LIMITATIONS.** The level, or the number of hours or visits of a specific service, of home care services to a recipient that began before and is continued without increase on or after December 1987, shall be exempt from the payment limitations of this section, as long as the services are medically necessary.

(b) **LIMITS ON SERVICES WITHOUT PRIOR AUTHORIZATION.** A recipient may receive the following amounts of home care services during a calendar year:

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

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

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

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

(2) the home care services were provided on or after the date on which the

New language is indicated by underline, deletions by ~~strikeout~~.

recipient's eligibility began, but before the date on which the recipient was notified that the case was opened. Authorization will be considered if the request is submitted by the provider within 20 working days of the date the recipient was notified that the case was opened; or

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

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

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

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

(1) **HOME HEALTH SERVICES.** All home health services provided by a nurse or a home health aide that exceed the limits established in paragraph (b) must be prior authorized by the commissioner or the commissioner's designee. Prior authorization must be based on medical necessity and cost-effectiveness when compared with other care options.

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

New language is indicated by underline, deletions by ~~strikeout~~.

for a typical child of the same age. Based on medical necessity, the commissioner may authorize:

(A) up to two times the average number of direct care hours provided in nursing facilities for the recipient's comparable case mix level;

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

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

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

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

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

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

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

(A) daily tube feedings;

(B) daily parenteral therapy;

(C) wound or decubiti care;

New language is indicated by underline, deletions by ~~strikeout~~.

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

(E) catheterization;

(F) ostomy care; or

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

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

(A) self-injurious behavior;

(B) unusual or repetitive habits;

(C) withdrawal behavior;

(D) hurtful behavior to others;

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

(F) destruction of property; or

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

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

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

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

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

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

New language is indicated by underline, deletions by ~~strikeout~~.

missioner in obtaining this determination. Recipients who are eligible for the community alternative care program may not receive more hours of nursing under this section than would otherwise be authorized under section 256B.49.

**(4) VENTILATOR-DEPENDENT RECIPIENTS.** If the recipient is ventilator-dependent, the monthly medical assistance authorization for home care services shall not exceed what the commissioner would pay for care at the highest cost hospital designated as a long-term hospital under the Medicare program. For purposes of this clause, home care services means all services provided in the home that would be included in the payment for care at the long-term hospital. "Ventilator-dependent" means an individual who receives mechanical ventilation for life support at least six hours per day and is expected to be or has been dependent for at least 30 consecutive days.

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

**(h) APPROVAL OF HOME CARE SERVICES.** The commissioner or the commissioner's designee shall determine the medical necessity of home care services, the level of caregiver according to subdivision 2, and the institutional comparison according to this subdivision, and the amount, scope, and duration of home care services reimbursable by medical assistance, based on the assessment, the care plan, the recipient's age, the recipient's medical condition, and diagnosis or disability. The commissioner may publish additional criteria for determining medical necessity according to section 256B.04.

**(i) PRIOR AUTHORIZATION REQUESTS; TEMPORARY SERVICES.** The department has 30 days from receipt of the request to complete the prior authorization, during which time it may approve a temporary level of home care service. Authorization under this authority for a temporary level of home care services is limited to the time specified by the commissioner.

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

The commissioner may not authorize:

- (1) home care services that are the responsibility of the foster care provider under the terms of the foster care placement agreement and administrative rules;
- (2) personal care services when the foster care license holder is also the personal care provider or personal care assistant unless the recipient can direct the

New language is indicated by underline, deletions by ~~strikeout~~.

recipient's own care, or the recipient is referred to the commissioner by a regional treatment center preadmission evaluation team;

(3) personal care services when the responsible party is an employee of, or under contract with, or has any direct or indirect financial relationship with the personal care provider or personal care assistant, unless the recipient is referred to the commissioner by a regional treatment center preadmission evaluation team;

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

(5) home care services when combined with foster care payments, less the base rate, that exceed the total amount that public funds would pay for the recipient's care in a medical institution.

Sec. 51. Minnesota Statutes 1990, section 256B.064, is amended by adding a subdivision to read:

Subd. 1d. INVESTIGATIVE COSTS. The commissioner may seek recovery of investigative costs from any vendor of medical care or services who willfully submits a claim for reimbursement for services the vendor knows, or reasonably should have known, is a false representation and which results in the payment of public funds for which the vendor is ineligible. Billing errors deemed to be unintentional, but which result in overcharges, shall not be considered for investigative cost recoupment.

Sec. 52. Minnesota Statutes 1991 Supplement, section 256B.064, subdivision 2, is amended to read:

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

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

(1) each disputed item, the reason for the dispute, and an estimate of the dollar amount involved for each disputed item;

New language is indicated by underline, deletions by ~~strikeout~~.

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

Sec. 53. Minnesota Statutes 1991 Supplement, section 256B.0911, subdivision 3, is amended to read:

Subd. 3. **PERSONS RESPONSIBLE FOR CONDUCTING THE PRE-ADMISSION SCREENING.** (a) A local screening team shall be established by the county agency and the county public health nursing service of the local board of health. Each local screening team shall be composed of a social worker and a public health nurse from their respective county agencies. If a county does not have a public health nurse available, it may request approval from the commissioner to assign a county registered nurse with at least one year experience in home care to participate on the team. Two or more counties may collaborate to establish a joint local screening team or teams.

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

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

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

Sec. 54. Minnesota Statutes 1991 Supplement, section 256B.0911, is amended by adding a subdivision to read:

Subd. 9. **CASE MIX ASSESSMENTS.** The nursing facility is authorized to conduct all case mix assessments for persons who have been admitted to the facility prior to a preadmission screening. The county shall conduct the case mix assessment for all persons screened within ten working days prior to admission. The county retains the responsibility of distributing appropriate case mix forms to the nursing facility.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 55. Minnesota Statutes 1991 Supplement, section 256B.0911, subdivision 8, is amended to read:

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

Sec. 56. Minnesota Statutes 1991 Supplement, section 256B.0913, subdivision 4, is amended to read:

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

(1) the person has been screened by the county screening team or, if previously screened and served under the alternative care program, assessed by the local county social worker or public health nurse;

(2) the person is age 65 or older;

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

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

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

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

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

(c) The statewide average payment for nursing facility care is the statewide average monthly nursing facility rate in effect on July 1 of the fiscal year in which the cost is incurred, less the statewide average monthly income of nursing

New language is indicated by underline, deletions by ~~strikeout~~.



facility residents who are age 65 or older and who are medical assistance recipients in the month of March of the previous fiscal year. This monthly limit does not prohibit the 180-day eligible client from paying for additional services needed or desired.

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

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

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

Sec. 57. Minnesota Statutes 1991 Supplement, section 256B.0913, subdivision 5, is amended to read:

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

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

New language is indicated by underline, deletions by ~~strikeout~~.

(9) care-related supplies and equipment.

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

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

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

(e) The adult foster care rate shall be considered a difficulty of care payment and shall not include room and board. The 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.

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

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

(h) For the purposes of this section, "assisted living" refers to supportive services provided by a single vendor to two or more alternative care ~~grant~~ clients who reside in the same apartment building of ten or more units. These services may include care coordination, the costs of preparing one or more nutritionally balanced meals per day, general oversight, and other supportive services which the vendor is licensed to provide according to sections 144A.43 to 144A.49, and which would otherwise be available to individual alternative care ~~grant~~ clients. Reimbursement from the lead agency shall be made to the vendor as a monthly capitated rate negotiated with the county agency. The capitated rate shall not exceed the state share of the greater of either the statewide or any of the geographic groups' weighted average monthly medical assistance nursing facility

New language is indicated by underline, deletions by ~~strikeout~~.

payment rate of the case mix resident class to which the 180-day eligible client would be assigned under Minnesota Rules, parts 9549.0050 to 9549.0059. The capitated rate may not cover rent and direct food costs. A person's eligibility to reside in the building must not be contingent on the person's acceptance or use of the assisted living services. Assisted living services as defined in this section shall not be authorized in boarding and lodging establishments licensed according to sections 157.01 to 157.031.

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

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

Sec. 58. Minnesota Statutes 1991 Supplement, section 256B.0913, subdivision 8, is amended to read:

Subd. 8. **REQUIREMENTS FOR INDIVIDUAL CARE PLAN.** The case manager shall implement the plan of care for each 180-day eligible client and ensure that a client's service needs and eligibility are reassessed at least every six months. The plan shall include any services prescribed by the individual's attending physician as necessary to allow the individual to remain in a community setting. In developing the individual's care plan, the case manager should include the use of volunteers from families and neighbors, religious organizations, social clubs, and civic and service organizations to support the formal home care services. The county shall be held harmless for damages or injuries sustained through the use of volunteers under this subdivision including workers' compensation liability. The lead agency shall provide documentation to the commissioner verifying that the individual's alternative care is not available at that time through any other public assistance or service program. The lead

New language is indicated by underline, deletions by ~~strikeout~~.

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

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

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

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

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

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

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

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

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

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

New language is indicated by underline, deletions by ~~strikeout~~.

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

Sec. 60. Minnesota Statutes 1991 Supplement, section 256B.0913, subdivision 12, is amended to read:

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

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

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

(3) when the alternative care client's total assets are greater than \$6,000, the fee is 25 percent of the cost of alternative care services.

For married persons, total assets are defined as the total marital assets less the estimated community spouse asset allowance, under section 256B.059, if applicable.

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

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

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

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

(2) a person is applying for medical assistance;

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

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

New language is indicated by underline, deletions by ~~strikeout~~.

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

(6) a person is an adult foster care resident for whom alternative care funds are being used to meet a portion of 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.

~~(e) The commissioner shall establish a premium schedule ranging from \$25 to \$75 per month based on the client's income and assets. The schedule is not subject to chapter 14, but the commissioner shall publish the schedule and any later changes in the State Register and allow a period of 20 working days from the publication date for interested persons to comment before adopting the schedule in final form. (d) The commissioner shall begin to adopt emergency or permanent rules governing client premiums within 30 days after July 1, 1991, including criteria for determining when services to a client must be terminated due to failure to pay a premium. Emergency or permanent rules governing client premiums supersede any schedule adopted under the exemption from chapter 14 in this section.~~

Sec. 61. Minnesota Statutes 1991 Supplement, section 256B.0913, subdivision 14, is amended to read:

Subd. 14. **REIMBURSEMENT AND RATE ADJUSTMENTS.** (a) Reimbursement for expenditures for the alternative care services shall be through the invoice processing procedures of the department's Medicaid management information system (MMIS), only with the approval of the client's case manager. To receive reimbursement, the county or vendor must submit invoices within 120 days following the month of service. The county agency and its vendors under contract shall not be reimbursed for services which exceed the county allocation.

(b) If a county collects less than 50 percent of the client premiums due under subdivision 12, the commissioner may withhold up to three percent of the county's final alternative care program allocation determined under subdivisions 10 and 11.

New language is indicated by underline, deletions by ~~strikeout~~.

(c) Beginning July 1, 1991, the state will reimburse counties, up to the limits of state appropriations, 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 would be eligible for medical assistance within 180 days of admission to a nursing home.

(d) ~~Annually on July 1, the commissioner must adjust the rates allowed for alternative care services by~~ For fiscal years beginning on or after July 1, 1993, the commissioner of human services shall not provide automatic annual inflation adjustments for alternative care 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 alternative care 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.

Sec. 62. Minnesota Statutes 1991 Supplement, section 256B.0915, subdivision 3, is amended to read:

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

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

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

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

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

New language is indicated by underline, deletions by ~~strikeout~~.

(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.

(c) Annually on July 1, the commissioner must adjust the rates allowed for services by 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 waived 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 waived 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.

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.

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

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

Sec. 63. Minnesota Statutes 1991 Supplement, section 256B.0915, is amended by adding a subdivision to read:

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

Sec. 64. Minnesota Statutes 1991 Supplement, section 256B.0915, is amended by adding a subdivision to read:

New language is indicated by underline, deletions by ~~strikeout~~.



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

Sec. 65. Minnesota Statutes 1991 Supplement, section 256B.0917, subdivision 2, is amended to read:

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

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

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

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

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

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

(c) The board; or boards ~~under a joint powers agreement;~~ shall designate a public agency to serve as the lead agency. The lead agency receives and manages the project funds from the state and is responsible for the implementation of the local strategy. If selected as a project, the local long-term care coordinating team must semiannually evaluate the progress of the local long-term care strategy in meeting state measures of performance and results as established in the contract.

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

New language is indicated by underline, deletions by ~~strikeout~~.

order to develop and offer a variety of cost-effective services to the elderly and their caregivers.

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

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

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

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

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

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

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

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

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

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

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

(i) Each county or group of counties shall be measured by the utilization rate of nursing homes and boarding care homes and by the projected growth rate of its population aged 85 and over between 1990 and 2000. For the purposes of this section, "utilization rate" means the proportion of the seniors aged 65 or

New language is indicated by underline, deletions by ~~strikeout~~.

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

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

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

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

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

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

Sec. 66. Minnesota Statutes 1991 Supplement, section 256B.0917, subdivision 3, is amended to read:

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

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

New language is indicated by underline, deletions by ~~strikeout~~.

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

(3) the development of additional services such as adult family foster care homes; family adult day care; assisted living projects and congregate housing service projects in apartment buildings; expanded home care services for evenings and weekends; expanded volunteer services; and caregiver support and respite care projects; and

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

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

Sec. 67. Minnesota Statutes 1991 Supplement, section 256B.0917, subdivision 4, is amended to read:

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

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

New language is indicated by underline, deletions by ~~strikeout~~.

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

(2) The level I screenings and the level II assessments required by Public Law Numbers 100-203 and 101-508 (OBRA) for persons with mental illness, mental retardation, or related conditions, are reimbursed through administrative funds with 75 percent federal funds and 25 percent state funds, as allowed by federal regulations and established in the contract; and

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

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

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

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

(f) All persons entering a Medicaid certified nursing home or boarding care home must be screened through an assessment process, although the decision to conduct a face-to-face interview is left with the county social worker and the county public health nurse. All applicants to nursing homes must be screened and approved for admission by the county social worker or the county public health nurse named by the lead agency or the agencies which are under contract with the lead agency to manage the access, screening, and assessment functions. For applicants who have a diagnosis of mental illness, mental retardation, or a

New language is indicated by underline, deletions by ~~strikeout~~.

related condition, and are subject to the provisions of Public Law Numbers 100-203 and 101-508, their admission must be approved by the local mental health authority or the local developmental disabilities case manager.

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

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

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

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

Sec. 68. Minnesota Statutes 1991 Supplement, section 256B.0917, subdivision 5, is amended to read:

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

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

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

(i) additional adult family foster care homes;

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

New language is indicated by underline, deletions by ~~strikeout~~.

- (iii) an assisted living program in an apartment;
  - (iv) a congregate housing service project in a subsidized housing project; and
  - (v) the expansion of evening and weekend coverage of home care services as deemed necessary by the local strategic plan;
- (3) small incentive grants to new adult family care providers for renovations needed to meet licensure requirements;
- (4) a plan to apply for a congregate housing service project as identified in section 256.9751, authorized by the Minnesota board on aging, to the extent that funds are available;
- (5) a plan to divert new applicants to nursing homes and to relocate a targeted population from nursing homes, using the individual's own resources or the funding available for services;
- (6) one or more caregiver support and respite care projects, as described in subdivision 6; and
- (7) one or more living-at-home/block nurse projects, as described in subdivisions 7 to 10.

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

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

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 69. Minnesota Statutes 1991 Supplement, section 256B.0917, subdivision 6, is amended to read:

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

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

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

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

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

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

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

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

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

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

(3) provide training for caregivers and ensure that support groups are available in the community.

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

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

New language is indicated by underline, deletions by ~~strikeout~~.



which services will be developed, stating the intention of the county or counties to coordinate their activities with the agency requesting a grant.

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

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

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

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

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

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

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

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

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

(2) recruit and train volunteer providers;

(3) train caregivers;

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

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

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

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

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

The advisory committee shall consist of not more than 16 people appointed by the commissioner and shall be comprised of representatives from public and private agencies; service providers and consumers from all areas of the state.

New language is indicated by underline, deletions by ~~strikeout~~.

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

Sec. 70. Minnesota Statutes 1991 Supplement, section 256B.0917, subdivision 7, is amended to read:

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

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

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

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

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

Sec. 71. Minnesota Statutes 1991 Supplement, section 256B.0917, subdivision 8, is amended to read:

Subd. 8. **LIVING-AT-HOME/BLOCK NURSE PROGRAM GRANT.** (a) The commissioner, in cooperation with the organization awarded the contract under subdivision 7, shall develop and administer a grant program to establish ~~seven to ten~~ or expand up to 15 community-based organizations that will implement living-at-home/block nurse programs that are designed to enable senior citizens to live as independently as possible in their homes and in their communities. ~~Up to~~ At least seven of the programs must be in counties outside the seven-county metropolitan area. The living-at-home/block nurse program funds shall be available to the four to six SAIL projects established under this section. Nonprofit organizations and units of local government are eligible to apply for grants to establish the community organizations that will implement living-at-home/block nurse programs. In awarding grants, the commissioner shall give preference to nonprofit organizations and units of local government from communities that:

(1) have high nursing home occupancy rates;

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

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

New language is indicated by underline, deletions by ~~strikeout~~.

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

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

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

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

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

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

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

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

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

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

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

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

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

New language is indicated by underline, deletions by ~~strikeout~~.

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

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

Sec. 72. Minnesota Statutes 1991 Supplement, section 256B.0917, subdivision 11, is amended to read:

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

Sec. 73. Minnesota Statutes 1991 Supplement, section 256B.0919, subdivision 1, is amended to read:

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

Sec. 74. Minnesota Statutes 1991 Supplement, section 256B.092, subdivision 4, is amended to read:

Subd. 4. HOME- AND COMMUNITY-BASED SERVICES FOR PERSONS WITH MENTAL RETARDATION OR RELATED CONDITIONS. The commissioner shall make payments to approved vendors participating in the medical assistance program to pay costs of providing home- and community-based services, including case management service activities provided as an approved home- and community-based service, to medical assistance eligible persons with mental retardation or related conditions who have been screened under subdivision 7 and according to federal requirements. Federal requirements include those services and limitations included in the federally approved application for home- and community-based services for persons with mental retardation or related conditions and subsequent amendments. Payments for home- and community-based services shall not exceed amounts authorized by the county of financial responsibility. For specifically identified former residents of regional treatment centers and nursing facilities, the commissioner shall be responsible for authorizing payments and payment limits under the appropriate home- and community-based service program. Payment is available under this subdivision only for persons who, if not provided these services, would require the level of care provided in an intermediate care facility for persons with mental retardation or related conditions.

Sec. 75. [256B.0928] STATEWIDE CAREGIVER SUPPORT AND RESPITE CARE PROJECT.

New language is indicated by underline, deletions by ~~strikeout~~.

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

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

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

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

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

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

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

(b) An advisory committee shall be appointed to advise the caregiver support project on all aspects of the project including the development and implementation of the caregiver support and respite care services projects. The advisory committee shall review procedures and provide advice and technical assistance to the caregiver support project regarding the grant program established under section 256B.0917 and others established for caregivers.

The advisory committee shall consist of not more than 16 people appointed by the commissioner and shall be comprised of representatives from public and private agencies, service providers, and consumers from all areas of the state.

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

Sec. 76. Minnesota Statutes 1991 Supplement, section 256B.093, subdivision 1, is amended to read:

Subdivision 1. **STATE COORDINATOR TRAUMATIC BRAIN INJURY CASE MANAGEMENT.** The commissioner of human services shall designate a full-time position within the long-term care management division of the department of human services to supervise and coordinate services for persons with traumatic brain injuries.

An advisory committee shall be established to provide recommendations to the department regarding program and service needs of persons with traumatic brain injuries:

(1) establish and maintain statewide traumatic brain injury case management;

(2) designate a full-time position to supervise and coordinate services for persons with traumatic brain injuries;

New language is indicated by underline, deletions by ~~strikeout~~.

(3) contract with qualified agencies or employ staff to provide statewide administrative case management; and

(4) establish an advisory committee to provide recommendations in a report to the department regarding program and service needs of persons with traumatic brain injuries.

Sec. 77. Minnesota Statutes 1991 Supplement, section 256B.093, subdivision 2, is amended to read:

Subd. 2. **ELIGIBILITY.** ~~The commissioner may contract with qualified agencies or employ staff to provide statewide case management services to medical assistance recipients who are at risk of institutionalization and who~~ Persons eligible for traumatic brain injury administrative case management must be eligible medical assistance recipients who have traumatic brain injury and:

(1) are at risk of institutionalization; or

(2) exceed limits established by the commissioner in section 256B.0627, subdivision 5, paragraph (b).

Sec. 78. Minnesota Statutes 1991 Supplement, section 256B.093, subdivision 3, is amended to read:

Subd. 3. **CASE MANAGEMENT DUTIES.** The department shall fund case management under this subdivision using medical assistance administrative funds. Case management duties include:

(1) assessing the person's individual needs for services required to prevent institutionalization;

(2) ensuring that a care plan that addresses the person's needs is developed, implemented, and monitored on an ongoing basis by the appropriate agency or individual;

(3) assisting the person in obtaining services necessary to allow the person to remain in the community;

(4) coordinating home care services with other medical assistance services under section 256B.0625;

(5) ensuring appropriate, accessible, and cost-effective medical assistance services;

(6) recommending to the commissioner the approval or denial of the use of medical assistance funds to pay for home care services when home care services exceed thresholds established by the commissioner under ~~Minnesota Rules, parts 9505.0170 to 9505.0475~~ section 256B.0627;

(7) assisting the person with problems related to the provision of home care services;

New language is indicated by underline, deletions by ~~strikeout~~.

- (8) ensuring the quality of home care services;
- (9) reassessing the person's need for and level of home care services at a frequency determined by the commissioner; and
- (10) recommending to the commissioner the approval or denial of medical assistance funds to pay for out-of-state placements for traumatic brain injury services and in-state traumatic brain injury services provided by designated Medicare long-term care hospitals.

Sec. 79. Minnesota Statutes 1990, section 256B.14, subdivision 2, is amended to read:

Subd. 2. **ACTIONS TO OBTAIN PAYMENT.** The state agency shall promulgate rules to determine the ability of responsible relatives to contribute partial or complete payment or repayment of medical assistance furnished to recipients for whom they are responsible. These rules shall not require payment or repayment when payment would cause undue hardship to the responsible relative or that relative's immediate family. These rules shall be consistent with the requirements of section 252.27 for parents of children whose eligibility for medical assistance was determined without deeming of the parents' resources and income. ~~For parents of children receiving services under a federal medical assistance waiver or under section 134 of the Tax Equity and Fiscal Responsibility Act of 1982, United States Code, title 42, section 1396a(e)(3), while living in their natural home, including in-home family support services, respite care, homemaker services, and minor adaptations to the home, the state agency shall take into account the room, board, and services provided by the parents in determining the parental contribution to the cost of care.~~ The county agency shall give the responsible relative notice of the amount of the payment or repayment. If the state agency or county agency finds that notice of the payment obligation was given to the responsible relative, but that the relative failed or refused to pay, a cause of action exists against the responsible relative for that portion of medical assistance granted after notice was given to the responsible relative, which the relative was determined to be able to pay.

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

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

Sec. 80. Minnesota Statutes 1990, section 256B.15, subdivision 1, is amended to read:

Subdivision 1. **DEFINITION.** For purposes of this section, "medical assis-

New language is indicated by underline, deletions by ~~strikeout~~.

tance" includes the medical assistance program under chapter 256B and the general assistance medical care program under chapter 256D, but does not include the alternative care program under chapter 256B.

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

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

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

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

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

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

Sec. 81. Minnesota Statutes 1990, 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 or during a period of institutionalization described in subdivision 1, 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.

New language is indicated by underline, deletions by ~~strikeout~~.



Sec. 82. Minnesota Statutes 1990, section 256B.19, is amended by adding a subdivision to read:

Subd. 1b. PORTION OF NONFEDERAL SHARE TO BE PAID BY GOVERNMENT HOSPITALS. 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 costs attributable to them. For purposes of this subdivision, "designated governmental unit" means Hennepin county, and the public corporation known as Ramsey Health Care, Inc. which is operated under the authority of chapter 246A. For purposes of this subdivision, "public hospital" means the Hennepin County Medical Center, and the St. Paul-Ramsey Medical Center.

Each of the governmental units designated in this subdivision shall on a monthly basis transfer an amount equal to two percent of the public hospital's net patient revenues, excluding net Medicare revenue to the state Medicaid agency. These sums shall be part of the local 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. 83. Minnesota Statutes 1990, section 256B.36, is amended to read:

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

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

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

New language is indicated by underline, deletions by ~~strikeout~~.

The maximum special personal allowance from earnings is the sum of items (1) to (5).

Sec. 84. Minnesota Statutes 1990, section 256B.41, subdivision 1, is amended to read:

Subdivision 1. **AUTHORITY.** The commissioner shall establish, by rule, procedures for determining rates for care of residents of nursing homes which qualify as vendors of medical assistance, and for implementing the provisions of this section and sections 256B.421, 256B.431, 256B.432, 256B.433, 256B.47, 256B.48, 256B.50, and 256B.502. 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 nursing homes and shall specify the costs that are allowable for establishing payment rates through medical assistance.

Sec. 85. Minnesota Statutes 1990, section 256B.41, subdivision 2, is amended to read:

Subd. 2. **FEDERAL REQUIREMENTS.** If any provision of this section and sections 256B.421, 256B.431, 256B.432, 256B.433, 256B.47, 256B.48, 256B.50, and 256B.502, is determined by the United States government to be in conflict with existing or future requirements of the United States government with respect to federal participation in medical assistance, the federal requirements shall prevail.

Sec. 86. Minnesota Statutes 1990, section 256B.421, subdivision 1, is amended to read:

Subdivision 1. **SCOPE.** For the purposes of this section and sections 256B.41, 256B.411, 256B.431, 256B.432, 256B.433, 256B.47, 256B.48, 256B.50, and 256B.502, the following terms and phrases shall have the meaning given to them.

Sec. 87. Minnesota Statutes 1990, section 256B.421, is amended by adding a subdivision to read:

Subd. 16. **CAPITAL ASSETS.** “Capital assets,” for purposes of section 256B.431, subdivisions 13 to 21, means a nursing facility’s buildings, attached fixtures, land improvements, leasehold improvements, and all additions to or replacements of those assets used directly for resident care.

Sec. 88. Minnesota Statutes 1990, section 256B.431, subdivision 2i, is amended to read:

Subd. 2i. **OPERATING COSTS AFTER JULY 1, 1988.** (a) **OTHER OPERATING COST LIMITS.** For the rate year beginning July 1, 1988, the commissioner shall increase the other operating cost limits established in Minnesota Rules, part 9549.0055, subpart 2, item E, to 110 percent of the median of the array of allowable historical other operating cost per diems and index these

New language is indicated by underline, deletions by ~~strikeout~~.

limits as in Minnesota Rules, part 9549.0056, subparts 3 and 4. The limits must be established in accordance with subdivision 2b, paragraph (d). For rate years beginning on or after July 1, 1989, the adjusted other operating cost limits must be indexed as in Minnesota Rules, part 9549.0056, subparts 3 and 4. For the rate period beginning October 1, 1992, and for rate years beginning after June 30, 1993, the amount of the surcharge under section 256.9657, subdivision 1, shall be included in the plant operations and maintenance operating cost category. The surcharge shall be an allowable cost for the purpose of establishing the payment rate.

(b) **CARE-RELATED OPERATING COST LIMITS.** For the rate year beginning July 1, 1988, the commissioner shall increase the care-related operating cost limits established in Minnesota Rules, part 9549.0055, subpart 2, items A and B, to 125 percent of the median of the array of the allowable historical case mix operating cost standardized per diems and the allowable historical other care-related operating cost per diems and index those limits as in Minnesota Rules, part 9549.0056, subparts 1 and 2. The limits must be established in accordance with subdivision 2b, paragraph (d). For rate years beginning on or after July 1, 1989, the adjusted care-related limits must be indexed as in Minnesota Rules, part 9549.0056, subparts 1 and 2.

(c) **SALARY ADJUSTMENT PER DIEM.** For the rate period October 1, 1988, to June 30, 1990, the commissioner shall add the appropriate salary adjustment per diem calculated in clause (1) or (2) to the total operating cost payment rate of each nursing home. The salary adjustment per diem for each nursing home must be determined as follows:

(1) for each nursing home that reports salaries for registered nurses, licensed practical nurses, and aides, orderlies and attendants separately, the commissioner shall determine the salary adjustment per diem by multiplying the total salaries, payroll taxes, and fringe benefits allowed in each operating cost category, except management fees and administrator and central office salaries and the related payroll taxes and fringe benefits, by 3.5 percent and then dividing the resulting amount by the nursing home's actual resident days; and

(2) for each nursing home that does not report salaries for registered nurses, licensed practical nurses, aides, orderlies, and attendants separately, the salary adjustment per diem is the weighted average salary adjustment per diem increase determined under clause (1).

Each nursing home that receives a salary adjustment per diem pursuant to this subdivision shall adjust nursing home employee salaries by a minimum of the amount determined in clause (1) or (2). The commissioner shall review allowable salary costs, including payroll taxes and fringe benefits, for the reporting year ending September 30, 1989, to determine whether or not each nursing home complied with this requirement. The commissioner shall report the extent to which each nursing home complied with the legislative commission on long-term care by August 1, 1990.

New language is indicated by underline, deletions by ~~strikeout~~.

(d) **NEW BASE YEAR.** The commissioner shall establish new base years for both the reporting year ending September 30, 1989, and the reporting year ending September 30, 1990. In establishing new base years, the commissioner must take into account:

- (1) statutory changes made in geographic groups;
- (2) redefinitions of cost categories; and
- (3) reclassification, pass-through, or exemption of certain costs such as public employee retirement act contributions.

(e) NEW BASE YEAR. The commissioner shall establish a new base year for the reporting years ending September 30, 1991, and September 30, 1992. In establishing a new base year, the commissioner must take into account:

- (1) statutory changes made in geographic groups;
- (2) redefinitions of cost categories; and
- (3) reclassification, pass-through, or exemption of certain costs.

Sec. 89. Minnesota Statutes 1991 Supplement, section 256B.431, subdivision 2l, is amended to read:

Subd. 2l. **INFLATION ADJUSTMENTS AFTER JULY 1, 1990.** (a) For rate years beginning on or after July 1, 1990, the forecasted composite price index for a nursing home's allowable operating cost per diems shall be determined using Data Resources, Inc., forecast for change in the Nursing Home Market Basket. The commissioner of human services shall use the indices as forecasted by Data Resources, Inc., in the fourth quarter of the calendar year preceding the rate year.

(b) For rate years beginning on or after July 1, 1992, the commissioner shall index the prior year's operating cost limits by the percentage change in the Data Resources, Inc., nursing home market basket between the midpoint of the current reporting year and the midpoint of the previous reporting year. The commissioner shall use the indices as forecasted by Data Resources, Inc., in the fourth quarter of the calendar year preceding the rate year.

(c) For rate years beginning on or after July 1, 1993, the commissioner shall not provide automatic annual inflation adjustments for nursing homes. The commissioner of finance shall include annual adjustments in operating costs for nursing homes as a budget change request in each biennial detailed expenditure budget submitted to the legislature under section 16A.11.

Sec. 90. Minnesota Statutes 1991 Supplement, section 256B.431, subdivision 2m, is amended to read:

Subd. 2m. **NURSING HOMES SPECIALIZING IN THE TREATMENT**

New language is indicated by underline, deletions by ~~strikeout~~.

**OF HUNTINGTON'S DISEASE.** For the rate year beginning July 1, 1991, and for the rate period from July 1, 1992, to December 31, 1992, the commissioner shall reimburse nursing homes that specialize in the treatment of Huntington's disease using the case mix per diem limit that applies to nursing homes licensed under the department of human services' rules governing residential services for physically handicapped persons to establish rates for up to 35 persons with Huntington's disease. For purposes of this subdivision, a nursing home specializes in the treatment of Huntington's disease if more than 25 percent of its licensed capacity is used for residents with Huntington's disease.

Sec. 91. Minnesota Statutes 1991 Supplement, section 256B.431, subdivision 2o, is amended to read:

Subd. 2o. **SPECIAL PAYMENT RATES FOR SHORT-STAY NURSING HOMES.** Notwithstanding contrary provisions of this section and rules adopted by the commissioner, for the rate ~~year~~ years beginning on or after July 1, 1992, a nursing home whose average length of stay for the rate year beginning July 1, 1991, is less than 180 days must be reimbursed for allowable costs up to 125 percent of the total care-related limit and 105 percent of the other-operating-cost limit for hospital-attached nursing facilities. The nursing home continues to receive this rate even if the home's average length of stay is more than 180 days in the rate ~~year~~ years subsequent to the rate year beginning July 1, 1991.

Sec. 92. Minnesota Statutes 1991 Supplement, section 256B.431, subdivision 3f, is amended to read:

Subd. 3f. **PROPERTY COSTS AFTER JULY 1, 1988.** (a) **INVESTMENT PER BED LIMIT.** For the rate year beginning July 1, 1988, the replacement-cost-new per bed limit must be \$32,571 per licensed bed in multiple bedrooms and \$48,857 per licensed bed in a single bedroom. For the rate year beginning July 1, 1989, the replacement-cost-new per bed limit for a single bedroom must be \$49,907 adjusted according to Minnesota Rules, part 9549.0060, subpart 4, item A, subitem (1). Beginning January 1, 1990, the replacement-cost-new per bed limits must be adjusted annually as specified in Minnesota Rules, part 9549.0060, subpart 4, item A, subitem (1). Beginning January 1, 1991, the replacement-cost-new per bed limits will be adjusted annually as specified in Minnesota Rules, part 9549.0060, subpart 4, item A, subitem (1), except that the index utilized will be the Bureau of the Census: Composite fixed-weighted price index as published in the Survey of Current Business.

(b) **RENTAL FACTOR.** For the rate year beginning July 1, 1988, the commissioner shall increase the rental factor as established in Minnesota Rules, part 9549.0060, subpart 8, item A, by 6.2 percent rounded to the nearest 100th percent for the purpose of reimbursing nursing homes for soft costs and entrepreneurial profits not included in the cost valuation services used by the state's contracted appraisers. For rate years beginning on or after July 1, 1989, the rental factor is the amount determined under this paragraph for the rate year beginning July 1, 1988.

New language is indicated by underline, deletions by ~~strikeout~~.

(c) **OCCUPANCY FACTOR.** For rate years beginning on or after July 1, 1988, in order to determine property-related payment rates under Minnesota Rules, part 9549.0060, for all nursing homes except those whose average length of stay in a skilled level of care within a nursing home is 180 days or less, the commissioner shall use 95 percent of capacity days. For a nursing home whose average length of stay in a skilled level of care within a nursing home is 180 days or less, the commissioner shall use the greater of resident days or 80 percent of capacity days but in no event shall the divisor exceed 95 percent of capacity days.

(d) **EQUIPMENT ALLOWANCE.** For rate years beginning on July 1, 1988, and July 1, 1989, the commissioner shall add ten cents per resident per day to each nursing home's property-related payment rate. The ten-cent property-related payment rate increase is not cumulative from rate year to rate year. For the rate year beginning July 1, 1990, the commissioner shall increase each nursing home's equipment allowance as established in Minnesota Rules, part 9549.0060, subpart 10, by ten cents per resident per day. For rate years beginning on or after July 1, 1991, the adjusted equipment allowance must be adjusted annually for inflation as in Minnesota Rules, part 9549.0060, subpart 10, item E. For the rate period beginning October 1, 1992, the equipment allowance for each nursing facility shall be increased by 28 percent. For rate years beginning after June 30, 1993, the allowance must be adjusted annually for inflation.

(e) **POST CHAPTER 199 RELATED-ORGANIZATION DEBTS AND INTEREST EXPENSE.** For rate years beginning on or after July 1, 1990, Minnesota Rules, part 9549.0060, subpart 5, item E, shall not apply to outstanding related organization debt incurred prior to May 23, 1983, provided that the debt was an allowable debt under Minnesota Rules, parts 9510.0010 to 9510.0480, the debt is subject to repayment through annual principal payments, and the nursing home demonstrates to the commissioner's satisfaction that the interest rate on the debt was less than market interest rates for similar arms-length transactions at the time the debt was incurred. If the debt was incurred due to a sale between family members, the nursing home must also demonstrate that the seller no longer participates in the management or operation of the nursing home. Debts meeting the conditions of this paragraph are subject to all other provisions of Minnesota Rules, parts 9549.0010 to 9549.0080.

(f) **BUILDING CAPITAL ALLOWANCE FOR NURSING HOMES WITH OPERATING LEASES.** For rate years beginning on or after July 1, 1990, a nursing home with operating lease costs incurred for the nursing home's buildings shall receive its building capital allowance computed in accordance with Minnesota Rules, part 9549.0060, subpart 8.

Sec. 93. Minnesota Statutes 1990, section 256B.431, subdivision 4, is amended to read:

Subd. 4. **SPECIAL RATES.** (a) For the rate years beginning July 1, 1983,

New language is indicated by underline, deletions by ~~strikeout~~.

and July 1, 1984, a newly constructed nursing home or one with a capacity increase of 50 percent or more may, upon written application to the commissioner, receive an interim payment rate for reimbursement for property-related costs calculated pursuant to the statutes and rules in effect on May 1, 1983, and for operating costs negotiated by the commissioner based upon the 60th percentile established for the appropriate group under subdivision 2a, to be effective from the first day a medical assistance recipient resides in the home or for the added beds. For newly constructed nursing homes which are not included in the calculation of the 60th percentile for any group, subdivision 2f, the commissioner shall establish by rule procedures for determining interim operating cost payment rates and interim property-related cost payment rates. The interim payment rate shall not be in effect for more than 17 months. The commissioner shall establish, by emergency and permanent rules, procedures for determining the interim rate and for making a retroactive cost settle-up after the first year of operation; the cost settled operating cost per diem shall not exceed 110 percent of the 60th percentile established for the appropriate group. Until procedures determining operating cost payment rates according to mix of resident needs are established, the commissioner shall establish by rule procedures for determining payment rates for nursing homes which provide care under a lesser care level than the level for which the nursing home is certified.

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

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

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

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

New language is indicated by underline, deletions by ~~strikeout~~.

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

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

(5) For fiscal years beginning on or after January 1, 1989, the facility's payment rate must be established using the following method: The commissioner shall divide the real estate taxes and special assessments payable as stated in the facility's current property tax statement by actual resident days to compute a real estate tax and special assessment per diem. Next, the prior year's payment rate less the real estate tax and special assessment per diem must be adjusted by the higher of (1) the percentage change in the consumer price index (CPI-U U.S. city average) as published by the Bureau of Labor Statistics between the previous two Septembers, new series index (1967-100), or (2) 2.5 percent, to determine an adjusted payment rate. The facility's payment rate is the adjusted payment rate plus the real estate tax and special assessment per diem.

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

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

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

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

New language is indicated by underline, deletions by ~~strikeout~~.



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

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

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

New language is indicated by underline, deletions by ~~strikeout~~.

conditions in section 256B.47, subdivision 2, and shall remain in effect until the receivership under section 144A.15 ends, or until another date the commissioner sets:

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

Sec. 94. Minnesota Statutes 1990, section 256B.431, is amended by adding a subdivision to read:

Subd. 9a. ONE-TIME ADJUSTMENT FOR 21-MONTH FACTOR. For the rate period beginning October 1, 1992, the 21-month inflation factor for operating costs shall be increased by seven-tenths of one percent.

Sec. 95. Minnesota Statutes 1990, section 256B.431, is amended by adding a subdivision to read:

Subd. 13. HOLD-HARMLESS PROPERTY-RELATED RATES. (a) Terms used in subdivisions 13 to 21 shall be as defined in Minnesota Rules, parts 9549.0010 to 9549.0080, and this section.

(b) Except as provided in this subdivision, for rate periods beginning on October 1, 1992, and for rate years beginning after June 30, 1993, the property-related rate for a nursing facility shall be the greater of \$4 or the property-related payment rate in effect on September 30, 1992. In addition, the incremental increase in the nursing facility's rental rate will be determined under Minnesota Rules, parts 9549.0010 to 9549.0080, and this section.

(c) Notwithstanding Minnesota Rules, part 9549.0060, subpart 13, item F, a nursing facility that has a sale permitted under subdivision 14 after June 30, 1992, shall receive the property-related payment rate in effect at the time of the sale or reorganization. For rate periods beginning after October 1, 1992, and for rate years beginning after June 30, 1993, a nursing facility shall receive, in addition to its property-related payment rate in effect at the time of the sale, the incremental increase allowed under subdivision 14.

Sec. 96. Minnesota Statutes 1990, section 256B.431, is amended by adding a subdivision to read:

Subd. 14. LIMITATIONS ON SALES OF NURSING FACILITIES. (a) For rate periods beginning on October 1, 1992, and for rate years beginning after June 30, 1993, a nursing facility's property-related payment rate as established under subdivision 13 shall be adjusted by either paragraph (b) or (c) for the sale of the nursing facility, including sales occurring after June 30, 1992, as provided in this subdivision.

New language is indicated by underline, deletions by ~~strikeout~~.

(b) If the nursing facility's property-related payment rate under subdivision 13 prior to sale is greater than the nursing facility's rental rate under Minnesota Rules, parts 9549.0010 to 9549.0080, and this section prior to sale, the nursing facility's property-related payment rate after sale shall be the greater of its property-related payment rate under subdivision 13 prior to sale or its rental rate under Minnesota Rules, parts 9549.0010 to 9549.0080, and this section calculated after sale.

(c) If the nursing facility's property-related payment rate under subdivision 13 prior to sale is equal to or less than the nursing facility's rental rate under Minnesota Rules, parts 9549.0010 to 9549.0080, and this section prior to sale, the nursing facility's property-related payment rate after sale shall be the nursing facility's property-related payment rate under subdivision 13 plus the difference between its rental rate calculated under Minnesota Rules, parts 9549.0010 to 9549.0080, and this section prior to sale and its rental rate calculated under Minnesota Rules, parts 9549.0010 to 9549.0080, and this section calculated after sale.

(d) For purposes of this subdivision, "sale" means the purchase of a nursing facility's capital assets with cash or debt. The term sale does not include a stock purchase of a nursing facility or any of the following transactions:

(1) a sale and leaseback to the same licensee that does not constitute a change in facility license;

(2) a transfer of an interest to a trust;

(3) gifts or other transfers for no consideration;

(4) a merger of two or more related organizations;

(5) a change in the legal form of doing business, other than a publicly held organization that becomes privately held or vice versa;

(6) the addition of a new partner, owner, or shareholder who owns less than 20 percent of the nursing home or the issuance of stock; and

(7) a sale, merger, reorganization, or any other transfer of interest between related organizations other than those permitted in this section.

(e) For purposes of this subdivision, "effective date of sale" means the later of either the date on which legal title to the capital assets is transferred or the date on which closing for the sale occurred.

(f) The effective day for the property-related payment rate determined under this subdivision shall be the first day of the month following the month in which the effective date of sale occurs or October 1, 1992, whichever is later, provided that the notice requirements under section 256B.47, subdivision 2, have been met.

New language is indicated by underline, deletions by ~~strikeout~~.

(g) Notwithstanding Minnesota Rules, part 9549.0060, subpart 5, item A, subitems (3) and (4), and subpart 7, items E and F, the commissioner shall limit the total allowable debt and related interest for sales occurring after June 30, 1992, to the sum of clauses (1) to (3):

(1) the historical cost of capital assets, as of the nursing facility's most recent previous effective date of sale or, if there has been no previous sale, the nursing facility's initial historical cost of constructing capital assets;

(2) the average annual capital asset additions after deduction for capital asset deletions, not including depreciations; and

(3) one-half of the allowed inflation on the nursing facility's capital assets. The commissioner shall compute the allowed inflation as described in paragraph (h).

(h) For purposes of computing the amount of allowed inflation, the commissioner must apply the following principles:

(1) the lesser of the Consumer Price Index for all urban consumers or the Dodge Construction Systems Costs for Nursing Homes for any time periods during which both are available must be used. If the Dodge Construction Systems Costs for Nursing Homes becomes unavailable, the commissioner shall substitute the index in section 256B.431, subdivision 3f, or such other index as the secretary of the health care financing administration may designate;

(2) the amount of allowed inflation to be applied to the capital assets in paragraph (g), clauses (1) and (2), must be computed separately;

(3) the amount of allowed inflation must be determined on an annual basis, prorated on a monthly basis for partial years and if the initial month of use is not determinable for a capital asset, then one-half of that calendar year shall be used for purposes of prorating;

(4) the amount of allowed inflation to be applied to the capital assets in paragraph (g), clauses (1) and (2), must not exceed 300 percent of the total capital assets in any one of those clauses; and

(5) the allowed inflation must be computed starting with the month following the nursing facility's most recent previous effective date of sale or, if there has been no previous sale, the month following the date of the nursing facility's initial occupancy, and ending with the month preceding the effective date of sale.

(i) If the historical cost of a capital asset is not readily available for the date of the nursing facility's most recent previous sale or if there has been no previous sale for the date of the nursing facility's initial occupancy, then the commissioner shall limit the total allowable debt and related interest after sale to the extent recognized by the Medicare intermediary after the sale. For a nursing facility that has no historical capital asset cost data available and does not have

New language is indicated by underline, deletions by ~~strikeout~~.

allowable debt and interest calculated by the Medicare intermediary, the commissioner shall use the historical cost of capital asset data from the point in time for which capital asset data is recorded in the nursing facility's audited financial statements.

(j) The limitations in this subdivision apply only to debt resulting from a sale of a nursing facility occurring after June 30, 1992, including debt assumed by the purchaser of the nursing facility.

Sec. 97. Minnesota Statutes 1990, section 256B.431, is amended by adding a subdivision 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).

(a) Notwithstanding Minnesota Rules, part 9549.0060, subpart 12, the costs of acquiring the following items, including cash payment for equity investment and principal and interest expense for debt financing, shall be reported in the capital repair and replacement cost category:

- (1) wall coverings;
- (2) paint;
- (3) floor coverings;
- (4) window coverings;
- (5) roof repair;
- (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) capitalized repair or replacement of capital assets not included in the equity incentive computations under subdivision 16.

(b) 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.

New language is indicated by underline, deletions by ~~strikeout~~.

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) 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) 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 subdivisions 16 or 17, as appropriate.

Sec. 98. Minnesota Statutes 1990, section 256B.431, is amended by adding a subdivision to read:

**Subd. 16. MAJOR ADDITIONS AND REPLACEMENTS; EQUITY INCENTIVE.** For rate years beginning after June 30, 1993, if a nursing facility acquires capital assets in connection with 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 those capital asset additions exceeds the lesser of \$150,000 or ten percent of the most recent appraised value, the nursing facility shall be eligible for an equity incentive payment rate as in paragraphs (a) to (d). This computation is separate from the determination of the nursing facility's rental rate. An equity incentive payment rate as computed under this subdivision is limited to one in a 12-month period.

(a) An eligible nursing facility shall receive an equity incentive payment rate equal to the allowable historical cost of the capital asset acquired, minus the allowable debt directly identified to that capital asset, multiplied by the equity incentive factor as described in paragraphs (b) and (c), and divided by the nursing facility's occupancy factor under subdivision 3f, paragraph (c). This amount shall be added to the nursing facility's total payment rate and shall be effective the same day as the incremental increase in paragraph (d) or subdivision 17. The allowable historical cost of the capital assets and the allowable debt shall be determined as provided in Minnesota Rules, parts 9549.0010 to 9549.0080, and this section.

(b) The equity incentive factor shall be determined under clauses (1) to (4):

New language is indicated by underline, deletions by ~~strikeout~~.

(1) divide the initial allowable debt in paragraph (a) by the initial historical cost of the capital asset additions referred to in paragraph (a), then cube the quotient,

(2) subtract the amount calculated in clause (1) from the number one,

(3) determine the difference between the rental factor and the lesser of two percentage points above the posted yield for standard conventional fixed rate mortgages of the Federal Home Loan Mortgage Corporation as published in the Wall Street Journal and in effect on the first day of the month the debt or cost is incurred, or 16 percent,

(4) multiply the amount calculated in clause (2) by the amount calculated in clause (3).

(c) The equity incentive payment rate shall be limited to the term of the allowable debt in paragraph (a), not greater than 20 years nor less than ten years. If no debt is incurred in acquiring the capital asset, the equity incentive payment rate shall be paid for ten years. The sale of a nursing facility under subdivision 14 shall terminate application of the equity incentive payment rate effective on the date provided in subdivision 4, paragraph (f), for the sale.

(d) A nursing facility with an addition to or a renovation of its buildings, attached fixtures, or land improvements meeting the criteria in this subdivision and not receiving the property-related payment rate adjustment in subdivision 17, shall receive the incremental increase in the nursing facility's rental rate as determined under Minnesota Rules, parts 9549.0010 to 9549.0080, and this section. The incremental increase shall be added to the nursing facility's property-related payment rate. The effective date of this incremental increase shall be the first day of the month following the month in which the addition or replacement is completed.

Sec. 99. Minnesota Statutes 1990, section 256B.431, is amended by adding a subdivision 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 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, subpart 5, item A, subitems (1) and (3), and subpart 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

New language is indicated by underline, deletions by ~~strikeout~~.

(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.

Sec. 100. Minnesota Statutes 1990, section 256B.431, is amended by adding a subdivision to read:

**Subd. 18. APPRAISALS; UPDATING APPRAISALS, ADDITIONS, AND REPLACEMENTS.** (a) Notwithstanding Minnesota Rules, part 9549.0060, subparts 1 to 3, the appraised value, routine updating of the appraised value, and special reappraisals are subject to this subdivision.

(1) For rate years beginning after June 30, 1993, the commissioner shall permit a nursing facility to appeal its appraisal according to the procedures provided in section 256B.50, subdivision 2. Any reappraisals conducted in connection with that appeal must utilize the comparative-unit method as described in the Marshall Valuation Service published by Marshall-Swift in establishing the nursing facility's depreciated replacement cost.

New language is indicated by underline, deletions by ~~strikeout~~.



Nursing facilities electing to appeal their appraised value shall file written notice of appeal with the commissioner of human services before December 30, 1992. The cost of the reappraisal, if any, shall be considered an allowable cost under Minnesota Rules, parts 9549.0040, subpart 9, and 9549.0061.

(2) The redetermination of a nursing facility's appraised value under this paragraph shall have no impact on the rental payment rate determined under subdivision 13 but shall only be used for calculating the nursing facility's rental rate under Minnesota Rules, parts 9549.0010 to 9549.0080, and this section for rate years beginning after June 30, 1993.

(3) For all rate years after June 30, 1993, the commissioner shall no longer conduct any appraisals under Minnesota Rules, part 9549.0060, for the purpose of determining property-related payment rates.

(b) Notwithstanding Minnesota Rules, part 9549.0060, subpart 2, for rate years beginning after June 30, 1993, the commissioner shall routinely update the appraised value of each nursing facility by adding the cost of capital asset acquisitions to its allowable appraised value.

The commissioner shall also annually index each nursing facility's allowable appraised value by the inflation index referenced in subdivision 3f, paragraph (a), for the purpose of computing the nursing facility's annual rental rate. In annually adjusting the nursing facility's appraised value, the commissioner must not include the historical cost of capital assets acquired during the reporting year in the nursing facility's appraised value.

In addition, the nursing facility's appraised value must be reduced by the historical cost of capital asset disposals or applicable credits such as public grants and insurance proceeds. Capital asset additions and disposals must be reported on the nursing facility's annual cost report in the reporting year of acquisition or disposal. The incremental increase in the nursing facility's rental rate resulting from this annual adjustment as determined under Minnesota Rules, parts 9549.0010 to 9549.0080, and this section shall be added to the nursing facility's property-related payment rate for the rate year following the reporting year.

Sec. 101. Minnesota Statutes 1990, section 256B.431, is amended by adding a subdivision to read:

Subd. 19. REFINANCING INCENTIVE. (a) A nursing facility that refinances debt after May 30, 1992, in order to save in interest expense payments as determined in clauses (1) to (5) may be eligible for the refinancing incentive under this subdivision. To be eligible for the refinancing incentive, a nursing facility must notify the commissioner in writing of such a refinancing within 60 days following the date on which the refinancing occurs. If the nursing facility meets these conditions, the commissioner shall determine the refinancing incentive as in clauses (1) to (5).

New language is indicated by underline, deletions by ~~strikeout~~.

(1) Compute the aggregate amount of interest expense, including amortized issuance and financing costs, remaining on the debt to be refinanced, and divide this amount by the number of years remaining for the term of that debt.

(2) Compute the aggregate amount of interest expense, including amortized issuance and financing costs, for the new debt, and divide this amount by the number of years for the term of that debt.

(3) Subtract the amount in clause (2) from the amount in clause (1), and multiply the amount, if positive, by .5.

(4) The amount in clause (3) shall be divided by the nursing facility's occupancy factor under subdivision 3f, paragraph (c).

(5) The per diem amount in clause (4) shall be deducted from the nursing facility's property-related payment rate for three full rate years following the rate year in which the refinancing occurs. For the fourth full rate year following the rate year in which the refinancing occurs, and each rate year thereafter, the per diem amount in clause (4) shall again be deducted from the nursing facility's property-related payment rate.

(b) An increase in a nursing facility's debt for costs in subdivision 17, paragraph (b), clause (2), including the cost of refinancing the issuance or financing costs of the debt refinanced resulting from refinancing that meets the conditions of this section shall be allowed, notwithstanding Minnesota Rules, part 9549.0060, subpart 5, item A, subitem (6).

(c) The proceeds of refinancing may not be used for the purpose of withdrawing equity from the nursing facility.

(d) Sale of a nursing facility under subdivision 14 shall terminate the payment of the incentive payments under this subdivision effective the date provided in subdivision 14, paragraph (f), for the sale, and the full amount of the refinancing incentive in paragraph (a) shall be implemented.

(e) If a nursing facility eligible under this subdivision fails to notify the commissioner as required, the commissioner shall determine the full amount of the refinancing incentive in paragraph (a), and shall deduct one-half that amount from the nursing facility's property-related payment rate effective the first day of the month following the month in which the refinancing is completed. For the next three full rate years, the commissioner shall deduct one-half the amount in paragraph (a), clause (5). The remaining per diem amount shall be deducted in each rate year thereafter.

(f) The commissioner shall reestablish the nursing facility's rental rate under Minnesota Rules, parts 9549.0010 to 9549.0080, and this section following the refinancing using the new debt and interest expense information for the purpose of measuring future incremental rental increases.

Sec. 102. Minnesota Statutes 1990, section 256B.431, is amended by adding a subdivision to read:

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 20. SPECIAL PROPERTY RATE SETTING. For rate periods beginning on October 1, 1992, and for rate years beginning after June 30, 1993, the property-related payment rate for a nursing facility approved for total replacement under the moratorium exception process in section 144A.073 through an addition to another nursing facility shall have its property-related rate under subdivision 13 recalculated using the greater of actual resident days or 80 percent of capacity days. This rate shall apply until the nursing facility is replaced or until the moratorium exception authority lapses, whichever is sooner.

Sec. 103. Minnesota Statutes 1990, section 256B.431, is amended by adding a subdivision to read:

Subd. 21. INDEXING THRESHHOLDS. Beginning January 1, 1993, and each January 1 thereafter, the commissioner shall annually update the dollar thresholds in subdivision 15, paragraph (d), subdivisions 16 and 17, and in section 144A.071, subdivision 2, and subdivision 3, clauses (h) and (p), by the inflation index referenced in subdivision 3f, paragraph (a).

Sec. 104. Minnesota Statutes 1990, section 256B.432, is amended by adding a subdivision to read:

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

Sec. 105. Minnesota Statutes 1990, section 256B.433, subdivision 1, is amended to read:

**Subdivision 1. SETTING PAYMENT; MONITORING USE OF THERAPY SERVICES.** The commissioner shall promulgate rules pursuant to the administrative procedure act to set the amount and method of payment for ancillary materials and services provided to recipients residing in nursing homes. Payment for materials and services may be made to either the nursing home in the operating cost per diem, to the vendor of ancillary services pursuant to Minnesota Rules, parts ~~9500.0750 to 9500.1080~~ 9505.0170 to 9505.0475 or to a nursing home pursuant to Minnesota Rules, parts ~~9500.0750 to 9500.1080~~ 9505.0170 to 9505.0475. Payment for the same or similar service to a recipient shall not be made to both the nursing home and the vendor. The commissioner shall ensure the avoidance of double payments through audits and adjustments to the nursing home's annual cost report as required by section 256B.47, and that charges and arrangements for ancillary materials and services are cost effective and as would be incurred by a prudent and cost-conscious buyer. Therapy services provided to a recipient must be medically necessary and appropriate to the medical condition of the recipient. If the vendor, nursing home, or ordering physician cannot provide adequate medical necessity justification, as determined

New language is indicated by underline, deletions by ~~strikeout~~.

by the commissioner, in consultation with an advisory task force that meets the requirements of section 256B.064, subdivision 1a, the commissioner may recover or disallow the payment for the services and may require prior authorization for therapy services as a condition of payment or may impose administrative sanctions to limit the vendor, nursing home, or ordering physician's participation in the medical assistance program. If the provider number of a nursing home is used to bill services provided by a vendor of therapy services that is not related to the nursing home by ownership, control, affiliation, or employment status, no withholding of payment shall be imposed against the nursing home for services not medically necessary except for funds due the unrelated vendor of therapy services as provided in subdivision 3, paragraph (c). For the purpose of this subdivision, no monetary recovery may be imposed against the nursing home for funds paid to the unrelated vendor of therapy services as provided in subdivision 3, paragraph (c), for services not medically necessary. For purposes of this section and section 256B.47, therapy includes physical therapy, occupational therapy, speech therapy, audiology, and mental health services that are covered services according to Minnesota Rules, parts 9505.0170 to 9505.0475, and that could be reimbursed separately from the nursing home per diem.

Sec. 106. Minnesota Statutes 1990, section 256B.433, subdivision 2, is amended to read:

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

Sec. 107. Minnesota Statutes 1990, section 256B.433, subdivision 3, is amended to read:

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

New language is indicated by underline, deletions by ~~strikeout~~.

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

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

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

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

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

New language is indicated by underline, deletions by ~~strikeout~~.

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

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

Sec. 108. Minnesota Statutes 1990, section 256B.48, subdivision 1b, is amended to read:

Subd. 1b. **EXCEPTION.** Notwithstanding any agreement between a nursing home and the department of human services or the provisions of this section or section 256B.411, other than subdivision 1a, the commissioner may authorize continued medical assistance payments to a nursing home which ceased intake of medical assistance recipients prior to July 1, 1983, and which charges private paying residents rates that exceed those permitted by subdivision 1, paragraph (a), for (i) residents who resided in the nursing home before July 1, 1983, or (ii) residents for whom the commissioner or any predecessors of the commissioner granted a permanent individual waiver prior to October 1, 1983. Nursing homes seeking continued medical assistance payments under this subdivision shall make the reports required under subdivision 2, except that on or after December 31, 1985, the financial statements required need not be audited by or contain the opinion of a certified public accountant or licensed public accountant, but need only be reviewed by a certified public accountant or licensed public accountant. In the event that the state is determined by the federal government to be no longer eligible for the federal share of medical assistance payments made to a nursing home under this subdivision, the commissioner may cease medical assistance payments, under this subdivision, to that nursing home. Between October 1, 1992, and July 1, 1993, a facility governed by this subdivision may elect to resume full participation in the medical assistance program by agreeing to comply with all of the requirements of the medical assistance program, including the rate equalization law in subdivision 1, paragraph (a), and all other requirements established in law or rule, and to resume intake of new medical assistance recipients.

Sec. 109. Minnesota Statutes 1990, section 256B.48, subdivision 2, is amended to read:

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

(a) Provide the state agency with a copy of its audited financial statements. The audited financial statements must include a balance sheet, income state-

New language is indicated by underline, deletions by ~~strikeout~~.

ment, statement of the rate or rates charged to private paying residents, statement of retained earnings, statement of cash flows, notes to the financial statements, audited applicable supplemental information, and the certified public accountant's or licensed public accountant's opinion. The examination by the certified public accountant or licensed public accountant shall be conducted in accordance with generally accepted auditing standards as promulgated and adopted by the American Institute of Certified Public Accountants;

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

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

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

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

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

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

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

Both nursing facilities and intermediate care facilities for the mentally retarded must maintain statistical and accounting records in sufficient detail to support information contained in the facility's cost report for at least five years, including the year following the submission of the cost report. For computerized accounting systems, the records must include copies of electronically generated media such as magnetic discs and tapes.

Sec. 110. Minnesota Statutes 1990, section 256B.48, subdivision 3, is amended to read:

Subd. 3. **INCOMPLETE OR INACCURATE REPORTS.** The commissioner may reject any annual cost report filed by a nursing home pursuant to this chapter if the commissioner determines that the report or the information required in subdivision 2, clause (a) has been filed in a form that is incomplete

New language is indicated by underline, deletions by ~~strikeout~~.

or inaccurate. In the event that a report is rejected pursuant to this subdivision, the commissioner shall reduce the reimbursement rate to a nursing home to 80 percent of its most recently established rate until the information is completely and accurately filed. The reinstatement of the total reimbursement rate is retro-active.

Sec. 111. Minnesota Statutes 1990, section 256B.48, is amended by adding a subdivision to read:

Subd. 3a. AUDIT ADJUSTMENTS. If the commissioner requests supporting documentation during a field audit for an item of cost reported by a long-term care facility, and the long-term care facility's response does not adequately document the item of cost, the commissioner may make reasoned assumptions considered appropriate in the absence of the requested documentation to reasonably establish a payment rate rather than disallow the entire item of cost. This provision shall not diminish the long-term care facility's appeal rights.

Sec. 112. Minnesota Statutes 1990, section 256B.48, subdivision 4, is amended to read:

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

Sec. 113. Minnesota Statutes 1990, section 256B.48, is amended by adding a subdivision to read:

Subd. 9. MEDICAL ASSISTANCE PARTICIPATION FOR CERTAIN FACILITIES. An agreement entered into between a nursing facility and the commissioner of human services that limits the number of residents that will be reimbursed under the medical assistance program as a condition of allowing additional beds to be certified under section 144A.071, subdivision 3a, terminates effective October 1, 1992.

Sec. 114. Minnesota Statutes 1991 Supplement, section 256B.49, subdivision 4, is amended to read:

Subd. 4. INFLATION ADJUSTMENT. For the biennium ending June 30, 1993, the commissioner of human services shall not provide an annual inflation adjustment for home and community-based waived services, except as provided in section 256B.491, subdivision 3, and except that the commissioner shall provide an inflation adjustment for the community alternatives for disabled individuals (CADI) and community alternative care (CAC) waived services programs for the fiscal year beginning July 1, 1991. For fiscal years beginning after June 30, 1993, the commissioner of human services shall not

New language is indicated by underline, deletions by ~~strikeout~~.



provide automatic annual inflation adjustments for home- and community-based waived 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 each home- and community-based waived service program.

Sec. 115. Minnesota Statutes 1990, section 256B.495, subdivision 1, is amended to read:

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

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

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

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

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

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

New language is indicated by underline, deletions by ~~strikeout~~.

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

Sec. 116. Minnesota Statutes 1990, section 256B.495, is amended by adding a subdivision to read:

**Subd. 1a. RECEIVERSHIP PAYMENT RATE ADJUSTMENT.** Upon receiving a recommendation from the commissioner of health for a review of rates under section 144A.154, the commissioner may grant an adjustment to the nursing home's payment rate. The commissioner shall review the recommendation of the commissioner of health, together with the nursing home's cost report to determine whether or not the deficiency or need can be corrected or met by reallocating nursing home staff, costs, revenues, or other resources including any investments, efficiency incentives, or allowances. If the commissioner determines that the deficiency cannot be corrected or the need cannot be met, the commissioner shall determine the payment rate adjustment by dividing the additional annual costs established during the commissioner's review by the nursing home's actual resident days from the most recent desk-audited cost report.

Sec. 117. Minnesota Statutes 1990, section 256B.495, subdivision 2, is amended to read:

**Subd. 2. DEDUCTION OF ADDITIONAL RECEIVERSHIP FEE PAYMENTS UPON TERMINATION OF RECEIVERSHIP.** If the commissioner has established a receivership fee per diem for a ~~long-term care~~ nursing facility in receivership under subdivision 1 or a payment rate adjustment under subdivision 1a, the commissioner must deduct ~~the~~ these receivership fee payments according to paragraphs (a) to (c).

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

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

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

New language is indicated by underline, deletions by ~~strikeout~~.

applies whether or not there is a sale or transfer of the nursing facility, unless the provisions of subdivision 5 apply.

Sec. 118. Minnesota Statutes 1990, section 256B.495, is amended by adding a subdivision to read:

**Subd. 4. DOWNSIZING AND CLOSING NURSING FACILITIES.** (a) If the nursing facility is subject to a downsizing to closure process during the period of receivership, the commissioner may reestablish the nursing facility's payment rate. The payment rate shall be established based on the nursing facility's budgeted operating costs, the receivership property related costs, and the management fee costs for the receivership period divided by the facility's estimated resident days for the same period. The commissioner of health and the commissioner shall make every effort to first facilitate the transfer of private paying residents to alternate service sites prior to the effective date of the payment rate. The cost limits and the case mix provisions in the rate setting system shall not apply during the portion of the receivership period over which the nursing facility downsizes to closure.

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

Sec. 119. Minnesota Statutes 1990, section 256B.495, is amended by adding a subdivision to read:

**Subd. 5. SALE OR TRANSFER OF A NURSING FACILITY IN RECEIVERSHIP AFTER CLOSURE.** (a) Upon the subsequent sale or transfer of a nursing facility in receivership, the commissioner must recover any amounts paid through payment rate adjustments under subdivision 4 which exceed the normal cost of operating the nursing facility. Examples of costs in excess of the normal cost of operating the nursing facility include the managing agent's fee, directly identifiable costs of the managing agent, bonuses paid to employees for their continued employment during the downsizing to closure of the nursing facility, prereceivership expenditures paid by the receiver, additional professional services such as accountants, psychologists, and dietitians, and other similar costs incurred by the receiver to complete receivership. The buyer or transferee shall repay this amount to the commissioner within 60 days after the commissioner notifies the buyer or transferee of the obligation to repay. The buyer or transferee must also repay the private-pay resident the amount the private-pay resident paid through payment rate adjustment.

(b) If a nursing facility with payment rates subject to subdivision 4, paragraph (a), is later sold while the nursing facility is in receivership, the payment rates in effect prior to the receivership shall be the new owner's payment rates. Those payment rates shall continue to be in effect until the rate year following the reporting period ending on September 30 for the new owner. The reporting period shall, whenever possible, be at least five consecutive months. If the reporting period is less than five months but more than three months, the nurs-

New language is indicated by underline, deletions by ~~strikeout~~.

ing facility's resident days for the last two months of the reporting period must be annualized over the reporting period for the purpose of computing the payment rate for the rate year following the reporting period.

Sec. 120. Minnesota Statutes 1990, section 256B.50, subdivision 1b, is amended to read:

Subd. 1b. **FILING AN APPEAL.** To appeal, the provider shall file with the commissioner a written notice of appeal; the appeal must be postmarked or received by the commissioner within 60 days of the date the determination of the payment rate was mailed. The notice of appeal must specify each disputed item; the reason for the dispute; the total dollar amount in dispute for each separate disallowance, allocation, or adjustment of each cost item or part of a cost item; the computation that the provider believes is correct; the authority in statute or rule upon which the provider relies for each disputed item; the name and address of the person or firm with whom contacts may be made regarding the appeal; and other information required by the commissioner. The commissioner shall review an appeal by a nursing facility, if the appeal was sent by certified mail and postmarked prior to August 1, 1991, and would have been received by the commissioner within the 60-day deadline if it had not been delayed due to an error by the postal service.

Sec. 121. Minnesota Statutes 1990, section 256B.50, subdivision 2, is amended to read:

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

(b) A nursing home which has filed an appeal request prior to the effective date of Laws 1987, chapter 403, concerning the appraised value of its real estate

New language is indicated by underline, deletions by ~~strikeout~~.

as established by an appraisal conducted before July 1, 1986, must submit to the commissioner the information described under paragraph (a) within 60 days of the effective date of Laws 1987, chapter 403, in order to preserve the appeal.

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

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

Sec. 122. Minnesota Statutes 1990, 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

New language is indicated by underline, deletions by ~~strikeout~~.

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. 123. Minnesota Statutes 1991 Supplement, section 256B.74, subdivision 1, is amended to read:

Subdivision 1. **HOSPITAL REIMBURSEMENT.** (a) ~~Effective for admissions occurring on or after July 1, 1991, the commissioner shall make an indigent care payment to Minnesota and local trade area hospitals except facilities of the federal Indian Health Service and regional treatment centers; in addition to all other payment to hospitals for inpatient services. The indigent care payment shall be ten percent of the amount of medical assistance payments issued to that provider for inpatient services in a given calendar quarter or month, excluding indigent care payments paid under this section; divided by the number of related admissions; or patient days if applicable; and multiplying the result by 111 percent. The indigent care payment is added to each admission; or patient day if applicable; occurring (1) in the second calendar quarter beginning after the quarter on which the September 15, 1991, indigent care payment amount is based and (2) in the month beginning six months after the month on which the subsequent monthly indigent care payment amount is based. Medicare cross-overs are excluded from indigent care payments and from the payments and admissions on which the indigent care payment is based. The commissioner may issue indigent care payments as disproportionate population adjustments for eligible hospitals.~~

(b) Effective for services rendered on or after July 1, 1991, the commissioner shall reimburse outpatient hospital facility fees at 80 percent of calendar year 1990 submitted charges, not to exceed the Medicare upper payment limit. Services excepted from this payment methodology are emergency room facility fees, clinic facility fees, and those services for which there is a federal maximum allowable payment.

Sec. 124. Minnesota Statutes 1991 Supplement, section 256B.74, subdivision 3, is amended to read:

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 3. **NURSING FACILITY REIMBURSEMENT.** For rate years beginning on or after July 1, 1991, the commissioner shall reimburse nursing facilities participating in the medical assistance program as follows:

(1) a capital allowance of \$1.44 per resident day shall be paid. For a licensed provider with an operating lease on the nursing facility, the capital equipment allowance shall not be the property of the lessor but shall be the property of the licensed provider for the duration of the operating lease or any renewal or extension of the operating lease; and

(2) the maximum efficiency incentive per diem payment established annually under section 256B.431, subdivision 2b, paragraph (d), shall be increased to \$2.10 effective July 1, 1991, and \$2.20 effective July 1, 1992, and shall be indexed for inflation annually beginning July 1, 1993, using Data Resources, Inc., forecast for change in the nursing home market basket.

Sec. 125. Minnesota Statutes 1990, section 256D.02, is amended by adding a subdivision to read:

Subd. 18. GROUP HEALTH PLAN. "Group health plan" means any plan of, or contributed to by, an employer, including a self-insured plan, which provides health care directly or otherwise to the employer's employees, former employees, or the families of the employees or former employees, and includes continuation coverage pursuant to title XXII of the Public Health Service Act, section 4980B of the Internal Revenue Code of 1986, or title VI of the Employee Retirement Income Security Act of 1974.

Sec. 126. Minnesota Statutes 1990, section 256D.02, is amended by adding a subdivision to read:

Subd. 19. COST-EFFECTIVE. "Cost-effective" means that the amount paid by the state for premiums, coinsurance, deductibles, other cost-sharing obligations under a health insurance plan, and other administrative costs is likely to be less than the amount paid for an equivalent set of services by general assistance medical care.

Sec. 127. Minnesota Statutes 1991 Supplement, section 256D.03, subdivision 3, is amended to read:

Subd. 3. **GENERAL ASSISTANCE MEDICAL CARE; ELIGIBILITY.** (a) General assistance medical care may be paid for any person ~~who is age 18 or older and~~ who is not eligible for medical assistance under chapter 256B, including eligibility for medical assistance based on a spend-down of excess income according to section 256B.056, subdivision 5, and:

(1) who is receiving assistance under section 256D.05 or 256D.051; or

(2)(i) who is a resident of Minnesota; and whose equity in assets is not in excess of \$1,000 per assistance unit. Exempt assets, the reduction of excess assets, and the waiver of excess assets must conform to the medical assistance program in chapter 256B, with the following exception: the maximum amount

New language is indicated by underline, deletions by ~~strikeout~~.

of undistributed funds in a trust that could be distributed to or on behalf of the beneficiary by the trustee, assuming the full exercise of the trustee's discretion under the terms of the trust, must be applied toward the asset maximum; and

(ii) who has countable income not in excess of the assistance standards established in section 256B.056, subdivision 4, or whose excess income is spent down pursuant to section 256B.056, subdivision 5, using a six-month budget period, except that a one-month budget period must be used for recipients residing in a long-term care facility. The method for calculating earned income disregards and deductions for a person who resides with a dependent child under age 21 shall be as specified in section 256.74, subdivision 1. However, if a disregard of \$30 and one-third of the remainder described in section 256.74, subdivision 1, clause (4), has been applied to the wage earner's income, the disregard shall not be applied again until the wage earner's income has not been considered in an eligibility determination for general assistance, general assistance medical care, medical assistance, or aid to families with dependent children for 12 consecutive months. The earned income and work expense deductions for a person who does not reside with a dependent child under age 21 shall be the same as the method used to determine eligibility for a person under section 256D.06, subdivision 1, except the disregard of the first \$50 of earned income is not allowed; or

(3) who would be eligible for medical assistance except that the person resides in a facility that is determined by the commissioner or the federal health care financing administration to be an institution for mental diseases.

(b) Eligibility is available for the month of application, and for three months prior to application if the person was eligible in those prior months. A redetermination of eligibility must occur every 12 months.

(c) General assistance medical care is not available for a person in a correctional facility unless the person is detained by law for less than one year in a county correctional or detention facility as a person accused or convicted of a crime, or admitted as an inpatient to a hospital on a criminal hold order, and the person is a recipient of general assistance medical care at the time the person is detained by law or admitted on a criminal hold order and as long as the person continues to meet other eligibility requirements of this subdivision.

(d) General assistance medical care is not available for applicants or recipients who do not cooperate with the county agency to meet the requirements of medical assistance.

(e) In determining the amount of assets of an individual, there shall be included any asset or interest in an asset, including an asset excluded under paragraph (a), that was given away, sold, or disposed of for less than fair market value within the 30 months preceding application for general assistance medical care or during the period of eligibility. Any transfer described in this paragraph shall be presumed to have been for the purpose of establishing eligibility for general assistance medical care, unless the individual furnishes convincing evidence

New language is indicated by underline, deletions by ~~strikeout~~.



to establish that the transaction was exclusively for another purpose. For purposes of this paragraph, the value of the asset or interest shall be the fair market value at the time it was given away, sold, or disposed of, less the amount of compensation received. For any uncompensated transfer, the number of months of ineligibility, including partial months, shall be calculated by dividing the uncompensated transfer amount by the average monthly per person payment made by the medical assistance program to skilled nursing facilities for the previous calendar year. The individual shall remain ineligible until this fixed period has expired. The period of ineligibility may exceed 30 months, and a reapplication for benefits after 30 months from the date of the transfer shall not result in eligibility unless and until the period of ineligibility has expired. The period of ineligibility begins in the month the transfer was reported to the county agency, or if the transfer was not reported, the month in which the county agency discovered the transfer, whichever comes first. For applicants, the period of ineligibility begins on the date of the first approved application.

Sec. 128. Minnesota Statutes 1990, section 256D.03, is amended by adding a subdivision to read:

Subd. 3b. COOPERATION. 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. 129. **[501B.89] EXCULPATORY CLAUSES LINKED TO PUBLIC ASSISTANCE ELIGIBILITY UNENFORCEABLE.**

A provision in a trust created after July 1, 1992, purporting to make assets or income unavailable to a beneficiary if the beneficiary applies for or is determined eligible for public assistance or a public health care program is unenforceable.

Sec. 130. **HOSPITAL OUTPATIENT REIMBURSEMENT.**

For outpatient hospital facility fee payments for services rendered on or after October 1, 1992, the commissioner of human services shall pay the lower of (1) submitted charge, or (2) 32 percent above the rate in effect on June 30, 1992, except for those services for which there is a federal maximum allowable payment. Services for which there is a federal maximum allowable payment shall be paid at the lower of (1) submitted charge, or (2) the federal maximum allowable payment. Total aggregate payment for outpatient hospital facility fee services shall not exceed the Medicare upper limit. If it is determined that a provision of this section conflicts with existing or future requirements of the United States government with respect to federal financial participation in medical assistance, the federal requirements prevail. The commissioner may, in the

New language is indicated by underline, deletions by ~~strikeout~~.

aggregate, prospectively reduce payment rates to avoid reduced federal financial participation resulting from rates that are in excess of the Medicare upper limitations.

**Sec. 131. PHYSICIAN AND DENTAL REIMBURSEMENT.**

(a) The physician reimbursement increase provided in Minnesota Statutes, section 256B.74, subdivision 2, shall not be implemented. Effective for services rendered on or after October 1, 1992, the commissioner shall make payments for physician services as follows:

(1) payment for level one Health Care Finance Administration's common procedural coding system (HCPCS) codes titled "office and other outpatient services," "preventive medicine new and established patient," "delivery, antepartum, and postpartum care," "critical care," caesarean delivery and pharmacologic management provided to psychiatric patients, and HCPCS level three codes for enhanced services for prenatal high risk, shall be paid at the lower of (i) submitted charges, or (ii) 25 percent above the rate in effect on June 30, 1992. If the rate on any procedure code within these categories is different than the rate that would have been paid under the methodology in Minnesota Statutes, section 256B.74, subdivision 2, then the larger rate shall be paid;

(2) payments for all other services shall be paid at the lower of (i) submitted charges, or (ii) 15.4 percent above the rate in effect on June 30, 1992; and

(3) all physician rates shall be converted from the 50th percentile of 1982 to the 50th percentile of 1989, less the percent in aggregate necessary to equal the above increases.

(b) The dental reimbursement increase provided in Minnesota Statutes, section 256B.74, subdivision 5, shall not be implemented. Effective for services rendered on or after October 1, 1992, the commissioner shall make payments for dental services as follows:

(1) dental services shall be paid at the lower of (i) submitted charges, or (ii) 25 percent above the rate in effect on June 30, 1992; and

(2) dental rates shall be converted from the 50th percentile of 1982 to the 50th percentile of 1989, less the percent in aggregate necessary to equal the above increases.

**Sec. 132. HEALTH MAINTENANCE ORGANIZATION REIMBURSEMENT.**

Effective October 1, 1992, the commissioner shall adjust rates paid to a health maintenance organization under contract with the commissioner to reflect rate increases provided in Minnesota Statutes, section 256.969, subdivisions 1, 9, and 20, and sections 130 and 131. The adjustment to reflect increases under section 256.969, subdivision 9, must be made on a nondiscounted basis.

New language is indicated by underline, deletions by strikeout.

**Sec. 133. COMMISSIONER'S DUTIES.**

The commissioner of human services shall report to the legislature quarterly on the first day of January, April, July, and October regarding the provider surcharge program. The report shall include information on total billings, total collections, and administrative expenditures. The report on January 1, 1993, shall include information on all surcharge billings, collections, federal matching payments received, efforts to collect unpaid amounts, and administrative costs pertaining to the surcharge program in effect from July 1, 1991, to September 30, 1992. The surcharge shall be adjusted by inflationary and caseload changes in future bienniums to maintain reimbursement of health care providers in accordance with the requirements of the state and federal laws governing the medical assistance program, including the requirements of the Medicaid moratorium amendments of 1991 found in Public Law No. 102-234. The commissioner shall request the Minnesota congressional delegation to support a change in federal law that would prohibit federal disallowances for any state that makes a good faith effort to comply with Public Law Number 102-234 by enacting conforming legislation prior to the issuance of federal implementing regulations.

**Sec. 134. NURSING FACILITY PLANT STUDY.**

The commissioner of health shall study the physical condition of all Minnesota nursing facilities. This study shall include an individual assessment of each facility to be performed after September 30, 1993, by one of the architectural firms authorized by the commissioner of health to conduct assessments. To qualify for authorization, an architectural firm must have actual experience and prior involvement with nursing home construction or remodeling projects. The commissioner shall select one or more architectural firms to conduct the individual facility assessment. The cost of the assessment shall be paid by the nursing facility and shall be considered an allowable cost under Minnesota Rules, parts 9549.0040, subpart 9, and 9549.0061, for rate years beginning after June 30, 1995. Prior to beginning the individual assessments, the commissioner shall convene a special task force to develop recommendations for the commissioner concerning the standards and criteria by which the individual assessments must be conducted. The recommendation shall be provided to the commissioner by the task force by July 1, 1993. The criteria and standards for the study shall be established by the commissioner by September 30, 1993.

**Sec. 135. REPEALER; ASSET LIMITATIONS FOR VETERANS.**

Minnesota Statutes 1990, section 256B.056, subdivision 3a, is repealed.

Minnesota Statutes 1991 Supplement, sections 144A.071, subdivision 3a; 256.9657, subdivision 5; 256.969, subdivision 7; and 256B.74, subdivisions 8 and 9; and Laws 1991, chapter 292, article 4, section 77, excluding subdivision 9, are repealed effective October 1, 1992. Laws 1991, chapter 292, article 4, section 77, subdivision 9, is repealed the day following final enactment.

**Sec. 136. REVISOR'S INSTRUCTIONS.**

New language is indicated by underline, deletions by strikeout.

The revisor of statutes shall change the headnote in Minnesota Statutes, section 256B.495, from "LONG-TERM CARE RECEIVERSHIP FEES" to "NURSING FACILITY RECEIVERSHIP FEES." The revisor shall change the term "nursing home" and similar terms to "nursing facility" and similar terms in Minnesota Statutes, sections 256B.41, 256B.411, 256B.421, 256B.431, 256B.432, 256B.433, 256B.47, 256B.48, and 256B.50.

**Sec. 137. EFFECTIVE DATES.**

Section 39 is effective January 1, 1993.

Section 60 is effective the day following final enactment.

Sections 9, 15, 16, 18 to 21, 25, 27, 46, 82, 123, and 124 are effective October 1, 1992.

Section 42 is effective July 1, 1992, and applies to transfers or payments made on or after that date.

Section 130 is not effective in the event that the health right program is not enacted into law prior to October 1, 1992. In the event the health right program is not enacted into law prior to October 1, 1992, the percentage increase in reimbursement rates scheduled to be effective October 1, 1992, and provided for in section 131 shall not be effective, and the commissioner shall implement, effective October 1, 1992, the rate increases provided in Minnesota Statutes, section 256B.74, subdivision 2 and 5.

Section 28 is effective for admissions occurring on or after October 1, 1992.

The provisions of section 44 relating to prior authorization of drugs are effective for all drugs added to the list of drugs requiring prior authorization on or after July 1, 1992.

---

**ARTICLE 8**

**ASSISTANCE PAYMENTS**

**Section 1. [149.10] CREMATION; UNCLAIMED REMAINS.**

Any funeral director, or other person or establishment licensed under this chapter, may arrange for proper disposal after one year of cremains unclaimed by family or next of kin.

Sec. 2. Minnesota Statutes 1991 Supplement, section 256.031, subdivision 3, is amended to read:

Subd. 3. **AUTHORIZATION FOR THE DEMONSTRATION.** (a) The commissioner of human services, in consultation with the commissioners of

New language is indicated by underline, deletions by ~~strikeout~~.

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

(b) The field trials shall be conducted as permitted under federal law, for as many years as necessary, and in different geographical settings, to provide reliable instruction about the desirability of expanding the program statewide.

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

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

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

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

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 3. Minnesota Statutes 1991 Supplement, section 256.033, subdivision 1, is amended to read:

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

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

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

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

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

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

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

(c) Upon application, a family is initially eligible for the family investment plan if the family's gross income does not exceed the applicable transitional standard of assistance for that family as defined under section 256.032, subdivision 13, after deducting:

(1) 18 percent to cover taxes;

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

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

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

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

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

Sec. 4. Minnesota Statutes 1991 Supplement, section 256.033, subdivision 2, is amended to read:

New language is indicated by underline, deletions by ~~strikeout~~.

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

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

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

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

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

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

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

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

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

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

Sec. 5. Minnesota Statutes 1991 Supplement, section 256.033, subdivision 3, is amended to read:

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

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

New language is indicated by underline, deletions by ~~strikeout~~.

- (2) one burial plot for each family member;
- (3) one prepaid burial contract with an equity value of no more than \$1,500 for each member of the family;
- (4) licensed automobiles, trucks, or vans up to a total equity value of \$4,500;
- (5) personal property needed to produce earned income, including tools, implements, farm animals, and inventory;
- (6) the entire equity value of a motor vehicle determined to be necessary for the operation of a self-employment business; and
- (7) clothing, necessary household furniture, equipment, and other basic maintenance items essential for daily living.

Sec. 6. Minnesota Statutes 1991 Supplement, section 256.033, subdivision 5, is amended to read:

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

Sec. 7. Minnesota Statutes 1991 Supplement, section 256.034, subdivision 3, is amended to read:

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

(b) An applicant for, or a person receiving, assistance under the Minnesota family investment plan is considered to have assigned to the public agency responsible for child support enforcement at the time of application all rights to child support, health care benefits coverage, and maintenance from any other

New language is indicated by underline, deletions by ~~strikeout~~.



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

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

Sec. 8. Minnesota Statutes 1991 Supplement, section 256.035, subdivision 1, is amended to read:

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

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

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

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

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 9. Minnesota Statutes 1991 Supplement, section 256.0361, subdivision 2, is amended to read:

Subd. 2. **FINANCIAL REIMBURSEMENT.** (a) Up to the limit of the state appropriation, a county selected by the commissioner to serve as a field trial or a ~~control~~ comparison site for the Minnesota family investment plan shall be reimbursed by the state for the nonfederal share of administrative costs that were incurred during the development, implementation, and operation of the program and that exceed the administrative costs that would have been incurred in the absence of the program.

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

Sec. 10. **[256.046] ADMINISTRATIVE FRAUD DISQUALIFICATION HEARINGS.**

Subdivision 1. HEARING AUTHORITY. A local agency may initiate an administrative fraud disqualification hearing for individuals accused of wrongfully obtaining assistance or intentional program violations in the aid to families with dependent children or food stamp programs. The hearing is subject to the requirements of section 256.045 and the requirements in Code of Federal Regulations, title 7, section 273.16, for the food stamp program and title 45, section 235.112, for the aid to families with dependent children program.

Subd. 2. COMBINED HEARING. The referee may combine a fair hearing and administrative fraud disqualification hearing into a single hearing if the factual issues arise out of the same, or related, circumstances and the individual receives prior notice that the hearings will be combined. If the administrative fraud disqualification hearing and fair hearing are combined, the time frames for administrative fraud disqualification hearings set forth in Code of Federal Regulations, title 7, section 273.16, and title 45, section 235.112, apply. If the individual accused of wrongfully obtaining assistance is charged under section 256.98 for the same act or acts which are the subject of the hearing, the individual may request that the hearing be delayed until the criminal charge is decided by the court or withdrawn.

Sec. 11. Minnesota Statutes 1990, section 256.12, is amended by adding a subdivision to read:

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

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 12. Minnesota Statutes 1990, section 256.81, is amended to read:

**256.81 COUNTY AGENCY, DUTIES.**

(1) The county agency shall keep such records, accounts, and statistics in relation to aid to families with dependent children as the state agency shall prescribe.

(2) Each grant of aid to families with dependent children shall be paid to the recipient by the county agency unless paid by the state agency. Payment must be by check or electronic means except in those instances in which the county agency, subject to the rules of the state agency, determines that payments for care shall be made to an individual other than the parent or relative with whom the dependent child is living or to vendors of goods and services for the benefit of the child because such parent or relative is unable to properly manage the funds in the best interests and welfare of the child. At the request of a recipient, the state or county may make payments directly to vendors of goods and services, but only for goods and services appropriate to maintain the health and safety of the child, as determined by the county.

(3) The state or county may ask the recipient to give written consent authorizing the state or county to provide advance notice to a vendor before vendor payments of rent are reduced or terminated. Whenever possible under state and federal laws and regulations and if the recipient consents, the state or county shall provide at least 30 days notice to vendors before vendor payments of rent are reduced or terminated. If 30 days notice cannot be given, the state or county shall notify the vendor within three working days after the date the state or county becomes aware that vendor payments of rent will be reduced or terminated. When the county notifies a vendor that vendor payments of rent will be reduced or terminated, the county shall include in the notice that it is illegal to discriminate on the grounds that a person is receiving public assistance and the penalties for violation. The county shall also notify the recipient that it is illegal to discriminate on the grounds that a person is receiving public assistance and the procedures for filing a complaint. The county agency may develop procedures, including using the MAXIS system, to implement vendor notice and may charge vendors a fee not exceeding \$5 to cover notification costs.

(4) A vendor payment arrangement is not a guarantee that a vendor will be paid by the state or county for rent, goods, or services furnished to a recipient, and the state and county are not liable for any damages claimed by a vendor due to failure of the state or county to pay or to notify the vendor on behalf of a recipient, except under a specific written agreement between the state or county and the vendor or when the state or county has provided a voucher guaranteeing payment under certain conditions.

~~(5)~~ (5) The county shall be paid from state and federal funds available therefor for the amount provided for in section 256.82.

~~(4)~~ (6) Federal funds available for administrative purposes shall be distrib-

New language is indicated by underline, deletions by ~~strikeout~~.

uted between the state and the counties in the same proportion that expenditures were made except as provided for in section 256.017.

Sec. 13. Minnesota Statutes 1991 Supplement, section 256.935, subdivision 1, is amended to read:

Subdivision 1. On the death of any person receiving public assistance through aid to dependent children, the county agency shall pay an amount for funeral expenses not exceeding ~~\$370~~ and the amount paid for comparable services under section 261.035 plus actual cemetery charges. No funeral expenses shall be paid if the estate of the deceased is sufficient to pay such expenses or if the ~~children, or spouse, who were~~ was legally responsible for the support of the deceased while living, are ~~is~~ able to pay such expenses; provided, that the additional payment or donation of the cost of cemetery lot, interment, religious service, or for the transportation of the body into or out of the community in which the deceased resided, shall not limit payment by the county agency as herein authorized. Freedom of choice in the selection of a funeral director shall be granted to persons lawfully authorized to make arrangements for the burial of any such deceased recipient. In determining the sufficiency of such estate, due regard shall be had for the nature and marketability of the assets of the estate. The county agency may grant funeral expenses where the sale would cause undue loss to the estate. Any amount paid for funeral expenses shall be a prior claim against the estate, as provided in section 524.3-805, and any amount recovered shall be reimbursed to the agency which paid the expenses. The commissioner shall specify requirements for reports, including fiscal reports, according to section 256.01, subdivision 2, paragraph (17). The state share of county agency expenditures shall be 50 percent and the county share shall be 50 percent. Benefits shall be issued to recipients by the state or county and funded according to section 256.025, subdivision 3, subject to provisions of section 256.017.

Beginning July 1, 1991, the state will reimburse counties according to the payment schedule set forth in section 256.025 for the county share of county agency expenditures made under this subdivision from January 1, 1991, on. Payment under this subdivision is subject to the provisions of section 256.017.

Sec. 14. Minnesota Statutes 1991 Supplement, section 256.98, subdivision 8, is amended to read:

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

- (1) for six months after the first ~~conviction~~ offense;
- (2) for 12 months after the second ~~conviction~~ offense; and

New language is indicated by underline, deletions by ~~strikeout~~.

(3) permanently after the third or subsequent ~~conviction~~ offense.

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

Sec. 15. [256.985] ASSISTANCE TRANSACTION CARD FRAUD.

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

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

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

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

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

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

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

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

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

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

New language is indicated by underline, deletions by ~~strikeout~~.

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

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

Sec. 16. Minnesota Statutes 1990, section 256D.02, subdivision 8, is amended to read:

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

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

Sec. 17. Minnesota Statutes 1991 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:

- (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;

New language is indicated by underline, deletions by ~~strikeout~~.

(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; and

(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.

(b) 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) 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 pay-

New language is indicated by underline, deletions by ~~strikeout~~.

ment 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) 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 ser-

New language is indicated by underline, deletions by ~~strikeout~~.



vices 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) Any county may, from its own resources, provide medical payments for which state payments are not made.

(f) Chemical dependency services that are reimbursed under chapter 254B must not be reimbursed under general assistance medical care.

(g) 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) 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. 18. Minnesota Statutes 1991 Supplement, section 256D.05, subdivision 1, is amended to read:

Subdivision 1. **ELIGIBILITY.** (a) Each person or family whose income and resources are less than the standard of assistance established by the commissioner and who is a resident of the state shall be eligible for and entitled to general assistance if the person or family is:

New language is indicated by underline, deletions by ~~strikeout~~.

(1) a person who is suffering from a professionally certified permanent or temporary illness, injury, or incapacity which is expected to continue for more than 30 days and which prevents the person from obtaining or retaining employment;

(2) a person whose presence in the home on a substantially continuous basis is required because of the professionally certified illness, injury, incapacity, or the age of another member of the household;

(3) a person who has been placed in, and is residing in, a licensed or certified facility for purposes of physical or mental health or rehabilitation, or in an approved chemical dependency domiciliary facility, if the placement is based on illness or incapacity and is pursuant to a plan developed or approved by the county agency through its director or designated representative;

(4) a person who resides in a shelter facility described in subdivision 3;

(5) a person not described in clause (1) or (3) who is diagnosed by a licensed physician, licensed psychologist, or other qualified professional, as mentally retarded or mentally ill, and that condition prevents the person from obtaining or retaining employment;

(6) a person who has an application pending for, or is appealing termination of benefits from, the social security disability program or the program of supplemental security income for the aged, blind, and disabled, provided the person has a professionally certified permanent or temporary illness, injury, or incapacity which is expected to continue for more than 30 days and which prevents the person from obtaining or retaining employment;

(7) a person who is unable to obtain or retain employment because advanced age significantly affects the person's ability to seek or engage in substantial work;

(8) a person who, following participation in the work readiness program, completion of an individualized employability assessment by the work readiness service provider, and consultation between the county agency and the work readiness service provider, the county agency work readiness service provider determines is not employable. For purposes of this item, a person is considered employable if the county agency determines that there exist positions of employment in the local labor market, regardless of the current availability of openings for those positions, that the person is capable of performing. Eligibility under this category must be reassessed at least annually by the county agency and must be based upon the results of a new individualized employability assessment completed by the work readiness service provider. The recipient shall, if otherwise eligible, continue to receive general assistance while the annual individualized employability assessment is completed by the work readiness service provider, rather than receive work readiness payments under section 256D.051. Subsequent eligibility for general assistance is dependent upon the county agency determining, following consultation with the work readiness service pro-

New language is indicated by underline, deletions by ~~strikeout~~.

vider, that the person is not employable, or the person meeting the requirements of another general assistance category of eligibility;

(9) a person who is determined by the county agency, in accordance with emergency and permanent rules adopted by the commissioner, to be learning disabled, provided that if a rehabilitation plan for the person is developed or approved by the county agency, the person is following the plan;

(10) a child under the age of 18 who is not living with a parent, stepparent, or legal custodian, but only if: the child is legally emancipated or living with an adult with the consent of an agency acting as a legal custodian; the child is at least 16 years of age and the general assistance grant is approved by the director of the county agency or a designated representative as a component of a social services case plan for the child; or the child is living with an adult with the consent of the child's legal custodian and the county agency. For purposes of this clause, "legally emancipated" means a person under the age of 18 years who: (i) has been married; (ii) is on active duty in the uniformed services of the United States; (iii) has been emancipated by a court of competent jurisdiction; or (iv) is otherwise considered emancipated under Minnesota law, and for whom county social services has not determined that a social services case plan is necessary, for reasons other than that the child has failed or refuses to cooperate with the county agency in developing the plan;

(11) a woman in the last trimester of pregnancy who does not qualify for aid to families with dependent children. A woman who is in the last trimester of pregnancy who is currently receiving aid to families with dependent children may be granted emergency general assistance to meet emergency needs;

(12) a person who is eligible for displaced homemaker services, programs, or assistance under section 268.96, but only if that person is enrolled as a full-time student;

(13) a person who lives more than two hours round-trip traveling time from any potential suitable employment; ~~and~~

(14) a person who is involved with protective or court-ordered services that prevent the applicant or recipient from working at least four hours per day; ~~and~~

(15) a family as defined in section 256D.02, subdivision 5, which is ineligible for the aid to families with dependent children program. If all children in the family are six years of age or older, or if suitable child care is available for children under age six at no cost to the family, all the adult members of the family must register for and cooperate in the work readiness program under section 256D.051. If one or more of the children is under the age of six and suitable child care is not available without cost to the family, all the adult members except one adult member must register for and cooperate with the work readiness program under section 256D.051. The adult member who must participate in the work readiness program is the one having earned the greater of the incomes, excluding in-kind income, during the 24-month period immediately

New language is indicated by underline, deletions by ~~strikeout~~.

preceding the month of application for assistance. When there are no earnings or when earnings are identical for each adult, the applicant must designate the adult who must participate in work readiness and that designation must not be transferred or changed after program eligibility is determined as long as program eligibility continues without an interruption of 30 days or more. The adult members required to register for and cooperate with the work readiness program are not eligible for financial assistance under section 256D.051, except as provided in section 256D.051, subdivision 6, and shall be included in the general assistance grant. If an adult member fails to cooperate with requirements of section 256D.051, the local agency shall not take that member's needs into account in making the grant determination as provided by the termination provisions of section 256D.051, subdivision 1a, paragraph (b). The time limits of section 256D.051, subdivision 1, do not apply to persons eligible under this clause; or

(16) a person over age 18 whose primary language is not English and who is attending high school at least half time.

(b) Persons or families who are not state residents but who are otherwise eligible for general assistance may receive emergency general assistance to meet emergency needs.

(c) As a condition of eligibility under paragraph (a), clauses (1), (3), (5), (8), and (9), the recipient must complete an interim assistance agreement and must apply for other maintenance benefits as specified in section 256D.06, subdivision 5, and must comply with efforts to determine the recipient's eligibility for those other maintenance benefits.

(d) The burden of providing documentation for a county agency to use to verify eligibility for general assistance or work readiness is upon the applicant or recipient. The county agency shall use documents already in its possession to verify eligibility, and shall help the applicant or recipient obtain other existing verification necessary to determine eligibility which the applicant or recipient does not have and is unable to obtain.

Sec. 19. Minnesota Statutes 1991 Supplement, section 256D.051, subdivision 1, is amended to read:

Subdivision 1. **WORK REGISTRATION.** (a) Except as provided in this subdivision, persons who are residents of the state and whose income and resources are less than the standard of assistance established by the commissioner, but who are not categorically eligible under section 256D.05, subdivision 1, are eligible for the work readiness program for a maximum period of ~~five consecutive~~ six calendar months during any 12 consecutive calendar month period, subject to the provisions of paragraph (d), subdivision 3, and section 256D.052, subdivision 4. The person's ~~five-month~~ eligibility period begins on the first day of the calendar month following the date of application for assistance or following the date all eligibility factors are met, whichever is later; ~~and ends on the last day of the fifth consecutive calendar month, whether or not the person has received benefits for all five months. The person is not eligible to receive work readiness benefits during the seven calendar months immediately following the~~

New language is indicated by underline, deletions by ~~strikeout~~.

~~five-month eligibility period~~; however, the person may voluntarily continue to participate in work readiness services for up to three additional consecutive months immediately following the last month of benefits to complete the provisions of the person's employability development plan. After July 1, 1992, if orientation is available within three weeks after the date eligibility is determined, initial payment will not be made until the registrant attends orientation to the work readiness program. Prior to terminating work readiness assistance the county agency must provide advice on the person's eligibility for general assistance medical care and must assess the person's eligibility for general assistance under section 256D.05 to the extent possible, using information in the case file, and determine the person's eligibility for general assistance. A determination that the person is not eligible for general assistance must be stated in the notice of termination of work readiness benefits.

(b) Persons, families, and married couples who are not state residents but who are otherwise eligible for work readiness assistance may receive emergency assistance to meet emergency needs.

(c) Except for family members who must participate in work readiness services under the provisions of section 256D.05, subdivision 1, clause (14), any person who would be defined for purposes of the food stamp program as being enrolled at least half-time in an institution of higher education is ineligible for the work readiness program.

(d) Notwithstanding the provisions of sections 256.045 and 256D.10, during the pendency of an appeal, work readiness payments and services shall not continue to a person who appeals the termination of benefits due to exhaustion of the period of eligibility specified in paragraph (a) or (d).

Sec. 20. Minnesota Statutes 1990, section 256D.051, is amended by adding a subdivision to read:

Subd. 17. START WORK GRANTS. Within the limit of available appropriations, the county agency may make grants necessary to enable work readiness recipients to accept bona fide offers of employment. The grants may be made for costs directly related to starting employment, including transportation costs, clothing, tools and equipment, license or other fees, and relocation. Start work grants are available once in any 12-month period to a recipient. The commissioner shall allocate money appropriated for start work grants to counties based on each county's work readiness caseload in the 12 months ending in March for each following state fiscal year and may reallocate any unspent amounts.

Sec. 21. Minnesota Statutes 1990, section 256D.06, subdivision 5, is amended to read:

Subd. 5. Any applicant, otherwise eligible for general assistance and possibly eligible for maintenance benefits from any other source shall (a) make application for those benefits within 30 days of the general assistance application; and

New language is indicated by underline, deletions by ~~strikeout~~.

(b) execute an interim assistance authorization agreement on a form as directed by the commissioner. If found eligible for benefits from other sources, and a payment received from another source relates to the period during which general assistance was also being received, the recipient shall be required to reimburse the county agency for the interim assistance paid. Reimbursement shall not exceed the amount of general assistance paid during the time period to which the other maintenance benefits apply and shall not exceed the state standard applicable to that time period. The commissioner shall adopt rules, and may adopt emergency rules, authorizing county agencies or other client representatives to retain from the amount recovered under an interim assistance agreement 25 percent plus actual reasonable fees, costs, and disbursements of appeals and litigation, of providing special assistance to the recipient in processing the recipient's claim for maintenance benefits from another source. The money retained under this section shall be from the state share of the recovery. The commissioner or the county agency may contract with qualified persons to provide the special assistance. The rules adopted by the commissioner shall include the methods by which county agencies shall identify, refer, and assist recipients who may be eligible for benefits under federal programs for the disabled. This subdivision does not require repayment of per diem payments made to shelters for battered women pursuant to section 256D.05, subdivision 3.

Sec. 22. Minnesota Statutes 1990, section 256D.06, is amended by adding a subdivision to read:

**Subd. 7. SSI CONVERSIONS AND BACK CLAIMS.** (a) SSI CONVERSIONS. The commissioner of human services shall contract with agencies or organizations capable of ensuring that clients who are presently receiving assistance under sections 256D.01 to 256D.21, and who may be eligible for benefits under the federal Supplemental Security Income program, apply and, when eligible, are converted to the federal income assistance program and made eligible for health care benefits under the medical assistance program. The commissioner shall ensure that money owing to the state under interim assistance agreements is collected.

(b) BACK CLAIMS FOR FEDERAL HEALTH CARE BENEFITS. The commissioner shall also directly or through contract implement procedures for collecting federal Medicare and medical assistance funds for which clients converted to SSI are retroactively eligible.

(c) ADDITIONAL REQUIREMENTS. The commissioner shall begin contracting with agencies to ensure implementation of this section within 14 days after enactment of this section. County contracts with providers for residential services shall include the requirement that providers screen residents who may be eligible for federal benefits and provide that information to the local agency. The commissioner shall modify the MAXIS computer system to provide information on clients who have been on general assistance for two years or longer. The list of clients shall be provided to local services for screening under this section.

New language is indicated by underline, deletions by ~~strikeout~~.

(d) REPORT. The commissioner shall report to the legislature by January 15, 1993, on the implementation of this section. The report shall contain information on the following:

- (1) the number of clients converted from general assistance to SSI, by county;
- (2) information on the organizations involved;
- (3) the amount of money collected through interim assistance agreements;
- (4) the amount of money collected in federal Medicare or Medicaid funds;
- (5) problems encountered in processing conversions and back claims; and
- (6) recommended changes to enhance recoveries and maximize the receipt of federal money in the most efficient way possible.

Sec. 23. [256D.091] GRANT DIVERSION.

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

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

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

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

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

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

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

New language is indicated by underline, deletions by ~~strikeout~~.

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

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

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

(1) the period of time the diverted grant is available;

(2) the amount of the monthly diverted grant;

(3) the method of payment of the diverted grant;

(4) data gathering and reporting requirements;

(5) agreement by the employer not to terminate or reduce the working hours of current employees in order to participate in the grant diversion program;

(6) agreement by the employer to provide the registrant the same or a comparable level of wages, fringe benefits, and workers' compensation coverage that are provided other employees; and

(7) agreement by the employer to hire the registrant at the end of the grant diversion period.

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

(1) the requirement to complete the period of subsidized employment or employment-related training specified in the contract;

(2) the date of the first day of employment or employment-related training;

(3) the name, address, and occupational title of the employer;

(4) the hourly wage and the number of work hours per week;

(5) the effect of participation on work readiness eligibility;

(6) the maximum period of participation and the months the registrant's grant will be diverted;

(7) the amount of the diverted grant and the amount of any residual assistance grant; and

(8) the actions to be taken if the registrant fails to complete the grant diversion participation period.

New language is indicated by underline, deletions by ~~strikeout~~.



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

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

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

(c) Notwithstanding any change in resources, household, or income of the registrant or the registrant's assistance unit, eligibility for work readiness and the amount of monthly payment is not subject to change during the grant diversion period if the registrant is participating in the grant diversion program as required in the notice provided under subdivision 5.

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

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

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

Sec. 24. Minnesota Statutes 1990, section 256D.35, subdivision 11, is amended to read:

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

Sec. 25. Minnesota Statutes 1990, section 256D.54, subdivision 3, is amended to read:

**Subd. 3. INTERIM ASSISTANCE ADVOCACY INCENTIVE PROGRAM.** From the amount recovered under an interim assistance agreement, county agencies may retain 25 percent plus actual reasonable fees, costs, and dis-

New language is indicated by underline, deletions by ~~strikeout~~.

bursments of appeals, litigation, and advocacy assistance given to the recipient for the recipient's claim for supplemental security income. The money kept under this section is from the state share of the recovery. The commissioner or the county agency may contract with qualified persons to provide the special assistance. The methods by which a county agency identifies, refers, and assists recipients who may be eligible for benefits under federal programs for the aged, blind, or disabled are those methods used by the general assistance interim assistance advocacy incentive program.

Sec. 26. Minnesota Statutes 1990, section 256H.01, is amended by adding a subdivision to read:

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

Sec. 27. Minnesota Statutes 1990, section 256H.01, subdivision 9, is amended to read:

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

Sec. 28. Minnesota Statutes 1991 Supplement, section 256H.03, subdivision 4, is amended to read:

Subd. 4. **ALLOCATION FORMULA.** Beginning July 1, 1992, the basic sliding fee state and federal funds shall be allocated according to the following formula:

(a) One-half of the funds shall be allocated in proportion to each county's total expenditures for the basic sliding fee child care program reported during the 12-month period ending on December 31 of the preceding state fiscal year.

(b) One-fourth of the funds shall be allocated based on the number of children under age 13 in each county who are enrolled in general assistance medical care, medical assistance, and the children's health plan on July 1, of each year.

New language is indicated by underline, deletions by ~~strikeout~~.

(c) One-fourth of the funds shall be allocated based on the number of children under age 13 who reside in each county, from the most recent estimates of the state demographer.

Sec. 29. Minnesota Statutes 1991 Supplement, section 256H.03, subdivision 6, is amended to read:

Subd. 6. **GUARANTEED FLOOR.** (a) Each county's guaranteed floor shall equal the lesser of:

(1) the county's original allocation in the preceding state fiscal year; or

(2) 110 percent of the county's basic sliding fee child care program state and federal earnings for the 12-month period ending on December 31 of the preceding state fiscal year. For purposes of this clause, "state and federal earnings" means the reported ~~nonfederal share~~ of direct child care expenditures adjusted for the administrative allowance and 15 percent required county match ~~and seven percent administration limit~~.

(b) When the amount of funds available for allocation is less than the amount available in the previous year, each county's previous year allocation shall be reduced in proportion to the reduction in the statewide funding, for the purpose of establishing the guaranteed floor.

Sec. 30. Minnesota Statutes 1991 Supplement, section 256H.05, subdivision 1b, is amended to read:

Subd. 1b. **ELIGIBLE RECIPIENTS.** Families eligible for guaranteed child care assistance under the AFDC child care program are:

(1) persons receiving services under section 256.736;

(2) AFDC recipients who are employed;

(3) persons who are members of transition year families under section 256H.01, subdivision 16; ~~and~~

(4) members of the control group for the STRIDE evaluation conducted by the Manpower Demonstration Research Corporation; and

(5) AFDC caretakers who are participating in the non-STRIDE AFDC child care program.

Sec. 31. Minnesota Statutes 1991 Supplement, section 256H.05, is amended by adding a subdivision to read:

Subd. 6. NON-STRIDE AFDC CHILD CARE PROGRAM. Starting one month after the effective date of this subdivision, 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

New language is indicated by underline, deletions by ~~strikeout~~.

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.

Sec. 32. Minnesota Statutes 1990, section 256H.10, subdivision 1, is amended to read:

Subdivision 1. **ELIGIBILITY FACTORS.** Child care services must be available to families who need child care to find or keep employment or to obtain the training or education necessary to find employment and who:

(a) receive aid to families with dependent children and are receiving employment and training services under section 256.736;

(b) have household income below the eligibility levels for aid to families with dependent children; or

(c) have household income within a range established by the commissioner.

(d) Child care services for the families receiving aid to families with dependent children must be made available as in-kind services, to cover any difference between the actual cost and the amount disregarded under the aid to families with dependent children program. Child care services to families whose incomes are below the threshold of eligibility for aid to families with dependent children, but that are not receiving aid to families with dependent children are not AFDC caretakers, must be made available without cost to the families with the minimum copayment required by federal law.

Sec. 33. Minnesota Statutes 1990, section 256I.01, is amended to read:

**256I.01 CITATION.**

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

Sec. 34. Minnesota Statutes 1990, section 256I.02, is amended to read:

**256I.02 PURPOSE.**

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

Sec. 35. Minnesota Statutes 1990, section 256I.03, subdivision 2, is amended to read:

Subd. 2. **NEGOTIATED GROUP RESIDENTIAL HOUSING RATE.**

New language is indicated by underline, deletions by ~~strikeout~~.

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

Sec. 36. Minnesota Statutes 1990, section 256I.03, subdivision 3, is amended to read:

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

Sec. 37. Minnesota Statutes 1990, section 256I.04, as amended by Laws 1991, chapter 292, article 2, section 68, is amended to read:

**256I.04 ELIGIBILITY FOR NEGOTIATED RATE GROUP RESIDENTIAL HOUSING PAYMENT.**

Subdivision 1. **ELIGIBILITY REQUIREMENTS.** To be eligible for a ~~negotiated rate group residential housing~~ payment, the individual must be eligible for general assistance under sections 256D.01 to 256D.21, or supplemental aid under sections 256D.33 to 256D.54. If the individual is in the ~~negotiated rate group~~ residence due to illness or incapacity, the individual must be in the residence under a plan developed or approved by the county agency. Residence in other ~~negotiated rate group~~ residences must be approved by the county agency.

Subd. 2. **DATE OF ELIGIBILITY.** For a person living in a ~~negotiated rate group~~ residence who is eligible for general assistance under sections 256D.01 to 256D.21, payment shall be made from the date a signed application form is received by the county agency or the date the applicant meets all eligibility factors, whichever is later. For a person living in a ~~negotiated rate group~~ residence who is eligible for supplemental aid under sections 256D.33 to 256D.54, payment shall be made from the first of the month in which an approved application is received by a county agency.

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 3. **MORATORIUM ON THE DEVELOPMENT OF NEGOTIATED RATE GROUP RESIDENTIAL HOUSING BEDS.** County agencies shall not enter into agreements for new general assistance or Minnesota supplemental aid ~~negotiated rate group residence housing~~ beds except: (1) for adult foster homes licensed by the commissioner of human services under Minnesota Rules, parts 9555.5105 to 9555.6265; (2) for facilities 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 five handicapped accessible beds in a facility that serves primarily persons with a mental illness or chemical dependency that began construction to add space for the new beds before April 1, 1991, and will complete construction or remodeling by December 1, 1991. (4) 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).

Sec. 38. Minnesota Statutes 1990, section 256I.05, subdivision 1, is amended to read:

Subdivision 1. **MONTHLY RATES.** Monthly payments for rates negotiated by a county agency, or set by the department under rules developed pursuant to subdivision 6, on behalf of a recipient living in a negotiated rate group residence may must be paid at the rates in effect on March 1, 1985 June 30, 1991, not to exceed \$919.80 in 1989. The maximum negotiated rate must be increased annually according to subdivision 7. The county agency may provide an annual increase in the March 1, 1985, payment rate using the formula in subdivision 7; provided the resulting rate does not exceed the maximum negotiated rate \$966.37 for a group residence that entered into an initial group residential housing agreement with a county agency before June 1, 1989. The county agency may at any time negotiate a lower payment rate than the rate that would otherwise be paid under this subdivision and subdivision 7.

Sec. 39. Minnesota Statutes 1991 Supplement, section 256I.05, subdivision 1a, is amended to read:

Subd. 1a. **LOWER MAXIMUM RATE RATES.** (a) The maximum monthly rate for a general assistance or Minnesota supplemental aid ~~negotiated rate group~~ residence that enters into an initial ~~negotiated rate group residential housing~~ agreement with a county agency on or after June 1, 1989, may not exceed 90 percent of the maximum rate established under subdivision 1. This is effective until June 30, 1993, or until the statewide system authorized under subdivision 6 is established, whichever occurs first.

New language is indicated by underline, deletions by ~~strikeout~~.

(b) The maximum monthly rate for a general assistance or Minnesota supplemental aid group residence that is neither licensed by nor registered with the Minnesota department of health, or licensed by the department of human services, to provide programs or services in addition to room and board is an amount equal to the total of:

(1) the combined maximum shelter and basic needs standards for Minnesota supplemental aid recipients living alone specified in section 256D.44, subdivisions 2, paragraph (a), and 3, paragraph (a); plus

(2) for persons who are not eligible to receive food stamps due to living arrangements, the maximum allotment authorized by the federal food stamp program for a single individual which is in effect on the first day of July each year; less

(3) the personal needs allowance authorized for medical assistance recipients under section 256B.35.

Sec. 40. Minnesota Statutes 1991 Supplement, section 256I.05, subdivision 1b, is amended to read:

Subd. 1b. **RATES FOR UNCERTIFIED BOARDING CARE HOMES.** Effective July 1, 1992, the maximum rate for a boarding care home not certified to receive medical assistance is equal to 65 percent of the average nursing home level "A" rate in effect for the geographic area in which the boarding care home is located; except that a facility's rate must not be reduced by more than ten percent for the year ending June 30, 1992. This is effective until June 30, 1993. A noncertified boarding care home licensed under Minnesota Rules, parts 9520.0500 to 9520.0690, is exempt from this rate limit. The commissioner shall study the numbers of facilities and residents that will be affected by the limit in this subdivision; the number of facilities likely to close because of the limit; the available alternatives for affected residents; methods of relocating or securing alternative placements for residents; and other effects of the limit. The commissioner shall provide a report to the legislature by January 1, 1992, on the commissioner's findings and recommendations relating to the rate limit specified in subdivision 1 does not apply to a facility which was licensed by the Minnesota department of health as a boarding care home before March 1, 1985, and which is not certified to receive medical assistance.

Sec. 41. Minnesota Statutes 1991 Supplement, section 256I.05, subdivision 2, is amended to read:

Subd. 2. **MONTHLY RATES; EXEMPTIONS.** (a) The maximum negotiated group residential housing rate does not apply to a residence that on August 1, 1984, was licensed by the commissioner of health only as a boarding care home, certified by the commissioner of health as an intermediate care facility, and licensed by the commissioner of human services under Minnesota Rules, parts 9520.0500 to 9520.0690. For residences in this clause that have less than five percent of their licensed boarding care capacity reimbursed by the medical assistance program, rate increases shall be provided according to section 256B.431, subdivision 4, paragraph (e).

New language is indicated by underline, deletions by ~~strikeout~~.

(b) The maximum negotiated group residential housing rate does not apply to a residence that on August 1, 1984, was licensed by the commissioner of human services under Minnesota Rules, parts 9525.0520 to 9525.0660, but funded as a negotiated rate group residence under general assistance or Minnesota supplemental aid. Rate increases for these residences are subject to the provisions of subdivision 7.

(c) The maximum negotiated rate does not apply to a residence certified to participate in the medical assistance program, licensed as a boarding care facility or a nursing home, and declared to be an institution for mental disease by January 1, 1989. Effective January 1, 1989, the rate for these residences is the individual's appropriate medical assistance case mix rate. The exclusion from the rate limit for residences under this clause continues until June 30, 1992. The commissioner of human services, in consultation with the counties in which these residences are located, shall review the status of each certified nursing home and board and care facility declared to be an institution for mental disease. This review shall include the cost effectiveness of continued payment for residents through general assistance or Minnesota supplemental aid; the appropriateness of placement of general assistance or supplemental aid clients in these facilities; the effects of Public Law Number 100-203 on these facilities; and the role of these facilities in the mental health service delivery system. The commissioner shall make recommendations to the legislature by January 1, 1990, regarding the need to continue the exclusion of these facilities from the negotiated rate maximum and the future role of these facilities in serving persons with mental illness.

(d) The commissioner of human services shall take the following action in relation to certified boarding care facilities and nursing homes that have been declared institutions for mental diseases, excluding those facilities exempt under paragraph (a):

(1) All mental health and placement screenings and diagnostic assessments required under the federal Omnibus Budget Reconciliation Act (OBRA) must be completed by July 1, 1991, for all residents in institutions for mental diseases admitted before June 1, 1991. Residents determined to need relocation under the preadmission screening and annual resident review must be relocated to a more appropriate placement in accordance with the timelines established in the state's alternative disposition plan.

(2) By October 1, 1991, all institutions for mental diseases must be reviewed again by the commissioner to determine if they are still institutions for mental diseases, and the commissioner shall immediately revoke a declaration that a facility is an institution for mental diseases if the commissioner determines that the facility is not an institution for mental diseases.

(3) The commissioner shall provide to institutions for mental diseases training in the criteria used in assessing residents for determination of institutions for mental diseases status and the numbers of residents in each category.

New language is indicated by underline, deletions by ~~strikeout~~.



(4) ~~For facilities whose status as an institution for mental diseases is not revoked by the commissioner by October 1, 1991, a facility-specific plan must be developed by the commissioner and the facility, in consultation with the appropriate consumer groups, to offer alternative services to enough residents by July 1, 1992, to allow the commissioner to revoke the facility's status as an institution for mental diseases.~~

Sec. 42. Minnesota Statutes 1990, section 256I.05, subdivision 3, is amended to read:

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

Sec. 43. Minnesota Statutes 1990, section 256I.05, subdivision 6, is amended to read:

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

Sec. 44. Minnesota Statutes 1990, section 256I.05, is amended by adding a subdivision to read:

Subd. 7b. COMMISSIONER'S DUTIES. The commissioner shall not provide automatic annual inflation adjustments for group residential housing rates for the fiscal year beginning on July 1, 1993, and for subsequent fiscal years. The commissioner of finance shall include as a budget change request annual adjustments in reimbursement rates for group residential housing in each biennial detailed expenditure budget submitted to the legislature under section 16A.11.

Sec. 45. Minnesota Statutes 1990, section 256I.05, subdivision 8, is amended to read:

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

Sec. 46. Minnesota Statutes 1990, section 256I.05, subdivision 9, is amended to read:

Subd. 9. **PERSONAL NEEDS ALLOWANCE.** In addition to the ~~negotiated~~ group residential housing rate paid for the room and board costs, a person

New language is indicated by underline, deletions by ~~strikeout~~.

residing in a ~~negotiated rate group~~ residence shall receive an allowance for clothing and personal needs. The allowance shall not be less than that authorized for a medical assistance recipient in section 256B.35.

Sec. 47. Minnesota Statutes 1991 Supplement, section 256I.05, subdivision 10, is amended to read:

Subd. 10. **FOSTER CARE.** In keeping with the definition of "group residential housing rate" established in section 256I.03, subdivision 2, beginning July 1, 1992, the ~~negotiated group residential housing~~ rate of a group residence licensed as a foster home is limited to the rate set for room and board ~~costs~~ payments provided the foster home is not the license holder's primary residence, or the license holder is not the primary caregiver to persons receiving services in the ~~negotiated rate group~~ residence; and federal funding is available to pay for so long as the cost of other necessary services meets the definition of services or costs eligible for payment under the state's Medicaid program under title XIX of the Social Security Act and the persons receiving services in the group residence also receive title XIX home- and community-based waiver services for persons with mental retardation or a related condition, or persons with traumatic or acquired brain injury. For the ~~purpose~~ purposes of this section, the July 1, 1992, rate set for room and board costs mean costs of providing food and shelter for eligible persons; and includes payments must not exceed the group residential housing rate effective June 30, 1992, minus the additional rate to be paid under title XIX of the Social Security Act. The only exception to this limitation is a rate adjustment for the payment of the additional room and board costs of serving additional persons in the group residence. Until a statewide rate setting system is developed in accordance with subdivision 6, "room and board payments" referenced in this section means the directly identifiable payments for the usual costs of:

- (1) normal and special diet, food preparation and food services;
- (2) providing linen, bedding, laundering, and laundry supplies;
- (3) housekeeping, including cleaning and lavatory supplies;
- (4) maintenance and operation of the residence and grounds, including fuel, utilities, supplies, and equipment;
- (5) the allocation of salaries related to these areas; and
- (6) the lease or mortgage payment, property tax and insurance, furnishings and appliances.

For purposes of this section, room and board payments do not include payments for the costs of modifications and adaptations of the group residence required to ensure the health and safety of the resident or to meet the requirements of the applicable life safety code when those costs meet the definition of services and costs eligible for payment under the state's Medicaid program under title XIX of the Social Security Act. The group residences identified in

New language is indicated by underline, deletions by ~~strikeout~~.

this section shall be subject to a statewide rate setting system identified in subdivision 6 once the rate setting system has been developed. Any amount of payment made by counties prior to July 1, 1992, that exceeds the rate caps established in subdivisions 1 and 2 is not considered part of the group residential housing rate under this section and may not be considered as part of the group residential housing rate set as of July 1, 1992, nor shall that amount be considered eligible for payment under title XIX of the Social Security Act.

**Sec. 48. [256I.051] RATE LIMITATION; WAIVERED SERVICES ELIGIBILITY.**

(a) If a group residential housing rate for an adult foster care or board and lodging placement is for an individual who would be or is eligible for the elderly waiver, the community alternatives for disabled individuals program, or the community alternative care program, the group residential housing rate must include only the room and board portion of the rate. This paragraph applies only to the extent that there are waiver funds available.

(b) The room and board portion of the group residential housing rate is an amount equal to the total of:

(1) the combined maximum shelter and basic needs standards for Minnesota supplemental aid recipients living alone, specified in section 256D.44, subdivisions 2, paragraph (a), and 3, paragraph (a); plus

(2) the maximum allotment authorized by the federal food stamp program for a single individual in effect on the first day of July each year to be applied to persons who are not eligible to receive food stamps due to living arrangement; and less

(3) the personal needs allowance authorized for medical assistance recipients under section 256B.35.

Sec. 49. Minnesota Statutes 1990, section 256I.06, is amended to read:

**256I.06 PAYMENT METHODS.**

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

Sec. 50. Minnesota Statutes 1991 Supplement, section 261.035, is amended to read:

**261.035 ~~BURIAL~~ FUNERALS AT EXPENSE OF COUNTY.**

New language is indicated by underline, deletions by ~~strikeout~~.

When a person dies in any county without apparent means to provide for ~~burial and without relatives of sufficient ability to procure the burial that person's funeral or final disposition~~, the county board shall first investigate to determine whether ~~the that person who has died has had~~ contracted for any prepaid ~~burial funeral~~ arrangements. If ~~such~~ arrangements have been made, the county shall authorize ~~burial arrangements to be implemented~~ in accord with the ~~written~~ instructions of the deceased. If it is determined that the person did not leave sufficient means to defray the necessary expenses of ~~burial a funeral and final disposition~~, nor any ~~relatives therein spouse~~ of sufficient ability to procure the burial, the county board shall ~~cause provide for a decent burial or cremation funeral and final disposition~~ of the person's remains to be made at the expense of the county. ~~Cremation shall not be used for persons who are known to be opposed to cremation because of religious affiliation or belief. Any funeral and final disposition provided at the expense of the county shall be in accordance with religious and moral beliefs of the decedent or the decedent's spouse or the decedent's next of kin. If the wishes of the decedent are not known and the county has no information about the existence of or location of any next of kin, the county may determine the method of final disposition.~~

Sec. 51. Minnesota Statutes 1990, section 357.021, subdivision 1a, is amended to read:

Subd. 1a. (a) Every person, including the state of Minnesota and all bodies politic and corporate, who shall transact any business in the district court, shall pay to the court administrator of said court the sundry fees prescribed in subdivision 2. Except as provided in paragraph (d), the court administrator shall transmit the fees monthly to the state treasurer for deposit in the state treasury and credit to the general fund.

(b) In a county which has a screener-collector position, fees paid by a county pursuant to this subdivision shall be transmitted monthly to the county treasurer, who shall apply the fees first to reimburse the county for the amount of the salary paid for the screener-collector position. The balance of the fees collected shall then be forwarded to the state treasurer for deposit in the state treasury and credited to the general fund. A screener-collector position for purposes of this paragraph is an employee whose function is to increase the collection of fines and to review the incomes of potential clients of the public defender, in order to verify eligibility for that service.

(c) No fee is required under this section from the public authority or the party the public authority represents in an action for:

(1) child support enforcement or modification, medical assistance enforcement, or establishment of parentage in the district court, or child or medical support enforcement conducted by an administrative law judge in an administrative hearing under section 518.551, subdivision 10;

(2) civil commitment under chapter 253B;

New language is indicated by underline, deletions by ~~strikeout~~.

(3) the appointment of a public conservator or public guardian or any other action under chapters 252A and 525;

(4) wrongfully obtaining public assistance under section 256.98 or 256D.07, or recovery of overpayments of public assistance;

(5) court relief under chapter 260;

(6) forfeiture of property under sections 609.531 to 609.5317;

(7) recovery of amounts issued by political subdivisions or public institutions under sections 246.52, 252.27, 256.045, 256.25, 256.87, 256B.042, 256B.14, 256B.15, 256B.37, and 260.251, or other sections referring to other forms of public assistance; or

(8) restitution under section 611A.04.

(d) The fees collected for child support modifications under subdivision 2, clause (11), must be transmitted to the county treasurer for deposit in the county general fund. The fees must be used by the county to pay for child support enforcement efforts by county attorneys.

Sec. 52. Minnesota Statutes 1991 Supplement, section 357.021, subdivision 2, is amended to read:

Subd. 2. **FEE AMOUNTS.** The fees to be charged and collected by the court administrator shall be as follows:

(1) In every civil action or proceeding in said court, the plaintiff, petitioner, or other moving party shall pay, when the first paper is filed for that party in said action, a fee of \$85.

The defendant or other adverse or intervening party, or any one or more of several defendants or other adverse or intervening parties appearing separately from the others, shall pay, when the first paper is filed for that party in said action, a fee of \$85.

The party requesting a trial by jury shall pay \$30.

The fees above stated shall be the full trial fee chargeable to said parties irrespective of whether trial be to the court alone, to the court and jury, or disposed of without trial, and shall include the entry of judgment in the action, but does not include copies or certified copies of any papers so filed or proceedings under chapter 103E, except the provisions therein as to appeals.

(2) Certified copy of any instrument from a civil or criminal proceeding, \$5, plus 25 cents per page after the first page, and \$3.50, plus 25 cents per page after the first page for an uncertified copy.

(3) Issuing a subpoena, \$3 for each name.

New language is indicated by underline, deletions by ~~strikeout~~.

(4) Issuing an execution and filing the return thereof; issuing a writ of attachment, injunction, habeas corpus, mandamus, quo warranto, certiorari, or other writs not specifically mentioned, \$10.

(5) Issuing a transcript of judgment, or for filing and docketing a transcript of judgment from another court, \$7.50.

(6) Filing and entering a satisfaction of judgment, partial satisfaction, or assignment of judgment, \$5.

(7) Certificate as to existence or nonexistence of judgments docketed, \$5 for each name certified to.

(8) Filing and indexing trade name; or recording notary commission; or recording basic science certificate; or recording certificate of physicians, osteopaths, chiropractors, veterinarians, or optometrists, \$5.

(9) For the filing of each partial, final, or annual account in all trusteeships, \$10.

(10) For the deposit of a will, \$5.

(11) Filing a motion or response to a motion for modification of child support, a fee fixed by rule or order of the supreme court.

(12) All other services required by law for which no fee is provided, such fee as compares favorably with those herein provided, or such as may be fixed by rule or order of the court.

Sec. 53. Minnesota Statutes 1990, section 518.551, subdivision 7, is amended to read:

Subd. 7. **SERVICE FEE.** (a) When the public agency responsible for child support enforcement provides child support collection services either to a public assistance recipient or to a party who does not receive public assistance, the public agency may upon written notice to the obligor charge a monthly collection fee equivalent to the full monthly cost to the county of providing collection services, in addition to the amount of the child support which was ordered by the court. The fee shall be deposited in the county general fund. The service fee assessed is limited to ten percent of the monthly court ordered child support and shall not be assessed to obligors who are current in payment of the monthly court ordered child support. An application fee not to exceed ~~\$\$~~ \$25 shall be paid by the person who applies for child support and maintenance collection services, except persons who transfer from public assistance to nonpublic assistance status. Fees assessed by state and federal tax agencies for collection of overdue support owed to or on behalf of a person not receiving public assistance must be imposed on the person for whom these services are provided.

However, the limitations of this subdivision on the assessment of fees shall not apply to the extent inconsistent with the requirements of federal law for

New language is indicated by underline, deletions by ~~strikeout~~.

receiving funds for the programs under Title IV-A and Title IV-D of the Social Security Act, United States Code, title 42, sections 601 to 613 and United States Code, title 42, sections 651 to 662.

Sec. 54. Minnesota Statutes 1990, section 518.551, subdivision 10, is amended to read:

Subd. 10. **ADMINISTRATIVE PROCESS FOR CHILD AND MEDICAL SUPPORT ORDERS.** (a) An administrative process is established to obtain, modify, and enforce child and medical support orders and maintenance.

The commissioner of human services may designate counties to participate in the administrative process established by this section. All proceedings for obtaining, modifying, or enforcing child and medical support orders and maintenance and adjudicating uncontested parentage proceedings, required to be conducted in counties designated by the commissioner of human services in which the county human services agency is a party or represents a party to the action must be conducted by an administrative law judge from the office of administrative hearings, except for the following proceedings:

- (1) adjudication of contested parentage;
- (2) motions to set aside a paternity adjudication or declaration of parentage;
- (3) evidentiary hearing on contempt motions; and
- (4) motions to sentence or to revoke the stay of a jail sentence in contempt proceedings.

(b) An administrative law judge may hear a stipulation reached on a contempt motion, but any stipulation that involves a finding of contempt and a jail sentence, whether stayed or imposed, shall require the review and signature of a district judge.

(c) For the purpose of this process, all powers, duties, and responsibilities conferred on judges of the district court to obtain and enforce child and medical support obligations, subject to the limitation set forth herein, are conferred on the administrative law judge conducting the proceedings, including the power to issue orders to show cause and to issue bench warrants for failure to appear.

(d) Before implementing the process in a county, the chief administrative law judge, the commissioner of human services, the director of the county human services agency, the county attorney, and the county court administrator shall jointly establish procedures and the county shall provide hearing facilities for implementing this process in a county.

(e) Nonattorney employees of the public agency responsible for child support in the counties designated by the commissioner, acting at the direction of the county attorney, may prepare, sign, serve, and file complaints and motions for obtaining, modifying, or enforcing child and medical support orders and

New language is indicated by underline, deletions by ~~strikeout~~.

maintenance and related documents, appear at prehearing conferences, and participate in proceedings before an administrative law judge. This activity shall not be considered to be the unauthorized practice of law.

(f) The hearings shall be conducted under the rules of the office of administrative hearings, Minnesota Rules, parts 1400.7100 to 1400.7500, 1400.7700, and 1400.7800, as adopted by the chief administrative law judge. All other aspects of the case, including, but not limited to, pleadings, discovery, and motions, shall be conducted under the rules of family court, the rules of civil procedure, and chapter 518. The administrative law judge shall make findings of fact, conclusions, and a final decision and issue an order. Orders issued by an administrative law judge are enforceable by the contempt powers of the county and district courts.

(g) The decision and order of the administrative law judge is appealable to the court of appeals in the same manner as a decision of the district court.

(h) The commissioner of human services shall distribute money for this purpose to counties to cover the costs of the administrative process, including the salaries of administrative law judges. If available appropriations are insufficient to cover the costs, the commissioner shall prorate the amount among the counties.

#### Sec. 55. MSA SHARED HOUSING DEMONSTRATION PROJECT.

Within available appropriations, the commissioner of human services shall establish a shared housing demonstration project for mentally ill persons receiving assistance under the Minnesota supplemental aid (MSA) program established by Minnesota Statutes, sections 256D.33 to 256D.54. Persons selected for the project shall be MSA recipients who are mentally ill and who are certified by a physician as needing shared housing for medical reasons. These individuals shall be permitted to reside with other individuals while still receiving the full MSA shelter allowance and full basic needs allowance under Minnesota Statutes, section 256D.44. The purpose of the project is to demonstrate that allowing full MSA grants for certain persons with mental illness who share housing can be effective in helping those individuals avoid costly mental health treatment including repeated hospitalizations. The study must be conducted in conformity with federal requirements on studies using human subjects for research.

As part of the demonstration project, the commissioner shall conduct a survey of mental health professionals and county case managers and shall analyze the MSA caseload figures maintained by the department of human services. The purpose of the survey and analysis is to determine the likely number of individuals that would be impacted by an increase in the standard of assistance under Minnesota Statutes, section 256D.44, for mentally ill persons in shared housing situations. The commissioner shall consult with mental health advocacy and other public interest groups in preparing and carrying out the survey. The commissioner shall report to the legislature by January 15, 1994, on the results of the survey and demonstration project. For purposes of this demonstration project, eligible individuals shall be limited to Hennepin county on a first-come, first-served basis, subject to approval of the county board.

New language is indicated by underline, deletions by ~~strikeout~~.



**Sec. 56. COLLECTIONS AND COST RECOVERY.**

The commissioner of human services shall consult with representatives of the office of child support enforcement, local social service agencies, the department of revenue, and legislative staff to make recommendations for a process to increase the collection of child support arrearages and to institute cost recovery in child support enforcement. The commissioner of human services and the commissioner of revenue shall report the recommendations to the chairs of the committees on health and human services and judiciary in the senate and the house of representatives by January 15, 1993.

**Sec. 57. CHILD SUPPORT COMPUTER SYSTEM.**

The commissioner of human services shall take appropriate action to ensure that the statewide computer system for the collection and enforcement of child support is operating effectively and efficiently as soon as possible. The commissioner shall report to the chairs of the committees on health and human services and judiciary in the senate and the house of representatives by January 15, 1993, concerning the status of the computer system and any problems in the functioning of the system.

**Sec. 58. IMPLEMENTATION.**

Notwithstanding the second sentence of Laws 1991, chapter 292, article 5, section 85, subdivision 1, the commissioner shall implement the Minnesota family investment plan field trials beginning April 1, 1994.

**Sec. 59. REPEALER.**

Minnesota Statutes 1990, sections 144A.15, subdivision 6; 256B.495, subdivision 3; 256D.09, subdivision 3; and 256I.05, subdivision 7; and Minnesota Statutes 1991 Supplement, section 256I.05, subdivision 7a, are repealed.

**Sec. 60. EFFECTIVE DATE.**

Sections 26 to 32 are effective the day following final enactment. Section 37, subdivision 3, clause (4), is effective July 1, 1993.

Section 19 is effective January 1, 1993, except for the provision in subdivision 1, paragraph (a), referring to orientation which is effective immediately upon final enactment.

New language is indicated by underline, deletions by ~~strikeout~~.

## ARTICLE 9

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

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

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

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

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

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

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

(3) provisions for funding reasonable accommodations.

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

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

New language is indicated by underline, deletions by ~~strikeout~~.

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

Sec. 3. [244.17] **BOOT CAMP PROGRAM.**

Subdivision 1. GENERALLY. The commissioner may select offenders who meet the eligibility requirements of subdivisions 2 and 3 to participate in the boot camp program described in sections 244.171 and 244.172 for all or part of the offender's sentence if the offender agrees to participate in the program and signs a written contract with the commissioner agreeing to comply with the program's requirements.

Subd. 2. ELIGIBILITY. The commissioner must limit the boot camp program to the following persons:

(1) offenders who are committed to the commissioner's custody following revocation of a stayed sentence; and

(2) offenders who are committed to the commissioner's custody for a term of imprisonment of not less than 18 months nor more than 36 months and who did not receive a dispositional departure under the sentencing guidelines.

Subd. 3. OFFENDERS NOT ELIGIBLE. The following offenders are not eligible to be placed in the boot camp program:

(1) offenders who are committed to the commissioner's custody following a conviction for murder, manslaughter, criminal sexual conduct, assault, kidnapping, robbery, arson, or any other offense involving death or personal injury; and

(2) offenders who previously were convicted of an offense described in clause (1) and were committed to the custody of the commissioner.

Sec. 4. [244.171] **BOOT CAMP PROGRAM; BASIC ELEMENTS.**

Subdivision 1. REQUIREMENTS. The commissioner shall operate the boot camp program in conformance with this section. The commissioner shall administer the program to further the following goals:

(1) to punish the offender;

(2) to protect the safety of the public;

(3) to enhance the employment skills of the offender during the boot camp program and afterward;

(4) to use offenders to accomplish community service initiatives, goals, and projects; and

(5) to facilitate treatment of offenders who are chemically dependent.

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 2. GOOD TIME NOT AVAILABLE. An offender in the boot camp program does not earn good time during phases I and II of the program, notwithstanding section 244.04.

Subd. 3. SANCTIONS. The commissioner shall impose severe and meaningful sanctions for violating the conditions of the boot camp program. The commissioner shall remove an offender from the boot camp program if the offender:

(1) commits a material violation of or repeatedly fails to follow the rules of the program;

(2) commits any misdemeanor, gross misdemeanor, or felony offense; or

(3) presents a risk to the public, based on the offender's behavior, attitude, or abuse of alcohol or controlled substances. The removal of an offender from the boot camp program is governed by the procedures in the commissioner's rules adopted under section 244.05, subdivision 2.

An offender who is removed from the boot camp program shall be imprisoned for a time period equal to the offender's original term of imprisonment, minus earned good time if any, but in no case for longer than the time remaining in the offender's sentence. "Original term of imprisonment" means a time period equal to two-thirds of the sentence originally executed by the sentencing court, minus jail credit, if any.

**Sec. 5. [244.172] BOOT CAMP PROGRAM; PHASES I to III.**

Subdivision 1. PHASE I. Phase I of the program lasts at least six months. The offender must be confined in a state correctional facility designated by the commissioner and must successfully participate in all intensive treatment, education, and work programs required by the commissioner. The offender must also submit on demand to random drug and alcohol testing at time intervals set by the commissioner. For the first three months of phase I, the offender may not receive visitors or telephone calls, except under emergency circumstances.

Subd. 2. PHASE II. Phase II of the program lasts at least six months. The offender shall serve this phase of the offender's sentence in an intensive community supervision program established by the commissioner under section 244.13. The commissioner may impose on the offender any of the requirements described in section 244.15, subdivisions 2 to 7, provided that the offender must be required to submit to daily drug and alcohol tests for the first three months, biweekly tests for the next two months, and weekly tests for the remainder of phase II. The commissioner shall also require the offender to report daily to a day-reporting facility designated by the commissioner. In addition, if the commissioner required the offender to undergo acupuncture during phase I, the offender must continue to submit to acupuncture treatment throughout phase II.

Subd. 3. PHASE III. Phase III lasts for the remainder of the offender's sen-

New language is indicated by underline, deletions by ~~strikeout~~.

tence. During phase III, the commissioner shall place the offender on supervised release under section 244.05. The commissioner shall set the level of the offender's supervision based on the public risk presented by the offender.

**Sec. 6. [244.173] BOOT CAMP PROGRAM; EVALUATION AND REPORT.**

The commissioner shall develop a system for gathering and analyzing information concerning the value and effectiveness of the boot camp program. The commissioner shall report to the legislature by January 1, 1996, on the operation of the program.

Sec. 7. Minnesota Statutes 1990, section 245A.02, is amended by adding a subdivision to read:

Subd. 7a. HIV MINIMUM STANDARDS. "HIV minimum standards" means those items approved by the department and contained in the HIV-1 Guidelines for chemical dependency treatment and care programs in Minnesota including HIV education to clients, completion of HIV training by all new and existing staff, provision for referral to individual HIV counseling and services for all clients, and the implementation of written policies and procedures for working with HIV-infected clients.

Sec. 8. Minnesota Statutes 1990, section 245A.02, is amended by adding a subdivision to read:

Subd. 15. RESPITE CARE SERVICES. "Respite care services" means temporary services provided to a person due to the absence or need for relief of the person's family member or legal representative who is the primary caregiver and principally responsible for the care and supervision of the person. Respite care services are those that provide the level of supervision and care that is necessary to ensure the health and safety of the person. Respite care services do not include services that are specifically directed toward the training and habilitation of the person.

Sec. 9. Minnesota Statutes 1991 Supplement, section 245A.03, subdivision 2, is amended to read:

**Subd. 2. EXCLUSION FROM LICENSURE.** Sections 245A.01 to 245A.16 do not apply to:

(1) residential or nonresidential programs that are provided to a person by an individual who is related;

(2) nonresidential programs that are provided by an unrelated individual to persons from a single related family;

(3) residential or nonresidential programs that are provided to adults who do not abuse chemicals or who do not have a chemical dependency, a mental illness, mental retardation or a related condition, a functional impairment, or a physical handicap;

New language is indicated by underline, deletions by ~~strikeout~~.

(4) sheltered workshops or work activity programs that are certified by the commissioner of jobs and training;

(5) programs for children enrolled in kindergarten to the 12th grade and prekindergarten regular and special education programs that are operated by the commissioner of education or a school as defined in section 120.101, subdivision 4;

(6) nonresidential programs for children that provide care or supervision for periods of less than three hours a day while the child's parent or legal guardian is in the same building or present on property that is contiguous with the physical facility where the nonresidential program is provided;

(7) nursing homes or hospitals licensed by the commissioner of health except as specified under section 245A.02;

(8) board and lodge facilities licensed by the commissioner of health that provide services for five or more persons whose primary diagnosis is mental illness who have refused an appropriate residential program offered by a county agency. This exclusion expires on July 1, 1990;

(9) homes providing programs for persons placed there by a licensed agency for legal adoption, unless the adoption is not completed within two years;

(10) programs licensed by the commissioner of corrections;

(11) recreation programs for children or adults that operate for fewer than 40 calendar days in a calendar year;

(12) programs whose primary purpose is to provide, for adults or school-age children, including children who will be eligible to enter kindergarten within not more than four months, social and recreational activities, such as scouting, boys clubs, girls clubs, sports, or the arts; except that a program operating in a school building is not excluded unless it is approved by the district's school board;

(13) head start nonresidential programs which operate for less than 31 days in each calendar year;

(14) noncertified boarding care homes unless they provide services for five or more persons whose primary diagnosis is mental illness or mental retardation;

(15) nonresidential programs for nonhandicapped children provided for a cumulative total of less than 30 days in any 12-month period;

(16) residential programs for persons with mental illness, that are located in hospitals, until the commissioner adopts appropriate rules;

(17) the religious instruction of school-age children; Sabbath or Sunday schools; or the congregate care of children by a church, congregation, or religious society during the period used by the church, congregation, or religious society for its regular worship;

New language is indicated by underline, deletions by ~~strikeout~~.

(18) camps licensed by the commissioner of health under Minnesota Rules, chapter 4630;

(19) mental health outpatient services for adults with mental illness or children with emotional disturbance; or

(20) residential programs serving school-age children whose sole purpose is cultural or educational exchange, until the commissioner adopts appropriate rules;

(21) unrelated individuals who provide out-of-home respite care services to persons with mental retardation or related conditions from a single related family for no more than 30 days in a 12-month period and the respite care services are for the temporary relief of the person's family or legal representative;

(22) respite care services provided as a home- and community-based service to a person with mental retardation or a related condition, in the person's primary residence; or

(23) community support services programs as defined in section 245.462, subdivision 6, and family community support services as defined in section 245.4871, subdivision 17.

For purposes of clause (5), the department of education, after consulting with the department of human services, shall adopt standards applicable to pre-school programs administered by public schools that are similar to Minnesota Rules, parts 9503.005 to 9503.0175. These standards are exempt from rulemaking under chapter 14.

Sec. 10. Minnesota Statutes 1991 Supplement, section 245A.04, subdivision 3, is amended to read:

Subd. 3. **STUDY OF THE APPLICANT.** (a) Before the commissioner issues a license, the commissioner shall conduct a study of the individuals specified in clauses (1) to (4) according to rules of the commissioner. The applicant, license holder, the bureau of criminal apprehension, and county agencies, after written notice to the individual who is the subject of the study, shall help with the study by giving the commissioner criminal conviction data and reports about abuse or neglect of adults in licensed programs substantiated under section 626.557 and the maltreatment of minors in licensed programs substantiated under section 626.556. The individuals to be studied shall include:

(1) the applicant;

(2) persons over the age of 13 living in the household where the licensed program will be provided;

(3) current employees or contractors of the applicant who will have direct contact with persons served by the program; and

New language is indicated by underline, deletions by ~~strikeout~~.

(4) volunteers who have direct contact with persons served by the program to provide program services, if the contact is not directly supervised by the individuals listed in clause (1) or (3).

The juvenile courts shall also help with the study by giving the commissioner existing juvenile court records on individuals described in clause (2) relating to delinquency proceedings held within either the five years immediately preceding the application or the five years immediately preceding the individual's 18th birthday, whichever time period is longer. The commissioner shall destroy juvenile records obtained pursuant to this subdivision when the subject of the records reaches age 23.

For purposes of this subdivision, "direct contact" means providing face-to-face care, training, supervision, counseling, consultation, or medication assistance to persons served by a program. For purposes of this subdivision, "directly supervised" means an individual listed in clause (1) or (3) is within sight or hearing of a volunteer to the extent that the individual listed in clause (1) or (3) is capable at all times of intervening to protect the health and safety of the persons served by the program who have direct contact with the volunteer.

A study of an individual in clauses (1) to (4) shall be conducted on at least an annual basis. No applicant, license holder, or individual who is the subject of the study shall pay any fees required to conduct the study.

(b) The individual who is the subject of the study must provide the applicant or license holder with sufficient information to ensure an accurate study including the individual's first, middle, and last name; home address, city, county, and state of residence; zip code; sex; date of birth; and driver's license number. The applicant or license holder shall provide this information about an individual in paragraph (a), clauses (1) to (4), on forms prescribed by the commissioner. The commissioner may request additional information of the individual, which shall be optional for the individual to provide, such as the individual's social security number or race.

(c) Except for child foster care, adult foster care, and family day care homes, a study must include information from the county agency's record of substantiated abuse or neglect of adults in licensed programs, and the maltreatment of minors in licensed programs, information from juvenile courts as required in paragraph (a) for persons listed in paragraph (a), clause (2), and information from the bureau of criminal apprehension. For child foster care, adult foster care, and family day care homes, the study must include information from the county agency's record of substantiated abuse or neglect of adults, and the maltreatment of minors, information from juvenile courts as required in paragraph (a) for persons listed in paragraph (a), clause (2), and information from the bureau of criminal apprehension. The commissioner may also review arrest and investigative information from the bureau of criminal apprehension, a county attorney, county sheriff, county agency, local chief of police, other states, the courts, or a national criminal record repository if the commissioner has reason-

New language is indicated by underline, deletions by ~~strikeout~~.



able cause to believe the information is pertinent to the disqualification of an individual listed in paragraph (a), clauses (1) to (4).

(d) An applicant's or license holder's failure or refusal to cooperate with the commissioner is reasonable cause to deny an application or immediately suspend, suspend, or revoke a license. Failure or refusal of an individual to cooperate with the study is just cause for denying or terminating employment of the individual if the individual's failure or refusal to cooperate could cause the applicant's application to be denied or the license holder's license to be immediately suspended, suspended, or revoked.

(e) The commissioner shall not consider an application to be complete until all of the information required to be provided under this subdivision has been received.

(f) No person in paragraph (a), clause (1), (2), (3), or (4) who is disqualified as a result of this section may be retained by the agency in a position involving direct contact with persons served by the program.

~~(g) The commissioner shall not implement the procedures contained in this subdivision until appropriate rules have been adopted, except for the applicants and license holders for child foster care, adult foster care, and family day care homes.~~

~~(h) Termination of persons in paragraph (a), clause (1), (2), (3), or (4) made in good faith reliance on a notice of disqualification provided by the commissioner shall not subject the applicant or license holder to civil liability.~~

~~(i) (h) The commissioner may establish records to fulfill the requirements of this section. The information contained in the records is only available to the commissioner for the purpose authorized in this section.~~

~~(j) (i) The commissioner may not disqualify an individual subject to a study under this section because that person has, or has had, a mental illness as defined in section 245.462, subdivision 20.~~

Sec. 11. Minnesota Statutes 1990, section 245A.07, subdivision 2, is amended to read:

**Subd. 2. IMMEDIATE SUSPENSION IN CASES OF IMMINENT DANGER TO HEALTH, SAFETY, OR RIGHTS.** If the license holder's failure to comply with applicable law or rule has placed the health, safety, or rights of persons served by the program in imminent danger, the commissioner shall act immediately to suspend the license. No state funds shall be made available or be expended by any agency or department of state, county, or municipal government for use by a license holder regulated under sections 245A.01 to 245A.16 while a license is under immediate suspension. A notice stating the reasons for the immediate suspension and informing the license holder of the right to a contested case hearing under chapter 14 must be delivered by personal service to

New language is indicated by underline, deletions by ~~strikeout~~.

the address shown on the application or the last known address of the license holder. The license holder may appeal an order immediately suspending a license ~~by notifying the commissioner.~~ The appeal of an order immediately suspending a license must be made in writing by certified mail and must be received by the commissioner within five calendar days after ~~receiving the license holder receives~~ notice that the license has been immediately suspended. A license holder and any controlling individual shall discontinue operation of the program upon receipt of the commissioner's order to immediately suspend the license.

Sec. 12. Minnesota Statutes 1990, section 245A.07, subdivision 3, is amended to read:

Subd. 3. **SUSPENSION, REVOCATION, PROBATION.** The commissioner may suspend, revoke, or make probationary a license if a license holder fails to comply fully with applicable laws or rules. A license holder who has had a license suspended, revoked, or made probationary, must be given notice of the action by certified mail. The notice must be mailed to the address shown on the application or the last known address of the license holder. The notice must state the reasons the license was suspended, revoked, or made probationary.

(a) If the license was suspended or revoked, the notice must inform the license holder of the right to a contested case hearing under chapter 14. The license holder may appeal an order suspending or revoking a license ~~by notifying the commissioner.~~ The appeal of an order suspending or revoking a license must be made in writing by certified mail and must be received by the commissioner within ten calendar days after ~~receiving the license holder receives~~ notice that the license has been suspended or revoked.

(b) If the license was made probationary, the notice must inform the license holder of the right to request a reconsideration by the commissioner. The request for reconsideration must be made in writing by certified mail and must be received by the commissioner within ten calendar days after ~~receiving the license holder receives~~ notice that the license has been made probationary. The license holder may submit with the request for reconsideration written argument or evidence in support of the request for reconsideration. The commissioner's disposition of a request for reconsideration is final and is not subject to appeal under chapter 14.

Sec. 13. **[245A.091] EXEMPTION FROM CERTAIN RULE PARTS GOVERNING RESIDENTIAL PROGRAMS FOR PERSONS WITH MENTAL RETARDATION OR RELATED CONDITIONS.**

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

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

New language is indicated by underline, deletions by ~~strikeout~~.

- (2) part 9525.0243;
- (3) part 9525.0245, subparts 2, items A, C, D, E, F; 4 to 7; and 9;
- (4) part 9525.0255, subparts 1, items B, D, and F; and 3;
- (5) part 9525.0265, subparts 1, items A and C; 3, items A to F; 5; and 8, items A and B;
- (6) part 9525.0275;
- (7) part 9525.0285, subparts 2 and 3;
- (8) part 9525.0295, subparts 5, item B, subitem (3); and 6;
- (9) part 9525.0305, subparts 2; 3, items C, E, and F; and 5;
- (10) part 9525.0315, subparts 1; 2; and 3, items A to D;
- (11) part 9525.0325, subpart 3, items A, D to G, and I to K;
- (12) part 9525.0335, items C, E, F, H to J, and K, subitems (2) and (3); and
- (13) part 9525.0345, subparts 1, item B, subitem (2); 2, item A; 3 to 5; and 6, items A and B.

Sec. 14. Minnesota Statutes 1990, section 245A.11, is amended to read:

**245A.11 SPECIAL CONDITIONS FOR RESIDENTIAL PROGRAMS.**

Subdivision 1. **POLICY STATEMENT.** It is the policy of the state that persons shall not be excluded by municipal zoning ordinances or other land use regulations from the benefits of normal residential surroundings.

Subd. 2. **PERMITTED SINGLE-FAMILY RESIDENTIAL USE.** Residential programs with a licensed capacity of six or fewer persons shall be considered a permitted single-family residential use of property for the purposes of zoning and other land use regulations. Programs otherwise allowed under this subdivision shall not be prohibited by operation of restrictive covenants or similar restrictions, regardless of when entered into, which cannot be met because of the nature of the licensed program, including provisions which require the home's occupants be related, and that the home must be occupied by the owner, or similar provisions.

Subd. 2a. **ADULT FOSTER CARE LICENSE CAPACITY.** An adult foster care license holder may have a maximum license capacity of five if all persons in care are age 60 or over and who do not have a serious and persistent mental illness or a developmental disability. A license holder who is incorporated as a business may operate a maximum of two programs with a licensed capacity of five in each program.

New language is indicated by underline, deletions by ~~strikeout~~.

**Subd. 2b. ADULT FOSTER CARE; FAMILY ADULT DAY CARE.** An adult foster care license holder licensed under the conditions in subdivision 2a may also provide family adult day care for adults age 60 or over if no persons in the adult foster or adult family day care program have a serious and persistent mental illness or a developmental disability. The maximum combined capacity for adult foster care and family adult day care is five adults. A separate license is not required to provide family adult day care under this subdivision. Adult foster care homes providing services to five adults under this section shall not be subject to licensure by the commissioner of health under the provisions of chapter 144, 144A, 157, or any other law requiring facility licensure by the commissioner of health.

**Subd. 3. PERMITTED MULTIFAMILY RESIDENTIAL USE.** Unless otherwise provided in any town, municipal, or county zoning regulation, a licensed residential program with a licensed capacity of seven to 16 ~~adults or children~~ persons shall be considered a permitted multifamily residential use of property for the purposes of zoning and other land use regulations. A town, municipal, or county zoning authority may require a conditional use or special use permit to assure proper maintenance and operation of a residential program. Conditions imposed on the residential program must not be more restrictive than those imposed on other conditional uses or special uses of residential property in the same zones, unless the additional conditions are necessary to protect the health and safety of the ~~adults or children~~ persons being served by the program. Nothing in sections 245A.01 to 245A.16 shall be construed to exclude or prohibit residential programs from single-family zones if otherwise permitted by local zoning regulations.

**Subd. 4. LOCATION OF RESIDENTIAL PROGRAMS.** In determining whether to grant a license, the commissioner shall specifically consider the population, size, land use plan, availability of community services, and the number and size of existing licensed residential programs in the town, municipality, or county in which the applicant seeks to operate a residential program. The commissioner shall not grant an initial license to any residential program if the residential program will be within 1,320 feet of an existing residential program unless one of the following conditions apply: (1) the existing residential program is located in a hospital licensed by the commissioner of health; ~~or~~ (2) the town, municipality, or county zoning authority grants the residential program a conditional use or special use permit. ~~In cities of the first class, this subdivision applies even if a residential program is considered a permitted single-family residential use of property under subdivision 2. Foster care homes are exempt from this subdivision;~~ (3) the program serves six or fewer persons and is not located in a city of the first class; or (4) the program is foster care.

**Subd. 5. OVERCONCENTRATION AND DISPERSAL.** (a) Before January 1, 1985, each county having two or more group residential programs within 1,320 feet of each other shall submit to the department of human services a plan to promote dispersal of group residential programs. In formulating its plan, the county shall solicit the participation of affected persons, programs, municipali-

New language is indicated by underline, deletions by ~~strikeout~~.

ties having highly concentrated residential program populations, and advocacy groups. For the purposes of this subdivision, "highly concentrated" means having a population in residential programs serving seven or more persons that exceeds one-half of one percent of the population of a recognized planning district or other administrative subdivision.

(b) Within 45 days after the county submits the plan, the commissioner shall certify whether the plan fulfills the purposes and requirements of this subdivision including the following requirements:

(1) a new program serving seven or more persons must not be located in any recognized planning district or other administrative subdivision where the population in residential programs is highly concentrated;

(2) the county plan must promote dispersal of highly concentrated residential program populations;

(3) the county plan shall promote the development of residential programs in areas that are not highly concentrated;

(4) no person in a residential program shall be displaced as a result of this section until a relocation plan has been implemented that provides for an acceptable alternative placement;

(5) if the plan provides for the relocation of residential programs, the relocation must be completed by January 1, 1990. If the commissioner certifies that the plan does not do so, the commissioner shall state the reasons, and the county has 30 days to submit a plan amended to comply with the requirements of the commissioner.

(c) After July 1, 1985, the commissioner may reduce grants under section 245.73 to a county required to have an approved plan under paragraph (a) if the county does not have a plan approved by the commissioner or if the county acts in substantial disregard of its approved plan. The county board has the right to be provided with advance notice and to appeal the commissioner's decision. If the county requests a hearing within 30 days of the notification of intent to reduce grants, the commissioner shall not certify any reduction in grants until a hearing is conducted and a decision made in accordance with the contested case provisions of chapter 14.

Subd. 5a. INTEGRATION OF RESIDENTIAL PROGRAMS. The commissioner of human services shall seek input from counties and municipalities on methods for integrating all residential programs into the community.

**Subd. 6. HOSPITALS; EXEMPTION.** Residential programs located in hospitals shall be exempt from the provisions of this section.

Sec. 15. Minnesota Statutes 1990, section 245A.13, subdivision 4, is amended to read:

New language is indicated by underline, deletions by ~~strikeout~~.

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

Sec. 16. Minnesota Statutes 1991 Supplement, section 245A.16, subdivision 1, is amended to read:

Subdivision 1. **DELEGATION OF AUTHORITY TO AGENCIES.** (a) County agencies and private agencies that have been designated or licensed by the commissioner to perform licensing functions and activities under section 245A.04, to recommend denial of applicants under section 245A.05, to issue correction orders, ~~to issue variances,~~ and recommend fines under section 245A.06, or to recommend suspending, revoking, and making licenses probationary under section 245A.07, shall comply with rules and directives of the commissioner governing those functions and with this section.

~~(b) By January 1, 1991, the commissioner shall study and make recommendations to the legislature regarding the licensing and provision of support services to child foster homes. In developing the recommendations, the commissioner shall consult licensed private agencies, county agencies, and licensed foster home providers.~~

(e) For family day care programs, the commissioner may authorize licensing reviews every two years after a licensee has had at least one annual review.

Sec. 17. **[245A.19] HIV TRAINING IN CHEMICAL DEPENDENCY TREATMENT PROGRAM.**

(a) Applicants and license holders for chemical dependency residential and nonresidential programs must demonstrate compliance with HIV minimum standards prior to their application being complete. The HIV minimum standards contained in the HIV-1 Guidelines for chemical dependency treatment and care programs in Minnesota are not subject to rulemaking.

(b) Ninety days after enactment of this section, the applicant or license holder shall orient all chemical dependency treatment staff and clients to the HIV minimum standards. Thereafter, orientation shall be provided to all staff and clients, within 72 hours of employment or admission to the program. In-service training shall be provided to all staff on at least an annual basis and the license holder shall maintain records of training and attendance.

(c) The license holder shall maintain a list of referral sources for the purpose of making necessary referrals of clients to HIV-related services. The list of referral services shall be updated at least annually.

(d) Written policies and procedures, consistent with HIV minimum standards, shall be developed and followed by the license holder. All policies and procedures concerning HIV minimum standards shall be approved by the commissioner. The commissioner shall provide training on HIV minimum standards to applicants.

New language is indicated by underline, deletions by ~~strikeout~~.

(e) The commissioner may permit variances from the requirements in this section. License holders seeking variances must follow the procedures in section 245A.04, subdivision 9.

**Sec. 18. [246.0135] OPERATION OF REGIONAL TREATMENT CENTERS.**

The commissioner of human services is prohibited from closing any regional treatment center or state-operated nursing home or any program at any of the regional treatment centers or state-operated nursing homes, without specific legislative authorization. For persons with mental retardation or related conditions who move from one regional treatment center to another regional treatment center, the provisions of section 256B.092, subdivision 10, must be followed for both the discharge from one regional treatment center and admission to another regional treatment center, except that the move is not subject to the consensus requirement of section 256B.092, subdivision 10, paragraph (b).

Sec. 19. Minnesota Statutes 1991 Supplement, section 251.011, subdivision 3, is amended to read:

Subd. 3. **AH-GWAH-CHING CENTER.** When tuberculosis treatment is discontinued at Ah-Gwah-Ching that facility ~~may~~ shall be used by the commissioner of human services for the care of geriatric patients, and shall be known as the Ah-Gwah-Ching Center. The commissioner shall not decrease the number of nursing home beds nor close the Ah-Gwah-Ching Center without specific approval by the legislature.

Sec. 20. Minnesota Statutes 1990, section 252.025, subdivision 4, is amended to read:

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

(b) By January 15, 1991, the commissioner shall report to the legislature a plan to provide continued regional treatment center capacity and state-operated, community-based residential and day programs for persons with developmental

New language is indicated by underline, deletions by ~~strikeout~~.

disabilities at Brainerd, Cambridge, Faribault, Fergus Falls, Moose Lake, St. Peter, and Willmar, as follows:

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

(2) by July 1, 1999, continued regional treatment center capacity to serve 254 persons with developmental disabilities as follows: at Brainerd, 57 persons; at Cambridge, 12 persons; at Faribault, 80 persons; at Fergus Falls, 35 persons; at Moose Lake, 12 persons; at St. Peter, 30 persons; at Willmar, 12 persons, and up to 16 crisis beds in the Twin Cities metropolitan area. In addition, the plan shall provide for the capacity to provide residential services to 570 persons with developmental disabilities in 95 state-operated, community-based residential programs.

The commissioner is subject to a mandamus action under chapter 586 for any failure to comply with the provisions of this subdivision.

Sec. 21. Minnesota Statutes 1991 Supplement, section 252.28, subdivision 1, is amended to read:

Subdivision 1. **DETERMINATIONS; BIENNIAL REDETERMINATIONS.** In conjunction with the appropriate county boards, the commissioner of human services shall determine, and shall redetermine ~~biennially~~ at least every four years, the need, location, size, and program of public and private residential services and day training and habilitation services for persons with mental retardation or related conditions. This subdivision does not apply to semi-independent living services and residential-based habilitation services provided to four or fewer persons at a site funded as home and community-based services.

Sec. 22. Minnesota Statutes 1991 Supplement, section 252.50, subdivision 2, is amended to read:

Subd. 2. **AUTHORIZATION TO BUILD OR PURCHASE.** Within the limits of available appropriations, the commissioner may build, purchase, or lease suitable buildings for state-operated, community-based programs. The commissioner must develop the state-operated community residential facilities authorized in the worksheets of the house appropriations and senate finance committees. If financing through state general obligation bonds is not available, the commissioner shall finance the purchase or construction of state-operated, community-based facilities with the Minnesota housing finance agency. The commissioner shall make payments through the department of administration to the Minnesota housing finance agency in repayment of mortgage loans granted for the purposes of this section. Programs must be adaptable to the needs of persons with mental retardation or related conditions and residential programs must be homelike.

New language is indicated by underline, deletions by ~~strikeout~~.



Sec. 23. Minnesota Statutes 1990, section 254A.03, subdivision 2, is amended to read:

Subd. 2. **AMERICAN INDIAN PROGRAMS.** There is hereby created a section of American Indian programs, within the alcohol and drug abuse section of the department of human services, ~~the position of to be headed by~~ a special assistant for American Indian programs on alcoholism and drug abuse and an assistant to that position. The section shall be staffed with all personnel necessary to fully administer programming for alcohol and drug abuse for American Indians in the state. The special assistant position shall be filled by a person with considerable practical experience in and understanding of alcohol and other drug abuse problems in the American Indian community, who shall be responsible to the director of the alcohol and drug abuse section created in subdivision 1 and shall be in the unclassified service. The special assistant shall meet with the American Indian advisory council as described in section 254A.035 and serve as a liaison to the Minnesota Indian affairs council to report on the status of alcohol and other drug abuse among American Indians in the state of Minnesota. The special assistant with the approval of the director shall:

(a) Administer funds appropriated for American Indian groups, organizations and reservations within the state for American Indian alcoholism and drug abuse programs.

(b) Establish policies and procedures for such American Indian programs with the assistance of the American Indian advisory board.

(c) Hire and supervise staff to assist in the administration of the American Indian program section within the alcohol and drug abuse section of the department of human services.

Sec. 24. Minnesota Statutes 1991 Supplement, section 254B.04, subdivision 1, is amended to read:

Subdivision 1. **ELIGIBILITY.** (a) Persons eligible for benefits under Code of Federal Regulations, title 25, part 20, persons eligible for medical assistance benefits under sections 256B.055 and 256B.056 or who meet the income standards of section 256B.056, subdivision 4, and persons eligible for general assistance medical care under section 256D.03, subdivision 3, are entitled to chemical dependency fund services. State money appropriated for this paragraph must be placed in a separate account established for this purpose.

(b) A person not entitled to services under paragraph (a), but with family income that is less than 60 percent of the state median income for a family of like size and composition, shall be eligible to receive chemical dependency fund services within the limit of funds available after persons entitled to services under paragraph (a) have been served. A county may spend money from its own sources to serve persons under this paragraph. State money appropriated for this paragraph must be placed in a separate account established for this purpose.

New language is indicated by underline, deletions by ~~strikeout~~.

(c) Persons whose income is between 60 percent and 115 percent of the state median income shall be eligible for chemical dependency services on a sliding fee basis, within the limit of funds available, after persons entitled to services under paragraph (a) and persons eligible for services under paragraph (b) have been served. Persons eligible under this paragraph must contribute to the cost of services according to the sliding fee scale established under subdivision 3. A county may spend money from its own sources to provide services to persons under this paragraph. State money appropriated for this paragraph must be placed in a separate account established for this purpose.

(d) Notwithstanding the provisions of paragraphs (b) and (c), state funds appropriated to serve persons who are not entitled under the provisions of paragraph (a), shall be expended for chemical dependency treatment services for nonentitled but eligible persons who have children in their household, are pregnant, or are younger than 18 years old. These persons may have household incomes up to 60 percent of the state median income. Any funds in addition to the amounts necessary to serve the persons identified in this paragraph shall be expended according to the provisions of paragraphs (b) and (c).

Sec. 25. Minnesota Statutes 1990, section 256B.0625, is amended by adding a subdivision to read:

**Subd. 20a. CASE MANAGEMENT FOR PERSONS WITH MENTAL RETARDATION OR A RELATED CONDITION.** To the extent defined in the state Medicaid plan, case management service activities for persons with mental retardation or a related condition as defined in section 256B.092, and rules promulgated thereunder, are covered services under medical assistance.

Sec. 26. Minnesota Statutes 1990, section 256B.092, is amended by adding a subdivision to read:

**Subd. 2a. MEDICAL ASSISTANCE FOR CASE MANAGEMENT ACTIVITIES UNDER THE STATE PLAN MEDICAID OPTION.** Upon receipt of federal approval, the commissioner shall make payments to approved vendors of case management services participating in the medical assistance program to reimburse costs for providing case management service activities to medical assistance eligible persons with mental retardation or a related condition, in accordance with the state Medicaid plan and federal requirements and limitations.

Sec. 27. Minnesota Statutes 1991 Supplement, section 256B.092, subdivision 7, is amended to read:

**Subd. 7. SCREENING TEAMS.** For persons with mental retardation or a related condition, screening teams shall be established which shall evaluate the need for the level of care provided by residential-based habilitation services, residential services, training and habilitation services, and nursing facility services. The evaluation shall address whether home- and community-based services are appropriate for persons who are at risk of placement in an intermediate care

New language is indicated by underline, deletions by ~~strikeout~~.

facility for persons with mental retardation or related conditions, or for whom there is reasonable indication that they might require this level of care. The screening team shall make an evaluation of need within 15 working days of the date that the assessment is completed or within 60 working days of a request for service by a person with mental retardation or related conditions, whichever is the earlier, and within five working days of an emergency admission of a person to an intermediate care facility for persons with mental retardation or related conditions. The screening team shall consist of the case manager for persons with mental retardation or related conditions, the person, the person's legal guardian or conservator, or the parent if the person is a minor, and a qualified mental retardation professional, as defined in the Code of Federal Regulations, title 42, section 483.430, as amended through June 3, 1988. The case manager may also act as the qualified mental retardation professional if the case manager meets the federal definition. County social service agencies may contract with a public or private agency or individual who is not a service provider for the person for the public guardianship representation required by the screening or individual service planning process. The contract shall be limited to public guardianship representation for the screening and individual service planning activities. The contract shall require compliance with the commissioner's instructions and may be for paid or voluntary services. For persons determined to have overriding health care needs, a registered nurse must be designated as either the case manager or the qualified mental retardation professional. The case manager shall consult with the person's physician, other health professionals or other individuals as necessary to make this evaluation. For persons under the jurisdiction of a correctional agency, the case manager must consult with the corrections administrator regarding additional health, safety, and supervision needs. The case manager, with the concurrence of the person, the person's legal guardian or conservator, or the parent if the person is a minor, may invite other individuals to attend meetings of the screening team. No member of the screening team shall have any direct or indirect service provider interest in the case. Nothing in this section shall be construed as requiring the screening team meeting to be separate from the service planning meeting.

Sec. 28. Minnesota Statutes 1990, section 256B.501, is amended by adding a subdivision to read:

Subd. 4a. INCLUSION OF HOME CARE COSTS IN WAIVER RATES. The commissioner shall adjust the limits of the established average daily reimbursement rates for waived services to include the cost of home care services that may be provided to waived services recipients. This adjustment must be used to maintain or increase services and shall not be used by county agencies for inflation increases for waived services vendors. Home care services referenced in this section are those listed in section 256B.0627, subdivision 2. The average daily reimbursement rates established in accordance with the provisions of this subdivision apply only to the combined average, daily costs of waived and home care services and do not change home care limitations under section 256B.0627. Waived services recipients receiving home care as of June 30, 1992, shall not have the amount of their services reduced as a result of this section.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 29. Minnesota Statutes 1990, section 256B.501, is amended by adding a subdivision to read:

**Subd. 4b. WAIVER RATES AND GROUP RESIDENTIAL HOUSING RATES.** The average daily reimbursement rates established by the commissioner for waived services shall be adjusted to include the additional costs of services eligible for waiver funding under title XIX of the Social Security Act and for which there is no group residential housing payment available as a result of the payment limitations set forth in section 256I.05, subdivision 10. The adjustment to the waiver rates shall be based on county reports of service costs that are no longer eligible for group residential housing payments. No adjustment shall be made for any amount of reported payments that prior to July 1, 1992, exceeded the group residential housing rate limits established in section 256I.05 and were reimbursed through county funds.

Sec. 30. Minnesota Statutes 1990, section 256C.28, subdivision 2, is amended to read:

**Subd. 2. REMOVAL; VACANCIES; EXPIRATION.** The compensation, removal of members, and filling of vacancies on the council are as provided in section 15.0575. ~~The council expires as provided in section 15.059, subdivision 5.~~

Sec. 31. Minnesota Statutes 1990, section 256C.28, subdivision 3, is amended to read:

**Subd. 3. DUTIES.** The council shall:

(1) advise ~~the commissioner,~~ the governor, ~~and~~ the legislature, and the commissioners of the departments of human services, education, jobs and training, and health on the nature of the issues and disabilities confronting hearing impaired persons in Minnesota;

(2) advise ~~the commissioner,~~ the governor, ~~and~~ the legislature, and the commissioners of the departments of human services, education, jobs and training, and health on the development of policies, programs, and services affecting hearing impaired persons, and on the use of appropriate federal and state money;

(3) create a public awareness of the special needs and potential of hearing impaired persons;

(4) provide ~~the commissioner,~~ the governor, ~~and~~ the legislature, and the commissioners of the departments of human services, education, jobs and training, and health with a review of ongoing services, programs, and proposed legislation affecting hearing impaired persons;

(5) advise ~~the commissioner,~~ the governor, ~~and~~ the legislature, and the commissioners of the departments of human services, education, jobs and training, and health on statutes or rules necessary to ensure that hearing impaired persons have access to benefits and services provided to individuals in Minnesota;

New language is indicated by underline, deletions by ~~strikeout~~.

(6) recommend to the commissioner, the governor, and the legislature, and the commissioners of the departments of human services, education, jobs and training, and health legislation designed to improve the economic and social conditions of hearing impaired persons in Minnesota;

(7) propose solutions to problems of hearing impaired persons in the areas of education, employment, human rights, human services, health, housing, and other related programs;

(8) recommend to the governor and the legislature any needed revisions in the state's affirmative action program and any other steps necessary to eliminate the underemployment or unemployment of hearing impaired persons in the state's workforce;

(9) work with other state and federal agencies and organizations to promote economic development for hearing impaired Minnesotans; and

(10) coordinate its efforts with other state and local agencies serving hearing impaired persons.

Sec. 32. Minnesota Statutes 1990, section 256E.14, is amended to read:

256E.14 GRANTS FOR CASE MANAGEMENT FOR PERSONS WITH MENTAL RETARDATION OR RELATED CONDITIONS.

For the biennium ending June 30, 1991, the commissioner shall distribute to counties the appropriation made available under this section for case management services for persons with mental retardation or related conditions as follows:

(+) one-half of the appropriation must be distributed to the counties according to the formula in section 256E.06, subdivision 1; and

(-) one-half of as provided in this section. The appropriation must be distributed to the counties on the basis of the number of persons with mental retardation or a related condition that were receiving case management services from the county on the January 1 preceding the start of the fiscal year in which the funds are distributed. The appropriation may be reduced by the amount necessary to meet the state match for medical reimbursement under section 256B.092, subdivision 2a.

Sec. 33. Minnesota Statutes 1990, section 299F.011, subdivision 4a, is amended to read:

Subd. 4a. FAMILY OR GROUP FAMILY DAY CARE HOME REGULATION. (a) Notwithstanding any contrary provision of this section, the fire marshal shall not adopt or enforce a rule:

(1) establishing staff ratios, age distribution requirements, and limitations on the number of children in care;

(2) regulating the means of egress from family or group family day care homes in addition to the egress rules that apply to the home as a single family dwelling; or

(3) confining family or group family day care home activities to the floor of exit discharge.

(b) For purposes of this subdivision, "family or group family day care home" means a dwelling unit in which the day care provider provides the services referred to in section 245A.02, subdivision 10, to one or more persons.

(c) Nothing in this subdivision prohibits the department of human services from adopting or enforcing rules regulating day care, including the subjects in subdivision 4a, clauses (1) and (3). The department may not, however, adopt or enforce a rule stricter than subdivision 4a, clause (2).

(d) The department of human services may by rule adopt procedures for requesting the state fire marshal or a local fire marshal to conduct an inspection of day care homes to ensure compliance with state or local fire codes.

(e) The commissioners of public safety and human services may enter into an agreement for the commissioner of human services to perform follow-up inspections of programs, subject to licensure under section 245A, to determine whether certain violations cited by the state fire marshal have been corrected. The agreement shall identify specific items the commissioner of human services is permitted to inspect. The list of items is not subject to rulemaking and may be changed by mutual agreement between the state fire marshal and the commissioner. The agreement shall provide for training of individuals who will conduct follow-up inspections. The agreement shall contain procedures for the commissioner of human services to follow when the commissioner requires assistance from the state fire marshal to carry out the duties of the agreement.

(f) No tort liability is transferred to the commissioner of human services as a result of the commissioner of human services performing activities within the limits of the agreement.

Sec. 34. Minnesota Statutes 1990, section 363.071, is amended by adding a subdivision to read:

Subd. 7. LITIGATION AND HEARING COSTS. The administrative law judge shall order a respondent who is determined to have engaged in an unfair discriminatory practice to reimburse the department and the attorney general for all appropriate litigation and hearing costs expended in preparing for and conducting the hearing, unless payment of the costs would impose a financial hardship on the respondent. Appropriate costs include but are not limited to the costs of services rendered by the attorney general, private attorneys if engaged by the department, administrative law judges, court reporters, and expert witnesses as well as the costs of transcripts and other necessary supplies and materials.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 35. Minnesota Statutes 1990, section 363.14, subdivision 2, is amended to read:

Subd. 2. **DISTRICT COURT JURISDICTION.** Any action brought pursuant to this section shall be filed in the district court of the county wherein the unlawful discriminatory practice is alleged to have been committed or where the respondent resides or has a principal place of business.

Any action brought pursuant to this chapter shall be heard and determined by a judge sitting without a jury.

If the court finds that the respondent has engaged in an unfair discriminatory practice, it shall issue an order directing appropriate relief as provided by section 363.071, subdivision 2.

When the court issues an order providing for payment to the state of a civil penalty pursuant to section 363.071, subdivision 2, it shall serve a copy of that order upon the attorney general at the same time as it makes service upon the parties.

Sec. 36. Minnesota Statutes 1990, section 363.14, subdivision 3, is amended to read:

Subd. 3. **ATTORNEY'S FEES AND COSTS.** In any action or proceeding brought pursuant to this section the court, in its discretion, may allow the prevailing party a reasonable attorney's fee as part of the costs. In any case brought by the department, the court shall order a respondent who is determined to have engaged in an unfair discriminatory practice to reimburse the department and the attorney general for all appropriate litigation and court costs expended in preparing for and conducting the hearing, unless payment of the costs would impose a financial hardship on the respondent. Appropriate costs include but are not limited to the costs of services rendered by the attorney general, private attorneys if engaged by the department, court costs, court reporters, and expert witnesses as well as the costs of transcripts and other necessary supplies and materials.

Sec. 37. **SPECIAL RATE AND LICENSING EXCEPTION.**

Notwithstanding contrary provisions of Minnesota Statutes, chapters 144, 157, 245A, and 256B, a facility that on August 1, 1987, was licensed by the commissioner of health as a boarding care facility with 11 or fewer beds and which had at least 75 percent of its licensed beds occupied by chronically, severely impaired, mentally ill individuals who were transferred to the facility from a regional treatment center may retain that license and must be reimbursed at a rate equal to its documented actual costs and known cost changes according to the rate formula in effect in 1980, or \$50 per resident per day, whichever is lower. This exemption from other rate-setting regulations or restrictions continues as long as the proportion of the facility's residents who are chronically, severely impaired, mentally ill individuals who were transferred to the facility from a regional treatment center remains at or above 75 percent.

New language is indicated by underline, deletions by ~~strikeout~~.

**Sec. 38. WAIVERED SERVICES RATE STRUCTURE.**

The commissioner of human services shall report to the legislature by January 15, 1993, with plans to implement on July 1, 1993, a rate structure for home- and community-based services under title XIX of the Social Security Act which bases funding on assessed needs of persons with mental retardation or related conditions.

**Sec. 39. MENTAL HEALTH SERVICES DELIVERY SYSTEM PILOT PROJECT IN DAKOTA COUNTY.**

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

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

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

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

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

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

(2) joint collaboration or program development projects between counties to enhance efficiency and expand program opportunities in such areas as mental illness and chemical dependency, downsizing of residential facilities for persons with mental illness, and residential or supported living arrangements for mothers with mental illness and their children;

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

New language is indicated by underline, deletions by ~~strikeout~~.



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

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

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

(7) prepaid managed health care programs; and

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

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

(1) general assistance medical care;

(2) general assistance;

(3) medical assistance;

(4) Minnesota supplemental aid;

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

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

(7) mental health special project grants.

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

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

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

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

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

New language is indicated by underline, deletions by ~~strikeout~~.

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

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

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

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

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

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

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

#### **Sec. 40. PILOT PROJECT FOR CRISIS SERVICES.**

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

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

#### **Sec. 41. ALTERNATIVE SERVICES PILOT PROJECTS.**

Subdivision 1. ELIGIBLE PERSON. "Eligible person" means a person with mental retardation or related conditions who is 65 years of age or older. An eligible person may be under 65 years of age if authorized by the commissioner to receive alternative services for health or medical reasons.

New language is indicated by underline, deletions by ~~strikeout~~.

**Subd. 2. ALTERNATIVE SERVICES AUTHORIZED.** Notwithstanding other law to the contrary, the commissioner may develop pilot projects that provide alternatives to day training and habilitation services for persons with mental retardation or related conditions who are 65 years of age or older. Before implementing the pilot projects, the commissioner shall consult with the board on aging; providers of day training and habilitation programs, residential programs, state-operated community-based programs, and other alternative services for persons with mental retardation or related conditions; and other interested persons including parents, advocates, and persons who may be considered for alternative services. The commissioner shall select as pilot project vendors only current providers of day training and habilitation programs, residential programs, state-operated community-based programs, or other alternative programs.

**Subd. 3. ALTERNATIVE SERVICES PARTICIPATION.** No more than 30 persons may receive alternative services under the pilot projects, and participants must be selected as follows: no more than seven persons from day training and habilitation programs; no more than seven persons from state-operated community-based programs; no more than seven persons from residential programs; and no more than nine persons from other community-integrated programs. Alternative services may be provided by a person's residential program provider only after other alternative services have been considered and determined not to meet the person's needs.

**Subd. 4. ADVISORY COMMITTEE.** The commissioner shall convene an advisory committee consisting of persons concerned with and affected by the alternative services pilot projects and the effect of the projects on existing services to evaluate the alternative services pilot projects. The commissioner shall report the advisory committee's evaluation to the legislature by February 1, 1994.

**Subd. 5. RIGHTS AND PROTECTIONS.** (a) The commissioner shall notify eligible persons or their legal representatives, in writing, when alternative services pilot projects have been authorized in the county. Eligible persons or their legal representatives may choose to participate in the alternative services pilot project that best serves the person's individual needs.

(b) Persons participating in alternative services must continue to receive active treatment as provided in a person's individual service plan to ensure compliance with applicable federal regulations.

(c) The county must inform persons participating in alternative services when any part of Minnesota Rules is waived. No rights or procedural protections under sections 256.045, subdivision 4a, or 256B.092, may be waived.

**Subd. 6. PAYMENT FOR ALTERNATIVE SERVICES.** (a) Payment for alternative services shall be made to approved vendors under the conditions of existing contracts with the host county, except for intermediate care facilities for persons with mental retardation or a related condition reimbursed through Minnesota Rules, parts 9553.0010 to 9553.0080. When alternative services under

New language is indicated by underline, deletions by ~~strikeout~~.

this section are provided by an intermediate care facility for persons with mental retardation or related conditions, the following reimbursement and reporting procedures will be applied.

(b) Effective upon date of enactment, the commissioner shall, for a facility determined to be eligible under this section, negotiate an adjustment to the payment rate. The negotiated adjustment must reflect only the actual programmatic costs of meeting the alternative day training and habilitation needs of persons participating in service alternatives under this section. Additional programmatic costs must not include administrative and property-related costs. The additional programmatic costs shall be limited to:

- (1) program salaries, payroll taxes, and fringe benefits of facility employees providing direct care services;
- (2) costs of program consultants providing direct care services;
- (3) training costs of facility employees providing direct care services;
- (4) costs of program supplies; and
- (5) additional operating costs related to transporting persons to community activities which have not been included in the facility's payment rate.

The additional programmatic costs must be reported on the facility's annual cost report in the program operating cost category. A facility receiving a negotiated adjustment to its payment rate must agree to report these payments on an accrual basis as an applicable credit in the program operating cost category on its annual cost report for each reporting year in which a negotiated adjustment is in effect. The maximum amount of the negotiated adjustment shall not exceed the cost of the day training and habilitation service provided to a person just prior to entering alternative services.

(c) The negotiated per diem adjustment to the facility's payment rate shall be equal to the sum of the negotiated programmatic costs divided by the facility's resident days for the reporting year used to establish the payment rate being adjusted. The adjusted payment rate shall be effective the first day of the month following the month when a person ceases receiving day training and habilitation services. The negotiated per diem adjustment may be subject to renegotiation on October 1 of each subsequent rate year. The negotiated per diem adjustment shall terminate upon discharge of the person from the facility, or at such time when the person is determined by the commissioner to no longer require service alternatives.

(d) Upon statewide implementation of a residential client-based reimbursement system for ICF/MR facilities, parts or all of this subdivision shall be subject to amendment, if no longer applicable, as determined by the commissioner.

#### **Sec. 42. SOCIAL SERVICE PILOT PROJECT; INTERGOVERNMENTAL AGREEMENTS.**

New language is indicated by underline, deletions by ~~strikeout~~.

Subdivision 1. PILOT PROJECTS. The commissioner of human services may approve up to six counties to participate in a pilot project to demonstrate the use of intergovernmental contracts between the state and counties to fund, administer, and regulate the delivery of programs under Minnesota Statutes, sections 245.461 to 245.4861 and 245.487 to 245.4887, and Minnesota Statutes, chapter 256E. The commissioner shall consider statewide distribution and county population in selecting counties for the pilot project. Counties may also develop integrated plans for any social service and community health programs which shall be accepted by the commissioners of health and human services in lieu of plans required in statute or rule. Two or more counties may submit joint proposals under the pilot project. The pilot projects shall expire after June 30, 1997.

Subd. 2. PURPOSE OF PILOT PROJECTS. Purposes of the social service contract pilot projects include:

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

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

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

(d) Encouraging intercounty and regional cooperation and coordination.

(e) Simplifying and consolidating planning and reporting requirements.

(f) Determining feasibility of using outcome-based performance standards to regulate the delivery of social services by counties.

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

Subd. 3. TERMS; CONDITIONS OF INTERGOVERNMENTAL AGREEMENTS. Counties participating in the pilot projects shall be exempt from the procedural requirements in state law except as required in federal law. Counties providing services under the pilot project shall continue mandated services. Program funds may be consolidated to permit the greatest flexibility in the delivery of services. Each intergovernmental agreement shall specify a limited and reasonable number of measurable objectives based on the county's community social services plan which will be used by the state to determine compliance. Counties participating in pilot projects will be required to provide mandated services to all eligible persons but will have flexibility in the delivery of services and use of funds. The county shall review pilot projects proposed under subdivisions 1 to 5 with all county social services and mental health advisory committees and councils.

Subd. 4. MONITORING AND ENFORCEMENT. The commissioner of human services shall monitor the pilot projects to determine compliance with the terms of the intergovernmental contracts and to assure that social services are delivered according to the county community social services act plan. The commissioner may rescind approval for the pilot project if the county fails to

New language is indicated by underline, deletions by ~~strikeout~~.

comply with the terms of the intergovernmental contract. If approval is withdrawn, the county will immediately be subject to all the requirements of the administrative rules governing programs covered under the intergovernmental contract.

Subd. 5. DISPUTE RESOLUTION. Nothing in this section shall alter the due process rights available to persons under state and federal law. Disputes which arise between the state and county in the development of contracts authorized in this section shall be resolved through mediation. The state and county shall select a mediator acceptable to both parties for the purpose of resolving disputes.

**Sec. 43. STUDY OF RESTRICTIONS ON RIGHT TO PROVIDE LICENSED DAY CARE.**

The commissioner of human services shall submit a report to the legislature by December 1, 1992, on the feasibility and desirability of prohibiting deeds, covenants, housing, condominium, or townhouse association bylaws, declarations, or rules; leases, rental agreements, or rules for manufactured home park lots or other rental property; or other conveyance instruments from including restrictions on use of residential property that would prevent a person from providing family or group family day care services for which the person is licensed under Minnesota Rules, parts 9502.0300 to 9502.0445. In completing the report, the commissioner shall consider the need for exceptions for:

(1) owner-occupied rental property with no more than two units, including the owner-occupied unit; and

(2) housing for older persons, as defined in United States Code, title 42, section 3607(b), as amended through December 31, 1991.

**Sec. 44. REPEALER.**

Minnesota Statutes 1990, sections 245A.14, subdivision 5; 245A.17; and Minnesota Statutes 1991 Supplement, section 252.46, subdivision 15, are repealed.

Minnesota Rules, part 9503.0170, subpart 6, item D, is repealed.

Presented to the governor April 17, 1992

Signed by the governor April 29, 1992, 11:12 a.m.

New language is indicated by underline, deletions by ~~strikeout~~.