Sec. 6. **EFFECTIVE DATE.**

Sections 1 and 3 to 5 are effective the day following final enactment. Section 2 is effective for the 1997–1998 school year.

Presented to the governor February 13, 1997

Signed by the governor February 14, 1997, 11:35 a.m.

CHAPTER 2—H.F.No. 13

An act relating to legislative enactments; providing for the correction of miscellaneous oversights, inconsistencies, ambiguities, unintended results, and technical errors of a noncontroversial nature; amending Minnesota Statutes 1996, sections 84.035, subdivision 5; 103G.005, subdivision 14a; 103G.2243; 119A.31, subdivision 1; 124A.22, subdivision 13; 256B.431, subdivision 25; 366.125; 394.235; and 462.353, subdivision 5; and Laws 1996, chapter 408, article 2, section 8.

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

Section 1. **CORRECTION 51.** Minnesota Statutes 1996, section 366.125, is amended to read:

366.125 **MAY MAKE APPLICANT CERTIFY THAT TAXES ARE PAID.**

The town board may require, either as part of the necessary information on an application or as a condition of a grant of approval, an applicant for an amendment, permit, or other approval required under a regulation established pursuant to sections 366.10 to 366.18 to certify that there are no delinquent property taxes, special assessments, penalties, and interest due on the parcel to which the application relates. Property taxes which are being paid under the provisions of a stipulation, order, or confession of judgment, or which are being appealed as provided by law, are not considered delinquent for purposes of this section if all required payments that are due under the terms of the stipulation, order, confession of judgment, or appeal have been paid.

Sec. 2. **CORRECTION 51.** Minnesota Statutes 1996, section 394.235, is amended to read:

394.235 **MAY MAKE APPLICANT CERTIFY THAT TAXES ARE PAID.**

The county board may require, either as part of the necessary information on an application or as a condition of a grant of approval, an applicant for an amendment to an official control established pursuant to sections 394.21 to 394.37, or for a permit or other approval required under an official control established pursuant to those sections to certify that there are no delinquent property taxes, special assessments, penalties, and interest due on the parcel to which the application relates. Property taxes which are being paid under the provisions of a stipulation, order, or confession of judgment, or which are being appealed as provided by law, are not considered delinquent for purposes of this section if all required payments that are due under the terms of the stipulation, order, confession of judgment, or appeal have been paid.

Sec. 3. **CORRECTION 51.** Minnesota Statutes 1996, section 462.353, subdivision 5, is amended to read:

Subd. 5. **CERTIFY TAXES PAID.** A municipality may require, either as part of the necessary information on an application or as a condition of a grant of approval, an applicant for an amendment to an official control established pursuant to sections 462.351 to 462.364, or for a permit or other approval required under an official control established pursuant to those sections to certify that there are no delinquent property taxes, special assessments, penalties, interest, and municipal utility fees due on the parcel to which the application relates. Property taxes which are being paid under the provisions of a stipulation, order, or confession of judgment, or which are being appealed as provided by law, are not considered delinquent for purposes of this subdivision if all required payments that are due under the terms of the stipulation, order, confession of judgment, or appeal have been paid.

Sec. 4. **CORRECTION 52.** Laws 1996, chapter 408, article 2, section 8, is amended to read:

Sec. 8. **INTENSIVE JUVENILE MONITORING PILOT PROGRAM.**

(a) The commissioner of corrections shall establish at least four pilot programs to provide intensive monitoring in the community for juveniles who have committed or are at risk to commit status offenses or delinquent acts. A juvenile need not be adjudicated for an offense to be eligible for the program. The pilot programs shall provide a work experience for qualified upper division college and graduate students who are majoring in relevant disciplines to supervise and monitor juveniles referred to or placed in community corrections or court services programs. Referrals to the program may be made by peace officers, juvenile courts, and juvenile probation officers.

(b) The commissioner shall collaborate with appropriate faculty members and administrators at the University of Minnesota, the state universities, private colleges and universities, community corrections agencies, and court services agencies to establish general eligibility criteria for upper division college and graduate students to participate in the program and to specify the various ways by which students will be compensated through their college or university for their participation including, but not limited to, monetary compensation, tuition payments, and related mileage and parking expenses. The compensation program shall allow for long–term placements and corrections experiences for students who are financially dependent on paid internships.

(c) The commissioner also shall collaborate with higher education experts, community corrections agencies, court services agencies, law enforcement agencies, and juvenile court judges to:

(1) establish general eligibility criteria for juveniles to be referred to or placed in the program;

(2) establish maximum caseloads for students, based on their experience and knowledge and on the characteristics of the juveniles to be supervised;

(3) specify the types of supervision and monitoring the college students may be expected to provide to the juveniles; and

(4) specify the manner in which the students' work and performance measures will be monitored and evaluated by relevant criminal justice and higher education professionals.

(d) At the end of the pilot programs, the commissioner of corrections shall report findings and recommendations to the chairs of the house and senate committees with jurisdiction over criminal justice and higher education issues.

Sec. 5. **CORRECTION 54.** Minnesota Statutes 1996, section 119A.31, subdivision 1, is amended to read:

Subdivision 1. **PROGRAMS.** The commissioner shall, in consultation with the chemical abuse and violence prevention council, administer a grant program to fund community–based programs that are designed to enhance the community's sense of personal security and to assist the community in its crime control and prevention efforts. Examples of qualifying programs include, but are not limited to, the following:

(1) community–based programs designed to provide services for children ~~aged 8 to 13~~ under 14 years of age who are juvenile offenders or who are at risk of becoming juvenile offenders. The programs must give priority to:

(i) juvenile restitution;

(ii) prearrest or pretrial diversion, including through mediation;

(iii) probation innovation;

(iv) teen courts, community service; or

(v) post incarceration alternatives to assist youth in returning to their communities;

(2) community–based programs designed to provide at–risk children and youth ~~aged 8 to 13~~ under 14 years of age with after–school and summer enrichment activities;

(3) community–based programs designed to discourage young people from involvement in unlawful drug or street gang activities such as neighborhood youth centers;

(4) neighborhood block clubs and innovative community–based crime prevention programs;

(5) community– and school–based programs designed to enrich the educational, cultural, or recreational opportunities of at–risk children and youth, including programs designed to keep at–risk youth from dropping out of school and encourage school dropouts to return to school;

(6) community–based programs designed to intervene with juvenile offenders who are identified as likely to engage in repeated criminal activity in the future unless intervention is undertaken;

(7) community–based collaboratives that coordinate multiple programs and funding sources to address the needs of at–risk children and youth, including, but not limited to, collaboratives that address the continuum of services for juvenile offenders and those who are at risk of becoming juvenile offenders;

(8) programs that are proven successful at increasing the rate of school success or the rate of post–secondary education attendance for high–risk students;

(9) community–based programs that provide services to homeless youth;

(10) programs designed to reduce truancy; and

(11) other community– and school–based crime prevention programs that are innovative and encourage substantial involvement by members of the community served by the program.

Sec. 6. **CORRECTION 55.** Minnesota Statutes 1996, section 124A.22, subdivision 13, is amended to read:

Subd. 13. **TRANSPORTATION SPARSITY DEFINITIONS.** The definitions in this subdivision apply to subdivisions 13a and 13b.

(a) "Sparsity index" for a school district means the greater of .2 or the ratio of the square mile area of the school district to the actual pupil units of the school district.

(b) "Density index" for a school district means the ratio of the square mile area of the school district to the actual pupil units of the school district. However, the density index for a school district cannot be greater than .2 or less than .005.

(c) "Fiscal year 1996 base allowance" for a school district means the result of the following computation:

(1) sum the following amounts:

(i) the fiscal year 1996 regular transportation revenue for the school district according to section 124.225, subdivision 7d, paragraph (a), excluding the revenue attributable nonpublic school pupils and to pupils with disabilities receiving special transportation services; plus

(ii) the fiscal year 1996 nonregular transportation revenue for the school district according to section 124.225, subdivision 7d, paragraph (b), excluding the revenue for desegregation transportation according to section 124.225, subdivision 1, paragraph (c), clause (4), and the revenue attributable to nonpublic school pupils and to pupils with disabilities receiving special transportation services or board and lodging; plus

(iii) the fiscal year 1996 excess transportation levy for the school district according to section 124.226, subdivision 5, excluding the levy attributable to nonpublic school pupils; plus

(iv) the fiscal year 1996 late activity bus levy for the school district according to section 124.226, subdivision 9, excluding the levy attributable to nonpublic school pupils; plus

(v) an amount equal to one–third of the fiscal year 1996 bus depreciation for the school district according to section 124.225, subdivision 1, paragraph (b), clauses (2), (3), and (4).

(2) divide the result in clause (1) by the school ~~districts~~ district's 1995–1996 ~~actual~~ fund balance pupil units.

Sec. 7. **CORRECTION 58.** Minnesota Statutes 1996, section 84.035, subdivision 5, is amended to read:

Subd. 5. **ACTIVITIES IN PEATLAND SCIENTIFIC AND NATURAL AREAS.** Areas designated in subdivision 4 as peatland scientific and natural areas are subject to the following conditions:

(a) Except as provided in paragraph (b), all restrictions otherwise applicable to scientific and natural areas designated under section 86A.05, subdivision 5, apply to the surface use and to any use of the mineral estate which would significantly modify or alter the peatland water levels or flows, peatland water chemistry, plant or animal species or communities, or other natural features of the peatland scientific and natural areas, including, but not limited to, the following prohibitions:

(1) construction of any new public drainage systems after the effective date of Laws 1991, chapter 354, or improvement or repair to a public drainage system in existence on the effective date of Laws 1991, chapter 354, under authority of chapter 103E, or any other alteration of surface water or ground water levels or flows unless specifically permitted under paragraph (b), clause (5) or (6);

(2) removal of peat, sand, gravel, or other industrial minerals;

(3) exploratory boring or other exploration or removal of oil, natural gas, radioactive materials or metallic minerals which would significantly modify or alter the peatland water levels or flows, peatland water chemistry, plant or animal species or communities, or natural features of the peatland scientific and natural areas, except in the event of a national emergency declared by Congress;

(4) commercial timber harvesting;

(5) construction of new corridors of disturbance, of the kind defined in subdivision 3, after June 5, 1991; and

(6) ditching, draining, filling, or any other activities which modify or alter the peatland water levels or flows, peatland water chemistry, plant or animal species or communities, or other natural features of the peatland scientific and natural areas.

(b) The following activities are allowed:

(1) recreational activities, including hunting, fishing, trapping, cross–country skiing, snowshoeing, nature observation, or other recreational activities permitted in the management plan approved by the commissioner;

(2) scientific and educational work and research;

(3) maintenance of corridors of disturbance, including survey lines and preparation of winter roads, consistent with protection of the peatland ecosystem;

(4) use of corridors of disturbance unless limited by a management plan adopted by the commissioner under subdivision 6;

(5) improvements to a public drainage system in existence on the effective date of Laws 1991, chapter 354, only when it is for the protection and maintenance of the ecological integrity of the peatland scientific and natural area and when included in a management plan adopted by the commissioner under subdivision 6;

(6) repairs to a public drainage system in existence on the effective date of Laws 1991, chapter 354, which crosses a peatland scientific and natural area and is used for the purposes of providing a drainage outlet for lands outside of the peatland scientific and natural area, provided that there are no other feasible and prudent alternative means of providing the drainage outlet. The commissioner shall cooperate with the ditch authority

in the determination of any feasible and prudent alternatives. No repairs which would significantly modify or alter the peatland water levels or flows, peatland water chemistry, plant or animal species or communities, or other natural features of the peatland scientific and natural areas shall be made unless approved by the commissioner;

(7) motorized uses on a corridor of disturbance, if the corridor existed on or before January 1, 1992, provided that recreational motorized ~~users~~ uses may occur only when the substrate is frozen, or the corridor is snow packed, subject to a management plan developed in accordance with subdivision 6;

(8) control of forest insects, disease, and wildfires, as described in a management plan adopted by the commissioner under subdivision 6; and

(9) geological and geophysical surveys which would not significantly modify or alter the peatland water levels or flows, peatland water chemistry, plant or animal species or communities, or other natural features of the peatland scientific and natural areas.

Sec. 8. **CORRECTION 58B.** Minnesota Statutes 1996, section 103G.005, subdivision 14a, is amended to read:

Subd. 14a. **PASTURE.** "Pasture" means an area that was grazed by domesticated livestock or that was planted with annually seeded crops in a crop rotation seeding of grasses or legumes in six of the last ten years prior to January 1, 1991.

Sec. 9. **CORRECTION 58C.** Minnesota Statutes 1996, section 103G.2243, is amended to read:

103G.2243 **LOCAL COMPREHENSIVE WETLAND PROTECTION AND MANAGEMENT PLANS.**

Subdivision 1. **GENERAL REQUIREMENTS; NOTICE AND PARTICIPATION.** (a) As an alternative to the rules adopted under section 103G.2242, subdivision 1, and the public value criteria established or approved under section 103B.3355, a comprehensive wetland protection and management plan may be developed by a local government unit, or one or more local government units operating under a joint powers agreement, provided that:

(1) a notice is made at the beginning of the planning process to the board, the commissioner of natural resources, the pollution control agency, local government units, and local citizens to actively participate in the development of the plan; and

(2) the plan is implemented by ordinance as part of the local government's official controls under chapter 394, for a county; chapter 462, for a city; chapter 366, for a town; and by rules adopted under chapter 103D, for a watershed district; and chapter 103B, for a watershed management organization.

(b) An organization that is invited to participate in the development of the local plan, but declines to do so and fails to participate or to provide written comments during the local review process, waives the right during board review to submit comments, except comments concerning consistency of the plan with laws and rules administered by that agency. In determining the merit of an agency comment, the board shall consider the involvement of the agency in the development of the local plan.

Subd. 2. **PLAN CONTENTS.** A comprehensive wetland protection and management plan may:

(1) provide for classification of wetlands in the plan area based on:

(i) an inventory of wetlands in the plan area;

(ii) an assessment of the wetland functions listed in section 103B.3355, using a methodology chosen by the technical evaluation panel from one of the methodologies established or approved by the board under that section; and

(iii) the resulting public values;

(2) vary application of the sequencing standards in section 103G.222, subdivision 1, paragraph (b), for projects based on the classification and criteria set forth in the plan;

(3) vary the replacement standards of section 103G.222, subdivision 1, paragraphs (f) and (g), based on the classification and criteria set forth in the plan, for specific wetland impacts provided there is no net loss of public values within the area subject to the plan, and so long as:

(i) in a 50 to 80 percent area, a minimum acreage requirement of one acre of replaced wetland for each acre of drained or filled wetland requiring replacement is met within the area subject to the plan; and

(ii) in a less than 50 percent area, a minimum acreage requirement of two acres of replaced wetland for each acre of drained or filled wetland requiring replacement is met within the area subject to the plan, except that replacement for the amount above a 1:1 ratio can be accomplished as described in section 103G.2242, subdivision 12;

(4) in a greater than 80 percent area, allow replacement credit, based on the classification and criteria set forth in the plan, for any project that increases the public value of wetlands, including activities on adjacent upland acres; and

(5) in a greater than 80 percent area, based on the classification and criteria set forth in the plan, expand the application of the exemptions in section 103G.2241, subdivision 1, paragraph (a), clause (4), to also include nonagricultural land, provided there is no net loss of wetland values.

Subd. 3. **BOARD REVIEW AND APPROVAL; MEDIATION; JUDICIAL REVIEW.** (a) The plan is deemed approved 60 days after the local government submits the final plan to the board, unless the board disagrees with the plan as provided in paragraph (d).

(b) The board may not disapprove a plan if the board determines the plan meets the requirements of this section.

(c) In its review of a plan, the board shall advise the local government unit of those elements of the plan that are more restrictive than state law and rules for purposes of section 103G.237, subdivision 5.

(d) If the board disagrees with the plan or any elements of the plan, the board shall, in writing, notify the local government of the plan deficiencies and suggested changes. The board shall include in the response to the local government the scientific justification, if applicable, for the board's concerns with the plan. Upon receipt of the board's concerns with the plan, the local government has 60 days to revise the plan and resubmit the plan to the board for reconsideration, or the local government may request a hearing before the

board. The board shall hold a hearing within the boundaries of the jurisdiction of the local government within 60 days of the request for hearing. After the hearing, the board shall, within 60 days, prepare a report of its decision and inform the local government.

(e) If, after the hearing, the board and local government disagree on the plan, the board shall, within 60 days, initiate mediation through a neutral party. If the board and local government unit agree in writing not to use mediation or the mediation does not result in a resolution of the differences between the parties, then the board may commence a declaratory judgment action in the district court of the county where the local government unit is located. If the board does not commence a declaratory judgment action within the applicable 60–day period, the plan is deemed approved.

(f) The declaratory judgment action must be commenced within 60 days after the date of the written agreement not to use mediation or 60 days after conclusion of the mediation. If the board commences a declaratory judgment action, the district court shall review the board's record of decision and the record of decision of the local government unit. The district court shall affirm the plan if it meets the requirements of this ~~subdivision~~ section.

Subd. 4. **EFFECTIVE DATE; REPLACEMENT DECISIONS.** (a) The plan becomes effective as provided in subdivision 3, paragraphs (d) to (f), and after adoption of the plan into the official controls of the local government.

(b) After the effective date of a plan, a local government unit shall make replacement decisions consistent with the plan.

Subd. 5. **PLAN AMENDMENTS.** Amendments to the plan become effective upon completion of the same process required for the original plan.

Subd. 6. **WATER PLANNING PROCESSES APPLY.** Except as otherwise provided for in this section, all other requirements relating to development of the plan must be consistent with the water plan processes under sections 103B.231 and 103B.311.

Sec. 10. **CORRECTION 62B.** Minnesota Statutes 1996, section 256B.431, subdivision 25, is amended to read:

Subd. 25. **CHANGES TO NURSING FACILITY REIMBURSEMENT BEGINNING JULY 1, 1995.** The nursing facility reimbursement changes in paragraphs (a) to ~~(h)~~ (g) shall apply in the sequence specified to Minnesota Rules, parts 9549.0010 to 9549.0080, and this section, beginning July 1, 1995.

(a) The eight–cent adjustment to care–related rates in subdivision 22, paragraph (e), shall no longer apply.

(b) For rate years beginning on or after July 1, 1995, the commissioner shall limit a nursing facility's allowable operating per diem for each case mix category for each rate year as in clauses (1) to (3).

(1) For the rate year beginning July 1, 1995, the commissioner shall group nursing facilities into two groups, freestanding and nonfreestanding, within each geographic group, using their operating cost per diem for the case mix A classification. A nonfreestanding nursing facility is a nursing facility whose other operating cost per diem is subject to the hospital attached, short length of stay, or the rule 80 limits. All other nursing

facilities shall be considered freestanding nursing facilities. The commissioner shall then array all nursing facilities in each grouping by their allowable case mix A operating cost per diem. In calculating a nursing facility's operating cost per diem for this purpose, the commissioner shall exclude the raw food cost per diem related to providing special diets that are based on religious beliefs, as determined in subdivision 2b, paragraph (h). For those nursing facilities in each grouping whose case mix A operating cost per diem:

(i) is at or below the median minus 1.0 standard deviation of the array, the commissioner shall limit the nursing facility's allowable operating cost per diem for each case mix category to the lesser of the prior reporting year's allowable operating cost per diems plus the inflation factor as established in paragraph (f), clause (2), increased by six percentage points, or the current reporting year's corresponding allowable operating cost per diem;

(ii) is between minus .5 standard deviation and minus 1.0 standard deviation below the median of the array, the commissioner shall limit the nursing facility's allowable operating cost per diem for each case mix category to the lesser of the prior reporting year's allowable operating cost per diems plus the inflation factor as established in paragraph (f), clause (2), increased by four percentage points, or the current reporting year's corresponding allowable operating cost per diem; or

(iii) is equal to or above minus .5 standard deviation below the median of the array, the commissioner shall limit the nursing facility's allowable operating cost per diem for each case mix category to the lesser of the prior reporting year's allowable operating cost per diems plus the inflation factor as established in paragraph (f), clause (2), increased by three percentage points, or the current reporting year's corresponding allowable operating cost per diem.

(2) For the rate year beginning on July 1, 1996, the commissioner shall limit the nursing facility's allowable operating cost per diem for each case mix category to the lesser of the prior reporting year's allowable operating cost per diems plus the inflation factor as established in paragraph (f), clause (2), increased by one percentage point or the current reporting year's corresponding allowable operating cost per diems; and

(3) For rate years beginning on or after July 1, 1997, the commissioner shall limit the nursing facility's allowable operating cost per diem for each case mix category to the lesser of the reporting year prior to the current reporting year's allowable operating cost per diems plus the inflation factor as established in paragraph (f), clause (2), or the current reporting year's corresponding allowable operating cost per diems.

(c) For rate years beginning on July 1, 1995, the commissioner shall limit the allowable operating cost per diems for high cost nursing facilities. After application of the limits in paragraph (b) to each nursing facility's operating cost per diems, the commissioner shall group nursing facilities into two groups, freestanding or nonfreestanding, within each geographic group. A nonfreestanding nursing facility is a nursing facility whose other operating cost per diems are subject to hospital attached, short length of stay, or rule 80 limits. All other nursing facilities shall be considered freestanding nursing facilities. The commissioner shall then array all nursing facilities within each grouping by their allowable case mix A operating cost per diems. In calculating a nursing facility's operating cost per diem for this purpose, the commissioner shall exclude the raw food cost per diem related to providing special diets that are based on religious beliefs, as determined in sub-

division 2b, paragraph (h). For those nursing facilities in each grouping whose case mix A operating cost per diem exceeds 1.0 standard deviation above the median, the commissioner shall reduce their allowable operating cost per diems by two percent. For those nursing facilities in each grouping whose case mix A operating cost per diem exceeds 0.5 standard deviation above the median but is less than or equal to 1.0 standard deviation above the median, the commissioner shall reduce their allowable operating cost per diems by one percent.

(d) For rate years beginning on or after July 1, 1996, the commissioner shall limit the allowable operating cost per diems for high cost nursing facilities. After application of the limits in paragraph (b) to each nursing facility's operating cost per diems, the commissioner shall group nursing facilities into two groups, freestanding or nonfreestanding, within each geographic group. A nonfreestanding nursing facility is a nursing facility whose other operating cost per diems are subject to hospital attached, short length of stay, or rule 80 limits. All other nursing facilities shall be considered freestanding nursing facilities. The commissioner shall then array all nursing facilities within each grouping by their allowable case mix A operating cost per diems. In calculating a nursing facility's operating cost per diem for this purpose, the commissioner shall exclude the raw food cost per diem related to providing special diets that are based on religious beliefs, as determined in subdivision 2b, paragraph (h). In those nursing facilities in each grouping whose case mix A operating cost per diem exceeds 1.0 standard deviation above the median, the commissioner shall reduce their allowable operating cost per diems by three percent. For those nursing facilities in each grouping whose case mix A operating cost per diem exceeds 0.5 standard deviation above the median but is less than or equal to 1.0 standard deviation above the median, the commissioner shall reduce their allowable operating cost per diems by two percent.

(e) For rate years beginning on or after July 1, 1995, the commissioner shall determine a nursing facility's efficiency incentive by first computing the allowable difference, which is the lesser of $4.50 or the amount by which the facility's other operating cost limit exceeds its nonadjusted other operating cost per diem for that rate year. The commissioner shall compute the efficiency incentive by:

(1) subtracting the allowable difference from $4.50 and dividing the result by $4.50;

(2) multiplying 0.20 by the ratio resulting from clause (1), and then;

(3) adding 0.50 to the result from clause (2); and

(4) multiplying the result from clause (3) times the allowable difference.

The nursing facility's efficiency incentive payment shall be the lesser of $2.25 or the product obtained in clause (4).

(f) For rate years beginning on or after July 1, 1995, the forecasted price index for a nursing facility's allowable operating cost per diems shall be determined under clauses (1) to (3) using the change in the Consumer Price Index–All Items (United States city average) (CPI–U) or the change in the Nursing Home Market Basket, both as forecasted by Data Resources Inc., whichever is applicable. The commissioner shall use the indices as forecasted in the fourth quarter of the calendar year preceding the rate year, subject to subdivision 2l, paragraph (c). If, as a result of federal legislative or administrative action, the methodology used to calculate the Consumer Price Index–All Items (United States

city average) (CPI–U) changes, the commissioner shall develop a conversion factor or other methodology to convert the CPI–U index factor that results from the new methodology to an index factor that approximates, as closely as possible, the index factor that would have resulted from application of the original CPI–U methodology prior to any changes in methodology. The commissioner shall use the conversion factor or other methodology to calculate an adjusted inflation index. The adjusted inflation index must be used to calculate payment rates under this section instead of the CPI–U index specified in paragraph (d). If the commissioner is required to develop an adjusted inflation index, the commissioner shall report to the legislature as part of the next budget submission the fiscal impact of applying this index.

(1) The CPI–U forecasted index for allowable operating cost per diems shall be based on the 21–month period from the midpoint of the nursing facility's reporting year to the midpoint of the rate year following the reporting year.

(2) The Nursing Home Market Basket forecasted index for allowable operating costs and per diem limits shall be based on the 12–month period between the midpoints of the two reporting years preceding the rate year.

(3) For rate years beginning on or after July 1, 1996, the forecasted index for operating cost limits referred to in subdivision 21, paragraph (b), shall be based on the CPI–U for the 12–month period between the midpoints of the two reporting years preceding the rate year.

(g) After applying these provisions for the respective rate years, the commissioner shall index these allowable operating costs per diems by the inflation factor provided for in paragraph (f), clause (1), and add the nursing facility's efficiency incentive as computed in paragraph (e).

(h) A nursing facility licensed for 302 beds on September 30, 1993, that was approved under the moratorium exception process in section 144A.073 for a partial replacement, and completed the replacement project in December 1994, is exempt from paragraphs (b) to (d) for rate years beginning on or after July 1, 1995.

(i) Notwithstanding Laws 1996, chapter 451, article 3, section 11, paragraph (h), for the rate years beginning on July 1, 1996, July 1, 1997, and July 1, 1998, a nursing facility licensed for 40 beds effective May 1, 1992, with a subsequent increase of 20 Medicare/Medicaid certified beds, effective January 26, 1993, in accordance with an increase in licensure is exempt from paragraphs (b) to (d).

Sec. 11. **EFFECTIVE DATE.**

Section 6 is effective retroactive to July 1, 1996.

Presented to the governor February 18, 1997

Signed by the governor February 19, 1997, 2:30 p.m.