STATE OF MINNESOTA

Journal of the Senate

SEVENTY-NINTH LEGISLATURE

ONE HUNDRED ELEVENTH DAY

St. Paul, Minnesota, Monday, April 1, 1996

The Senate met at 1:00 p.m. and was called to order by the President.

CALL OF THE SENATE

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

Prayer was offered by Senator Pat Piper.

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

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

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

The President declared a quorum present.

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

EXECUTIVE AND OFFICIAL COMMUNICATIONS

The following communication was received.

March 29, 1996

The Honorable Irv Anderson
Speaker of the House of Representatives

The Honorable Allan H. Spear
President of the Senate

I have the honor to inform you that the following enrolled Acts of the 1996 Session of the State Legislature have been received from the Office of the Governor and are deposited in the Office of the Secretary of State for preservation, pursuant to the State Constitution, Article IV, Section 23:

S.F. No.	H.F. No.	Session Laws Chapter No.	Time and Date Approved 1996	Date Filed 1996
	14	Res. No. 4		March 28

Sincerely,
Joan Anderson Growe
Secretary of State

MOTIONS AND RESOLUTIONS

Mr. Moe, R.D. moved that Senate Resolution No. 123 be taken from the table. The motion prevailed.

With unanimous consent, the name of the Honorable Cliff Ukkelberg was added.

Senate Resolution No. 123: A Senate resolution commemorating the lives and work of deceased Senators.

The Honorable Milan L. Bonniwell 1951-1958
The Honorable Earl Engbritson 1951-1954
The Honorable Don Frank 1981-1992
The Honorable Mel Hansen 1963-1976
The Honorable Vic Jude 1967-1972
The Honorable Harold Krieger 1963-1975
The Honorable Rudy Perpich 1963-1970
The Honorable Cliff Ukkelberg 1959-1972

WHEREAS, those in public office need an uncommon dedication to meet the demands upon their time, resources, and talents; and

WHEREAS, in the history of the Minnesota Senate, there have been countless Senators who have left a heritage of noble deeds, thoughts, and acts; and

WHEREAS, in their endeavors to legislate for the public good of the people of this state, they strove to represent fairly the rights of the people; and

WHEREAS, their spirits continually challenge, enlighten, and encourage those who remain to honestly and diligently exercise the work of government for the public good; and

WHEREAS, Senators of today take courage and inspiration from those noble servants of another time who believed it was better to serve than to be served; NOW THEREFORE,

BE IT RESOLVED by the Senate of the State of Minnesota that it recognizes the tremendous contributions of the following deceased Senators: The Honorable Mel Hansen, 1963-1976; The Honorable Don Frank, 1981-1992; The Honorable Vic Jude, 1967-1972; The Honorable Harold Krieger, 1963-1975; The Honorable Milan L. Bonniwell, 1951-1958; The Honorable Earl Engbritson, 1951-1954; The Honorable Rudy Perpich, 1963-1970; The Honorable Cliff Ukkelberg, 1959-1972. Their dedication to the public good is a source of inspiration to, and is worthy of emulation by, their present-day colleagues.

BE IT FURTHER RESOLVED that the Secretary of the Senate is directed to prepare an enrolled copy of this resolution, to be authenticated by his signature and that of the Chair of the Senate Rules and Administration Committee, and present them to appropriate relatives of those commemorated by this resolution.

Mr. Moe, R.D. moved the adoption of the foregoing resolution. The motion prevailed. So the resolution was adopted.

Pursuant to Rule 10, Mr. Moe, R.D., Chair of the Committee on Rules and Administration, designated S.F. No. 2515 a Special Order to be heard immediately.

SPECIAL ORDER

S.F. No. 2515: A bill for an act relating to labor; protecting interests of employees following railroad acquisitions; imposing a penalty; amending Minnesota Statutes 1994, sections 222.86, subdivision 3, and by adding a subdivision; and 222.88.

Ms. Anderson moved to amend S.F. No. 2515 as follows:

Page 1, after line 6, insert:

"Section 1. Minnesota Statutes 1994, section 222.85, is amended by adding a subdivision to read:

Subd. 5. [AFFECTED EMPLOYEE.] "Affected employee" means an employee of a divesting carrier who:

(1) maintains a permanent residence within 30 miles of the line of railroad being sold to an acquiring carrier; or

(2) has been assigned to a crew working on that line of railroad during the 30 months immediately preceding the sale; or

(3) is displaced in the normal exercise of seniority by an employee meeting the criteria of clause (2) who chooses to remain in the employment of the divesting carrier."

Page 2, delete sections 2 and 3 and insert:

"Sec. 3. Minnesota Statutes 1994, section 222.86, is amended by adding a subdivision to read:

Subd. 4. [NOTICE TO EMPLOYEES OF DIVESTING CARRIER.] The acquiring carrier shall provide the divesting carrier with a copy of its filing of a notice of intent to initiate an exempt transaction and the name and telephone number of a designated employment representative at the time of filing with the surface transportation board. Within five days thereafter, the divesting carrier shall provide copies of the acquiring carrier's notice and designated employment representative information to the accredited union representatives of the divesting carrier. The divesting carrier shall also post copies of the acquiring carrier's notice and designated representative information at locations where such employee information is customarily posted within the workplace.

Sec. 4. Minnesota Statutes 1994, section 222.86, is amended by adding a subdivision to read:

Subd. 5. [PENALTY.] A carrier who violates this section is subject to a penalty of up to $500 for each day that the violation continues but not to exceed a total penalty of $10,000.

Sec. 5. Minnesota Statutes 1994, section 222.88, is amended to read:

222.88 [PRIORITY IN HIRING.]

Unless required by other law or regulation to otherwise provide preference in employment, an acquiring carrier under sections 222.85 to 222.87 shall give priority in hiring~~, based upon length of service on the affected rail line,~~ to ~~employees~~ an affected employee of the divesting carrier ~~performing service in connection with the affected rail line~~ based on the employee's length of service.

The divesting carrier and accredited representatives of employees shall jointly submit a list of affected employees to the acquiring carrier for the purpose of asserting priority in hiring.

All affected employees must be notified by mail service of the opportunity for employment and must be allowed a minimum of 30 days to decide whether to accept employment with the acquiring carrier.

To assert priority in hiring, the employee must be qualified by experience and training to perform the available job."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

CALL OF THE SENATE

Ms. Anderson imposed a call of the Senate for the balance of the proceedings on S.F. No. 2515. The Sergeant at Arms was instructed to bring in the absent members.

The question was taken on the adoption of the Anderson amendment.

The roll was called, and there were yeas 43 and nays 16, as follows:

Those who voted in the affirmative were:

Anderson	Hottinger	Krentz	Morse	Reichgott Junge
Berg	Janezich	Kroening	Murphy	Robertson
Berglin	Johnson, D.E.	Langseth	Novak	Sams
Betzold	Johnson, D.J.	Lessard	Ourada	Samuelson
Chandler	Johnson, J.B.	Marty	Pappas	Solon
Cohen	Kelly	Merriam	Piper	Spear
Fischbach	Kiscaden	Metzen	Pogemiller	Stumpf
Flynn	Kleis	Moe, R.D.	Price	
Hanson	Kramer	Mondale	Ranum	

Those who voted in the negative were:

Beckman	Knutson	Limmer	Olson	Scheevel
Belanger	Larson	Neuville	Pariseau	Stevens
Frederickson	Lesewski	Oliver	Runbeck	Vickerman
Johnston				

The motion prevailed. So the amendment was adopted.

S.F. No. 2515 was read the third time, as amended, and placed on its final passage.

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

The roll was called, and there were yeas 42 and nays 20, as follows:

Those who voted in the affirmative were:

Anderson	Hanson	Kroening	Novak	Samuelson
Beckman	Hottinger	Langseth	Ourada	Solon
Berglin	Janezich	Lessard	Pappas	Spear
Betzold	Johnson, D.E.	Marty	Piper	Stumpf
Chandler	Johnson, D.J.	Metzen	Pogemiller	Terwilliger
Cohen	Johnson, J.B.	Moe, R.D.	Price	Vickerman
Dille	Kelly	Mondale	Ranum	
Fischbach	Kramer	Morse	Riveness	
Flynn	Krentz	Murphy	Sams	

Those who voted in the negative were:

Belanger	Johnston	Larson	Neuville	Robertson
Berg	Kiscaden	Lesewski	Oliver	Runbeck
Day	Kleis	Limmer	Olson	Scheevel
Frederickson	Knutson	Merriam	Pariseau	Stevens

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

MOTIONS AND RESOLUTIONS - CONTINUED

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

MESSAGES FROM THE HOUSE

Mr. President:

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

S.F. No. 2340: A bill for an act relating to crime prevention; defining the crime of motor vehicle operation resulting in bodily harm; prescribing penalties; amending Minnesota Statutes 1994, section 609.21, by adding a subdivision.

Senate File No. 2340 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned March 30, 1996

CONCURRENCE AND REPASSAGE

Mr. Marty moved that the Senate concur in the amendments by the House to S.F. No. 2340 and that the bill be placed on its repassage as amended. The motion prevailed.

S.F. No. 2340 was read the third time, as amended by the House, and placed on its repassage.

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

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

Those who voted in the affirmative were:

Beckman	Hottinger	Langseth	Novak	Runbeck
Belanger	Johnson, D.E.	Larson	Oliver	Sams
Berg	Johnson, D.J.	Lesewski	Olson	Samuelson
Berglin	Johnson, J.B.	Lessard	Ourada	Scheevel
Betzold	Johnston	Limmer	Pappas	Solon
Chandler	Kelly	Marty	Pariseau	Spear
Cohen	Kiscaden	Merriam	Piper	Stevens
Day	Kleis	Metzen	Pogemiller	Stumpf
Dille	Knutson	Moe, R.D.	Price	Vickerman
Fischbach	Kramer	Mondale	Ranum	
Flynn	Krentz	Morse	Reichgott Junge	
Frederickson	Kroening	Murphy	Riveness	
Hanson	Laidig	Neuville	Robertson	

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

MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

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

S.F. No. 2702: A bill for an act relating to transportation; appropriating money for transportation purposes.

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

Lieder, Garcia, Osthoff, Johnson, V. and Molnau.

Senate File No. 2702 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned March 30, 1996

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on Senate File No. 315, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 315: A bill for an act relating to elections; changing and clarifying provisions of the Minnesota election law; amending Minnesota Statutes 1994, sections 201.071, subdivision 1; 203B.01, by adding a subdivision; 203B.11, subdivision 1; 204B.06, by adding a subdivision; 204B.09, by adding a subdivision; 204B.15; 204B.27, by adding a subdivision; 204B.31; 204B.32, subdivision 1; 204B.36, subdivision 2; 204B.45, subdivision 1; 204B.46; 204C.08, by adding a subdivision; 204C.31, subdivision 2; 206.62; 206.90, subdivisions 4 and 6; 207A.03, subdivision 2; and 211A.02, subdivision 2; repealing Minnesota Statutes 1994, section 204D.15, subdivision 2.

Senate File No. 315 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned April 1, 1996

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on Senate File No. 2410, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 2410: A bill for an act relating to data practices; providing for the classification of and access to government data; clarifying data provisions; prohibiting agreements limiting the disclosure and discussion of personnel data; requiring notice and approval of employment settlements by the commissioner of employee relations; modifying the requirements for health care provider identification numbers; establishing procedures for disclosing certain nonpublic data to related group purchasers; requiring the office of mental health practice to establish procedures for the exchange of information; authorizing the release of certain birth information on unwed mothers to family service collaboratives; regulating the disclosure of personal information contained in motor vehicle records; regulating certain criminal justice information; amending Minnesota Statutes 1994, sections 13.02, by adding a subdivision; 13.03, subdivision 4; 13.32, subdivision 5; 13.37, by adding a subdivision; 13.43, by adding subdivisions; 13.82, subdivision 13, and by adding a subdivision; 43A.04, by adding a subdivision; 62J.51, by adding subdivisions; 62J.56, subdivision 2; 62J.60, subdivisions 2 and 3; 144.225, subdivision 2, and by adding a subdivision; 145.64, by adding a subdivision; 148B.66, by adding a subdivision; 150A.081; 168.346; 171.12, subdivision 7, and by adding a subdivision; 260.161, subdivisions 1 and 1a; and 299C.095; Minnesota Statutes 1995 Supplement, sections 13.43, subdivision 2; 13.46, subdivision 2; 62J.451, subdivisions 7, 9, and 12; 62J.54, subdivisions 1, 2, and 3; 62J.58; 62Q.03, subdivision 9; 144.335, subdivision 3a; and 268.12, subdivision 12; proposing coding for new law in Minnesota Statutes, chapter 13.

Senate File No. 2410 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned April 1, 1996

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the

Conference Committee on Senate File No. 1915, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 1915: A bill for an act relating to commerce; changing the enforcement authority to the commissioner; providing continuing education and reporting requirements for certain licenses; regulating inspections of cosmetology salons and schools; regulating disclosures of information and data; regulating securities registrations and exemptions; regulating franchise registrations and definitions; modifying the definition of an aggrieved person for purposes of the real estate recovery fund; regulating cancellations of membership camping contracts; modifying the bond or insurance requirements for abstractors; regulating residential building contractors; regulating unclaimed properties and notaries public; requiring a study; removing a certain licensing exception; repealing an obsolete provision; regulating the repair of certain consumer goods; modifying agency disclosure requirements in real estate transactions; modifying licensing requirements; amending Minnesota Statutes 1994, sections 45.011, subdivision 1; 45.027, subdivision 7, and by adding subdivisions; 53A.081, subdivision 1; 60K.19, subdivisions 7, 8, and 10; 80A.05, subdivision 1; 80A.06, subdivision 3; 80A.09, by adding a subdivision; 80A.10, subdivision 4; 80A.11, by adding a subdivision; 80A.14, by adding subdivisions; 80A.15, subdivisions 2 and 3; 80C.01, by adding a subdivision; 80C.05, by adding a subdivision; 82.19, subdivision 5; 82.195, subdivision 2; 82.196, subdivisions 1 and 2; 82.197, subdivisions 1, 2, 3, and 4; 82.22, subdivision 13; 82A.11, by adding a subdivision; 82B.19, by adding a subdivision; 155A.08, subdivision 3; 155A.09, subdivision 7; 155A.095; 325F.56, subdivision 2; 326.37, by adding a subdivision; 326.87, by adding a subdivision; 326.91, by adding subdivisions; 326.991; 332.34; 345.41; 345.42; 345.43, by adding a subdivision; 345.515; 359.01, subdivisions 1 and 2; 359.02; and 359.061; Minnesota Statutes 1995 Supplement, sections 16A.6701, subdivision 1; 80A.15, subdivision 1; 82.20, subdivision 15; 82.34, subdivision 7; 83.26, subdivision 2; and 386.66; proposing coding for new law in Minnesota Statutes, chapters 45; and 332; repealing Minnesota Statutes 1994, sections 80A.14, subdivision 8; 326.95, subdivision 4; 326.97, subdivision 3; 326.99; and 345.43, subdivisions 1 and 2; Laws 1994, chapter 447, section 2.

Senate File No. 1915 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned April 1, 1996

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 637, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 637 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted March 30, 1996

CONFERENCE COMMITTEE REPORT ON H.F. NO. 637

A bill for an act relating to taxation; property; allowing for a market value exclusion for electric power generation facilities based on facility efficiency; providing for an analysis of utility taxation; proposing coding for new law in Minnesota Statutes, chapter 272.

March 29, 1996

The Honorable Irv Anderson
Speaker of the House of Representatives

The Honorable Allan H. Spear
President of the Senate

We, the undersigned conferees for H.F. No. 637, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendments and that H.F. No. 637 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. [216B.1621] [ELECTRIC SERVICE AGREEMENTS.]

Subdivision 1. [AGREEMENT.] When a retail customer of a public utility proposes to acquire power from or construct a new electric power generation facility in the assigned service area of the utility serving the retail customer to provide all or part of the customer's electric service needs, the public utility may negotiate with and enter into an agreement with the customer to supply electric power to the customer in order to defer construction of the facility until the utility has need of power generated by the proposed facility, if the public utilities commission approves the agreement under subdivision 2.

Subd. 2. [COMMISSION APPROVAL.] The commission shall approve an agreement under this section upon finding that:

(1) the proposed electric service power generation facility could reasonably be expected to qualify for a market value exclusion under section 272.0211;

(2) the public utility has a contractual option to purchase electric power from the proposed facility; and

(3) the public utility can use the output from the proposed facility to meet its future need for power as demonstrated in the most recent resource plan filed with and approved by the commission under section 216B.2422.

Sections 216B.03, 216B.05, 216B.06, 216B.07, 216B.16, 216B.162, and 216B.23 do not apply to an agreement under this section.

Sec. 2. [272.0211] [SLIDING SCALE MARKET VALUE EXCLUSION FOR ELECTRIC POWER GENERATION EFFICIENCY.]

Subdivision 1. [EFFICIENCY DETERMINATION AND CERTIFICATION.] An owner or operator of a new or existing electric power generation facility, excluding wind energy conversion systems, may apply to the commissioner of revenue for a market value exclusion on the property as provided for in this section. This exclusion shall apply only to the market value of the equipment of the facility, and shall not apply to the structures and the land upon which the facility is located. The commissioner of revenue shall prescribe the forms and procedures for this application. Upon receiving the application, the commissioner of revenue shall request the commissioner of public service to make a determination of the efficiency of the applicant's electric power generation facility. In calculating the efficiency of a facility, the commissioner of public service shall use a definition of efficiency which calculates efficiency as the sum of:

(1) the useful electrical power output; plus

(2) the useful thermal energy output; plus

(3) the fuel energy of the useful chemical products,

all divided by the total energy input to the facility, expressed as a percentage. The commissioner must include in this formula the energy used in any on-site preparation of materials necessary to convert the materials into the fuel used to generate electricity, such as a process to gassify petroleum coke. The commissioner shall use the high heating value for all substances in the commissioner's efficiency calculations. The applicant shall provide the commissioner of public service with whatever information the commissioner deems necessary to make the determination. Within 30 days of the receipt of the necessary information, the commissioner of public service shall certify the findings of the efficiency determination to the commissioner of revenue and to the applicant. The commissioner of public service shall determine the efficiency of the facility and certify the findings of that determination to the commissioner of revenue every two years thereafter from the date of the original certification.

Subd. 2. [SLIDING SCALE EXCLUSION.] Based upon the efficiency determination provided by the commissioner of public service as described in subdivision 1, the commissioner of revenue shall subtract five percent of the taxable market value of the qualifying property for each percentage point that the efficiency of the specific facility, as determined by the commissioner of public service, is above 35 percent. The reduction in taxable market value shall be reflected in the taxable market value of the facility beginning with the assessment year immediately following the determination. For a facility that is assessed by the county in which the facility is located, the commissioner of revenue shall certify to the assessor of that county the percentage of the taxable market value of the facility to be excluded.

Subd. 3. [REVOCATION.] (a) The commissioner of revenue shall revoke the market value reduction under this section, if:

(1) the applicant exercises its right under federal law to require an electric utility to purchase power generated by the facility; and

(2) the electric utility notifies the commissioner that the applicant has exercised its right to require purchase of power.

The revocation is effective beginning the first assessment year after notification of the commissioner.

(b) For purposes of this subdivision, the following terms mean:

(1) "Federal law" is the federal Public Utility Regulatory Policies Act, United States Code, title 16, section 824a-3, and regulations promulgated under that section, including Code of Federal Regulations, title 18, sections 929.303 and 929.304.

(2) "Electric utility" means an electric utility as defined in federal law described in clause (1).

Subd. 4. [ELIGIBILITY.] An owner or operator of a new or existing electric power generation facility who offers electric power generated by the facility for sale is eligible for an exclusion under this section only if:

(1) the owner or operator has received a certificate of need under section 216B.243, if required under that section;

(2) the public utilities commission finds that an agreement exists or a good faith offer has been made to sell the majority of the net power generated by the facility to an electric utility which has a demonstrated need for the power. A right of first refusal satisfies the good faith offer requirement. The commission shall have 90 days from the date the commission receives notice of the application under subdivision 1 to make this determination; and

(3) the electric utility has agreed in advance not to offer the electric power for resale to a retail customer located outside of the utility's assigned service area, or, if the utility is a generation and transmission cooperative electric association, the assigned service area of its members, unless otherwise permitted by law.

For the purposes of this subdivision, "electric utility" means an entity whose primary business function is to operate, maintain, or control equipment or facilities for providing electric service at retail or wholesale, and includes distribution cooperative electric associations, generation and transmission cooperative electric associations, municipal utilities, and public utilities as defined in section 216B.02, subdivision 4.

Sec. 3. [LEGISLATIVE APPROVAL OF CONSUMPTIVE USE OF WATER.]

Pursuant to Minnesota Statutes, section 103G.265, subdivision 3, the legislature approves the consumptive use under a permit of more than 2,000,000 gallons per day average in a 30-day period in Rosemount and Inver Grove Heights in connection with a cogeneration power facility which utilizes gasified petroleum coke as its primary fuel source, subject to the commissioner of natural resources making a determination that the water remaining in the basin of origin will be adequate to meet the basin's need for water and subsequent approval by the commissioner.

Sec. 4. [ANALYSIS OF UTILITY TAXATION.]

The commissioner of revenue, in consultation with the commissioner of public service and the public utilities commission, shall undertake an analysis of the following issues and report the findings and recommendations of the analysis to legislative committees with jurisdiction over these issues by January 15, 1997:

(1) the amount of taxes paid by utilities in this state relative to other states;

(2) a comparison of taxes paid by investor-owned utilities, municipal gas and electric utilities, cooperative utilities, producers of cogeneration power, and independent power producers;

(3) the competitive aspects and consequences of disparities in utility taxation, to the electric and gas industry and to the state, in light of the restructuring that is occurring in the industry; and

(4) other issues related to utility taxation and recommendations for reform of the utility tax system, including property taxes.

For the purposes of this section, "taxes paid" includes payments made in lieu of taxes and other payments and contributions of goods and services in the nature of payments in lieu of taxes.

Sec. 5. [EFFECTIVE DATE.]

Section 2 is effective for taxes levied in 1996 and thereafter, for taxes payable in 1997 and thereafter. Sections 1 and 3 are effective on the day following final enactment."

Delete the title and insert:

"A bill for an act relating to energy; allowing for a market value exclusion for electric power generation facilities based on facility efficiency; permitting certain consumptive use of water; providing for electric supply agreements; providing for an analysis of utility taxation; proposing coding for new law in Minnesota Statutes, chapters 216B; and 272."

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

House Conferees: (Signed) Loren Jennings, Bob Milbert, Ken Wolf

Senate Conferees: (Signed) Steven G. Novak, Leonard R. Price, Pat Pariseau

Mr. Novak moved that the foregoing recommendations and Conference Committee Report on H.F. No. 637 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 637 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 40 and nays 23, as follows:

Those who voted in the affirmative were:

Anderson	Janezich	Limmer	Oliver	Riveness
Berglin	Johnson, D.E.	Marty	Olson	Runbeck
Cohen	Kelly	Metzen	Ourada	Sams
Dille	Kleis	Mondale	Pappas	Scheevel
Fischbach	Kramer	Morse	Pariseau	Spear
Frederickson	Laidig	Murphy	Piper	Stevens
Hanson	Langseth	Neuville	Price	Stumpf
Hottinger	Lessard	Novak	Ranum	Terwilliger

Those who voted in the negative were:

Beckman	Berg	Chandler	Flynn	Johnson, J.B.
Belanger	Betzold	Day	Johnson, D.J.	Johnston

Kiscaden	Larson	Moe, R.D.	Robertson	Vickerman
Krentz	Lesewski	Pogemiller	Samuelson	
Kroening	Merriam	Reichgott Junge	Solon	

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

MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 343:

H.F. No. 343: A bill for an act proposing an amendment to the Minnesota Constitution, article VIII, by adding a section; providing for recall of elected state officers; amending Minnesota Statutes 1994, section 200.01; proposing coding for new law as Minnesota Statutes, chapter 211C.

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

McCollum, Pugh and Pawlenty have been appointed as such committee on the part of the House.

House File No. 343 is herewith transmitted to the Senate with the request that the Senate appoint a like committee.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted March 30, 1996

Ms. Reichgott Junge moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 343, and that a Conference Committee of 3 members be appointed by the Subcommittee on Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

RECESS

Mr. Moe, R.D. moved that the Senate do now recess subject to the call of the President. The motion prevailed.

After a brief recess, the President called the Senate to order.

APPOINTMENTS

Mr. Moe, R.D. from the Subcommittee on Committees recommends that the following Senators be and they hereby are appointed as a Conference Committee on:

H.F. No. 343: Ms. Reichgott Junge, Messrs. Kelly and Sams.

Mr. Moe, R.D. moved that the foregoing appointments be approved. The motion prevailed.

MOTIONS AND RESOLUTIONS - CONTINUED

Pursuant to Rule 10, Mr. Moe, R.D., Chair of the Committee on Rules and Administration, designated H.F. No. 219 a Special Order to be heard immediately.

SPECIAL ORDER

H.F. No. 219: A bill for an act relating to insurance; health plans; requiring coverage for treatment of Lyme disease; requiring a study; amending Minnesota Statutes 1994, section 62A.136; proposing coding for new law in Minnesota Statutes, chapter 62A.

Mr. Samuelson moved to amend H.F. No. 219, as amended pursuant to Rule 49, adopted by the Senate February 22, 1996, as follows:

(The text of the amended House File is identical to S.F. No. 221.)

Page 1, after line 9, insert:

"ARTICLE 1

MNJOBS PROGRAM

Section 1. [256.7381] [MNJOBS PROGRAM.]

Subdivision 1. [CITATION.] Sections 256.7381 to 256.7387 may be cited as the MNJOBS program.

Subd. 2. [DEFINITIONS.] As used in sections 256.7381 to 256.7387, the following words have the meanings given them.

(a) "Recipient" means an individual who is receiving AFDC.

(b) "Caretaker" means a parent or eligible adult, including a pregnant woman, who is part of the assistance unit that has applied for or is receiving AFDC or a grant.

(c) "Child support" means a voluntary or court-ordered payment by a noncustodial parent.

(d) "Commissioner" means the commissioner of human services.

(e) "Employability development plan" or "EDP" means a plan developed by the recipient, with advice from the employment advisor, for the purposes of identifying an employment goal, improving work skills through certification or education, training or skills recertification, and which addresses barriers to employment.

(f) "Employment advisor" means a provider staff person who is qualified to assist the participant to develop a job search or employability development plan, match the participant with existing job openings, refer the participant to employers, and has an extensive knowledge of employers in the area.

(g) "Financial specialist" means a program staff who is trained to explain the benefits offered under the program, determine eligibility for different assistance programs, and broker other resources.

(h) "Participant" means a recipient who is required to participate in the MNJOBS program.

(i) "Program" means the MNJOBS program.

(j) "Provider" means an employment and training agency certified by the commissioner of economic security under section 268.871, subdivision 1.

(k) "Suitable employment" means employment which meets conditions set forth in section 256.736, subdivision 1, clause (h).

Subd. 3. [ESTABLISHING THE MNJOBS PROGRAM.] At the request of a county or counties, the commissioners of human services and economic security shall develop and establish the MNJOBS program, which requires recipients of AFDC to meet the requirements of the program. The purpose of the program is to:

(1) ensure that the participant is working as soon as possible;

(2) promote a greater opportunity for economic self-support, participation, and mobility in the work force; and

(3) minimize the risk for long-term welfare dependency.

Subd. 4. [COUNTY DESIGN; MNJOBS PROGRAM.] The commissioner shall issue a notice to counties to submit a plan for developing and implementing a MNJOBS program. The plan must be consistent with provisions of the program.

The commissioner shall not approve a county plan that would have an adverse impact on the Minnesota family investment program (MFIP) or the MFIP evaluation. However, this does not preclude MFIP counties from operating a MNJOBS program. If the plan meets the requirements of the program, the commissioner shall approve the county plan and the county may implement the plan. No county may implement a MNJOBS program without an approved modification to its local service unit plan in accordance with section 268.88.

Subd. 5. [PROGRAM ADMINISTRATION.] The program must be administered in a way that, in addition to the county agency, other sectors in the community, such as employers from the public and private sectors, not-for-profit organizations, educational and social service agencies, labor unions, and community-based organizations, are involved.

Subd. 6. [PROGRAM DESIGN.] The purpose of the program is to enable immediate labor force participation and assist families in achieving self-sufficiency. The program plan must meet the following principles:

(1) work is the primary means of economic support;

(2) the individual's employment potential is reviewed during the development of the EDP;

(3) public aid such as cash and medical assistance, child care, child support, and other cash benefits are used to support intensive job search and immediate work; and

(4) maximum use is made of tax credits to supplement income.

Subd. 7. [WAIVER REQUESTS.] The commissioner shall request all waivers of federal law and regulation as soon as possible to implement the program. Upon obtaining all necessary federal waivers, the commissioner shall amend the state plans for the AFDC and the jobs opportunities and basic skills program (JOBS), and supportive services plan to coordinate these programs under the MNJOBS program for the approved counties, and shall seek approval of state plan amendments.

Subd. 8. [DUTIES OF COMMISSIONER.] In addition to any other duties imposed by law, the commissioner shall:

(1) request all waivers to implement the program;

(2) establish the MNJOBS program;

(3) provide systems development and staff training;

(4) accept and supervise the disbursement of any funds that may be provided from other sources for use in the program;

(5) direct a study to safeguard the interests of children;

(6) approve county MNJOBS plans; and

(7) allocate program funds.

Subd. 9. [DUTIES OF COUNTY AGENCY.] The county agency shall:

(1) collaborate with the commissioners of human services, economic security, and other agencies to develop, implement, and evaluate the demonstration of the program;

(2) operate the program in partnership with private and public employers, workforce councils, labor unions, and employment, educational, and social service agencies, and according to subdivision 5; and

(3) ensure that program components such as client orientation, immediate job search, job development, creation of community work experience jobs, job placements, and postplacement follow-up are implemented according to the MNJOBS program.

Subd. 10. [DUTIES OF PARTICIPANT.] To be eligible for AFDC, a participant shall cooperate with the county agency, the provider, and the participant's employer in all aspects of the program.

Sec. 2. [256.7382] [PROGRAM PARTICIPANTS; PROGRAM EXPECTATIONS.]

(a) All recipients selected for participation are expected to meet the requirements of the program. In determining who may participate in the program, priority must be given to individuals who are on the county's project STRIDE waiting list, and also individuals who have applied for AFDC, and are subsequently determined to be eligible for STRIDE. An individual who is enrolled in STRIDE, and is making satisfactory progress towards completing the goals in the individual's approved EDP, may continue with the existing EDP, and is not required to participate in the MNJOBS program, but may volunteer to participate in the program.

(b) Caretakers who are exempt from the program may volunteer to participate in the program.

(c) Except as provided in paragraph (a), the program shall supersede the STRIDE program in counties that operate a MNJOBS program, except in MFIP counties, where STRIDE will be continued for families assigned to certain research groups.

Sec. 3. [256.7383] [PROGRAM REQUIREMENTS.]

Subdivision 1. [NOTIFICATION OF PROGRAM.] At the time of the face-to-face interview, the applicant or recipient being recertified must be given a written referral to the orientation and an appointment date for the EDP. Orientation must be completed within ten days of the face-to-face interview. The applicant or recipient must also be given the following information:

(1) notification that, as part of continued receipt of AFDC, the recipient is required to attend orientation, to be followed immediately by an assessment;

(2) the program provider, the date, time, and location of the scheduled program orientation;

(3) the procedures for qualifying for and receiving benefits under the program;

(4) the immediate availability of supportive services, including, but not limited to, child care, transportation, medical assistance, and other work-related aid;

(5) the rights, responsibilities, and obligations of participants in the program, including, but not limited to, the grounds for exemptions and deferrals, the consequences for refusing or failing to participate fully, and the appeal process; and

(6) a determination of whether the applicant or recipient is exempt from job search activity.

Subd. 2. [PROGRAM ORIENTATION.] The county agency or the provider must give a face-to-face orientation regarding the program within ten days after the date of face-to-face interview. The orientation must be designed to inform the recipient of:

(1) the importance of locating and obtaining a job as soon as possible;

(2) benefits to be provided to support work;

(3) how other supportive services such as medical assistance, child care, transportation, and other work-related aid shall be available to support job search and work;

(4) the consequences for failure without good cause to comply with program requirements; and

(5) the appeal process.

Subd. 3. [ASSESSMENT AND EMPLOYMENT DEVELOPMENT PLAN.] At the end of orientation, the provider must assign an employment advisor and a financial specialist to the recipient. Working with the recipient, the employment advisor must assess the recipient and develop an EDP based on the recipient's existing educational level, available program resources, existing job markets, prior employment, work experience, and transferable work skills, unless exempt under subdivision 7. The EDP must require caretakers to participate in initial job search activities for up to four consecutive weeks for at least 30 hours per week and accept suitable employment if offered during participation in the program. The job search activities must commence within 30 days of the face-to-face interview.

Subd. 4. [JOB SEARCH ACTIVITIES.] The following job search activities may be included in the job search plan:

(a) Job clubs, which shall consist of both of the following:

(1) job search workshops, which shall be group training sessions where participants learn various job finding skills, including training in basic job seeking skills, job development skills, job interviewing skills, understanding employer requirements and expectations, and how to enhance self-esteem, self-image, and confidence; and

(2) supervised job search, which shall include, but not be limited to, access to phone banks in a clean and well-lighted place, job orders, direct referrals to employers, or other organized methods of seeking work which are overseen, reviewed, and critiqued by a trained employment professional. The amount and type of activity required during this supervised job search period shall be determined by the employment and training service provider and the participant, based on the participant's employment history and need for support services as defined in section 256.736, subdivision 1a, paragraph (i), and shall be consistent with regulations developed by the employment and service training provider.

(b) Unsupervised job search, where the individual shall seek work in the individual's own way, and make periodic progress reports no less frequently than every two weeks to the employment and training service provider.

(c) Job placement, which shall include, but not be limited to, referrals to jobs listed by employers.

(d) Job development, which shall be active assistance in seeking employment provided to a participant by a training employment professional on a one-to-one basis.

(e) Employment counseling, which shall be counseling aimed at helping a person reach an informed decision on an appropriate employment goal.

Subd. 5. [ACTIVITIES FOLLOWING INTENSE JOB SEARCH ACTIVITIES.] (a) On completion of initial job search activities, or determination that those services are not required, the participant shall continue in additional job search activities or be assigned to one or more of the following activities as needed to attain the participant's employment goal:

(1) job training, which shall include, but is not limited to, training employer-specific jobs skills in a classroom or on-site setting, including training provided by local private industry council programs;

(2)(i) community work experience, which shall include work for a public or nonprofit agency that helps to provide basic job skills; enhance existing job skills in a position related to a participant's experience, training, or education; or provide a needed community service. Community work experience must be operated in accordance with section 256.737; and

(ii) the continuation of the participant seeking employment during the community work experience assignment. The participant may request job search services;

(3) adult basic education, which shall include reading, writing, arithmetic, high school

proficiency or general education development certificate instruction, and English-as-a-second-language (ESL), including vocational ESL, to the extent necessary to attain the participant's employment goal. Vocational ESL shall be intensive instruction in English for non-English-speaking participants, coordinated with specific job training; or

(4) college and community college education, when that education provides employment skills training that can reasonably be expected to lead to employment and be limited to two years.

(b) The assignment to one or more of the program activities as required in paragraph (a), shall be based on the EDP developed after an assessment. The EDP shall be based, at a minimum, on consideration of the individual's existing education level, employment experience and goals, available program resources, and local labor market opportunities. The assessment and EDP must comply with section 256.736, subdivision 10, clauses (14) and (15).

(c) A participant who lacks basic literacy or mathematics skills, a high school diploma or general education development certificate, or English language skills, may be assigned to participate in adult basic education, as appropriate and necessary for achievement of the individual's employment goal.

(d) Except as provided in paragraph (a), a participant shall not be assigned to a program component for a time that exceeds one year, or with respect to classroom education or training, one academic year. The one-year period may be extended, one time only, for a period not to exceed six months if it is reasonable to expect that the component will be completed within the extended period and the individual has been unable to complete the component due to any of the following circumstances:

(1) the individual's basic skills needs required more class time than was estimated at the commencement of the component;

(2) the school or college did not offer required classes in a sequence that permitted completion of the component program within the prescribed time period; or

(3) the individual had a personal or family crisis that resulted in the inability to complete the component without the additional six-month period of attendance.

(e) Participation in activities assigned pursuant to this section may be sequential or concurrent. The provider may require concurrent participation in the assigned activities if it is appropriate to the participant's abilities, consistent with the participant's EDP, and the activities can be concurrently scheduled. However, to the extent possible, activities should be full time. The combined hours of participation in assigned concurrent activities shall not exceed 32 hours per week for an individual who has primary responsibility for personally providing care to a child under six years of age or 40 hours per week for any other individual. The maximum number of hours any participant may be required to participate in activities under this subdivision is a number equal to the amount of AFDC payable to the recipient divided by the greater of the federal minimum wage or the applicable state minimum wages.

Subd. 6. [IMMEDIATE JOB SEARCH.] A recipient is required to begin job search activities within 30 days after the face-to-face interview for at least 30 hours per week for up to four weeks, unless exempt under subdivision 7, subject to the provisions of subdivision 8, or deferred under subdivision 9. For purposes of the program, the limit on job search child care under section 256H.11, subdivision 1, does not apply. For a recipient who is working at least 20 hours per week, job search must consist of 12 hours per week for up to eight weeks. The recipient is required to carry out the other activities under the EDP developed under subdivision 3.

Subd. 7. [EXEMPTION CATEGORIES.] The recipient is exempted from mandatory participation in all activities except orientation, if the recipient belongs to any of the following groups:

(1) caretakers under age 20 who have not completed a high school education and are attending high school or an equivalency program under section 256.736, subdivision 3b;

(2) individuals who are age 60 or older;

(3) individuals who are 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;

(4) caretakers whose presence in the home is needed because of illness or incapacity of another member in the household;

(5) women who are pregnant, if it has been medically verified that the child is expected to be born within the next six months;

(6) caretakers or other caretaker relatives of a child under the age of three years who personally provide full-time care for the child. In AFDC-UP cases, only one parent or other relative may qualify for this exemption;

(7) individuals employed at least 30 hours per week;

(8) individuals for whom participation would require a round trip commuting time by available transportation of more than two hours, excluding transporting of children for child care;

(9) a child under age 16, or a child age 16 or 17 who is attending elementary or secondary school or a secondary-level vocational or technical school full time; or

(10) individuals experiencing a personal or family crisis which make them incapable of participating in the program, as determined by the county.

Subd. 8. [AFDC-UP RECIPIENTS.] All recipients under the AFDC-UP program are required to meet the requirements of the job search program under section 256.736, subdivision 14, and the community work experience program under section 256.737.

Subd. 9. [DEFERRAL FROM JOB SEARCH REQUIREMENT.] The recipient may be deferred from the requirement to conduct at least 30 hours of job search per week for up to four consecutive weeks, if during the development of the EDP, the recipient is determined to:

(1) be within two years of completing a post-secondary training program that is likely to lead to employment provided the recipient is attending school full time. The recipient must agree to develop and carry out an EDP which includes jobs search immediately after the training is completed;

(2) be in treatment for chemical dependency, be a victim of domestic abuse, or be homeless, provided that the recipient agrees to develop an EDP, and immediately follow through with the activities in the EDP. The EDP must include specific outcomes that the recipient must achieve for the duration of the EDP and activities that are needed to address the issues identified. Under this clause, the recipient may be deferred for up to three months;

(3) lack proficiency in English which is a barrier to employment, provided such individuals are successfully participating in an ESL program. Caretakers can be deferred for ESL for no longer than 12 months. The EDP shall establish an education plan which assigns caretakers to ESL programs available in the community that provide the quickest advancement of the caretaker's language skills; or

(4) need refresher courses for purposes of obtaining professional certification or licensure, provided the plans are approved in the EDP.

Subd. 10. [DUTY TO REPORT.] The participant must immediately inform the provider of any changes related to the participant's employment status.

Sec. 4. [256.7384] [COMMUNITY WORK EXPERIENCE PROGRAM FOR SINGLE-PARENT FAMILIES.]

To the extent that funds are available or appropriated, recipients who are participating in the program and are not working in unsubsidized employment within 24 months are required to participate in a community work experience program in accordance with section 256.737.

Sec. 5. [256.7385] [MOVE TO A DIFFERENT COUNTY.]

If the recipient who is required to participate in the program moves to a different county, the benefits and enabling services agreed upon in the EDP must be provided by the pilot county where the recipient originated. If the recipient is moving to a different county and has failed to comply with the requirements of the program, the recipient is not eligible for AFDC for at least six months from the date of the move.

Sec. 6. [256.7386] [SANCTIONS AND APPEAL PROCESS.]

The same sanctions and appeals imposed and available to recipients of AFDC under this chapter shall be imposed and available to participants in the MNJOBS program.

Sec. 7. [256.7387] [PROGRAM FUNDING.]

(a) [FUNDING.] After ensuring that all persons required to participate in the county's food stamp employment and training program will be served under that program, any remaining unexpended state funds from the county's food stamp employment and training program allocation for that fiscal year may be combined with the county's Project STRIDE allocation for that same fiscal year and are available to administer the program.

(b) [TRANSFER OF ACCESS CHILD CARE FUNDS.] Any unencumbered ACCESS funds of a county participating in the program shall be transferred to the county's base sliding fee fund to be used to provide child care to AFDC recipients beyond the one-year transition period.

Sec. 8. [INCOME DISREGARDS.]

A participating county may utilize the county's own funds in order to provide higher income disregards to recipients participating in the program.

Sec. 9. [WAIVER AUTHORITY.]

The commissioner of human services is authorized to seek all necessary waivers to implement sections 1 to 8. The waiver requests must be submitted by the commissioner as part of the federal waiver package authorized by Laws 1995, chapter 178, article 2, section 46.

Sec. 10. [APPROPRIATION.]

$102,000 is appropriated from the general fund to the commissioner of human services for the fiscal year ending June 30, 1997, for purposes of applying for necessary federal waivers to implement the program, and administering the MNJOBS program.

Sec. 11. [EFFECTIVE DATE.]

Section 9 is effective July 1, 1996. For purposes of sections 1 to 8, the commissioner may allow the implementation of the MNJOBS program in counties that have been approved by the commissioner as early as April 1, 1997, but no later than July 1, 1997.

ARTICLE 2

MFIP AND INCOME ASSISTANCE CHANGES BASED ON FEDERAL REFORM

Section 1. [MFIP; LEGISLATIVE POLICY.]

Subdivision 1. [LEGISLATIVE FINDINGS.] The legislature recognizes that:

(1) changes in federal law and federal funding may necessitate changes to Minnesota's public assistance programs;

(2) Minnesota is in the process of testing and evaluating the Minnesota family investment plan, a program that will change public assistance programs in Minnesota; and

(3) the Minnesota family investment plan embodies the principles that should guide Minnesota in implementing changes necessitated by federal law and federal funding.

Subd. 2. [WELFARE REFORM PROPOSAL.] (a) The commissioner shall present the 1997 legislature with a proposal to modify the Minnesota family investment plan for statewide implementation. The proposed program must be designed around the following goals:

(1) to support work;

(2) to foster personal responsibility;

(3) to support the family;

(4) to simplify the welfare system;

(5) to prevent dependency; and

(6) to enable families to achieve sustained self-sufficiency.

(b) The proposed program shall provide assistance to all families with minor children and individuals who meet program eligibility rules and comply with program requirements and may set limits on the number of years or months of assistance.

(c) In designing the proposal, the commissioner shall consider:

(1) evaluation results from the Minnesota family investment plan;

(2) any evaluation or other information regarding the results of the work focused, work first, MNJOBS, and STRIDE programs;

(3) evaluations from any programs which have increased income disregards for working recipient families; and

(4) program and fiscal analysis of the impact of federal laws, including proposals to simplify or block grant the food stamp program.

(d) The commissioner shall consider the following additional policy options in developing the proposal:

(1) consolidate all income assistance programs into a single program;

(2) integrate the food stamp program more closely with income assistance program;

(3) provide disregards of earned income that are not time limited;

(4) establish asset limits which appropriately reflect the needs of working families;

(5) provide for flexibility in establishing grant standards which can be adapted to different needs of assistance units and to different work and training requirements in order to maximize successful outcomes;

(6) use of wage subsidies to increase employment opportunities;

(7) development of individual asset accounts;

(8) expansion of employment and training options to include the option of small business training;

(9) establishment of a loan or grant fund for transition to work needs not covered under the grant;

(10) contingent on inclusion of clause (3), provide an initial period of assistance, not to exceed six months, after which the grant standard for all assistance units would be reduced. After this initial period:

(i) assistance units in which all adults are incapacitated, as defined by the commissioner, would receive a supplement that raises the unit's grant standard back to the standard of the initial period;

(ii) assistance units not included in item (i) could earn back a portion of the grant reduction by participating in employment and training services; and

(iii) for assistance units not included in item (i), earnings equal to the grant reduction would be entirely disregarded in determining benefits;

(11) pay child support directly to custodial parents receiving income assistance and budget all or part of the child support amount against the income assistance benefit;

(12) address the question of providing assistance to Minnesota residents who are legal noncitizens;

(13) divert applicants from using public assistance through early intervention focused on meeting immediate needs; and

(14) implement an outcome-based quality assurance program that measures the effectiveness of transitional support services by defining target groups, program goals, outcome indicators, data collection methods, and performance targets.

Sec. 2. [INCOME ASSISTANCE PROGRAMS; FEDERAL POLICY INITIATIVE.]

If the 104th Congress makes significant policy or funding changes that affect income assistance, the commissioner of human services shall develop a proposal that includes recommendations for the legislature which address these changes.

Further, the commissioners of human services, health, economic security, and children, families, and learning, shall, upon request of a county, work with and jointly develop a proposal that permits the county to merge funding and services in order to meet the individual needs of eligible clients. The proposal and draft legislation are due to the chairs of the senate family services committee and health and human services finance division, and the house of representatives human services committee and health and human services finance division by December 1, 1996.

ARTICLE 3

ASSISTANCE PROGRAM CHANGES

Section 1. Minnesota Statutes 1994, section 53A.09, is amended to read:

53A.09 [POWERS; LIMITATIONS; PROHIBITIONS.]

Subdivision 1. [DEPOSITS; ESCROW ACCOUNTS.] A currency exchange may not accept money or currency for deposit, or act as bailee or agent for persons, firms, partnerships, associations, or corporations to hold money or currency in escrow for others for any purpose. However, a currency exchange may act as agent for the issuer of money orders or travelers' checks.

Subd. 2. [GAMBLING ESTABLISHMENTS.] A currency exchange located on the premises of a gambling establishment as defined in section 256.9831, subdivision 1, may not cash a warrant that bears a restrictive endorsement under section 256.9831, subdivision 3.

Sec. 2. Minnesota Statutes 1994, section 256.031, is amended by adding a subdivision to read:

Subd. 1a. [USE OF FEDERAL AUTHORITY.] Federal authority as cited in sections 256.031 to 256.0361 and section 256.047 is reference to the United States Code, title 42, section 601, United States Code, title 42, section 602, section 402 of the Social Security Act, and Code of Federal Regulations, title 45, as constructed on the day prior to their federal repeal.

Sec. 3. Minnesota Statutes 1994, section 256.033, is amended by adding a subdivision to read:

Subd. 6. [RECOVERY OF ATM ERRORS.] For recipients receiving benefits via electronic benefit transfer, if the recipient is overpaid as a result of an automated teller machine (ATM) dispensing funds in error to the recipient, the agency may recover the ATM error by immediately

withdrawing funds from the recipient's electronic benefit transfer account, up to the amount of the error.

Sec. 4. Minnesota Statutes 1994, section 256.034, is amended by adding a subdivision to read:

Subd. 6. [PAYMENT METHODS.] Minnesota family investment plan grant payments may be issued in the form of warrants immediately redeemable in cash, electronic benefits transfer, or by direct deposit into the recipient's account in a financial institution.

Sec. 5. Minnesota Statutes 1994, 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. To the extent of available resources and provided the other caregiver is proficient in English, the commissioner may require that both caregivers in a family with two adult parental caregivers, in which the youngest child has attained the age of six and is not in kindergarten, must be developing or complying with the terms of a family support agreement by the seventh month on assistance. A caregiver shall be determined proficient in English if the county agency, or its employment and training service provider, determines that the person has sufficient English language capabilities to become suitably employed.

If the other caretaker is enrolled in an education or training program that can reasonably be expected to lead to employment, as of the effective date of this section, and is limited to one year, that caretaker is exempt from job search and work experience.

Sec. 6. Minnesota Statutes 1994, section 256.035, subdivision 6a, is amended to read:

Subd. 6a. [CASE MANAGEMENT SERVICES.] (a) The county agency will provide case management services to caregivers required to develop and comply with a family support agreement as provided in subdivision 1. For minor parents, the responsibility of the case manager shall be as defined in section 256.736, subdivision 3b. Sanctions for failing to develop or comply with the terms of a family support agreement shall be imposed according to subdivision 3. When a minor parent reaches age 17, or earlier if determined necessary by the social service agency, the minor parent shall be referred for case management services.

(b) Case managers shall provide the following services:

(1) the case manager shall provide or arrange for an assessment of the family and caregiver's needs, interests, and abilities according to section 256.736, subdivision 11, paragraph (a), clause (1);

(2) the case manager shall coordinate services according to section 256.736, subdivision 11, paragraph (a), clause (3);

(3) the case manager shall develop an employability plan according to subdivision 6b;

(4) the case manager shall develop a family support agreement according to subdivision 6c; and

(5) the case manager shall monitor the caregiver's compliance with the employability plan and the family support agreement as required by the commissioner.

(c) Case management counseling and personal assistance services may continue for up to six months following the caregiver's achievement of employment goals. Funds for specific employment and training services may be expended for up to 90 days after the caregiver loses eligibility for financial assistance.

Sec. 7. Minnesota Statutes 1995 Supplement, section 256.0475, is amended by adding a subdivision to read:

Subd. 2a. [INTENSIVE ESL.] "Intensive ESL" means an English as a second language program that offers at least 20 hours of class per week.

Sec. 8. Minnesota Statutes 1995 Supplement, section 256.048, subdivision 1, is amended to read:

Subdivision 1. [EXPECTATIONS.] The requirement for a caregiver to develop a family support agreement is tied to the structure of the family and the length of time on assistance according to paragraphs (a) to (c).

(a) In a family headed by a single adult parental caregiver who has received AFDC, family general assistance, MFIP, or a combination of AFDC, family general assistance, and MFIP assistance for 12 or more months within the preceding 24 months, the parental caregiver must be developing and complying with the terms of the family support agreement commencing with the 13th month of assistance.

(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 parental caregiver must be developing and complying with a family support agreement concurrent with the receipt of assistance. The terms of the family support agreement must include compliance with section 256.736, subdivision 3b. If the parental caregiver fails to comply with the terms of the family support agreement, the sanctions in subdivision 4 apply. When the requirements in section 256.736, subdivision 3b, have been met, a caregiver has fulfilled the caregiver's obligation. County agencies must continue to offer MFIP-R services if the caregiver wants to continue with an employability plan. Caregivers who fulfill the requirements of section 256.736, subdivision 3b, are subject to the expectations of paragraphs (a) and (c).

(c) In a family with two adult parental caregivers, at least one of whom has received AFDC, family general assistance, MFIP, or a combination of AFDC, family general assistance, and MFIP assistance for six or more months within the preceding 12 months, one parental caregiver must be developing and complying with the terms of the family support agreement commencing with the seventh month of assistance. The family and MFIP-R staff will designate the parental caregiver who will develop the family support agreement based on which parent has the greater potential to increase family income through immediate employment. To the extent of available resources and provided the other caregiver is proficient in English, the commissioner may require that both caregivers in a family with two adult parental caregivers, in which the youngest child has attained the age of six and is not in kindergarten, must be developing or complying with the terms of a family support agreement by the seventh month on assistance. A caregiver shall be determined proficient in English if the county agency, or its employment and training service provider, determines that the person has sufficient English language capabilities to become suitably employed.

If the other caretaker is enrolled in an education or training program that can reasonably be expected to lead to employment, as of the effective date of this section, and is limited to one year, that caretaker is exempt from job search and work experience.

Sec. 9. Minnesota Statutes 1995 Supplement, section 256.048, subdivision 4, is amended to read:

Subd. 4. [SANCTION.] The county agency must reduce an assistance unit's assistance payment by ten percent of the transitional standard for the applicable family size when a caregiver, who is not exempt from the expectations in this section, fails to attend a mandatory briefing, fails to attend scheduled meetings with MFIP-R staff, terminates employment without good cause, or fails to develop or comply with the terms of the caregiver's family support agreement. MFIP-R staff must send caregivers a notice of intent to sanction. For the purpose of this section, "notice of intent to sanction" means MFIP-R staff must provide written notification to the caregiver that the caregiver is not fulfilling the requirement to develop or comply with the family support agreement. This notification must inform the caregiver of the right to request a conciliation conference within ten days of the mailing of the notice of intent to sanction or the right to request a fair hearing under section 256.045. If a caregiver requests a conciliation conference, the county agency must postpone implementation of the sanction pending completion of the conciliation conference. If the caregiver does not request a conciliation conference within ten calendar days of the mailing of the notice of intent to sanction, the MFIP-R staff must notify the county agency that the assistance payment should be reduced.

Upon notification from MFIP-R staff that an assistance payment should be reduced, the county agency must send a notice of adverse action to the caregiver stating that the assistance payment will be reduced in the next month following the ten-day notice requirement and state the reason for the action. For the purpose of this section, "notice of adverse action" means the county agency must send a notice of sanction, reduction, suspension, denial, or termination of benefits before taking any of those actions. The caregiver may request a fair hearing under section 256.045, upon notice of intent to sanction or notice of adverse action, but the conciliation conference is available only upon notice of intent to sanction.

Sec. 10. Minnesota Statutes 1995 Supplement, section 256.048, subdivision 6, is amended to read:

Subd. 6. [PRE-EMPLOYMENT AND EMPLOYMENT SERVICES.] The county agency must provide services identified in clauses (1) to (10). Services include:

(1) a required briefing for all nonmandatory caregivers assigned to MFIP-R, which includes a review of the information presented at an earlier MFIP-R orientation pursuant to subdivision 5, and an overview of services available under MFIP-R pre-employment and employment services, an overview of job search techniques, and the opportunity to volunteer for MFIP-R job search activities and basic education services;

(2) a briefing for all mandatory caregivers assigned to MFIP-R, which includes a review of the information presented at an earlier MFIP-R orientation pursuant to subdivision 5, and an overview of services available under MFIP-R pre-employment and employment services;

(3) an MFIP assessment that meets the requirements of section 256.736, subdivision 10, paragraph (a), clause (14), and addresses caregivers' skills, abilities, interests, and needs;

(4) development, together with the caregiver, of an employability plan and family support agreement according to subdivision 7;

(5) coordination of services including child care, transportation, education assistance, and social services necessary to enable caregivers to fulfill the terms of the employability plan and family support agreement;

(6) provision of ~~full-time English as a second language (~~intensive ESL~~)~~ classes;

(7) provision of a broad range of employment and pre-employment services including basic skills testing, interest and aptitude testing, career exploration, job search activities, community work experience program under section 256.737, or on-the-job training under section 256.738;

(8) evaluation of the caregiver's compliance with the employability plan and family support agreement and support and recognition of progress toward employment goals;

(9) provision of postemployment follow-up for up to six months after caregivers become exempt or exit MFIP-R due to employment if requested by the caregiver; and

(10) approval of education and training program activities.

Sec. 11. Minnesota Statutes 1995 Supplement, section 256.048, subdivision 13, is amended to read:

Subd. 13. [EDUCATION AND TRAINING ACTIVITIES; BASIC EDUCATION.] Basic education, including adult basic education, high school or general equivalency diploma~~, or ESL~~ may be included in the family support agreement when a caregiver is actively participating in job search activities as specified in the family support agreement, or employed at least 12 hours per week. The concurrent work requirement for basic education does not apply to caregivers under subdivision 1, paragraph (b), who are attending secondary school full time. Six months of basic education activities may be included in the family support agreement, and extension of basic education activities, including intensive ESL, is contingent upon review and approval by MFIP-R staff.

Non-English-speaking caregivers have the option to participate in ~~full-time~~ intensive ESL activities for up to six months ~~prior to participation in job search~~ with approval of MFIP-R staff, provided the caregiver also works or participates in job search. For caregivers participating in intensive ESL, hours spent in intensive ESL, employment, and job search must equal at least 30 hours per week, or 20 hours per week for a single parent caregiver with a child under age six.

Sec. 12. Minnesota Statutes 1994, section 256.73, subdivision 1, is amended to read:

Subdivision 1. [DEPENDENT CHILDREN.] Assistance shall be given under sections 256.72 to 256.87 to or on behalf of any dependent child who:

(1) ~~Resides~~ Has resided in Minnesota for at least 30 days or, if residing in the state for less than 30 days, the child or the child's caretaker relative meets one of the criteria specified in subdivision 1b;

(2) Is otherwise eligible; the child shall not be denied aid because of conditions of the home in which the child resides.

Sec. 13. Minnesota Statutes 1994, section 256.73, is amended by adding a subdivision to read:

Subd. 1a. [USE OF CODE OF FEDERAL REGULATIONS.] In the event that federal block grant legislation eliminates the federal regulatory basis for AFDC, the state shall continue to determine eligibility for Minnesota's AFDC program using the provisions of the Code of Federal Regulations, title 45, as constructed on the day prior to their federal repeal, except as expressly superseded in sections 256.72 to 256.87, or as superseded by federal law, or as modified by state rule or by regulatory waivers granted to the state.

Sec. 14. Minnesota Statutes 1994, section 256.73, is amended by adding a subdivision to read:

Subd. 1b. [RESIDENCY CRITERIA.] A child or caretaker relative who has resided in Minnesota for less than 30 days is considered to be a Minnesota resident if:

(1) either the child or the caretaker relative was born in the state;

(2) either the child or the caretaker relative has, in the past, resided in this state for at least 365 consecutive days;

(3) either the child or the caretaker relative came to this state to join a close relative who has resided in this state for at least one year. For purposes of this clause, "close relative" means a parent, grandparent, brother, sister, spouse, or child; or

(4) the caretaker relative came to this state to accept a bona fide offer of employment and was eligible to accept the employment.

A county agency may waive the 30-day residency requirement in cases of emergency or where

unusual hardship would result from denial of assistance. The county agency must report to the commissioner within 30 days on any waiver granted under this section. The county agency shall not deny an application solely because the applicant does not meet at least one of the criteria in this subdivision, but shall continue to process the application and leave the application pending until the residency requirement is met or until eligibility or ineligibility is established.

Sec. 15. Minnesota Statutes 1995 Supplement, section 256.73, subdivision 8, is amended to read:

Subd. 8. [RECOVERY OF OVERPAYMENTS AND ATM ERRORS.] (a) Except as provided in subdivision 8a, if an amount of aid to families with dependent children assistance is paid to a recipient in excess of the payment due, it shall be recoverable by the county agency. The agency shall give written notice to the recipient of its intention to recover the overpayment.

(b) When an overpayment occurs, the county agency shall recover the overpayment from a current recipient by reducing the amount of aid payable to the assistance unit of which the recipient is a member for one or more monthly assistance payments until the overpayment is repaid. All county agencies in the state shall reduce the assistance payment by three percent of the assistance unit's standard of need or the amount of the monthly payment, whichever is less, for all overpayments whether or not the overpayment is due solely to agency error. For recipients receiving benefits via electronic benefit transfer, if the overpayment is a result of an automated teller machine (ATM) dispensing funds in error to the recipient, the agency may recover the ATM error by immediately withdrawing funds from the recipient's electronic benefit transfer account, up to the amount of the error. If the overpayment is due solely to having wrongfully obtained assistance, whether based on a court order, the finding of an administrative fraud disqualification hearing or a waiver of such a hearing, or a confession of judgment containing an admission of an intentional program violation, the amount of this reduction shall be ten percent. In cases when there is both an overpayment and underpayment, the county agency shall offset one against the other in correcting the payment.

(c) Overpayments may also be voluntarily repaid, in part or in full, by the individual, in addition to the above aid reductions, until the total amount of the overpayment is repaid.

(d) The county agency shall make reasonable efforts to recover overpayments to persons no longer on assistance in accordance with standards adopted in rule by the commissioner of human services. The county agency need not attempt to recover overpayments of less than $35 paid to an individual no longer on assistance if the individual does not receive assistance again within three years, unless the individual has been convicted of fraud under section 256.98.

Sec. 16. Minnesota Statutes 1994, section 256.736, subdivision 1a, is amended to read:

Subd. 1a. [DEFINITIONS.] As used in this section and section 256.7365, the following words have the meanings given them:

(a) "AFDC" means aid to families with dependent children.

(b) "AFDC-UP" means that group of AFDC clients who are eligible for assistance by reason of unemployment as defined by the commissioner under section 256.12, subdivision 14.

(c) "Caretaker" means a parent or eligible adult, including a pregnant woman, who is part of the assistance unit that has applied for or is receiving AFDC.

(d) "Case manager" means the county agency's employment and training service provider who provides the services identified in sections 256.736 to 256.739 according to subdivision 12.

(e) "Employment and training services" means programs, activities, and services related to job training, job placement, and job creation, including job service programs, job training partnership act programs, wage subsidies, remedial and secondary education programs, post-secondary education programs excluding education leading to a post-baccalaureate degree, and vocational education programs, ~~work readiness programs,~~ job search, counseling, case management, community work experience programs, displaced homemaker programs, self-employment

programs, grant diversion, employment experience programs, youth employment programs, community investment programs, refugee employment and training programs, and counseling and support activities necessary to stabilize the caretaker or the family.

~~(e)~~ (f) "Employment and training service provider" means a public, private, or nonprofit agency certified by the commissioner of economic security to deliver employment and training services under section 268.0122, subdivision 3, and section 268.871, subdivision 1.

~~(f)~~ (g) "Minor parent" means a ~~caretaker relative who is the~~ person who is under age 18 who is either the birth parent of ~~the dependent~~ a minor child or children in the assistance unit and who is under the age of 18 or is eligible for AFDC as a pregnant woman.

~~(g)~~ (h) "Targeted groups" or "targeted caretakers" means recipients of AFDC or AFDC-UP designated as priorities for employment and training services under subdivision 16.

~~(h)~~ (i) "Suitable employment" means employment which:

(1) is within the recipient's physical and mental capacity;

(2) meets health and safety standards established by the Occupational Safety and Health Administration and the department of economic security;

(3) pays hourly gross earnings which are not less than the federal or state minimum wage for that type of employment, whichever is applicable;

(4) does not result in a net loss of income. Employment results in a net loss of income when the income remaining after subtracting necessary work-related expenses from the family's gross income, which includes cash assistance, is less than the cash assistance the family was receiving at the time the offer of employment was made. For purposes of this definition, "work expenses" means the amount withheld or paid for; state and federal income taxes; social security withholding taxes; mandatory retirement fund deductions; dependent care costs; transportation costs to and from work at the amount allowed by the Internal Revenue Service for personal car mileage; costs of work uniforms, union dues, and medical insurance premiums; costs of tools and equipment used on the job; $1 per work day for the costs of meals eaten during employment; public liability insurance required by an employer when an automobile is used in employment and the cost is not reimbursed by the employer; and the amount paid by an employee from personal funds for business costs which are not reimbursed by the employer;

(5) offers a job vacancy which is not the result of a strike, lockout, or other bona fide labor dispute;

(6) requires a round trip commuting time from the recipient's residence of less than two hours by available transportation, exclusive of the time to transport children to and from child care;

(7) does not require the recipient to leave children under age 12 unattended in order to work, or if child care is required, such care is available; and

(8) does not discriminate at the job site on the basis of age, sex, race, color, creed, marital status, status with regard to public assistance, disability, religion, or place of national origin.

~~(i)~~ (j) "Support services" means programs, activities, and services intended to stabilize families and individuals or provide assistance for family needs related to employment or participation in employment and training services, including child care, transportation, housing assistance, personal and family counseling, crisis intervention services, peer support groups, chemical dependency counseling and treatment, money management assistance, and parenting skill courses.

Sec. 17. Minnesota Statutes 1994, section 256.736, subdivision 3b, is amended to read:

Subd. 3b. [MANDATORY ASSESSMENT AND SCHOOL ATTENDANCE FOR CERTAIN CUSTODIAL PARENTS.] This subdivision applies to the extent permitted under federal law and regulation.

(a) [DEFINITIONS.] The definitions in this paragraph apply to this subdivision.

(1) "Custodial parent" means a recipient of AFDC who is the natural or adoptive parent of a child living with the custodial parent.

(2) "School" means:

(i) an educational program which leads to a high school diploma. The program or coursework may be, but is not limited to, a program under the post-secondary enrollment options of section 123.3514, a regular or alternative program of an elementary or secondary school, a technical college, or a college;

(ii) coursework for a general educational development (GED) diploma of not less than six hours of classroom instruction per week; or

(iii) any other post-secondary educational program that is approved by the public school or the county agency ~~under subdivision 11~~.

(b) [ASSESSMENT AND PLAN; REQUIREMENT; CONTENT.] The county agency must examine the educational level of each custodial parent under the age of 20 to determine if the recipient has completed a high school education or its equivalent. If the custodial parent has not completed a high school education or its equivalent and is not exempt from the requirement to attend school under paragraph (c), the county agency must complete an individual assessment for the custodial parent. The assessment must be performed as soon as possible but within 60 days of determining AFDC eligibility for the custodial parent. The assessment must provide an initial examination of the custodial parent's educational progress and needs, literacy level, child care and supportive service needs, family circumstances, skills, and work experience. In the case of a custodial parent under the age of 18, the assessment must also consider the results of the early and periodic screening, diagnosis and treatment (EPSDT) screening, if available, and the effect of a child's development and educational needs on the parent's ability to participate in the program. The county agency must advise the parent that the parent's first goal must be to complete an appropriate educational option if one is identified for the parent through the assessment and, in consultation with educational agencies, must review the various school completion options with the parent and assist the parent in selecting the most appropriate option.

(c) [RESPONSIBILITY FOR ASSESSMENT AND PLAN.] For custodial parents who are under age 18, the assessment and the employability plan must be completed by the county social services agency, as specified in section 257.33. For custodial parents who are age 18 or 19, the assessment and employability plan must be completed by the case manager. The social services agency or the case manager shall consult with representatives of educational agencies required to assist in developing educational plans under section 126.235.

(d) [EDUCATION DETERMINED TO BE APPROPRIATE.] If the case manager or county social services agency identifies an appropriate educational option, it must develop an employability plan in consultation with the custodial parent which reflects the assessment. The plan must specify that participation in an educational activity is required, what school or educational program is most appropriate, the services that will be provided, the activities the parent will take part in including child care and supportive services, the consequences to the custodial parent for failing to participate or comply with the specified requirements, and the right to appeal any adverse action. The employability plan must, to the extent possible, reflect the preferences of the participant.

(e) [EDUCATION DETERMINED TO BE NOT APPROPRIATE.] If the case manager determines that there is no appropriate educational option for a custodial parent who is age 18 or 19, the case manager shall indicate the reasons for the determination. The case manager shall then notify the county agency which must refer the custodial parent to ~~case management services under subdivision 11~~ the Project STRIDE program for completion of an employability plan and mandatory participation in employment and training services. If the custodial parent fails to participate or cooperate with ~~case management~~ employment and training services and does not have good cause for the failure, the county agency shall apply the sanctions listed in subdivision 4, beginning with the first payment month after issuance of notice. If the county social services

agency determines that school attendance is not appropriate for a custodial parent under age 18, the county agency shall refer the custodial parent to social services for services as provided in section 257.33.

(f) [SCHOOL ATTENDANCE REQUIRED.] Notwithstanding subdivision 3, a custodial parent must attend school if all of the following apply:

(1) the custodial parent is less than 20 years of age;

(2) transportation services needed to enable the custodial parent to attend school are available;

(3) licensed or legal nonlicensed child care services needed to enable the custodial parent to attend school are available;

(4) the custodial parent has not already received a high school diploma or its equivalent; and

(5) the custodial parent is not exempt because the custodial parent:

(i) is ill or incapacitated seriously enough to prevent attendance at school;

(ii) is needed in the home because of the illness or incapacity of another member of the household; this includes a custodial parent of a child who is younger than six weeks of age;

(iii) works 30 or more hours a week; or

(iv) is pregnant if it has been medically verified that the child's birth is expected within the next six months.

(g) [ENROLLMENT AND ATTENDANCE.] The custodial parent must be enrolled in school and meeting the school's attendance requirements. If enrolled, the custodial parent is considered to be attending when the school is not in regular session, including during holiday and summer breaks.

(h) [GOOD CAUSE FOR NOT ATTENDING SCHOOL.] The county agency shall not impose the sanctions in subdivision 4 if it determines that a custodial parent has good cause for not being enrolled or for not meeting the school's attendance requirements. The county agency shall determine whether good cause for not attending or not enrolling in school exists, according to this paragraph:

(1) Good cause exists when the county agency has verified that the only available school program requires round trip commuting time from the custodial parent's residence of more than two hours by available means of transportation, excluding the time necessary to transport children to and from child care.

(2) Good cause exists when the custodial parent has indicated a desire to attend school, but the public school system is not providing for the education and alternative programs are not available.

(i) [FAILURE TO COMPLY.] The case manager and social services agency shall establish ongoing contact with appropriate school staff to monitor problems that custodial parents may have in pursuing their educational plan and shall jointly seek solutions to prevent parents from failing to complete education. If the school notifies the county agency that the custodial parent is not enrolled or is not meeting the school's attendance requirements, or appears to be facing barriers to completing education, the information must be conveyed to the case manager for a custodial parent age 18 or 19, or to the social services agency for a custodial parent under age 18. The case manager or social services agency shall reassess the appropriateness of school attendance as specified in paragraph (f). If after consultation, school attendance is still appropriate and the case manager or social services agency determines that the custodial parent has failed to enroll or is not meeting the school's attendance requirements and the custodial parent does not have good cause, the case manager or social services agency shall inform the custodial parent's financial worker who shall apply the sanctions listed in subdivision 4 beginning with the first payment month after issuance of notice.

(j) [NOTICE AND HEARING.] A right to notice and fair hearing shall be provided in accordance with section 256.045 and the Code of Federal Regulations, title 45, section 205.10.

(k) [SOCIAL SERVICES.] When a custodial parent under the age of 18 has failed to attend school, is not exempt, and does not have good cause, the county agency shall refer the custodial parent to the social services agency for services, as provided in section 257.33.

(l) [VERIFICATION.] No less often than quarterly, the financial worker must verify that the custodial parent is meeting the requirements of this subdivision. Notwithstanding section 13.32, subdivision 3, when the county agency notifies the school that a custodial parent is subject to this subdivision, the school must furnish verification of school enrollment, attendance, and progress to the county agency. The county agency must not impose the sanctions in paragraph (i) if the school fails to cooperate in providing verification of the minor parent's education, attendance, or progress.

Sec. 18. Minnesota Statutes 1994, section 256.736, subdivision 4, is amended to read:

Subd. 4. [CONDITIONS OF CERTIFICATION.] The commissioner of human services shall:

(1) in consultation with the commissioner of children, families, and learning, arrange for or provide any caretaker or child ~~required to participate~~ who participates in employment and training services pursuant to this section with child-care services, transportation, and other necessary family services;

(2) provide that in determining a recipient's needs the additional expenses attributable to participation in a program are taken into account in grant determination to the extent permitted by federal regulation;

(3) provide that the county board shall impose the sanctions in clause (4) when the county board:

(a) determines that a custodial parent under the age of 16 who is required to attend school under subdivision 3b has, without good cause, failed to attend school; or

(b) determines that subdivision 3c applies to a minor parent and the minor parent has, without good cause, failed to cooperate with development of a social service plan or to participate in execution of the plan, to live in a group or foster home, or to participate in a program that teaches skills in parenting and independent living;

(4) to the extent permissible by federal law, impose the following sanctions for a recipient's failure to participate in the requirements of subdivision 3b or 3c:

(a) for the first failure, 50 percent of the grant provided to the family for the month following the failure shall be made in the form of protective or vendor payments;

(b) for the second and subsequent failures, the entire grant provided to the family must be made in the form of protective or vendor payments. Assistance provided to the family must be in the form of protective or vendor payments until the recipient complies with the requirement; and

(c) when protective payments are required, the county agency may continue payments to the caretaker if a protective payee cannot reasonably be found;

(5) provide that the county board shall impose the sanctions in clause (6) when the county board:

(a) determines that a caretaker or child required to participate in employment and training services has been found by the employment and training service provider to have failed without good cause to participate in appropriate employment and training services, to comply with the recipient's employability development plan, or to have failed without good cause to accept, through the job search program described in subdivision 14, or the provisions of an employability development plan if the caretaker is a custodial parent age 18 or 19 and subject to the requirements of subdivision 3b, a bona fide offer of public or other employment;

(b) determines that a custodial parent aged 16 to 19 who is required to attend school under subdivision 3b has, without good cause, failed to enroll or attend school; or

(c) determines that a caretaker has, without good cause, failed to attend orientation;

(6) to the extent required by federal law, impose the following sanctions for a recipient's failure to participate in required employment and training services, to comply with the recipient's employability development plan, to accept a bona fide offer of public or other employment, to enroll or attend school under subdivision 3b, or to attend orientation:

(a) for the first failure, the needs of the noncompliant individual shall not be taken into account in making the grant determination, until the individual complies with the requirements;

(b) for the second failure, the needs of the noncompliant individual shall not be taken into account in making the grant determination until the individual complies with the requirement or for three consecutive months, whichever is longer;

(c) for subsequent failures, the needs of the noncompliant individual shall not be taken into account in making the grant determination until the individual complies with the requirement or for six consecutive months, whichever is longer;

(d) aid with respect to a dependent child who has been sanctioned under this paragraph shall be continued for the parent or parents of the child if the child is the only child receiving aid in the family, the child continues to meet the conditions of section 256.73, and the family is otherwise eligible for aid;

(e) if the noncompliant individual is a parent or other relative caretaker, payments of aid for any dependent child in the family must be made in the form of protective or vendor payments. When protective payments are required, the county agency may continue payments to the caretaker if a protective payee cannot reasonably be found. When protective payments are imposed on ~~assistance units whose basis of eligibility is unemployed parent or incapacitated parent~~ a two-parent family, cash payments may continue to the ~~nonsanctioned~~ caretaker in the assistance unit who remains eligible for AFDC, subject to paragraph (g);

(f) If, after removing a caretaker's needs from the grant, only dependent children remain eligible for AFDC, the standard of assistance shall be computed using the special children standard;

(g) if the noncompliant individual is a ~~principal wage earner in a family whose basis of eligibility is the unemployment of a~~ parent in a two-parent family and the ~~nonprincipal wage earner~~ other parent is not participating in an approved employment and training service, the needs of both ~~the principal and nonprincipal wage earner~~ parents must not be taken into account in making the grant determination; and

(7) Request approval from the secretary of health and human services to use vendor payment sanctions for persons listed in paragraph (5), clause (b). If approval is granted, the commissioner must begin using vendor payment sanctions as soon as changes to the state plan are approved.

Sec. 19. Minnesota Statutes 1995 Supplement, section 256.736, subdivision 10, is amended to read:

Subd. 10. [COUNTY DUTIES.] (a) To the extent of available state appropriations, county boards shall:

(1) refer all mandatory and eligible volunteer caretakers permitted to participate under subdivision 3a to an employment and training service provider for participation in employment and training services;

(2) identify to the employment and training service provider the target group of which the referred caretaker is a member, if any, and whether the person's participation is mandatory or voluntary;

(3) provide ~~all~~ caretakers with an orientation which meets the requirements in subdivisions 10a and 10b;

(4) work with the employment and training service provider to encourage ~~voluntary~~ participation ~~by caretakers in the target groups~~ in employment and training services;

(5) work with the employment and training service provider to collect data as required by the commissioner;

(6) to the extent permissible under federal law, require all caretakers coming into the AFDC program to attend orientation;

(7) encourage ~~nontarget~~ caretakers to develop a plan to obtain self-sufficiency;

(8) notify the commissioner of the caretakers ~~required to~~ who participate in employment and training services;

(9) inform appropriate caretakers of opportunities available through the head start program and encourage caretakers to have their children screened for enrollment in the program where appropriate;

(10) provide transportation assistance using available funds to caretakers who participate in employment and training programs;

(11) ensure that the required services of orientation, ~~job search,~~ services to custodial parents under the age of 20 who have not completed high school or an equivalent program, job search, educational activities, and work experience for ~~AFDC-UP~~ two-parent families~~, and case management services~~ are made available to appropriate caretakers under this section, ~~except that payment for case management services is governed by subdivision 13~~ and that services are provided to volunteer caretakers to the extent resources permit;

(12) explain in its local service unit plan under section 268.88 how it will ensure that ~~target~~ caretakers determined to be in need of social services are provided with such social services. The plan must specify how the case manager and the county social service workers will ensure delivery of needed services;

(13) to the extent allowed by federal laws and regulations, provide a job search program as defined in subdivision 14, a community work experience program as defined in section 256.737, grant diversion as defined in section 256.739, and on-the-job training as defined in section 256.738. A county may also provide another work and training program approved by the commissioner and the secretary of the United States Department of Health and Human Services. Planning and approval for employment and training services listed in this clause must be obtained through submission of the local service unit plan as specified under section 268.88. A county is not required to provide a community work experience program if the county agency is successful in placing at least ~~40~~ 60 percent of the monthly average of all caretakers who are subject to the job search requirements of subdivision 14 in grant diversion or on-the-job training program;

(14) prior to participation, provide an assessment of each AFDC recipient who is required or volunteers to participate in an approved employment and training service. The assessment must include an evaluation of the participant's (i) educational, child care, and other supportive service needs; (ii) skills and prior work experience; and (iii) ability to secure and retain a job which, when wages are added to child support, will support the participant's family. The assessment must also include a review of the results of the early and periodic screening, diagnosis and treatment (EPSDT) screening and preschool screening under chapter 123, if available; the participant's family circumstances; and, in the case of a custodial parent under the age of 18, a review of the effect of a child's development and educational needs on the parent's ability to participate in the program;

(15) develop an employability development plan for each recipient for whom an assessment is required under clause (14) which:

(i) reflects the assessment required by clause (14);

(ii) takes into consideration the recipient's physical capacity, skills, experience, health and safety, family responsibilities, place of residence, proficiency, child care and other supportive service needs;

(iii) is based on available resources and local employment opportunities;

(iv) specifies the services to be provided by the employment and training service provider;

(v) specifies the activities the recipient will participate in, including the worksite to which the caretaker will be assigned, if the caretaker is subject to the requirements of section 256.737, subdivision 2;

(vi) specifies necessary supportive services such as child care;

(vii) reflects the effort to arrange mandatory activities so that the activities do not interfere with access to available English as a second language classes and to the extent possible, reflects the preferences of the participant;

(viii) includes a written agreement between the county agency and the caretaker that outlines a reasonable schedule for completing the plan, including specific completion deadlines, and confirms that

(A) there is a market for full-time employees with this education or training where the caretaker will or is willing to reside upon completion of the program;

(B) the average wage level for employees with this education or training is greater than the caretaker can earn without this education or training;

(C) the caretaker has the academic ability to successfully complete the program; and

(D) there is a reasonable expectation that the caretaker will complete the training program based on such factors as the caretaker's previous education, training, work history, current motivation, and changes in previous circumstances; and

(ix) specifies the recipient's long-term employment goal which shall lead to self-sufficiency. Caretakers shall be counseled to set realistic attainable goals, taking into account the long-term needs of the caretaker and the caretaker's family;

(16) provide written notification to and obtain the written concurrence of the appropriate exclusive bargaining representatives with respect to job duties covered under collective bargaining agreements and assure that no work assignment under this section or sections 256.737, 256.738, and 256.739, or the Minnesota parent's fair share mandatory community work experience program results in: (i) termination, layoff, or reduction of the work hours of an employee for the purpose of hiring an individual under this section or sections 256.737, 256.738, and 256.739; (ii) the hiring of an individual if any other person is on layoff from the same or a substantially equivalent job; (iii) any infringement of the promotional opportunities of any currently employed individual; (iv) the impairment of existing contracts for services or collective bargaining agreements; or (v) except for on-the-job training under section 256.738, a participant filling an established unfilled position vacancy. If an exclusive bargaining representative and a county or public service employer disagree regarding whether job duties are covered under a collective bargaining agreement, the exclusive bargaining representative or the county or public service employer may petition the bureau of mediation services, and the bureau shall determine if the job duties are covered by a collective bargaining agreement; ~~and~~

(17) assess each caretaker in ~~an AFDC-UP~~ a two-parent family who is under age 25, has not completed high school or a high school equivalency program, and who would otherwise be required to participate in a work experience placement under section 256.737 to determine if an appropriate secondary education option is available for the caretaker. If an appropriate secondary education option is determined to be available for the caretaker, the caretaker must, in lieu of participating in work experience, enroll in and meet the educational program's participation and attendance requirements. "Secondary education" for this paragraph means high school education or education designed to prepare a person to qualify for a high school equivalency certificate,

basic and remedial education, and English as a second language education. A caretaker required to participate in secondary education who, without good cause, fails to participate shall be subject to the provisions of subdivision 4a and the sanction provisions of subdivision 4, clause (6). For purposes of this clause, "good cause" means the inability to obtain licensed or legal nonlicensed child care services needed to enable the caretaker to attend, inability to obtain transportation needed to attend, illness or incapacity of the caretaker or another member of the household which requires the caretaker to be present in the home, or being employed for more than 30 hours per week; and

(18) provide counseling and other personal follow-up support as needed for up to six months after the participant loses AFDC eligibility to assist the person to maintain employment or to secure new employment.

(b) Funds available under this subdivision may not be used to assist, promote, or deter union organizing.

(c) A county board may provide other employment and training services that it considers necessary to help caretakers obtain self-sufficiency.

(d) Notwithstanding section 256G.07, when a target caretaker relocates to another county to implement the provisions of the caretaker's ~~case management contract or other~~ written employability development plan approved by the county human service agency, ~~its case manager~~ or its employment and training service provider, the county that approved the plan is responsible for the costs of ~~case management and other~~ services required to carry out the plan~~, including employment and training services~~. The county agency's responsibility for the costs ends when all plan obligations have been met, when the caretaker loses AFDC eligibility for at least 30 days, or when approval of the plan is withdrawn for a reason stated in the plan, whichever occurs first. Responsibility for the costs of child care must be determined under chapter 256H. A county human service agency may pay for the costs of ~~case management,~~ child care~~,~~ and other services required in an approved employability development plan when the nontarget caretaker relocates to another county or when a target caretaker again becomes eligible for AFDC after having been ineligible for at least 30 days.

Sec. 20. Minnesota Statutes 1995 Supplement, section 256.736, subdivision 10a, is amended to read:

Subd. 10a. [ORIENTATION.] (a) Each county agency must provide an orientation to all caretakers within its jurisdiction in the time limits described in this paragraph:

(1) within 60 days of being determined eligible for AFDC for caretakers ~~with a continued absence or incapacitated parent basis of eligibility~~ who are permitted to volunteer for services under subdivision 3a; or

(2) within 30 days of being determined eligible for AFDC for caretakers ~~with an unemployed parent basis of eligibility~~ who are required to participate in services under subdivision 3a.

(b) Caretakers are required to attend an in-person orientation if the caretaker is a member of one of the groups listed in subdivision 3a, paragraph (a), unless the caretaker is exempt from registration under subdivision 3 and the caretaker's exemption basis will not expire within 60 days of being determined eligible for AFDC, or the caretaker is enrolled at least half time in any recognized school, training program, or institution of higher learning and the in-person orientation cannot be scheduled at a time that does not interfere with the caretaker's school or training schedule. The county agency shall require attendance at orientation of caretakers described in subdivision 3a, paragraph (b) or (c), if the commissioner determines that the groups are eligible for participation in employment and training services.

(c) The orientation must consist of a presentation that informs caretakers of:

(1) the identity, location, and phone numbers of employment and training and support services available in the county;

(2) the types and locations of child care services available through the county agency that are accessible to enable a caretaker to participate in educational programs or employment and training services;

(3) the child care resource and referral program designated by the commissioner providing education and assistance to select child care services and a referral to the child care resource and referral when assistance is requested;

(4) the obligations of the county agency and service providers under contract to the county agency;

(5) the rights, responsibilities, and obligations of participants;

(6) the grounds for exemption from mandatory employment and training services or educational requirements;

(7) the consequences for failure to participate in mandatory services or requirements, including the requirement that volunteer participants comply with their employability development plan;

(8) the method of entering educational programs or employment and training services available through the county;

(9) the availability and the benefits of the early and periodic, screening, diagnosis and treatment (EPSDT) program and preschool screening under chapter 123;

(10) their eligibility for transition year child care assistance when they lose eligibility for AFDC due to their earnings;

(11) their eligibility for extended medical assistance when they lose eligibility for AFDC due to their earnings; ~~and~~

(12) the availability of the federal earned income tax credits and the state working family tax credits; and

(13) the availability and benefits of the Head Start program.

(d) All orientation programs should provide information to caretakers on parenting, nutrition, household management, food preparation, and other subjects relevant to promoting family integration and self-sufficiency and provide detailed information on community resources available for training sessions on these topics.

(e) Orientation must encourage recipients to view AFDC as a temporary program providing grants and services to individuals who set goals and develop strategies for supporting their families without AFDC assistance. The content of the orientation must not imply that a recipient's eligibility for AFDC is time limited. Orientation may be provided through audio-visual methods, but the caretaker must be given an opportunity for face-to-face interaction with staff of the county agency or the entity providing the orientation, and an opportunity to express the desire to participate in educational programs and employment and training services offered through the county agency.

(f) County agencies shall not require caretakers to attend orientation for more than three hours during any period of 12 continuous months. The county agency shall also arrange for or provide needed transportation and child care to enable caretakers to attend.

The county or, under contract, the county's employment and training service provider shall mail written orientation materials containing the information specified in paragraph (c), clauses (1) to (3) and (8) to ~~(12)~~ (13), to each caretaker exempt from attending an in-person orientation or who has good cause for failure to attend after at least two dates for their orientation have been scheduled. The county or the county's employment and training service provider shall follow up with a phone call or in writing within two weeks after mailing the material.

(g) Persons required to attend orientation must be informed of the penalties for failure to attend

orientation, support services to enable the person to attend, what constitutes good cause for failure to attend, and rights to appeal. Persons required to attend orientation must be offered a choice of at least two dates for their first scheduled orientation. No person may be sanctioned for failure to attend orientation until after a second failure to attend.

(h) Good cause for failure to attend an in-person orientation exists when a caretaker cannot attend because of:

(1) temporary illness or injury of the caretaker or of a member of the caretaker's family that prevents the caretaker from attending an orientation during the hours when the orientation is offered;

(2) a judicial proceeding that requires the caretaker's presence in court during the hours when orientation is scheduled; or

(3) a nonmedical emergency that prevents the caretaker from attending an orientation during the hours when orientation is offered. "Emergency" for the purposes of this paragraph means a sudden, unexpected occurrence or situation of a serious or urgent nature that requires immediate action.

(i) Caretakers must receive a second orientation only when:

(1) there has been a 30-day break in AFDC eligibility; and

(2) the caretaker has not attended an orientation within the previous 12-month period, excluding the month of reapplication for AFDC.

Sec. 21. Minnesota Statutes 1994, section 256.736, subdivision 12, is amended to read:

Subd. 12. [~~CASE MANAGERS~~ EMPLOYMENT AND TRAINING SERVICE PROVISION.] (a) Counties may directly employ case managers to provide the employment and training services in this section if the county is certified as an employment and training service provider under section 268.0122, or may contract for ~~case management~~ services with a certified employment and training service provider. Uncertified counties and contracting agencies may provide ~~case management~~ services only if they demonstrate the ability to coordinate employment, training, education, and support services. The commissioner of economic security shall determine whether or not an uncertified county or agency has demonstrated such ability.

(b) Counties that employ case managers must ensure that the case managers have the skills and knowledge necessary to perform the variety of tasks described in ~~subdivision 11~~ this section. Counties that contract with another agency for ~~case management~~ services must specify in the contract the skills and knowledge needed by the case managers. At a minimum, case managers must:

(1) have a thorough knowledge of training, education, and employment opportunities;

(2) have training or experience in understanding the needs of AFDC clients and their families; and

(3) be able to formulate creative individualized ~~contracts~~ employability development plans.

Sec. 22. Minnesota Statutes 1995 Supplement, section 256.736, subdivision 14, is amended to read:

Subd. 14. [JOB SEARCH.] (a) Each county agency must establish and operate a job search program as provided under this section. Unless all caretakers in the household are exempt, one nonexempt caretaker in each ~~AFDC-UP~~ two-parent AFDC household must be referred to and begin participation in the job search program within 30 days of being determined eligible for AFDC. If the assistance unit contains more than one nonexempt caretaker, the caretakers may determine which caretaker shall participate. The designation may be changed only once annually at the annual redetermination of eligibility. If no designation is made or if the caretakers cannot agree, the county agency shall designate the caretaker having earned the greater of the incomes,

including in-kind income, during the 24-month period immediately preceding the month of application for AFDC benefits as the caretaker that must participate. When no designation is made or the caretakers cannot agree and neither caretaker had earnings or the earnings were identical for each caretaker, then the county agency shall designate the caretaker who must participate. A caretaker is exempt from job search participation if:

(1) the caretaker is exempt from registration under subdivision 3, except that the second caretaker cannot be exempt to provide child care or care to an ill or incapacitated household member if the first caretaker is sanctioned for failure to comply or is exempt under any other exemption category, provided the first caretaker is capable of providing the needed care; or

(2) the caretaker is under age 25, has not completed a high school diploma or an equivalent program, and is participating in a secondary education program as defined in subdivision 10, paragraph (a), clause (17), which is approved by the employment and training service provider in the employability development plan.

(b) The job search program must provide four consecutive weeks of job search activities for no less than 20 hours per week but not more than 32 hours per week. The employment and training service provider shall specify for each participating caretaker the number of weeks and hours of job search to be conducted and shall report to the county agency if the caretaker fails to cooperate with the job search requirement. A person for whom lack of proficiency in English, as determined by an appropriate evaluation, is a barrier to employment, can choose to attend an available intensive, functional work literacy program for a minimum of 20 hours in place of the 20 hours of job search activities. The caretaker's employability development plan must include the length of time needed in the program, specific outcomes, attendance requirements, completion dates, and employment goals as they pertain to the intensive literacy program.

(c) The job search program may provide services to ~~non-AFDC-UP~~ caretakers who are not in two-parent families.

(d) After completion of job search requirements in this section, if the caretaker is not employed, nonexempt caretakers shall be placed in and must participate in and cooperate with the work experience program under section 256.737, the on-the-job training program under section 256.738, or the grant diversion program under section 256.739. Caretakers must be offered placement in a grant diversion or on-the-job training program, if either such employment is available, before being required to participate in a community work experience program under section 256.737. When a nonexempt caretaker fails to cooperate with the job search program, the work experience program, the on-the-job training program, or the community work experience program and is subject to the sanction provisions of subdivision 4, the second caretaker in the assistance unit, unless exempt, must also be removed from the grant unless that second caretaker has been referred to and has started participating in the job search program and subsequently in the work experience program, the on-the-job training program, or the community work experience program prior to the date the sanction begins for the first caretaker. The second caretaker is ineligible for AFDC until the first caretaker's sanction ends or the second caretaker cooperates with the requirements.

(e) The commissioner may require that, to the extent of available resources and provided the second caretaker is proficient in English, both caretakers in a two-parent AFDC family where all children are over age six and are not in kindergarten participate in job search and work experience. A caretaker shall be determined proficient in English if the county agency, or its employment and training service provider, determines that the person has sufficient English language capabilities to become suitably employed.

If the second caretaker is enrolled in an education or training program that can reasonably be expected to lead to employment, as of the effective date of this section, and is limited to one year, the second caretaker is exempt from job search and work experience.

Sec. 23. Minnesota Statutes 1995 Supplement, section 256.736, subdivision 16, is amended to read:

Subd. 16. [ALLOCATION AND USE OF MONEY.] (a) State money appropriated for employment and training services under this section must be allocated to counties as specified in paragraphs (b) to (l).

(b) For purposes of this subdivision, "targeted caretaker" means a recipient who:

(1) is a custodial parent under the age of 24 who: (i) has not completed a high school education and at the time of application for AFDC is not enrolled in high school or in a high school equivalency program; or (ii) had little or no work experience in the preceding year;

(2) is a member of a family in which the youngest child is within two years of being ineligible for AFDC due to age; or

(3) has received 36 months or more of AFDC over the last 60 months.

(c) One hundred percent of the money appropriated for case management services ~~as described in subdivision 11~~ must be allocated to counties based on the average number of cases in each county described in clause (1). Money appropriated for employment and training services as described in subdivision 1a, paragraph (d), other than case management services, must be allocated to counties as follows:

(1) Forty percent of the state money must be allocated based on the average number of cases receiving AFDC in the county which either have been open for 36 or more consecutive months or have a caretaker who is under age 24 and who has no high school or general equivalency diploma. The average number of cases must be based on counts of these cases as of March 31, June 30, September 30, and December 31 of the previous year.

(2) Twenty percent of the state money must be allocated based on the average number of cases receiving AFDC in the county which are not counted under clause (1). The average number of cases must be based on counts of cases as of March 31, June 30, September 30, and December 31 of the previous year.

(3) Twenty-five percent of the state money must be allocated based on the average monthly number of assistance units in the county receiving AFDC-UP for the period ending December 31 of the previous year.

(4) Fifteen percent of the state money must be allocated at the discretion of the commissioner based on participation levels for target group members in each county.

(d) No more than 15 percent of the money allocated under paragraph (b) and no more than 15 percent of the money allocated under paragraph (c) may be used for administrative activities.

(e) At least 55 percent of the money allocated to counties under paragraph (c) must be used for employment and training services for caretakers in the target groups, and up to 45 percent of the money may be used for employment and training services for nontarget caretakers. One hundred percent of the money allocated to counties for case management services must be used to provide those services to caretakers in the target groups.

(f) Money appropriated to cover the nonfederal share of costs for bilingual case management services to refugees for the employment and training programs under this section are allocated to counties based on each county's proportion of the total statewide number of AFDC refugee cases. However, counties with less than one percent of the statewide number of AFDC refugee cases do not receive an allocation.

(g) Counties, the department of economic security, and entities under contract with either the department of economic security or the department of human services for provision of STRIDE related services shall bill the commissioner of human services for any expenditures incurred by the county, the county's employment and training service provider, or the department of economic security that may be reimbursed by federal money. The commissioner of human services shall bill the United States Department of Health and Human Services and the United States Department of Agriculture for the reimbursement and appropriate the reimbursed money to the county, the department of economic security, or employment and training service provider that submitted the original bill. The reimbursed money must be used to expand employment and training services.

(h) The commissioner of human services shall review county expenditures of case management and employment and training block grant money at the end of the third quarter of the biennium

and each quarter after that, and may reallocate unencumbered or unexpended money allocated under this section to those counties that can demonstrate a need for additional money. Reallocation of funds must be based on the formula set forth in paragraph (a), excluding the counties that have not demonstrated a need for additional funds.

(i) The county agency may continue to provide case management and supportive services to a participant for up to 90 days after the participant loses AFDC eligibility and may continue providing a specific employment and training service for the duration of that service to a participant if funds for the service are obligated or expended prior to the participant losing AFDC eligibility.

(j) One hundred percent of the money appropriated for an unemployed parent work experience program under section 256.737 must be allocated to counties based on the average monthly number of assistance units in the county receiving AFDC-UP for the period ending December 31 of the previous year.

(k) The commissioner may waive the requirement of paragraph (e) that case management funds be spent only on case management services in order to permit the development of a unified STRIDE funding allocation for each county agency. The unified allocation may be expended by the county agency for case management and employment and training activities in the proportion determined necessary to streamline administrative procedures and enhance program performance. The commissioner, in consultation with the commissioner of economic security, may also grant a waiver from program spending limits in paragraphs (d) and (e) to any county which can demonstrate increased program effectiveness through a written request to the department. Counties which request a waiver of the spending limits in paragraphs (d) and (e) shall amend their local service unit plans and receive approval of the plans prior to commencing the waiver. The commissioners of human services and economic security shall annually evaluate the effectiveness of all waivers approved under this subdivision.

(l) Effective July 1, 1995, the commissioner of human services shall begin developing a performance model for the purpose of analyzing each county's performance in the provision of STRIDE employment and training services. Beginning February 1, 1997, and each year thereafter, the commissioner of human services shall inform each county of the county's performance based upon the following measures:

(1) employment rate at termination of STRIDE eligibility;

(2) wage rate at termination of STRIDE eligibility;

(3) average annual cost per placement calculated by dividing the total STRIDE expenditures by the number of participants placed in unsubsidized employment;

(4) AFDC-UP participation rate;

(5) percentage of 18- and 19-year-old custodial parents subject to secondary education requirements of subdivision 3b who complete secondary education or equivalent course of study; and

(6) achievement of federally mandated JOBS participation rate.

Performance measures (1), (2), and (3) shall be adjusted to reflect local conditions.

County agencies must take the results of these performance measures into consideration when selecting employment and training service providers.

Sec. 24. Minnesota Statutes 1995 Supplement, section 256.737, subdivision 7, is amended to read:

Subd. 7. [INJURY PROTECTION FOR WORK EXPERIENCE PARTICIPANTS.] (a) Payment of any claims resulting from an alleged injury or death of a recipient participating in a community work experience program established and operated by a county or a tribal JOBS program pursuant to this section shall be determined in accordance with this section. This

determination method applies to work experience programs established under aid to families with dependent children, work readiness, Minnesota parent's fair share, and to obligors participating in community services pursuant to section 518.551, subdivision 5a, in a county with an approved community investment program.

(b) Claims that are subject to this section shall be investigated by the county agency or the tribal JOBS program responsible for supervising the work to determine whether the claimed injury occurred, whether the claimed medical expenses are reasonable, and whether the loss is covered by the claimant's insurance. If insurance coverage is established, the county agency or tribal JOBS program shall submit the claim to the appropriate insurance entity for payment. The investigating county agency or tribal JOBS program shall submit all valid claims, in the amount net of any insurance payments, to the department of human services.

(c) The department of human services shall submit all claims for impairment compensation to the commissioner of labor and industry. The commissioner of labor and industry shall review all submitted claims and recommend to the department of human services an amount of compensation comparable to that which would be provided under the impairment compensation schedule of section 176.101, subdivision 3b.

(d) The department of human services shall approve a claim of $1,000 or less for payment if appropriated funds are available, if the county agency or tribal JOBS program responsible for supervising the work has made the determinations required by this section, and if the work program was operated in compliance with the safety provisions of this section. The department shall pay the portion of an approved claim of $1,000 or less that is not covered by the claimant's insurance within three months of the date of submission. On or before February 1 of each legislative session, the department shall submit to the appropriate committees of the senate and the house of representatives a list of claims of $1,000 or less paid during the preceding calendar year and shall be reimbursed by legislative appropriation for any claims that exceed the original appropriation provided to the department to operate this program. Any unspent money from this appropriation shall carry over to the second year of the biennium, and any unspent money remaining at the end of the second year shall be returned to the state general fund.

On or before February 1 of each year, the department shall submit to the appropriate committees of the senate and the house of representatives a list of claims in excess of $1,000 and a list of claims of $1,000 or less that were submitted to but not paid by the department of human services, together with any recommendations of appropriate compensation. These claims shall be heard and determined by the appropriate committees of the senate and house of representatives and, if approved, shall be paid under the legislative claims procedure.

(e) Compensation paid under this section is limited to reimbursement for reasonable medical expenses and impairment compensation for disability in like amounts as allowed in section 176.101, subdivision 3b. Compensation for injuries resulting in death shall include reasonable medical expenses and burial expenses in addition to payment to the participant's estate in an amount up to $200,000. No compensation shall be paid under this section for pain and suffering, lost wages, or other benefits provided in chapter 176. Payments made under this section shall be reduced by any proceeds received by the claimant from any insurance policy covering the loss. For the purposes of this section, "insurance policy" does not include the medical assistance program authorized under chapter 256B or the general assistance medical care program authorized under chapter 256D.

(f) The procedure established by this section is exclusive of all other legal, equitable, and statutory remedies against the state, its political subdivisions, or employees of the state or its political subdivisions. The claimant shall not be entitled to seek damages from any state ~~or~~, county, tribal, or reservation insurance policy or self-insurance program.

(g) A claim is not valid for purposes of this subdivision if the local agency responsible for supervising the work cannot verify to the department of human services:

(1) that appropriate safety training and information is provided to all persons being supervised by the agency under this subdivision; and

(2) that all programs involving work by those persons comply with federal Occupational Safety and Health Administration and state department of labor and industry safety standards. A claim that is not valid because of failure to verify safety training or compliance with safety standards will not be paid by the department of human services or through the legislative claims process and must be heard, decided, and paid, if appropriate, by the local government unit or tribal JOBS program responsible for supervising the work of the claimant.

(h) This program is effective July 1, 1995. Claims may be submitted on or after November 1, 1995.

Sec. 25. Minnesota Statutes 1995 Supplement, section 256.76, subdivision 1, is amended to read:

Subdivision 1. Upon the completion of the investigation the county agency shall decide whether the child is eligible for assistance under the provisions of sections 256.72 to 256.87 and determine the amount of the assistance and the date on which the assistance begins. A decision on an application for assistance must be made as promptly as possible and no more than 30 days from the date of application. Notwithstanding section 393.07, the county agency shall not delay approval or issuance of assistance pending formal action of the county board of commissioners. The first month's grant shall be based upon that portion of the month from the date of application, or from the date that the applicant meets all eligibility factors, whichever occurs later, provided that on the date that assistance is first requested, the county agency shall inquire and determine whether the person requesting assistance is in immediate need of food, shelter, clothing, or other emergency assistance. If an emergency need is found to exist, the applicant shall be granted assistance pursuant to section 256.871 within a reasonable period of time. ~~It~~ The county shall make a grant of assistance which shall be binding upon the county and be complied with by the county until the grant is modified or vacated. The county agency shall notify the applicant of its decision in writing. The assistance shall be paid monthly to the applicant or to the vendor of medical care upon order of the county agency from funds appropriated to the county agency for this purpose.

Sec. 26. Minnesota Statutes 1995 Supplement, 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~~ in the form of a warrant immediately redeemable in cash, electronic benefits transfer, or by direct deposit into the recipient's account in a financial institution, 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. There is a presumption of mismanagement of funds whenever a recipient is more than 30 days in arrears on payment of rent, except when the recipient has withheld rent to enforce the recipient's right to withhold the rent in accordance with federal, state, or local housing laws. In cases of mismanagement based solely on failure to pay rent, the county may vendor the rent payments to the landlord. 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) The county shall be paid from state and federal funds available therefor the amount provided for in section 256.82.

(6) Federal funds available for administrative purposes shall be distributed between the state and the counties in the same proportion that expenditures were made except as provided for in section 256.017.

(7) The affected county may require that assistance paid under the AFDC emergency assistance program in the form of a rental unit damage deposit, less any amount retained by the landlord to remedy a tenant's default in payment of rent or other funds due to the landlord pursuant to a rental agreement, or to restore the premises to the condition at the commencement of the tenancy, ordinary wear and tear excepted, be returned to the county when the individual vacates the premises or paid to the recipient's new landlord as a vendor payment. The vendor payment of returned funds shall not be considered a new use of emergency assistance.

Sec. 27. [256.9831] [BENEFITS; GAMBLING ESTABLISHMENTS.]

Subdivision 1. [DEFINITION.] For purposes of this section "gambling establishment" means a bingo hall licensed under section 349.164, a racetrack licensed under section 240.06 or 240.09, a casino operated under a tribal-state compact under section 3.9221, or any other establishment that receives at least 50 percent of its gross revenue from the conduct of gambling.

Subd. 2. [FINANCIAL TRANSACTION CARDS.] The commissioner shall take all actions necessary to insure that no person may obtain benefits under chapter 256 or 256D through the use of a financial transaction card, as defined in section 609.821, subdivision 1, paragraph (a), at a terminal located in or attached to a gambling establishment.

Subd. 3. [WARRANTS.] The commissioner shall take all actions necessary to insure that warrants issued to pay benefits under chapter 256 or 256D bear a restrictive endorsement that prevents their being cashed in a gambling establishment.

Sec. 28. Minnesota Statutes 1995 Supplement, section 256D.02, subdivision 12a, is amended to read:

Subd. 12a. [RESIDENT.] (a) For purposes of eligibility for general assistance ~~under section 256D.05, and payments under section 256D.051~~ and general assistance medical care, a "resident" is a person living in the state for at least 30 days with the intention of making the person's home here and not for any temporary purpose. All applicants for these programs are required to demonstrate the requisite intent and can do so in any of the following ways:

(1) by showing that the applicant maintains a residence at a verified address, other than a place of public accommodation. An applicant may verify a residence address by presenting a valid state driver's license, a state identification card, a voter registration card, a rent receipt, a statement by the landlord, apartment manager, or homeowner verifying that the individual is residing at the address, or other form of verification approved by the commissioner; or

(2) by ~~providing written documentation~~ verifying residence in accordance with Minnesota Rules, part 9500.1219, subpart 3, item (c).

(b) An applicant who has been in the state for less than 30 days shall be considered a resident if the applicant can provide documentation:

(1) that the applicant ~~came to~~ was born in the state ~~in response to an offer of employment~~;

~~(3) by providing verification~~ (2) that the applicant has been a long-time resident of the state or was formerly a resident of the state for at least 365 days and is returning to the state from a temporary absence, as those terms are defined in rules ~~to be~~ adopted by the commissioner;

(3) that the applicant has come to the state to join a close relative which, for purposes of this subdivision, means a parent, grandparent, brother, sister, spouse, or child; or

(4) ~~by providing other persuasive evidence to show that the applicant is a resident of the state, according to rules adopted by the commissioner~~ that the applicant has come to this state to accept a bona fide offer of employment for which the applicant is eligible.

A county agency shall waive the 30-day residency requirement in cases of emergencies, including medical emergencies, or where unusual hardship would result from denial of general assistance medical care. A county may waive the 30-day residency requirement in cases of emergencies, including medical emergencies, or where unusual hardship would result from denial of general assistance. The county agency must report to the commissioner within 30 days on any waiver granted under this section. The county shall not deny an application solely because the applicant does not meet at least one of the criteria in this subdivision, but shall continue to process the application and leave the application pending until the residency requirement is met or until eligibility or ineligibility is established.

Sec. 29. Minnesota Statutes 1995 Supplement, section 256D.03, subdivision 2, is amended to read:

Subd. 2. After December 31, 1980, state aid shall be paid for 75 percent of all general assistance and grants up to the standards of ~~sections~~ section 256D.01, subdivision 1a, ~~and 256D.051,~~ and according to procedures established by the commissioner, except as provided for under section 256.017. Benefits shall be issued to recipients by the state or county and funded according to section 256.025, subdivision 3.

Beginning July 1, 1991, the state will reimburse counties according to the payment schedule in section 256.025 for the county share of county agency expenditures made under this subdivision from January 1, 1991, on. Payment to counties under this subdivision is subject to the provisions of section 256.017.

Sec. 30. Minnesota Statutes 1995 Supplement, section 256D.03, subdivision 2a, is amended to read:

Subd. 2a. [COUNTY AGENCY OPTIONS.] Any county agency may, from its own resources, make payments of general assistance: (a) at a standard higher than that established by the commissioner without reference to the standards of section 256D.01, subdivision 1; or (b) to persons not meeting the eligibility standards set forth in section 256D.05, subdivision 1, ~~or 256D.051~~ but for whom the aid would further the purposes established in the general assistance program in accordance with rules adopted by the commissioner pursuant to the administrative procedure act. The Minnesota department of human services may maintain client records and issue these payments, providing the cost of benefits is paid by the counties to the department of human services in accordance with sections 256.01 and 256.025, subdivision 3.

Sec. 31. Minnesota Statutes 1995 Supplement, section 256D.03, subdivision 3, is amended to read:

Subd. 3. [GENERAL ASSISTANCE MEDICAL CARE; ELIGIBILITY.] (a) General assistance medical care may be paid for any person who is not eligible for medical assistance under chapter 256B, including eligibility for medical assistance based on a spenddown of excess income according to section 256B.056, subdivision 5, and:

(1) who is receiving assistance under section 256D.05 ~~or 256D.051~~, or who is having a payment made on the person's behalf under sections 256I.01 to 256I.06; or

(2)(i) who is a resident of Minnesota; and whose equity in assets is not in excess of $1,000 per assistance unit. No asset test shall be applied to children and their parents living in the same household. Exempt assets, the reduction of excess assets, and the waiver of excess assets must conform to the medical assistance program in chapter 256B, with the following exception: the maximum amount of undistributed funds in a trust that could be distributed to or on behalf of the beneficiary by the trustee, assuming the full exercise of the trustee's discretion under the terms of the trust, must be applied toward the asset maximum; and

(ii) who has countable income not in excess of the assistance standards established in section 256B.056, subdivision 4, or whose excess income is spent down pursuant to section 256B.056, subdivision 5, using a six-month budget period, except that a one-month budget period must be used for recipients residing in a long-term care facility. The method for calculating earned income disregards and deductions for a person who resides with a dependent child under age 21 shall be as specified in section 256.74, subdivision 1. However, if a disregard of $30 and one-third of the remainder described in section 256.74, subdivision 1, clause (4), has been applied to the wage earner's income, the disregard shall not be applied again until the wage earner's income has not been considered in an eligibility determination for general assistance, general assistance medical care, medical assistance, or aid to families with dependent children for 12 consecutive months. The earned income and work expense deductions for a person who does not reside with a dependent child under age 21 shall be the same as the method used to determine eligibility for a person under section 256D.06, subdivision 1, except the disregard of the first $50 of earned income is not allowed; or

(3) who would be eligible for medical assistance except that the person resides in a facility that is determined by the commissioner or the federal health care financing administration to be an institution for mental diseases.

(b) Eligibility is available for the month of application, and for three months prior to application if the person was eligible in those prior months. A redetermination of eligibility must occur every 12 months.

(c) General assistance medical care is not available for a person in a correctional facility unless the person is detained by law for less than one year in a county correctional or detention facility as a person accused or convicted of a crime, or admitted as an inpatient to a hospital on a criminal hold order, and the person is a recipient of general assistance medical care at the time the person is detained by law or admitted on a criminal hold order and as long as the person continues to meet other eligibility requirements of this subdivision.

(d) General assistance medical care is not available for applicants or recipients who do not cooperate with the county agency to meet the requirements of medical assistance.

(e) In determining the amount of assets of an individual, there shall be included any asset or interest in an asset, including an asset excluded under paragraph (a), that was given away, sold, or disposed of for less than fair market value within the 60 months preceding application for general assistance medical care or during the period of eligibility. Any transfer described in this paragraph shall be presumed to have been for the purpose of establishing eligibility for general assistance medical care, unless the individual furnishes convincing evidence to establish that the transaction was exclusively for another purpose. For purposes of this paragraph, the value of the asset or interest shall be the fair market value at the time it was given away, sold, or disposed of, less the amount of compensation received. For any uncompensated transfer, the number of months of ineligibility, including partial months, shall be calculated by dividing the uncompensated transfer amount by the average monthly per person payment made by the medical assistance program to skilled nursing facilities for the previous calendar year. The individual shall remain ineligible until this fixed period has expired. The period of ineligibility may exceed 30 months, and a reapplication for benefits after 30 months from the date of the transfer shall not result in eligibility unless and until the period of ineligibility has expired. The period of ineligibility begins in the month the transfer was reported to the county agency, or if the transfer was not reported, the month in which the county agency discovered the transfer, whichever comes first. For applicants, the period of ineligibility begins on the date of the first approved application.

(f)(1) Beginning October 1, 1993, an undocumented alien or a nonimmigrant is ineligible for general assistance medical care other than emergency services. For purposes of this subdivision, a nonimmigrant is an individual in one or more of the classes listed in United States Code, title 8, section 1101(a)(15), and an undocumented alien is an individual who resides in the United States without the approval or acquiescence of the Immigration and Naturalization Service.

(2) This subdivision does not apply to a child under age 18, to a Cuban or Haitian entrant as defined in Public Law Number 96-422, section 501(e)(1) or (2)(a), or to an alien who is aged, blind, or disabled as defined in United States Code, title 42, section 1382c(a)(1).

(3) For purposes of paragraph (f), "emergency services" has the meaning given in Code of Federal Regulations, title 42, section 440.255(b)(1), except that it also means services rendered because of suspected or actual pesticide poisoning.

Sec. 32. Minnesota Statutes 1995 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:

(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, psychological practitioner, 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 has been assessed by a vocational specialist and, in consultation with the county agency, has been determined to be unemployable for purposes of this item, a person is considered employable if 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. The person's eligibility under this category must be reassessed at least annually. The county agency must provide notice to the person not later than 30 days before annual eligibility under this item ends, informing the person of the date annual eligibility will end and the need for vocational assessment if the person wishes to continue eligibility under this clause. For purposes of establishing eligibility under this clause, it is the applicant's or recipient's duty to obtain any needed vocational assessment;

(9) a person who is determined by the county agency, in accordance with 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;

(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;

(15)(i) a family as defined in section 256D.02, subdivision 5, which is ineligible for the aid to families with dependent children program.

(ii) unless ~~all adults in the family are~~ exempt under section 256D.051, subdivision 3a, ~~one~~ each adult in the ~~family~~ unit must participate in and cooperate with the food stamp employment and training program under section 256D.051 each month that the ~~family~~ unit receives general assistance benefits. ~~If the household contains more than one nonexempt adult, the adults may determine which adult must participate. The designation may be changed once annually at the annual redetermination of eligibility. If no designation is made or if the adults cannot agree, the county agency shall designate the adult having earned the greater of the incomes, including in-kind income, during the 24-month period immediately preceding the month of application for general assistance, as the adult that must participate. When there are no earnings or when earnings are identical for each adult, the county agency shall designate which adult must participate.~~ The recipient's participation must begin ~~on~~ no later than the first day of the first full month following the determination of eligibility for general assistance benefits. To the extent of available resources, and with the county agency's consent, the recipient may voluntarily continue to participate in food stamp employment and training services for up to three additional consecutive months immediately following termination of general assistance benefits in order to complete the provisions of the recipient's employability development plan. If ~~the~~ an adult member fails without good cause to participate in or cooperate with the food stamp employment and training program, the county agency shall concurrently terminate that person's eligibility for general assistance and food stamps for two months or until compliance is achieved, whichever is shorter, using the notice, good cause, conciliation and termination procedures specified in section 256D.051; 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 for exemption from the food stamp employment and training program 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. 33. Minnesota Statutes 1995 Supplement, section 256D.051, subdivision 1, is amended to read:

Subdivision 1. [FOOD STAMP EMPLOYMENT AND TRAINING PROGRAM.] The commissioner shall implement a food stamp employment and training program in order to meet the food stamp employment and training participation requirements of the United States Department of Agriculture. Unless ~~all adult members of the food stamp household are~~ exempt under subdivision 3a, ~~one nonexempt~~ each adult recipient in ~~each household~~ the unit must participate in the food stamp employment and training program each month that the ~~household~~ person is eligible for food stamps ~~, up to a maximum period of six calendar months during any 12 consecutive calendar month period. If the household contains more than one nonexempt adult, the adults may determine which adult must participate. The designation may be changed only once annually at the annual redetermination of eligibility. If no designation is made or if the adults cannot agree, the county agency shall designate the adult having earned the greater of the incomes, including in-kind income, during the 24-month period immediately preceding the month of application for food stamp benefits, as the adult that must participate. When there are no earnings or when earnings are identical for each adult, the county agency shall designate the adult that must participate~~. The person's participation in food stamp employment and training services must begin ~~on~~ no later than the first day of the calendar month following the ~~date~~ determination of eligibility for food stamps. With the county agency's consent, and to the extent of available resources, the person may voluntarily continue to participate in food stamp employment and training services for up to three additional consecutive months immediately following ~~the end of the six-month mandatory participation period~~ termination of food stamp benefits in order to complete the provisions of the person's employability development plan.

Sec. 34. Minnesota Statutes 1995 Supplement, section 256D.051, subdivision 6, is amended to read:

Subd. 6. [SERVICE COSTS.] Within the limits of available resources, the commissioner shall reimburse county agency expenditures for providing food stamp employment and training services including direct participation expenses and administrative costs. State food stamp employment and training funds shall be used only to pay the county agency's and food stamp employment and training service provider's actual costs of providing participant support services, direct program services, and program administrative costs for persons who participate in such employment and training services. The average annual reimbursable cost for providing food stamp employment and training services to a recipient for whom an individualized employability development plan is not completed must not exceed $60 for the food stamp employment and training services, and ~~$240~~ $340 for necessary recipient support services such as transportation or child care needed to participate in food stamp employment and training program. If an individualized employability development plan has been completed, the average annual reimbursable cost for providing food stamp employment and training services must not exceed ~~$300~~ $400 for all services and costs necessary to implement the plan, including the costs of training, employment search assistance, placement, work experience, on-the-job training, other appropriate activities, the administrative and program costs incurred in providing these services, and necessary recipient support services such as tools, clothing, and transportation needed to participate in food stamp employment and training services. The county agency may expend additional county funds over and above the dollar limits of this subdivision without state reimbursement.

Sec. 35. Minnesota Statutes 1995 Supplement, section 256D.055, is amended to read:

256D.055 [COUNTY DESIGN; WORK FOCUSED PROGRAM.]

The commissioner of human services shall issue a request for proposals from counties to

submit a plan for developing and implementing a county-designed program. The plan shall be for first-time applicants for aid to families with dependent children (AFDC) and family general assistance (FGA) and must emphasize the importance of becoming employed and oriented into the work force in order to become self-sufficient. The plan must target public assistance applicants who are most likely to become self-sufficient quickly with short-term assistance or services such as child care, child support enforcement, or employment and training services.

The plan may include vendor payments, mandatory job search, refocusing existing county or provider efforts, or other program features. The commissioner may approve a county plan which allows a county to use other program funding for the county work focus program in a more flexible manner. Nothing in this section shall allow payments made to the public assistance applicant to be less than the amount the applicant would have received if the program had not been implemented, or reduce or eliminate a category of eligible participants from the program without legislative approval.

The commissioner shall not approve a county plan that would have an adverse impact on the Minnesota family investment plan demonstration. If the plan is approved by the commissioner, the county may implement the plan. If the plan is approved by the commissioner, but a federal waiver is necessary to implement the plan, the commissioner shall apply for the necessary federal waivers. ~~If by July 1, 1996, at least four counties have not proposed a work focused plan, the commissioner of human services may pursue the work first plan as provided under sections 256.7351 to 256.7359. However, a county with a work focus plan that has been approved under this section may implement the plan.~~

Sec. 36. Minnesota Statutes 1994, section 256D.06, is amended by adding a subdivision to read:

Subd. 8. [RECOVERY OF ATM ERRORS.] For recipients receiving benefits via electronic benefit transfer, if the recipient is overpaid as a result of an automated teller machine (ATM) dispensing funds in error to the recipient, the agency may recover the ATM error by immediately withdrawing funds from the recipient's electronic benefit transfer account, up to the amount of the error.

Sec. 37. Minnesota Statutes 1995 Supplement, section 256D.09, subdivision 1, is amended to read:

Subdivision 1. [PRESUMPTIVE ELIGIBILITY; ~~VENDOR~~ PAYMENTS.] Until the county agency has determined the initial eligibility of the applicant in accordance with section 256D.07 ~~or 256D.051~~, grants for emergency general assistance must be in the form of vouchers or vendor payments unless the county agency determines that a cash grant will best resolve the applicant's need for emergency assistance. Thereafter, grants of general assistance must be paid in cash, by electronic benefit transfer, or by direct deposit into the recipient's account in a financial institution, on the first day of the month, except as allowed in this section.

Sec. 38. Minnesota Statutes 1994, section 256D.10, is amended to read:

256D.10 [HEARINGS PRIOR TO REDUCTION; TERMINATION; SUSPENSION OF GENERAL ASSISTANCE GRANTS.]

No grant of general assistance except one made pursuant to section 256D.06, subdivision 2; ~~256D.051, subdivisions 1, paragraph (d), and 1a, paragraph (b);~~ or 256D.08, subdivision 2, shall be reduced, terminated or suspended unless the recipient receives notice and is afforded an opportunity to be heard prior to any action by the county agency.

Nothing herein shall deprive a recipient of the right to full administrative and judicial review of an order or determination of a county agency as provided for in section 256.045 subsequent to any action taken by a county agency after a prior hearing.

Sec. 39. Minnesota Statutes 1994, section 256D.49, subdivision 3, is amended to read:

Subd. 3. [OVERPAYMENT OF MONTHLY GRANTS AND RECOVERY OF ATM

ERRORS.] When the county agency determines that an overpayment of the recipient's monthly payment of Minnesota supplemental aid has occurred, it shall issue a notice of overpayment to the recipient. If the person is no longer receiving Minnesota supplemental aid, the county agency may request voluntary repayment or pursue civil recovery. If the person is receiving Minnesota supplemental aid, the county agency shall recover the overpayment by withholding an amount equal to three percent of the standard of assistance for the recipient or the total amount of the monthly grant, whichever is less. For recipients receiving benefits via electronic benefit transfer, if the overpayment is a result of an automated teller machine (ATM) dispensing funds in error to the recipient, the agency may recover the ATM error by immediately withdrawing funds from the recipient's electronic benefit transfer account, up to the amount of the error. Residents of nursing homes, regional treatment centers, and facilities with negotiated rates shall not have overpayments recovered from their personal needs allowance.

Sec. 40. Minnesota Statutes 1994, section 256E.08, subdivision 8, is amended to read:

Subd. 8. [REPORTING BY COUNTIES.] Beginning in calendar year 1980 each county shall submit to the commissioner of human services a financial accounting of the county's community social services fund, and other data required by the commissioner under section 256E.05, subdivision 3, paragraph (g), shall include:

(a) A detailed statement of income and expenses attributable to the fund in the preceding quarter; and

(b) A statement of the source and application of all money used for social services programs by the county during the preceding quarter, including the ~~number of clients served and~~ expenditures for each service provided, as required by the commissioner of human services.

In addition, each county shall submit to the commissioner of human services no later than February 15 of each year, a detailed balance sheet of the community social development fund for the preceding calendar year.

If county boards have joined or designated human service boards for purposes of providing community social services programs, the county boards may submit a joint statement or the human service board shall submit the statement, as applicable.

Sec. 41. Minnesota Statutes 1994, section 336.3-206, is amended to read:

336.3-206 [RESTRICTIVE ENDORSEMENT.]

(a) An endorsement limiting payment to a particular person or otherwise prohibiting further transfer or negotiation of the instrument is not effective to prevent further transfer or negotiation of the instrument.

(b) An endorsement stating a condition to the right of the endorsee to receive payment does not affect the right of the endorsee to enforce the instrument. A person paying the instrument or taking it for value or collection may disregard the condition, and the rights and liabilities of that person are not affected by whether the condition has been fulfilled.

(c) If an instrument bears an endorsement (i) described in section 336.4-201(b), or (ii) in blank or to a particular bank using the words "for deposit," "for collection," or other words indicating a purpose of having the instrument collected by a bank for the endorser or for a particular account, the following rules apply:

(1) A person, other than a bank, who purchases the instrument when so endorsed converts the instrument unless the amount paid for the instrument is received by the endorser or applied consistently with the endorsement.

(2) A depositary bank that purchases the instrument or takes it for collection when so endorsed converts the instrument unless the amount paid by the bank with respect to the instrument is received by the endorser or applied consistently with the endorsement.

(3) A payor bank that is also the depositary bank or that takes the instrument for immediate

payment over the counter from a person other than a collecting bank converts the instrument unless the proceeds of the instrument are received by the endorser or applied consistently with the endorsement.

(4) Except as otherwise provided in paragraph (3), a payor bank or intermediary bank may disregard the endorsement and is not liable if the proceeds of the instrument are not received by the endorser or applied consistently with the endorsement.

(d) Except for an endorsement covered by subsection (c), if an instrument bears an endorsement using words to the effect that payment is to be made to the endorsee as agent, trustee, or other fiduciary for the benefit of the endorser or another person, the following rules apply:

(1) Unless there is notice of breach of fiduciary duty as provided in section 336.3-307, a person who purchases the instrument from the endorsee or takes the instrument from the endorsee for collection or payment may pay the proceeds of payment or the value given for the instrument to the endorsee without regard to whether the endorsee violates a fiduciary duty to the endorser.

(2) A subsequent transferee of the instrument or person who pays the instrument is neither given notice nor otherwise affected by the restriction in the endorsement unless the transferee or payor knows that the fiduciary dealt with the instrument or its proceeds in breach of fiduciary duty.

(e) The presence on an instrument of an endorsement to which this section applies does not prevent a purchaser of the instrument from becoming a holder in due course of the instrument unless the purchaser is a converter under subsection (c) or has notice or knowledge of breach of fiduciary duty as stated in subsection (d).

(f) In an action to enforce the obligation of a party to pay the instrument, the obligor has a defense if payment would violate an endorsement to which this section applies and the payment is not permitted by this section.

(g) Nothing in this section prohibits or limits the effectiveness of a restrictive endorsement made under section 256.9831, subdivision 3.

Sec. 42. [TOTAL HOUSEHOLD INCOME CONSIDERED.]

The commissioner of human services shall study the feasibility of including all of the income of unrelated adults living in an AFDC household that would be their proportionate share of the household's costs for housing, electricity, and heating when determining a family's eligibility for the program and report back to the legislature by January 15, 1997.

Sec. 43. [WAIVER AUTHORITY.]

The commissioner of human services shall seek federal waivers as necessary to implement sections 12 and 14.

Sec. 44. [SEVERABILITY.]

If any provision of sections 12, 14, or 28 is found to be unconstitutional or void by a court of competent jurisdiction, all remaining provisions of the law shall remain valid and shall be given full effect.

Sec. 45. [APPROPRIATION.]

$450,000 is appropriated from the general fund to the commissioner of human services for the fiscal year ending June 30, 1997, to be added to the AFDC child care entitlement fund to provide child care for two-parent families that are mandatory participants under Minnesota Statutes, chapter 256.

Sec. 46. [REPEALER.]

Minnesota Statutes 1994, section 256.736, subdivisions 10b and 11; Minnesota Statutes 1995 Supplement, section 256.736, subdivision 13, are repealed.

Sec. 47. [EFFECTIVE DATE.]

Sections 29 to 31 and 38 are retroactive to July 1, 1995.

ARTICLE 4

CHILD CARE

Section 1. [APPROPRIATION.]

$5,000,000 is appropriated from the general fund to the commissioner of children, families, and learning for purposes of increasing the funding to the basic sliding fee child care program under Minnesota Statutes, section 256H.03, to be available for the fiscal year ending June 30, 1997. This appropriation shall not become part of the base appropriation.

ARTICLE 5

LYME DISEASE; IMMUNIZATIONS; LOSS RATIO STANDARDS

Section 1. Minnesota Statutes 1994, section 62A.021, subdivision 1, is amended to read:

Subdivision 1. [LOSS RATIO STANDARDS.] Notwithstanding section 62A.02, subdivision 3, relating to loss ratios, health care policies or certificates shall not be delivered or issued for delivery to an individual or to a small employer as defined in section 62L.02, unless the policies or certificates can be expected, as estimated for the entire period for which rates are computed to provide coverage, to return to Minnesota policyholders and certificate holders in the form of aggregate benefits not including anticipated refunds or credits, provided under the policies or certificates, (1) at least 75 percent of the aggregate amount of premiums earned in the case of policies issued in the small employer market, as defined in section 62L.02, subdivision 27, calculated on an aggregate basis; and (2) at least 65 percent of the aggregate amount of premiums earned in the case of each policy form or certificate form issued in the individual market; calculated on the basis of incurred claims experience or incurred health care expenses where coverage is provided by a health maintenance organization on a service rather than reimbursement basis and earned premiums for the period and according to accepted actuarial principles and practices. Assessments by the reinsurance association created in chapter 62L ~~and~~; any types of taxes, surcharges, or assessments created by Laws 1992, chapter 549, or created on or after April 23, 1992~~,~~; and premium taxes are included in the calculation of incurred claims experience or incurred health care expenses. The applicable percentage for policies and certificates issued in the small employer market, as defined in section 62L.02, increases by one percentage point on July 1 of each year, beginning on July 1, 1994, until an 82 percent loss ratio is reached on July 1, 2000. The applicable percentage for policy forms and certificate forms issued in the individual market increases by one percentage point on July 1 of each year, beginning on July 1, 1994, until a 72 percent loss ratio is reached on July 1, 2000. A health carrier that enters a market after July 1, 1993, does not start at the beginning of the phase-in schedule and must instead comply with the loss ratio requirements applicable to other health carriers in that market for each time period. Premiums earned and claims incurred in markets other than the small employer and individual markets are not relevant for purposes of this section.

Notwithstanding section 645.26, any act enacted at the 1992 regular legislative session that amends or repeals section 62A.135 or that otherwise changes the loss ratios provided in that section is void.

All filings of rates and rating schedules shall demonstrate that actual expected claims in relation to premiums comply with the requirements of this section when combined with actual experience to date. Filings of rate revisions shall also demonstrate that the anticipated loss ratio over the entire future period for which the revised rates are computed to provide coverage can be expected to meet the appropriate loss ratio standards, and aggregate loss ratio from inception of the policy form or certificate form shall equal or exceed the appropriate loss ratio standards.

A health carrier that issues health care policies and certificates to individuals or to small employers, as defined in section 62L.02, in this state shall file annually its rates, rating schedule, and supporting documentation including ratios of incurred losses to earned premiums by policy

form or certificate form duration for approval by the commissioner according to the filing requirements and procedures prescribed by the commissioner. The supporting documentation shall also demonstrate in accordance with actuarial standards of practice using reasonable assumptions that the appropriate loss ratio standards can be expected to be met over the entire period for which rates are computed. The demonstration shall exclude active life reserves. If the data submitted does not confirm that the health carrier has satisfied the loss ratio requirements of this section, the commissioner shall notify the health carrier in writing of the deficiency. The health carrier shall have 30 days from the date of the commissioner's notice to file amended rates that comply with this section. If the health carrier fails to file amended rates within the prescribed time, the commissioner shall order that the health carrier's filed rates for the nonconforming policy form or certificate form be reduced to an amount that would have resulted in a loss ratio that complied with this section had it been in effect for the reporting period of the supplement. The health carrier's failure to file amended rates within the specified time or the issuance of the commissioner's order amending the rates does not preclude the health carrier from filing an amendment of its rates at a later time. The commissioner shall annually make the submitted data available to the public at a cost not to exceed the cost of copying. The data must be compiled in a form useful for consumers who wish to compare premium charges and loss ratios.

Each sale of a policy or certificate that does not comply with the loss ratio requirements of this section is an unfair or deceptive act or practice in the business of insurance and is subject to the penalties in sections 72A.17 to 72A.32.

For purposes of this section, health care policies issued as a result of solicitations of individuals through the mail or mass media advertising, including both print and broadcast advertising, shall be treated as individual policies.

For purposes of this section, (1) "health care policy" or "health care certificate" is a health plan as defined in section 62A.011; and (2) "health carrier" has the meaning given in section 62A.011 and includes all health carriers delivering or issuing for delivery health care policies or certificates in this state or offering these policies or certificates to residents of this state."

Page 2, line 12, reinstate the stricken language and after "six" insert ", and appropriate immunizations from ages six to 18," and delete the new language

Page 2, line 17, reinstate the stricken language and delete the new language

Page 3, line 7, delete "Section 3 is" and insert "Sections 2 and 4 are"

Renumber the sections in sequence

Amend the title accordingly

Mr. Samuelson moved to amend the Samuelson amendment to H.F. No. 219 as follows:

Pages 75 to 78, delete section 1

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

Ms. Berglin moved to amend the Samuelson amendment to H.F. No. 219 as follows:

Page 78, delete lines 21 to 25

Page 78, line 27, delete "2 and 4" and insert "1 and 3"

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

The question recurred on the adoption of the Samuelson amendment, as amended. The motion prevailed. So the amendment, as amended, was adopted.

H.F. No. 219 was read the third time, as amended, and placed on its final passage.

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

The roll was called, and there were yeas 63 and nays 1, as follows:

Those who voted in the affirmative were:

Anderson	Hanson	Kroening	Neuville	Robertson
Beckman	Hottinger	Laidig	Novak	Runbeck
Belanger	Janezich	Langseth	Oliver	Sams
Berg	Johnson, D.E.	Larson	Olson	Samuelson
Berglin	Johnson, D.J.	Lesewski	Ourada	Scheevel
Betzold	Johnson, J.B.	Lessard	Pappas	Solon
Chandler	Johnston	Limmer	Pariseau	Spear
Cohen	Kelly	Marty	Piper	Stevens
Day	Kiscaden	Metzen	Pogemiller	Stumpf
Dille	Kleis	Moe, R.D.	Price	Terwilliger
Fischbach	Knutson	Mondale	Ranum	Vickerman
Flynn	Kramer	Morse	Reichgott Junge	
Frederickson	Krentz	Murphy	Riveness	

Mr. Merriam voted in the negative.

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

MOTIONS AND RESOLUTIONS - CONTINUED

Mr. Moe, R.D. moved that H.F. No. 1584 be taken from the table. The motion prevailed.

H.F. No. 1584: A bill for an act relating to human services; requiring the commissioner of human services to study and make recommendations on the administration of the community alternative care program, and to study and report on the effect on medical assistance waiver programs of medically fragile children in foster care.

SUSPENSION OF RULES

Mr. Moe, R.D. moved that an urgency be declared within the meaning of Article IV, Section 19, of the Constitution of Minnesota, with respect to H.F. No. 1584 and that the rules of the Senate be so far suspended as to give H.F. No. 1584 its second and third reading and place it on its final passage. The motion prevailed.

H.F. No. 1584 was read the second time.

Ms. Berglin moved to amend H.F. No. 1584 as follows:

Page 1, after line 8, insert:

"ARTICLE 1

APPROPRIATIONS

Section 1. [HEALTH AND HUMAN SERVICES APPROPRIATIONS.]

The sums shown in the columns marked "APPROPRIATIONS" are appropriated from the general fund, or any other fund named, to the agencies and for the purposes specified in the following sections of this article, to be available for the fiscal years indicated for each purpose. The figures "1996" and "1997" where used in this article, mean that the appropriation or appropriations listed under them are available for the fiscal year ending June 30, 1996, or June 30, 1997, respectively. Where a dollar amount appears in parentheses, it means a reduction of an appropriation.

SUMMARY BY FUND

	1996	1997	BIENNIAL TOTAL
General	$ (118,284,000)	$ (57,253,000)	$(175,537,000)

State Government Special Revenue	50,000	300,000	350,000
TOTAL	$ (118,234,000)	$ (56,953,000)	$(175,187,000)

	APPROPRIATIONS Available for the Year Ending June 30	
	1996	1997
Sec. 2. COMMISSIONER OF HUMAN SERVICES		
Subdivision 1. Total Appropriation	(118,284,000)	(59,533,000)

This reduction is taken from the appropriation in Laws 1995, chapter 207, article 1, section 2.

The amounts that are added to or reduced from the appropriation for each program are specified in the following subdivisions.

[DHS SPENDING CAP.] The 1998-1999 general fund spending in the department of human services is limited to $2,602,561,000 in fiscal year 1998 and $2,823,204,000 in fiscal year 1999. Policy changes made to meet this spending cap will include the effects on both revenues and expenditures. Changes from end of session revenue estimates shall be counted against this expenditures limit. Expenditures in the department may exceed these estimates only if forecast caseloads increase. After consultation with the legislature, the commissioner of finance may also adjust these limits to recognize any errors or omissions in the workpapers used to generate the figure.

Subd. 2. Life Skills Self-Sufficiency	
(3,462,000)	90,000

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

(a) Chemical Dependency Consolidated Treatment	
(3,462,000)	(1,346,000)
(b) Deaf and Hard-of-Hearing Services Grants	
-0-	100,000
(c) Community Social Services Grants	
-0-	36,000
(d) Aging Grants	
-0-	1,050,000

(e) Administration and Other Grants

-0- 250,000

[DEAF AND HARD-OF-HEARING PROGRAMS.] Of this appropriation, $100,000 in fiscal year 1997 is for a grant to a nonprofit agency that is currently serving deaf and hard-of-hearing adults with mental illness through residential programs and supported housing outreach activities. The grant must be used to expand the services provided by the nonprofit agency to include community support services for deaf and hard-of-hearing adults with mental illness. This appropriation shall not become part of the base for the 1998-1999 biennial budget.

[ADULT DAY CARE.] Of this appropriation, $250,000 in fiscal year 1997 is for grants to counties to expand or upgrade adult day care services and adult day care facilities. This appropriation is available until expended but shall not become part of the base appropriation for the biennium beginning July 1, 1997. The commissioner shall distribute grants to counties outside the metropolitan area where there is a need for expanded or improved services, facilities, or other capital assets, including vans for transporting clients, and the commissioner shall require a ten percent local match from the adult day care agency. The county shall award grants to nonprofit or loans to for-profit adult day care agencies in order for the agency to physically upgrade the facility, which will result in the expansion of the number of clients served in adult day care, expand the type of services offered, or enable programs to service persons with greater needs. For-profit adult day care agencies eligible for funds under this section receive funds as a loan. If a county elects to provide a loan to a for-profit agency, the county shall make provisions for the repayment of the loan within five years, and redistribute the funds for additional expansion or upgrading. A grant or loan to an adult day care nonprofit or for-profit agency, respectively, may not exceed $10,000. These funds shall not be used to pay for service costs.

[SENIOR PROGRAMS.] For fiscal year 1997, of this appropriation, $150,000 is for volunteer programs for retired senior citizens established under Minnesota Statutes, section 256.9753, $150,000 is for the foster grandparent program established under Minnesota Statutes, section 256.976, and $150,000 is for the senior

companion program established under Minnesota Statutes, section 256.977.

[SENIOR NUTRITION PROGRAM.] Of this appropriation, $600,000 in fiscal year 1997 is for senior nutrition programs under Minnesota Statutes, section 256.9750. Not less than $400,000 of this appropriation shall be used for congregate dining sites and home-delivered meals, and not more than $200,000 shall be used for nutritional support services.

Subd. 3. Children's Program -0- 2,400,000

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

(a) Subsidized Adoption Grants

-0- 1,500,000

(b) Other Families With Children Services Administration

-0- 900,000

[SOCIAL SERVICES INFORMATION SYSTEM.] Of this appropriation, $850,000 in fiscal year 1997 is for the social services information system. This appropriation shall not become part of the base for the 1998-1999 biennial budget.

[CHILD WELFARE TECHNOLOGY GRANT.] Of this appropriation, $50,000 is for purposes of developing an integrated child welfare computer system to connect tribal social services, counties, nonprofit organizations, and state agencies that are involved with child welfare issues, including adoption, foster care, and out-of-home placement issues. The appropriation will be provided to the commissioner when the commissioner applies for and receives a technology grant through the United States Department of Commerce, Division of National Technology Information Administration, to develop and implement the child welfare network. This $50,000 in state funding is part of the 50 percent match that is necessary in order to be eligible for the federal technology grant.

Subd. 4. Economic Self-Sufficiency

General

(13,668,000) (14,350,000)

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

(a) AFDC Grants

(13,196,000) (16,000,000)

(b) General Assistance Grants

878,000 2,593,000

(c) Minnesota Supplemental Aid

(262,000) (328,000)

(d) Minnesota Family Investment Plan (MFIP) Grants

-0- 64,000

(e) Child Care Fund Entitlement Grants

(1,258,000) (1,321,000)

(f) Administration and Other Grants

170,000 642,000

[RESIDENCY REQUIREMENT ADMINISTRATIVE COSTS.] (a) Of this appropriation, $225,000 in fiscal year 1997 is to reimburse the counties for the verified administrative costs of implementing the 30-day residency requirement in the general assistance and general assistance medical care programs.

(b) The commissioner of finance shall include in the department of human services biennial budget recommendation for the 1998-1999 biennium an appropriation sufficient to reimburse the counties for the verified administrative costs of implementing the 30-day residency requirement in the medical assistance, aid to families with dependent children, general assistance, and general assistance medical care programs.

[COMBINED MANUAL PRODUCTION COSTS.] For the biennium ending June 30, 1997, the commissioner may increase the fee charged to, and may retain money received from, individuals and private entities in order to recover the difference between the costs of producing the department of human services combined manual and the subsidized price charged to individuals and private entities on January 1, 1996. This provision does not apply to government agencies and nonprofit agencies serving the legal or social service needs of clients.

Subd. 5. Health Care

General

(100,714,000) (47,590,000)

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

(a) Group Residential Housing Grants

(4,562,000) (3,874,000)

(b) MA Long-Term Care Facilities

(24,640,000) 3,231,000

(c) MA Long-Term Care Waivers and Home Care

(5,945,000) 2,422,000

(d) MA Managed Care and Fee-for-Service

(2,164,000) (2,733,000)

(e) General Assistance Medical Care

(63,873,000) (47,276,000)

(f) Administration and Other Grants

470,000 640,000

[NEW ICF/MR.] A newly constructed or newly established intermediate care facility for persons with mental retardation that is developed and financed during fiscal year 1997 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.

[ICF/MR RECEIVERSHIP.] If a facility which is in receivership under Minnesota Statutes, section 245A.12 or 245A.13, is sold during fiscal year 1997 to an unrelated organization: (1) the facility shall be considered a newly established facility for rate setting purposes notwithstanding any provisions to the contrary in Minnesota Statutes, section 256B.501, subdivision 11; and (2) the facility's historical basis for the physical plant, land, and land improvements for each facility must not exceed the prior owner's aggregate historical basis for these same assets for each facility. The allocation of the purchase price between land, land improvements, and physical plant shall be based on the real estate appraisal using the depreciated replacement cost method.

[ICF/MR RATE EXEMPTION.] If the commissioner of human services is unable to complete the rulemaking revisions to the ICF/MR reimbursement rule by September 30, 1996, for the rate year beginning October 1, 1996, the commissioner shall exempt ICF/MR facilities from reductions to the payment rates

under Minnesota Statutes, section 256B.501, subdivision 5b, paragraph (d), clause (6), if the facility: (1) has had a settle-up payment rate established in the reporting year preceding the rate year for the one-time rate adjustment; (2) is a newly established facility; (3) is an A to B conversion under the reimbursement rule; (4) has a payment rate subject to a community conversion project under Minnesota Statutes, section 252.292; (5) has a payment rate established under Minnesota Statutes, section 245A.12 or 245A.13; or (6) is a facility created by the relocation of more than 25 percent of the capacity of a related facility during the reporting year.

[COUNTY WAIVERED SERVICES RESERVE.] Notwithstanding the provisions of Minnesota Statutes, section 256B.092, subdivision 4, and Minnesota Rules, part 9525.1830, subpart 2, the commissioner may approve written procedures and criteria for the allocation of home- and community-based waivered services funding for persons with mental retardation or related conditions which enables a county to maintain a reserve resource account. The reserve resource account may not exceed five percent of the county agency's total annual allocation of home- and community-based waivered services funds. The reserve may be utilized to ensure the county's ability to meet the changing needs of current recipients, to ensure the health and safety needs of current recipients, or to provide short-term emergency intervention care to eligible waiver recipients.

[PREADMISSION SCREENING TRANSFER.] Effective the day following final enactment, up to $40,000 of the appropriation for preadmission screening and alternative care for fiscal year 1996 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.

[SERVICE ALLOWANCE TRANSFER.] For the fiscal year ending June 30, 1997, the commissioner may transfer $848,000 from the medical assistance grants account to the alternative care grants account for allocation as service allowances to counties under Minnesota Statutes 1995 Supplement, section 256B.0913, subdivision 15.

[HIV/AIDS DRUG REIMBURSEMENT PROGRAM.] Of this appropriation, $150,000 in fiscal year 1997 is for the HIV/AIDS drug reimbursement program and shall be added to federal funds available for that program.

[ICF/MR ALTERNATIVE RATE STRUCTURE.] The commissioner, in conjunction with ICF/MR service providers, shall present to the legislature by January 31, 1997, recommendations for an alternative rate structure that recognizes the small size and individual needs of ICFs/MR. The system proposed must recognize costs incurred, must not penalize facilities converted since 1990 as part of the A to B conversion project, and must reimburse the costs associated with federal active treatment standards. As part of developing these recommendations the commissioner shall also examine issues related to the relative size and cost of these facilities and shall develop recommendations regarding whether allowing the development of larger facilities can be a high-quality, cost-efficient service option.

[TEFRA CRITERIA MODIFICATIONS.] The commissioner shall report to the legislature by February 1, 1997, on the number of children found eligible for medical assistance under the TEFRA option as a result of the modifications in Minnesota Statutes, section 256B.055, subdivision 12, paragraph (e), adopted in this chapter. The report must include information on the medical condition of the children found eligible and on the services provided to them. The report must include recommendations on any changes in these criteria developed in consultation with interested family, client, provider, and county representatives.

[TEFRA DENIALS.] Effective the day following final enactment, for children found ineligible for medical assistance under the TEFRA option under criteria in Minnesota Statutes, section 256B.055, subdivision 12, established in Laws 1995, chapter 207, article 6, if the reason for denial is lack of information on the child's condition, the commissioner shall notify the family of the lack of documentation at least 60 days prior to termination of eligibility for notices sent between April 1 and July 1, l996. All TEFRA ineligibility notices sent between April 1 and July 1, 1996, must contain the telephone number of a department of human services staff person whom the family can contact about alternative sources of health

coverage, including MinnesotaCare, the Minnesota comprehensive health association, services for children with special health care needs, and other types of assistance for children with disabilities or chronic illnesses.

[PUBLIC HEALTH NURSE ASSESSMENT.] Effective for public health nurse visits on or after July 1, 1996, the reimbursement for public health nurse visits relating to the provision of personal care assistant services under Minnesota Statutes, sections 256B.0625, subdivision 19a, and 256B.0627, is $204.36 for the initial assessment visit and $102.18 for each reassessment visit.

[NF PAYMENT INCREASE.] For the rate year beginning July 1, 1996, the commissioner shall increase each nursing facility's payment rate for those facilities whose rates are determined under Minnesota Statutes, section 256B.431, subdivision 25, by $0.06 per resident per day.

Subd. 6. Community Mental Health and State-Operated Services

General

(440,000) (83,000)

The amounts that are reduced from this appropriation for each purpose are as follows:

(a) Mental Health Grants - Children

(400,000) 277,000

(b) Mental Health Grants - Adults

(40,000) (360,000)

[CRISIS SERVICES.] Crisis services for developmentally disabled persons in each regional center catchment area, including crisis beds and mobile intervention teams, shall be at Brainerd, Cambridge, Fergus Falls, St. Peter, and Willmar regional centers in accordance with the agreement reached in 1989, and codified in Minnesota Statutes, section 252.025. The program design must be negotiated and agreed to by the affected exclusive representatives. The parties also must meet and discuss ways to provide the highest quality services, while maintaining or increasing cost effectiveness.

[COMPULSIVE GAMBLING.] For the fiscal year beginning July 1, 1996, the state lottery board shall deposit $800,000 in the general fund for use by the commissioner of human services to pay for compulsive gambling services as follows: $500,000 is allocated for treatment of compulsive gamblers; $150,000 is allocated for

the compulsive gambling treatment pilot project for treating individual compulsive gamblers; and $150,000 is allocated for education and prevention efforts, of which $50,000 is for a grant to a compulsive gambling council located in St. Louis county for the extension of the information gathering and dissemination network and the establishment of training scholarships. The amount deposited by the board shall be deducted from the lottery prize fund established under Minnesota Statutes, section 349A.10, subdivision 2. The amount deposited is appropriated to the commissioner of human services for this purpose. None of the amount appropriated for compulsive gambling services under this section may be used to pay administrative costs of the department of human services.

[COMPULSIVE GAMBLING GRANT FOR ADOLESCENT PROGRAMS.] Of this appropriation, $40,000 in fiscal year 1997 is for a grant to a compulsive gambling council located in St. Louis county for a compulsive gambling prevention and education project for adolescents. This appropriation shall not become part of the base level funding for the 1998-1999 biennial budget. The appropriation in Laws 1995, chapter 207, article 1, section 2, subdivision 7, for compulsive gambling programs for fiscal year 1996 is reduced by $40,000.

[RTC DENTAL SERVICES REPORT.] The commissioner shall report to the chairs of the house health and human services committee and the senate health care committee by November 1, 1996, on the implementation of Minnesota Statutes, section 246,57, subdivision 6.

Sec. 3. COMMISSIONER OF HEALTH

Subdivision 1. Total Appropriation	-0-	2,280,000
Summary by Fund		
General	-0-	2,080,000
State Government Special Revenue	-0-	200,000

This appropriation is added to the appropriation in Laws 1995, chapter 207, article 1, section 3.

The amounts that may be spent from this appropriation for each program are specified in the following subdivisions.

Subd. 2. Health Systems and Special Populations	-0-	1,985,000

Summary by Fund

General	-0-	1,785,000
State Government Special Revenue	-0-	200,000

[CORE PUBLIC HEALTH FUNCTIONS.] Of this appropriation, $1,500,000 in fiscal year 1997 is for core public health functions. Of this amount, up to five percent is available to the commissioner for administrative and technical support of community health boards. Funds distributed shall not be used to displace current appropriations or to provide individual personal health care services which compete with or duplicate services otherwise available through the prepaid medical assistance program. These funds shall be distributed on a pro rata basis according to the existing community health services subsidy formula to those community health service areas which are participating in the state's prepaid medical assistance program. This appropriation shall not become part of the base for the 1998-1999 biennial budget.

[DIRECT CONTRACTING REPORT.] The commissioners of health and commerce shall jointly study and report to the legislative oversight commission on health care access by December 15, 1996, on the feasibility of allowing direct provider contracting of health care services. Included in this report shall be recommendations on the consumer protections, reserve requirements, and protections for consumers who will not have direct contracting available to them that the legislature should consider to ensure protection of persons receiving health coverage through networks allowed to conduct direct provider contracting.

[HOSPITAL CONVERSION; SUPPLEMENTAL ALLOCATION.] Of the appropriation from the general fund, for the fiscal year ending June 30, 1997, the commissioner of health shall provide $25,000 to a 28-bed hospital located in Chisago county, to enable that facility to plan for closure and conversion, in partnership with other entities, in order to offer outpatient and emergency services at the site. This allocation is in addition to funds authorized by Laws 1995, article 1, section 3, subdivision 2.

[MEDICARE INITIAL SURVEYS.] (a) $200,000 is appropriated to the commissioner from the general fund for the fiscal year ending June 30, 1997, to support initial surveys of

Medicare providers. This appropriation shall be available until the federal law prohibiting the collection of fees for Medicare initial surveys is repealed.

(b) $200,000 is appropriated to the commissioner from the state government special revenue fund for the fiscal year ending June 30, 1997, to support initial surveys of Medicare providers once the federal law prohibiting the collection of fees for this activity is repealed. Upon repeal of the federal law, the commissioner shall charge fees as provided under Minnesota Statutes, section 144.122, paragraph (e).

[PROJECT REVIEW BEFORE CONSTRUCTION.] Before construction may commence on the project authorized in Minnesota Statutes, section 144A.071, subdivision 4a, paragraph (w), the interagency long-term care planning committee must review the project to ascertain the extent to which the project meets the objectives of Minnesota Statutes, section 144A.073, subdivision 4, and approve the project if it meets the objectives.

[SHARED ADMINISTRATOR.] Notwithstanding the provisions of Minnesota Statutes, section 144A.04, subdivision 5, the administrator of a county owned nursing home may serve, until September 30, 1996, as the administrator of a nursing home located in a county owned hospital provided that the total number of nursing home beds in both facilities does not exceed 153 beds. This provision is effective the day following final enactment.

Subd. 3. Health Protection	-0-	295,000

[BIRTH DEFECTS REGISTRY.] Of this appropriation, $195,000 in fiscal year 1997 is for the birth defects registry system under Minnesota Statutes, section 144.2215. The startup costs shall not become part of the base for the 1998-1999 biennial budget.

[LEAD HAZARD REDUCTION.] Of this appropriation, $100,000 in fiscal year 1997 is for lead hazard reduction under Minnesota Statutes, section 144.9504, subdivisions 1 and 7, and section 144.9503, subdivision 9.

[REPORT ON INSPECTION FEES.] The commissioner may spend up to $20,000 of the money appropriated for the fiscal year ending June 30, 1997, to develop recommendations for options to reduce inspection fees for establishments licensed under Minnesota Statutes, chapter 157, which are operating in the

category of small establishment with full menu selection, and which have ten or fewer employees. The recommendations must not include the option of a general fund appropriation as a way to reduce inspection fees. The commissioner must report the recommendations to the legislature by October 1, 1996.

Sec. 4. VETERANS NURSING HOMES BOARD	-0-	125,000

This appropriation is added to the appropriation in Laws 1995, chapter 207, article 1, section 4.

[VETERANS NURSING HOMES BOARD.] $125,000 is appropriated from the general fund to the veterans nursing homes board for the fiscal year ending June 30, 1997, for the nursing home in Fergus Falls. This appropriation is to fund positions and support services, to coordinate and oversee the construction of the facility, and to begin planning for the opening of the facility.

Sec. 5. HEALTH-RELATED BOARDS

Subdivision 1. Total Appropriation	50,000	175,000

Summary by Fund

General	-0-	75,000
State Government Special Revenue	50,000	100,000

This appropriation is added to the appropriation in Laws 1995, chapter 207, article 1, section 5.

Subd. 2. Emergency Medical Services Regulatory Board		
General Fund	-0-	75,000

[EMS TRANSFER EXPENSES.] $75,000 is appropriated to the emergency medical services regulatory board from the general fund for the fiscal year ending June 30, 1997, for expenses incurred in transferring regulatory authority from the commissioner of health to the board under Laws 1995, chapter 207, article 9. This appropriation shall not become part of the base for the 1998-1999 biennial budget.

Subd. 3. Board of Medical Practice		
State Government Special Fund	50,000	100,000

[MEDICAL PRACTICE BOARD.] $50,000 in fiscal year 1996 and $100,000 in fiscal year 1997 is appropriated from the state government special

revenue fund to the board of medical practice for the health professionals services program, and is added to the appropriation in Laws 1995, chapter 207, article 1, section 5, subdivision 6.

[STATE GOVERNMENT SPECIAL REVENUE FUND.] The appropriations in this subdivision are from the state government special revenue fund.

[NO SPENDING IN EXCESS OF REVENUES.] The commissioner of finance shall not permit the allotment, encumbrance, or expenditure of money appropriated in this subdivision in excess of the anticipated biennial revenues or accumulated surplus revenues from fees collected by the boards. Neither this provision nor Minnesota Statutes, section 214.06, applies to transfers from the general contingent account, if the amount transferred does not exceed the amount of surplus revenue accumulated by the transferee during the previous five years.

Sec. 6. [CARRYOVER LIMITATION.]

None of the appropriations in this article which are allowed to be carried forward from fiscal year 1996 to fiscal year 1997 shall become part of the base level funding for the 1998-1999 biennial budget, unless specifically directed by the legislature.

Sec. 7. [SUNSET OF UNCODIFIED LANGUAGE.]

All uncodified language contained in this article expires on June 30, 1997, unless a different expiration is explicit.

ARTICLE 2

HEALTH AND CONTINUING CARE RELATED TO MEDICAL ASSISTANCE AND GENERAL ASSISTANCE MEDICAL CARE

Section 1. Minnesota Statutes 1995 Supplement, section 62Q.19, subdivision 1, is amended to read:

Subdivision 1. [DESIGNATION.] The commissioner shall designate essential community providers. The criteria for essential community provider designation shall be the following:

(1) a demonstrated ability to integrate applicable supportive and stabilizing services with medical care for uninsured persons and high-risk and special needs populations as defined in section 62Q.07, subdivision 2, paragraph (e), underserved, and other special needs populations; and

(2) a commitment to serve low-income and underserved populations by meeting the following requirements:

(i) has nonprofit status in accordance with chapter 317A;

(ii) has tax exempt status in accordance with the Internal Revenue Service Code, section 501(c)(3);

(iii) charges for services on a sliding fee schedule based on current poverty income guidelines; and

(iv) does not restrict access or services because of a client's financial limitation; ~~or~~

(3) status as a local government unit as defined in section 62D.02, subdivision 11, an Indian tribal government, an Indian health service unit, or community health board as defined in chapter 145A; or

(4) a former state hospital that specializes in the treatment of cerebral palsy, spina bifida, epilepsy, closed head injuries, specialized orthopedic problems, and other disabling conditions.

Prior to designation, the commissioner shall publish the names of all applicants in the State Register. The public shall have 30 days from the date of publication to submit written comments to the commissioner on the application. No designation shall be made by the commissioner until the 30-day period has expired.

The commissioner may designate an eligible provider as an essential community provider for all the services offered by that provider or for specific services designated by the commissioner.

For the purpose of this subdivision, supportive and stabilizing services include at a minimum, transportation, child care, cultural, and linguistic services where appropriate.

Sec. 2. Minnesota Statutes 1995 Supplement, section 62Q.19, subdivision 5, is amended to read:

Subd. 5. [CONTRACT PAYMENT RATES.] An essential community provider and a health plan company may negotiate the payment rate for covered services provided by the essential community provider. This rate must be at least the same rate per unit of service as is paid to other health plan providers for the same or similar services.

Sec. 3. Minnesota Statutes 1995 Supplement, section 252.27, subdivision 2a, is amended to read:

Subd. 2a. [CONTRIBUTION AMOUNT.] (a) The natural or adoptive parents of a minor child, including a child determined eligible for medical assistance without consideration of parental income, must contribute monthly to the cost of services, unless the child is married or has been married, parental rights have been terminated, or the child's adoption is subsidized according to section 259.67 or through title IV-E of the Social Security Act.

(b) The parental contribution shall be the greater of a minimum monthly fee of $25 for households with adjusted gross income of $30,000 and over, or an amount to be computed by applying to the adjusted gross income of the natural or adoptive parents that exceeds 150 percent of the federal poverty guidelines for the applicable household size, the following schedule of rates:

(1) on the amount of adjusted gross income over 150 percent of poverty, but not over $50,000, ten percent;

(2) on the amount of adjusted gross income over 150 percent of poverty and over $50,000 but not over $60,000, 12 percent;

(3) on the amount of adjusted gross income over 150 percent of poverty, and over $60,000 but not over $75,000, 14 percent; and

(4) on all adjusted gross income amounts over 150 percent of poverty, and over $75,000, 15 percent.

If the child lives with the parent, the parental contribution is reduced by $200, except that the parent must pay the minimum monthly $25 fee under this paragraph. If the child resides in an institution specified in section 256B.35, the parent is responsible for the personal needs allowance specified under that section in addition to the parental contribution determined under this section. The parental contribution is reduced by any amount required to be paid directly to the child pursuant to a court order, but only if actually paid.

(c) The household size to be used in determining the amount of contribution under paragraph (b) includes natural and adoptive parents and their dependents under age 21, including the child receiving services. Adjustments in the contribution amount due to annual changes in the federal poverty guidelines shall be implemented on the first day of July following publication of the changes.

(d) For purposes of paragraph (b), "income" means the adjusted gross income of the natural or adoptive parents determined according to the previous year's federal tax form.

(e) The contribution shall be explained in writing to the parents at the time eligibility for services is being determined. The contribution shall be made on a monthly basis effective with the first month in which the child receives services. Annually upon redetermination or at termination of eligibility, if the contribution exceeded the cost of services provided, the local agency or the state shall reimburse that excess amount to the parents, either by direct reimbursement if the parent is no longer required to pay a contribution, or by a reduction in or waiver of parental fees until the excess amount is exhausted.

(f) The monthly contribution amount must be reviewed at least every 12 months; when there is a change in household size; and when there is a loss of or gain in income from one month to another in excess of ten percent. The local agency shall mail a written notice 30 days in advance of the effective date of a change in the contribution amount. A decrease in the contribution amount is effective in the month that the parent verifies a reduction in income or change in household size.

(g) Parents of a minor child who do not live with each other shall each pay the contribution required under paragraph (a), except that a court-ordered child support payment actually paid on behalf of the child receiving services shall be deducted from the contribution of the parent making the payment.

(h) The contribution under paragraph (b) shall be increased by an additional five percent if the local agency determines that insurance coverage is available but not obtained for the child. For purposes of this section, "available" means the insurance is a benefit of employment for a family member at an annual cost of no more than five percent of the family's annual income. For purposes of this section, insurance means health and accident insurance coverage, enrollment in a nonprofit health service plan, health maintenance organization, self-insured plan, or preferred provider organization.

Parents who have more than one child receiving services shall not be required to pay more than the amount for the child with the highest expenditures. There shall be no resource contribution from the parents. The parent shall not be required to pay a contribution in excess of the cost of the services provided to the child, not counting payments made to school districts for education-related services. Notice of an increase in fee payment must be given at least 30 days before the increased fee is due.

(i) The contribution under paragraph (b) shall be reduced by $300 per fiscal year if, in the 12 months prior to July 1;

(1) the parent applied for insurance for the child,

(2) the insurer denied insurance,

(3) the parents submitted a complaint or appeal, in writing to the insurer, submitted a complaint or appeal, in writing, to the commissioner of health or the commissioner of commerce, or litigated the complaint or appeal, and

(4) as a result of the dispute, the insurer reversed its decision and granted insurance.

For purposes of this section, insurance has the meaning given in paragraph (h).

A parent who has requested a reduction in the contribution amount under this paragraph shall submit proof in the form and manner prescribed by the commissioner or county agency, including, but not limited to, the insurer's denial of insurance, the written letter or complaint of the parents, court documents, and the written response of the insurer approving insurance. The determinations of the commissioner or county agency under this paragraph are not rules subject to chapter 14.

Sec. 4. [252.54] [DAY TRAINING AND HABILITATION SERVICES.]

Day training and habilitation license holders are exempt from the requirements of Minnesota Rules, part 9525.1630, subparts 3 (review of progress toward individual habilitation plan goals), 4 (initial assessment), and 5 (reassessment), for persons for whom progress reviews, initial assessments, and reassessments are completed by the license holder according to requirements established in the person's individual service plan developed by the county case manager under Minnesota Statutes, section 256B.092, subdivision 1b.

Sec. 5. Minnesota Statutes 1995 Supplement, section 256.969, subdivision 9, is amended to read:

Subd. 9. [DISPROPORTIONATE NUMBERS OF LOW-INCOME PATIENTS SERVED.] (a) For admissions occurring on or after October 1, 1992, through December 31, 1992, the medical assistance disproportionate population adjustment shall comply with federal law 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 paragraph. The commissioner shall specifically report on the adjustments received by public hospitals and public hospital corporations located in cities of the first class.

(b) For admissions occurring on or after July 1, 1993, the medical assistance disproportionate population adjustment shall comply with federal law 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;

(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. 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 paragraph. The commissioner shall specifically report on the adjustments received by public hospitals and public hospital corporations located in cities of the first class; and

(3) for a hospital that had medical assistance fee-for-service payment volume during calendar year 1991 in excess of 13 percent of total medical assistance fee-for-service payment volume, a medical assistance disproportionate population adjustment shall be paid in addition to any other disproportionate payment due under this subdivision as follows: $1,515,000 due on the 15th of each month after noon, beginning July 15, 1995. For a hospital that had medical assistance fee-for-service payment volume during calendar year 1991 in excess of eight percent of total medical assistance fee-for-service payment volume and ~~is~~ was the primary hospital affiliated with the University of Minnesota, a medical assistance disproportionate population adjustment shall be paid in addition to any other disproportionate payment due under this subdivision as follows: $505,000 due on the 15th of each month after noon, beginning July 15, 1995.

(c) The commissioner shall adjust rates paid to a health maintenance organization under contract with the commissioner to reflect rate increases provided in paragraph (b), clauses (1) and (2), on a nondiscounted hospital-specific basis but shall not adjust those rates to reflect payments provided in clause (3).

(d) If federal matching funds are not available for all adjustments under paragraph (b), the commissioner shall reduce payments under paragraph (b), clauses (1) and (2), on a pro rata basis so that all adjustments under paragraph (b) qualify for federal match.

(e) For purposes of this subdivision, medical assistance does not include general assistance medical care.

Sec. 6. [256.9692] [EFFECT OF INTEGRATION AGREEMENT ON DIVISION OF COST.]

Beginning in the first calendar month after there is a definitive integration agreement affecting the University of Minnesota hospital and clinics and Fairview hospital and health care services, Fairview hospital and health care services shall pay the University of Minnesota $505,000 on the 15th of each month, after receiving the state payment, provided that the University of Minnesota has fulfilled the requirements of section 256B.19, subdivision 1c.

Sec. 7. Minnesota Statutes 1995 Supplement, section 256B.055, subdivision 12, is amended to read:

Subd. 12. [DISABLED CHILDREN.] (a) A person is eligible for medical assistance if the person is under age 19 and qualifies as a disabled individual under United States Code, title 42, section 1382c(a), and would be eligible for medical assistance under the state plan if residing in a medical institution, and the child requires a level of care provided in a hospital, nursing facility, or intermediate care facility for persons with mental retardation or related conditions, for whom home care is appropriate, provided that the cost to medical assistance under this section is not more than the amount that medical assistance would pay for if the child resides in an institution. ~~Eligibility under this section must be determined annually~~ After the child is determined to be eligible under this section, the commissioner shall review the child's disability under United States Code, title 42, section 1382c(a) and level of care defined under this section no more often than annually and may elect, based on the recommendation of health care professionals under contract with the state medical review team, to extend the review of disability and level of care up to a maximum of four years. The commissioner's decision on the frequency of continuing review of disability and level of care is not subject to administrative appeal under section 256.045. Nothing in this subdivision shall be construed as affecting other redeterminations of medical assistance eligibility under chapter 256B and annual cost effective reviews under this section.

(b) For purposes of this subdivision, "hospital" means an institution as defined in section 144.696, subdivision 3, 144.55, subdivision 3, or Minnesota Rules, part 4640.3600, and licensed pursuant to sections 144.50 to 144.58 . For purposes of this subdivision, a child requires a level of care provided in a hospital if the child is determined by the commissioner to need an extensive array of health services, including mental health services, for an undetermined period of time, whose health condition requires frequent monitoring and treatment by a health care professional or by a person supervised by a health care professional, who would reside in a hospital or require frequent hospitalization if these services were not provided, and the daily care needs are more complex than a nursing facility level of care.

A child with serious emotional disturbance requires a level of care provided in a hospital if the commissioner determines that the individual requires 24-hour supervision because the person exhibits recurrent or frequent suicidal or homicidal ideation or behavior, recurrent or frequent psychosomatic disorders or somatopsychic disorders that may become life threatening, recurrent or frequent severe socially unacceptable behavior associated with psychiatric disorder, ongoing and chronic psychosis or severe, ongoing and chronic developmental problems requiring continuous skilled observation, or severe disabling symptoms for which office-centered outpatient treatment is not adequate, and which overall severely impact the individual's ability to function.

(c) For purposes of this subdivision, "nursing facility" means a facility which provides nursing care as defined in section 144A.01, subdivision 5, licensed pursuant to sections 144A.02 to 144A.10, which is appropriate if a person is in active restorative treatment; is in need of special treatments provided or supervised by a licensed nurse; or has unpredictable episodes of active disease processes requiring immediate judgment by a licensed nurse. For purposes of this subdivision, a child requires the level of care provided in a nursing facility if the child is determined by the commissioner to meet the requirements of the preadmission screening assessment document under section 256B.0911 and the home care independent rating document under section 256B.0627, subdivision 5, paragraph (f), item (iii), adjusted to address age-appropriate standards for children age 18 and under, pursuant to section 256B.0627, subdivision 5, paragraph (d), clause (2).

(d) For purposes of this subdivision, "intermediate care facility for persons with mental retardation or related conditions" or "ICF/MR" means a program licensed to provide services to persons with mental retardation under section 252.28, and chapter 245A, and a physical plant licensed as a supervised living facility under chapter 144, which together are certified by the Minnesota department of health as meeting the standards in Code of Federal Regulations, title 42, part 483, for an intermediate care facility which provides services for persons with mental retardation or persons with related conditions who require 24-hour supervision and active treatment for medical, behavioral, or habilitation needs. For purposes of this subdivision, a child requires a level of care provided in an ICF/MR if the commissioner finds that the child has mental retardation or a related condition in accordance with section 256B.092, is in need of a 24-hour plan of care and active treatment similar to persons with mental retardation, and there is a reasonable indication that the child will need ICF/MR services.

(e) For purposes of this subdivision, a person requires the level of care provided in a nursing facility if the person requires 24-hour monitoring or supervision and a plan of mental health treatment because of specific symptoms or functional impairments associated with a serious mental illness or disorder diagnosis, which meet severity criteria for mental health established by the commissioner based on standards developed for the Wisconsin Katie Beckett program published in July 1994.

(f) The determination of the level of care needed by the child shall be made by the commissioner based on information supplied to the commissioner by the parent or guardian, the child's physician or physicians , and other professionals as requested by the commissioner. The commissioner shall establish a screening team to conduct the level of care determinations according to this subdivision.

~~(f)~~ (g) If a child meets the conditions in paragraph (b), (c), ~~or~~ (d), or (e), the commissioner must assess the case to determine whether:

(1) the child qualifies as a disabled individual under United States Code, title 42, section 1382c(a) and would be eligible for medical assistance if residing in a medical institution; and

(2) the cost of medical assistance services for the child, if eligible under this subdivision, would not be more than the cost to medical assistance if the child resides in a medical institution to be determined as follows:

(i) for a child who requires a level of care provided in an ICF/MR, the cost of care for the child in an institution shall be determined using the average payment rate established for the regional treatment centers that are certified as ICFs/MR;

(ii) for a child who requires a level of care provided in an inpatient hospital setting according to paragraph (b), cost-effectiveness shall be determined according to Minnesota Rules, part 9505.3520, items F and G; and

(iii) for a child who requires a level of care provided in a nursing facility according to paragraph (c) or (e), cost-effectiveness shall be determined according to Minnesota Rules, part 9505.3040, except that the nursing facility average rate shall be adjusted to reflect rates which would be paid for children under age 16. The commissioner may authorize an amount up to the amount medical assistance would pay for a child referred to the commissioner by the preadmission screening team under section 256B.0911.

(g) Children eligible for medical assistance services under section 256B.055, subdivision 12, as of June 30, 1995, must be screened according to the criteria in this subdivision prior to January 1, 1996. Children found to be ineligible may not be removed from the program until January 1, 1996.

Sec. 8. Minnesota Statutes 1994, section 256B.056, subdivision 1, is amended to read:

Subdivision 1. [RESIDENCY.] To be eligible for medical assistance, a person must ~~reside~~ have resided in Minnesota for at least 30 days, or, if absent from the state, be deemed to be a resident of Minnesota in accordance with the rules of the state agency.

A person who has resided in the state for less than 30 days is considered to be a Minnesota resident if the person:

(1) was born in the state;

(2) has in the past resided in the state for at least 365 consecutive days;

(3) has come to the state to join a close relative, which, for purposes of this subdivision means a parent, grandparent, brother, sister, spouse, or child; or

(4) has come to this state to accept a bona fide offer of employment for which the person is eligible.

A county agency shall waive the 30-day residency requirement in cases of medical emergency or where unusual hardship would result from denial of assistance. The county agency must report to the commissioner within 30 days on any waiver granted under this section. The county shall not deny an application solely because the applicant does not meet at least one of the criteria in this subdivision, but shall continue to process the application and leave the application pending until the residency requirement is met or until eligibility or ineligibility is established.

Sec. 9. Minnesota Statutes 1994, 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 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, except that payments made pursuant to a court order for the support of children shall be excluded from income in an amount not to exceed the difference between the applicable income standard used in the state's medical assistance program for aged, blind, and disabled persons and the applicable income standard used in the state's medical assistance program for families with children. Exclusion of court-ordered child support payments is subject to the condition that if there has been a change in the financial circumstances of the person with the legal obligation to pay support since the support order was entered, the person with the legal obligation to pay support has petitioned for modification of the support order. 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. Effective upon federal approval, in-kind contributions to, and payments made on behalf of, a recipient, by an obligor, in satisfaction of or in addition to a temporary or permanent order for child support or maintenance, shall be considered income to the recipient. For these purposes, a "methodology" does not include an asset or income standard, or accounting method, or method of determining effective dates.

Sec. 10. Minnesota Statutes 1995 Supplement, section 256B.0575, is amended to read:

256B.0575 [AVAILABILITY OF INCOME FOR INSTITUTIONALIZED PERSONS.]

When an institutionalized person is determined eligible for medical assistance, the income that exceeds the deductions in paragraphs (a) and (b) must be applied to the cost of institutional care.

(a) The following amounts must be deducted from the institutionalized person's income in the following order:

(1) the personal needs allowance under section 256B.35 or, for a veteran who does not have a spouse or child, or a surviving spouse of a veteran having no child, the amount of an improved pension received from the veteran's administration not exceeding $90 per month;

(2) the personal allowance for disabled individuals under section 256B.36;

(3) if the institutionalized person has a legally appointed guardian or conservator, five percent of the recipient's gross monthly income up to $100 as reimbursement for guardianship or conservatorship services;

(4) a monthly income allowance determined under section 256B.058, subdivision 2, but only to the extent income of the institutionalized spouse is made available to the community spouse;

(5) a monthly allowance for children under age 18 which, together with the net income of the children, would provide income equal to the medical assistance standard for families and children according to section 256B.056, subdivision 4, for a family size that includes only the minor children. This deduction applies only if the children do not live with the community spouse and only to the extent that the deduction is not included in the personal needs allowance under section 256B.35, subdivision 1, as child support garnished under a court order;

(6) a monthly family allowance for other family members, equal to one-third of the difference between 122 percent of the federal poverty guidelines and the monthly income for that family member;

(7) reparations payments made by the Federal Republic of Germany and reparations payments made by the Netherlands for victims of Nazi persecution between 1940 and 1945; and

(8) amounts for reasonable expenses incurred for necessary medical or remedial care for the institutionalized spouse that are not medical assistance covered expenses and that are not subject to payment by a third party.

For purposes of clause (6), "other family member" means a person who resides with the community spouse and who is a minor or dependent child, dependent parent, or dependent sibling of either spouse. "Dependent" means a person who could be claimed as a dependent for federal income tax purposes under the Internal Revenue Code.

(b) Income shall be allocated to an institutionalized person for a period of up to three calendar months, in an amount equal to the medical assistance standard for a family size of one if:

(1) a physician certifies that the person is expected to reside in the long-term care facility for three calendar months or less;

(2) if the person has expenses of maintaining a residence in the community; and

(3) if one of the following circumstances apply:

(i) the person was not living together with a spouse or a family member as defined in paragraph (a) when the person entered a long-term care facility; or

(ii) the person and the person's spouse become institutionalized on the same date, in which case the allocation shall be applied to the income of one of the spouses.

For purposes of this paragraph, a person is determined to be residing in a licensed nursing home,

regional treatment center, or medical institution if the person is expected to remain for a period of one full calendar month or more.

Sec. 11. Minnesota Statutes 1995 Supplement, section 256B.0595, subdivision 1, is amended to read:

Subdivision 1. [PROHIBITED TRANSFERS.] (a) For transfers of assets made on or before August 10, 1993, if a person or the person's spouse has given away, sold, or disposed of, for less than fair market value, any asset or interest therein, except assets other than the homestead that are excluded under the supplemental security program, within 30 months before or any time after the date of institutionalization if the person has been determined eligible for medical assistance, or within 30 months before or any time after the date of the first approved application for medical assistance if the person has not yet been determined eligible for medical assistance, the person is ineligible for long-term care services for the period of time determined under subdivision 2.

(b) Effective for transfers made after August 10, 1993, a person, a person's spouse, or any person, court, or administrative body with legal authority to act in place of, on behalf of, at the direction of, or upon the request of the person or person's spouse, may not give away, sell, or dispose of, for less than fair market value, any asset or interest therein, except assets other than the homestead that are excluded under the supplemental security income program, for the purpose of establishing or maintaining medical assistance eligibility. For purposes of determining eligibility for long-term care services, any transfer of such assets within 36 months before or any time after an institutionalized person applies for medical assistance, or 36 months before or any time after a medical assistance recipient becomes institutionalized, for less than fair market value may be considered. Any such transfer is presumed to have been made for the purpose of establishing or maintaining medical assistance eligibility and the person is ineligible for long-term care services for the period of time determined under subdivision 2, unless the person furnishes convincing evidence to establish that the transaction was exclusively for another purpose, or unless the transfer is permitted under subdivision 3 or 4. Notwithstanding the provisions of this paragraph, in the case of payments from a trust or portions of a trust that are considered transfers of assets under federal law, any transfers made within 60 months before or any time after an institutionalized person applies for medical assistance and within 60 months before or any time after a medical assistance recipient becomes institutionalized, may be considered.

(c) This section applies to transfers, for less than fair market value, of income or assets, including assets that are considered income in the month received, such as inheritances, court settlements, and retroactive benefit payments or income to which the person or the person's spouse is entitled but does not receive due to action by the person, the person's spouse, or any person, court, or administrative body with legal authority to act in place of, on behalf of, at the direction of, or upon the request of the person or the person's spouse.

(d) This section applies to payments for care or personal services provided by a relative, unless the compensation was stipulated in a notarized, written agreement which was in existence when the service was performed, the care or services directly benefited the person, and the payments made represented reasonable compensation for the care or services provided. A notarized written agreement is not required if payment for the services was made within 60 days after the service was provided.

(e) This section applies to the portion of any asset or interest that a person, a person's spouse, or any person, court, or administrative body with legal authority to act in place of, on behalf of, at the direction of, or upon the request of the person or the person's spouse, transfers to any ~~trust,~~ annuity~~, or other instrument,~~ that exceeds the value of the benefit likely to be returned to the person or spouse while alive, based on estimated life expectancy using the life expectancy tables employed by the supplemental security income program to determine the value of an agreement for services for life. The commissioner may adopt rules reducing life expectancies based on the need for long-term care.

(f) For purposes of this section, long-term care services include services in a nursing facility, services that are eligible for payment according to section 256B.0625, subdivision 2, because they are provided in a swing bed, intermediate care facility for persons with mental retardation, and

home and community-based services provided pursuant to sections 256B.0915, 256B.092, and 256B.49. For purposes of this subdivision and subdivisions 2, 3, and 4, "institutionalized person" includes a person who is an inpatient in a nursing facility or in a swing bed, or intermediate care facility for persons with mental retardation or who is receiving home and community-based services under sections 256B.0915, 256B.092, and 256B.49.

(g) Effective for transfers made on or after July 1, 1995, or upon federal approval, whichever is later, a person, a person's spouse, or any person, court, or administrative body with legal authority to act in place of, on behalf of, at the direction of, or upon the request of the person or person's spouse, may not give away, sell, or dispose of, for less than fair market value, any asset or interest therein, for the purpose of establishing or maintaining medical assistance eligibility. For purposes of determining eligibility for long-term care services, any transfer of such assets within 60 months before, or any time after, an institutionalized person applies for medical assistance, or 60 months before, or any time after, a medical assistance recipient becomes institutionalized, for less than fair market value may be considered. Any such transfer is presumed to have been made for the purpose of establishing or maintaining medical assistance eligibility and the person is ineligible for long-term care services for the period of time determined under subdivision 2, unless the person furnishes convincing evidence to establish that the transaction was exclusively for another purpose, or unless the transfer is permitted under subdivision 3 or 4.

Sec. 12. Minnesota Statutes 1994, section 256B.0595, is amended by adding a subdivision to read:

Subd. 1a. [PROHIBITED TRANSFERS.] (a) Notwithstanding any contrary provisions of this section, this subdivision applies to transfers involving recipients of medical assistance that are made on or after its effective date and to all transfers involving persons who apply for medical assistance on or after its effective date if the transfer occurred within 72 months before the person applies for medical assistance, except that this subdivision does not apply to transfers made prior to March 1, 1996. A person, a person's spouse, or any person, court, or administrative body with legal authority to act in place of, on behalf of, at the direction of, or upon the request of the person or the person's spouse, may not give away, sell, dispose of, or reduce ownership or control of any income, asset, or interest therein for less than fair market value for the purpose of establishing or maintaining medical assistance eligibility for the person. For purposes of determining eligibility for medical assistance services, any transfer of such income or assets for less than fair market value within 72 months before or any time after a person applies for medical assistance may be considered. Any such transfer is presumed to have been made for the purpose of establishing or maintaining medical assistance eligibility, and the person is ineligible for medical assistance services for the period of time determined under subdivision 2a, unless the person furnishes convincing evidence to establish that the transaction was exclusively for another purpose, or unless the transfer is permitted under subdivision 3a or 4a.

(b) This section applies to transfers of income or assets for less than fair market value, including assets that are considered income in the month received, such as inheritances, court settlements, and retroactive benefit payments or income to which the person or the person's spouse is entitled but does not receive due to action by the person, the person's spouse, or any person, court, or administrative body with legal authority to act in place of, on behalf of, at the direction of, or upon the request of the person or the person's spouse.

(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 income, asset, or interest therein that a person, a person's spouse, or any person, court, or administrative body with legal authority to act in place of, on behalf of, at the direction of, or upon the request of the person or the person's spouse, transfers to any annuity that exceeds the value of the benefit likely to be returned to the person or spouse while alive, based on estimated life expectancy of adults entering long-term care. The commissioner shall adopt rules establishing life expectancies of adults entering long-term care.

Sec. 13. Minnesota Statutes 1995 Supplement, section 256B.0595, subdivision 2, is amended to read:

Subd. 2. [PERIOD OF INELIGIBILITY.] (a) For any uncompensated transfer occurring on or before August 10, 1993, the number of months of ineligibility for long-term care services shall be the lesser of 30 months, or the uncompensated transfer amount divided by the average medical assistance rate for nursing facility services in the state in effect on the date of application. The amount used to calculate the average medical assistance payment rate shall be adjusted each July 1 to reflect payment rates for the previous calendar year. The period of ineligibility begins with the month in which the assets were transferred. If the transfer was not reported to the local agency at the time of application, and the applicant received long-term care services during what would have been the period of ineligibility if the transfer had been reported, a cause of action exists against the transferee for the cost of long-term care services provided during the period of ineligibility, or for the uncompensated amount of the transfer, whichever is less. The action may be brought by the state or the local agency responsible for providing medical assistance under chapter 256G. The uncompensated transfer amount is the fair market value of the asset at the time it was given away, sold, or disposed of, less the amount of compensation received.

(b) For uncompensated transfers made after August 10, 1993, the number of months of ineligibility for long-term care services shall be the total uncompensated value of the resources transferred divided by the average medical assistance rate for nursing facility services in the state in effect on the date of application. The amount used to calculate the average medical assistance payment rate shall be adjusted each July 1 to reflect payment rates for the previous calendar year. The period of ineligibility begins with the month in which the assets were transferred except that if one or more uncompensated transfers are made during a period of ineligibility, the total assets transferred during the ineligibility period shall be combined and a penalty period calculated to begin in the month the first uncompensated transfer was made. If the transfer was not reported to the local agency at the time of application, and the applicant received medical assistance services during what would have been the period of ineligibility if the transfer had been reported, a cause of action exists against the transferee for the cost of medical assistance services provided during the period of ineligibility, or for the uncompensated amount of the transfer, whichever is less. The action may be brought by the state or the local agency responsible for providing medical assistance under chapter 256G. The uncompensated transfer amount is the fair market value of the asset at the time it was given away, sold, or disposed of, less the amount of compensation received.

(c) If a calculation of a penalty period results in a partial month, payments for long-term care services shall be reduced in an amount equal to the fraction, except that in calculating the value of uncompensated transfers, if the total value of all uncompensated transfers made in a month not included in an existing penalty period does not exceed ~~$1,000~~ $500, then such transfers shall be disregarded for each month prior to the month of application for or during receipt of medical assistance.

Sec. 14. Minnesota Statutes 1994, section 256B.0595, is amended by adding a subdivision to read:

Subd. 2a. [PERIOD OF INELIGIBILITY.] (a) Notwithstanding any contrary provisions of this section, this subdivision applies to transfers involving recipients of medical assistance that are made on or after its effective date and to all transfers involving persons who apply for medical assistance on or after its effective date, regardless of when the transfer occurred, except that this subdivision does not apply to transfers made prior to March 1, 1996. For any uncompensated transfer occurring within 72 months prior to the date of application, at any time after application, or while eligible, the number of months of cumulative ineligibility for medical assistance services shall be the total uncompensated value of the assets and income transferred divided by the statewide average per person nursing facility payment made by the state in effect on the date of application. The amount used to calculate the average per person payment shall be adjusted each July 1 to reflect average payments for the previous calendar year. For applicants, the period of ineligibility begins with the month in which the person applied for medical assistance and satisfied all other requirements for eligibility, or the month the local agency becomes aware of the transfer, if later. For recipients, the period of ineligibility begins in the month the agency becomes aware of

the transfer, except that penalty periods for transfers made during a period of ineligibility as determined under this section shall begin in the month following the existing period of ineligibility. If the transfer was not reported to the local agency at the time of application, and the applicant received medical assistance services during what would have been the period of ineligibility if the transfer had been reported, a cause of action exists against the transferee for the cost of medical assistance services provided during the period of ineligibility, or for the uncompensated amount of the transfer that was not recovered from the transferor through the implementation of a penalty period under this subdivision, whichever is less. The action may be brought by the state or the local agency responsible for providing medical assistance under chapter 256G. The total uncompensated value is the fair market value of the income or asset at the time it was given away, sold, or disposed of, less the amount of compensation received. No cause of action exists for a transfer, unless: (1) the transferee knew or should have known that the transfer was being made by a person who was a resident of a long-term care facility or was receiving that level of care in the community at the time of the transfer; (2) the transferee knew or should have known that the transfer was being made to assist the person to qualify for or retain medical assistance eligibility; or (3) the transferee actively solicited the transfer with intent to assist the person to qualify for or retain eligibility for medical assistance.

(b) If a calculation of a penalty period results in a partial month, payments for medical assistance services shall be reduced in an amount equal to the fraction, except that in calculating the value of uncompensated transfers, if the total value of all uncompensated transfers made in a month not included in an existing penalty period does not exceed $500, then such transfers shall be disregarded for each month prior to the month of application for or during receipt of medical assistance.

Sec. 15. Minnesota Statutes 1995 Supplement, section 256B.0595, subdivision 3, is amended to read:

Subd. 3. [HOMESTEAD EXCEPTION TO TRANSFER PROHIBITION.] (a) An institutionalized person is not ineligible for long-term care services due to a transfer of assets for less than fair market value if the asset transferred was a homestead and:

(1) title to the homestead was transferred to the individual's

(i) spouse;

(ii) child who is under age 21;

(iii) blind or permanently and totally disabled child as defined in the supplemental security income program;

(iv) sibling who has equity interest in the home and who was residing in the home for a period of at least one year immediately before the date of the individual's admission to the facility; or

(v) son or daughter who was residing in the individual's home for a period of at least two years immediately before the date of the individual's admission to the facility, and who provided care to the individual that, as certified by the individual's attending physician, permitted the individual to reside at home rather than in an institution or facility;

(2) a satisfactory showing is made that the individual intended to dispose of the homestead at fair market value or for other valuable consideration; or

(3) the local agency grants a waiver of ~~the excess resources created by the uncompensated transfer~~ a penalty resulting from a transfer for less than fair market value because denial of eligibility would cause undue hardship for the individual, based on imminent threat to the individual's health and well-being. Whenever an applicant or recipient is denied eligibility because of a transfer for less than fair market value, the local agency shall notify the applicant or recipient that they may request a waiver of the penalty if the denial of eligibility will cause undue hardship. In evaluating a waiver, the local agency shall take into account whether the individual was the victim of financial exploitation, whether the individual has made reasonable efforts to recover the transferred property or resource, and other factors relevant to a determination of

hardship. If the local agency does not approve a hardship waiver, the local agency shall issue a written notice to the individual stating the reasons for the denial and the process for appealing the local agency's decision.

(b) When a waiver is granted under paragraph (a), clause (3), a cause of action exists against the person to whom the homestead was transferred for that portion of long-term care services granted within:

(1) 30 months of a transfer made on or before August 10, 1993;

(2) 60 months if the homestead was transferred after August 10, 1993, to a trust or portion of a trust that is considered a transfer of assets under federal law; or

(3) 36 months if transferred in any other manner after August 10, 1993,

or the amount of the uncompensated transfer, whichever is less, together with the costs incurred due to the action. The action ~~may~~ shall be brought by the state ~~or~~ unless the state delegates this responsibility to the local agency responsible for providing medical assistance under chapter 256G.

Sec. 16. Minnesota Statutes 1994, section 256B.0595, is amended by adding a subdivision to read:

Subd. 3a. [HOMESTEAD EXCEPTION TO TRANSFER PROHIBITION.] (a) This subdivision applies to transfers involving recipients of medical assistance that are made on or after its effective date and to all transfers involving persons who apply for medical assistance on or after its effective date, regardless of when the transfer occurred, except that this subdivision does not apply to transfers made prior to March 1, 1996. A person is not ineligible for medical assistance services due to a transfer of assets for less than fair market value as described in subdivision 1a if the asset transferred was a homestead and:

(1) title to the homestead was transferred to the individual's relatives who are residing in the homestead and are the individual's

(i) spouse;

(ii) child who is under age 21;

(iii) blind or permanently and totally disabled child as defined in the supplemental security income program;

(iv) sibling who has equity interest in the home and who was residing in the home for a period of at least one year immediately before the date of the individual's admission to the facility; or

(v) son or daughter who was residing in the individual's home for a period of at least two years immediately before the date of the individual's admission to the facility, and who provided care to the individual that, as certified by the individual's attending physician, permitted the individual to reside at home rather than in an institution or facility;

(2) a satisfactory showing is made that the individual intended to dispose of the homestead at fair market value or for other valuable consideration; or

(3) the local agency grants a waiver of a penalty resulting from a transfer for less than fair market value because denial of eligibility would cause undue hardship for the individual and there exists an imminent threat to the individual's health and well-being. Whenever an applicant or recipient is denied eligibility because of a transfer for less than fair market value, the local agency shall notify the applicant or recipient that they may request a waiver of the penalty if the denial of eligibility will cause undue hardship. In evaluating a waiver, the local agency shall take into account whether the individual was the victim of financial exploitation, whether the individual has made reasonable efforts to recover the transferred property or resource, and other factors relevant to a determination of hardship. If the local agency does not approve a hardship waiver, the local agency shall issue a written notice to the individual stating the reasons for the denial and the process for appealing the local agency's decision.

(b) When a waiver is granted under paragraph (a), clause (3), a cause of action exists against the person to whom the homestead was transferred for that portion of medical assistance services granted within 72 months of the date the transferor applied for medical assistance and satisfied all other requirements for eligibility, or the amount of the uncompensated transfer, whichever is less, together with the costs incurred due to the action. The action shall be brought by the state unless the state delegates this responsibility to the local agency responsible for providing medical assistance under chapter 256G.

Sec. 17. Minnesota Statutes 1995 Supplement, section 256B.0595, subdivision 4, is amended to read:

Subd. 4. [OTHER EXCEPTIONS TO TRANSFER PROHIBITION.] An institutionalized person who has made, or whose spouse has made a transfer prohibited by subdivision 1, is not ineligible for long-term care services if one of the following conditions applies:

(1) the assets were transferred to the individual's spouse or to another for the sole benefit of the spouse; or

(2) the institutionalized spouse, prior to being institutionalized, transferred assets to a spouse, provided that the spouse to whom the assets were transferred does not then transfer those assets to another person for less than fair market value. (At the time when one spouse is institutionalized, assets must be allocated between the spouses as provided under section 256B.059); or

(3) the assets were transferred to the individual's child who is blind or permanently and totally disabled as determined in the supplemental security income program; or

(4) a satisfactory showing is made that the individual intended to dispose of the assets either at fair market value or for other valuable consideration; or

(5) the local agency determines that denial of eligibility for long-term care services would work an undue hardship and grants a waiver of ~~excess assets~~ a penalty resulting from a transfer for less than fair market value based on an imminent threat to the individual's health and well-being. Whenever an applicant or recipient is denied eligibility because of a transfer for less than fair market value, the local agency shall notify the applicant or recipient that they may request a waiver of the penalty if the denial of eligibility will cause undue hardship. In evaluating a waiver, the local agency shall take into account whether the individual was the victim of financial exploitation, whether the individual has made reasonable efforts to recover the transferred property or resource, and other factors relevant to a determination of hardship. If the local agency does not approve a hardship waiver, the local agency shall issue a written notice to the individual stating the reasons for the denial and the process for appealing the local agency's decision. When a waiver is granted, a cause of action exists against the person to whom the assets were transferred for that portion of long-term care services granted within:

(i) 30 months of a transfer made on or before August 10, 1993;

(ii) 60 months of a transfer if the assets were transferred after August 30, 1993, to a trust or portion of a trust that is considered a transfer of assets under federal law; or

(iii) 36 months of a transfer if transferred in any other manner after August 10, 1993,

or the amount of the uncompensated transfer, whichever is less, together with the costs incurred due to the action. The action ~~may~~ shall be brought by the state ~~or~~ unless the state delegates this responsibility to the local agency responsible for providing medical assistance under this chapter; or

(6) for transfers occurring after August 10, 1993, the assets were transferred by the person or person's spouse: (i) into a trust established solely for the benefit of a son or daughter of any age who is blind or disabled as defined by the Supplemental Security Income program; or (ii) into a trust established solely for the benefit of an individual who is under 65 years of age who is disabled as defined by the Supplemental Security Income program.

Sec. 18. Minnesota Statutes 1994, section 256B.0595, is amended by adding a subdivision to read:

Subd. 4a. [OTHER EXCEPTIONS TO TRANSFER PROHIBITION.] This subdivision applies to transfers involving recipients of medical assistance that are made on or after its effective date and to all transfers involving persons who apply for medical assistance on or after its effective date, regardless of when the transfer occurred, except that this subdivision does not apply to transfers made prior to March 1, 1996. A person or a person's spouse who has made a transfer prohibited by subdivision 1a is not ineligible for medical assistance services if one of the following conditions applies:

(1) the assets or income were transferred to the individual's spouse or to another for the sole benefit of the spouse, except that after eligibility is established, transfers to a spouse are permitted only to comply with the provisions of section 256B.059; or

(2) the institutionalized spouse, prior to being institutionalized, transferred assets or income to a spouse, provided that the spouse to whom the assets or income were transferred does not then transfer those assets or income to another person for less than fair market value. (At the time when one spouse is institutionalized, assets must be allocated between the spouses as provided under section 256B.059); or

(3) the assets or income were transferred to a trust for the sole benefit of the individual's child who is blind or permanently and totally disabled as determined in the supplemental security income program and the trust reverts to the state upon the disabled child's death to the extent medical assistance has paid for services for the child. This paragraph paragraph applies to a trust established after the commissioner publishes a notice in the State Register that the commissioner has been authorized to implement this paragraph due to a change in federal law or the approval of a federal waiver; or

(4) a satisfactory showing is made that the individual intended to dispose of the assets or income either at fair market value or for other valuable consideration; or

(5) the local agency determines that denial of eligibility for medical assistance services would work an undue hardship and grants a waiver of a penalty resulting from a transfer for less than fair market value because there exists an imminent threat to the individual's health and well-being. Whenever an applicant or recipient is denied eligibility because of a transfer for less than fair market value, the local agency shall notify the applicant or recipient that they may request a waiver of the penalty if the denial of eligibility will cause undue hardship. In evaluating a waiver, the local agency shall take into account whether the individual was the victim of financial exploitation, whether the individual has made reasonable efforts to recover the transferred property or resource, and other factors relevant to a determination of hardship. If the local agency does not approve a hardship waiver, the local agency shall issue a written notice to the individual stating the reasons for the denial and the process for appealing the local agency's decision. When a waiver is granted, a cause of action exists against the person to whom the assets were transferred for that portion of medical assistance services granted within 72 months of the date the transferor applied for medical assistance and satisfied all other requirements for eligibility,

or the amount of the uncompensated transfer, whichever is less, together with the costs incurred due to the action. The action shall be brought by the state unless the state delegates this responsibility to the local agency responsible for providing medical assistance under this chapter.

Sec. 19. Minnesota Statutes 1994, section 256B.0595, is amended by adding a subdivision to read:

Subd. 8. [NOTICE OF RIGHTS.] If a period of ineligibility is imposed under subdivision 2 or 2a, the local agency shall inform the applicant or recipient subject to the penalty of the person's rights under section 325F.71, subdivision 2.

Sec. 20. Minnesota Statutes 1995 Supplement, section 256B.0625, subdivision 19a, is amended to read:

Subd. 19a. [PERSONAL CARE SERVICES.] Medical assistance covers personal care services in a recipient's home. To qualify for personal care services, recipients or responsible parties must be able to identify ~~their~~ the recipient's needs, direct and evaluate task accomplishment, and ~~assure~~

~~their~~ provide for health and safety. Approved hours may be used outside the home when normal life activities take them outside the home and when, without the provision of personal care, their health and safety would be jeopardized. Total hours for services, whether actually performed inside or outside the recipient's home, cannot exceed that which is otherwise allowed for personal care services in an in-home setting according to section 256B.0627. Medical assistance does not cover personal care services for residents of a hospital, nursing facility, intermediate care facility, health care facility licensed by the commissioner of health, or unless a resident who is otherwise eligible is on leave from the facility and the facility either pays for the personal care services or forgoes the facility per diem for the leave days that personal care services are used. All personal care services must be provided according to section 256B.0627. Personal care services may not be reimbursed if the personal care assistant is the spouse or legal guardian of the recipient or the parent of a recipient under age 18, or the responsible party or the foster care provider of a recipient who cannot direct the recipient's own care unless, in the case of a foster care provider, a county or state case manager visits the recipient as needed, but not less than every six months, to monitor the health and safety of the recipient and to ensure the goals of the care plan are met. Parents of adult recipients, adult children of the recipient or adult siblings of the recipient may be reimbursed for personal care services if they are not the recipient's legal guardian and are granted a waiver under section 256B.0627.

Sec. 21. Minnesota Statutes 1995 Supplement, section 256B.0628, subdivision 2, is amended to read:

Subd. 2. [DUTIES.] (a) The commissioner may contract with or employ qualified registered nurses and necessary support staff, or contract with qualified agencies, to provide home care prior authorization and review services for medical assistance recipients who are receiving home care services.

(b) Reimbursement for the prior authorization function shall be made through the medical assistance administrative authority. The state shall pay the nonfederal share. The functions will be to:

(1) assess the recipient's individual need for services required to be cared for safely in the community;

(2) ensure that a service plan that meets the recipient's needs is developed by the appropriate agency or individual;

(3) ensure cost-effectiveness of medical assistance home care services;

(4) recommend the approval or denial of the use of medical assistance funds to pay for home care services;

(5) reassess the recipient's need for and level of home care services at a frequency determined by the commissioner; and

(6) conduct on-site assessments when determined necessary by the commissioner and recommend changes to care plans that will provide more efficient and appropriate home care.

(c) In addition, the commissioner or the commissioner's designee may:

(1) review service plans and reimbursement data for utilization of services that exceed community-based standards for home care, inappropriate home care services, medical necessity, home care services that do not meet quality of care standards, or unauthorized services and make appropriate referrals within the department or to other appropriate entities based on the findings;

(2) assist the recipient in obtaining services necessary to allow the recipient to remain safely in or return to the community;

(3) coordinate home care services with other medical assistance services under section 256B.0625;

(4) assist the recipient with problems related to the provision of home care services; ~~and~~

(5) assure the quality of home care services.; and

(6) assure that all liable third-party payers including Medicare have been used prior to medical assistance for home care services, including but not limited to, home health agency, elected hospice benefit, waivered services, alternative care program services, and personal care services.

(d) For the purposes of this section, "home care services" means medical assistance services defined under section 256B.0625, subdivisions 6a, 7, and 19a.

Sec. 22. [256B.07] [MEDICARE MAXIMIZATION PROGRAM.]

Subdivision 1. [DEFINITION.] (a) "Dual entitlees" means recipients eligible for either the medical assistance program or the alternative care program who are also eligible for the federal Medicare program.

(b) For purposes of this section "home care services" means home health agency services, private duty nursing services, personal care assistant services, waivered services, alternative care program services, hospice services, rehabilitation therapy services, and medical supplies and equipment.

Subd. 2. [TECHNICAL ASSISTANCE TO PROVIDERS.] (a) The commissioner shall establish a technical assistance program to require providers of services and equipment under this section to maximize collections from the federal Medicare program. The technical assistance may include the provision of materials to help providers determine those services and equipment likely to be reimbursed by Medicare. The technical assistance may also include the provision of computer software to providers to assist in this process. The commissioner may expand the technical assistance program to include providers of other services under this chapter.

(b) Any provider of home care services enrolled in the medical assistance program, or county public health nursing agency responsible for personal care assessments, or county case managers for alternative care or medical assistance waiver programs, is required to use the method developed and supplied by the department of human services for determining Medicare coverage for home care equipment and services provided to dual entitlees to ensure appropriate billing of Medicare. The method will be developed in two phases; the first phase is a manual system effective July 1, 1996, and the second phase will automate the manual procedure by expanding the current Medicaid Management Information System (MMIS) effective January 1, 1997. Both methods will determine Medicare coverage for the dates of service, Medicare coverage for home care services, and create an audit trail including reports. Both methods will be linked to prior authorization, therefore, either method must be used before home care services are authorized and when there is a change of condition affecting medical assistance authorization. The department will conduct periodic reviews of participant performance with the method and upon demonstrating appropriate referral and billing of Medicare, participants may be determined exempt from regular performance audits.

Subd. 3. [REFERRALS TO MEDICARE CERTIFIED PROVIDERS REQUIRED.] Non-Medicare certified and nonparticipating Medicare certified home care service providers must refer dual eligible recipients to Medicare certified providers when Medicare is determined to be the appropriate payer for supplies and equipment or services. Non-Medicare certified and nonparticipating Medicare certified home care service providers will be terminated from participation in the medical assistance program for failure to make such referrals.

Subd. 4. [MEDICARE CERTIFICATION REQUIREMENT.] Medicare certification is required of all medical assistance enrolled home care service providers as defined in subdivision 1 within one year of the date the Minnesota department of health gives notice to the department that initial Medicare surveys will resume.

Subd. 5. [ADVISORY COMMITTEE.] The commissioner shall establish an advisory committee comprised of home care services recipients, providers, county public health nurses, home care and county nursing associations, and department of human services staff to make recommendations to the Medicare maximization program. The recommendations shall include: nursing practice issues as they relate to home care services funded by Medicare and medical

assistance; and streamlining assessment, prior authorization, and up-front payer determination processes to achieve administrative efficiencies.

Sec. 23. Minnesota Statutes 1995 Supplement, section 256B.0913, subdivision 15a, is amended to read:

Subd. 15a. [REIMBURSEMENT RATE; ANOKA COUNTY.] Notwithstanding subdivision 14, paragraph (e), ~~or any other law to the contrary, for services rendered on or after~~ effective January 1, 1996, Anoka ~~county may pay vendors, and the commissioner shall reimburse the county, for actual costs up to a limit which is the maximum rate in effect on December 31, 1995, plus half the difference between that rate and the maximum allowed state~~ county's maximum allowed rate for home health aide services per 15-minute unit is $4.39, and its maximum allowed rate for homemaker services per 15-minute unit is $2.90. Any adjustments in fiscal year 1997 to the maximum allowed rates for home health aide or homemaker services for Anoka county shall be calculated from the maximum rate in effect on January 1, 1996.

Sec. 24. Minnesota Statutes 1994, section 256B.0913, is amended by adding a subdivision to read:

Subd. 15b. [REIMBURSEMENT RATE; AITKIN COUNTY.] Notwithstanding subdivision 14, paragraph (e), effective April 1, 1996, Aitkin county's maximum allowed rate for in-home respite care services is $6.62 per 30-minute unit. Any adjustments in fiscal year 1997 to the maximum allowed rate for in-home respite care services for Aitkin county shall be calculated from the maximum rate in effect on April 1, 1996.

Sec. 25. Minnesota Statutes 1994, section 256B.0913, is amended by adding a subdivision to read:

Subd. 15c. [REIMBURSEMENT RATE; POLK AND PENNINGTON COUNTIES.] Notwithstanding subdivision 14, paragraph (e), effective July 1, 1996, Polk and Pennington counties' maximum allowed rate for homemaker services is $6.18 per 30-minute unit. Any adjustments in fiscal year 1997 to the maximum allowed rate for homemaker services for Polk and Pennington counties shall be calculated from the maximum rate in effect on July 1, 1996.

Sec. 26. Minnesota Statutes 1995 Supplement, section 256B.0915, subdivision 3a, is amended to read:

Subd. 3a. [REIMBURSEMENT RATE; ANOKA COUNTY.] Notwithstanding subdivision 3, paragraph (h), ~~or any other law to the contrary, for services rendered on or after~~ effective January 1, 1996, Anoka ~~county may pay vendors, and the commissioner shall reimburse the county, for actual costs up to a limit which is the maximum rate in effect on December 31, 1995, plus half the difference between that rate and the maximum allowed state~~ county's maximum allowed rate for home health aide services per 15-minute unit is $4.43, and its maximum allowed rate for homemaker services per 15-minute unit is $2.93. Any adjustments in fiscal year 1997 to the maximum allowed rates for home health aide or homemaker services for Anoka county shall be calculated from the maximum rate in effect on January 1, 1996.

Sec. 27. Minnesota Statutes 1994, section 256B.0915, is amended by adding a subdivision to read:

Subd. 3b. [REIMBURSEMENT RATE; AITKIN COUNTY.] Notwithstanding subdivision 3, paragraph (h), effective April 1, 1996, Aitkin county's maximum allowed rate for in-home respite care services is $6.67 per 30-minute unit. Any adjustments in fiscal year 1997 to the maximum allowed rate for in-home respite care services for Aitkin county shall be calculated from the maximum rate in effect on April 1, 1996.

Sec. 28. Minnesota Statutes 1994, section 256B.0915, is amended by adding a subdivision to read:

Subd. 3c. [REIMBURSEMENT RATE; POLK AND PENNINGTON COUNTIES.] Notwithstanding subdivision 3, paragraph (h), effective July 1, 1996, Polk and Pennington

counties' maximum allowed rate for homemaker services is $6.25 per 30-minute unit. Any adjustments in fiscal year 1997 to the maximum allowed rate for homemaker services for Polk and Pennington counties shall be calculated from the maximum rate in effect on July 1, 1996.

Sec. 29. Minnesota Statutes 1994, section 256B.15, is amended by adding a subdivision to read:

Subd. 1b. [CLAIMS ON THE ESTATE OF A PREDECEASED SPOUSE.] Upon the death of a spouse who did not receive medical assistance and who predeceases a spouse who did or does receive medical assistance, a claim for the total amount paid for medical assistance rendered for the surviving spouse through the date the deceased spouse died shall be filed against the deceased spouse's estate in the court having jurisdiction to probate the estate. The claim shall be filed if medical assistance was rendered for the surviving spouse under any one of the circumstances in subdivision 1a, paragraphs (a), (b), or (c). Claims under this subdivision shall have the same priority for purposes of section 524.3-805, and the same exceptions with respect to statutes of limitations as claims under subdivision 1a.

Sec. 30. Minnesota Statutes 1994, section 256B.15, is amended by adding a subdivision to read:

Subd. 2a. [LIMITATIONS ON CLAIMS ON THE ESTATE OF A PREDECEASED SPOUSE.] A claim under subdivision 1b shall include only the total amount of medical assistance rendered after age 55 or during a period of institutionalization described in subdivision 1a, clause (b), and the total amount of general assistance medical care rendered, and shall not include interest. Claims that have been allowed but not paid shall bear interest according to section 524.3-806, paragraph (d). A claim against the estate of a spouse who did not receive medical assistance who predeceases the spouse who did receive medical assistance, for medical assistance rendered for the 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.

Sec. 31. Minnesota Statutes 1994, section 256B.35, subdivision 1, is amended to read:

Subdivision 1. [PERSONAL NEEDS ALLOWANCE.] (a) Notwithstanding any law to the contrary, welfare allowances for clothing and personal needs for individuals receiving medical assistance while residing in any skilled nursing home, intermediate care facility, or medical institution including recipients of supplemental security income, in this state shall not be less than $45 per month from all sources. When benefit amounts for social security or supplemental security income recipients are increased pursuant to United States Code, title 42, sections 415(i) and 1382f, the commissioner shall, effective in the month in which the increase takes effect, increase by the same percentage to the nearest whole dollar the clothing and personal needs allowance for individuals receiving medical assistance while residing in any skilled nursing home, medical institution, or intermediate care facility. The commissioner shall provide timely notice to local agencies, providers, and recipients of increases under this provision.

(b) The personal needs allowance may be paid as part of the Minnesota supplemental aid program, notwithstanding the provisions of section 256D.37, subdivision 2, and payments to recipients of Minnesota supplemental aid may be made once each three months covering liabilities that accrued during the preceding three months.

(c) The personal needs allowance shall be increased to include income garnished for child support under a court order, up to a maximum of $250 per month but only to the extent that the amount garnished is not deducted as a monthly allowance for children under section 256B.0575, paragraph (a), clause (5).

Sec. 32. Minnesota Statutes 1994, section 256B.37, subdivision 5, is amended to read:

Subd. 5. [PRIVATE BENEFITS TO BE USED FIRST.] Private accident and health care coverage including Medicare for medical services is primary coverage and must be exhausted before medical assistance is paid for medical services including home health care, personal care assistant services, hospice, or services covered under a Health Care Financing Administration (HCFA) waiver. When a person who is otherwise eligible for medical assistance has private accident or health care coverage, including Medicare or a prepaid health plan, the private health care benefits available to the person must be used first and to the fullest extent.

Sec. 33. Minnesota Statutes 1995 Supplement, section 256B.69, subdivision 3a, is amended to read:

Subd. 3a. [COUNTY AUTHORITY.] (a) The commissioner, when implementing the general assistance medical care, or medical assistance prepayment program within a county, must include the county board in the process of development, approval, and issuance of the request for proposals to provide services to eligible individuals within the proposed county. County boards must be given reasonable opportunity to make recommendations regarding the development, issuance, review of responses, and changes needed in the request for proposals. The commissioner must provide county boards the opportunity to review each proposal based on the identification of community needs under chapters 145A and 256E and county advocacy activities. If a county board finds that a proposal does not address certain community needs, the county board and commissioner shall continue efforts for improving the proposal and network prior to the approval of the contract. The county board shall make recommendations regarding the approval of local networks and their operations to ensure adequate availability and access to covered services. The provider or health plan must respond directly to county advocates and the state prepaid medical assistance ombudsperson regarding service delivery and must be accountable to the state regarding contracts with medical assistance and general assistance medical care funds. The county board may recommend a maximum number of participating health plans after considering the size of the enrolling population; ensuring adequate access and capacity; considering the client and county administrative complexity; and considering the need to promote the viability of locally developed health plans. The commissioner in conjunction with the county board, shall actively seek to develop a mutually agreeable timetable prior to the development of the request for proposal~~, there shall be established a mutually agreed upon timetable. This process shall in no way delay the department's ability to secure and finalize contracts for the medical assistance prepayment program.~~ At least 90 days before enrollment in the medical assistance and general assistance medical care prepaid programs begins in a county in which the prepaid programs have not been established, the commissioner shall provide a report to the chairs of senate and house committees having jurisdiction over state health care programs which verifies that the commissioner complied with the requirements for county involvement that are specified in this subdivision.

(b) The commissioner shall seek a federal waiver to allow a fee-for-service plan option to MinnesotaCare enrollees. The commissioner shall develop an increase of the premium fees required under section 256.9356 up to 20 percent of the premium fees for the enrollees who elect the fee-for-service option. Prior to implementation, the commissioner shall submit this fee schedule to the chair and ranking minority member of the senate health care committee, the senate health care and family services funding division, the house of representatives health and human services committee, and the house of representatives health and human services finance division.

Sec. 34. Minnesota Statutes 1995 Supplement, section 256B.69, subdivision 4, is amended to read:

Subd. 4. [LIMITATION OF CHOICE.] The commissioner shall develop criteria to determine when limitation of choice may be implemented in the experimental counties. The criteria shall ensure that all eligible individuals in the county have continuing access to the full range of medical assistance services as specified in subdivision 6. The commissioner shall exempt the following persons from participation in the project, in addition to those who do not meet the criteria for limitation of choice: (1) persons eligible for medical assistance according to section 256B.055, subdivision 1; (2) persons eligible for medical assistance due to blindness or disability as determined by the social security administration or the state medical review team, unless: (i) they are 65 years of age or older, or (ii) ~~they are eligible for medical assistance according to section 256B.055, subdivision 12, or (iii) unless~~ they reside in Itasca county or they reside in a county in which the commissioner conducts a pilot project under a waiver granted pursuant to section 1115 of the Social Security Act; (3) recipients who currently have private coverage through a health maintenance organization; (4) recipients who are eligible for medical assistance by spending down excess income for medical expenses other than the nursing facility per diem expense; ~~and~~ (5) recipients who receive benefits under the Refugee Assistance Program, established under United States Code, title 8, section 1522(e); (6) children who are both determined to be severely emotionally disturbed and receiving case management services according to section 256B.0625, subdivision 20; and (7) adults who are both determined to be seriously and persistently mentally ill

and received case management services according to section 256B.0625, subdivision 20. Children under age 21 who are in foster placement may enroll in the project on an elective basis. Individuals excluded under clauses (6) and (7) may choose to enroll on an elective basis. The commissioner may allow persons with a one-month spenddown who are otherwise eligible to enroll to voluntarily enroll or remain enrolled, if they elect to prepay their monthly spenddown to the state. Beginning on or after July 1, 1997, the commissioner may require those individuals to enroll in the prepaid medical assistance program who otherwise would have been excluded under clauses (1) and (3) and under Minnesota Rules, part 9500.1452, subpart 2, items H, K, and L. Before limitation of choice is implemented, eligible individuals shall be notified and after notification, shall be allowed to choose only among demonstration providers. The commissioner may assign an individual with private coverage through a health maintenance organization, to the same health maintenance organization for medical assistance coverage, if the health maintenance organization is under contract for medical assistance in the individual's county of residence. After initially choosing a provider, the recipient is allowed to change that choice only at specified times as allowed by the commissioner. If a demonstration provider ends participation in the project for any reason, a recipient enrolled with that provider must select a new provider but may change providers without cause once more within the first 60 days after enrollment with the second provider.

Sec. 35. Minnesota Statutes 1995 Supplement, section 256B.69, subdivision 5b, is amended to read:

Subd. 5b. [PROSPECTIVE REIMBURSEMENT RATES.] For prepaid medical assistance and general assistance medical care program contract rates set by the commissioner under subdivision 5 and effective on or after January 1, ~~1996~~ 1997, through December 31, ~~1996~~ 1998, capitation rates for nonmetropolitan counties shall on a weighted average be no less than 85 percent of the capitation rates for metropolitan counties, excluding Hennepin county.

Sec. 36. Minnesota Statutes 1995 Supplement, section 256B.69, subdivision 21, is amended to read:

Subd. 21. [PREPAYMENT COORDINATOR.] The ~~local agency~~ county board shall designate a prepayment coordinator to assist the state agency in implementing this section and section 256D.03, subdivision 4. Assistance must include educating recipients about available health care options, enrolling recipients under subdivision 5, providing necessary eligibility and enrollment information to health plans and the state agency, and coordinating complaints and appeals with the ombudsman established in subdivision 18.

Sec. 37. Minnesota Statutes 1994, section 256B.69, is amended by adding a subdivision to read:

Subd. 24. [SOCIAL SERVICE AND PUBLIC HEALTH COSTS.] The commissioner shall report on recommendations to the legislature by January 15, 1997, identifying county social services and public health administrative costs for each target population that should be excluded from the overall capitation rate.

Sec. 38. Minnesota Statutes 1995 Supplement, section 256D.02, subdivision 12a, is amended to read:

Subd. 12a. [RESIDENT.] (a) For purposes of eligibility for general assistance ~~under section 256D.05, and payments under section 256D.051~~ and general assistance medical care, a "resident" is a person living in the state for at least 30 days with the intention of making the person's home here and not for any temporary purpose. All applicants for these programs are required to demonstrate the requisite intent and can do so in any of the following ways:

(1) by showing that the applicant maintains a residence at a verified address, other than a place of public accommodation. An applicant may verify a residence address by presenting a valid state driver's license, a state identification card, a voter registration card, a rent receipt, a statement by the landlord, apartment manager, or homeowner verifying that the individual is residing at the address, or other form of verification approved by the commissioner; or

(2) by ~~providing written documentation~~ verifying residence in accordance with Minnesota Rules, part 9500.1219, subpart 3, item (c).

(b) An applicant who has been in the state for less than 30 days shall be considered a resident if the applicant can provide documentation:

(1) that the applicant ~~came to~~ was born in the state ~~in response to an offer of employment~~;

~~(3) by providing verification~~ (2) that the applicant has been a long-time resident of the state or was formerly a resident of the state for at least 365 days and is returning to the state from a temporary absence, as those terms are defined in rules ~~to be~~ adopted by the commissioner;

(3) that the applicant has come to the state to join a close relative which, for purposes of this subdivision, means a parent, grandparent, brother, sister, spouse, or child; or

(4) ~~by providing other persuasive evidence to show that the applicant is a resident of the state, according to rules adopted by the commissioner~~ that the applicant has come to this state to accept a bona fide offer of employment for which the applicant is eligible.

A county agency shall waive the 30-day residency requirement in cases of emergencies, including medical emergencies, or where unusual hardship would result from denial of general assistance medical care. A county may waive the 30-day residency requirement in cases of emergencies, including medical emergencies, or where unusual hardship would result from denial of general assistance. The county agency must report to the commissioner within 30 days on any waiver granted under this section. The county shall not deny an application solely because the applicant does not meet at least one of the criteria in this subdivision, but shall continue to process the application and leave the application pending until the residency requirement is met or until eligibility or ineligibility is established.

Sec. 39. Minnesota Statutes 1995 Supplement, section 256D.045, is amended to read:

256D.045 [SOCIAL SECURITY NUMBER REQUIRED.]

To be eligible for general assistance under sections 256D.01 to 256D.21, an individual must provide the individual's social security number to the county agency or submit proof that an application has been made. The provisions of this section do not apply to the determination of eligibility for emergency general assistance under section 256D.06, subdivision 2. This provision applies to eligible children under the age of 18 effective July 1, 1997.

Sec. 40. Minnesota Statutes 1994, section 256G.01, subdivision 3, is amended to read:

Subd. 3. [PROGRAM COVERAGE.] This chapter applies to all social service programs administered by the commissioner in which residence is the determining factor in establishing financial responsibility. These include, but are not limited to: ~~aid to families with dependent children; medical assistance; general assistance; work readiness; general assistance medical care; Minnesota supplemental aid;~~ commitment proceedings, including voluntary admissions; emergency holds; poor relief funded wholly through local agencies; ~~and~~ social services, including title XX, IV-E and other components of the community social services act, sections 256E.01 to 256E.12; social services programs funded wholly through the resources of county agencies; social services provided under the Minnesota Indian family preservation act, sections 257.35 to 257.356; costs for delinquency confinement under section 393.07, subdivision 2; service responsibility for these programs; and group residential housing.

Sec. 41. Minnesota Statutes 1994, section 256G.01, is amended by adding a subdivision to read:

Subd. 4. [ADDITIONAL COVERAGE.] The provisions in sections 256G.02, subdivision 4, paragraphs (a) to (d); 256G.02, subdivisions 5 to 8; 256G.03; 256G.04; 256G.05; and 256G.07, subdivisions 1 to 3, apply to the following programs: aid to families with dependent children; medical assistance; general assistance; family general assistance; general assistance medical care; and Minnesota supplemental aid.

Sec. 42. Minnesota Statutes 1994, section 256G.01, is amended by adding a subdivision to read:

Subd. 5. [SCOPE AND EFFECT.] Unless stated otherwise, the provisions of this chapter also apply to disputes involving financial responsibility for social services when another definition of the county of financial responsibility has been created in Minnesota Statutes.

Sec. 43. Minnesota Statutes 1994, section 256G.02, subdivision 4, is amended to read:

Subd. 4. [COUNTY OF FINANCIAL RESPONSIBILITY.] (a) "County of financial responsibility" has the meanings in paragraphs (b) to (h).

(b) For an applicant who resides in the state and is not in a facility described in subdivision 6, it means the county in which the applicant resides at the time of application.

(c) For an applicant who resides in a facility described in subdivision 6, it means the county in which the applicant last resided in nonexcluded status immediately before entering the facility.

(d) For an applicant who has not resided in this state for any time other than the excluded time, and subject to the limitations in section 256G.03, subdivision 2, it means the county in which the applicant resides at the time of making application.

(e) ~~For medical assistance purposes only, and for an infant who has resided only in an excluded time facility, it means the county that would have been responsible for the infant if eligibility had been established, based on that of the birth mother, at the time of application.~~

~~(f) Notwithstanding paragraphs (b) to (d), the county of financial responsibility for medical assistance recipients is the county from which a recipient is receiving a maintenance grant or money payment under the program of aid to families with dependent children or Minnesota supplemental aid.~~

~~(g) Notwithstanding paragraphs (b) to (f), the county of financial responsibility for social services for a person receiving aid to families with dependent children, general assistance, general assistance medical care, medical assistance, or Minnesota supplemental aid is the county from which that person is receiving the aid or assistance. If more than one named program is open concurrently~~ For an individual already having a social service case open in one county, financial responsibility for any additional social services attaches to the ~~program~~ case that has the earliest date of application and has been open without interruption.

~~(h)~~ (f) Notwithstanding paragraphs (b) to ~~(g)~~ (e), the county of financial responsibility for semi-independent living services provided under section 252.275, and Minnesota Rules, parts 9525.0500 to 9525.0660, is the county of residence in nonexcluded status immediately before the placement into or request for those services.

Sec. 44. Minnesota Statutes 1994, section 256G.02, subdivision 6, is amended to read:

Subd. 6. [EXCLUDED TIME.] "Excluded time" means:

(a) any period an applicant spends in a hospital, sanitarium, nursing home, shelter other than an emergency shelter, halfway house, foster home, semi-independent living domicile or services program, residential facility offering care, board and lodging facility or other institution for the hospitalization or care of human beings, as defined in section 144.50, 144A.01, or 245A.02, subdivision 14; ~~or in a~~ maternity home, battered women's shelter, or correctional facility~~. "Excluded time" also means that time during which an applicant participates in a rehabilitation facility as defined in section 268A.01, or is receiving personal care assistant services pursuant to section 256B.0625, subdivision 19.~~; or any facility based on an emergency hold under sections 253B.05, subdivisions 1 and 2, and 253B.07, subdivision 6;

(b) any period an applicant spends on a placement basis in a training and habilitation program, including a rehabilitation facility or work or employment program as defined in section 268A.01; or receiving personal care assistant services pursuant to section 256B.0627, subdivision 4; semi-independent living services provided under section 252.275, and Minnesota Rules, parts 9525.0500 to 9525.0660; day training and habilitation programs, and community-based services and assisted living services; and

(c) any placement for a person with an indeterminate commitment, including independent living.

Sec. 45. Minnesota Statutes 1994, section 256G.03, is amended to read:

256G.03 [ESTABLISHING RESIDENCE.]

Subdivision 1. [STATE RESIDENCE.] For purposes of this chapter, a resident of any Minnesota county is considered a state resident. ~~For purposes of eligibility for general assistance or work readiness, residency must be substantiated according to section 256D.02, subdivision 12a.~~

Subd. 2. [NO DURATIONAL TEST.] Except as otherwise provided in sections 256.73, subdivisions 1 and 1a; 256B.056, subdivision 1; and 256D.02, subdivision 12a, for purposes of this chapter, no waiting period is required before securing county or state residence. A person cannot, however, gain residence while physically present in an excluded time facility unless otherwise specified in this chapter or in a federal regulation controlling a federally funded human service program.

Subd. 3. [USE OF CODE OF FEDERAL REGULATIONS.] In the event that federal legislation eliminates the federal regulatory basis for medical assistance, the state shall continue to determine eligibility for Minnesota's medical assistance program using the provisions of Code of Federal Regulations, title 42, as construed on the day prior to their federal repeal, except as expressly superseded in chapter 256B, or as superseded by federal law, or as modified by state rule or by regulatory waiver granted to the state.

Sec. 46. Minnesota Statutes 1994, section 256G.06, is amended to read:

256G.06 [DETOXIFICATION SERVICES.]

The county of financial responsibility for detoxification services is the county where the client is physically present when the need for services is identified. If that need is identified while the client is a resident of a chemical dependency facility, the provisions of section 256G.02, subdivision 4, paragraphs ~~(b),~~ (c)~~,~~ and ~~(e)~~ (d), apply.

Sec. 47. Minnesota Statutes 1994, section 256G.07, subdivision 1, is amended to read:

Subdivision 1. [EFFECT OF MOVING.] Except as provided in subdivision 4, a person who has applied for and is receiving services or assistance under a program governed by this chapter, in any county in this state, and who moves to another county in this state, is entitled to continue to receive that ~~assistance~~ service from the county from which that person has moved until that person has resided in nonexcluded status for two full calendar months in the county to which that person has moved. ~~For purposes of general assistance and general assistance medical care, this time period is, however, one full calendar month.~~

Sec. 48. Minnesota Statutes 1994, section 256G.07, subdivision 2, is amended to read:

Subd. 2. [TRANSFER OF RECORDS.] Before the person has resided in nonexcluded status for two calendar months ~~or one calendar month in the case of general assistance and general assistance medical care,~~ in the county to which that person has moved, the local agency of the county from which the person has moved shall complete an eligibility review and transfer all necessary records relating to that person to the local agency of the county to which the person has moved.

Sec. 49. Minnesota Statutes 1994, section 256G.08, subdivision 1, is amended to read:

Subdivision 1. [~~COMMITMENTS~~ COMMITMENT ACT PROCEEDINGS.] In cases of voluntary admission or commitment to state or other institutions, the committing county shall initially pay for all costs. This includes the expenses of the taking into custody, confinement, emergency holds under sections 253B.05, subdivisions 1 and 2, and 253B.07, examination, commitment, conveyance to the place of detention, and rehearing.

Sec. 50. Minnesota Statutes 1994, section 256G.09, subdivision 2, is amended to read:

Subd. 2. [FINANCIAL DISPUTES.] (a) If the county receiving the transmittal does not believe it is financially responsible, it should provide to the department and the initially responsible county a statement of all facts and documents necessary for the department to make the requested determination of financial responsibility. The submission must clearly state the program area in dispute and must state the specific basis upon which the submitting county is denying financial responsibility.

(b) The initially responsible county then has 15 calendar days to submit its position and any supporting evidence to the department. The absence of a submission by the initially responsible county does not limit the right of the department to issue a binding opinion based on the evidence actually submitted.

(c) A case must not be submitted until the local agency taking the application or making the commitment has made an initial determination about eligibility and financial responsibility, and services ~~or assistance has~~ have been initiated. This paragraph does not prohibit the submission of closed cases that otherwise meet the applicable statute of limitations.

Sec. 51. Minnesota Statutes 1994, section 256G.10, is amended to read:

256G.10 [DERIVATIVE SETTLEMENT ~~ELIMINATED~~.]

~~Except as described in section 256G.02, subdivision 4, paragraph (e), residence under this chapter must be determined independently for each applicant.~~ The residence of the parent of a minor child, with whom that child last lived in a nonexcluded time setting, or guardian ~~does not~~ of a ward shall determine the residence of the child or ward for all social services governed by this chapter.

For purposes of this chapter, a minor child is defined as being under 18 years of age unless otherwise specified in a program administered by the commissioner.

Physical or legal custody has no bearing on residence determinations. This section does not, however, apply to situations involving another state ~~or~~, limit the application of an interstate compact, or apply to situations involving state wards where the commissioner is defined by law as the guardian.

Sec. 52. Minnesota Statutes 1994, section 256I.05, is amended by adding a subdivision to read:

Subd. 7c. [DEMONSTRATION PROJECT.] The commissioner is authorized to pursue a demonstration project under federal food stamp regulation for the purpose of gaining federal reimbursement of food and nutritional costs currently paid by the state group residential housing program.

Sec. 53. Minnesota Statutes 1994, section 325F.71, subdivision 2, is amended to read:

Subd. 2. [SUPPLEMENTAL CIVIL PENALTY.] (a) In addition to any liability for a civil penalty pursuant to Minnesota Statutes, sections 325D.43 to 325D.48, regarding deceptive trade practices; 325F.67, regarding false advertising; and 325F.68 to 325F.70, regarding consumer fraud; a person who engages in any conduct prohibited by those statutes, and whose conduct is perpetrated against one or more senior citizens or handicapped persons, is liable for an additional civil penalty not to exceed $10,000 for each violation, if one or more of the factors in paragraph (b) are present.

(b) In determining whether to impose a civil penalty pursuant to paragraph (a), and the amount of the penalty, the court shall consider, in addition to other appropriate factors, the extent to which one or more of the following factors are present:

(1) whether the defendant knew or should have known that the defendant's conduct was directed to one or more senior citizens or handicapped persons;

(2) whether the defendant's conduct caused senior citizens or handicapped persons to suffer: loss or encumbrance of a primary residence, principal employment, or source of income; substantial loss of property set aside for retirement or for personal or family care and maintenance;

substantial loss of payments received under a pension or retirement plan or a government benefits program; or assets essential to the health or welfare of the senior citizen or handicapped person;

(3) whether one or more senior citizens or handicapped persons are more vulnerable to the defendant's conduct than other members of the public because of age, poor health or infirmity, impaired understanding, restricted mobility, or disability, and actually suffered physical, emotional, or economic damage resulting from the defendant's conduct; or

(4) whether the defendant's conduct caused senior citizens or handicapped persons to make an uncompensated asset transfer that resulted in the person being found ineligible for medical assistance.

Sec. 54. Minnesota Statutes 1994, section 524.2-403, is amended to read:

524.2-403 [EXEMPT PROPERTY.]

(a) If there is a surviving spouse, then, in addition to the homestead and family allowance, the surviving spouse is entitled from the estate to:

(1) property not exceeding $10,000 in value in excess of any security interests therein, in household furniture, furnishings, appliances, and personal effects, subject to an award of sentimental value property under section 525.152; and

(2) one automobile, if any, without regard to value.

(b) If there is no surviving spouse, the decedent's children are entitled jointly to the same property as provided in paragraph (a).

(c) If encumbered chattels are selected and the value in excess of security interests, plus that of other exempt property, is less than $10,000, or if there is not $10,000 worth of exempt property in the estate, the surviving spouse or children are entitled to other personal property of the estate, if any, to the extent necessary to make up the $10,000 value.

(d) Rights to exempt property and assets needed to make up a deficiency of exempt property have priority over all claims against the estate, but the right to any assets to make up a deficiency of exempt property abates as necessary to permit earlier payment of the family allowance.

(e) The rights granted by this section are in addition to any benefit or share passing to the surviving spouse or children by the decedent's will, unless otherwise provided by intestate succession or by way of elective share.

(f) A claim under section 246.53, 261.04, 256B.15, or 256D.16 takes precedence over any rights granted to a decedent's adult children under this section.

Sec. 55. Minnesota Statutes 1994, section 524.3-801, is amended to read:

524.3-801 [NOTICE TO CREDITORS.]

(a) Unless notice has already been given under this section, upon appointment of a general personal representative in informal proceedings or upon the filing of a petition for formal appointment of a general personal representative, notice thereof, in the form prescribed by court rule, shall be given under the direction of the court administrator by publication once a week for two successive weeks in a legal newspaper in the county wherein the proceedings are pending giving the name and address of the general personal representative and notifying creditors of the estate to present their claims within four months after the date of the court administrator's notice which is subsequently published or be forever barred, unless they are entitled to further service of notice under paragraph (b) or (c).

(b)(1) Within three months after: (i) the date of the first publication of the notice; or (ii) June 16, 1989, whichever is later, the personal representative may determine, in the personal representative's discretion, that it is or is not advisable to conduct a reasonably diligent search for creditors of the decedent who are either not known or not identified. If the personal representative

determines that a reasonably diligent search is advisable, the personal representative shall conduct the search.

(2) If the notice is first published after June 16, 1989, the personal representative shall, within three months after the date of the first publication of the notice, serve a copy of the notice upon each then known and identified creditor in the manner provided in paragraph (c). If the decedent or a predeceased spouse of the decedent received assistance for which a claim could be filed under section 246.53, 256B.15, 256D.16, or 261.04, the personal representative shall serve a copy of the notice on the commissioner of human services in the manner provided in paragraph (c) on or before the date of the first publication of the notice. The copy of the notice served on the commissioner of human services shall include the full name, date of birth, and social security number of the decedent or the predeceased spouse who received assistance for which a claim could be filed under any of the sections listed in this paragraph. Notwithstanding any will or other instrument or law to the contrary, except as allowed in this paragraph no property subject to administration by the estate may be distributed by the estate or the personal representative until 70 days after the date the notice is served upon the commissioner, as provided in paragraph (c) unless the local agency consents. An affidavit of service shall be prima facie evidence of service and, if it contains a legal description of the affected real property, may be filed or recorded in the office of the county recorder or registrar of titles to establish compliance with the notice requirement established in this paragraph. This restriction on distribution does not apply to the personal representative's sale of real or personal property while the estate is open but does apply to the net proceeds the estate receives from the sale. If notice was first published under the applicable provisions of law under the direction of the court administrator before June 16, 1989, and if a personal representative is empowered to act at any time after June 16, 1989, the personal representative shall, within three months after June 16, 1989, serve upon the then known and identified creditors in the manner provided in paragraph (c) a copy of the notice as published, together with a supplementary notice requiring each of the creditors to present any claim within one month after the date of the service of the notice or be forever barred.

(3) Under this section, a creditor is "known" if: (i) the personal representative knows that the creditor has asserted a claim that arose during the decedent's life against either the decedent or the decedent's estate; or (ii) the creditor has asserted a claim that arose during the decedent's life and the fact is clearly disclosed in accessible financial records known and available to the personal representative. Under this section, a creditor is "identified" if the personal representative's knowledge of the name and address of the creditor will permit service of notice to be made under paragraph (c).

(c) The personal representative shall serve a copy of any notice and any supplementary notice required by paragraph (b), clause (1) or (2), upon each creditor of the decedent who is then known to the personal representative and identified, except a creditor whose claim has either been presented to the personal representative or paid, either by delivery of a copy of the required notice to the creditor, or by mailing a copy of the notice to the creditor by certified, registered, or ordinary first class mail addressed to the creditor at the creditor's office or place of residence.

Sec. 56. [INDIVIDUAL COMPULSIVE GAMBLING TREATMENT PILOT PROJECT.]

Subdivision 1. [ESTABLISHMENT.] The commissioner of human services shall establish a pilot project in the southeast area of the state to provide compulsive gambling treatment services to individuals seeking treatment. The pilot project shall directly reimburse qualified providers for treatment to individuals on a case-by-case basis. The pilot project shall seek to utilize existing qualified providers and shall provide treatment reimbursement to the maximum number of persons who qualify for treatment.

Subd. 2. [PLAN.] The commissioner shall submit to the legislature by December 15, 1996, a plan for expansion of the treatment pilot project to all areas of the state. The plan shall include the necessary legislative changes needed to move from a treatment center model to a provider reimbursement model.

Sec. 57. [REPORT ON COMPENSATING CLIENTS ON PUBLIC HEALTH CARE PROGRAMS.]

The commissioner of human services shall study and report to the legislature by January 15, 1997, the advisability and feasibility of compensating clients on the public health care programs if a client has successfully reversed a private insurer's denial of health insurance. The report shall also include recommendations on reducing the parental fees under Minnesota Statutes, section 252.27, subdivision 2a, if a parent has successfully reversed a private insurer's denial of insurance. The commissioner shall ask clients, advocates, other interested persons, and the parental fee advisory committee to assist with the study.

Sec. 58. [WAIVER AUTHORITY.]

The commissioner of human services shall seek federal waivers as necessary to implement section 8.

Sec. 59. [SEVERABILITY.]

If any provision of sections 8 and 39 are found to be unconstitutional or void by a court of competent jurisdiction, all remaining provisions of the law shall remain valid and shall be given full effect.

Sec. 60. [AUGMENTATIVE COMMUNICATION DEVICES.]

Augmentative communication devices that are prior authorized through pass through vendors during the period July 1, 1995, to December 31, 1996, and have not been delivered shall be paid under the medical assistance program at the actual price charged the pass through vendor for the device as limited to the suggested retail price on March 1, 1996. For retroactive periods in which a state plan had not been submitted to reflect this payment, the state shall not seek a federal share. The governor's advisory council on technology for people with disabilities, in consultation with the commissioner of human services, shall study alternatives to this payment approach and make recommendations to the legislature by December 31, 1996, related to effective methods of cost control and the following:

(1) comparative payment equity between augmentative communication device vendors and other provider groups that provide equipment to medical assistance recipients;

(2) methods, including competitive bidding, that create incentives for dealers and manufacturers to provide augmentative communication devices at a price that is discounted from retail;

(3) substitution between augmentative communication devices and alternative methods of access by recipients to augmentative communication devices; and

(4) payment equity between pass through vendors and distributors of augmentative communication devices.

Sec. 61. [REPEALER.]

Minnesota Statutes 1995 Supplement, sections 256B.15, subdivision 5; 256G.05, subdivision 1; and 256G.07, subdivision 3a, are repealed.

Sec. 62. [EFFECTIVE DATE; APPLICATION.]

(a) Sections 12, 14, 16, 18, 29, 30, and the portion of section 61 that repeals section 256B.15, subdivision 5, are effective the day following final enactment to the extent permitted by federal law. If any provisions of these sections are prohibited by federal law, the provisions shall become effective when federal law is changed to permit their application or a waiver is received. The commissioner of human services shall notify the revisor of statutes when federal law is enacted or a waiver is received and publish a notice in the State Register. The commissioner must include the notice in the first State Register published after the effective date of the federal changes.

(b) If, by July 1, 1996, any provisions of the sections mentioned in paragraph (a) are not effective because of prohibitions in federal law, the commissioner shall apply to the federal government for a waiver of those prohibitions, and those provisions shall become effective upon

receipt of a federal waiver, notification to the revisor of statutes, and publication of a notice in the State Register to that effect. If the commissioner applies for a waiver of the lookback period, the commissioner shall seek the longest lookback period the health care financing administration will approve, not to exceed 72 months.

(c) Section 54 applies to estates of decedents dying on or after its effective date. Section 55 applies to estates where the notice under Minnesota Statutes, section 524.3-801, paragraph (a), was first published on or after its effective date. Section 55 does not affect any right or duty to provide notice to known creditors, including a local agency, before its effective date.

(d) Sections 7, 13, 15, 17, 33, 34, 35, 38, and 60 are effective the day following final enactment.

(e) Section 11 is effective retroactive to October 1, 1993.

(f) Sections 8, 22, subdivision 3, and 34 are effective upon federal approval.

(g) Sections 10 and 31 are effective upon receipt of federal approval, retroactive to January 1, 1996.

ARTICLE 3

LONG-TERM CARE

Section 1. Minnesota Statutes 1995 Supplement, section 144A.071, subdivision 3, is amended to read:

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

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

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

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

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

(e) to certify four existing beds in a facility in Winona with 139 beds, of which 129 beds are certified.

Sec. 2. Minnesota Statutes 1995 Supplement, section 144A.071, subdivision 4a, is amended to read:

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

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

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

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

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

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

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

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

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

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

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

(c) to license or certify beds in a project recommended for approval under section 144A.073;

(d) to license or certify beds that are moved from an existing state nursing home to a different state facility, provided there is no net increase in the number of state nursing home beds;

(e) to certify and license as nursing home beds boarding care beds in a certified boarding care facility if the beds meet the standards for nursing home licensure, or in a facility that was granted an exception to the moratorium under section 144A.073, and if the cost of any remodeling of the facility does not exceed 25 percent of the appraised value of the facility or $500,000, whichever is less. If boarding care beds are licensed as nursing home beds, the number of boarding care beds in the facility must not increase beyond the number remaining at the time of the upgrade in licensure. The provisions contained in section 144A.073 regarding the upgrading of the facilities do not apply to facilities that satisfy these requirements;

(f) to license and certify up to 40 beds transferred from an existing facility owned and operated by the Amherst H. Wilder Foundation in the city of St. Paul to a new unit at the same location as the existing facility that will serve persons with Alzheimer's disease and other related disorders. The transfer of beds may occur gradually or in stages, provided the total number of beds transferred does not exceed 40. At the time of licensure and certification of a bed or beds in the new unit, the commissioner of health shall delicense and decertify the same number of beds in the existing facility. As a condition of receiving a license or certification under this clause, the facility

must make a written commitment to the commissioner of human services that it will not seek to receive an increase in its property-related payment rate as a result of the transfers allowed under this paragraph;

(g) to license and certify nursing home beds to replace currently licensed and certified boarding care beds which may be located either in a remodeled or renovated boarding care or nursing home facility or in a remodeled, renovated, newly constructed, or replacement nursing home facility within the identifiable complex of health care facilities in which the currently licensed boarding care beds are presently located, provided that the number of boarding care beds in the facility or complex are decreased by the number to be licensed as nursing home beds and further provided that, if the total costs of new construction, replacement, remodeling, or renovation exceed ten percent of the appraised value of the facility or $200,000, whichever is less, the facility makes a written commitment to the commissioner of human services that it will not seek to receive an increase in its property-related payment rate by reason of the new construction, replacement, remodeling, or renovation. The provisions contained in section 144A.073 regarding the upgrading of facilities do not apply to facilities that satisfy these requirements;

(h) to license as a nursing home and certify as a nursing facility a facility that is licensed as a boarding care facility but not certified under the medical assistance program, but only if the commissioner of human services certifies to the commissioner of health that licensing the facility as a nursing home and certifying the facility as a nursing facility will result in a net annual savings to the state general fund of $200,000 or more;

(i) to certify, after September 30, 1992, and prior to July 1, 1993, existing nursing home beds in a facility that was licensed and in operation prior to January 1, 1992;

(j) to license and certify new nursing home beds to replace beds in a facility condemned as part of an economic redevelopment plan in a city of the first class, provided the new facility is located within one mile of the site of the old facility. Operating and property costs for the new facility must be determined and allowed under existing reimbursement rules;

(k) to license and certify up to 20 new nursing home beds in a community-operated hospital and attached convalescent and nursing care facility with 40 beds on April 21, 1991, that suspended operation of the hospital in April 1986. The commissioner of human services shall provide the facility with the same per diem property-related payment rate for each additional licensed and certified bed as it will receive for its existing 40 beds;

(l) to license or certify beds in renovation, replacement, or upgrading projects as defined in section 144A.073, subdivision 1, so long as the cumulative total costs of the facility's remodeling projects do not exceed 25 percent of the appraised value of the facility or $500,000, whichever is less;

(m) to license and certify beds that are moved from one location to another for the purposes of converting up to five four-bed wards to single or double occupancy rooms in a nursing home that, as of January 1, 1993, was county-owned and had a licensed capacity of 115 beds;

(n) to allow a facility that on April 16, 1993, was a 106-bed licensed and certified nursing facility located in Minneapolis to layaway all of its licensed and certified nursing home beds. These beds may be relicensed and recertified in a newly-constructed teaching nursing home facility affiliated with a teaching hospital upon approval by the legislature. The proposal must be developed in consultation with the interagency committee on long-term care planning. The beds on layaway status shall have the same status as voluntarily delicensed and decertified beds, except that beds on layaway status remain subject to the surcharge in section 256.9657. This layaway provision expires July 1, 1997;

(o) to allow a project which will be completed in conjunction with an approved moratorium exception project for a nursing home in southern Cass county and which is directly related to that portion of the facility that must be repaired, renovated, or replaced, to correct an emergency plumbing problem for which a state correction order has been issued and which must be corrected by August 31, 1993;

(p) to allow a facility that on April 16, 1993, was a 368-bed licensed and certified nursing facility located in Minneapolis to layaway, upon 30 days prior written notice to the commissioner, up to 30 of the facility's licensed and certified beds by converting three-bed wards to single or double occupancy. Beds on layaway status shall have the same status as voluntarily delicensed and decertified beds except that beds on layaway status remain subject to the surcharge in section 256.9657, remain subject to the license application and renewal fees under section 144A.07 and shall be subject to a $100 per bed reactivation fee. In addition, at any time within three years of the effective date of the layaway, the beds on layaway status may be:

(1) relicensed and recertified upon relocation and reactivation of some or all of the beds to an existing licensed and certified facility or facilities located in Pine River, Brainerd, or International Falls; provided that the total project construction costs related to the relocation of beds from layaway status for any facility receiving relocated beds may not exceed the dollar threshold provided in subdivision 2 unless the construction project has been approved through the moratorium exception process under section 144A.073;

(2) relicensed and recertified, upon reactivation of some or all of the beds within the facility which placed the beds in layaway status, if the commissioner has determined a need for the reactivation of the beds on layaway status.

The property-related payment rate of a facility placing beds on layaway status must be adjusted by the incremental change in its rental per diem after recalculating the rental per diem as provided in section 256B.431, subdivision 3a, paragraph (d). The property-related payment rate for a facility relicensing and recertifying beds from layaway status must be adjusted by the incremental change in its rental per diem after recalculating its rental per diem using the number of beds after the relicensing to establish the facility's capacity day divisor, which shall be effective the first day of the month following the month in which the relicensing and recertification became effective. Any beds remaining on layaway status more than three years after the date the layaway status became effective must be removed from layaway status and immediately delicensed and decertified;

(q) to license and certify beds in a renovation and remodeling project to convert 13 three-bed wards into 13 two-bed rooms and 13 single-bed rooms, expand space, and add improvements in a nursing home that, as of January 1, 1994, met the following conditions: the nursing home was located in Ramsey county; was not owned by a hospital corporation; had a licensed capacity of 64 beds; and had been ranked among the top 15 applicants by the 1993 moratorium exceptions advisory review panel. The total project construction cost estimate for this project must not exceed the cost estimate submitted in connection with the 1993 moratorium exception process;

(r) to license and certify beds in a renovation and remodeling project to convert 12 four-bed wards into 24 two-bed rooms, expand space, and add improvements in a nursing home that, as of January 1, 1994, met the following conditions: the nursing home was located in Ramsey county; had a licensed capacity of 154 beds; and had been ranked among the top 15 applicants by the 1993 moratorium exceptions advisory review panel. The total project construction cost estimate for this project must not exceed the cost estimate submitted in connection with the 1993 moratorium exception process;

(s) to license and certify up to 117 beds that are relocated from a licensed and certified 138-bed nursing facility located in St. Paul to a hospital with 130 licensed hospital beds located in South St. Paul, provided that the nursing facility and hospital are owned by the same or a related organization and that prior to the date the relocation is completed the hospital ceases operation of its inpatient hospital services at that hospital. After relocation, the nursing facility's status under section 256B.431, subdivision 2j, shall be the same as it was prior to relocation. The nursing facility's property-related payment rate resulting from the project authorized in this paragraph shall become effective no earlier than April 1, 1996. For purposes of calculating the incremental change in the facility's rental per diem resulting from this project, the allowable appraised value of the nursing facility portion of the existing health care facility physical plant prior to the renovation and relocation may not exceed $2,490,000;

(t) to license and certify two beds in a facility to replace beds that were voluntarily delicensed and decertified on June 28, 1991;

(u) to allow 16 licensed and certified beds located on July 1, 1994, in a 142-bed nursing home and 21-bed boarding care home facility in Minneapolis, notwithstanding the licensure and certification after July 1, 1995, of the Minneapolis facility as a 147-bed nursing home facility after completion of a construction project approved in 1993 under section 144A.073, to be laid away upon 30 days' prior written notice to the commissioner. Beds on layaway status shall have the same status as voluntarily delicensed or decertified beds except that they shall remain subject to the surcharge in section 256.9657. The 16 beds on layaway status may be relicensed as nursing home beds and recertified at any time within five years of the effective date of the layaway upon relocation of some or all of the beds to a licensed and certified facility located in Watertown, provided that the total project construction costs related to the relocation of beds from layaway status for the Watertown facility may not exceed the dollar threshold provided in subdivision 2 unless the construction project has been approved through the moratorium exception process under section 144A.073.

The property-related payment rate of the facility placing beds on layaway status must be adjusted by the incremental change in its rental per diem after recalculating the rental per diem as provided in section 256B.431, subdivision 3a, paragraph (d). The property-related payment rate for the facility relicensing and recertifying beds from layaway status must be adjusted by the incremental change in its rental per diem after recalculating its rental per diem using the number of beds after the relicensing to establish the facility's capacity day divisor, which shall be effective the first day of the month following the month in which the relicensing and recertification became effective. Any beds remaining on layaway status more than five years after the date the layaway status became effective must be removed from layaway status and immediately delicensed and decertified; ~~or~~

(v) to license and certify beds that are moved within an existing area of a facility or to a newly-constructed addition which is built for the purpose of eliminating three- and four-bed rooms and adding space for dining, lounge areas, bathing rooms, and ancillary service areas in a nursing home that, as of January 1, 1995, was located in Fridley and had a licensed capacity of 129 beds; or

(w) to relocate 36 beds in Crow Wing county and four beds from Hennepin county to a 160-bed facility in Crow Wing county, provided all the affected beds are under common ownership.

Sec. 3. Minnesota Statutes 1995 Supplement, 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 ~~(g)~~ (h) 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 subdivision 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 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. 4. Minnesota Statutes 1995 Supplement, section 256B.501, subdivision 5b, is amended to read:

Subd. 5b. [ICF/MR OPERATING COST LIMITATION AFTER SEPTEMBER 30, 1995.] (a) For the rate ~~years~~ year beginning on October 1, 1995, ~~and October 1, 1996~~ and for rate years beginning on or after October 1, 1997, the commissioner shall limit the allowable operating cost per diems, as determined under this subdivision and the reimbursement rules, for high cost ICF's/MR. Prior to indexing each facility's operating cost per diems for inflation, the commissioner shall group the facilities into eight groups. The commissioner shall then array all facilities within each grouping by their general operating cost per service unit per diems.

(b) The commissioner shall annually review and adjust the general operating costs incurred by the facility during the reporting year preceding the rate year to determine the facility's allowable historical general operating costs. For this purpose, the term general operating costs means the facility's allowable operating costs included in the program, maintenance, and administrative operating costs categories, as well as the facility's related payroll taxes and fringe benefits, real estate insurance, and professional liability insurance. A facility's total operating cost payment rate shall be limited according to paragraphs (c) and (d) as follows:

(c) A facility's total operating cost payment rate shall be equal to its allowable historical operating cost per diems for program, maintenance, and administrative cost categories multiplied by the forecasted inflation index in subdivision 3c, clause (1), subject to the limitations in paragraph (d).

(d) For the rate years beginning on or after October 1, 1995, the commissioner shall establish maximum overall general operating cost per service unit limits for facilities according to clauses (1) to (8). Each facility's allowable historical general operating costs and client assessment information obtained from client assessments completed under subdivision 3g for the reporting year ending December 31, 1994 (the base year), shall be used for establishing the overall limits. If a facility's proportion of temporary care resident days to total resident days exceeds 80 percent, the commissioner must exempt that facility from the overall general operating cost per service unit limits in clauses (1) to (8). For this purpose, "temporary care" means care provided by a facility to a client for less than 30 consecutive resident days.

(1) The commissioner shall determine each facility's weighted service units for the reporting year by multiplying its resident days in each client classification level as established in subdivision 3g, paragraph (d), by the corresponding weights for that classification level, as established in subdivision 3g, paragraph (i), and summing the results. For the reporting year ending December 31, 1994, the commissioner shall use the service unit score computed from the client classifications determined by the Minnesota department of health's annual review, including those of clients admitted during that year.

(2) The facility's service unit score is equal to its weighted service units as computed in clause (1), divided by the facility's total resident days excluding temporary care resident days, for the reporting year.

(3) For each facility, the commissioner shall determine the facility's cost per service unit by dividing its allowable historical general operating costs for the reporting year by the facility's service unit score in clause (2) multiplied by its total resident days, or 85 percent of the facility's capacity days times its service unit score in clause (2), if the facility's occupancy is less than 85 percent of licensed capacity. If a facility reports temporary care resident days, the temporary care resident days shall be multiplied by the service unit score in clause (2), and the resulting weighted resident days shall be added to the facility's weighted service units in clause (1) prior to computing the facility's cost per service unit under this clause.

(4) The commissioner shall group facilities based on class A or class B licensure designation, number of licensed beds, and geographic location. For purposes of this grouping, facilities with six

beds or less shall be designated as small facilities and facilities with more than six beds shall be designated as large facilities. If a facility has both class A and class B licensed beds, the facility shall be considered a class A facility for this purpose if the number of class A beds is more than half its total number of ICF/MR beds; otherwise the facility shall be considered a class B facility. The metropolitan geographic designation shall include Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington counties. All other Minnesota counties shall be designated as the nonmetropolitan geographic group. These characteristics result in the following eight groupings:

(i) small class A metropolitan;

(ii) large class A metropolitan;

(iii) small class B metropolitan;

(iv) large class B metropolitan;

(v) small class A nonmetropolitan;

(vi) large class A nonmetropolitan;

(vii) small class B nonmetropolitan; and

(viii) large class B nonmetropolitan.

(5) The commissioner shall array facilities within each grouping in clause (4) by each facility's cost per service unit as determined in clause (3).

(6) In each array established under clause (5), facilities with a cost per service unit at or above the median shall be limited to the lesser of: (i) the current reporting year's cost per service unit; or (ii) the prior reporting year's allowable historical general operating cost per service unit plus the inflation factor as established in subdivision 3c, clause (2), increased by three percentage points.

(7) The overall operating cost per service unit limit for each group shall be established as follows:

(i) each array established under clause (5) shall be arrayed again after the application of clause (6);

(ii) in each array established in clause (5), two general operating cost limits shall be determined. The first cost per service unit limit shall be established at 0.5 and less than or equal to 1.0 standard deviation above the median of that array. The second cost per service unit limit shall be established at 1.0 standard deviation above the median of the array; and

(iii) the overall operating cost per service unit limits shall be indexed for inflation annually beginning with the reporting year ending December 31, 1995, using the forecasted inflation index in subdivision 3c, clause (2).

(8) Annually, facilities shall be arrayed using the method described in clauses (5) and (7). Each facility with a cost per service unit at or above its group's first cost per service unit limit, but less than the second cost per service unit limit for that group, shall be limited to 98 percent of its total operating cost per diems then add the forecasted inflation index in subdivision 3c, clause (1). Each facility with a cost per service unit at or above the second cost per service unit limit will be limited to 97 percent of its total operating cost per diems, then add the forecasted inflation index in subdivision 3c, clause (1). Facilities that have undergone a class A to class B conversion since January 1, 1990, are exempt from the limitations in this clause for six years after the completion of the conversion process.

(9) The commissioner may rebase these overall limits, using the method described in this subdivision but no more frequently than once every three years.

(e) For rate years beginning on or after October 1, 1995, the facility's efficiency incentive shall be determined as provided in the reimbursement rule.

(f) The total operating cost payment rate shall be the sum of paragraphs (c) and (e).

(g) For the rate year beginning on October 1, 1996, the commissioner shall exempt a facility from the reductions in this subdivision if the facility is involved in a bed relocation project where more than 25 percent of the facility's beds are transferred to another facility, the relocated beds are six or fewer, there is no change in the total number of ICF/MR beds for the parent organization of the facility, and the relocation is not part of an interim or settle-up rate.

Sec. 5. Minnesota Statutes 1995 Supplement, section 256B.501, subdivision 5c, is amended to read:

Subd. 5c. [OPERATING COSTS AFTER SEPTEMBER 30, ~~1997~~ 1999.] (a) In general, the commissioner shall establish maximum standard rates for the prospective reimbursement of facility costs. The maximum standard rates must take into account the level of reimbursement which is adequate to cover the base-level costs of economically operated facilities. In determining the base-level costs, the commissioner shall consider geographic location, types of facilities (class A or class B), minimum staffing standards, resident assessment under subdivision 3g, and other factors as determined by the commissioner.

(b) The commissioner ~~shall~~ may also develop additional incentive-based payments which, if achieved for specified outcomes, will be added to the maximum standard rates. The specified outcomes must be measurable and shall be based on criteria to be developed by the commissioner ~~during fiscal year 1996~~. The commissioner may establish various levels of achievement within an outcome. Once the outcomes are established, the commissioner shall assign various levels of payment associated with achieving the outcome. In establishing the specified outcomes and the related criteria, the commissioner shall consider the following state policy objectives:

(1) resident transitioned into cost-effective community alternatives;

(2) the results of a uniform consumer satisfaction survey;

(3) the achievement of no major licensure or certification deficiencies; or

(4) any other outcomes the commissioner finds desirable. The commissioner may also consider the findings of projects examining services to persons with developmental disabilities, including outcome-based quality assurance methods, and the inclusion of persons with developmental disabilities in managed care alternative service delivery models.

(c) In developing the maximum standard rates and the incentive-based payments, desirable outcomes, and related criteria, the commissioner, in collaboration with the commissioner of health, shall form an advisory committee. The membership of the advisory committee shall include representation from the consumers advocacy groups ~~(~~3~~)~~, ~~the two~~ facility trade associations ~~(3 each)~~, counties ~~(3), commissioner of finance (1)~~, the legislature ~~(2 each from both the house and senate)~~, and others the commissioners find appropriate.

(d) Beginning July 1, ~~1996~~ 1998, the commissioner shall collect the data from the facilities, the department of health, or others as necessary to determine the extent to which a facility has met any of the outcomes and related criteria. Payment rates under this subdivision shall be effective October 1, ~~1997~~ 1999.

(e) The commissioner shall report to the legislature on the progress of the advisory committee by January 31, ~~1996, any necessary changes to the reimbursement methodology proposed under this subdivision~~ 1998. By January 15, ~~1997~~ 1999, the commissioner shall recommend to the legislature legislation which will implement this reimbursement methodology for rate years beginning on or after the proposed effective date of October 1, ~~1997~~ 1999.

Sec. 6. Minnesota Statutes 1994, section 256B.501, is amended by adding a subdivision to read:

Subd. 5d. [ADJUSTMENT FOR OUTREACH CRISIS SERVICES.] An ICF/MR with crisis services developed under the authority of Laws 1992, chapter 513, article 9, section 40, shall have its operating cost per diem calculated according to paragraphs (a) and (b).

(a) Effective for services rendered from April 1, 1996, to September 30, 1996, and for rate years beginning on or after October 1, 1996, the maintenance limitation in Minnesota Rules, part 9553.0050, subpart 1, item A, subitem (2), shall be calculated to reflect capacity as of October 1, 1992. The maintenance limit shall be the per diem limitation otherwise in effect adjusted by the ratio of licensed capacity days as of October 1, 1992, divided by resident days in the reporting year ending December 31, 1993.

(b) Effective for rate years beginning on or after October 1, 1996, the operating cost per service unit, for purposes of the cost per service unit limit in section 256B.501, subdivision 5b, paragraph (d), clauses (7) and (8), shall be calculated after excluding the costs directly identified to the provision of outreach crisis services and a four-bed crisis unit.

(c) The efficiency incentive paid to an ICF/MR shall not be increased as a result of this subdivision.

Sec. 7. Minnesota Statutes 1994, section 256B.501, is amended by adding a subdivision to read:

Subd. 5e. [RATE ADJUSTMENT FOR CARE PROVIDED TO A MEDICALLY FRAGILE INDIVIDUAL.] Beginning July 1, 1996, the commissioner shall increase reimbursement rates for a facility located in Chisholm and licensed as an intermediate care facility for persons with mental retardation and related conditions since 1972, to cover the cost to the facility for providing 24-hour licensed practical nurse care to a medically fragile individual admitted on March 8, 1996. The commissioner shall include in this higher rate a temporary adjustment to reimburse the facility for costs incurred between March 8, 1996, and June 30, 1996. Once this resident is discharged, the commissioner shall reduce the facility's payment rate by the amount of the cost of the 24-hour licensed practical nurse care.

Sec. 8. Minnesota Statutes 1994, section 256I.05, subdivision 1c, is amended to read:

Subd. 1c. [RATE INCREASES.] A county agency may not increase the rates negotiated for group residential housing above those in effect on June 30, 1993, except: as provided in paragraphs (a) to (g).

(a) A county may increase the rates for group residential housing settings to the MSA equivalent rate for those settings whose current rate is below the MSA equivalent rate.

(b) A county agency may increase the rates for residents in adult foster care whose difficulty of care has increased. The total group residential housing rate for these residents must not exceed the maximum rate specified in subdivisions 1 and 1a. County agencies must not include nor increase group residential housing difficulty of care rates for adults in foster care whose difficulty of care is eligible for funding by home and community-based waiver programs under title XIX of the Social Security Act.

(c) The room and board rates will be increased each year when the MSA equivalent rate is adjusted for SSI cost-of-living increases by the amount of the annual SSI increase, less the amount of the increase in the medical assistance personal needs allowance under section 256B.35.

(d) When a group residential housing rate is used to pay for an individual's room and board, or other costs necessary to provide room and board, the rate payable to the residence must continue for up to 18 calendar days per incident that the person is temporarily absent from the residence, not to exceed 60 days in a calendar year, if the absence or absences have received the prior approval of the county agency's social service staff. Prior approval is not required for emergency absences due to crisis, illness, or injury.

(e) For facilities meeting substantial change criteria within the prior year. Substantial change criteria exists if the group residential housing establishment experiences a 25 percent increase or decrease in the total number of its beds, if the net cost of capital additions or improvements is in excess of 15 percent of the current market value of the residence, or if the residence physically moves, or changes its licensure, and incurs a resulting increase in operation and property costs.

(f) Until June 30, 1994, a county agency may increase by up to five percent the total rate paid

for recipients of assistance under sections 256D.01 to 256D.21 or 256D.33 to 256D.54 who reside in residences that are licensed by the commissioner of health as a boarding care home, but are not certified for the purposes of the medical assistance program. However, an increase under this clause must not exceed an amount equivalent to 65 percent of the 1991 medical assistance reimbursement rate for nursing home resident class A, in the geographic grouping in which the facility is located, as established under Minnesota Rules, parts 9549.0050 to 9549.0058.

(g) For the rate year beginning July 1, 1996, a county agency may increase the total rate paid for recipients of assistance under sections 256D.01 to 256D.21 or 256D.33 to 256D.54 who reside in a residence that meets the following criteria:

(1) it is licensed by the commissioner of health as a boarding care home;

(2) it is not certified for the purposes of the medical assistance program;

(3) at least 50 percent of its residents have a primary diagnosis of mental illness;

(4) it has at least 17 beds; and

(5) it provides medication administration to residents.

The rate following an increase under this paragraph must not exceed an amount equivalent to the average 1995 medical assistance payment for nursing home resident class A under the age of 65, in the geographic grouping in which the facility is located, as established under Minnesota Rules, parts 9549.0010 to 9549.0080.

Sec. 9. [VENDOR RATE ADJUSTMENT.]

Notwithstanding the requirements of Minnesota Statutes, section 252.46, subdivisions 3 and 6, the commissioner of human services shall, at the request of the responsible board of county commissioners and subject to conditions the commissioner finds appropriate consistent with the service principles in Minnesota Statutes, section 252.42, grant a variance to the payment rate for vendors defined in Minnesota Statutes, section 252.41, subdivision 9, and located in Hennepin county that serve persons with very severe self-injurious or assaultive behavior, as those terms are used in Minnesota Statutes, section 252.46, subdivision 4, paragraph (b). The adjusted rate shall:

(1) be limited to provisions of services to no more than 42 such persons;

(2) not exceed 200 percent of the statewide average rate as calculated in accordance with Minnesota Statutes, section 252.46, subdivision 4, paragraph (b);

(3) become effective July 1, 1996; and

(4) be used as the basis for calculating the rate maximum for that vendor for calendar year 1997 in accordance with the requirements of Minnesota Statutes, section 252.46, subdivision 3.

Sec. 10. [DOWNSIZING PILOT PROJECT.]

(a) The commissioner of human services shall establish a pilot project in Pennington county to downsize to 11 beds an existing 15-bed intermediate care facility for persons with mental retardation or related conditions, and develop a four-bed supportive living service facility utilizing the conversion of ICF/MR slots to medical assistance waiver conversion slots for the displaced residents. The project must be approved by the commissioner under Minnesota Statutes, section 252.28, and must include criteria for determining how individuals are selected for alternative services and the use of a request for proposal process in selecting the vendors for alternative services. The project must include:

(1) alternative services for the residents being relocated;

(2) timelines for resident relocation and decertification of beds; and

(3) adjustment of the facility's operating cost rate under Minnesota Rules, part 9553.0075, as necessary to implement the project.

(b) The facility's aggregate investment-per-bed limit in effect before downsizing must be the facility's investment-per-bed limit after downsizing. The facility's total revenues after downsizing must not increase as a result of the downsizing project. The facility's total revenues before downsizing are determined by multiplying the payment rate in effect the day before the downsizing is effective by the number of resident days for the reporting year preceding the downsizing project. For the purpose of this project, the average medical assistance rate for home and community-based services must not exceed the rate made available under Laws 1995, chapter 207, article 8, section 34.

Sec. 11. [NURSING FACILITY REIMBURSEMENT FOR FISCAL YEAR 1997.]

(a) Notwithstanding any contrary provisions of Minnesota Statutes, section 256B.431, subdivision 25, the provisions of this section shall apply for the rate year beginning July 1, 1996.

(b) The commissioner of human services 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 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 Minnesota Statutes, section 256B.431, subdivision 2b, paragraph (h). For those nursing facilities in each grouping whose case mix A operating cost per diem:

(1) is at or above the median plus 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 (d), or the current reporting year's corresponding allowable operating cost per diem;

(2) is between .5 standard deviation and 1.0 standard deviation above 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 (d), increase by one percentage point, or the current reporting year's corresponding allowable operating cost per diem; or

(3) is equal to or below .5 standard deviation above 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 (d), increased by two percentage points, or the current reporting year's corresponding allowable operating cost per diem.

(c) For the rate year beginning July 1, 1996, the provisions of Minnesota Statutes, section 256B.431, subdivision 25, paragraph (d), shall not apply.

(d) For the rate year beginning July 1, 1996, the forecasted index for operating cost limits referred to in Minnesota Statutes, section 256B.431, subdivision 21, paragraph (b), shall be based on the change in the nursing home market basket as forecasted by Data Resources Inc., for the 12-month period between the midpoints of the two reporting years preceding the rate year.

(e) For the rate year beginning July 1, 1996, the operating cost limits established in Minnesota Statutes, section 256B.431, subdivisions 2b, 2i, and 3c, and any previously effective corresponding limits in law or rule shall not apply, except that these cost limits shall still be calculated for purposes of determining efficiency incentive per diems.

(f) For the rate year beginning July 1, 1996, the commissioner shall exempt all rule 80 facilities from any limits described in Minnesota Statutes, section 256B.431, subdivision 25, paragraph (b), clause (2), that affect care-related operating per diems. For the rate year beginning July 1, 1996, the operating cost per diem referred to in paragraph (b), clause (2), is the sum of the care-related and other operating cost per diems for a given case mix class.

(g) Any reductions to the combined operating per diem shall be divided proportionately between the care-related and other operating per diems.

(h) Notwithstanding paragraphs (a) to (f), the commissioner must also compute nursing facility payment rates based on the laws in effect on March 1, 1996, and use the resulting allowable care-related and other operating cost per diems as the basis for the spend-up limits for the rate year beginning July 1, 1997.

Sec. 12. [ICF/MR REIMBURSEMENT OCTOBER 1, 1996, TO OCTOBER 1, 1997.]

(a) Notwithstanding any contrary provisions of Minnesota Statutes, section 256B.501, for the rate year beginning October 1, 1996, the commissioner of human services shall, for purposes of the spend-up limit, array facilities within each grouping in Minnesota Statutes, section 256B.501, subdivision 5b, paragraph (d), clause (4), by each facility's cost per resident day. A facility's cost per resident day shall be determined by dividing its allowable historical general operating cost for the reporting year by the facility's resident days for that reporting year. Facilities with a cost per resident day at or above the median shall be limited to the lesser of: (1) the current reporting year's cost per resident day; or (2) the prior reporting year's cost per resident day plus the inflation factor as established in Minnesota Statutes, section 256B.501, subdivision 3c, clause (2), increased by three percentage points. However, in no case shall the amount of this reduction exceed: three percent for a facility with a licensed capacity greater than 16 beds; two percent for a facility with a licensed capacity of nine to 16 beds; and one percent for a facility with a licensed capacity of eight or fewer beds.

(b) The commissioner must not apply the limits in Minnesota Statutes, section 256B.501, subdivision 5b, paragraph (d), clause (8), for the rate year beginning October 1, 1996.

(c) Notwithstanding paragraphs (a) and (b), the commissioner must also compute facility payment rates based on the laws in effect on March 1, 1996, and use the resulting allowable operating cost per diems as the basis for the spend-up limits for the rate year beginning October 1, 1997.

ARTICLE 4

HEALTH DEPARTMENT AND HEALTH PLAN REGULATIONS

Section 1. [62J.69] [MEDICAL EDUCATION AND RESEARCH TRUST FUND.]

Subdivision 1. [DEFINITIONS.] For purposes of this section, the following definitions apply:

(a) "Medical education" means the accredited clinical training of physicians (medical students and residents), dentists, advanced practice nurses (clinical nurse specialist, certified registered nurse anesthetists, nurse practitioners, and certified nurse midwives), and physician assistants.

(b) "Clinical training" means accredited training that occurs in both inpatient and ambulatory care settings.

(c) "Trainee" means students involved in an accredited clinical training program for medical education as defined in paragraph (a).

(d) "Health care research" means approved clinical, outcomes, and health services investigations that are funded by patient out-of-pocket expenses or a third-party payer.

(e) "Commissioner" means the commissioner of health.

(f) "Teaching institutions" means any hospital, medical center, clinic, or other organization that currently sponsors or conducts accredited medical education programs or clinical research in Minnesota.

Subd. 2. [ALLOCATION AND FUNDING FOR MEDICAL EDUCATION AND RESEARCH.] (a) The commissioner may establish a trust fund for the purposes of funding medical education and research activities in the state of Minnesota.

(b) By January 1, 1997, the commissioner may appoint an advisory committee to provide advice and oversight on the distribution of funds from the medical education and research trust fund. If a committee is appointed, the commissioner shall: (1) consider the interest of all stakeholders when selecting committee members; (2) select members that represent both urban and rural interest; and (3) select members that include ambulatory care as well as inpatient perspectives. The commissioner shall appoint to the advisory committee representatives of the following groups: medical researchers, public and private academic medical centers, managed care organizations, Blue Cross and Blue Shield of Minnesota, commercial carriers, Minnesota Medical Association, Minnesota Nurses Association, medical product manufacturers, employers, and other relevant stakeholders, including consumers. The advisory committee is governed by Minnesota Statutes, section 15.059, for membership terms and removal of members and will sunset on June 30, 1999.

(c) Eligible applicants for funds are accredited medical education teaching institutions, consortia, and programs. Applications must be received by September 30 of each year for distribution by January 1 of the following year. An application for funds must include the following:

(1) the official name and address of the institution, facility, or program that is applying for funding;

(2) the name, title, and business address of those persons responsible for administering the funds;

(3) the total number, type, and specialty orientation of eligible trainees in each accredited medical education program applying for funds;

(4) audited clinical training costs per trainee for each medical education program;

(5) a description of current sources of funding for medical education costs including a description and dollar amount of all state and federal financial support;

(6) other revenue received for the purposes of clinical training;

(7) a statement identifying unfunded costs; and

(8) other supporting information the commissioner, with advice from the advisory committee, determines is necessary for the equitable distribution of funds.

(d) The commissioner shall distribute medical education funds to all qualifying applicants based on the following basic criteria: (1) total medical education funds available; (2) total trainees in each eligible education program; and (3) the statewide average cost per trainee, by type of trainee, in each medical education program. Funds distributed shall not be used to displace current funding appropriations from federal or state sources.

(e) Medical education programs receiving funds from the trust fund must submit annual cost and program reports based on criteria established by the commissioner. The reports must include:

(1) the total number of eligible trainees in the program;

(2) the type of programs and residencies funded;

(3) the average cost per trainee and a detailed breakdown of the components of those costs;

(4) other state or federal appropriations received for the purposes of clinical training;

(5) other revenue received for the purposes of clinical training; and

(6) other information the commissioner, with advice from the advisory committee, deems appropriate to evaluate the effectiveness of the use of funds for clinical training.

The commissioner, with advice from the advisory committee, will provide an annual summary report to the legislature on program implementation due February 15 of each year.

(f) The commissioner is authorized to distribute funds made available through:

(1) voluntary contributions by employers or other entities;

(2) allocations for the department of human services to support medical education and research; and

(3) other sources as identified and deemed appropriate by the legislature for inclusion in the trust fund.

(g) The advisory committee shall continue to study and make recommendations on:

(1) the funding of medical research consistent with work currently mandated by the legislature and under way at the department of health; and

(2) the costs and benefits associated with medical education and research.

Sec. 2. Minnesota Statutes 1995 Supplement, section 62Q.03, subdivision 8, is amended to read:

Subd. 8. [GOVERNANCE.] ~~(a)~~ The association shall be governed ~~by an interim 19-member board as follows: one provider member appointed by the Minnesota Hospital Association; one provider member appointed by the Minnesota Medical Association; one provider member appointed by the governor; three members appointed by the Minnesota Council of HMOs to include an HMO with at least 50 percent of total membership enrolled through a public program; three members appointed by Blue Cross and Blue Shield of Minnesota, to include a member from a Blue Cross and Blue Shield of Minnesota affiliated health plan with fewer than 50,000 enrollees and located outside the Minneapolis-St. Paul metropolitan area; two members appointed by the Insurance Federation of Minnesota; one member appointed by the Minnesota Association of Counties; and three public members appointed by the governor, to include at least one representative of a public program. The commissioners of health, commerce, human services, and employee relations shall be nonvoting ex officio members.~~

~~(b) The board may elect officers and establish committees as necessary.~~

~~(c) A majority of the members of the board constitutes a quorum for the transaction of business.~~

~~(d) Approval by a majority of the board members present is required for any action of the board.~~

~~(e) Interim board members shall be appointed by July 1, 1994, and shall serve until a new board is elected according to the plan of operation developed by the association.~~

~~(f) A member may designate a representative to act as a member of the interim board in the member's absence~~ according to the plan of operation as established in subdivision 8a of this section.

Sec. 3. Minnesota Statutes 1994, section 62Q.075, subdivision 2, is amended to read:

Subd. 2. [REQUIREMENT.] Beginning ~~July 1, 1995~~ October 31, 1997, all managed care organizations shall ~~annually~~ file biennially with the action plans required under section 62Q.07 a plan describing the actions the managed care organization has taken and those it intends to take to contribute to achieving public health goals for each service area in which an enrollee of the managed care organization resides. This plan must be jointly developed in collaboration with the local public health units, appropriate regional coordinating boards, and other community organizations providing health services within the same service area as the managed care organization. Local government units with responsibilities and authority defined under chapters 145A and 256E may designate individuals to participate in the collaborative planning with the managed care organization to provide expertise and represent community needs and goals as identified under chapters 145A and 256E.

Sec. 4. Minnesota Statutes 1995 Supplement, section 62R.17, is amended to read:

62R.17 [PROVIDER COOPERATIVE DEMONSTRATION.]

(a) A health provider cooperative incorporated and having adopted bylaws before May 1, 1995, that has members who provide services in Sibley, Nicollet, Blue Earth, Brown, Watonwan, Martin, Faribault, Waseca, and LeSueur counties, may contract with a qualified employer or self-insured employer plan to provide health care services in accordance with sections 62R.17 to 62R.26.

(b) A health provider cooperative incorporated and having adopted bylaws before July 1, 1995, that has members who provide services in Big Stone, Chippewa, Cottonwood, Jackson, Kandiyohi, Lac Qui Parle, Lincoln, Lyon, McLeod, Meeker, Murray, Nobles, Pipestone, Redwood, Renville, Rock, Swift, and Yellow Medicine counties, may contract with a qualified employer or self-insured employer plan to provide health care services in accordance with sections 62R.17 to 62R.26.

(c) A health provider cooperative incorporated and having adopted bylaws before March 1, 1995, that has members who provide services in Big Stone, Chippewa, Cottonwood, Jackson, Kandiyohi, Lac Qui Parle, Lincoln, Lyon, Murray, Nobles, Pipestone, Redwood, Renville, Rock, Swift, and Yellow Medicine counties, may contract with a qualified employer or self-insured employer plan to provide health care services in accordance with sections 62R.17 to 62R.26.

(d) The health provider cooperative, the qualified employer, or the self-insured employer plan shall not, solely on account of that contract, be subject to any provision of Minnesota Statutes relating to health carriers except as provided in section 62R.21. The grant of contracting power under this section shall not be interpreted to permit or prohibit any other lawful arrangement between a health care provider and a self-insured employee welfare benefit plan or its sponsor.

Sec. 5. Minnesota Statutes 1995 Supplement, 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, 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 state government special revenue 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 1996 and beyond, shall set license fees for hospitals and nursing homes that are not boarding care homes at the following levels:

Joint Commission on Accreditation of Healthcare

Organizations (JCAHO hospitals)	$1,017
Non-JCAHO hospitals	$762 plus $34 per bed
Nursing home	$78 plus $19 per bed

For fiscal years 1996 and beyond, the commissioner shall set license fees for outpatient surgical centers, boarding care homes, and supervised living facilities at the following levels:

Outpatient surgical centers	$517
Boarding care homes	$78 plus $19 per bed
Supervised living facilities	$78 plus $19 per bed.

(e) Unless prohibited by federal law, the commissioner of health shall charge applicants the following fees to cover the cost of any initial certification surveys required to determine a provider's eligibility to participate in the Medicare or Medicaid program:

Prospective payment surveys for hospitals	$ 900
Swing bed surveys for nursing homes	$1200
Psychiatric hospitals	$1400
Rural health facilities	$1100
Portable X-ray providers	$ 500
Home health agencies	$1800
Outpatient therapy agencies	$ 800
End stage renal dialysis providers	$2100
Independent therapists	$ 800
Comprehensive rehabilitation outpatient facilities	$1200
Hospice providers	$1700
Ambulatory surgical providers	$1800
Hospitals	$4200
Other provider categories or additional resurveys required to complete initial certification	Actual surveyor costs: average surveyor cost x number of hours for the survey process.

These fees shall be submitted at the time of the application for federal certification and shall not be refunded. All fees collected after the date that the imposition of fees is not prohibited by federal law shall be deposited in the state treasury and credited to the state government special revenue fund.

Sec. 6. [144.2215] [BIRTH DEFECTS REGISTRY SYSTEM.]

The commissioner of health shall develop a statewide birth defects registry system to provide for the collection, analysis, and dissemination of birth defects information. The commissioner shall consult with representatives and experts in epidemiology, medicine, insurance, health maintenance organizations, genetics, consumers, and voluntary organizations in developing the system and may phase in the implementation of the system.

Sec. 7. Minnesota Statutes 1994, section 144.572, is amended to read:

144.572 [INSTITUTIONS EXCEPTED.]

No rule nor requirement shall be made, nor standard established under sections 144.50 to 144.56 for any sanitarium~~,~~ conducted ~~in accordance with the practice and principles of the body known as the Church of Christ, Scientist~~ by and for the adherents of any recognized church or religious denomination for the purpose of providing care and treatment for those who select and depend upon spiritual means through prayer alone, in lieu of medical care, for healing, except as to the sanitary and safe condition of the premises, cleanliness of operation, and its physical equipment.

Sec. 8. Minnesota Statutes 1994, section 144.71, subdivision 1, is amended to read:

Subdivision 1. [HEALTH AND SAFETY.] The purpose of sections 144.71 to 144.74 is to protect the health and safety of ~~children~~ persons in attendance at ~~children's~~ youth camps.

Sec. 9. Minnesota Statutes 1994, section 144.71, subdivision 2, is amended to read:

Subd. 2. [DEFINITION.] For the purpose of such sections a ~~children's~~ youth camp is defined as a parcel or parcels of land with permanent buildings, tents or other structures together with appurtenances thereon, established or maintained as living quarters where both food and beverage service and lodging or the facilities therefor are provided for ten or more people, operated continuously for a period of five days or more each year for educational, recreational or vacation purposes, and the use of the camp is offered to minors free of charge or for payment of a fee.

Sec. 10. Minnesota Statutes 1994, section 144.72, subdivision 1, is amended to read:

Subdivision 1. [PERMITS.] The state commissioner of health is authorized to issue permits for the operation of ~~such children's~~ youth camps ~~and such camps~~ which are required to obtain ~~such~~ the permits.

Sec. 11. Minnesota Statutes 1994, section 144.72, subdivision 2, is amended to read:

Subd. 2. [APPLICATION.] On or before June first annually, every person, partnership, limited liability company or corporation, operating or seeking to operate a ~~children's~~ youth camp, shall make application in writing to the commissioner for a permit to conduct a ~~children's~~ youth camp. Such application shall be in such form and shall contain such information as the commissioner may find necessary to determine that the ~~children's~~ youth camp will be operated and maintained in such a manner as to protect and preserve the health and safety of the persons using the camp. Where a person, partnership, limited liability company or corporation operates or is seeking to operate more than one ~~children's~~ youth camp, a separate application shall be made for each camp.

Sec. 12. Minnesota Statutes 1994, section 144.73, subdivision 1, is amended to read:

Subdivision 1. [INSPECTION OF CAMPS.] It shall be the duty of the state commissioner of health to make an annual inspection of each ~~children's~~ youth camp, and where, upon inspection it is found that there is a failure to protect the health and safety of the persons using the camp, or a failure to comply with the camp rules prescribed by the commissioner, the commissioner shall give notice to the camp operator of such failure, which notice shall set forth the reason or reasons for such failure.

Sec. 13. Minnesota Statutes 1994, section 144.74, is amended to read:

144.74 [RULES, STANDARDS.]

The state commissioner of health is authorized to adopt and enforce such reasonable rules and standards as the commissioner determines necessary to protect the health and safety of ~~children~~ persons in attendance at ~~children's~~ youth camps. Such rules and standards may include reasonable restrictions and limitations on the following:

(1) Camp sites and buildings, including location, layout, lighting, ventilation, heating, plumbing, drainage and sleeping quarters;

(2) Sanitary facilities, including water supply, toilet and shower facilities, sewage and excreta disposal, waste and garbage disposal, and the control of insects and rodents, and

(3) Food service, including storage, refrigeration, sanitary preparation and handling of food, the cleanliness of kitchens and the proper functioning of equipment.

Sec. 14. Minnesota Statutes 1995 Supplement, section 144.9503, subdivision 6, is amended to read:

Subd. 6. [VOLUNTARY LEAD HAZARD REDUCTION.] The commissioner shall monitor the lead hazard reduction methods adopted under section 144.9508 in cases of voluntary lead

hazard reduction. All contractors hired to do voluntary lead hazard reduction must be licensed lead contractors. If a property owner does not use a lead contractor for voluntary lead hazard reduction, the property owner shall provide the commissioner with a plan for lead hazard reduction at least ten working days before beginning the lead hazard reduction. The plan must include the details required in section 144.9505, and notice as to when lead hazard reduction activities will begin. Within the limits of appropriations, the commissioner shall review plans and shall approve or disapprove them as to compliance with the requirements in section 144.9505. No penalty shall be assessed against a property owner for discontinuing voluntary lead hazard reduction before completion of the plan, provided that the property owner discontinues the plan in a manner that leaves the property in a condition no more hazardous than its condition before the plan implementation.

Sec. 15. Minnesota Statutes 1995 Supplement, section 144.9503, subdivision 8, is amended to read:

Subd. 8. [CERTIFICATION FOR LEAD-SAFE HOUSING.] The commissioner shall propose to the legislature a program to certify residences as lead safe by February 15, ~~1996~~ 1997.

Sec. 16. Minnesota Statutes 1995 Supplement, section 144.9503, subdivision 9, is amended to read:

Subd. 9. [LANDLORD TENANT STUDY.] Within the limits of appropriations, the commissioner of health shall ~~conduct or~~ contract for a study of the legal responsibilities of tenants and landlords in the prevention of lead hazards, and shall report the findings to the legislature, along with recommendations as to any changes needed to clarify or modify current law ~~by January 15, 1996~~. In conducting the study, the commissioner shall convene any public meetings necessary to hear the testimony and recommendations of interested parties, and shall invite and consider written public comments.

Sec. 17. Minnesota Statutes 1995 Supplement, section 144.9504, subdivision 2, is amended to read:

Subd. 2. [LEAD INSPECTION.] (a) An inspecting agency shall conduct a lead inspection of a residence according to the venous blood lead level and time frame set forth in clauses (1) to (4) for purposes of secondary prevention:

(1) within 48 hours of a child or pregnant female in the residence being identified to the agency as having a venous blood lead level equal to or greater than 70 micrograms of lead per deciliter of whole blood;

(2) within five working days of a child or pregnant female in the residence being identified to the agency as having a venous blood lead level equal to or greater than 45 micrograms of lead per deciliter of whole blood;

(3) within ten working days of a child or pregnant female in the residence being identified to the agency as having a venous blood lead level equal to or greater than 20 micrograms of lead per deciliter of whole blood; or

(4) within ten working days of a child or pregnant female in the residence being identified to the agency as having a venous blood lead level that persists in the range of 15 to 19 micrograms of lead per deciliter of whole blood for 90 days after initial identification.

(b) Within the limits of available state and federal appropriations, an inspecting agency may also conduct a lead inspection for children with any elevated blood lead level.

(c) In a building with two or more dwelling units, an inspecting agency shall inspect the individual unit in which the conditions of this section are met and shall also inspect all common areas. If a child visits one or more other sites such as another residence, or a residential or commercial child care facility, playground, or school, the inspecting agency shall also inspect the other sites. The inspecting agency shall have one additional day added to the time frame set forth in this subdivision to complete the lead inspection for each additional site.

(d) Within the limits of appropriations, the inspecting agency shall identify the known addresses for the previous 12 months of the child or pregnant female with elevated blood lead levels; notify the property owners, landlords, and tenants at those addresses that an elevated blood lead level was found in a person who resided at the property; and give them a copy of the lead inspection guide. This information shall be classified as private data on individuals as defined under section 13.02, subdivision 12.

(e) The inspecting agency shall conduct the lead inspection according to rules adopted by the commissioner under section 144.9508. An inspecting agency shall have lead inspections performed by lead inspectors licensed by the commissioner according to rules adopted under section 144.9508. If a property owner refuses to allow an inspection, the inspecting agency shall begin legal proceedings to gain entry to the property and the time frame for conducting a lead inspection set forth in this subdivision no longer applies. An inspector or inspecting agency may observe the performance of lead hazard reduction in progress and shall enforce the provisions of this section under section 144.9509. Deteriorated painted surfaces, bare soil, dust, and drinking water must be tested with appropriate analytical equipment to determine the lead content, except that deteriorated painted surfaces or bare soil need not be tested if the property owner agrees to engage in lead hazard reduction on those surfaces.

(f) A lead inspector shall notify the commissioner and the board of health of all violations of lead standards under section 144.9508, that are identified in a lead inspection conducted under this section.

(g) Each inspecting agency shall establish an administrative appeal procedure which allows a property owner to contest the nature and conditions of any lead order issued by the inspecting agency. Inspecting agencies must consider appeals that propose lower cost methods that make the residence lead safe.

(h) Sections 144.9501 to 144.9509 neither authorize nor prohibit an inspecting agency from charging a property owner for the cost of a lead inspection.

Sec. 18. Minnesota Statutes 1995 Supplement, section 144.9504, subdivision 7, is amended to read:

Subd. 7. [RELOCATION OF RESIDENTS.] (a) ~~An~~ Within the limits of appropriations, the inspecting agency shall ensure that residents are relocated from rooms or dwellings during a lead hazard reduction process that generates leaded dust, such as removal or disruption of lead-based paint or plaster that contains lead. Residents shall not remain in rooms or dwellings where the lead hazard reduction process is occurring. An inspecting agency is not required to pay for relocation unless state or federal funding is available for this purpose. The inspecting agency shall make an effort to assist the resident in locating resources that will provide assistance with relocation costs. Residents shall be allowed to return to the residence or dwelling after completion of the lead hazard reduction process. An inspecting agency shall use grant funds under section 144.9507 if available, in cooperation with local housing agencies, to pay for moving costs and rent for a temporary residence for any low-income resident temporarily relocated during lead hazard reduction. For purposes of this section, "low-income resident" means any resident whose gross household income is at or below 185 percent of federal poverty level.

(b) A resident of rental property who is notified by an inspecting agency to vacate the premises during lead hazard reduction, notwithstanding any rental agreement or lease provisions:

(1) shall not be required to pay rent due the landlord for the period of time the tenant vacates the premises due to lead hazard reduction;

(2) may elect to immediately terminate the tenancy effective on the date the tenant vacates the premises due to lead hazard reduction; and

(3) shall not, if the tenancy is terminated, be liable for any further rent or other charges due under the terms of the tenancy.

(c) A landlord of rental property whose tenants vacate the premises during lead hazard reduction shall:

(1) allow a tenant to return to the dwelling unit after lead hazard reduction and clearance inspection, required under this section, is completed, unless the tenant has elected to terminate the tenancy as provided for in paragraph (b); and

(2) return any security deposit due under section 504.20 within five days of the date the tenant vacates the unit, to any tenant who terminates tenancy as provided for in paragraph (b).

Sec. 19. Minnesota Statutes 1995 Supplement, section 144.9504, subdivision 8, is amended to read:

Subd. 8. [PROPERTY OWNER RESPONSIBILITY.] Property owners shall comply with lead orders issued under this section within 60 days or be subject to enforcement actions as provided under section 144.9509. For orders or portions of orders concerning external lead hazards, property owners shall comply within 60 days, or as soon thereafter as weather permits. If the property owner does not use a lead contractor for compliance with the lead orders, the property owner shall submit a plan ~~for approval by~~ to the inspecting agency within 30 days after receiving the orders. The plan must include the details required in section 144.9505 as to how the property owner intends to comply with the lead orders and notice as to when lead hazard reduction activities will begin. Within the limits of appropriations, the commissioner shall review plans and shall approve or disapprove them as to compliance with the requirements in section 144.9505, subdivision 5.

Sec. 20. Minnesota Statutes 1995 Supplement, section 144.9505, subdivision 4, is amended to read:

Subd. 4. [NOTICE OF LEAD ABATEMENT OR LEAD HAZARD REDUCTION WORK.] (a) At least five working days before starting work at each lead abatement or lead hazard reduction worksite, the person performing the lead abatement or lead hazard reduction work shall give written notice and an approved work plan as required in this section to the commissioner and the appropriate board of health. Within the limits of appropriations, the commissioner shall review plans and shall approve or disapprove them as to compliance with the requirements in section 144.9505, subdivision 5.

(b) This provision does not apply to swab team workers performing work under an order of an inspecting agency.

Sec. 21. Minnesota Statutes 1994, section 144A.04, is amended by adding a subdivision to read:

Subd. 7a. [DIRECTOR OF NURSING SERVICES.] Except as otherwise provided by this subdivision, a nursing home must have a full-time director of nursing services who is assigned full time to the nursing services of the nursing home. For purposes of this requirement, "full time" means working at least 35 hours per week. The director of nursing services of a nursing home may also serve as the director of nursing services of a physically attached hospital if:

(1) the hospital has an average daily census of ten patients or less in the most recent reporting year for which data is available;

(2) the total combined beds of the hospital and nursing home do not exceed 100; and

(3) the management of the two facilities is under the control and direction of the same governing body.

Sec. 22. Minnesota Statutes 1994, section 144A.09, subdivision 1, is amended to read:

Subdivision 1. [~~CHURCH OF CHRIST, SCIENTIST~~ SPIRITUAL MEANS FOR HEALING.] No rule established under sections 144A.01 to 144A.16 other than a rule relating to sanitation and safety of premises, to cleanliness of operation or to physical equipment, shall apply to a nursing home conducted ~~in accordance with the teachings of the body known as the Church of Christ, Scientist~~ by and for the adherents of any recognized church or religious denomination for the purpose of providing care and treatment for those who select and depend upon spiritual means through prayer alone, in lieu of medical care, for healing.

Sec. 23. Minnesota Statutes 1994, section 144A.20, subdivision 2, is amended to read:

Subd. 2. [EXCEPTION.] Notwithstanding any law to the contrary, no person desiring to be licensed to administer a nursing home operated ~~exclusively in accordance with the teachings of the body known as the Church of Christ, Scientist~~ by and for the adherents of any recognized church or religious denomination for the purpose of providing care and treatment for those who select and depend upon spiritual means through prayer alone, in lieu of medical care, for healing, shall be required to demonstrate proficiency in any medical technique or meet any medical educational qualification or medical standard which is not in accord with the type of remedial care and treatment provided in a nursing home operated exclusively in accordance with the teachings of that body.

Sec. 24. Minnesota Statutes 1994, section 145.61, subdivision 5, is amended to read:

Subd. 5. "Review organization" means a nonprofit organization acting according to clause (k) or a committee whose membership is limited to professionals, administrative staff, and consumer directors, except where otherwise provided for by state or federal law, and which is established by one or more of the following: a hospital, a clinic, a nursing home, one or more state or local associations of professionals, an organization of professionals from a particular area or medical institution, a health maintenance organization as defined in chapter 62D, a nonprofit health service plan corporation as defined in chapter 62C, a preferred provider organization, a professional standards review organization established pursuant to United States Code, title 42, section 1320c-1 et seq., a medical review agent established to meet the requirements of section 256B.04, subdivision 15, or 256D.03, subdivision 7, paragraph (b), the department of human services, a health provider cooperative operating under sections 62R.17 to 62R.26, or a corporation organized under chapter 317A that owns, operates, or is established by one or more of the above referenced entities, to gather and review information relating to the care and treatment of patients for the purposes of:

(a) evaluating and improving the quality of health care rendered in the area or medical institution or by the entity or organization that established the review organization;

(b) reducing morbidity or mortality;

(c) obtaining and disseminating statistics and information relative to the treatment and prevention of diseases, illness and injuries;

(d) developing and publishing guidelines showing the norms of health care in the area or medical institution or in the entity or organization that established the review organization;

(e) developing and publishing guidelines designed to keep within reasonable bounds the cost of health care;

(f) reviewing the quality or cost of health care services provided to enrollees of health maintenance organizations, health service plans, preferred provider organizations, and insurance companies;

(g) acting as a professional standards review organization pursuant to United States Code, title 42, section 1320c-1 et seq.;

(h) determining whether a professional shall be granted staff privileges in a medical institution, membership in a state or local association of professionals, or participating status in a nonprofit health service plan corporation, health maintenance organization, preferred provider organization, or insurance company, or whether a professional's staff privileges, membership, or participation status should be limited, suspended or revoked;

(i) reviewing, ruling on, or advising on controversies, disputes or questions between:

(1) health insurance carriers, nonprofit health service plan corporations, health maintenance organizations, self-insurers and their insureds, subscribers, enrollees, or other covered persons;

(2) professional licensing boards and health providers licensed by them;

(3) professionals and their patients concerning diagnosis, treatment or care, or the charges or fees therefor;

(4) professionals and health insurance carriers, nonprofit health service plan corporations, health maintenance organizations, or self-insurers concerning a charge or fee for health care services provided to an insured, subscriber, enrollee, or other covered person;

(5) professionals or their patients and the federal, state, or local government, or agencies thereof;

(j) providing underwriting assistance in connection with professional liability insurance coverage applied for or obtained by dentists, or providing assistance to underwriters in evaluating claims against dentists;

(k) acting as a medical review agent under section 256B.04, subdivision 15, or 256D.03, subdivision 7, paragraph (b);

(l) providing recommendations on the medical necessity of a health service, or the relevant prevailing community standard for a health service;

(m) reviewing a provider's professional practice as requested by the data analysis unit under section 62J.32;

(n) providing quality assurance as required by United States Code, title 42, sections 1396r(b)(1)(b) and 1395i-3(b)(1)(b) of the Social Security Act;

(o) providing information to group purchasers of health care services when that information was originally generated within the review organization for a purpose specified by this subdivision; or

(p) providing information to other, affiliated or nonaffiliated review organizations, when that information was originally generated within the review organization for a purpose specified by this subdivision, and as long as that information will further the purposes of a review organization as specified by this subdivision.

Sec. 25. [145.951] [CHILDREN HELPED IN LONG-TERM DEVELOPMENT; IMPLEMENTATION PLAN.]

The commissioner of health, in consultation with the commissioners of children, families, and learning; corrections; public safety; and human services, and with the directors of the office of strategic and long-range planning, the council on disability, and the councils and commission under Minnesota Statutes, sections 3.922 to 3.9226, may develop an implementation plan for the establishment of a statewide program to assist families in developing the full potential of their children. The program must be designed to strengthen the family, to reduce the risk of abuse to children, and to promote the long-term development of children in their home environments. The program must also be designed to use volunteers to provide support to parents, and to link parents with existing public health, education, and social services as appropriate.

Sec. 26. [145.952] [DEFINITIONS.]

Subdivision 1. [SCOPE.] The definitions in this section apply to sections 145.951 to 145.957.

Subd. 2. [ABUSE.] "Abuse" means physical abuse, sexual abuse, neglect, mental injury, and threatened injury, as those terms are defined in section 626.556, subdivision 2.

Subd. 3. [CHILD PROGRAM OR PROGRAM.] "CHILD program" or "program" means the children helped in long-term development program that the commissioner shall plan to be implemented under sections 145.951 to 145.957.

Subd. 4. [COMMISSIONER.] "Commissioner" means the commissioner of health or the commissioner's designee.

Subd. 5. [LOCAL ORGANIZATION.] "Local organization" means an organization that

contracts with the commissioner under section 145.953, subdivision 1, to administer the CHILD program on a local level.

Sec. 27. [145.953] [PROGRAM STRUCTURE.]

Subdivision 1. [LOCAL ADMINISTRATION OF PROGRAM.] The implementation plan must require the commissioner to contract with appropriate private nonprofit and governmental organizations to administer the CHILD program on a local level. The local organization, in collaboration and coordination with the department of health, shall be responsible for recruiting, screening training, and overseeing volunteers for the program.

Subd. 2. [VOLUNTEER COMPONENT.] The implementation plan must provide that a volunteer will be matched with a family to provide ongoing support in parenting. The volunteer shall provide the family with information on the CHILD program and other social services available. Through home visits and frequent contact, the volunteer shall provide support and guidance on raising the child and coping with stresses that may increase the risk of abuse. The volunteer shall also assist the family in obtaining other needed services from existing social services programs.

Sec. 28. [145.954] [STANDARDS FOR PROGRAM.]

In planning for the implementation of the program, the commissioner shall:

(1) establish mechanisms to encourage families to participate in the CHILD program;

(2) establish mechanisms to identify families who may wish to participate in the CHILD program and to match volunteers with these families either before or as soon as possible after a child is born;

(3) ensure that local organizations coordinate with services already provided by the departments of health, human services, and children, families, and learning to ensure that participating families receive a continuum of care;

(4) coordinate with local social services agencies, local health boards, and community health boards;

(5) ensure that services provided through the program are community-based and that the special needs of minority communities are addressed;

(6) develop and implement appropriate systems to gather data on participating families and to monitor and evaluate their progress; and

(7) evaluate the program's effectiveness.

Sec. 29. [145.955] [DUTIES OF LOCAL ORGANIZATION.]

The implementation plan shall require the local organizations to:

(1) recruit and train volunteers to serve families under the program, according to section 145.956;

(2) provide ongoing supervision and consultation to volunteers; and

(3) develop resource and referral booklets that volunteers can distribute to families served by the program. The booklets shall contain comprehensive information on the spectrum of services available to assist the family and to reduce the risk of abuse.

Sec. 30. [145.956] [TRAINING AND RECRUITMENT OF VOLUNTEERS.]

Subdivision 1. [TRAINING REQUIREMENTS.] (a) The implementation plan shall require the local organization to carefully screen and train volunteers to provide program services. Training must prepare volunteers to:

(1) identify signs of abuse or other indications that a child may be at risk of abuse;

(2) help families develop communications skills;

(3) teach and reinforce healthy discipline techniques;

(4) provide other support a family needs to cope with stresses that increase the risk of abuse; and

(5) refer the family to other appropriate public health, education, and social services.

(b) The implementation plan shall also include procedures whereby the local agency will provide ongoing support, supervision, and training for all volunteers. Training must be culturally appropriate and community-based, and must incorporate input from parents who will be using the program's services.

Subd. 2. [RECRUITMENT OF VOLUNTEERS.] The implementation plan must require that the local organization recruit minority volunteers to serve communities of color.

Sec. 31. [145.957] [ELIGIBILITY.]

The implementation plan must ensure that all residents of Minnesota are eligible for services under the program. The plan must make services available on a sliding fee basis. The commissioner shall develop a sliding fee scale for the program.

Sec. 32. Minnesota Statutes 1995 Supplement, section 148C.01, subdivision 12, is amended to read:

Subd. 12. [SUPERVISED ALCOHOL AND DRUG COUNSELING EXPERIENCE.] Except during the transition period, "supervised alcohol and drug counseling experience" means practical experience gained by a student, volunteer, or intern, and supervised by a person either licensed under this chapter or exempt under its provisions; either before, during, or after the student completes a program from an accredited school or ~~education~~ educational program of alcohol and drug counseling.

Sec. 33. Minnesota Statutes 1995 Supplement, section 148C.01, subdivision 13, is amended to read:

Subd. 13. [ALCOHOL AND DRUG COUNSELING PRACTICUM.] "Alcohol and drug counseling practicum" means formal experience gained by a student and supervised by a person either licensed under this chapter or exempt under its provisions, in an accredited school or educational program of alcohol and drug counseling as part of the education requirements of this chapter.

Sec. 34. Minnesota Statutes 1994, section 148C.01, is amended by adding a subdivision to read:

Subd. 17. [ALCOHOL AND DRUG COUNSELOR INTERNSHIP.] "Alcohol and drug counselor internship" means supervised, practical, on-the-job training as an intern, volunteer, or employee in alcohol and drug counseling.

Sec. 35. Minnesota Statutes 1995 Supplement, section 148C.02, subdivision 1, is amended to read:

Subdivision 1. [MEMBERSHIP.] The alcohol and drug counselors licensing advisory council consists of 13 members. The commissioner shall appoint:

(1) except for those members initially appointed, seven members who must be licensed alcohol and drug ~~dependency~~ counselors;

(2) three members who must be public members as defined by section 214.02;

(3) one member who must be a director or coordinator of an accredited alcohol and drug dependency training program; and

(4) one member who must be a former consumer of alcohol and drug dependency counseling service and who must have received the service more than three years before the person's appointment.

The American Indian advisory committee to the department of human services chemical dependency office shall appoint the remaining member.

Sec. 36. Minnesota Statutes 1995 Supplement, section 148C.02, subdivision 2, is amended to read:

Subd. 2. [DUTIES.] ~~(a)~~ The advisory council shall:

(1) provide advice and recommendations to the commissioner on the development of rules for the licensure of alcohol and drug counselors;

(2) provide advice and recommendations to the commissioner on the development of standards and procedures for the competency testing, licensing, and review of alcohol and drug counselors' professional conduct;

(3) provide advice and recommendations to the commissioner in disciplinary cases in the areas of counselor competency issues, counselor practice issues, and counselor impairment issues.

~~(b) The advisory council shall form an education committee, including a chair, and shall advise the commissioner on the administration of education requirements in section 148C.05, subdivision 2.~~

Sec. 37. Minnesota Statutes 1995 Supplement, section 148C.03, subdivision 1, is amended to read:

Subdivision 1. [GENERAL.] The commissioner shall, after consultation with the advisory council or a subcommittee or the special licensing criteria committee established under section 148C.11, subdivision 3, paragraph (b):

(a) adopt and enforce rules for licensure of alcohol and drug counselors, including establishing standards and methods of determining whether applicants and licensees are qualified under section 148C.04. The rules must provide for examinations and establish standards for the regulation of professional conduct. The rules must be designed to protect the public;

(b) hold or contract for the administration of examinations at least twice a year to assess applicants' knowledge and skills. The examinations must be written and oral and may be administered by the commissioner or by a private organization under contract with the commissioner to administer the licensing examinations. Examinations must minimize cultural bias and must be balanced in various theories relative to practice of alcohol and drug counseling;

(c) issue licenses to individuals qualified under sections 148C.01 to 148C.11;

(d) issue copies of the rules for licensure to all applicants;

(e) adopt rules to establish and implement procedures, including a standard disciplinary process and rules of professional conduct;

(f) carry out disciplinary actions against licensees;

(g) establish, with the advice and recommendations of the advisory council, written internal operating procedures for receiving and investigating complaints and for taking disciplinary actions as appropriate. Establishment of the operating procedures are not subject to rulemaking procedures under chapter 14;

(h) educate the public about the existence and content of the rules for ~~chemical dependency~~ alcohol and drug counselor licensing to enable consumers to file complaints against licensees who may have violated the rules;

(i) evaluate the rules in order to refine and improve the methods used to enforce the commissioner's standards;

(j) set, collect, and adjust license fees for alcohol and drug counselors so that the total fees collected will as closely as possible equal anticipated expenditures during the biennium, as provided in section 16A.1285; fees for initial and renewal application and examinations; late fees for counselors who submit license renewal applications after the renewal deadline; and a surcharge fee. The surcharge fee must include an amount necessary to recover, over a five-year period, the commissioner's direct expenditures for the adoption of the rules providing for the licensure of alcohol and drug counselors. All fees received shall be deposited in the state treasury and credited to the special revenue fund; and

(k) prepare reports on activities related to the licensure of alcohol and drug counselors according to this subdivision by October 1 of each even-numbered year. Copies of the reports shall be delivered to the legislature in accordance with section 3.195 and to the governor. The reports shall contain the following information on the commissioner's activities relating to the licensure of ~~chemical dependency~~ alcohol and drug counselors, for the two-year period ending the previous June 30:

(1) a general statement of the activities;

(2) the number of staff hours spent on the activities;

(3) the receipts and disbursements of funds;

(4) the names of advisory council members and their addresses, occupations, and dates of appointment and reappointment;

(5) the names and job classifications of employees;

(6) a brief summary of rules proposed or adopted during the reporting period with appropriate citations to the State Register and published rules;

(7) the number of persons having each type of license issued by the commissioner as of June 30 in the year of the report;

(8) the locations and dates of the administration of examinations by the commissioner;

(9) the number of persons examined by the commissioner with the persons subdivided into groups showing age categories, sex, and states of residency;

(10) the number of persons licensed by the commissioner after taking the examinations referred to in clause (8) with the persons subdivided by age categories, sex, and states of residency;

(11) the number of persons not licensed by the commissioner after taking the examinations referred to in clause (8) with the persons subdivided by age categories, sex, and states of residency;

(12) the number of persons not taking the examinations referred to in clause (8) who were licensed by the commissioner or who were denied licensing, the reasons for the licensing or denial, and the persons subdivided by age categories, sex, and states of residency;

(13) the number of persons previously licensed by the commissioner whose licenses were revoked, suspended, or otherwise altered in status with brief statements of the reasons for the revocation, suspension, or alteration;

(14) the number of written and oral complaints and other communications received by the commissioner which allege or imply a violation of a statute or rule which the commissioner is empowered to enforce;

(15) a summary, by specific category, of the substance of the complaints and communications referred to in clause (14) and, for each specific category, the responses or dispositions; and

(16) any other objective information which the commissioner believes will be useful in reviewing the commissioner's activities.

Sec. 38. Minnesota Statutes 1995 Supplement, section 148C.04, subdivision 3, is amended to read:

Subd. 3. [LICENSING REQUIREMENTS ~~FOR ALCOHOL AND DRUG COUNSELORS; EVIDENCE~~ FOR THE FIRST FIVE YEARS.] ~~(a)~~ For five years after the effective date of the rules authorized in section 148C.03, the applicant, unless qualified ~~for initial licensure under this subdivision~~ under section 148C.06 during the two-year period authorized therein, under section 148C.07, or under subdivision 4, must furnish evidence satisfactory to the commissioner that the applicant has met all the requirements in clauses (1) to (3). The applicant must have:

(1) ~~Except as provided in subdivision 4, the applicant must have~~ received an associate degree including 270 clock hours of alcohol and drug counseling education from an accredited school or educational program and 880 clock hours of ~~chemical dependency~~ alcohol and drug counseling practicum;

(2) ~~The applicant must have~~ completed a written case presentation and satisfactorily passed an oral examination that demonstrates competence in the core functions; and

(3) ~~The applicant must have~~ satisfactorily passed a written examination as established by the commissioner.

~~(b) Unless the applicant qualifies for licensure under this subdivision, an applicant must furnish evidence satisfactory to the commissioner that the applicant has met the requirements of paragraph (a), clauses (1) to (3).~~

~~Beginning two years after the effective date of the rules authorized in section 148C.03, subdivision 1, no person may be licensed without meeting the requirements in section 148C.04, subdivision 4, paragraph (a), clauses (2) and (3), or the special licensing criteria established pursuant to section 148C.11, subdivision 4.~~

Sec. 39. Minnesota Statutes 1995 Supplement, section 148C.04, subdivision 4, is amended to read:

Subd. 4. [~~ADDITIONAL~~ LICENSING REQUIREMENTS AFTER FIVE YEARS.] Beginning five years after the effective date of the rules authorized in section 148C.03, subdivision 1, an applicant for licensure must ~~have received~~ submit evidence to the commissioner that the applicant has met one of the following requirements:

(1) The applicant must have:

(i) received a bachelor's degree from an accredited school or educational program, ~~and must have completed~~ including 480 clock hours of alcohol and drug counseling education from an accredited school or educational program and 880 clock hours of alcohol and drug counseling practicum,

(ii) completed a written case presentation and satisfactorily passed an oral examination that demonstrates competence in the core functions, and

(iii) satisfactorily passed a written examination as established by the commissioner; or

(2) The applicant must meet the requirements of section 148C.07.

Sec. 40. Minnesota Statutes 1995 Supplement, section 148C.04, is amended by adding a subdivision to read:

Subd. 5. [ADDITIONAL LICENSING REQUIREMENTS.] Applicants must also meet the special licensing requirements in section 148C.11, subdivision 4, and in the rules authorized in section 148C.03, subdivision 1, when applicable.

Sec. 41. Minnesota Statutes 1995 Supplement, section 148C.05, subdivision 1, is amended to read:

Subdivision 1. [RENEWAL REQUIREMENTS.] To renew a license, an applicant must:

(1) ~~annually~~ complete a renewal application every two years on a form provided by the commissioner and submit the ~~annual~~ biennial renewal fee by the deadline; and

(2) submit additional information if requested by the commissioner to clarify information presented in the renewal application. This information must be submitted within 30 days of the commissioner's request.

Sec. 42. Minnesota Statutes 1995 Supplement, section 148C.06, is amended to read:

148C.06 [TRANSITION PERIOD.]

For two years from the effective date of the rules authorized in section 148C.03, subdivision 1, the commissioner shall issue a license to an applicant if the applicant meets one of the following qualifications:

(a) is credentialed as a certified chemical dependency counselor (CCDC) or certified chemical dependency counselor reciprocal (CCDCR) by the Institute for Chemical Dependency Professionals of Minnesota, Inc.;

(b) has 6,000 hours of supervised alcohol and drug counselor experience as defined by the core functions, 270 clock hours of alcohol and drug training with a minimum of 60 hours of this training occurring within the past five years, 300 hours of alcohol and drug ~~practicum~~ counselor internship, and has successfully completed the requirements in section 148C.04, subdivision 3, paragraph (a), clauses (2) and (3);

(c) has 10,000 hours of supervised alcohol and drug counselor experience as defined by the core functions, 270 clock hours of alcohol and drug training with a minimum of 60 hours of this training occurring within the past five years, and has successfully completed the requirements in section 148C.04, subdivision 3, paragraph (a), clause (2) or (3), or is credentialed as a certified chemical dependency practitioner (CCDP) by the Institute for Chemical Dependency Professionals of Minnesota, Inc.;

(d) has 14,000 hours of supervised alcohol and drug counselor experience as defined by the core functions and 270 clock hours of alcohol and drug training with a minimum of 60 hours of this training occurring within the past five years; or

(e) has met the special licensing criteria established pursuant to section 148C.11.

Sec. 43. Minnesota Statutes 1994, section 148C.09, is amended by adding a subdivision to read:

Subd. 1a. [BACKGROUND INVESTIGATION.] The applicant must sign a release authorizing the commissioner to obtain information from the bureau of criminal apprehension, the Federal Bureau of Investigation, the office of mental health practice, the department of human services, the office of health facilities complaints, and other agencies specified in the rules. After the commissioner has given written notice to an individual who is the subject of a background investigation, the agencies shall assist the commissioner with the investigation by giving the commissioner criminal conviction data, reports about abuse or neglect of clients, and other information specified in the rules.

Sec. 44. Minnesota Statutes 1995 Supplement, section 148C.11, subdivision 1, is amended to read:

Subdivision 1. [OTHER PROFESSIONALS.] Nothing in sections 148C.01 to 148C.10 shall prevent members of other professions or occupations from performing functions for which they are qualified or licensed. This exception includes, but is not limited to, licensed physicians, registered nurses, licensed practical nurses, licensed psychological practitioners, members of the clergy, American Indian medicine men and women, licensed attorneys, probation officers, licensed marriage and family therapists, licensed social workers, licensed professional counselors, school counselors employed by a school district while acting within the scope of their employment as a school counselor, and registered occupational therapists or ~~certified~~ occupational ~~therapist~~ therapy assistants. These persons must not, however, use a title incorporating the words "alcohol and drug counselor" or "licensed alcohol and drug counselor" or otherwise hold themselves out to

the public by any title or description stating or implying that they are licensed to engage in the practice of alcohol and drug counseling.

Sec. 45. Minnesota Statutes 1995 Supplement, section 148C.11, subdivision 3, is amended to read:

Subd. 3. [FEDERALLY RECOGNIZED TRIBES.] (a) Alcohol and drug counselors licensed to practice alcohol and drug counseling according to standards established by federally recognized tribes, while practicing under tribal jurisdiction, are exempt from the requirements of this chapter. In practicing alcohol and drug counseling under tribal jurisdiction, individuals licensed under that authority shall be afforded the same rights, responsibilities, and recognition as persons licensed pursuant to this chapter.

(b) The commissioner shall develop special licensing criteria for issuance of a license to alcohol and drug counselors who: (1) are members of ethnic minority groups; or (2) are employed by private, nonprofit agencies, including agencies operated by private, nonprofit hospitals, whose primary agency service focus addresses ethnic minority populations. These licensing criteria may differ from the licensing criteria specified in section 148C.04. To develop these criteria, the commissioner shall establish a committee comprised of but not limited to representatives from the council on hearing impaired, the council on affairs of Spanish-speaking people, the council on Asian-Pacific Minnesotans, the council on Black Minnesotans, and the Indian affairs council.

Sec. 46. Minnesota Statutes 1995 Supplement, section 157.011, subdivision 1, is amended to read:

Subdivision 1. [ESTABLISHMENTS.] The commissioner shall adopt rules establishing standards for food~~,~~ and beverage service establishments, ~~and~~ hotels, motels, lodging establishments, and resorts.

Sec. 47. Minnesota Statutes 1995 Supplement, section 157.15, subdivision 4, is amended to read:

Subd. 4. [BOARDING ESTABLISHMENT.] "Boarding establishment" means a ~~building, structure, enclosure, or any part thereof used as, maintained as, advertised as, or held out to be a place~~ food and beverage service establishment where food or ~~nonalcoholic~~ beverages, or both, are furnished to five or more regular boarders, whether with or without sleeping accommodations, for periods of one week or more.

Sec. 48. Minnesota Statutes 1995 Supplement, section 157.15, subdivision 5, is amended to read:

Subd. 5. [FOOD AND BEVERAGE SERVICE ESTABLISHMENT.] "Food and beverage service establishment" means a ~~restaurant, alcoholic beverage establishment, boarding establishment, mobile food unit, seasonal food stand, food cart, or special event food stand~~ building, structure, enclosure, or any part of a building, structure, or enclosure used as, maintained as, advertised as, or held out to be an operation that prepares, serves, or otherwise provides food or beverages, or both, for human consumption.

Sec. 49. Minnesota Statutes 1995 Supplement, section 157.15, subdivision 6, is amended to read:

Subd. 6. [FOOD CART.] "Food cart" means a food and beverage service establishment that is a nonmotorized vehicle ~~limited to serving food that is not defined by rule as potentially hazardous food, except precooked frankfurters and other ready-to-eat link sausages~~ self-propelled by the operator.

Sec. 50. Minnesota Statutes 1995 Supplement, section 157.15, subdivision 9, is amended to read:

Subd. 9. [MOBILE FOOD UNIT.] "Mobile food unit" means a food and beverage service establishment that is a vehicle mounted unit, either motorized or trailered, operating no more than 14 days annually at any one place or is operated in conjunction with a permanent business at the

site of the permanent business by the same individual or company, and readily movable, without disassembling, for transport to another location ~~and remaining for no more than 14 days, annually, at any one place~~.

Sec. 51. Minnesota Statutes 1995 Supplement, section 157.15, subdivision 12, is amended to read:

Subd. 12. [RESTAURANT.] "Restaurant" means a ~~building, structure, enclosure, or any part thereof used as, maintained as, advertised as, or held out to be a place where food or nonalcoholic beverages are served or prepared for service to the public~~ food and beverage service establishment, whether the establishment serves alcoholic or nonalcoholic beverages, which operates from a location for more than 14 days annually. Restaurant does not include a food cart or a mobile food unit.

Sec. 52. Minnesota Statutes 1995 Supplement, section 157.15, is amended by adding a subdivision to read:

Subd. 12a. [SEASONAL PERMANENT FOOD STAND.] "Seasonal permanent food stand" means a food and beverage service establishment which is a permanent food service stand or building, but which operates no more than 14 days annually.

Sec. 53. Minnesota Statutes 1995 Supplement, section 157.15, subdivision 13, is amended to read:

Subd. 13. [SEASONAL TEMPORARY FOOD STAND.] "Seasonal temporary food stand" means a food and beverage service establishment that is a food stand ~~that~~ which is disassembled and moved from location to location, ~~remaining~~ but which operates no more than 14 days~~,~~ annually~~,~~ at any one ~~place; or a permanent food service stand or building that operates no more than 14 days annually~~ location.

Sec. 54. Minnesota Statutes 1995 Supplement, section 157.15, subdivision 14, is amended to read:

Subd. 14. [SPECIAL EVENT FOOD STAND.] "Special event food stand" means a food and beverage service establishment which is used in conjunction with celebrations and special events, ~~used not more than twice annually, and remaining~~ and which operates once or twice annually for no more than ~~three consecutive~~ seven total days ~~at any one location~~.

Sec. 55. Minnesota Statutes 1995 Supplement, section 157.15, is amended by adding a subdivision to read:

Subd. 15. [SPECIAL EVENT FOOD STAND-LIMITED.] "Special event food stand-limited" means a fee category where food is served at special events that is prepared at another licensed location and is only held and served with no additional preparation at the serving site of the special event, and which operates once or twice annually for no more than seven total days.

Sec. 56. Minnesota Statutes 1995 Supplement, section 157.16, is amended to read:

157.16 [LICENSES REQUIRED; FEES.]

Subdivision 1. [LICENSE REQUIRED ANNUALLY.] A license is required annually for every person, firm, or corporation engaged in the business of conducting a food and beverage service establishment hotel, motel, ~~restaurant, alcoholic beverage establishment, boarding establishment,~~ lodging establishment, or resort~~, mobile food unit, seasonal food stand, food cart, or special event food stand or who thereafter engages in conducting any such business~~. Any person wishing to operate a place of business licensed in this section shall first make application, pay the required fee specified in this section, and receive approval for operation, including plan review approval. Seasonal and temporary food stands and special event food stands are not required to submit plans. Application shall be made on forms provided by the commissioner and shall require the applicant to state the full name and address of the owner of the building, structure, or enclosure, the lessee and manager of the food and beverage service establishment, hotel, motel, ~~restaurant, alcoholic beverage establishment, boarding establishment,~~ lodging establishment, or resort~~, mobile~~

~~food unit, seasonal food stand, food cart, or special event food stand~~; the name under which the business is to be conducted; and any other information as may be required by the commissioner to complete the application for license.

Subd. 2. [LICENSE RENEWAL.] Initial and renewal licenses for all food and beverage service establishments, hotels, motels, ~~restaurants, alcoholic beverage establishments,~~ lodging establishments, ~~boarding establishments,~~ and resorts~~, mobile food units, seasonal food stands, and food carts~~ shall be issued for the calendar year for which application is made and shall expire on December 31 of such year. Any person who operates a place of business after the expiration date of a license or without having submitted an application and paid the fee shall be deemed to have violated the provisions of this chapter and shall be subject to enforcement action, as provided in the health enforcement consolidation act, sections 144.989 to 144.993. In addition, a penalty of $25 shall be added to the total of the license fee for any food and beverage service establishment operating without a license as a mobile food unit, a seasonal temporary or seasonal permanent food stand, ~~and food cart operating without a license~~ or a special event food stand, and a penalty of $50 shall be added to the total of the license fee for all ~~other food, beverage, and~~ restaurants, food carts, hotels, motels, lodging establishments, and resorts operating without a license.

Subd. 3. [ESTABLISHMENT FEES; DEFINITIONS.] ~~For the purposes of establishing food, beverage, and lodging establishment fees, the following definitions have the meanings given them.~~ (a) The following fees are required for food and beverage service establishments, hotels, motels, lodging establishments, and resorts licensed under this chapter. Food and beverage service establishments must pay the highest applicable fee under paragraph (e), clause (1), (2), (3), or (4), and establishments serving alcohol must pay the highest applicable fee under paragraph (e), clause (6) or (7).

(b) All food and beverage service establishments, except special event food stands, and all hotels, motels, lodging establishments, and resorts shall pay an annual base fee of $100.

(c) A special event food stand shall pay a flat fee of $60 annually. "Special event food stand" means a fee category where food is prepared or served in conjunction with celebrations, county fairs, or special events from a special event food stand as defined in section 157.15.

(d) A special event food stand-limited shall pay a flat fee of $30.

(e) In addition to the base fee in paragraph (b), each food and beverage service establishment, other than a special event food stand, and each hotel, motel, lodging establishment, and resort shall pay an additional annual fee for each fee category as specified in this paragraph:

(1) Limited food menu selection, $30.

~~(a)~~ "Limited food menu selection" means a fee category that provides one or more of the following:

~~(1)~~ (i) prepackaged food that receives heat treatment and is served in the package;

~~(2)~~ (ii) frozen pizza that is heated and served;

~~(3)~~ (iii) a continental breakfast such as rolls, coffee, juice, milk, and cold cereal;

~~(4)~~ (iv) soft drinks, coffee, or nonalcoholic beverages; or

~~(5) does not prepare food on site, however serves food that was prepared elsewhere and provides~~ (v) cleaning ~~of~~ for eating, drinking, or cooking utensils, when the only food served is prepared off site.

(2) Small menu selection with limited equipment, including boarding establishments, $55.

~~(b)~~ "Small menu selection with limited equipment" means a fee category that has no salad bar and ~~provides~~ meets one or more of the following:

~~(1)~~ (i) possesses food service equipment that ~~is limited to~~ consists of no more than a deep fat fryer, a grill, two hot holding containers, and one or more microwave ovens;

~~(2) service of~~ (ii) serves dipped ice cream or soft serve frozen desserts;

~~(3) service of~~ (iii) serves breakfast in an owner-occupied bed and breakfast establishment; or

~~(4)~~ (iv) is a boarding establishment.

(3) Small establishment with full menu selection, $150.

~~(c)~~ "Small establishment with full menu selection" means a fee category that ~~provides~~ meets one or more of the following:

~~(1)~~ (i) possesses food service equipment that includes a range, oven, steam table, salad bar, or salad preparation area;

~~(2)~~ (ii) possesses food service equipment that includes more than one deep fat fryer, one grill, or two hot holding containers; or

~~(3)~~ (iii) is an establishment where food is prepared at one location and served at one or more separate locations.

(4) Large establishment with full menu selection, $250.

~~(d)~~ "Large establishment with full menu selection" means either:

(i) a fee category that (1) meets the criteria in ~~paragraph (c), clause (1) or (2)~~ clause (3), subclause (i) or (ii), for a small establishment with full menu selection ~~and: (1)~~, (2) seats more than 175 people~~; (2)~~, and (3) offers the full menu selection an average of five or more days a week during the weeks of operation; or ~~means~~

(ii) a ~~service~~ fee category that (1) meets the criteria in ~~paragraph (c),~~ clause (3), subclause (iii), for a small establishment with full menu selection~~;~~, and ~~(3)~~ (2) prepares and serves 500 or more meals per day.

~~(e) "Temporary food service" means a fee category where food is prepared and served from a mobile food unit, seasonal food stand, or food cart.~~

~~(f) "Alcohol service from bar" means a fee category where alcoholic mixed drinks are served, or where beer or wine are served from a bar.~~

(5) Other food and beverage service, including food carts, mobile food units, seasonal temporary food stands, and seasonal permanent food stands, $30.

(6) Beer or wine table service, $30.

~~(g)~~ "Beer or wine table service" means a fee category where the only alcoholic beverage service is beer or wine, served to customers seated at tables.

~~(h) "Individual water" means a fee category with a water supply other than a community public water supply as defined in Minnesota Rules, chapter 4720.~~

~~(i) "Individual sewer" means a fee category with an individual sewage treatment system which uses subsurface treatment and disposal.~~

(7) Alcoholic beverage service, other than beer or wine table service, $75.

"Alcohol service other than beer or wine table service" means a fee category where alcoholic mixed drinks are served or where beer or wine are served from a bar.

(8) Lodging per sleeping accommodation unit, $4, including hotels, motels, lodging establishments, and resorts, up to a maximum of $400.

~~(j)~~ "Lodging per sleeping accommodation unit" means a fee category including the number of guest rooms, cottages, or other rental units of a hotel, motel, lodging establishment, or resort; or the number of beds in a dormitory.

(9) First public swimming pool, $100; each additional public swimming pool, $50.

~~(k)~~ "Public swimming pool" means a fee category that has the meaning given in Minnesota Rules, part 4717.0250, subpart 8.

(10) First spa, $50; each additional spa, $25.

~~(l)~~ "Spa pool" means a fee category that has the meaning given in Minnesota Rules, part 4717.0250, subpart 9.

~~(m) "Special event food stand" means a fee category where food is prepared and served in conjunction with celebrations or special events, but not more than twice annually, and where the facility is used no more than three consecutive days per event.~~

(11) Private sewer or water, $30.

"Individual private water" means a fee category with a water supply other than a community public water supply as defined in Minnesota Rules, chapter 4720. "Individual private sewer" means a fee category with an individual sewage treatment system which uses subsurface treatment and disposal.

(f) A fee is not required for a food and beverage service establishment operated by a school as defined in sections 120.05 and 120.101.

(g) A fee of $150 for review of the construction plans must accompany the initial license application for food and beverage service establishments, hotels, motels, lodging establishments, or resorts.

(h) When existing food and beverage service establishments, hotels, motels, lodging establishments, or resorts are extensively remodeled, a fee of $150 must be submitted with the remodeling plans.

(i) Seasonal temporary food stands, special event food stands, and special event food stands-limited are not required to submit construction or remodeling plans for review.

Subd. 4. [POSTING REQUIREMENTS.] Every food and beverage service establishment, hotel, motel, lodging establishment, or resort must have the license posted in a conspicuous place at the establishment.

Sec. 57. Minnesota Statutes 1995 Supplement, section 157.17, subdivision 2, is amended to read:

Subd. 2. [REGISTRATION.] At the time of licensure or license renewal, a ~~board~~ boarding and lodging establishment or a lodging establishment that provides supportive services or health supervision services must ~~register~~ be registered with the commissioner, and must register annually thereafter. The registration must include the name, address, and telephone number of the establishment, the name of the operator, the types of services that are being provided, a description of the residents being served, the type and qualifications of staff in the facility, and other information that is necessary to identify the needs of the residents and the types of services that are being provided. The commissioner shall develop and furnish to the boarding and lodging establishment or lodging establishment the necessary form for submitting the registration. The requirement for registration is effective until the rules required by sections 144B.01 to 144B.17 are effective.

Sec. 58. Minnesota Statutes 1995 Supplement, section 157.20, subdivision 1, is amended to read:

Subdivision 1. [INSPECTIONS.] It shall be the duty of the commissioner to inspect, or cause to be inspected, every food and beverage service establishment, hotel, motel, ~~restaurant, alcoholic beverage establishment, boarding establishment,~~ lodging establishment, or resort~~, mobile food unit, seasonal food stand, food cart, and special event food stand in this state~~. For the purpose of conducting inspections, the commissioner shall have the right to enter and have access thereto at any time during the conduct of business.

Sec. 59. Minnesota Statutes 1995 Supplement, section 157.20, is amended by adding a subdivision to read:

Subd. 2a. [RISK CATEGORIES.] (a) [HIGH-RISK ESTABLISHMENT.] "High-risk establishment" means any food and beverage service establishment, hotel, motel, lodging establishment, or resort that:

(1) serves potentially hazardous foods that require extensive processing on the premises, including manual handling, cooling, reheating, or holding for service;

(2) prepares foods several hours or days before service;

(3) serves menu items that epidemologic experience has demonstrated to be common vehicles of food-borne illness;

(4) has a public swimming pool; or

(5) draws its drinking water from a surface water supply.

(b) [MEDIUM-RISK ESTABLISHMENT.] "Medium-risk establishment" means a food and beverage service establishment, hotel, motel, lodging establishment, or resort that:

(1) serves potentially hazardous foods but with minimal holding between preparation and service; or

(2) serves foods, such as pizza, that require extensive handling followed by heat treatment.

(c) [LOW-RISK ESTABLISHMENT.] "Low-risk establishment" means a food and beverage service establishment, hotel, motel, lodging establishment, or resort that is not a high-risk or medium-risk establishment.

(d) [RISK EXCEPTIONS.] Mobile food units, seasonal permanent and seasonal temporary food stands, food carts, and special event food stands are not inspected on an established schedule and therefore are not defined as high-risk, medium-risk, or low-risk establishments.

Sec. 60. Minnesota Statutes 1995 Supplement, section 157.21, is amended to read:

157.21 [INSPECTION RECORDS.]

The commissioner shall keep inspection records for all food and beverage service establishments, hotels, motels, ~~restaurants, alcoholic beverage establishments, boarding establishments,~~ lodging establishments, and resorts, ~~mobile food units, seasonal food stands, food carts, and special event food stands,~~ together with the name of the owner and operator.

Sec. 61. Minnesota Statutes 1994, section 327.14, subdivision 8, is amended to read:

Subd. 8. [RECREATIONAL CAMPING AREA.] "Recreational camping area" means any area, whether privately or publicly owned, used on a daily, nightly, weekly, or longer basis for the accommodation of five or more tents or recreational camping vehicles free of charge or for compensation. "Recreational camping area" excludes:

(1) children's camps~~,~~;

(2) industrial camps~~,~~;

(3) migrant labor camps, as defined in Minnesota Statutes and state commissioner of health rules~~,~~;

(4) United States forest service camps~~,~~;

(5) state forest service camps~~,~~;

(6) state wildlife management areas or state-owned public access areas which are restricted in use to picnicking and boat landing; and

(7) temporary holding areas for self-contained recreational camping vehicles created by and adjacent to motor sports facilities, if the chief law enforcement officer of an affected jurisdiction determines that it is in the interest of public safety to provide a temporary holding area.

Sec. 62. [REPORT ON IMMUNIZATION LAW AND POLICY.]

By January 15, 1997, the commissioner of health shall report recommendations to the legislature and governor relating to Minnesota immunization law and policy regarding vaccine-preventable diseases for which immunization is not currently required by law, including, but not limited to, hepatitis A, hepatitis B, varicella, and other vaccine- preventable diseases identified by the commissioner.

Sec. 63. [REPORT ON THE BIRTH DEFECTS REGISTRY SYSTEM.]

The commissioner of health shall submit to the legislature a report by January 31, 1997, on the development of the birth defects registry system, including recommendations for additional statutory authority necessary to implement the system.

Sec. 64. [STUDY; PRICE CONTRACT FOR PRESCRIPTION DRUGS.]

The commissioners of health, human services, and administration shall develop a plan to provide prescription drugs at significantly discounted prices to individuals 65 years or older whose income is below 200 percent of the current federal poverty level. The commissioners shall submit a report detailing the plan by October 1, 1996, to the chairs of the house of representatives governmental operations committee, the house of representatives state government finance division, the house of representatives health and human services committee, the senate governmental operations and veterans committee, the state government division of the senate finance committee, the senate health care committee, and the senate health care and family services finance division.

Sec. 65. [MERC STUDY.]

The medical education and research cost advisory task force shall make recommendations to the commissioner of health and to the house health and human services committee and both finance divisions, and the senate health care committee and the senate health care and family services finance division by December 15, 1996, on potential sources of funding for medical education and research and on mechanisms for the distribution of such funding sources.

Sec. 66. [REPORT ON CHILD PROGRAM IMPLEMENTATION PLAN.]

By February 15, 1997, the commissioner of health shall present to the legislature an implementation plan for the establishment of a statewide CHILD program. The implementation plan must incorporate the requirements for program structure and standards, duties of participating local organizations, training and recruitment of volunteers, and eligibility, as provided in Minnesota Statutes, sections 145.953 to 145.957. The report shall include recommendations about which executive agency is the most appropriate one within which to house the CHILD program under Minnesota Statutes, sections 145.951 to 145.957.

Sec. 67. [STUDY; CORPORATE ADULT FOSTER CARE.]

The commissioner of human services shall conduct a study of the current adult foster care licensure requirements as they are applied to corporate adult foster care homes, and shall recommend any appropriate changes to these licensure requirements following the implementation of the housing with services contract act under Minnesota Statutes, chapter 144D. The commissioner shall submit a report with the results and recommendations of this study to the house health and human services committee, the house health and human services finance division, the senate health care committee, and the senate health care and family services finance division by January 15, 1997.

Sec. 68. [DAKOTA COUNTY ENHANCED AUTOMATION SYSTEM DEMONSTRATION PROJECT.]

Dakota county may implement a demonstration project to develop an enhanced automation system to educate public assistance recipients on their health care options. This project may include a system that combines interactive touch screen video, clinic maps, text and audio both in multiple languages to assist clients in selecting a managed health care provider. The automated system must be located in kiosks in the county. Dakota county shall report to the house health and human services committee, the house health and human services finance division, the senate health care committee, and the senate health care and family services finance division by January 1, 1998, on the results of the demonstration project. The report shall include, at a minimum, information about savings realized by the county from the demonstration project.

Sec. 69. [MIGRANT FARMWORKER DATA RESEARCH.]

(a) The commissioner of health shall collect, analyze, and report information on collaborative resources and nutrition available to and economic contributions to the state by migrant farmworkers in Minnesota in consultation with an advisory committee made up of representatives from migrant-serving agencies, county economic assistance program staff, and migrant farmworkers and family members.

(b) The advisory committee members should include representatives from:

(1) Migrant Health;

(2) Migrant Education;

(3) Migrant Head Start;

(4) Migrant Legal Services;

(5) Midwest Farmworkers Employment and Training;

(6) Women, Infants, and Children's Supplemental Feeding Program (WIC);

(7) Tri-Valley Opportunity Council;

(8) Minnesota Food Shelf Association;

(9) at least two county economic assistance offices from counties with large migrant populations during the agricultural season;

(10) the Spanish Speaking Affairs Council;

(11) the Minnesota department of health; and

(12) at least two migrant community members or advocates.

The advisory committee, in consultation with the department of health, shall develop the research, collection, and reporting requirements and ensure that the results are shared among all members of the advisory committee and all interested parties. The advisory committee and the department of health shall report the results of their research to the house health and human services finance division and the senate health care and family service finance division by January 15, 1997.

Sec. 70. [INSTRUCTION TO REVISOR.]

In each section of Minnesota Statutes referred to in column A, the revisor of statutes shall delete the reference in column B and insert the reference in column C. The references in column C may be changed by the revisor to the section of Minnesota Statutes in which the bill sections are compiled.

Column A	Column B	Column C
28A.15, subdivision 5	157.03	157.16
157.15, subdivision 1	157.03	157.011
160.295, subdivision 3	157.03	157.16

256B.0913, subdivision 5	157.03	157.011
299F.46, subdivision 1	157.03	157.011

Sec. 71. [REPEALER.]

Minnesota Statutes 1994, sections 144.691, subdivision 4; 146.14; and 146.20; Minnesota Statutes 1995 Supplement, sections 157.03; 157.15, subdivision 2; 157.18; and 157.19, are repealed.

Sec 72. [EFFECTIVE DATE.]

Sections 32 to 45, 64, and 68 are effective the day following final enactment.

ARTICLE 5

DEPARTMENT OF HUMAN SERVICES TECHNICAL AND POLICY CHANGES

Section 1. Minnesota Statutes 1994, section 62D.04, subdivision 5, is amended to read:

Subd. 5. [PARTICIPATION; GOVERNMENT PROGRAMS.] Health maintenance organizations shall, as a condition of receiving and retaining a certificate of authority, participate in the medical assistance, general assistance medical care, and MinnesotaCare programs. ~~The participation required from health maintenance organizations shall be pursuant to rules adopted under section 256B.0644~~ A health maintenance organization is required to submit proposals in good faith to serve individuals eligible for the above programs in a geographic region of the state if, at the time of publication of a request for proposal, the percentage of recipients in the public programs in the region who are enrolled in the health maintenance organization is less than the health maintenance organization's percentage of the total number of individuals enrolled in health maintenance organizations in the same region. Geographic regions shall be defined by the commissioner of human services in the request for proposals.

Sec. 2. Minnesota Statutes 1994, section 62N.10, subdivision 4, is amended to read:

Subd. 4. [PARTICIPATION; GOVERNMENT PROGRAMS.] Integrated service networks shall, as a condition of licensure, participate in the medical assistance, general assistance medical care, and MinnesotaCare programs. An integrated service network is required to submit proposals in good faith to serve persons who are eligible for the above programs if, at the time of publication of a request for proposal, the percentage of recipients in the public programs in the region who are enrolled in the integrated service network is less than the integrated service network's percentage of the total number of individuals enrolled in integrated service networks in the same region. Geographic regions shall be defined by the commissioner of human services in the request for proposals. ~~The commissioner shall adopt rules specifying the participation required of the networks. The rules must be consistent with Minnesota Rules, parts 9505.5200 to 9505.5260, governing participation by health maintenance organizations in public health care programs.~~

Sec. 3. Minnesota Statutes 1994, section 144.0722, is amended by adding a subdivision to read:

Subd. 2a. [SEMIANNUAL ASSESSMENT BY NURSING FACILITIES.] Notwithstanding Minnesota Rules, part 9549.0059, subpart 2, item B, the individual dependencies items 21 to 24 and 28 are required to be completed in accordance with the Facility Manual for Completing Case Mix Requests for Classification, July 1987, issued by the Minnesota department of health.

Sec. 4. Minnesota Statutes 1994, section 245.462, subdivision 4, is amended to read:

Subd. 4. [CASE MANAGER.] "Case manager" means an individual employed by the county or other entity authorized by the county board to provide case management services specified in section 245.4711. A case manager must have a bachelor's degree in one of the behavioral sciences or related fields from an accredited college or university and have at least 2,000 hours of supervised experience in the delivery of services to adults with mental illness, must be skilled in the process of identifying and assessing a wide range of client needs, and must be knowledgeable about local community resources and how to use those resources for the benefit of the client. The

case manager shall meet in person with a mental health professional at least once each month to obtain clinical supervision of the case manager's activities. Case managers with a bachelor's degree but without 2,000 hours of supervised experience in the delivery of services to adults with mental illness must complete 40 hours of training approved by the commissioner of human services in case management skills and in the characteristics and needs of adults with serious and persistent mental illness and must receive clinical supervision regarding individual service delivery from a mental health professional at least once each week until the requirement of 2,000 hours of supervised experience is met. Clinical supervision must be documented in the client record.

Until June 30, ~~1996~~ 1999, a refugee who does not have the qualifications specified in this subdivision may provide case management services to adult refugees with serious and persistent mental illness who are members of the same ethnic group as the case manager if the person: (1) is actively pursuing credits toward the completion of a bachelor's degree in one of the behavioral sciences or a related field from an accredited college or university; (2) completes 40 hours of training as specified in this subdivision; and (3) receives clinical supervision at least once a week until the requirements of obtaining a bachelor's degree and 2,000 hours of supervised experience are met.

Sec. 5. Minnesota Statutes 1994, section 245.4871, subdivision 4, is amended to read:

Subd. 4. [CASE MANAGER.] (a) "Case manager" means an individual employed by the county or other entity authorized by the county board to provide case management services specified in subdivision 3 for the child with severe emotional disturbance and the child's family. A case manager must have experience and training in working with children.

(b) A case manager must:

(1) have at least a bachelor's degree in one of the behavioral sciences or a related field from an accredited college or university;

(2) have at least 2,000 hours of supervised experience in the delivery of mental health services to children;

(3) have experience and training in identifying and assessing a wide range of children's needs; and

(4) be knowledgeable about local community resources and how to use those resources for the benefit of children and their families.

(c) The case manager may be a member of any professional discipline that is part of the local system of care for children established by the county board.

(d) The case manager must meet in person with a mental health professional at least once each month to obtain clinical supervision.

(e) Case managers with a bachelor's degree but without 2,000 hours of supervised experience in the delivery of mental health services to children with emotional disturbance must:

(1) begin 40 hours of training approved by the commissioner of human services in case management skills and in the characteristics and needs of children with severe emotional disturbance before beginning to provide case management services; and

(2) receive clinical supervision regarding individual service delivery from a mental health professional at least once each week until the requirement of 2,000 hours of experience is met.

(f) Clinical supervision must be documented in the child's record. When the case manager is not a mental health professional, the county board must provide or contract for needed clinical supervision.

(g) The county board must ensure that the case manager has the freedom to access and coordinate the services within the local system of care that are needed by the child.

(h) Until June 30, ~~1996~~ 1999, a refugee who does not have the qualifications specified in this subdivision may provide case management services to child refugees with severe emotional disturbance of the same ethnic group as the refugee if the person:

(1) is actively pursuing credits toward the completion of a bachelor's degree in one of the behavioral sciences or related fields at an accredited college or university;

(2) completes 40 hours of training as specified in this subdivision; and

(3) receives clinical supervision at least once a week until the requirements of obtaining a bachelor's degree and 2,000 hours of supervised experience are met.

Sec. 6. [252B.01] [RULE CONSOLIDATION.]

Subdivision 1. [STANDARDS.] For programs or services licensed pursuant to Minnesota Rules, parts 9525.0215 to 9525.0355; 9525.0500 to 9525.0660; 9525.1500 to 9525.1690; and 9525.2000 to 9525.2140, the following standards apply and supersede the requirements of the applicable rule parts for staff qualification, orientation, and training.

Subd. 2. [STAFF QUALIFICATIONS.] (a) The license holder must ensure that staff is competent through training, experience, and education to meet the consumer's needs as written in the individual service plan. The staff qualifications must be documented.

(b) Delivery and evaluation of services provided by the license holder to a consumer must be coordinated by a designated person. This designated person or coordinator must minimally have a four-year degree in a field related to service provision and one-year work experience with consumers with mental retardation or related conditions, a two-year degree in a field related to service provision, and two years work experience with consumers with mental retardation or related conditions, or a certificate of competence from an accredited post-secondary program in the area of developmental disabilities and two years work experience with consumers with mental retardation or related conditions. The coordinator must provide supervision, support, and evaluation of activities that include:

(1) oversight of the license holder's responsibilities designated in the individual service plan;

(2) instructions and assistance to staff implementing the individual service plan areas;

(3) evaluation of the effectiveness of service delivery, methodologies, and progress on consumer outcomes based on the condition set for objective change; and

(4) review of incident and emergency reports, identification of incident patterns, and implementation of corrective action as necessary to reduce occurrences.

(c) The coordinator is responsible for taking necessary actions to facilitate the accomplishment of the outcomes for each consumer as specified in the consumer's individual service plan.

(d) The license holder must provide for adequate supervision for direct care staff to ensure implementation of the individual service plan.

Subd. 3. [STAFF ORIENTATION.] (a) Within 60 days of hiring staff who provide direct service, the license holder must provide 30 hours of orientation. Direct care staff must complete 15 of the 30 hours before providing any direct service to a consumer without direct supervision. If the staff person has received orientation training from a license holder licensed under a program rule identified in this chapter, or provides semi-independent living services only, the 15-hour requirement may be reduced to eight hours. The total orientation of 30 hours may be reduced to 15 hours if the staff person has previously received orientation training from a license holder licensed by a program rule identified in this chapter.

(b) The 30 hours of orientation must combine supervised on-the-job training with coverage of the material in clauses (1) to (8);

(1) review of the consumer's complete individual service plan to achieve an understanding of the consumer as a unique individual;

(2) review and instructions regarding the license holder's policies and procedures including their location and access;

(3) emergency procedures;

(4) explanation of specific job functions including implementing objectives from the consumer's individual service plan;

(5) explanation of responsibilities related to sections 626.556 and 626.557, and Minnesota Rules, parts 9555.8000 to 9555.8500, including requirements of rules promulgated thereunder; sections 245A.01 to 245A.16, the human services licensing act; and Minnesota Rules, parts 9525.2700 to 9525.2810, governing use of aversive and deprivation procedures;

(6) medication administration as it applies to the individual consumer;

(7) consumer rights; and

(8) other topics necessary as determined by the consumer's individual service plan or other areas identified by the license holder.

(c) The license holder must document each employee's orientation received.

Subd. 4. [STAFF TRAINING.] (a) The license holder shall ensure that direct service staff annually complete hours of training equal to two percent of the number of hours the staff person worked or one percent for license holders under Minnesota Rules, parts 9525.0500 to 9525.0660. If direct service staff have received training from a license holder licensed under a program rule identified in this chapter, the training may also count toward training requirements for other services and of other license holders.

(b) The license holder must document the training completed by each employee.

(c) Training shall address the staff competencies necessary to address the consumer needs as identified in the consumer's individual service plan and ensure consumer health, safety, and protection of rights. Training may also include other areas identified by the license holder.

Sec. 7. [252B.02] [RESIDENTIAL BASED HABILITATION SERVICES.]

Residential service sites controlled by license holders licensed under Minnesota Rules, parts 9525.2000 to 9525.2140, for four or fewer adults are exempt from compliance with Minnesota Rules, parts 9555.5505; 9555.5515; 9555.5605; 9555.5705; 9555.6125, subparts 4 to 6; and 9555.6185. The provisions of this chapter do not apply to foster care homes that do not provide residential habilitation services funded under the home and community-based waiver programs defined in section 256B.092. The commissioner may approve alternative methods of providing overnight supervision using the process and criteria for granting a variance in section 245A.04, subdivision 9.

Sec. 8. Minnesota Statutes 1994, section 253B.11, subdivision 2, is amended to read:

Subd. 2. [FACILITIES.] Each county or a group of counties shall maintain or provide by contract a facility for confinement of persons held temporarily for observation, evaluation, diagnosis, treatment, and care. When the confinement is provided at a regional center, the commissioner shall charge the county of financial responsibility for the costs of confinement of persons hospitalized under section 253B.05, subdivisions 1 and 2, and section 253B.07, subdivision 6, except that the commissioner shall bill the responsible prepaid plan for medically necessary hospitalizations for individuals enrolled in a prepaid plan under contract to provide medical assistance, general assistance medical care, or MinnesotaCare services. If the prepaid plan determines under the terms of the medical assistance, general assistance medical care, or MinnesotaCare contract that a hospitalization was not medically necessary, the county is responsible. "County of financial responsibility" means the county in which the person resides at the time of confinement or, if the person has no residence in this state, the county which initiated the confinement. The charge shall be based on the commissioner's determination of the cost of care pursuant to section 246.50, subdivision 5. When there is a dispute as to which county is the

county of financial responsibility, the county charged for the costs of confinement shall pay for them pending final determination of the dispute over financial responsibility. Disputes about the county of financial responsibility shall be submitted to the commissioner to be settled in the manner prescribed in section 256G.09.

Sec. 9. Minnesota Statutes 1995 Supplement, section 256.045, subdivision 3, is amended to read:

Subd. 3. [STATE AGENCY HEARINGS.] (a) State agency hearings are available for the following: (1) any person applying for, receiving or having received public assistance or a program of social services granted by the state agency or a county agency under sections 252.32, 256.031 to 256.036, and 256.72 to 256.879, chapters 256B, 256D, 256E, 261, or the federal Food Stamp Act whose application for assistance is denied, not acted upon with reasonable promptness, or whose assistance is suspended, reduced, terminated, or claimed to have been incorrectly paid; (2) any patient or relative aggrieved by an order of the commissioner under section 252.27; (3) a party aggrieved by a ruling of a prepaid health plan; ~~or~~ (4) an applicant aggrieved by an adverse decision to an application for a hardship waiver under section 256B.15; or (5) any individual or facility determined by a lead agency to have maltreated a vulnerable adult under section 626.557 after they have exercised their right to administrative reconsideration under section 626.557. Individuals and organizations specified in this section may contest the specified action, decision, or final disposition before the state agency by submitting a written request for a hearing to the state agency within 30 days after receiving written notice of the action, decision, or final disposition, or within 90 days of such written notice if the applicant, recipient, patient, or relative shows good cause why the request was not submitted within the 30-day time limit.

The hearing for an individual or facility under clause (4) is the only administrative appeal to the final lead agency disposition specifically, including a challenge to the accuracy and completeness of data under section 13.04.

For purposes of this section, bargaining unit grievance procedures are not an administrative appeal.

(b) Except for a prepaid health plan, a vendor of medical care as defined in section 256B.02, subdivision 7, or a vendor under contract with a county agency to provide social services under section 256E.08, subdivision 4, is not a party and may not request a hearing under this section, except if assisting a recipient as provided in subdivision 4.

(c) An applicant or recipient is not entitled to receive social services beyond the services included in the amended community social services plan developed under section 256E.081, subdivision 3, if the county agency has met the requirements in section 256E.081.

Sec. 10. Minnesota Statutes 1994, section 256.9355, subdivision 3, is amended to read:

Subd. 3. [EFFECTIVE DATE OF COVERAGE.] The effective date of coverage is the first day of the month following the month in which eligibility is approved and the first premium payment has been received. The effective date of coverage for eligible newborns or eligible newly adoptive children added to a family receiving covered health services is the date of entry into the family. The effective date of coverage for other new recipients added to the family receiving covered health services is the first day of the month following the month in which eligibility is approved and the first premium payment has been received. The premium must be received eight working days prior to the end of the month for coverage to begin the following month. Benefits are not available until the day following discharge if an enrollee is hospitalized on the first day of coverage. Notwithstanding any other law to the contrary, benefits under sections 256.9351 to 256.9361 are secondary to a plan of insurance or benefit program under which an eligible person may have coverage and the commissioner shall use cost avoidance techniques to ensure coordination of any other health coverage for eligible persons. The commissioner shall identify eligible persons who may have coverage or benefits under other plans of insurance or who become eligible for medical assistance.

Sec. 11. Minnesota Statutes 1995 Supplement, section 256.969, subdivision 1, is amended to read:

Subdivision 1. [HOSPITAL COST INDEX.] (a) The hospital cost index shall be the change in the Consumer Price Index-All Items (United States city average) (CPI-U) forecasted by Data Resources, Inc. The commissioner shall use the indices as forecasted in the third quarter of the calendar year prior to the rate year. The hospital cost index may be used to adjust the base year operating payment rate through the rate year on an annually compounded basis.

(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, nor under general assistance medical care, except that the inflation adjustments under paragraph (a) for medical assistance, excluding general assistance medical care, shall apply ~~for the biennium ending June 30, 1997~~ through calendar year 1997. 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. 12. Minnesota Statutes 1995 Supplement, section 256.969, subdivision 2b, is amended to read:

Subd. 2b. [OPERATING PAYMENT RATES.] In determining operating payment rates for admissions occurring on or after the rate year beginning January 1, 1991, and every two years after, or more frequently as determined by the commissioner, the commissioner shall obtain operating data from an updated base year and establish operating payment rates per admission for each hospital based on the cost-finding methods and allowable costs of the Medicare program in effect during the base year. Rates under the general assistance medical care ~~program~~, medical assistance, and MinnesotaCare programs shall not be rebased to more current data on January 1, 1997. The base year operating payment rate per admission is standardized by the case mix index and adjusted by the hospital cost index, relative values, and disproportionate population adjustment. The cost and charge data used to establish operating rates shall only reflect inpatient services covered by medical assistance and shall not include property cost information and costs recognized in outlier payments.

Sec. 13. Minnesota Statutes 1995 Supplement, section 256.969, subdivision 10, is amended to read:

Subd. 10. [SEPARATE BILLING BY CERTIFIED REGISTERED NURSE ANESTHETISTS.] Hospitals may exclude certified registered nurse anesthetist costs from the operating payment rate as allowed by section 256B.0625, subdivision 11. To be eligible, a hospital must notify the commissioner in writing by October 1 ~~of the year preceding the rate year of the request~~ of even-numbered years to exclude certified registered nurse anesthetist costs. The hospital must agree that all hospital claims for the cost and charges of certified registered nurse anesthetist services will not be included as part of the rates for inpatient services provided during the rate year. In this case, the operating payment rate shall be adjusted to exclude the cost of certified registered nurse anesthetist services.

For admissions occurring on or after July 1, 1991, and until the expiration date of section 256.9695, subdivision 3, services of certified registered nurse anesthetists provided on an inpatient basis may be paid as allowed by section 256B.0625, subdivision 11, when the hospital's base year did not include the cost of these services. To be eligible, a hospital must notify the commissioner in writing by July 1, 1991, of the request and must comply with all other requirements of this subdivision.

Sec. 14. Minnesota Statutes 1994, section 256B.03, is amended by adding a subdivision to read:

Subd. 3. [AMERICAN INDIAN HEALTH FUNDING.] Notwithstanding subdivision 1 and sections 256B.0625 and 256D.03, paragraph (f), the commissioner may make payments to federally recognized Indian tribes with a reservation in the state to provide medical assistance to Indians, as defined under federal law, who reside on or near the reservation. The payments may be made in the form of a block grant or other payment mechanism determined in consultation with the tribe. Any alternative payment mechanism agreed upon by the tribes and the commissioner under this subdivision is not dependent upon county agreement but is intended to create a direct payment mechanism between the state and the tribe for the administration of the medical assistance program and for covered services.

For purposes of this subdivision, "Indian tribe" means a tribe, band, or nation, or other organized group or community of Indians that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians and for which a reservation exists as is consistent with Public Law Number 100-485, as amended.

Payments under this subdivision may not result in an increase in expenditures that would not otherwise occur in the medical assistance program under this chapter or the general assistance medical care program under chapter 256D.

Sec. 15. Minnesota Statutes 1995 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 taxicab 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 certifying that the recipient ~~is so mentally or physically impaired as to be unable to~~ has a physical or mental impairment that would prohibit the recipient from safely ~~access~~ accessing and ~~use~~ using a bus, taxi, other commercial transportation, or private automobile. Special transportation includes driver-assisted service to eligible individuals. Driver-assisted service includes passenger pickup at and return to the individual's residence or place of business, assistance with admittance of the individual to the medical facility, and assistance in passenger securement or in securing of wheelchairs or stretchers in the vehicle. 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 $14 for the base rate and $1.10 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. 16. Minnesota Statutes 1995 Supplement, section 256B.0625, subdivision 30, is amended to read:

Subd. 30. [OTHER CLINIC SERVICES.] (a) Medical assistance covers rural health clinic services, federally qualified health center services, nonprofit community health clinic services, public health clinic services, and the services of a clinic meeting the criteria established in rule by the commissioner. Rural health clinic services and federally qualified health center services mean services defined in United States Code, title 42, section 1396d(a)(2)(B) and (C). Payment for rural health clinic and federally qualified health center services shall be made according to applicable federal law and regulation.

(b) A federally qualified health center that is beginning initial operation shall submit an estimate of budgeted costs and visits for the initial reporting period in the form and detail required by the commissioner. A federally qualified health center that is already in operation shall submit an initial report using actual costs and visits for the initial reporting period. Within 90 days of the end of its reporting period, a federally qualified health center shall submit, in the form and detail required by the commissioner, a report of its operations, including allowable costs actually incurred for the period and the actual number of visits for services furnished during the period, and other information required by the commissioner. Federally qualified health centers that file Medicare cost reports shall provide the commissioner with a copy of the most recent Medicare cost report filed with the Medicare program intermediary for the reporting year which support the costs claimed on their cost report to the state.

(c) In order to continue cost-based payment under the medical assistance program according to paragraphs (a) and (b), a federally qualified health center or rural health clinic must apply for

designation as an essential community provider within six months of final adoption of rules by the department of health according to section 62Q.19, subdivision 7. For those federally qualified health centers and rural health clinics that have applied for essential community provider status within the six-month time prescribed, medical assistance payments will continue to be made according to paragraphs (a) and (b) for the first three years ~~of essential community provider status~~ after application. For federally qualified health centers and rural health clinics that either do not apply within the time specified above~~, that are denied essential community provider status by the department of health,~~ or who have had essential community provider status for three years, medical assistance payments for health services provided by these entities shall be according to the same rates and conditions applicable to the same service provided by health care providers that are not federally qualified health centers or rural health clinics. This paragraph takes effect only if the Minnesota health care reform waiver is approved by the federal government, and remains in effect for as long as the Minnesota health care reform waiver remains in effect. When the waiver expires, this paragraph expires, and the commissioner of human services shall publish a notice in the State Register and notify the revisor of statutes.

Sec. 17. Minnesota Statutes 1994, section 256B.0627, subdivision 1, as amended by Laws 1995, chapter 207, article 6, sections 52 and 125, subdivision 9, is amended to read:

Subdivision 1. [DEFINITION .] (a) "Assessment" means a review and evaluation of a recipient's need for home care services conducted in person. Assessments for private duty nursing shall be conducted by a private duty nurse. Assessments for home health agency services shall be conducted by a home health agency nurse. Assessments for personal care services shall be conducted by the county public health nurse or a certified public health nurse under contract with the county. An initial assessment for personal care services is conducted on individuals who are requesting personal care services or for those consumers who have never had a public health nurse assessment. The initial assessment must include: a face-to-face health status assessment and determination of baseline need, collection of initial case data, identification of appropriate services and service plan development, coordination of initial services, referrals and follow-up to appropriate payers and community resources, completion of required reports, obtaining service authorization, and consumer education. A reassessment visit for personal care services is conducted at least annually or when there is a significant change in consumer condition and need for services. The reassessment visit includes a review of initial baseline data, evaluation of service outcomes, redetermination of service need, modification of service plan and appropriate referrals, update of initial forms, obtaining service authorization, and on-going consumer education. Assessments for medical assistance home care services for mental retardation or related conditions and alternative care services for developmentally disabled home and community-based waivered recipients may be conducted by the county public health nurse to ensure coordination and avoid duplication. Assessments must be completed on forms provided by the commissioner within 30 days of a request for home care services by a recipient or responsible party.

(b) "Care plan" means a written description of personal care assistant services developed by the agency nurse with the recipient or responsible party to be used by the personal care assistant with a copy provided to the recipient or responsible party.

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

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

(e) "Personal care assistant" means a person who: (1) is at least 18 years old, except for persons 16 to 18 years of age who participated in a related school-based job training program or have completed a certified home health aide competency evaluation; (2) is able to ~~read, write, and speak English, or~~ effectively communicate ~~with sign language, as well as communicate~~ with the recipient and personal care provider organization; (3) effective July 1, 1996, has completed one of

the training requirements as specified in Minnesota Rules, part 9505.0335, subpart 3, items A to D; (4) has the ability to, and provides covered personal care services according to the recipient's care plan, responds appropriately to recipient needs, and reports changes in the recipient's condition to the supervising registered nurse; (5) is not a consumer of personal care services; and (6) is subject to criminal background checks. An individual who has ~~ever~~ been convicted of a crime specified in Minnesota Rules, part 4668.0020, subpart 14, or a comparable crime in another jurisdiction is disqualified from being a personal care assistant, unless the individual meets the rehabilitation criteria specified in Minnesota Rules, part 4668.0020, subpart 15.

(f) "Personal care provider organization" means an organization enrolled to provide personal care services under the medical assistance program that complies with the following: (1) owners who have a five percent interest or more, and managerial officials are subject to a ~~criminal history check~~ background study as provided in section 245A.04 ~~at the time of application~~. This applies to currently enrolled personal care provider organizations and those agencies seeking enrollment as a personal care provider organization. An organization will be barred from enrollment if an owner or managerial official of the organization has ~~ever~~ been convicted of a crime specified in Minnesota Rules, part 4668.0020, subpart 14, or a comparable crime in another jurisdiction, unless the owner or managerial official meets the rehabilitation criteria specified in Minnesota Rules, part 4668.0020, subpart 15; (2) the organization must maintain a surety bond and liability insurance throughout the duration of enrollment and provides proof thereof. The insurer must notify the department of human services of the cancellation or lapse of policy; and (3) the organization must maintain documentation of services as specified in Minnesota Rules, part 9505.2175, subpart 7, as well as evidence of compliance with personal care assistant training requirements.

(g) "Responsible party" means an individual residing with a recipient of personal care services who is capable of providing the supportive care necessary to assist the recipient to live in the community, is at least 18 years old, and is not a personal care assistant. Responsible parties who are parents of minors or guardians of minors or incapacitated persons may delegate the responsibility to another adult during a temporary absence of at least 24 hours but not more than six months. The person delegated as a responsible party must be able to meet the definition of responsible party, except that the delegated responsible party is required to reside with the recipient only while serving as the responsible party. Foster care license holders may be designated the responsible party for residents of the foster care home if case management is provided as required in section 256B.0625, subdivision 19a. For persons who, as of April 1, 1992, are sharing personal care services in order to obtain the availability of 24-hour coverage, an employee of the personal care provider organization may be designated as the responsible party if case management is provided as required in section 256B.0625, subdivision 19a.

(h) "Service plan" means a written description of the services needed based on the assessment developed by the nurse who conducts the assessment together with the recipient or responsible party. The service plan shall include a description of the covered home care services, frequency and duration of services, and expected outcomes and goals. The recipient and the provider chosen by the recipient or responsible party must be given a copy of the completed service plan within 30 calendar days of the request for home care services by the recipient or responsible party.

(i) "Skilled nurse visits" are provided in a recipient's residence under a plan of care or service plan that specifies a level of care which the nurse is qualified to provide. These services are:

(1) nursing services according to the written plan of care or service plan and accepted standards of medical and nursing practice in accordance with chapter 148;

(2) services which due to the recipient's medical condition may only be safely and effectively provided by a registered nurse or a licensed practical nurse;

(3) assessments performed only by a registered nurse; and

(4) teaching and training the recipient, the recipient's family, or other caregivers requiring the skills of a registered nurse or licensed practical nurse.

Sec. 18. Minnesota Statutes 1994, section 256B.0627, subdivision 4, as amended by Laws 1995, chapter 207, article 6, sections 54 and 125, subdivision 11, is amended to read:

Subd. 4. [PERSONAL CARE SERVICES.] (a) The personal care services that are eligible for payment are the following:

(1) bowel and bladder care;

(2) skin care to maintain the health of the skin;

(3) repetitive maintenance range of motion ~~and~~, muscle strengthening exercises, and other tasks specific to maintaining a recipient's optimal level of function;

(4) respiratory assistance;

(5) transfers and ambulation;

(6) bathing, grooming, and hairwashing necessary for personal hygiene;

(7) turning and positioning;

(8) assistance with furnishing medication that is self-administered;

(9) application and maintenance of prosthetics and orthotics;

(10) cleaning medical equipment;

(11) dressing or undressing;

(12) assistance with eating and meal preparation and necessary grocery shopping;

(13) accompanying a recipient to obtain medical diagnosis or treatment; ~~and~~

(14) assisting, monitoring, or prompting the recipient to complete the services in clauses (1) to (13);

(15) redirection, monitoring, and observation that are medically necessary and an integral part of completing the personal cares described in clauses (1) to (14);

(16) redirection and intervention for behavior, including observation and monitoring;

(17) interventions for seizure disorders, including monitoring and observation if the recipient has had a seizure that requires intervention within the past three months; and

(18) incidental household services that are an integral part of a personal care service described in clauses (1) to ~~(13)~~ (17).

For purposes of this subdivision, monitoring and observation means watching for outward visible signs that are likely to occur and for which there is a covered personal care service or an appropriate personal care intervention.

(b) The personal care services that are not eligible for payment are the following:

(1) services not ordered by the physician;

(2) assessments by personal care provider organizations or by independently enrolled registered nurses;

(3) services that are not in the service plan;

(4) services provided by the recipient's spouse, legal guardian for an adult or child recipient, or parent of a recipient under age 18;

(5) services provided by a foster care provider of a recipient who cannot direct their own care, unless monitored by a county or state case manager under section 256B.0625, subdivision 19a;

(6) services provided by the residential or program license holder in a residence for more than four persons;

~~(6)~~ (7) services that are the responsibility of a residential or program license holder under the terms of a service agreement and administrative rules;

~~(7)~~ (8) sterile procedures;

~~(8)~~ (9) injections of fluids into veins, muscles, or skin;

~~(9)~~ (10) services provided by parents of adult recipients, adult children or adult siblings of the recipient, unless these relatives meet one of the following hardship criteria and the commissioner waives this requirement:

(i) the relative resigns from a part-time or full-time job to provide personal care for the recipient;

(ii) the relative goes from a full-time to a part-time job with less compensation to provide personal care for the recipient;

(iii) the relative takes a leave of absence without pay to provide personal care for the recipient;

(iv) the relative incurs substantial expenses by providing personal care for the recipient; or

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

~~(10)~~ (11) homemaker services that are not an integral part of a personal care services;

~~(11)~~ (12) home maintenance, or chore services;

~~(12)~~ (13) services not specified under paragraph (a); and

~~(13)~~ (14) services not authorized by the commissioner or the commissioner's designee.

Sec. 19. Minnesota Statutes 1994, section 256B.0627, subdivision 5, as amended by Laws 1995, chapter 207, article 6, sections 55 and 125, subdivision 12, is amended to read:

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

(a) [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 under section 256B.0625, subdivision 6a; and~~

~~(2) assessments and reassessments~~ (1) any initial assessment and; (2) up to two reassessments per year done to determine a recipient's need for personal care services.

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

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

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

(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; ~~or~~

(4) the commissioner has determined that a county or state human services agency has made an error; or

(5) the professional nurse determines an immediate need for up to 40 skilled nursing or home health aide visits per calendar year and submits a request for authorization within 20 working days of the initial service date, and medical assistance is determined to be the appropriate payer.

(c) [RETROACTIVE AUTHORIZATION.] A request for retroactive authorization will be evaluated according to the same criteria applied to prior authorization requests.

(d) [ASSESSMENT AND SERVICE PLAN.] Assessments under section 256B.0627, subdivision 1, paragraph (a), shall be conducted initially, and at least annually thereafter, in person with the recipient and result in a completed service plan using forms specified by the commissioner. Within 30 days of recipient or responsible party request for home care services, the assessment, the service 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 shall be submitted to the commissioner. For personal care services:

(1) The amount and type of service authorized based upon the assessment and service plan will follow the recipient if the recipient chooses to change providers.

(2) If the recipient's medical need changes, the recipient's provider may assess the need for a change in service authorization and request the change from the county public health nurse. Within 30 days of the request, the public health nurse will determine whether to request the change in services based upon the provider assessment, or conduct a home visit to assess the need and determine whether the change is appropriate.

(3) To continue to receive personal care services when the recipient displays no significant change, the county public health nurse has the option to review with the commissioner, or the commissioner's designee, the service plan on record and receive authorization for up to an additional 12 months at a time for up to three years.

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

(1) [HOME HEALTH SERVICES.] All home health services provided by a licensed nurse or a home health aide ~~that exceed the limits established in paragraph (a)~~ must be prior authorized by the commissioner or the commissioner's designee. Prior authorization must be based on medical necessity and cost-effectiveness when compared with other care options. When home health services are used in combination with personal care and private duty nursing, the cost of all home care services shall be considered for cost-effectiveness. The commissioner shall limit nurse and home health aide visits to no more than one visit each per day.

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

(A) up to ~~1.75~~ two times the average number of direct care hours provided in nursing facilities for the recipient's comparable case mix level; or

(B) up to ~~2.625~~ three times the average number of direct care hours provided in nursing

facilities for recipients who have complex medical needs or are dependent in at least seven activities of daily living and need physical assistance with eating or have a neurological diagnosis ~~but in no case shall the dollar amount authorized exceed the statewide weighted average nursing facility payment rate for fiscal year 1995~~; or

(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 Level I behavior; plus any inflation adjustment as provided by the legislature for personal care service; or

(D) up to the amount the commissioner would pay, as of July 1, 1991, plus any inflation adjustment provided for home care services, 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

~~(D)~~ (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.0911 or 256B.092; and

~~(E)~~ (F) a reasonable amount of time for the provision of nursing supervision of personal care services.

(ii) The number of direct care hours shall be determined according to the annual cost report submitted to the department by nursing facilities. The average number of direct care hours, ~~for the report year 1993~~, as established by ~~July 11, 1994~~ May 1, 1992, shall be calculated and incorporated into the home care limits on July 1, ~~1996~~ 1992. These limits shall be calculated to the nearest quarter hour.

(iii) The home care rating shall be determined by the commissioner or the commissioner's designee based on information submitted to the commissioner by the county public health nurse on forms specified by the commissioner. The home care rating 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 recipients who need home care including children and adults under 65 years of age. The commissioner shall establish these forms and protocols under this section and shall use an advisory group, including representatives of recipients, providers, and counties, for consultation in establishing and revising the forms and protocols.

(iv) A recipient shall qualify as having complex medical needs if the care required is difficult to perform and because of recipient's medical condition requires more time than community-based standards allow or requires more skill than would ordinarily be required and the recipient needs or has one or more of the following:

(A) daily tube feedings;

(B) daily parenteral therapy;

(C) wound or decubiti care;

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

(E) catheterization;

(F) ostomy care;

(G) quadriplegia; or

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

(v) A recipient shall qualify as having Level I behavior if there is reasonable supporting evidence that the recipient exhibits, or that without supervision, observation, or redirection would exhibit, one or more of the following behaviors that cause, or have the potential to cause:

(A) injury to his or her own body;

(B) physical injury to other people; or

(C) destruction of property.

(vi) Time authorized for personal care relating to Level I behavior in subclause (v), items (A) to (C), shall be based on the predictability, frequency, and amount of intervention required.

(vii) A recipient shall qualify as having Level II behavior if the recipient exhibits on a daily basis one or more of the following behaviors that interfere with the completion of personal care services under subdivision 4, paragraph (a):

(A) unusual or repetitive habits;

(B) withdrawn behavior; or

(C) offensive behavior.

(viii) A recipient with a home care rating of Level II behavior in subclause (vii), items (A) to (C), shall be rated as comparable to a recipient with complex medical needs under subclause (iv). If a recipient has both complex medical needs and Level II behavior, the home care rating shall be the next complex category up to the maximum rating under subclause (i), item (B).

(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:

(A) up to two times the average amount of direct care hours provided in nursing facilities statewide for case mix classification "K" as established by the annual cost report submitted to the department by nursing facilities in May 1992;

(B) private duty nursing in combination with other home care services up to the total cost allowed under clause (2);

(C) up to 16 hours per day if the recipient requires more nursing than the maximum number of direct care hours as established in item (A) and the recipient meets the hospital admission criteria established under Minnesota Rules, parts 9505.0500 to 9505.0540.

The commissioner may authorize up to 16 hours per day of medically necessary private duty nursing services or up to 24 hours per day of medically necessary 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 health care services. Recipients or their representatives must cooperatively assist the commissioner in obtaining this determination. Recipients who are eligible for the community alternative care program may not receive more hours of nursing under this section than would otherwise be authorized under section 256B.49.

(4) [VENTILATOR-DEPENDENT RECIPIENTS.] If the recipient is ventilator-dependent, the monthly medical assistance authorization for home care services shall not exceed what the commissioner would pay for care at the highest cost hospital designated as a long-term hospital under the Medicare program. For purposes of this clause, home care services means all services provided in the home that would be included in the payment for care at the long-term hospital. "Ventilator-dependent" means an individual who receives mechanical ventilation for life support at least six hours per day and is expected to be or has been dependent for at least 30 consecutive days.

(f) [PRIOR AUTHORIZATION; TIME LIMITS.] The commissioner or the commissioner's designee shall determine the time period for which a prior authorization shall be effective. 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. Under no circumstances, other than the exceptions in paragraph (b), shall a prior authorization be valid prior to the date the commissioner receives the request or for more than 12 months. A recipient who appeals a reduction in previously authorized home care services may continue previously authorized services, other than temporary services under paragraph (h), pending an appeal under section 256.045. The commissioner must provide a detailed explanation of why the authorized services are reduced in amount from those requested by the home care provider.

(g) [APPROVAL OF HOME CARE SERVICES.] The commissioner or the commissioner's designee shall determine the medical necessity of home care services, the level of caregiver according to subdivision 2, and the institutional comparison according to this subdivision, the cost-effectiveness of services, and the amount, scope, and duration of home care services reimbursable by medical assistance, based on the assessment, primary payer coverage determination information as required, the ~~care~~ service plan, the recipient's age, the cost of services, the recipient's medical condition, and diagnosis or disability. The commissioner may publish additional criteria for determining medical necessity according to section 256B.04.

(h) [PRIOR AUTHORIZATION REQUESTS; TEMPORARY SERVICES.] The agency nurse, the independently enrolled private duty nurse, or county public health nurse may request a temporary authorization for home care services by telephone. The commissioner may approve a temporary level of home care services based on the assessment, and service or care plan information, and primary payer coverage determination information as required. Authorization for a temporary level of home care services including nurse supervision is limited to the time specified by the commissioner, but shall not exceed 45 days, unless extended because the county public health nurse has not completed the required assessment and service plan, or the commissioner's determination has not been made. The level of services authorized under this provision shall have no bearing on a future prior authorization.

(i) [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 (a).

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. Requests for home care services for recipients residing in a foster care setting must include the foster care placement agreement and determination of difficulty of care;

(2) personal care services when the foster care license holder is also the personal care provider or personal care assistant unless the recipient can direct the recipient's own care, or case management is provided as required in section 256B.0625, subdivision 19a;

(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 case management is provided as required in section 256B.0625, subdivision 19a;

(4) home care services when the number of foster care residents is greater than four unless the county responsible for the recipient's foster placement made the placement prior to April 1, 1992,

requests that home care services be provided, and case management is provided as required in section 256B.0625, subdivision 19a; or

~~(3)~~ (5) home care services when combined with foster care payments, other than room and board payments that exceed the total amount that public funds would pay for the recipient's care in a medical institution.

Sec. 20. Minnesota Statutes 1994, section 256B.0627, is amended by adding a subdivision to read:

Subd. 7. [NONCOVERED HOME CARE SERVICES.] The following home care services are not eligible for payment under medical assistance:

(1) skilled nurse visits for the sole purpose of supervision of the home health aide;

(2) a skilled nursing visit:

(i) only for the purpose of monitoring medication compliance with an established medication program for a recipient; or

(ii) to administer or assist with medication administration, including injections, prefilling syringes for injections, or oral medication set-up of an adult recipient, when as determined and documented by the registered nurse, the need can be met by an available pharmacy or the recipient is physically and mentally able to self-administer or prefill a medication;

(3) home care services to a recipient who is eligible for covered services including hospice, if elected by the recipient, under the Medicare program or any other insurance held by the recipient;

(4) services to other members of the recipient's household;

(5) a visit made by a skilled nurse solely to train other home health agency workers;

(6) any home care service included in the daily rate of the community-based residential facility where the recipient is residing;

(7) nursing and rehabilitation therapy services that are reasonably accessible to a recipient outside their place of residence, excluding the assessment, counseling and education, and personal care;

(8) any home health agency service, excluding personal care assistant services and private duty nursing services, which are performed in a place other than the recipient's residence; and

(9) Medicare evaluation or administrative nursing visits on dual-eligible recipients that do not qualify for Medicare visit billing.

Sec. 21. Minnesota Statutes 1995 Supplement, section 256B.0913, subdivision 5, is amended to read:

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

(1) adult foster care;

(2) adult day care;

(3) home health aide;

(4) homemaker services;

(5) personal care;

(6) case management;

(7) respite care;

(8) assisted living;

(9) residential care services;

(10) care-related supplies and equipment;

(11) meals delivered to the home;

(12) transportation;

(13) skilled nursing;

(14) chore services;

(15) companion services;

(16) nutrition services; ~~and~~

(17) training for direct informal caregivers; and

(18) telemedicine devices to monitor recipients in their own homes as an alternative to hospital care, nursing home care, or home visits.

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

(c) Unless specified in statute, the service standards for alternative care services shall be the same as the service standards defined in the elderly waiver. Persons or agencies must be employed by or under a contract with the county agency or the public health nursing agency of the local board of health in order to receive funding under the alternative care program.

(d) The adult foster care rate shall be considered a difficulty of care payment and shall not include room and board. The adult foster care daily rate shall be negotiated between the county agency and the foster care provider. The rate established under this section shall not exceed 75 percent of the state average monthly nursing home payment for the case mix classification to which the individual receiving foster care is assigned, and it must allow for other alternative care services to be authorized by the case manager.

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

(f) ~~Costs for supplies and equipment that exceed $150 per item per month must have prior approval from the commissioner.~~ A county may use alternative care funds to purchase medical supplies and equipment without prior approval from the commissioner when: (1) there is no other funding source; (2) the supplies and equipment are specified in the individual's care plan as medically necessary to enable the individual to remain in the community according to the criteria in Minnesota Rules, part 9505.0210, item A; and (3) the supplies and equipment represent an effective and appropriate use of alternative care funds. A county may use alternative care funds to purchase supplies and equipment from a non-Medicaid certified vendor if the cost for the items is less than that of a Medicaid vendor. A county is not required to contract with a provider of supplies and equipment if the monthly cost of the supplies and equipment is less than $250.

(g) For purposes of this section, residential care services are services which are provided to individuals living in residential care homes. Residential care homes are currently licensed as board and lodging establishments and are registered with the department of health as providing special services. Residential care services are defined as "supportive services" and "health-related services." "Supportive services" means the provision of up to 24-hour supervision and oversight. Supportive services includes: (1) transportation, when provided by the residential care center only; (2) socialization, when socialization is part of the plan of care, has specific goals and outcomes established, and is not diversional or recreational in nature; (3) assisting clients in setting up

meetings and appointments; (4) assisting clients in setting up medical and social services; (5) providing assistance with personal laundry, such as carrying the client's laundry to the laundry room. Assistance with personal laundry does not include any laundry, such as bed linen, that is included in the room and board rate. Health-related services are limited to minimal assistance with dressing, grooming, and bathing and providing reminders to residents to take medications that are self-administered or providing storage for medications, if requested. Individuals receiving residential care services cannot receive both personal care services and residential care services.

(h) For the purposes of this section, "assisted living" refers to supportive services provided by a single vendor to clients who reside in the same apartment building of three or more units. Assisted living services are defined as up to 24-hour supervision, and oversight, supportive services as defined in clause (1), individualized home care aide tasks as defined in clause (2), and individualized home management tasks as defined in clause (3) provided to residents of a residential center living in their units or apartments with a full kitchen and bathroom. A full kitchen includes a stove, oven, refrigerator, food preparation counter space, and a kitchen utensil storage compartment. Assisted living services must be provided by the management of the residential center or by providers under contract with the management or with the county.

(1) Supportive services include:

(i) socialization, when socialization is part of the plan of care, has specific goals and outcomes established, and is not diversional or recreational in nature;

(ii) assisting clients in setting up meetings and appointments; and

(iii) providing transportation, when provided by the residential center only.

Individuals receiving assisted living services will not receive both assisted living services and homemaking or personal care services. Individualized means services are chosen and designed specifically for each resident's needs, rather than provided or offered to all residents regardless of their illnesses, disabilities, or physical conditions.

(2) Home care aide tasks means:

(i) preparing modified diets, such as diabetic or low sodium diets;

(ii) reminding residents to take regularly scheduled medications or to perform exercises;

(iii) household chores in the presence of technically sophisticated medical equipment or episodes of acute illness or infectious disease;

(iv) household chores when the resident's care requires the prevention of exposure to infectious disease or containment of infectious disease; and

(v) assisting with dressing, oral hygiene, hair care, grooming, and bathing, if the resident is ambulatory, and if the resident has no serious acute illness or infectious disease. Oral hygiene means care of teeth, gums, and oral prosthetic devices.

(3) Home management tasks means:

(i) housekeeping;

(ii) laundry;

(iii) preparation of regular snacks and meals; and

(iv) shopping.

Assisted living services as defined in this section shall not be authorized in boarding and lodging establishments licensed according to sections 157.03 and 157.15 to 157.22.

(i) For the purposes of this section, reimbursement for assisted living services and residential care services shall be a monthly rate negotiated and authorized by the county agency. The rate

shall not exceed the nonfederal share of the greater of either the statewide or any of the geographic groups' weighted average monthly medical assistance nursing facility payment rate of the case mix resident class to which the 180-day eligible client would be assigned under Minnesota Rules, parts 9549.0050 to 9549.0059. For alternative care assisted living projects established under Laws 1988, chapter 689, article 2, section 256, monthly rates may not exceed 65 percent of the greater of either statewide or any of the geographic groups' weighted average monthly medical assistance nursing facility payment rate of the case mix resident class to which the 180-day eligible client would be assigned under Minnesota Rules, parts 9549.0050 to 9549.0059. The rate may not cover rent and direct food costs.

(j) 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.

(k) 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. 22. Minnesota Statutes 1994, section 256B.0913, subdivision 7, is amended to read:

Subd. 7. [CASE MANAGEMENT.] The lead agency shall appoint a social worker from the county agency or a registered nurse from the county public health nursing service of the local board of health to be the case manager for any person receiving services funded by the alternative care program. The case manager must ensure the health and safety of the individual client and is responsible for the cost-effectiveness of the alternative care individual care plan. The county may allow a case manager to delegate certain aspects of the case management activity to another individual employed by the county provided there is oversight of the individual by the case manager. The case manager may not delegate those aspects which require professional judgment including assessments, reassessments, and care plan development.

Sec. 23. Minnesota Statutes 1994, section 256B.0915, subdivision 1b, is amended to read:

Subd. 1b. [PROVIDER QUALIFICATIONS AND STANDARDS.] The commissioner must enroll qualified providers of elderly case management services under the home and community-based waiver for the elderly under section 1915(c) of the Social Security Act. The enrollment process shall ensure the provider's ability to meet the qualification requirements and standards in this subdivision and other federal and state requirements of this service. An elderly case management provider is an enrolled medical assistance provider who is determined by the commissioner to have all of the following characteristics:

(1) the legal authority for alternative care program administration under section 256B.0913;

(2) the demonstrated capacity and experience to provide the components of case management to coordinate and link community resources needed by the eligible population;

(3) administrative capacity and experience in serving the target population for whom it will provide services and in ensuring quality of services under state and federal requirements;

(4) the legal authority to provide preadmission screening under section 256B.0911, subdivision 4;

(5) a financial management system that provides accurate documentation of services and costs under state and federal requirements; ~~and~~

(6) the capacity to document and maintain individual case records under state and federal requirements; and

(7) the county may allow a case manager to delegate certain aspects of the case management activity to another individual employed by the county provided there is oversight of the individual by the case manager. The case manager may not delegate those aspects which require professional judgment including assessments, reassessments, and care plan development.

Sec. 24. Minnesota Statutes 1995 Supplement, section 256B.0915, subdivision 3, is amended to read:

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

(b) The monthly limit for the cost of waivered services to an individual waiver client shall be the statewide average payment rate of the case mix resident class to which the waiver client would be assigned under the medical assistance case mix reimbursement system. If medical supplies and equipment or adaptations are or will be purchased for an elderly waiver services recipient, the costs may be prorated on a monthly basis throughout the year in which they are purchased. If the monthly cost of a recipient's other waivered services exceeds the monthly limit established in this paragraph, the annual cost of the waivered services shall be determined. In this event, the annual cost of waivered services shall not exceed 12 times the monthly limit calculated in this paragraph. 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 annual cost divided by 12 of elderly or disabled waivered services for a person who is a nursing facility resident at the time of requesting a determination of eligibility for elderly or disabled waivered services shall not exceed the monthly payment for the resident class assigned under Minnesota Rules, parts 9549.0050 to 9549.0059, for that resident in the nursing facility where the resident currently resides. The following costs must be included in determining the total monthly costs for the waiver client:

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

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

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

(d) ~~Expenditures for extended medical supplies and equipment that cost over $150 per month~~ For both the elderly waiver and the nursing facility disabled ~~waiver must have the commissioner's prior approval~~ waivers, a county may purchase extended supplies and equipment without prior approval from the commissioner when there is no other funding source and the supplies and equipment are specified in the individual's care plan as medically necessary to enable the individual to remain in the community according to the criteria in Minnesota Rules, part 9505.0210, items A and B. A county is not required to contract with a provider of supplies and equipment if the monthly cost of the supplies and equipment is less than $250.

(e) For the fiscal year beginning on July 1, 1993, and for subsequent fiscal years, the commissioner of human services shall not provide automatic annual inflation adjustments for

home and community-based waivered services. The commissioner of finance shall include as a budget change request in each biennial detailed expenditure budget submitted to the legislature under section 16A.11, annual adjustments in reimbursement rates for home and community-based waivered services, based on the forecasted percentage change in the Home Health Agency Market Basket of Operating Costs, for the fiscal year beginning July 1, compared to the previous fiscal year, unless otherwise adjusted by statute. The Home Health Agency Market Basket of Operating Costs is published by Data Resources, Inc. The forecast to be used is the one published for the calendar quarter beginning January 1, six months prior to the beginning of the fiscal year for which rates are set. The adult foster care rate shall be considered a difficulty of care payment and shall not include room and board.

(f) The adult foster care daily rate for the elderly and disabled waivers shall be negotiated between the county agency and the foster care provider. The rate established under this section shall not exceed the state average monthly nursing home payment for the case mix classification to which the individual receiving foster care is assigned; the rate must allow for other waiver and medical assistance home care services to be authorized by the case manager.

(g) The assisted living and residential care service rates for elderly and community alternatives for disabled individuals (CADI) waivers shall be made to the vendor as a monthly rate negotiated with the county agency. The rate shall not exceed the nonfederal share of the greater of either the statewide or any of the geographic groups' weighted average monthly medical assistance nursing facility payment rate of the case mix resident class to which the elderly or disabled client would be assigned under Minnesota Rules, parts 9549.0050 to 9549.0059. For alternative care assisted living projects established under Laws 1988, chapter 689, article 2, section 256, monthly rates may not exceed 65 percent of the greater of either the statewide or any of the geographic groups' weighted average monthly medical assistance nursing facility payment rate for the case mix resident class to which the elderly or disabled client would be assigned under Minnesota Rules, parts 9549.0050 to 9549.0059. The rate may not cover direct rent or food costs.

(h) The county shall negotiate individual rates with vendors and may be reimbursed for actual costs up to the greater of the county's current approved rate or 60 percent of the maximum rate in fiscal year 1994 and 65 percent of the maximum rate in fiscal year 1995 for each service within each program.

(i) On July 1, 1993, the commissioner shall increase the maximum rate for home-delivered meals to $4.50 per meal.

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

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

Sec. 25. Minnesota Statutes 1995 Supplement, section 256B.093, subdivision 3, is amended to read:

Subd. 3. [TRAUMATIC BRAIN INJURY PROGRAM DUTIES.] The department shall fund administrative case management under this subdivision using medical assistance administrative funds. The traumatic brain injury program duties include:

(1) recommending to the commissioner in consultation with the medical review agent according to Minnesota Rules, parts 9505.0500 to 9505.0540, 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;

(2) coordinating the traumatic brain injury home and community-based waiver;

(3) approving traumatic brain injury waiver eligibility or care plans or both;

(4) providing ongoing technical assistance and consultation to county and facility case managers to facilitate care plan development for appropriate, accessible, and cost-effective medical assistance services;

(5) providing technical assistance to promote statewide development of appropriate, accessible, and cost-effective medical assistance services and related policy;

(6) providing training and outreach to facilitate access to appropriate home and community-based services to prevent institutionalization;

(7) facilitating appropriate admissions, continued stay review, discharges, and utilization review for neurobehavioral hospitals and other specialized institutions;

(8) providing technical assistance on the use of prior authorization of home care services and coordination of these services with other medical assistance services;

(9) developing a system for identification of nursing facility and hospital residents with traumatic brain injury to assist in long-term planning for medical assistance services. Factors will include, but are not limited to, number of individuals served, length of stay, services received, and barriers to community placement; and

(10) providing information, referral, and case consultation to access medical assistance services for recipients without a county or facility case manager. Direct access to this assistance may be limited due to the structure of the program.

Sec. 26. Minnesota Statutes 1995 Supplement, section 256B.15, subdivision 5, is amended to read:

Subd. 5. [UNDUE HARDSHIP.] Any person entitled to notice in subdivision 1a has a right to apply for waiver of the claim based upon undue hardship. Any claim pursuant to this section may be fully or partially waived because of undue hardship. Undue hardship does not include action taken by the decedent which divested or diverted assets in order to avoid estate recovery. Any waiver of a claim must benefit the person claiming undue hardship. The commissioner shall have authority to hear claimant appeals, pursuant to section 256.045, when an application for a hardship waiver is denied in whole or part.

Sec. 27. Minnesota Statutes 1995 Supplement, section 256B.432, subdivision 2, is amended to read:

Subd. 2. [EFFECTIVE DATE.] For rate years beginning on or after July 1, 1990, the central, affiliated, or corporate office cost allocations in subdivisions 3 to 6 must be used when determining medical assistance rates under ~~sections~~ section 256B.431 ~~and 256B.50~~.

Sec. 28. Minnesota Statutes 1995 Supplement, section 256B.434, subdivision 10, is amended to read:

Subd. 10. [EXEMPTIONS.] (a) To the extent permitted by federal law, (1) a facility that has entered into a contract under this section is not required to file a cost report, as defined in Minnesota Rules, part 9549.0020, subpart 13, for any year after the base year that is the basis for the calculation of the contract payment rate for the first rate year of the alternative payment demonstration project contract; and (2) a facility under contract is not subject to audits of historical costs or revenues, or paybacks or retroactive adjustments based on these costs or revenues, except audits, paybacks, or adjustments relating to the cost report that is the basis for calculation of the first rate year under the contract.

(b) A facility that is under contract with the commissioner under this section is not subject to the moratorium on licensure or certification of new nursing home beds in section 144A.071, unless the project results in a net increase in bed capacity or involves relocation of beds from one site to another. Contract payment rates must not be adjusted to reflect any additional costs that a nursing facility incurs as a result of a construction project undertaken under this paragraph. In

addition, as a condition of entering into a contract under this section, a nursing facility must agree that any future medical assistance payments for nursing facility services will not reflect any additional costs attributable to the sale of a nursing facility under this section and to construction undertaken under this paragraph that otherwise would not be authorized under the moratorium in ~~sections 144A.071 and~~ section 144A.073. Nothing in this section prevents a nursing facility participating in the alternative payment demonstration project under this section from seeking approval of an exception to the moratorium through the process established in section ~~144A.071~~ 144A.073, and if approved the facility's rates shall be adjusted to reflect the cost of the project.

(c) Notwithstanding section 256B.48, subdivision 6, paragraphs (c), (d), and (e), and pursuant to any terms and conditions contained in the facility's contract, a nursing facility that is under contract with the commissioner under this section is in compliance with section 256B.48, subdivision 6, paragraph (b), if the facility is Medicare certified.

(d) Notwithstanding paragraph (a), if by April 1, 1996, the health care financing administration has not approved a required waiver, or the health care financing administration otherwise requires cost reports to be filed prior to the waiver's approval, the commissioner shall require a cost report for the rate year.

Sec. 29. Minnesota Statutes 1995 Supplement, section 256B.49, subdivision 6, is amended to read:

Subd. 6. [ADMISSION CERTIFICATION.] In determining an individual's eligibility for the community alternative care (CAC) waiver program, and an individual's eligibility for medical assistance under section 256B.055, subdivision 12, paragraph (b), the commissioner may review or contract for review of the individual's medical condition to determine level of care using criteria in Minnesota Rules, parts 9505.0520 to 9505.0540.

For purposes of this subdivision, a person requires long-term care in an inpatient hospital setting if the person has an ongoing condition that is expected to last one year or longer, and would require continuous or frequent hospitalizations during that period, but for the provision of home care services under this section.

Sec. 30. Minnesota Statutes 1995 Supplement, section 256B.49, subdivision 7, is amended to read:

Subd. 7. [PERSONS WITH DEVELOPMENTAL DISABILITIES OR RELATED CONDITIONS.] Individuals who apply for services under the community alternatives for disabled individuals (CADI) waiver program or the traumatic brain injury nursing facility waiver program who have developmental disabilities or related conditions must be screened for the appropriate institutional level of care in accordance with section 256B.092.

Sec. 31. Minnesota Statutes 1994, section 256B.49, is amended by adding a subdivision to read:

Subd. 9. [CASE MANAGEMENT SERVICES.] The county may allow a case manager to delegate certain aspects of the case management activity to another individual employed by the county provided there is oversight of the individual by the case manager. The case manager may not delegate those aspects which require professional judgment including assessments, reassessments, and care plan development.

Sec. 32. Minnesota Statutes 1995 Supplement, section 256B.69, subdivision 6, is amended to read:

Subd. 6. [SERVICE DELIVERY.] (a) Each demonstration provider shall be responsible for the health care coordination for eligible individuals. Demonstration providers:

(1) shall authorize and arrange for the provision of all needed health services including but not limited to the full range of services listed in sections 256B.02, subdivision 8, and 256B.0625 ~~and for children eligible for medical assistance under section 256B.055, subdivision 12, home care services and personal care assistant services~~ in order to ensure appropriate health care is delivered to enrollees;

(2) shall accept the prospective, per capita payment from the commissioner in return for the provision of comprehensive and coordinated health care services for eligible individuals enrolled in the program;

(3) may contract with other health care and social service practitioners to provide services to enrollees; and

(4) shall institute recipient grievance procedures according to the method established by the project, utilizing applicable requirements of chapter 62D. Disputes not resolved through this process shall be appealable to the commissioner as provided in subdivision 11.

(b) Demonstration providers must comply with the standards for claims settlement under section 72A.201, subdivisions 4, 5, 7, and 8, when contracting with other health care and social service practitioners to provide services to enrollees. A demonstration provider must pay a clean claim, as defined in Code of Federal Regulations, title 42, section 447.45(b), within 30 business days of the date of acceptance of the claim.

Sec. 33. Minnesota Statutes 1995 Supplement, section 256D.03, subdivision 4, is amended to read:

Subd. 4. [GENERAL ASSISTANCE MEDICAL CARE; SERVICES.] (a) For a person who is eligible under subdivision 3, paragraph (a), clause (3), general assistance medical care covers, except as provided in paragraph (c):

(1) inpatient hospital services;

(2) outpatient hospital services;

(3) services provided by Medicare certified rehabilitation agencies;

(4) prescription drugs and other products recommended through the process established in section 256B.0625, subdivision 13;

(5) equipment necessary to administer insulin and diagnostic supplies and equipment for diabetics to monitor blood sugar level;

(6) eyeglasses and eye examinations provided by a physician or optometrist;

(7) hearing aids;

(8) prosthetic devices;

(9) laboratory and X-ray services;

(10) physician's services;

(11) medical transportation;

(12) chiropractic services as covered under the medical assistance program;

(13) podiatric services;

(14) dental services;

(15) outpatient services provided by a mental health center or clinic that is under contract with the county board and is established under section 245.62;

(16) day treatment services for mental illness provided under contract with the county board;

(17) prescribed medications for persons who have been diagnosed as mentally ill as necessary to prevent more restrictive institutionalization;

(18) case management services for a person with serious and persistent mental illness who would be eligible for medical assistance except that the person resides in an institution for mental diseases;

(19) psychological services, medical supplies and equipment, and Medicare premiums, coinsurance and deductible payments;

(20) medical equipment not specifically listed in this paragraph when the use of the equipment will prevent the need for costlier services that are reimbursable under this subdivision;

(21) services performed by a certified pediatric nurse practitioner, a certified family nurse practitioner, a certified adult nurse practitioner, a certified obstetric/gynecological nurse practitioner, or a certified geriatric nurse practitioner in independent practice, if the services are otherwise covered under this chapter as a physician service, and if the service is within the scope of practice of the nurse practitioner's license as a registered nurse, as defined in section 148.171; and

(22) services of a certified public health nurse or a registered nurse practicing in a public health nursing clinic that is a department of, or that operates under the direct authority of, a unit of government, if the service is within the scope of practice of the public health nurse's license as a registered nurse, as defined in section 148.171.

(b) Except as provided in paragraph (c), for a recipient who is eligible under subdivision 3, paragraph (a), clause (1) or (2), general assistance medical care covers the services listed in paragraph (a) with the exception of special transportation services.

(c) Gender reassignment surgery and related services are not covered services under this subdivision unless the individual began receiving gender reassignment services prior to July 1, 1995.

(d) In order to contain costs, the commissioner of human services shall select vendors of medical care who can provide the most economical care consistent with high medical standards and shall where possible contract with organizations on a prepaid capitation basis to provide these services. The commissioner shall consider proposals by counties and vendors for prepaid health plans, competitive bidding programs, block grants, or other vendor payment mechanisms designed to provide services in an economical manner or to control utilization, with safeguards to ensure that necessary services are provided. Before implementing prepaid programs in counties with a county operated or affiliated public teaching hospital or a hospital or clinic operated by the University of Minnesota, the commissioner shall consider the risks the prepaid program creates for the hospital and allow the county or hospital the opportunity to participate in the program in a manner that reflects the risk of adverse selection and the nature of the patients served by the hospital, provided the terms of participation in the program are competitive with the terms of other participants considering the nature of the population served. Payment for services provided pursuant to this subdivision shall be as provided to medical assistance vendors of these services under sections 256B.02, subdivision 8, and 256B.0625~~, and for contracts beginning on or after July 1, 1995, shall be discounted ten percent from comparable fee for service payments~~. 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. Notwithstanding the provisions of subdivision 3, an individual who becomes ineligible for general assistance medical care because of failure to submit income reports or recertification forms in a timely manner, shall remain enrolled in the prepaid health plan and shall remain eligible for general assistance medical care coverage through the last day of the month in which the enrollee became ineligible for general assistance medical care.

(e) The commissioner of human services may reduce payments provided under sections 256D.01 to 256D.21 and 261.23 in order to remain within the amount appropriated for general assistance medical care, within the following restrictions.

For the period July 1, 1985 to December 31, 1985, reductions below the cost per service unit allowable under section 256.966, are permitted only as follows: payments for inpatient and outpatient hospital care provided in response to a primary diagnosis of chemical dependency or mental illness may be reduced no more than 30 percent; payments for all other inpatient hospital care may be reduced no more than 20 percent. Reductions below the payments allowable under general assistance medical care for the remaining general assistance medical care services allowable under this subdivision may be reduced no more than ten percent.

For the period January 1, 1986 to December 31, 1986, reductions below the cost per service unit allowable under section 256.966 are permitted only as follows: payments for inpatient and outpatient hospital care provided in response to a primary diagnosis of chemical dependency or mental illness may be reduced no more than 20 percent; payments for all other inpatient hospital care may be reduced no more than 15 percent. Reductions below the payments allowable under general assistance medical care for the remaining general assistance medical care services allowable under this subdivision may be reduced no more than five percent.

For the period January 1, 1987 to June 30, 1987, reductions below the cost per service unit allowable under section 256.966 are permitted only as follows: payments for inpatient and outpatient hospital care provided in response to a primary diagnosis of chemical dependency or mental illness may be reduced no more than 15 percent; payments for all other inpatient hospital care may be reduced no more than ten percent. Reductions below the payments allowable under medical assistance for the remaining general assistance medical care services allowable under this subdivision may be reduced no more than five percent.

For the period July 1, 1987 to June 30, 1988, reductions below the cost per service unit allowable under section 256.966 are permitted only as follows: payments for inpatient and outpatient hospital care provided in response to a primary diagnosis of chemical dependency or mental illness may be reduced no more than 15 percent; payments for all other inpatient hospital care may be reduced no more than five percent. Reductions below the payments allowable under medical assistance for the remaining general assistance medical care services allowable under this subdivision may be reduced no more than five percent.

For the period July 1, 1988 to June 30, 1989, reductions below the cost per service unit allowable under section 256.966 are permitted only as follows: payments for inpatient and outpatient hospital care provided in response to a primary diagnosis of chemical dependency or mental illness may be reduced no more than 15 percent; payments for all other inpatient hospital care may not be reduced. Reductions below the payments allowable under medical assistance for the remaining general assistance medical care services allowable under this subdivision may be reduced no more than five percent.

There shall be no copayment required of any recipient of benefits for any services provided under this subdivision. A hospital receiving a reduced payment as a result of this section may apply the unpaid balance toward satisfaction of the hospital's bad debts.

(f) Any county may, from its own resources, provide medical payments for which state payments are not made.

(g) Chemical dependency services that are reimbursed under chapter 254B must not be reimbursed under general assistance medical care.

(h) The maximum payment for new vendors enrolled in the general assistance medical care program after the base year shall be determined from the average usual and customary charge of the same vendor type enrolled in the base year.

(i) The conditions of payment for services under this subdivision are the same as the conditions specified in rules adopted under chapter 256B governing the medical assistance program, unless otherwise provided by statute or rule.

Sec. 34. Minnesota Statutes 1994, section 256I.04, subdivision 1, is amended to read:

Subdivision 1. [INDIVIDUAL ELIGIBILITY REQUIREMENTS.] An individual is eligible for and entitled to a group residential housing payment to be made on the individual's behalf if the county agency has approved the individual's residence in a group residential housing setting and the individual meets the requirements in paragraph (a) or (b).

(a) The individual is aged, blind, or is over 18 years of age and disabled as determined under the criteria used by the title II program of the Social Security Act, and meets the resource restrictions and standards of the supplemental security income program, and the individual's countable income after deducting the exclusions and disregards of the SSI program and the

medical assistance personal needs allowance under section 256B.35 is less than the monthly rate specified in the county agency's agreement with the provider of group residential housing in which the individual resides.

(b) The individual meets a category of eligibility under section 256D.05, subdivision 1, paragraph (a), and the individual's resources are less than the standards specified by section 256D.08, and the individual's countable income as determined under sections 256D.01 to 256D.21, less the medical assistance personal needs allowance under section 256B.35 is less than the monthly rate specified in the county agency's agreement with the provider of group residential housing in which the individual resides.

Sec. 35. Minnesota Statutes 1995 Supplement, section 256I.04, subdivision 2b, is amended to read:

Subd. 2b. [GROUP RESIDENTIAL HOUSING AGREEMENTS.] Agreements between county agencies and providers of group residential housing must be in writing and must specify the name and address under which the establishment subject to the agreement does business and under which the establishment, or service provider, if different from the group residential housing establishment, is licensed by the department of health or the department of human services; the specific license or registration from the department of health or the department of human services held by the provider and the number of beds subject to that license; the address of the location or locations at which group residential housing is provided under this agreement; the per diem and monthly rates that are to be paid from group residential housing funds for each eligible resident at each location; the number of beds at each location which are subject to the group residential housing agreement; whether the license holder is a not-for-profit corporation under section 501(c)(3) of the Internal Revenue Code; and a statement that the agreement is subject to the provisions of sections 256I.01 to 256I.06 and subject to any changes to those sections. Group residential housing agreements may be terminated with or without cause by either the county or the provider with two calendar months prior notice.

Sec. 36. Minnesota Statutes 1995 Supplement, section 256I.04, subdivision 3, is amended to read:

Subd. 3. [MORATORIUM ON THE DEVELOPMENT OF GROUP RESIDENTIAL HOUSING BEDS.] (a) County agencies shall not enter into agreements for new group residential housing beds with total rates in excess of the MSA equivalent rate except: (1) for group residential housing establishments meeting the requirements of subdivision 2a, clause (2) with department approval; (2) for group residential housing establishments licensed under Minnesota Rules, parts 9525.0215 to 9525.0355, provided the facility is needed to meet the census reduction targets for persons with mental retardation or related conditions at regional treatment centers; (3) to ensure compliance with the federal Omnibus Budget Reconciliation Act alternative disposition plan requirements for inappropriately placed persons with mental retardation or related conditions or mental illness; (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); or (5) notwithstanding the provisions of subdivision 2a, for up to 180 supportive housing units in Anoka, Dakota, Hennepin, or Ramsey county for homeless adults with a mental illness, a history of substance abuse, or human immunodeficiency virus or acquired immunodeficiency syndrome. For purposes of this section, "homeless adult" means a person who is living on the street or in a shelter or is evicted from a dwelling unit or discharged from a regional treatment center, community hospital, or residential treatment program and has no appropriate housing available and lacks the resources and support necessary to access appropriate housing. At least 70 percent of the supportive housing units must serve homeless adults with mental illness, substance abuse problems, or human immunodeficiency virus or acquired immunodeficiency syndrome who are about to be or, within the previous six months, has been discharged from a regional treatment center, or a state-contracted psychiatric bed in a community hospital, or a residential mental health or chemical dependency treatment program. If a person meets the requirements of subdivision 1, paragraph (a), and receives a federal Section 8 housing subsidy, the group residential housing rate

for that person is limited to the supplementary rate under section 256I.05, subdivision 1a, and is determined by subtracting the amount of the person's countable income that exceeds the MSA equivalent rate from the group residential housing supplementary rate. A resident in a demonstration project site who no longer participates in the demonstration program shall retain eligibility for a group residential housing payment in an amount determined under section 256I.06, subdivision 8, using the MSA equivalent rate. Service funding under section 256I.05, subdivision 1a, ~~must~~ will end June 30, 1997, if federal matching funds are available and the services can be provided through a managed care entity. If federal matching funds are not available, then service funding will continue under section 256I.05, subdivision 1a. ~~Effective July 1, 1997, services to persons in these settings must be provided through a managed care entity. This provision is subject to the availability of matching federal funds.~~

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

Sec. 37. [RECOMMENDATIONS ON HOME CARE PROVIDED IN FOSTER CARE SETTINGS.]

The commissioner of human services, in consultation with counties, home care providers, foster care providers, and representatives of home care recipients who are both children and adults, shall review the provision of home care services to children and adults living in licensed foster care settings. By November 15, 1996, the commissioner shall report to the legislature on recommendations for standards to determine home care service authorization for foster care residents, which will assure appropriate care for recipients while avoiding duplication of services and payment.

Sec. 38. [COMMISSIONER'S TASK FORCE TO CONSOLIDATE MINNESOTA RULES; CONSUMER INFORMATION SYSTEM AND EDUCATIONAL MATERIALS.]

The commissioner, in consultation with the commissioner of health and representatives of affected organizations, including counties, providers, the Minnesota Nurses Association, and advocacy groups shall develop proposed legislation consolidating Minnesota Rules, parts 9525.0215 to 9525.0355; 9525.0500 to 9525.0660; 9525.1500 to 9525.1690; and 9525.2000 to 9525.2140, new regulatory strategies to determine compliance with the new consolidated standard, and strategies to develop a consumer information system and educational materials. The purpose of the rule consolidation and regulatory strategies are to eliminate duplication, outmoded provisions and unnecessary paperwork and ensure adequate oversight and monitoring of medication administration, while protecting safety, health, rights and protection for persons using the services licensed under the above parts. The purpose of the consumer information systems and educational materials are to provide easy access to information for consumers and interested parties to make informed choices about service delivery. The commissioner shall provide recommended legislation to consolidate these rules and regulate the provisions of the rules more efficiently to the legislative commission on health care access by November 15, 1996.

Sec. 39. [REPEALER.]

Minnesota Rules, part 9505.5230, is repealed effective July 1, 1996.

Minnesota Statutes 1995 Supplement, section 256B.69, subdivision 4a, is repealed.

Sec. 40. [EFFECTIVE DATES.]

Sections 1 and 2 are effective for requests for proposals issued on or after July 1, 1996.

Section 14 is effective October 1, 1996, or upon receipt of any necessary federal approval, whichever date is later.

ARTICLE 6

MISCELLANEOUS

Section 1. Minnesota Statutes 1994, section 148.235, is amended by adding a subdivision to read:

Subd. 6. [STANDARDS FOR WRITTEN AGREEMENTS; REVIEW AND FILING.] Written agreements required by subdivisions 2 and 4 shall be maintained at the primary practice site of the nurse practitioner, clinical specialist in psychiatric and mental health nursing and the collaborating physician. The written agreement does not need to be filed with the board of nursing, provided that the information required to be filed with the board, either on initial application for prescribing privileges or on renewal of privileges, has been submitted.

Sec. 2. Minnesota Statutes 1994, section 245.94, subdivision 2a, is amended to read:

Subd. 2a. [MANDATORY REPORTING.] Within 24 hours after a client suffers death or serious injury, the agency, facility, or program director shall notify the ombudsman of the death or serious injury.

Sec. 3. Minnesota Statutes 1994, section 245.94, subdivision 3, is amended to read:

Subd. 3. [COMPLAINTS.] The ombudsman may receive a complaint from any source concerning an action of an agency, facility, or program. After completing a review, the ombudsman shall inform the complainant and the agency, facility, or program. No client may be punished nor may the general condition of the client's treatment be unfavorably altered as a result of an investigation, a complaint by the client, or by another person on the client's behalf. An agency, facility, or program shall not retaliate or take adverse action~~, as defined in section 626.557, subdivision 17, paragraph (c),~~ against a client or other person, who in good faith makes a complaint or assists in an investigation. The ombudsman may classify as confidential, the identity of a complainant, upon request of the complainant.

Sec. 4. Minnesota Statutes 1994, section 245.95, subdivision 2, is amended to read:

Subd. 2. [GENERAL REPORTS.] In addition to whatever conclusions or recommendations the ombudsman may make to the governor on an ad hoc basis, the ombudsman shall, at the end of each ~~year~~ biennium, report to the governor concerning the exercise of the ombudsman's functions during the preceding ~~year~~ biennium.

Sec. 5. Minnesota Statutes 1994, section 245.97, subdivision 6, is amended to read:

Subd. 6. [TERMS, COMPENSATION, AND REMOVAL ~~AND EXPIRATION~~.] The membership terms, compensation, and removal of members of the committee and the filling of membership vacancies are governed by section 15.0575. ~~The ombudsman committee and the medical review subcommittee expire on June 30, 1994.~~

Sec. 6. Minnesota Statutes 1994, section 246.57, is amended by adding a subdivision to read:

Subd. 6. [DENTAL SERVICES.] The commissioner of human services shall authorize any regional treatment center or state- operated nursing home under the commissioner's authority to provide dental services to disabled persons who are eligible for medical assistance and are not residing at the regional treatment center or state-operated nursing home, provided that the reimbursement received for these services is sufficient to cover actual costs. To provide these services, regional treatment centers and state-operated nursing homes may participate under contract with health networks in their service area. Notwithstanding section 16B.06, subdivision 2, the commissioner of human services may delegate the execution of these dental services contracts to the chief executive officers of the regional centers or state-operated nursing homes. All receipts for these dental services shall be retained by the regional treatment center or state-operated nursing home that provides the services and shall be in addition to other funding the regional treatment center or state-operated nursing home receives.

Sec. 7. Minnesota Statutes 1994, section 256.482, is amended by adding a subdivision to read:

Subd. 8. [SUNSET.] Notwithstanding section 15.059, subdivision 5, the council on disability shall not sunset until June 30, 2001.

Sec. 8. Minnesota Statutes 1994, section 256.73, subdivision 1, is amended to read:

Subdivision 1. [DEPENDENT CHILDREN.] Assistance shall be given under sections 256.72 to 256.87 to or on behalf of any dependent child who:

(1) ~~Resides~~ Has resided in Minnesota for at least 30 days or, if residing in the state for less than 30 days, the child or the child's caretaker relative meets one of the criteria specified in subdivision 1a;

(2) Is otherwise eligible; the child shall not be denied aid because of conditions of the home in which the child resides.

Sec. 9. Minnesota Statutes 1994, section 256.73, is amended by adding a subdivision to read:

Subd. 1a. [RESIDENCY CRITERIA.] A child or caretaker relative who has resided in Minnesota for less than 30 days is considered to be a Minnesota resident if:

(1) either the child or the caretaker relative was born in the state;

(2) either the child or the caretaker relative has, in the past, resided in this state for at least 365 consecutive days;

(3) either the child or the caretaker relative came to this state to join a close relative who has resided in this state for at least one year. For purposes of this clause, "close relative" means a parent, grandparent, brother, sister, spouse, or child; or

(4) the caretaker relative came to this state to accept a bona fide offer of employment and was eligible to accept the employment.

A county agency may waive the 30-day residency requirement in cases of emergency or where unusual hardship would result from denial of assistance. The county agency must report to the commissioner within 30 days on any waiver granted under this section. The county shall not deny an application solely because the applicant does not meet at least one of the criteria in this subdivision, but shall continue to process the application and leave the application pending until the residency requirement is met or until eligibility or ineligibility is established.

Sec. 10. [256.9750] [SENIOR NUTRITION PROGRAMS.]

Subdivision 1. [PROGRAM GOALS.] It is the goal of all agencies on aging and senior nutrition programs to support the physical and mental health of seniors living in the community by:

(1) promoting nutrition programs that serve senior citizens in their homes and communities; and

(2) providing, within the limit of funds available, the support services that will enable the senior citizen to access nutrition programs in the most cost-effective and efficient manner.

Subd. 2. [AUTHORITY.] The Minnesota board on aging shall allocate to area agencies on aging the federal funds which are received for the senior nutrition programs of congregate dining and home-delivered meals in a manner consistent with federal requirements.

Subd. 3. [NUTRITION SUPPORT SERVICES.] (a) Funds allocated to an area agency on aging for nutrition support services may be used for the following:

(1) transportation of home-delivered meals and purchased food and medications to the residence of a senior citizen;

(2) expansion of home-delivered meals into unserved and underserved areas;

(3) transportation to supermarkets or delivery of groceries from supermarkets to homes;

(4) vouchers for food purchases at selected restaurants in isolated rural areas;

(5) food stamp outreach;

(6) transportation of seniors to congregate dining sites;

(7) nutrition screening assessments and counseling as needed by individuals with special dietary needs, performed by a licensed dietitian or nutritionist; and

(8) other appropriate services which support senior nutrition programs, including new service delivery models.

(b) An area agency on aging may transfer unused funding for nutrition support services to fund congregate dining services and home-delivered meals.

Sec. 11. [299A.281] [SAFE HOUSE PROGRAM IN FERGUS FALLS.]

Notwithstanding Minnesota Statutes, section 299A.28, another similar safe house program, primarily focusing on the safety and protection of children, may be developed and operate in the city of Fergus Falls if the program members have completed a criminal background check satisfactory to the Fergus Falls police department. However, the commissioner of public safety is not required to perform the duties listed under Minnesota Statutes, section 299A.28, subdivision 2, with respect to the program in Fergus Falls and is not accountable or liable for any act or failure to act by a member of that program.

Sec. 12. Laws 1995, chapter 207, article 1, section 2, subdivision 4, is amended to read:

Subd. 4. Children's Program	19,860,000	21,453,000

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

(a) Children's Trust Fund Grants

247,000	247,000

(b) Families With Children Services Grants and Administration

1,718,000	1,710,000

(c) Family Service Collaborative Grants

1,000,000	1,500,000

(d) Family Preservation, Family Support, and Child Protection Grants

8,573,000	8,573,000

(e) Subsidized Adoption Grants

5,587,000	6,688,000

(f) Other Families with Children Services Grants

2,735,000	2,735,000

[FAMILY SERVICES COLLABORATIVE.] Plans for the expenditure of funds for family services collaboratives must be approved by the children's cabinet according to criteria in Minnesota Statutes, section 121.8355. Money appropriated for these purposes may be

expended in either year of the biennium. Money appropriated for family services collaboratives is also available for start-up funds under Minnesota Statutes, section 245.492, subdivision 19, for children's mental health collaboratives.

[HOME CHOICE PROGRAM.] Of this appropriation, $75,000 each year must be used as a grant to the metropolitan council to support the housing and related counseling component of the home choice program.

~~[FOSTER CARE.] Foster care, as defined in Minnesota Statutes, section 260.015, subdivision 7, is not a community social service as defined in Minnesota Statutes, section 256E.03, subdivision 2, paragraph (a). This paragraph is effective the day following final enactment.~~

[NEW CHANCE.] Of this appropriation, $100,000 each year is for a grant to the New Chance demonstration project that provides comprehensive services to young AFDC recipients who became pregnant as teenagers and dropped out of high school. The commissioner shall provide an annual report on the progress of the demonstration project, including specific data on participant outcomes in comparison to a control group that received no services. The commissioner shall also include recommendations on whether strategies or methods that have proven successful in the demonstration project should be incorporated into the STRIDE employment program for AFDC recipients.

[HIPPY CARRY FORWARD.] $50,000 in unexpended money appropriated in fiscal year 1995 for the Home Instruction Program for Preschool Youngsters (HIPPY) in Laws 1994, chapter 636, article 1, section 11, does not cancel but is available for the same purposes for fiscal year 1996.

[COMMUNITY COLLABORATIVE MATCHING GRANT.] Of the funds appropriated for family services collaboratives, $75,000 in fiscal year 1996 shall be used for the commissioner of human services to provide a matching grant for community collaborative projects for children and youth developed by a regional organization established under Minnesota Statutes, section 116N.08, to receive rural development challenge grants. The regional organization must include a broad cross-section of public and private sector community representatives to develop programs, services or

facilities to address specific community needs of children and youth. The regional organization must also provide a two-to-one match of nonstate dollars for this grant.

[INDIAN CHILD WELFARE GRANTS.] $100,000 is appropriated from the general fund to the commissioner of human services for the purposes of providing compliance grants to an Indian child welfare defense corporation, pursuant to Minnesota Statutes, section 257.3571, subdivision 2a, to be available until June 30, 1997.

Sec. 13. [PLANNING FOR RESIDENTIAL FACILITY FOR PARENTS WITH HIV OR AIDS AND THEIR CHILDREN.]

The commissioner of health shall report to the legislature by January 15, 1997, on the planning activities for HIV housing, in cooperation with the Coalition for Housing for People with AIDS, including consideration of appropriate housing options so that parents with HIV or AIDS may live with their children when the disease debilitates the parent so that the parent is not able to care for their children. The report shall also make appropriate recommendations concerning the development of such housing.

Sec. 14. [WAIVER AUTHORITY.]

The commissioner of human services shall seek federal waivers as necessary to implement sections 8 and 9.

Sec. 15. [SEVERABILITY.]

If any provision of sections 8 or 9 is found to be unconstitutional or void by a court of competent jurisdiction, all remaining provisions of the law shall remain valid and shall be given full effect.

Sec. 16. [EFFECTIVE DATE.]

Section 12 is effective the day following final enactment.

ARTICLE 7

STUDIES OF CADI PROGRAM AND OF FOSTER CARE"

Page 1, line 20, delete "1996" and insert "1997"

Page 2, line 17, delete "1996" and insert "1997"

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

H.F. No. 1584 was read the third time, as amended, and placed on its final passage.

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

The roll was called, and there were yeas 63 and nays 1, as follows:

Those who voted in the affirmative were:

Anderson	Betzold	Fischbach	Janezich	Kiscaden
Beckman	Chandler	Flynn	Johnson, D.E.	Kleis
Belanger	Cohen	Frederickson	Johnson, D.J.	Knutson
Berg	Day	Hanson	Johnson, J.B.	Kramer
Berglin	Dille	Hottinger	Kelly	Krentz

Kroening	Merriam	Oliver	Ranum	Solon
Laidig	Metzen	Olson	Reichgott Junge	Spear
Langseth	Moe, R.D.	Ourada	Riveness	Stevens
Larson	Mondale	Pappas	Robertson	Stumpf
Lesewski	Morse	Pariseau	Runbeck	Terwilliger
Lessard	Murphy	Piper	Sams	Vickerman
Limmer	Neuville	Pogemiller	Samuelson	
Marty	Novak	Price	Scheevel	

Ms. Johnston voted in the negative.

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

MOTIONS AND RESOLUTIONS - CONTINUED

S.F. No. 2702 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 2702

A bill for an act relating to transportation; appropriating money for transportation purposes.

March 30, 1996

The Honorable Allan H. Spear
President of the Senate

The Honorable Irv Anderson
Speaker of the House of Representatives

We, the undersigned conferees for S.F. No. 2702, report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendments and that S.F. No. 2702 be further amended as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1

TRANSPORTATION FUNDING

Section 1. [TRANSPORTATION AND OTHER AGENCIES APPROPRIATIONS.]

The sums in the columns headed "APPROPRIATIONS" are appropriated from the general fund, or another named fund, to the agencies and for the purposes specified, and are added to appropriations for the fiscal years ending June 30, 1996, and June 30, 1997, in Laws 1995, chapter 265, or other named law.

SUMMARY BY FUND

	1996	1997
General Fund	$.,...,-0-,... $	7,640,000
Highway User Tax Distribution Fund	.,...,-0-,...	160,000
Trunk Highway Fund	9,687,000	42,760,000
County State Aid Fund	.,...,-0-,...	100,000
Sec. 2. DEPARTMENT OF TRANSPORTATION	9,687,000	43,290,000
(a) State Road Construction		

9,687,000 35,513,000

The appropriations for fiscal years 1996 and 1997 are from the trunk highway fund for state road construction and are added to the appropriations in Laws 1995, chapter 265, article 2, section 2, subdivision 7, clause (a).

(b) Design Engineering and Construction Engineering

6,267,000

This appropriation for fiscal year 1997 is from the trunk highway fund for design engineering and construction engineering and is added to the appropriations in Laws 1995, chapter 265, article 2, section 2, subdivision 7, clauses (d) and (e), as needed.

For the purpose of Laws 1995, chapter 254, article 1, section 93, paragraph (a), "contracts for highway construction or maintenance" includes contracts for design engineering and construction engineering.

(c) Greater Minnesota Transit Assistance

1,000,000

This appropriation for fiscal year 1997 is for greater Minnesota transit assistance and is added to the appropriation in Laws 1995, chapter 265, article 2, section 2, subdivision 3, clause (a). Any unencumbered balance in that clause for fiscal year 1996 does not cancel but is available for the second year.

(d) General Management

200,000

$200,000 is appropriated from the general fund for the purpose of convening a telecommuting community dialogue process to gather information on existing telecommunication systems, conduct public opinion polls via the Internet, and develop recommendations on improving the integration and coordination of telecommunication systems. The department shall report findings and recommendations to the legislature by February 15, 1997. This appropriation is available on receipt by the commissioner of $100,000 of matching contributions of money from nonstate sources.

(e) Shingobee Road

100,000

$100,000 is appropriated from the town road account in the county state-aid highway fund before the apportionment otherwise required to

be made under Minnesota Statutes, section 162.081, subdivisions 2 and 3, for the purpose of making a grant to the town of Shingobee in Cass county to improve the Ah-Gwah-Ching cutoff road. The appropriation is available if the commissioner determines that the Shingobee town board has made a commitment to establish the road as a town road upon completion of the improvement.

(f) Stone Arch Bridge

110,000

The appropriation is for the repair of the Stone Arch Bridge.

(g) Driver Education Programs

100,000

This appropriation is for a grant to the Minnesota highway safety center at St. Cloud State University for driver education programs.

Sec. 3. METROPOLITAN COUNCIL 6,000,000

This appropriation for fiscal year 1997 is for metropolitan transit operations and is added to the appropriation in Laws 1995, chapter 265, article 2, section 3.

Notwithstanding the limit on spending for metro mobility in Laws 1995, chapter 265, article 2, section 3, the metropolitan council may spend up to $1,600,000 of this appropriation for metro mobility.

Of this appropriation, the council may spend up to $625,000 in fiscal year 1997 to implement the high-speed bus demonstration project authorized in Laws 1995, chapter 265, article 2, section 3.

Sec. 4. DEPARTMENT OF PUBLIC SAFETY 1,370,000

Summary by Fund

General	..,-0-,...	230,000
Trunk Highway	..,-0-,...	980,000
Highway User Tax Distribution Fund	..,-0-,...	160,000

(a) State Patrol

150,000

Of this appropriation, $150,000 is from the trunk highway fund for four additional radio communication operators.

(b) Driver and Vehicle Services

336,000

$14,000 from the highway user tax distribution

fund and $65,000 from the trunk highway fund are for costs related to the implementation of Minnesota Statutes, section 168.042.

$113,000 is from the highway user tax distribution fund and is added to the appropriations in Laws 1995, chapter 265, article 2, section 5, subdivision 4. This appropriation is for costs related to driver's license and motor vehicle registration records and is available only to the extent required to comply with a law effective during fiscal year 1997 that substantially changes the data privacy status of these records.

$111,000 is from the general fund to implement Minnesota Statutes, section 171.07, subdivision 11.

$33,000 is from the highway user tax distribution fund for programming costs related to registration tax refunds for rental motor vehicles.

(c) Administration and Related Services

884,000

This appropriation for fiscal year 1997 is added to the appropriations in Laws 1995, chapter 265, article 2, section 5, subdivision 2.

This appropriation is for agency critical operations systems. Of this appropriation, $765,000 is from the trunk highway fund.

(d) Critical Habitat Matching

The commissioner of public safety shall determine whether the fees collected under Minnesota Statutes, section 168.1296, for critical habitat license plates have been sufficient to cover the costs of handling and manufacturing the license plates during the biennium ending June 30, 1997. If the fees have been deficient, the amount of the deficiency is appropriated from the Minnesota critical habitat private sector matching account in the reinvest in Minnesota resources fund for transfer to the highway user tax distribution fund.

Sec. 5. Minnesota Statutes 1994, section 169.14, subdivision 2, is amended to read:

Subd. 2. [SPEED LIMITS.] (a) Where no special hazard exists the following speeds shall be lawful, but any speeds in excess of such limits shall be prima facie evidence that the speed is not reasonable or prudent and that it is unlawful; except that the speed limit within any municipality shall be a maximum limit and any speed in excess thereof shall be unlawful:

(1) 30 miles per hour in an urban district;

(2) 65 miles per hour ~~in other locations during the daytime~~ on freeways and expressways, as defined in section 160.02, subdivision 16, outside the limits of any urbanized area with a population of greater than 50,000 as defined by order of the commissioner of transportation;

(3) 55 miles per hour in ~~such other~~ locations ~~during the nighttime~~ other than those specified in this section;

(4) ten miles per hour in alleys; and

(5) 25 miles per hour in residential roadways if adopted by the road authority having jurisdiction over the residential roadway.

(b) A speed limit adopted under paragraph (a), clause (5), is not effective unless the road authority has erected signs designating the speed limit and indicating the beginning and end of the residential roadway on which the speed limit applies.

~~(c) "Daytime" means from a half hour before sunrise to a half hour after sunset, except at any time when due to weather or other conditions there is not sufficient light to render clearly discernible persons and vehicles at a distance of 500 feet. "Nighttime" means at any other hour or at any time when due to weather or other conditions there is not sufficient light to render clearly discernible persons and vehicles at a distance of 500 feet.~~

Sec. 6. Minnesota Statutes 1994, section 169.14, is amended by adding a subdivision to read:

Subd. 4a. [ESTABLISHMENT OF SPEEDS ON HIGHWAYS.] Notwithstanding subdivision 4, the commissioner may by order designate a maximum lawful speed for freeways and expressways, as defined in section 160.02, subdivision 16, with or without an engineering and traffic investigation. The order may apply to all such highways or to specific highways identified in the order.

Sec. 7. Minnesota Statutes 1994, section 169.983, is amended to read:

169.983 [SPEEDING VIOLATIONS; CREDIT CARD PAYMENT OF FINES.]

The officer who issues a citation for a violation by a person who does not reside in Minnesota of section 169.14 ~~or 169.141~~ shall give the defendant the option to plead guilty to the violation upon issuance of the citation and to pay the fine to the issuing officer with a credit card.

The commissioner of public safety shall adopt rules to implement this section, including specifying the types of credit cards that may be used.

Sec. 7. Minnesota Statutes 1994, section 169.99, subdivision 1b, is amended to read:

Subd. 1b. [SPEED.] The uniform traffic ticket must provide a blank or space wherein an officer who issues a citation for a violation of section ~~169.141~~ 169.14, subdivision 2, paragraph (a), clause (3), must specify whether the speed was greater than ten miles per hour in excess of the lawful speed ~~designated under that section~~.

Sec. 8. Minnesota Statutes 1994, section 171.12, subdivision 6, is amended to read:

Subd. 6. [CERTAIN CONVICTIONS NOT RECORDED.] The department shall not keep on the record of a driver any conviction for a violation of section ~~169.141~~ 169.14, subdivision 2, paragraph (a), clause (3), unless the violation consisted of a speed greater than ten miles per hour in excess of the lawful speed ~~designated under that section~~.

Sec. 9. [DRIVER'S LICENSE FEES; DEPOSIT IN GENERAL FUND.]

Notwithstanding Minnesota Statutes, section 171.26, up to $100,000 in revenues received under Minnesota Statutes, chapter 171, in fiscal year 1997 shall be deposited in the general fund. This deposit is in addition to any deposit of revenue in the general fund under Minnesota Statutes, section 171.07, subdivision 11.

Sec. 10. [REPEALER.]

Minnesota Statutes 1994, section 169.141, is repealed. Any order issued under that section is void.

Sec. 11. [EFFECTIVE DATE.]

(a) Any provision making an appropriation for fiscal year 1996 is effective the day following final enactment.

(b) Section 10 is effective July 1, 1996.

(c) Sections 5 to 9 and 11 are effective May 1, 1996.

ARTICLE 2

TRANSPORTATION CAPITAL IMPROVEMENTS

Section 1. The sums in the column under "APPROPRIATIONS" are appropriated from the trunk highway fund to the state agencies or officials indicated, to be spent to acquire and to better public land and buildings and other public improvements of a capital nature, as specified in this article.

	APPROPRIATIONS
Sec. 2. FACILITY PROJECTS	21,639,000
This appropriation is from the trunk highway fund to the commissioner of transportation for the purposes specified in paragraphs (a) and (b).	
(a) Trunk Highway Facility Projects	20,454,000
(1) For construction documents, construction, furnishing, and equipping of Bemidji headquarters building to replace the existing facility. The new facility will house the district staff, support services, design, construction, right-of-way, materials engineering, maintenance, radio shop, inventory center, vehicle maintenance, vehicle storage, bridge maintenance, and building services	9,000,000
(2) Repair, replace, construct, or develop additions to chemical and salt storage buildings at 29 department of transportation locations statewide	1,000,000
(3) For schematic design, design development, construction documents, construction, furnishing, and equipping of an addition to the Rochester district office and state patrol center	1,260,000
(4) Construct, furnish, and equip a new equipment storage building on a new site in Pipestone to replace the existing facility	520,000
(5) Construct, furnish, and equip a new equipment storage building on a new site in Deer Lake to combine and replace existing operations at Togo and Effie	644,000
(6) Construct, furnish, and equip a new equipment storage building on a new site in Rushford to replace the existing facility	663,000
(7) For construction documents, construction, furnishing, and equipping of an addition to the central services building at Fort Snelling for heated storage	855,000

(8) Schematic design, design development, and construction documents for projects at Duluth, St. Cloud, Jordan, Fort Snelling, Golden Valley, and a new record building	677,000
(9) Design, construction, equipping, and furnishing of an addition to the Garrison truck station and related improvements	206,000
(10) For construction documents, construction, furnishing, and equipping of an addition to the Hastings truck station	1,362,000
(11) Construct, furnish, and equip a new equipment storage building on a new site in Gaylord to replace the existing facility	680,000
(12) Remove asbestos from various department of transportation buildings statewide	200,000
(13) Construct, furnish, and equip a new equipment storage building on a new site in Hibbing to replace the existing facility. Minnesota Statutes, section 16B.33, does not apply to this project	1,237,000
(14) Design, construction, equipping, and furnishing of an addition to the Long Prairie truck station and related improvements	215,000
(15) Design, construction, equipping, and furnishing of an addition to the Forest Lake truck station and related improvements	451,000
(16) Design, construction, equipping, and furnishing of an addition to the Erskine truck station and related improvements	300,000
(17) Design, construction, equipping, and furnishing of an addition to the Dilworth truck station and related improvements	514,000
(18) Construct, furnish, and equip class II safety rest areas in Fillmore county, Cook county, and Kanabec county	120,000
(19) Construct pole-type storage buildings at department of transportation locations throughout the state	350,000
(20) Land acquisition at Fort Snelling next to the central services complex when it is made available as surplus property by the federal government	200,000
(21) Clauses (1) to (19) are exempt from the requirements of Minnesota Statutes, section 16B.335.	
(b) Public Safety Project	1,185,000

$1,185,000 is appropriated from the trunk highway fund for capital improvements to

license exam stations, grounds, and facilities at Arden Hills, Eagan, and Plymouth.

Sec. 3. [DESIGN-BUILD METHOD OF CONSTRUCTION.]

Beginning with the capital budget projects approved by law in 1996, the commissioner of administration or the commissioner of transportation may use a design-build method of project development and construction for projects to construct new vehicle and equipment storage or maintenance facilities. "Design-build method of project development and construction" means a project delivery system in which a single contractor is responsible for both the design and the construction of the project. The commissioner of administration or the commissioner of transportation may select the projects that will be constructed using the design-build method. Minnesota Statutes, section 16B.33, does not apply to the projects selected. The commissioners are requested to report to the legislature on the use of the design-build method, including comparative cost analysis, quality of product obtained, advantages and disadvantages of using this method, and the commissioners' recommendations for further use of the design-build method.

Sec. 4. [EFFECTIVE DATE.]

Sections 1 to 3 are effective July 1, 1996.

ARTICLE 3

HIGHWAYS AND DRIVERS' LICENSES

Section 1. Minnesota Statutes 1994, section 115A.9651, subdivision 1, is amended to read:

Subdivision 1. [PROHIBITION.] (a) Except as provided in paragraph (d), no person may distribute for sale or use in this state any ink, dye, pigment, paint, or fungicide manufactured after September 1, 1994, into which lead, cadmium, mercury, or hexavalent chromium has been intentionally introduced.

(b) For the purposes of this subdivision, "intentionally introduce" means to deliberately use a metal listed in paragraph (a) as an element during manufacture or distribution of an item listed in paragraph (a). Intentional introduction does not include the incidental presence of any of the prohibited elements.

(c) The concentration of a listed metal in an item listed in paragraph (a) may not exceed 100 parts per million.

(d) The prohibition on the use of lead in substances utilized in marking road, street, highway, and bridge pavements does not take effect until July 1, 1998.

Sec. 2. Minnesota Statutes 1994, section 160.83, is amended by adding a subdivision to read:

Subd. 5. [LIABILITY.] A rustic road may be maintained at a level less than the minimum standards required for state-aid highways, roads, and streets, but must be maintained at the level required to serve anticipated traffic volumes. Where a road has been designated by resolution as a rustic road and speed limits have been posted under subdivision 1, the road authority with jurisdiction over the road, and its officers and employees, are exempt from liability for any tort claim for injury to person or property arising from travel on the rustic road related to its maintenance, design, or condition if:

(1) the maintenance, design, or condition is consistent with the anticipated use as described in subdivision 2; and

(2) the maintenance, design, or condition is not grossly negligent.

Nothing in this subdivision exempts a road authority from its duty to maintain bridges under chapter 165 or other applicable law.

Sec. 3. Minnesota Statutes 1994, section 160.85, is amended by adding a subdivision to read:

Subd. 3a. [INFORMATION MEETING.] Before approving or denying a development agreement, the commissioner shall hold a public information meeting in any municipality or county in which any portion of the proposed toll facility runs. The commissioner shall determine the time and place of the information meeting.

Sec. 4. Minnesota Statutes 1994, section 161.085, is amended to read:

161.085 [APPROPRIATION FROM TURNBACK ACCOUNTS.]

Moneys in the county turnback account and the municipal turnback account are hereby appropriated annually to the commissioner of transportation for the purposes of carrying out the terms of sections 161.081 to ~~161.086~~ 161.084.

Sec. 5. [161.139] [HIGHWAY DESIGNATION COSTS.]

The commissioner shall not adopt a design or erect a sign to mark or memorialize a highway or bridge, pursuant to designation by the legislature on or after January 1, 1996, unless the commissioner is assured of the availability of funds from nonstate sources sufficient to pay all costs related to designing, erecting, and maintaining the signs.

Sec. 6. Minnesota Statutes 1994, section 161.14, is amended by adding a subdivision to read:

Subd. 32. [VICTORY DRIVE.] Marked trunk highway No. 22, from its intersection with marked trunk highways Nos. 14 and 60 in the city of Mankato to its intersection with marked trunk highway No. 30 in the city of Mapleton, is designated "Victory Drive." The commissioner of transportation shall adopt a suitable design for marking this highway and shall erect appropriate signs at locations the commissioner determines. The people of the community, having resolved to support and financially back the marking of this highway, shall reimburse the department for costs incurred in marking and memorializing this highway.

Sec. 7. Minnesota Statutes 1994, section 161.14, is amended by adding a subdivision to read:

Subd. 33. [VETERANS MEMORIAL HIGHWAY.] Marked trunk highway No. 15, from its intersection with marked trunk highway No. 60 to its intersection with the Iowa border, is designated "Veterans Memorial Highway." The commissioner of transportation shall adopt a suitable design for marking this highway and shall erect appropriate signs at locations the commissioner determines. The people of the community, having resolved to support and financially back the marking of this highway, shall reimburse the department for costs incurred in marking and memorializing this highway.

Sec. 8. Minnesota Statutes 1994, section 161.14, is amended by adding a subdivision to read:

Subd. 34. [DALE WAYRYNEN MEMORIAL HIGHWAY.] That segment of marked trunk highway No. 210 located within Aitkin county is designated "Dale Wayrynen Memorial Highway." The commissioner of transportation shall erect appropriate signs after adopting a marking design for the signs, which suitably commemorates Dale Wayrynen, posthumous recipient of the Congressional Medal of Honor, for heroism displayed during the Vietnam War. The people of the community, having resolved to support and financially back the marking of this highway, shall reimburse the department for costs incurred in marking and memorializing this highway.

Sec. 9. Minnesota Statutes 1994, section 161.36, subdivision 1, is amended to read:

Subdivision 1. [COMMISSIONER TO COOPERATE WITH THE U.S. GOVERNMENT.] The commissioner may cooperate with the government of the United States and any agency or department thereof in the construction, improvement, enhancement, and maintenance of ~~roads and bridges~~ transportation in the state of Minnesota and may comply with the provisions of the laws of the United States and any ~~rules and~~ regulations made thereunder for the expenditure of federal moneys ~~upon such roads and bridges~~.

Sec. 10. Minnesota Statutes 1994, section 161.36, subdivision 2, is amended to read:

Subd. 2. [FEDERAL AID, ACCEPTANCE; COMMISSIONER AS AGENT.] The commissioner may accept federal moneys and other moneys, either public or private, for and in behalf of the state of Minnesota or any governmental subdivision thereof, or any nonpublic organization, for the construction, improvement, enhancement, or maintenance of ~~roads and bridges~~ transportation upon such terms and conditions as are or may be prescribed by the laws of the United States and any ~~rules or~~ regulations made thereunder, and is authorized to act as an agent of ~~any~~ that governmental subdivision ~~of the state of Minnesota~~ or nonpublic organization upon ~~the~~ its request ~~of such subdivision~~ in accepting the moneys in its behalf for ~~road or bridge~~ transportation purposes, in acquiring right-of-way therefor, and in contracting for the construction, improvement, enhancement, or maintenance of ~~roads or bridges~~ transportation financed either in whole or in part by federal moneys. The governing body of any such subdivision or nonpublic organization is authorized to designate the commissioner as its agent for such purposes and to enter into an agreement with the commissioner prescribing the terms and conditions of the agency in accordance herewith and with federal laws~~, rules~~ and regulations.

Sec. 11. Minnesota Statutes 1994, section 161.36, subdivision 3, is amended to read:

Subd. 3. [COMMISSIONER AS AGENT IN CERTAIN CASES.] The commissioner may act as the agent of any political subdivision of the state, or any nonpublic organization, as provided herein, for the construction of ~~roads and bridges~~ transportation toward the construction of which no federal aid is available in the event that the construction adjoins, is connected, or in the judgment of the commissioner can be best and most economically performed in connection with construction upon which federal aid is available and upon which the commissioner is then acting as agent.

Sec. 12. Minnesota Statutes 1994, section 161.36, subdivision 4, is amended to read:

Subd. 4. [STATE LAWS TO GOVERN.] All contracts for the construction, improvement, enhancement, or maintenance of ~~roads or bridges~~ transportation made by the commissioner as the agent of any governmental subdivision, or any nonpublic organization, shall be made pursuant to the laws ~~of the state~~ of Minnesota governing the making of contracts for the construction, improvement, enhancement, and maintenance of ~~roads and bridges~~ transportation on the trunk highway system of the state; provided, where the construction, improvement, enhancement, or maintenance of any ~~road or bridge~~ transportation is financed wholly with federal moneys, the commissioner as the agent of ~~any~~ the governmental subdivision or nonpublic organization may let contracts in the manner prescribed by the federal authorities acting under the laws of the United States and any ~~rules or~~ regulations made thereunder, notwithstanding any state law to the contrary.

Sec. 13. Minnesota Statutes 1994, section 161.46, subdivision 3, is amended to read:

Subd. 3. [LUMP SUM SETTLEMENTS.] The commissioner may enter into agreements with a utility for the relocation of utility facilities providing for the payment by the state of a lump sum based on the estimated cost of relocation when the lump sum so agreed upon does not exceed ~~$25,000~~ $100,000.

Sec. 14. Minnesota Statutes 1994, section 161.53, is amended to read:

161.53 [RESEARCH ACTIVITIES.]

The commissioner may set aside ~~for transportation research~~ in each fiscal year up to ~~one~~ two percent of the total amount of all funds appropriated to the commissioner other than county state-aid and municipal state-aid highway funds for transportation research including public and private research partnerships. The commissioner shall spend this money for (1) research to improve the design, construction, maintenance, management, and environmental compatibility of transportation systems; (2) research on transportation policies that enhance energy efficiency and economic development; (3) programs for implementing and monitoring research results; and (4) development of transportation education and outreach activities. Of all funds appropriated to the commissioner other than state-aid funds, the commissioner shall spend 0.1 percent, but not exceeding $800,000 in any fiscal year, for research and related activities performed by the center for transportation studies of the University of Minnesota. The center shall establish a technology transfer and training center for Minnesota transportation professionals.

Sec. 15. Minnesota Statutes 1994, section 162.08, subdivision 4, is amended to read:

Subd. 4. [PURPOSES; OTHER USES OF MUNICIPAL ACCOUNT ALLOCATION.] (a) Except as provided in subdivision 3, money so apportioned and allocated to each county shall be used for aid in the establishment, location, construction, reconstruction, improvement, and maintenance of the county state-aid highway system within each county, including the expense of sidewalks, commissioner-approved signals and safety devices on county state-aid highways, and systems that permit an emergency vehicle operator to activate a green traffic signal for the emergency vehicle; provided, that in the event of hardship, or in the event that the county state-aid highway system of any county is improved to the standards set forth in the commissioner's rules, a portion of the money apportioned other than the money allocated for expenditures within cities having a population of less than 5,000, may be used on other roads within the county with the consent and in accordance with the commissioner's rules.

(b) If the portion of the county state-aid highway system lying within cities having a population of less than 5,000 is improved to the standard set forth in the commissioner's rules, a portion of the money credited to the municipal account may be used on other county highways or other streets lying within such cities. Upon the authorization of the commissioner, a county may expend accumulated municipal account funds on county state-aid highways within the county outside of cities having a population of less than 5,000. The commissioner shall authorize the expenditure if:

~~(a)~~ (1) the county submits a written request to the commissioner and holds a hearing within 30 days of the request to receive and consider any objections by the governing bodies of cities within the county having a population of less than 5,000; and

~~(b)~~ (2) no written objection is filed with the commissioner by any such city within 14 days of that hearing as provided in this subdivision.

The county shall notify all of the cities of the public hearing by certified mail and shall notify the commissioner in writing of the results of the hearing and any objections to the use of the funds as requested by the county.

(c) If, within 14 days of the hearing under paragraph (b), a city having a population of less than 5,000 files a written objection with the commissioner identifying a specific county state-aid highway within the city which is requested for improvement, the commissioner shall investigate the nature of the requested improvement. Notwithstanding paragraph (b) clause ~~(b)~~ (2), the commissioner may authorize the expenditure requested by the county if:

(1) the identified highway is not deficient in meeting minimum state-aid street standards; ~~or~~

(2) the county shows evidence that the identified highway has been programmed for construction in the county's five-year capital improvement budget in a manner consistent with the county's transportation plan; or

(3) there are conditions created by or within the city and beyond the control of the county that prohibit programming or constructing the identified highway.

(d) Notwithstanding any contrary provisions of paragraph (b) or (c), accumulated balances in excess of two years of municipal account apportionments may be spent on projects located outside of municipalities under 5,000 population when approved solely by resolution of the county board.

(e) Authorization ~~by the commissioner~~ for use of municipal account funds on county state-aid highways outside of cities having a population of less than 5,000 shall be applicable only to the county's accumulated and current year allocation. Future municipal account allocations shall be used as directed by law unless subsequent requests are made by the county and approved by the commissioner, or approved by resolution of the county board, as applicable, in accordance with the applicable provisions of this section.

Sec. 16. Minnesota Statutes 1994, section 162.08, subdivision 7, is amended to read:

Subd. 7. [ADVANCES OTHER THAN TO MUNICIPAL ACCOUNT.] Any county may make advances from any available funds for the purpose of expediting the construction,

reconstruction, improvement and maintenance of its county state-aid highway system. ~~Total advances, together with any advances to the municipal account, as provided in subdivisions 5 and 6, shall never exceed 40 percent of the county's last apportionment preceding the first advance.~~ Advances made by any county as provided herein, other than advances made to the municipal account, shall be repaid out of subsequent apportionments to the county's maintenance or construction account in accordance with the commissioner's rules.

Sec. 17. Minnesota Statutes 1994, section 162.14, subdivision 6, is amended to read:

Subd. 6. [ADVANCES.] Any such city~~, except cities of the first class,~~ may make advances from any funds available to it for the purpose of expediting the construction, reconstruction, improvement, or maintenance of its municipal state-aid street system; provided that such advances shall not exceed the city's total estimated apportionment for the three years following the year the advance is made. Advances made by any such city shall be repaid out of subsequent apportionments made to such city in accordance with the commissioner's rules.

Sec. 18. Minnesota Statutes 1994, section 168.013, subdivision 3, is amended to read:

Subd. 3. [APPLICATION; CANCELLATION; EXCESSIVE GROSS WEIGHTS FORBIDDEN.] The applicant for all licenses based on gross weight shall state in writing upon oath, the unloaded weight of the motor vehicle, trailer or semitrailer and the maximum load the applicant proposes to carry thereon, the sum of which shall constitute the gross weight upon which the license tax shall be paid, but in no case shall the declared gross weight upon which the tax is paid be less than 1-1/4 times the declared unloaded weight of the motor vehicle, trailer or semitrailer to be registered, except recreational vehicles taxed under subdivision 1g, school buses taxed under subdivision 18 and tow trucks or towing vehicles defined in section 169.01, subdivision 52. The gross weight of a tow truck or towing vehicle is the actual weight of the tow truck or towing vehicle fully equipped, but does not include the weight of a wrecked or disabled vehicle towed or drawn by the tow truck or towing vehicle.

The gross weight of no motor vehicle, trailer or semitrailer shall exceed the gross weight upon which the license tax has been paid by more than four percent or 1,000 pounds, whichever is greater.

The gross weight of the motor vehicle, trailer or semitrailer for which the license tax is paid shall be indicated by a distinctive character on the license plate or plates except as provided in subdivision 12 and the plate or plates shall be kept clean and clearly visible at all times.

The owner, driver, or user of a motor vehicle, trailer or semitrailer upon conviction for transporting a gross weight in excess of the gross weight for which it was registered or for operating a vehicle with an axle weight exceeding the maximum lawful axle load weight shall be guilty of a misdemeanor and be subject to increased registration or reregistration according to the following schedule:

(1) The owner, driver or user of a motor vehicle, trailer or semitrailer upon conviction for transporting a gross weight in excess of the gross weight for which it is registered by more than four percent or 1,000 pounds, whichever is greater, but less than 25 percent or for operating or using a motor vehicle, trailer or semitrailer with an axle weight exceeding the maximum lawful axle load as provided in section 169.825 by more than four percent or 1,000 pounds, whichever is greater, but less than 25 percent, in addition to any penalty imposed for the misdemeanor shall apply to the registrar to increase the authorized gross weight to be carried on the vehicle to a weight equal to or greater than the gross weight the owner, driver, or user was convicted of carrying, the increase computed for the balance of the calendar year on the basis of 1/12 of the annual tax for each month remaining in the calendar year beginning with the first day of the month in which the violation occurred. If the additional registration tax computed upon that weight, plus the tax already paid, amounts to more than the regular tax for the maximum gross weight permitted for the vehicle under section 169.825, that additional amount shall nevertheless be paid into the highway fund, but the additional tax thus paid shall not permit the vehicle to be operated with a gross weight in excess of the maximum legal weight as provided by section 169.825. Unless the owner within 30 days after a conviction shall apply to increase the authorized weight and pay the additional tax as provided in this section, the registrar shall revoke the registration on the vehicle and demand the return of the registration card and plates issued on that registration.

(2) The owner or driver or user of a motor vehicle, trailer or semitrailer upon conviction for transporting a gross weight in excess of the gross weight for which the motor vehicle, trailer or semitrailer was registered by 25 percent or more, or for operating or using a vehicle or trailer with an axle weight exceeding the maximum lawful axle load as provided in section 169.825 by 25 percent or more, in addition to any penalty imposed for the misdemeanor, shall have the reciprocity privileges on the vehicle involved if the vehicle is being operated under reciprocity canceled by the registrar, or if the vehicle is not being operated under reciprocity, the certificate of registration on the vehicle operated shall be canceled by the registrar and the registrar shall demand the return of the registration certificate and registration plates. The registrar may not cancel the registration or reciprocity privileges for any vehicle found in violation of seasonal load restrictions imposed under section 169.87 unless the axle weight exceeds the year-round weight limit for the highway on which the violation occurred. The registrar may investigate any allegation of gross weight violations and demand that the operator show cause why all future operating privileges in the state should not be revoked unless the additional tax assessed is paid.

(3) Clause (1) does not apply to the first haul of unprocessed or raw farm products or unfinished forest products, when the registered gross weight is not exceeded by more than ten percent. For purposes of this clause, "first haul" means (1) the first, continuous transportation of unprocessed or raw farm products from the place of production or on-farm storage site to any other location within 50 miles of the place of production or on-farm storage site, or (2) the first, continuous transportation of unfinished forest products from the place of production to the place of first unloading.

(4) When the registration on a motor vehicle, trailer or semitrailer is revoked by the registrar according to provisions of this section, the vehicle shall not be operated on the highways of the state until it is registered or reregistered, as the case may be, and new plates issued, and the registration fee shall be the annual tax for the total gross weight of the vehicle at the time of violation. The reregistration pursuant to this subdivision of any vehicle operating under reciprocity agreements pursuant to section 168.181 or 168.187 shall be at the full annual registration fee without regard to the percentage of vehicle miles traveled in this state.

Sec. 19. Minnesota Statutes 1994, section 169.07, is amended to read:

169.07 [UNAUTHORIZED SIGNS.]

No person shall place, maintain, or display upon or in view of any highway any unauthorized sign, signal, marking, or device which purports to be or is an imitation of or resembles an official traffic-control device or railroad sign or signal, or which attempts to direct the movement of traffic, or which hides from view or interferes with the effectiveness of any official traffic-control device or any railroad sign or signal, and no person shall place or maintain, nor shall any public authority permit, upon any highway any traffic sign or signal bearing thereon any commercial advertising. This shall not be deemed to prohibit (1) the erection upon private property adjacent to highways of signs giving useful directional information and of a type that cannot be mistaken for official signs, or (2) the temporary placement by auctioneers licensed or exempt from licensing under section 330.01, for a period of not more than eight consecutive hours, on or adjacent to the right-of-way of a highway not more than four signs directing motorists to the location of an auction. ~~The signs must conform to standards for size, content, placement, and location for such signs promulgated by the commissioner of transportation. The rules may require a permit for each such sign but no fee may be charged for the permit.~~

Every such prohibited sign, signal, or marking is hereby declared to be a public nuisance, and the authority having jurisdiction over the highways is hereby empowered to remove the same, or cause it to be removed, without notice.

Sec. 20. Minnesota Statutes 1994, section 169.82, subdivision 3, is amended to read:

Subd. 3. [HITCHES; CHAINS; CABLES.] (a) Every trailer or semitrailer must be hitched to the towing motor vehicle by a device approved by the commissioner of public safety.

(b) Every trailer and semitrailer must be equipped with safety chains or cables permanently attached to the trailer except in cases where the coupling device is a regulation fifth wheel and

kingpin assembly approved by the commissioner of public safety. In towing, the chains or cables must be ~~carried through a ring on the towbar and attached to the towing~~ attached to the vehicles near the points of bumper attachments to the chassis of each vehicle, and must be of sufficient strength to control the trailer in the event of failure of the towing device. The length of chain or cable must be no more than necessary to permit free turning of the vehicles.

(c) This subdivision does not apply to towed implements of husbandry.

No person may be charged with a violation of this section solely by reason of violating a maximum speed prescribed in section 169.145 or 169.67.

Sec. 21. Minnesota Statutes 1994, section 169.85, is amended to read:

169.85 [WEIGHING; PENALTY.]

The driver of a vehicle which has been lawfully stopped may be required by a peace officer to submit the vehicle and load to a weighing by means of portable or stationary scales, and the peace officer may require that the vehicle be driven to the nearest available scales if the distance to the scales is no further than five miles, or if the distance from the point where the vehicle is stopped to the vehicle's destination is not increased by more than ten miles as a result of proceeding to the nearest available scales. Official traffic control devices as authorized by section 169.06 may be used to direct the driver to the nearest scale. When a truck weight enforcement operation is conducted by means of portable or stationary scales and signs giving notice of the operation are posted within the highway right-of-way and adjacent to the roadway within two miles of the operation, the driver of a truck or combination of vehicles registered for or weighing in excess of 12,000 pounds~~, and the driver of a charter bus, except a bus registered in Minnesota,~~ shall proceed to the scale site and submit the vehicle to weighing and inspection.

Upon weighing a vehicle and load, as provided in this section, an officer may require the driver to stop the vehicle in a suitable place and remain standing until a portion of the load is removed that is sufficient to reduce the gross weight of the vehicle to the limit permitted under section 169.825. A suitable place is a location where loading or tampering with the load is not prohibited by federal, state, or local law, rule or ordinance. A driver may be required to unload a vehicle only if the weighing officer determines that (a) on routes subject to the provisions of section 169.825, the weight on an axle exceeds the lawful gross weight prescribed by section 169.825, by 2,000 pounds or more, or the weight on a group of two or more consecutive axles in cases where the distance between the centers of the first and last axles of the group under consideration is ten feet or less exceeds the lawful gross weight prescribed by section 169.825, by 4,000 pounds or more; or (b) on routes designated by the commissioner in section 169.832, subdivision 11, the overall weight of the vehicle or the weight on an axle or group of consecutive axles exceeds the maximum lawful gross weights prescribed by section 169.825; or (c) the weight is unlawful on an axle or group of consecutive axles on a road restricted in accordance with section 169.87. Material unloaded must be cared for by the owner or driver of the vehicle at the risk of the owner or driver.

A driver of a vehicle who fails or refuses to stop and submit the vehicle and load to a weighing as required in this section, or who fails or refuses, when directed by an officer upon a weighing of the vehicle, to stop the vehicle and otherwise comply with the provisions of this section, is guilty of a misdemeanor.

Sec. 22. Minnesota Statutes 1995 Supplement, section 169.862, is amended to read:

169.862 [PERMITS FOR WIDE LOADS OF BALED AGRICULTURAL PRODUCTS.]

The commissioner of transportation with respect to highways under the commissioner's jurisdiction, and local authorities with respect to highways under their jurisdiction, may issue an annual permit to enable a vehicle carrying round bales of hay, straw, or cornstalks, with a total outside width of the vehicle or the load not exceeding 11-1/2 feet, to be operated on public streets and highways. The commissioner of transportation and local authorities may issue an annual permit to enable a vehicle, having a maximum width of 102 inches, carrying a first haul of square bales of straw, each bale having a minimum size of four feet by four feet by eight feet, with a total outside width of the load not exceeding 12 feet, to be operated on public streets and highways

between August 1 and ~~December~~ March 1 within 35 miles of the border between this state and the state of North Dakota. The commissioner of transportation and local authorities may issue an annual permit to enable a vehicle carrying square bales of hay, each with an outside dimension of not less than three feet by four feet by seven feet, with a total height of the loaded vehicle not exceeding 15 feet, to be operated on those public streets and highways designated in the permit. Permits issued under this section are governed by the applicable provisions of section 169.86 except as otherwise provided herein and, in addition, carry the following restrictions:

(a) The vehicles may not be operated between sunset and sunrise, when visibility is impaired by weather, fog, or other conditions rendering persons and vehicles not clearly visible at a distance of 500 feet, or on Sunday from noon until sunset, or on the days the following holidays are observed: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day.

(b) The vehicles may not be operated on interstate highways.

(c) The vehicles may not be operated on a trunk highway with a pavement less than 24 feet wide.

(d) A vehicle operated under the permit must be equipped with a retractable or removable mirror on the left side so located that it will reflect to the driver a clear view of the highway for a distance of at least 200 feet to the rear of the vehicle.

(e) A vehicle operated under the permit must display red, orange, or yellow flags, 18 inches square, as markers at the front and rear and on both sides of the load. The load must be securely bound to the transporting vehicle.

(f) Farm vehicles not for hire carrying round baled hay less than 20 miles are exempt from the requirement to obtain a permit. All other requirements of this section apply to vehicles transporting round baled hay.

The fee for the permit is $24.

Sec. 23. Minnesota Statutes 1994, section 169.871, is amended by adding a subdivision to read:

Subd. 1b. [CIVIL PENALTY FOR FIRST TWO VIOLATIONS.] Notwithstanding subdivision 1, clauses (a) to (e), a civil penalty under subdivision 1 for a violation in a motor vehicle in the course of a first haul as defined in section 168.013, subdivision 3, clause (3), of a weight limit imposed under sections 169.825, 169.832 to 169.851, and 169.87 that is not preceded by two or more violations of the gross weight limits in those sections in that motor vehicle within the previous 12 months, may not exceed $150.

Sec. 24. Minnesota Statutes 1995 Supplement, section 171.04, subdivision 1, is amended to read:

Subdivision 1. [PERSONS NOT ELIGIBLE.] The department shall not issue a driver's license hereunder:

(1) To any person who is under the age of 16 years; to any person under 18 years unless such person shall have successfully completed a course in driver education, including both classroom and behind-the-wheel instruction, approved by the state board of education for courses offered through the public schools, or, in the case of a course offered by a private, commercial driver education school or institute, by the department of public safety; except when such person has completed a course of driver education in another state or has a previously issued valid license from another state or country; nor to any person under 18 years unless the application of license is approved by either parent when both reside in the same household as the minor applicant, otherwise the parent or spouse of the parent having custody or with whom the minor is living in the event there is no court order for custody, or guardian having the custody of such minor, or in the event a person under the age of 18 has no living father, mother or guardian, the license shall not be issued to such person unless the application therefor is approved by the person's employer. Driver education courses offered in any public school shall be open for enrollment to persons

between the ages of 15 and 18 years residing in the school district or attending school therein. Any public school offering driver education courses may charge an enrollment fee for the driver education course which shall not exceed the actual cost thereof to the public school and the school district. The approval required herein shall contain a verification of the age of the applicant;

(2) To any person who is under the age of 18 years unless the person has applied for, been issued, and possessed the appropriate instruction permit for a minimum of six months;

(3) To any person whose license has been suspended during the period of suspension except that a suspended license may be reinstated during the period of suspension upon the licensee furnishing proof of financial responsibility in the same manner as provided in the Minnesota no-fault automobile insurance act;

~~(3)~~ (4) To any person whose license has been revoked except upon furnishing proof of financial responsibility in the same manner as provided in the Minnesota no-fault automobile insurance act and if otherwise qualified;

~~(4)~~ (5) To any person who is a drug dependent person as defined in section 254A.02, subdivision 5;

~~(5)~~ (6) To any person who has been adjudged legally incompetent by reason of mental illness, mental deficiency, or inebriation, and has not been restored to capacity, unless the department is satisfied that such person is competent to operate a motor vehicle with safety to persons or property;

~~(6)~~ (7) To any person who is required by this chapter to take an examination, unless such person shall have successfully passed such examination;

~~(7)~~ (8) To any person who is required under the provisions of the Minnesota no-fault automobile insurance act of this state to deposit proof of financial responsibility and who has not deposited such proof;

~~(8)~~ (9) To any person when the commissioner has good cause to believe that the operation of a motor vehicle on the highways by such person would be inimical to public safety or welfare;

~~(9)~~ (10) To any person when, in the opinion of the commissioner, such person is afflicted with or suffering from such physical or mental disability or disease as will affect such person in a manner to prevent the person from exercising reasonable and ordinary control over a motor vehicle while operating the same upon the highways; nor to a person who is unable to read and understand official signs regulating, warning, and directing traffic;

~~(10)~~ (11) To a child for whom a court has ordered denial of driving privileges under section 260.191, subdivision 1, or 260.195, subdivision 3a, until the period of denial is completed; or

~~(11)~~ (12) To any person whose license has been canceled, during the period of cancellation.

Sec. 25. Minnesota Statutes 1994, section 171.05, is amended by adding a subdivision to read:

Subd. 2a. [PERMIT FOR SIX MONTHS.] An applicant who has applied for and received an instruction permit pursuant to subdivision 2 must possess the instruction permit for not less than six months before qualifying for a driver's license.

Sec. 26. Minnesota Statutes 1994, section 173.02, subdivision 6, is amended to read:

Subd. 6. [VARIOUS SIGNS AND NOTICES DEFINED.] Directional and other official signs and notices shall mean:

(a) "Official signs and notices" mean signs and notices erected and maintained by public officers or public agencies within their territorial jurisdiction and pursuant to and in accordance with direction or authorization contained in federal or state law for the purposes of carrying out an official duty or responsibility. Historical markers authorized by state law and erected by state or local governmental agencies or nonprofit historical societies ~~and~~, star city signs erected under

section 173.085, and municipal identification entrance signs erected in accordance with section 173.025 may be considered official signs.

(b) "Public utility signs" mean warning signs, notices, or markers which are customarily erected and maintained by publicly or privately owned public utilities, as essential to their operations.

(c) "Service club and religious notices" mean signs and notices, not exceeding eight square feet in advertising area, whose erection is authorized by law, relating to meetings and location of nonprofit service clubs or charitable associations, or religious services.

(d) "Directional signs" means signs containing directional information about public places owned or operated by federal, state, or local governments or their agencies, publicly or privately owned natural phenomena, historic, cultural, scientific, educational, and religious sites, and areas of natural scenic beauty or naturally suited for outdoor recreation, deemed to be in the interest of the traveling public. To qualify for directional signs, privately owned attractions must be nationally or regionally known, and of outstanding interest to the traveling public.

(e) All definitions in this subdivision are intended to be in conformity with the national standards for directional and other official signs.

Sec. 27. [173.025] [MUNICIPAL IDENTIFICATION SIGNS.]

A local road authority may erect a municipal identification entrance sign within the right-of-way of a trunk highway with the written permission of the commissioner. Municipal identification entrance signs erected without the written permission of the commissioner are prohibited.

Sec. 28. Minnesota Statutes 1994, section 173.07, subdivision 1, is amended to read:

Subdivision 1. [FORMS; CONTENT~~; IDENTIFYING NUMBER~~.] Application for permits or renewals thereof for the placement and maintenance of advertising devices within scenic areas shall be on forms prescribed by the commissioner and shall contain such information as the commissioner may require. No advertising device shall be placed without the consent of the owner or occupant of the land, and adequate proof of such consent shall be submitted to the commissioner at the time application is made for such permits or renewals. ~~There shall be furnished with each permit an identifying number which shall be affixed by the permit holder to the advertising device in accordance with rules of the commissioner of transportation.~~

Sec. 29. Minnesota Statutes 1994, section 174.04, is amended to read:

174.04 [FINANCIAL ASSISTANCE; APPLICATIONS; DISBURSEMENT.]

Subdivision 1. [REVIEW OF APPLICATION.] Any state agency which receives an application from a regional development commission, metropolitan council, public transit commission, airport commission, port authority or other political subdivision of the state, or any nonpublic organization, for financial assistance for transportation planning, capital expenditures or operations to any state or federal agency, shall first submit the application to the commissioner of transportation. The commissioner shall review the application to determine whether it contains matters that substantially affect the statewide transportation plan and priorities. If the application does not contain such matters, the commissioner shall within 15 days after receipt return the application to the applicant political subdivision or nonpublic organization for forwarding to the appropriate agency. If the application contains such matters, the commissioner shall review and comment on the application as being consistent with the plan and priorities. The commissioner shall return the application together with comments within 45 days after receipt to the applicant political subdivision or nonpublic organization for forwarding with the commissioner's comments to the appropriate agency.

Subd. 2. [DESIGNATED AGENT.] A regional development commission, metropolitan council, public transit commission, airport commission, port authority, or any other political subdivision of the state, or any nonpublic organization, may designate the commissioner as its agent to receive and disburse funds by entering into an agreement with the commissioner

prescribing the terms and conditions of the receipt and expenditure of the funds in accordance with federal and state laws, rules, and regulations.

Subd. 3. [EXCEPTIONS.] The provisions of this section shall not be construed as altering or amending in any way the funding procedures specified in section 161.36, 360.016 or 360.0161.

Sec. 30. Minnesota Statutes 1995 Supplement, section 221.0355, subdivision 5, is amended to read:

Subd. 5. [HAZARDOUS WASTE TRANSPORTERS.] (a) A carrier with its principal place of business in Minnesota or who designates Minnesota as its base state shall file a disclosure statement with and obtain a permit from the commissioner that specifically authorizes the transportation of hazardous waste before transporting a hazardous waste in Minnesota. A carrier that designates another participating state as its base state shall file a disclosure statement with and obtain a permit from that state that specifically authorizes the transportation of hazardous waste before transporting a hazardous waste in Minnesota. A registration is valid for one year from the date a notice of registration form is issued and a permit is valid for three years from the date issued or until a carrier fails to renew its registration, whichever occurs first.

(b) A disclosure statement must include the information contained in part III of the uniform application. A person who has direct management responsibility for a carrier's hazardous waste transportation operations shall submit a full set of the person's fingerprints, with the carrier's disclosure statement, for identification purposes and to enable the commissioner to determine whether the person has a criminal record. The commissioner shall send the person's fingerprints to the Federal Bureau of Investigation and shall request the bureau to conduct a check of the person's criminal record. The commissioner shall not issue a notice of registration or permit to a hazardous waste transporter who has not made a full and accurate disclosure of the required information or paid the fees required by this subdivision. Making a materially false or misleading statement in a disclosure statement is prohibited.

(c) The commissioner shall assess a carrier the actual costs incurred by the commissioner for conducting the uniform program's required investigation of the information contained in a disclosure statement.

(d) A permit under this subdivision becomes a license under section 221.035, subdivision 1, on August 1, ~~1996~~ 1997, and is subject to the provisions of section 221.035 until it expires.

Sec. 31. Minnesota Statutes 1995 Supplement, section 221.0355, subdivision 15, is amended to read:

Subd. 15. [HAZARDOUS WASTE LICENSES.] (a) From October 1, 1994, until August 1, ~~1996~~ 1997, the commissioner shall not register hazardous material transporters under section 221.0335 or license hazardous waste transporters under section 221.035. A person who is licensed under section 221.035 need not obtain a permit under subdivision 4 or 5 for the transportation of hazardous waste in Minnesota, until the person's license has expired. A carrier wishing to transport hazardous waste in another participating state shall obtain a permit under the uniform program authorizing the transportation.

(b) The commissioner may refund fees paid under section 221.035, minus a proportional amount calculated on a monthly basis for each month that a hazardous waste transporter license was valid, to a person who was issued a hazardous waste transporter license after May 5, 1994, who applied for a permit authorizing the transportation of hazardous waste under subdivisions 4 and 5 before October 1, 1994, and who was subsequently issued that permit under the uniform program.

Sec. 32. Minnesota Statutes 1994, section 222.37, subdivision 1, is amended to read:

Subdivision 1. [USE REQUIREMENTS.] Any water power, telegraph, telephone, pneumatic tube, pipeline, community antenna television, cable communications or electric light, heat, ~~or~~ power company, or fire department may use public roads for the purpose of constructing, using, operating, and maintaining lines, subways, canals, ~~or~~ conduits, hydrants, or dry hydrants, for their

business, but such lines shall be so located as in no way to interfere with the safety and convenience of ordinary travel along or over the same; and, in the construction and maintenance of such line, subway, canal, ~~or~~ conduit, hydrants, or dry hydrants, the company shall be subject to all reasonable regulations imposed by the governing body of any county, town or city in which such public road may be. If the governing body does not require the company to obtain a permit, a company shall notify the governing body of any county, town, or city having jurisdiction over a public road prior to the construction or major repair, involving extensive excavation on the road right-of-way, of the company's equipment along, over, or under the public road, unless the governing body waives the notice requirement. A waiver of the notice requirement must be renewed on an annual basis. For emergency repair a company shall notify the governing body as soon as practical after the repair is made. Nothing herein shall be construed to grant to any person any rights for the maintenance of a telegraph, telephone, pneumatic tube, community antenna television system, cable communications system, or light, heat, ~~or~~ power system, or hydrant system within the corporate limits of any city until such person shall have obtained the right to maintain such system within such city or for a period beyond that for which the right to operate such system is granted by such city.

Sec. 33. Laws 1994, chapter 589, section 8, is amended to read:

Sec. 8. [REPEALER.]

Minnesota Statutes 1992, section 221.033, subdivision 4, is repealed. Section 5 is repealed effective August 1, ~~1996~~ 1997.

Sec. 34. [REPEALER.]

Minnesota Statutes 1994, sections 161.086; and 161.115, subdivision 262, are repealed.

Sec. 35. [EFFECTIVE DATE.]

Sections 24 and 25 are effective February 1, 1997. Sections 5 to 8 are effective the day following final enactment. Section 14 is effective July 1, 1996.

ARTICLE 4

MOTOR VEHICLE REGISTRATION

Section 1. Minnesota Statutes 1994, section 168.042, subdivision 8, is amended to read:

Subd. 8. [REISSUANCE OF REGISTRATION PLATES.] (a) The commissioner shall rescind the impoundment order of a person subject to an order under this section, other than the violator, if ~~a~~:

(1) the violator had a valid driver's license on the date of the violation and the person ~~subject to an impoundment order under this section, other than the violator,~~ files with the commissioner an acceptable sworn statement containing the following information:

~~(1)~~ (i) that the person is the registered owner of the vehicle from which the plates have been impounded under this section;

~~(2)~~ (ii) that the person is the current owner and possessor of the vehicle used in the violation;

~~(3)~~ (iii) the date on which the violator obtained the vehicle from the registered owner;

~~(4)~~ (iv) the residence addresses of the registered owner and the violator on the date the violator obtained the vehicle from the registered owner;

~~(5)~~ (v) that the person was not a passenger in the vehicle at the time of the violation; and

~~(6)~~ (vi) that the person knows that the violator may not drive, operate, or be in physical control of a vehicle without a valid driver's license; or

(2) the violator did not have a valid driver's license on the date of the violation and the person made a report to law enforcement before the violation stating that the vehicle had been taken from the person's possession or was being used without permission.

(b) ~~The commissioner may not rescind the impoundment order nor reissue registration plates to a registered owner if the owner knew or had reason to know that the violator did not have a valid driver's license on the date the violator obtained the vehicle from the owner.~~ A person who has failed to make a report as provided in paragraph (a), clause (2), may be issued special registration plates under subdivision 12 for a period of one year from the effective date of the impoundment order. At the next registration renewal following this period, the person may apply for regular registration plates.

(c) If the order is rescinded, the owner shall receive new registration plates at no cost, if the plates were seized and destroyed.

Sec. 2. Minnesota Statutes 1994, section 168.042, is amended by adding a subdivision to read:

Subd. 13a. [ACQUIRING ANOTHER VEHICLE.] If during the effective period of the plate impoundment the violator applies to the commissioner for registration plates for any vehicle, the commissioner shall not issue registration plates unless the violator qualifies for special registration plates under subdivision 12 and unless the plates issued are special plates as described in subdivision 12.

Sec. 3. Minnesota Statutes 1994, section 168.12, subdivision 2, is amended to read:

Subd. 2. [AMATEUR RADIO STATION LICENSEE; SPECIAL LICENSE PLATES.] Any applicant who is an owner or joint owner of a passenger automobile, van or pickup truck, or a self-propelled recreational vehicle, and a resident of this state, and who holds an official amateur radio station license, or a citizens radio service class D license, in good standing, issued by the Federal Communications Commission shall upon compliance with all laws of this state relating to registration and the licensing of motor vehicles and drivers, be furnished with license plates for the motor vehicle, as prescribed by law, upon which, in lieu of the numbers required for identification under subdivision 1, shall be inscribed the official amateur call letters of the applicant, as assigned by the Federal Communications Commission~~.~~, and the words "AMATEUR RADIO." The applicant shall pay in addition to the registration tax required by law, the sum of $10 for the special license plates, and at the time of delivery of the special license plates the applicant shall surrender to the registrar the current license plates issued for the motor vehicle. This provision for the issue of special license plates shall apply only if the applicant's vehicle is already registered in Minnesota so that the applicant has valid regular Minnesota plates issued for that vehicle under which to operate it during the time that it will take to have the necessary special license plates made. If owning or jointly owning more than one motor vehicle of the type specified in this subdivision, the applicant may apply for special plates for each of not more than two vehicles, and, if each application complies with this subdivision, the registrar shall furnish the applicant with the special plates, inscribed with the official amateur call letters and other distinguishing information as the registrar considers necessary, for each of the two vehicles. And the registrar may make reasonable rules governing the use of the special license plates as will assure the full compliance by the owner and holder of the special plates, with all existing laws governing the registration of motor vehicles, the transfer and the use thereof.

Despite any contrary provision of subdivision 1, the special license plates issued under this subdivision may be transferred to another motor vehicle upon the payment of a fee of $5. The registrar must be notified of the transfer and may prescribe a form for the notification.

Fees collected under this subdivision must be paid into the state treasury and credited to the highway user tax distribution fund.

Sec. 4. Minnesota Statutes 1994, section 168.123, subdivision 1, is amended to read:

Subdivision 1. [GENERAL REQUIREMENTS; FEES.] (a) On payment of a fee of $10 for each set of two plates, or for a single plate in the case of a motorcycle plate, payment of the registration tax required by law, and compliance with other laws relating to the registration and licensing of a passenger automobile, pickup truck, van, self-propelled recreational equipment, or motorcycle, as applicable, the registrar shall issue:

(1) special license plates to an applicant who served in the active military service in a branch of

the armed forces of the United States or of a nation or society allied with the United States in conducting a foreign war, was discharged under honorable conditions, and is an owner or joint owner of a ~~motor vehicle included within the definition of a~~ passenger automobile ~~or which is~~, pickup truck, van, or self-propelled recreational equipment~~, on payment of a fee of $10 for each set of two plates, payment of the registration tax required by law, and compliance with other laws relating to registration and licensing of motor vehicles and drivers~~; or

(2) a special motorcycle license plate as described in subdivision 2, paragraph (a), or another special license plate designed by the commissioner of public safety to an applicant who is a Vietnam veteran who served after July 1, 1961, and before July 1, 1978, and who served in the active military service in a branch of the armed forces of the United States in conducting a foreign war, was discharged under honorable conditions, and is an owner or joint owner of a motorcycle. Plates issued under this clause must be the same size as standard motorcycle license plates.

(b) The additional fee of $10 is payable for each set of plates, is payable only when the plates are issued, and is not payable in a year in which tabs or stickers are issued instead of number plates. An applicant must not be issued more than two sets of plates for vehicles listed in paragraph (a) and owned or jointly owned by the applicant.

(c) The veteran shall have a certified copy of the veteran's discharge papers, indicating character of discharge, at the time of application. If an applicant served in the active military service in a branch of the armed forces of a nation or society allied with the United States in conducting a foreign war and is unable to obtain a record of that service and discharge status, the commissioner of veterans affairs may certify the applicant as qualified for the veterans' license plates provided under this section.

Sec. 5. Minnesota Statutes 1994, section 168.123, subdivision 4, is amended to read:

Subd. 4. [PLATE TRANSFERS.] (a) On payment of a fee of $5, plates issued under ~~this section~~ subdivision 1, paragraph (a), clause (1), may be transferred to another ~~motor vehicle~~ passenger automobile, pickup truck, van, or self-propelled recreational equipment owned or jointly owned by the person to whom the plates were issued.

(b) On payment of a fee of $5, a plate issued under subdivision 1, paragraph (a), clause (2), may be transferred to another motorcycle owned or jointly owned by the person to whom the plate was issued.

Sec. 6. [168.1291] [SPECIAL LICENSE PLATES; DESIGN.]

Subdivision 1. [DEFINITION.] For purposes of this section "special license plates" means license plates issued under sections 168.12, subdivisions 2b to 2e; 168.123; 168.129; 168.1292; and 168.1296.

Subd. 2. [DESIGN OF SPECIAL LICENSE PLATES.] The commissioner shall design a single special license plate that will contain a unique number and a space for a unique symbol. The commissioner shall design a unique symbol related to the purpose of each special license plate. Any provision of sections 168.12, subdivisions 2b to 2e; 168.123; 168.129; 168.1292; and 168.1296 that requires the placement of a specified letter or letters on a special license plate applies to those license plates only to the extent that the commissioner includes the letter or letters in the design. Where a law authorizing a special license plate contains a specific requirement for graphic design of that license plate, that requirement applies to the appropriate unique symbol the commissioner designs.

Subd. 3. [ISSUANCE OF SPECIAL LICENSE PLATES WITH UNIQUE SYMBOLS.] Notwithstanding section 168.12, subdivisions 2b to 2e; 168.123; 168.129; 168.1292; or 168.1296, beginning with special license plates issued in calendar year 1996 the commissioner shall issue each class of special license plates permanently marked with specific designs under those laws only until the commissioner's supply of those license plates is exhausted. Thereafter the commissioner shall issue under those laws only the license plate authorized under subdivision 2, with the appropriate unique symbol attached.

Subd. 4. [FEES.] Notwithstanding section 168.12, subdivisions 2b to 2e; 168.123; 168.129; 168.1292; or 168.1296, the commissioner shall charge a fee of $10 for each set of license plates issued under this section.

Subd. 5. [APPLICATION.] This section does not apply to a special motorcycle license plate designed by the registrar under section 168.123, subdivision 1, clause (2).

Sec. 7. [168.1292] [OLYMPIC LICENSE PLATES.]

Subdivision 1. [GENERAL REQUIREMENTS AND PROCEDURES.] The registrar shall issue special Olympic 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 of $10 to cover the costs of handling and manufacturing the plates;

(3) pays the registration tax required under section 168.013;

(4) pays the fees required under this chapter;

(5) contributes $15 annually to the Minnesota amateur sports commission; and

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

Subd. 2. [DESIGN.] After consultation with the United States Olympic Committee, the registrar shall design the special Olympic plates.

In consultation with the registrar, the Minnesota amateur sports commission annually shall indicate the number of plates the commission anticipates will be needed.

Subd. 3. [PLATE TRANSFERS.] Notwithstanding section 168.12, subdivision 1, on payment of a transfer fee of $5, plates issued under this section may be transferred to another passenger vehicle, pickup truck, or van owned or jointly owned by the person to whom the special plates were issued.

Subd. 4. [FEES CREDITED.] The fees collected under this section must be deposited in the state treasury and credited to the highway user tax distribution fund.

Subd. 5. [CONTRIBUTIONS.] The registrar shall issue a set of Olympic license plates under this section only to a person who presents at the time of applying for registration a receipt from the Minnesota amateur sports commission that demonstrates that the applicant has contributed at least $15 to the commission within 90 days prior to the date of the application. After the issuance of that set of Olympic license plates, the collection of subsequent contributions during the life of that set of license plates is the responsibility of the commission.

Sec. 8. Minnesota Statutes 1995 Supplement, section 168.1296, subdivision 1, is amended to read:

Subdivision 1. [GENERAL REQUIREMENTS AND PROCEDURES.] The registrar shall issue special critical habitat 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 registrar~~ of $10 to cover the costs of handling and manufacturing the plates;

(3) pays the registration tax required under section 168.013;

(4) pays the fees required under this chapter;

(5) contributes at least $30 annually to the Minnesota critical habitat private sector matching account established in section 84.943; and

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

Sec. 9. Minnesota Statutes 1994, section 168.15, is amended to read:

168.15 [RIGHTS AS TO REGISTRATION CERTIFICATES AND NUMBER PLATES.]

Subdivision 1. [TRANSFER OF OWNERSHIP.] Except as provided in subdivision 3, upon the transfer of ownership, destruction, theft, dismantling as such, or the permanent removal by the owner thereof from this state of any motor vehicle registered in accordance with the provisions of this chapter, the right of the owner of such vehicle to use the registration certificate and number plates assigned such vehicle shall expire, and such certificate and any existing plates shall be, by such owner, forthwith returned, with transportation prepaid, to the registrar with a signed notice of the date and manner of termination of ownership, giving the name and post office address, with street and number, if in a city, of the person to whom transferred. No fee may be charged for a return of plates under this section. When the ownership of a motor vehicle shall be transferred to another who shall forthwith register the same in the other's name, the registrar may permit the manual delivery of such plates to the new owner of such vehicle. When seeking to become the owner by gift, trade, or purchase of any vehicle for which a registration certificate has been theretofore issued under the provisions of this chapter, a person shall join with the registered owner in transmitting with the application the registration certificate, with the assignment and notice of sale duly executed upon the reverse side thereof, or, in case of loss of such certificate, with such proof of loss by sworn statement, in writing, as shall be satisfactory to the registrar. Upon the transfer of any motor vehicle by a manufacturer or dealer, for use within the state, whether by sale, lease, or otherwise, such manufacturer or dealer shall, within seven days after such transfer, file with the registrar a notice or report containing the date of such transfer, a description of such motor vehicles, and the name, street and number of residence, if in a city, and the post office address of the transferee, and shall transmit therewith the transferee's application for registration thereof.

Subd. 2. [TRANSFER OF ENGINE.] Upon the transfer of any automobile engine or motor, except a new engine or motor, transferred with intent that the same be installed in a new automobile, and whether such transfer be made by a manufacturer or dealer, or otherwise, and whether by sale, lease or otherwise, the transferor shall, within two days after such transfer, file with the registrar a notice or report containing the date of such transfer and a description, together with the maker's number of the engine or motor, and the name and post office address of the purchaser, lessee, or other transferee.

Subd. 3. [VEHICLES OF LESSORS; TRANSFERS.] Notwithstanding subdivision 1, a motor vehicle lessor licensed under section 168.27, subdivision 2, 3, or 4, may transfer license plates issued to one rental motor vehicle owned by the lessor to another rental motor vehicle, owned by the lessor and not previously registered in Minnesota or another jurisdiction, if within ten days of the transfer the lessor registers the vehicle to which the license plates were transferred. Upon registration, the lessor must pay all taxes and fees due on the registration of the vehicle to which the license plates were transferred, plus a transfer fee of $15. The fee must be deposited in the highway user tax distribution fund. For purposes of this subdivision, "rental motor vehicle" means a vehicle used for rentals or leases of 30 days or less.

Sec. 10. Minnesota Statutes 1995 Supplement, section 168.16, is amended to read:

168.16 [REFUNDS; APPROPRIATION.]

After the tax upon any motor vehicle shall have been paid for any year, refund shall be made for errors made in computing the tax or fees and for the error on the part of an owner who may in error have registered a motor vehicle that was not before, nor at the time of registration, nor at any time thereafter during the current past year, subject to tax in this state as provided by section 168.012. Unless otherwise provided in this chapter, a claim for a refund of an overpayment of registration tax must be filed within 3-1/2 years from the date of payment. The refundment shall be made from any fund in possession of the registrar and shall be deducted from the registrar's monthly report to the commissioner of finance. A detailed report of the refundment shall accompany the report. The former owner of a transferred vehicle by an assignment in writing endorsed upon the registration certificate and delivered to the registrar within the time provided herein may sell and assign to the new owner thereof the right to have the tax paid by the former

owner accredited to the owner who duly registers the vehicle. Any owner at the time of such occurrence, whose vehicle ~~shall be~~ is permanently destroyed, or sold to the federal government, the state, or political subdivision thereof, and any owner who sells a rental motor vehicle and transfers the license plates issued to that motor vehicle under section 168.15, subdivision 3, shall upon filing a verified claim be entitled to a refund of the unused portion of the tax paid upon the vehicle, computed as follows:

(1) if the vehicle is registered under the calendar year system of registration, the refund is computed pro rata by the month, 1/12 of the annual tax paid for each month of the year remaining after the month in which the plates and certificate were returned to the registrar;

(2) in the case of a vehicle registered under the monthly series system of registration, the amount of the refund is equal to the sum of the amounts of the license fee attributable to those months remaining in the licensing period after the month in which the plates and certificate were returned to the registrar.

There is hereby appropriated to the persons entitled to a refund, from the fund or account in the state treasury to which the money was credited, an amount sufficient to make the refund and payment. Refunds under this section to licensed motor vehicle lessors must be made annually in a manner the registrar determines.

Sec. 11. Minnesota Statutes 1994, section 168.33, is amended by adding a subdivision to read:

Subd. 8. [TEMPORARY DISABILITY PERMIT AND FEE.] The registrar shall allow deputy registrars to implement and follow procedures for processing applications and accepting and remitting fee payments for 30-day temporary disability permits issued under section 169.345, subdivision 3, paragraph (c), that are identical or substantially similar to the procedures required by rule for motor vehicle registration and titling transactions.

Sec. 12. Minnesota Statutes 1994, section 169.121, subdivision 3, is amended to read:

Subd. 3. [CRIMINAL PENALTIES.] (a) As used in this subdivision:

(1) "prior impaired driving conviction" means a prior conviction under this section; section 84.91, subdivision 1, paragraph (a); 86B.331, subdivision 1, paragraph (a); 169.129; 360.0752; 609.21, subdivision 1, clauses (2) to (4); 609.21, subdivision 2, clauses (2) to (4); 609.21, subdivision 2a, clauses (2) to (4); 609.21, subdivision 3, clauses (2) to (4); 609.21, subdivision 4, clauses (2) to (4); or an ordinance from this state, or a statute or ordinance from another state in conformity with any of them. A prior impaired driving conviction also includes a prior juvenile adjudication that would have been a prior impaired driving conviction if committed by an adult; and

(2) "prior license revocation" means a driver's license suspension, revocation, or cancellation under this section; section 169.123; 171.04; 171.14; 171.16; 171.17; or 171.18 because of an alcohol-related incident; 609.21, subdivision 1, clauses (2) to (4); 609.21, subdivision 2, clauses (2) to (4); 609.21, subdivision 2a, clauses (2) to (4); 609.21, subdivision 3, clauses (2) to (4); or 609.21, subdivision 4, clauses (2) to (4); or an ordinance from this state, or a statute or ordinance from another state in conformity with any of them.

(b) A person who violates subdivision 1 or 1a, or an ordinance in conformity with either of them, is guilty of a misdemeanor.

(c) A person is guilty of a gross misdemeanor under any of the following circumstances:

(1) the person violates subdivision 1 within five years of a prior impaired driving conviction, or within ten years of the first of two or more prior impaired driving convictions;

(2) the person violates subdivision 1a within five years of a prior license revocation, or within ten years of the first of two or more prior license revocations;

(3) the person violates section 169.26 while in violation of subdivision 1; or

(4) the person violates subdivision 1 or 1a while a child under the age of 16 is in the vehicle, if the child is more than 36 months younger than the violator.

(d) The attorney in the jurisdiction in which the violation occurred who is responsible for prosecution of misdemeanor violations of this section shall also be responsible for prosecution of gross misdemeanor violations of this section.

(e) The court must impose consecutive sentences when it sentences a person for a violation of this section or section 169.29 arising out of separate behavioral incidents. The court also must impose a consecutive sentence when it sentences a person for a violation of this section or section 169.129 and the person, at the time of sentencing, is on probation for, or serving, an executed sentence for a violation of this section or section 169.29 and the prior sentence involved a separate behavioral incident. The court also may order that the sentence imposed for a violation of this section or section 169.29 shall run consecutively to a previously imposed misdemeanor, gross misdemeanor or felony sentence for a violation other than this section or section 169.129.

(f) When an attorney responsible for prosecuting gross misdemeanors under this section requests criminal history information relating to prior impaired driving convictions from a court, the court must furnish the information without charge.

(g) A violation of subdivision 1a may be prosecuted either in the jurisdiction where the arresting officer observed the defendant driving, operating, or in control of the motor vehicle or in the jurisdiction where the refusal occurred.

Sec. 13. [APPROPRIATION TO PAY INITIAL COSTS OF OLYMPIC PLATES.]

(a) The Minnesota amateur sports commission shall pay the commissioner an amount determined by the commissioner to equal the administrative, handling, and manufacturing costs of the first production of Olympic license plates. Production of license plates must begin after the commissioner receives payment.

(b) The amount determined by the commissioner under paragraph (a) is appropriated to the commissioner of public safety to pay the costs of the first production of Olympic license plates. The sum is available until spent.

(c) The amount paid by the Minnesota amateur sports commission to the commissioner under paragraph (a) is appropriated to the Minnesota amateur sports commission from the highway user tax distribution fund. This appropriation is available to the extent that Olympic license plates are sold and receipts are credited to the highway user tax distribution fund.

Sec. 14. [REPORT.]

The commissioner of public safety shall report to the legislature by January 15, 1999, on the fiscal impact of sections 9 and 10. The report must include the total amount paid in refunds and collected in fees under those sections.

Sec. 15. [EFFECTIVE DATE.]

Section 8 is effective the day following final enactment.

Sections 9 and 10 are effective January 1, 1997, and are repealed June 30, 1999.

ARTICLE 5

REPLACEMENT TRANSIT SERVICE

Section 1. Minnesota Statutes 1995 Supplement, section 275.065, subdivision 3, is amended to read:

Subd. 3. [NOTICE OF PROPOSED PROPERTY TAXES.] (a) The county auditor shall prepare and the county treasurer shall deliver after November 10 and on or before November 24 each year, by first class mail to each taxpayer at the address listed on the county's current year's assessment roll, a notice of proposed property taxes and, in the case of a town, final property taxes.

(b) The commissioner of revenue shall prescribe the form of the notice.

(c) The notice must inform taxpayers that it contains the amount of property taxes each taxing authority other than a town proposes to collect for taxes payable the following year and, for a town, the amount of its final levy. It must clearly state that each taxing authority, including regional library districts established under section 134.201, and including the metropolitan taxing districts as defined in paragraph (i), but excluding all other special taxing districts and towns, will hold a public meeting to receive public testimony on the proposed budget and proposed or final property tax levy, or, in case of a school district, on the current budget and proposed property tax levy. It must clearly state the time and place of each taxing authority's meeting and an address where comments will be received by mail.

(d) The notice must state for each parcel:

(1) the market value of the property as determined under section 273.11, and used for computing property taxes payable in the following year and for taxes payable in the current year; and, in the case of residential property, whether the property is classified as homestead or nonhomestead. The notice must clearly inform taxpayers of the years to which the market values apply and that the values are final values;

(2) by county, city or town, school district excess referenda levy, remaining school district levy, regional library district, if in existence, the total of the metropolitan special taxing districts as defined in paragraph (i) and the sum of the remaining special taxing districts, and as a total of the taxing authorities, including all special taxing districts, the proposed or, for a town, final net tax on the property for taxes payable the following year and the actual tax for taxes payable the current year. For the purposes of this subdivision, "school district excess referenda levy" means school district taxes for operating purposes approved at referendums, including those taxes based on net tax capacity as well as those based on market value. "School district excess referenda levy" does not include school district taxes for capital expenditures approved at referendums or school district taxes to pay for the debt service on bonds approved at referenda. In the case of the city of Minneapolis, the levy for the Minneapolis library board and the levy for Minneapolis park and recreation shall be listed separately from the remaining amount of the city's levy. In the case of a parcel where tax increment or the fiscal disparities areawide tax applies, the proposed tax levy on the captured value or the proposed tax levy on the tax capacity subject to the areawide tax must each be stated separately and not included in the sum of the special taxing districts; and

(3) the increase or decrease in the amounts in clause (2) from taxes payable in the current year to proposed or, for a town, final taxes payable the following year, expressed as a dollar amount and as a percentage.

(e) The notice must clearly state that the proposed or final taxes do not include the following:

(1) special assessments;

(2) levies approved by the voters after the date the proposed taxes are certified, including bond referenda, school district levy referenda, and levy limit increase referenda;

(3) amounts necessary to pay cleanup or other costs due to a natural disaster occurring after the date the proposed taxes are certified;

(4) amounts necessary to pay tort judgments against the taxing authority that become final after the date the proposed taxes are certified; and

(5) the contamination tax imposed on properties which received market value reductions for contamination.

(f) Except as provided in subdivision 7, failure of the county auditor to prepare or the county treasurer to deliver the notice as required in this section does not invalidate the proposed or final tax levy or the taxes payable pursuant to the tax levy.

(g) If the notice the taxpayer receives under this section lists the property as nonhomestead and the homeowner provides satisfactory documentation to the county assessor that the property is

owned and has been used as the owner's homestead prior to June 1 of that year, the assessor shall reclassify the property to homestead for taxes payable in the following year.

(h) In the case of class 4 residential property used as a residence for lease or rental periods of 30 days or more, the taxpayer must either:

(1) mail or deliver a copy of the notice of proposed property taxes to each tenant, renter, or lessee; or

(2) post a copy of the notice in a conspicuous place on the premises of the property.

The notice must be mailed or posted by the taxpayer by November 27 or within three days of receipt of the notice, whichever is later. A taxpayer may notify the county treasurer of the address of the taxpayer, agent, caretaker, or manager of the premises to which the notice must be mailed in order to fulfill the requirements of this paragraph.

(i) For purposes of this subdivision, subdivisions 5a and 6, "metropolitan special taxing districts" means the following taxing districts in the seven-county metropolitan area that levy a property tax for any of the specified purposes listed below:

(1) metropolitan council under section 473.132, 473.167, 473.249, 473.325, 473.446, 473.521, 473.547, or 473.834;

(2) metropolitan airports commission under section 473.667, 473.671, or 473.672; and

(3) metropolitan mosquito control commission under section 473.711.

(j) For taxes levied in 1996, payable in 1997 only, in the case of a statutory or home rule charter city or town that exercises the local levy option provided in section 473.388, subdivision 7, the notice of its proposed taxes may include a statement of the amount by which its proposed tax increase for taxes payable in 1997 is attributable to its exercise of that option, together with a statement that the levy of the metropolitan council was decreased by a similar amount because of the exercise of that option.

For purposes of this section, any levies made by the regional rail authorities in the county of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, or Washington under chapter 398A shall be included with the appropriate county's levy and shall be discussed at that county's public hearing.

Sec. 2. Minnesota Statutes 1995 Supplement, section 275.065, subdivision 6, is amended to read:

Subd. 6. [PUBLIC HEARING; ADOPTION OF BUDGET AND LEVY.] Between November 29 and December 20, the governing bodies of the city, county, metropolitan special taxing districts as defined in subdivision 3, paragraph (i), and regional library districts shall each hold a public hearing to discuss and seek public comment on its final budget and property tax levy for taxes payable in the following year, and the governing body of the school district shall hold a public hearing to review its current budget and proposed property tax levy for taxes payable in the following year. The metropolitan special taxing districts shall be required to hold only a single joint public hearing, the location of which will be determined by the affected metropolitan agencies.

At a subsequent hearing, each county, school district, city, and metropolitan special taxing district may amend its proposed property tax levy and must adopt a final property tax levy. Each county, city, and metropolitan special taxing district may also amend its proposed budget and must adopt a final budget at the subsequent hearing. A school district is not required to adopt its final budget at the subsequent hearing. The subsequent hearing of a taxing authority must be held on a date subsequent to the date of the taxing authority's initial public hearing, or subsequent to the date of its continuation hearing if a continuation hearing is held. The subsequent hearing may be held at a regularly scheduled board or council meeting or at a special meeting scheduled for the purposes of the subsequent hearing. The subsequent hearing of a taxing authority does not have to be coordinated by the county auditor to prevent a conflict with an initial hearing, a continuation hearing, or a subsequent hearing of any other taxing authority. All subsequent hearings must be held prior to five working days after December 20 of the levy year.

The time and place of the subsequent hearing must be announced at the initial public hearing or at the continuation hearing.

The property tax levy certified under section 275.07 by a city, county, metropolitan special taxing district, regional library district, or school district must not exceed the proposed levy determined under subdivision 1, except by an amount up to the sum of the following amounts:

(1) the amount of a school district levy whose voters approved a referendum to increase taxes under section 124.82, subdivision 3, 124A.03, subdivision 2, 124B.03, subdivision 2, or 136C.411, after the proposed levy was certified;

(2) the amount of a city or county levy approved by the voters after the proposed levy was certified;

(3) the amount of a levy to pay principal and interest on bonds issued or approved by the voters under section 475.58 after the proposed levy was certified;

(4) the amount of a levy to pay costs due to a natural disaster occurring after the proposed levy was certified, if that amount is approved by the commissioner of revenue under subdivision 6a;

(5) the amount of a levy to pay tort judgments against a taxing authority that become final after the proposed levy was certified, if the amount is approved by the commissioner of revenue under subdivision 6a;

(6) the amount of an increase in levy limits certified to the taxing authority by the commissioner of children, families, and learning or the commissioner of revenue after the proposed levy was certified; and

(7) the amount required under section 124.755.

At the hearing under this subdivision, the percentage increase in property taxes proposed by the taxing authority, if any, and the specific purposes for which property tax revenues are being increased must be discussed.

During the discussion, the governing body shall hear comments regarding a proposed increase and explain the reasons for the proposed increase. The public shall be allowed to speak and to ask questions. At the subsequent hearing held as provided in this subdivision, the governing body, other than the governing body of a school district, shall adopt its final property tax levy prior to adopting its final budget.

If the hearing is not completed on its scheduled date, the taxing authority must announce, prior to adjournment of the hearing, the date, time, and place for the continuation of the hearing. The continued hearing must be held at least five business days but no more than 14 business days after the original hearing.

The hearing must be held after 5:00 p.m. if scheduled on a day other than Saturday. No hearing may be held on a Sunday. The governing body of a county shall hold a hearing on the second Tuesday in December each year, and may hold additional hearings on other dates before December 20 if necessary for the convenience of county residents. If the county needs a continuation of its hearing, the continued hearing shall be held on the third Tuesday in December. If the third Tuesday in December falls on December 21, the county's continuation hearing shall be held on Monday, December 20. The county auditor shall provide for the coordination of hearing dates for all cities and school districts within the county.

The metropolitan special taxing districts shall hold a joint public hearing on the first Monday of December. A continuation hearing, if necessary, shall be held on the second Monday of December.

By August 10, each school board and the board of the regional library district shall certify to the county auditors of the counties in which the school district or regional library district is located the dates on which it elects to hold its hearings and any continuations. If a school board or regional library district does not certify the dates by August 10, the auditor will assign the hearing date. The

dates elected or assigned must not conflict with the hearing dates of the county or the metropolitan special taxing districts. By August 20, the county auditor shall notify the clerks of the cities within the county of the dates on which school districts and regional library districts have elected to hold their hearings. At the time a city certifies its proposed levy under subdivision 1 it shall certify the dates on which it elects to hold its hearings and any continuations. The city must not select dates that conflict with the county hearing dates, metropolitan special taxing district dates, or with those elected by or assigned to the school districts or regional library district in which the city is located.

The county hearing dates and the city, metropolitan special taxing district, regional library district, and school district hearing dates must be designated on the notices required under subdivision 3. The continuation dates need not be stated on the notices.

This subdivision does not apply to towns and special taxing districts other than regional library districts and metropolitan special taxing districts.

Notwithstanding the requirements of this section, the employer is required to meet and negotiate over employee compensation as provided for in chapter 179A.

Sec. 3. Minnesota Statutes 1994, section 473.388, subdivision 5, is amended to read:

Subd. 5. [OTHER ASSISTANCE.] A city or town receiving assistance or levying a transit tax under this section may also receive assistance from the council under section 473.384. In applying for assistance under that section an applicant must describe the portion of ~~the~~ its available local transit funds or local transit taxes which are not obligated to subsidize its replacement transit service and which the applicant proposes to use to subsidize additional service. An applicant which has exhausted its available local transit funds or local transit taxes may use any other local subsidy funds to complete the required local share.

Sec. 4. Minnesota Statutes 1994, section 473.388, is amended by adding a subdivision to read:

Subd. 7. [LOCAL LEVY OPTION.] (a) A statutory or home rule charter city or town that is eligible for assistance under this section, in lieu of receiving the assistance, may levy a tax for payment of the operating and capital expenditures for transit and other related activities and to provide for payment of obligations issued by the municipality for such purposes, provided that the tax must be sufficient to maintain the level of transit service provided in the municipality in the previous year.

(b) The transit tax revenues derived by the municipality may not exceed:

(1) for the first transit levy year and any subsequent transit levy year immediately following a year in which the municipality declines to make the levy, the maximum available local transit funds for the municipality for taxes payable in the current year under section 473.446, calculated as if the percentage of transit tax revenues for the municipality were 88 percent instead of 90 percent, and multiplied by the municipality's market value adjustment ratio; and

(2) for taxes levied in any year that immediately follows a year in which the municipality elects to levy under this subdivision, the maximum transit tax that the municipality may have levied in the previous year under this subdivision, multiplied by the municipality's market value adjustment ratio.

The commissioner of revenue shall certify the municipality's levy limitation under this subdivision to the municipality by June 1 of the levy year. The tax must be accumulated and kept in a separate fund to be known as the "replacement transit fund."

(c) To enable the municipality to receive revenues described in clauses (2) and (3) of the definition of "tax revenues" in subdivision 4, that would otherwise be lost if the municipality's transit tax levy was not treated as a successor levy to that made by the council under section 473.446:

(1) in the first transit levy year and any subsequent transit levy year immediately following a year in which the municipality declined to make the levy, 88 percent of the council's nondebt spread levy for the current taxes payable year shall be treated as levied by the municipality, and

not the council, for purposes of section 473F.08, subdivision 3, for the purpose of determining its local tax rate for the preceding year; and

(2) 88 percent of the revenues described in clause (3) of the definition of "tax revenues" in subdivision 4, payable in the first transit levy year, or payable in any subsequent transit levy year following a year in which a municipality declined to make the levy, shall be permanently transferred from the council to the municipality. If a municipality levies a tax under this subdivision in one year, but declines to levy in a subsequent year, the aid transferred under this clause shall be transferred back to the council.

(d) Any transit taxes levied under this subdivision are not subject to, or counted towards, any limit hereafter imposed by law on the levy of taxes upon taxable property within any municipality unless the law specifically includes the transit tax.

(e) This subdivision is consistent with the transit redesign plan. Eligible municipalities opting to levy the transit tax under this subdivision shall continue to meet the regional performance standards established by the council.

(f) Within the designated Americans with Disabilities Act area, metro mobility remains the obligation of the state.

(g) For purposes of this subdivision, "transit levy year" is any year in which the municipality elects to levy under this subdivision.

(h) A municipality may not levy taxes under this subdivision in any year unless it notifies the council and the commissioner of revenue of its intent to levy before July 1 of the levy year. The notification must include the amount of the municipality's proposed transit tax for the current levy year.

Sec. 5. Minnesota Statutes 1995 Supplement, section 473.446, subdivision 1, is amended to read:

Subdivision 1. [TAXATION WITHIN TRANSIT TAXING DISTRICT.] For the purposes of sections 473.405 to 473.449 and the metropolitan transit system, except as otherwise provided in this subdivision and subdivision 1b, the council shall levy each year upon all taxable property within the metropolitan transit taxing district, defined in subdivision 2, a transit tax consisting of:

(a) an amount which shall be used for payment of the expenses of operating transit and paratransit service and to provide for payment of obligations issued by the council under section 473.436, subdivision 6;

(b) an additional amount, if any, the council determines to be necessary to provide for the full and timely payment of its certificates of indebtedness and other obligations outstanding on July 1, 1985, to which property taxes under this section have been pledged; and

(c) an additional amount necessary to provide full and timely payment of certificates of indebtedness, bonds, including refunding bonds or other obligations issued or to be issued under section 473.39 by the council for purposes of acquisition and betterment of property and other improvements of a capital nature and to which the council has specifically pledged tax levies under this clause.

The property tax levied by the council for general purposes under ~~clause~~ paragraph (a) must not exceed the following amount for the years specified:

(1) for taxes payable in 1995, the council's property tax levy limitation for general transit purposes is equal to the former regional transit board's property tax levy limitation for general transit purposes under this subdivision, for taxes payable in 1994, multiplied by an index for market valuation changes equal to the total market valuation of all taxable property located within the metropolitan transit taxing district for the current taxes payable year divided by the total market valuation of all taxable property located within the metropolitan transit taxing district for the previous taxes payable year; and

(2) for taxes payable in 1996 and subsequent years, the product of (i) the council's property tax levy limitation for general transit purposes for the previous year determined under this subdivision before reduction by the amount levied by any municipality in the previous year under section 473.388, subdivision 7, multiplied by (ii) an index for market valuation changes equal to the total market valuation of all taxable property located within the metropolitan transit taxing district for the current taxes payable year divided by the total market valuation of all taxable property located within the metropolitan transit taxing district for the previous taxes payable year, minus the amount levied by any municipality in the current levy year under section 473.388, subdivision 7.

The portion of the property tax levy for transit district operating purposes attributable to a municipality that has exercised a local levy option under section 473.388, subdivision 7, is the amount as determined under subdivision 1b. The portion of the property tax levy for transit district operating purposes attributable to the remaining municipalities within the transit district is found by subtracting the portions attributable to the municipalities that have exercised a local levy option under section 473.388, subdivision 7.

For the taxes payable year 1995, the index for market valuation changes shall be multiplied by an amount equal to the sum of the regional transit board's property tax levy limitation for the taxes payable year 1994 and $160,665. The $160,665 increase shall be a permanent adjustment to the levy limit base used in determining the regional transit board's property tax levy limitation for general purposes for subsequent taxes payable years.

For the purpose of determining the council's property tax levy limitation for general transit purposes under this subdivision, "total market valuation" means the total market valuation of all taxable property within the metropolitan transit taxing district without valuation adjustments for fiscal disparities (chapter 473F), tax increment financing (sections 469.174 to 469.179), and high voltage transmission lines (section 273.425).

The county auditor shall reduce the tax levied pursuant to this ~~subdivision~~ section and section 473.388 on all property within statutory and home rule charter cities and towns that receive full-peak service and limited off-peak service by an amount equal to the tax levy that would be produced by applying a rate of 0.510 percent of net tax capacity on the property. The county auditor shall reduce the tax levied pursuant to this ~~subdivision~~ section and section 473.388 on all property within statutory and home rule charter cities and towns that receive limited peak service by an amount equal to the tax levy that would be produced by applying a rate of 0.765 percent of net tax capacity on the property. The amounts so computed by the county auditor shall be submitted to the commissioner of revenue as part of the abstracts of tax lists required to be filed with the commissioner under section 275.29. Any prior year adjustments shall also be certified in the abstracts of tax lists. The commissioner shall review the certifications to determine their accuracy and may make changes in the certification as necessary or return a certification to the county auditor for corrections. The commissioner shall pay to the council and to the municipalities levying under section 473.388, subdivision 7, the amounts certified by the county auditors on the dates provided in section 273.1398, apportioned between the council and the municipality in the same proportion as the total transit levy is apportioned within the municipality. There is annually appropriated from the general fund in the state treasury to the department of revenue the amounts necessary to make these payments.

For the purposes of this subdivision, "full-peak and limited off-peak service" means peak period regular route service, plus weekday midday regular route service at intervals longer than 60 minutes on the route with the greatest frequency; and "limited peak period service" means peak period regular route service only.

For the purposes of property taxes payable in the following year, the council shall annually determine which cities and towns qualify for the 0.510 percent or 0.765 percent tax capacity rate reduction and shall certify this list to the county auditor of the county wherein such cities and towns are located on or before September 15. No changes may be made to the annual list after September 15.

Sec. 6. Minnesota Statutes 1994, section 473.446, is amended by adding a subdivision to read:

Subd. 1b. [DEDUCTION OF LOCAL TRANSIT LEVY FOR ELIGIBLE

MUNICIPALITIES.] (a) The maximum the council may levy for general purposes under subdivision 1, paragraph (a), upon taxable property within a municipality levying taxes under section 473.388, subdivision 7, is the combined transit tax levied within the municipality in the previous year under subdivision 1 and section 473.388, subdivision 7, multiplied by the municipality's market value adjustment ratio, minus the amount to be levied by the municipality under section 473.388, subdivision 7, for the current levy year.

(b) For purposes of this subdivision:

(1) "municipality" means a municipality levying taxes under section 473.388, subdivision 7, for replacement transit service;

(2) "market value adjustment ratio" means the index for market valuation changes described in this section, as applied to individual municipalities; and

(3) "tax revenues" has the meaning given the term in section 473.388, subdivision 4.

Sec. 7. Minnesota Statutes 1995 Supplement, section 473.446, subdivision 8, is amended to read:

Subd. 8. [STATE REVIEW.] The commissioner of revenue shall certify the council's levy limitation under this section to the council by August 1 of the levy year. The council must certify its proposed property tax levy under this section to the commissioner of revenue by September 1 of the levy year. The commissioner of revenue shall annually determine whether the property tax for transit purposes certified by the council for levy following the adoption of its proposed budget is within the levy limitation imposed by ~~subdivision~~ subdivisions 1 and 1b. The commissioner shall also annually determine whether the transit tax imposed on all taxable property within the metropolitan transit area but outside of the metropolitan transit taxing district is within the levy limitation imposed by subdivision 1a. The determination must be completed prior to September 10 of each year. If current information regarding market valuation in any county is not transmitted to the commissioner in a timely manner, the commissioner may estimate the current market valuation within that county for purposes of making the calculations.

Sec. 8. [APPLICATION.]

This article applies in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington.

Sec. 9. [EFFECTIVE DATE.]

Sections 1 to 7 are effective for taxes levied in 1996, payable in 1997 and subsequent years.

ARTICLE 6

DESIGNATED PARENTS

Section 1. Minnesota Statutes 1995 Supplement, section 13.69, subdivision 1, is amended to read:

Subdivision 1. [CLASSIFICATIONS.] (a) The following government data of the department of public safety are private data:

(1) medical data on driving instructors, licensed drivers, and applicants for parking certificates and special license plates issued to physically handicapped persons;

(2) other data on holders of a disability certificate under section 169.345, except that data that are not medical data may be released to law enforcement agencies; ~~and~~

(3) social security numbers in driver's license and motor vehicle registration records, except that social security numbers must be provided to the department of revenue for purposes of tax administration and the department of labor and industry for purposes of workers' compensation administration and enforcement.~~;~~ and

(4) data on persons listed as designated parents under section 171.07, subdivision 11, except that the data must be released to:

(i) law enforcement agencies for the purpose of verifying that an individual is a designated parent; or

(ii) law enforcement agencies who state that the license holder is unable to communicate at that time and that the information is necessary for notifying the designated parent of the need to care for a child of the license holder.

(b) The following government data of the department of public safety are confidential data: data concerning an individual's driving ability when that data is received from a member of the individual's family.

Sec. 2. Minnesota Statutes 1994, section 171.07, is amended by adding a subdivision to read:

Subd. 11. [DESIGNATED PARENT.] (a) Upon the written request of the applicant on a form developed by the department, which contains the information specified in paragraph (b), and upon payment of an additional fee of $3.50, the department shall issue a driver's license or Minnesota identification card bearing a symbol or other appropriate identifier indicating that the license holder has appointed an individual to serve as a designated parent under chapter 257A.

(b) The form shall provide as follows:

"...(Name of parent(s))... appoints ...(name of designated parent)... to provide care for ...(name of child or children)... when requested by the parent(s) or when the parent(s) is unable to care for the child (children) and unable to request the designated parent's assistance.

The designated parent will care for the child (children) named in this form for (choose one of the following):

(indicate a specified period of time that is less than one year); or

(indicate that care is to be provided for one year).

The designated parent has the powers and duties to make decisions and meet the child's (children's) needs in the areas checked or specified below:

education .....

health care .....

religion .....

day care .....

recreation .....

other .....

.....

.....

.....

The designated parent (choose one of the following):

is ...

is not ...

authorized to make decisions about financial issues and control financial resources provided for the child (children) by the parent.

This designated parent agreement is effective for four years following the date it is signed by the parent(s), designated parent, any child age 14 or older, and any alternate designated parent. However, the agreement may be canceled by a parent, a designated parent, or an alternate designated parent at any time before that date, upon notice to the other parties to the agreement.

(Parent(s) signature(s) and Minnesota driver's license(s) or Minnesota identification card number(s))

(Designated parent signature, Minnesota driver's license or Minnesota identification card number, address, and telephone number)

(Alternate designated parent signature, Minnesota driver's license or Minnesota identification card number, address, and telephone number)

(Child age 14 or older signature .....)

(Date .....)

(Notarization .....)"

(c) The department shall maintain a computerized records system of all persons listed as designated parents by driver's license and identification card applicants. This data shall be released to appropriate law enforcement agencies under section 13.69. Upon a parent's request and payment of a fee of $3.50, the department shall revise its list of designated parents and alternates to reflect a change in the appointment of a designated parent.

(d) At the request of the license or card holder, the department shall cancel the designated parent indication without additional charge. However, this paragraph does not prohibit a fee that may be applicable for a duplicate or replacement license or card, renewal of a license, or other service applicable to a driver's license or identification card.

(e) Notwithstanding sections 13.08, subdivision 1, and 13.69, the department and department employees are conclusively presumed to be acting in good faith when employees rely on statements made, in person or by telephone, by persons purporting to be law enforcement and subsequently release information described in paragraph (b). When acting in good faith, the department and department personnel are immune from civil liability and not subject to suit for damages resulting from the release of this information.

(f) The department and its employees:

(1) have no duty to inquire or otherwise determine whether a form submitted under this subdivision contains the signatures of all parents who have legal custody of a child; and

(2) are immune from all civil liability and not subject to suit for damages resulting from a claim that any parent with legal custody of a child has not signed the form.

(g) Of the fees received by the department under this subdivision:

(1) Up to $111,000 received in fiscal year 1997 and up to $61,000 received in subsequent fiscal years must be deposited in the general fund.

(2) All other fees must be deposited in the trunk highway fund.

Sec. 3. Minnesota Statutes 1994, section 171.26, is amended to read:

171.26 [MONEY CREDITED TO FUNDS.]

All money received under this chapter must be paid into the state treasury and credited to the trunk highway fund, except as provided in sections 171.06, subdivision 2a; 171.07, subdivision 11, paragraph (g); 171.12, subdivision 8; and 171.29, subdivision 2, paragraph (b).

Sec. 4. [257A.01] [DESIGNATED PARENT AGREEMENT.]

Subdivision 1. [DESIGNATION IN AGREEMENT.] A parent who has legal custody of a child may execute a designated parent agreement that names an adult to serve as a designated parent to care for the parent's minor child for a period of time specified in the designated parent agreement, but not to exceed one year.

Subd. 2. [CONSENTS AND NOTICE REQUIRED.] The agreement must be executed by all parents with physical custody of the child. The agreement becomes operative when none of the parents with physical custody is able to care for the child. As soon as practicable after executing an agreement, a copy of the agreement must be given to any noncustodial parent of the child and to every child age 14 or older to whom the agreement applies.

Sec. 5. [257A.02] [DESIGNATED PARENT; ALTERNATE.]

An individual acting as a designated parent is exempt in that role from any statute or administrative rule requiring a foster care license, unless the child was placed in the home of the designated parent by a child-placing agency pursuant to a voluntary placement agreement or court order, but must provide the notice required by section 257A.09 if applicable. A parent who has named a guardian by will for the parent's children may name that guardian or another individual as a designated parent for the child. A parent who has legal custody of more than one child may appoint the same or a different designated parent for each child.

A parent may appoint an alternate designated parent who would serve if the designated parent is unwilling or unable to serve. All the provisions of this chapter dealing with a designated parent apply to an alternate designated parent.

Sec. 6. [257A.03] [POWERS AND DUTIES OF DESIGNATED PARENT.]

Subdivision 1. [GENERAL.] A designated parent has all the powers regarding the care, custody, and financial interests of a minor child specified in the designated parent agreement, except as otherwise provided in this section. A designated parent does not have the power to consent to marriage or adoption of the child.

Subd. 2. [NOTICE TO NONCUSTODIAL PARENT; VISITATION.] As soon as practicable after assuming care of a child, the designated parent shall notify any noncustodial parent that the designated parent has assumed care of the child. Court-ordered visitation rights of a noncustodial parent continue while the child is in the care of the designated parent, unless otherwise modified by the court. A designated parent agreement does not affect the right of a parent without physical custody to bring a custody motion under chapter 518.

Subd. 3. [CHILD SUPPORT.] A preexisting child support order is not suspended or terminated during the time a child is cared for by a designated parent, unless otherwise provided by court order. A designated parent has a cause of action for child support against an absent parent under section 256.87, subdivision 5.

Sec. 7. [257A.04] [DURATION.]

Subdivision 1. [IN GENERAL.] Unless canceled earlier under section 257A.07 by a parent or the designated parent, a designated parent agreement is effective for four years, after which date a new agreement may be entered. The new agreement may name the same or a different designated parent. A designated parent agreement automatically terminates as to any child when that child reaches age 18 or is lawfully married.

Subd. 2. [DEATH OF A PARENT.] If a parent dies while a designated parent agreement is in effect, and there is no living parent able to care for the child, the designated parent shall care for the child until a guardian appointed by will is able to take custody of the child or until a court order otherwise provides for the care of the child. However, the designated parent may cancel the agreement at any time under section 257A.07.

Sec. 8. [257A.05] [FORM.]

Subdivision 1. [WRITING.] A designated parent agreement must be made in writing and all signatures must be notarized.

Subd. 2. [DESIGNATED PARENT INDICATION ON DRIVER'S LICENSE.] A parent who wishes to have a designated parent indication placed on the parent's driver's license or identification card under section 171.07, subdivision 11, must submit a copy of the notarized designated parent agreement to the department of public safety and pay any required fee.

Sec. 9. [257A.06] [MULTIPLE AGREEMENTS.]

If more than one otherwise valid designated parent agreement exists regarding the same child, the priority among agreements is determined as follows:

(1) an agreement that has been submitted to the department of public safety has priority over any other agreement;

(2) if one or more agreements have been submitted to the department of public safety under section 171.07, subdivision 11, the agreement with the most recent date that has been submitted to the department controls; and

(3) if multiple agreements exist, none of which has been submitted to the department of public safety, the agreement with the most recent date controls.

Sec. 10. [257A.07] [CANCELLATION.]

Subdivision 1. [HOW AND BY WHOM.] A parent may cancel a designated parent agreement at any time. The parent shall notify the designated parent of the cancellation. If the designated parent is caring for the child at the time of cancellation, the child must be returned to the parent immediately upon the parent's request.

A designated parent may decline to serve at any time, and the parent must cancel the agreement immediately upon request by the designated parent. If a designated parent is caring for a child when the designated parent cancels the agreement, the parent must take physical custody of the child immediately. If the parent is unable to resume physical custody at that time:

(1) the parent may name a new designated parent to care for the child who shall immediately take custody of the child; or

(2) if that is not possible, the designated parent shall contact the local social service agency, which shall assess the needs and circumstances of the child, including the likelihood of the noncustodial parent taking custody, and the need for placement and court action on behalf of the child, if necessary.

Subd. 2. [NOTICE TO DEPARTMENT OF PUBLIC SAFETY.] A parent who has had a designated parent indication placed on the parent's driver's license or identification card under section 171.07, subdivision 11, has the responsibility to notify the department of public safety in writing whenever a designated parent agreement is canceled or a new designated parent or alternate is chosen.

Sec. 11. [257A.08] [EXTENDING PERIOD OF CARE.]

If a parent is unable to resume caring for a child upon expiration of the period of care indicated in the designated parent agreement, the period of care may be extended for a length of time agreed by the parent and designated parent, but not to exceed one year. If a parent cannot be contacted or is unable to communicate a decision about the child's care when the agreed period of care expires, the designated parent may:

(1) petition the juvenile court to authorize continued care by the designated parent until the parent is able to resume the child's care, or for one year, whichever is sooner; or

(2) contact the local social service agency, which shall assess the needs and circumstances of the child, including the likelihood of the noncustodial parent taking custody of the child, and the need for placement and court action on behalf of the child, if necessary.

Sec. 12. [257A.09] [NOTICE TO LOCAL SOCIAL SERVICE AGENCY; INVESTIGATION.]

If a child has been in the home of a designated parent for 30 days, the designated parent shall promptly notify the local social service agency, any adult siblings of the child, and any living paternal or maternal grandparents, of the following:

(1) the child's name, home address, and the name and home address of the child's parents;

(2) that the child is in the home under a designated parent agreement; and

(3) the length of time the child is expected to remain in the designated parent's home.

The local social service agency may visit the child and the home and may continue to visit and supervise the home and the child or take other appropriate action to assure that the welfare of the child is fully protected.

Sec. 13. [257A.10] [LOCAL SOCIAL SERVICE AGENCY EVALUATION.]

When a local social service agency assumes responsibility for a child pursuant to a voluntary placement agreement or by order of the court, and the parent requests that placement be with a designated parent, the local social service agency must evaluate the appropriateness of the child's placement with the designated parent. If placement with the designated parent is deemed to be in the child's best interest, the designated parent must comply with licensure requirements under Minnesota Statutes, chapter 245A, in order to provide foster care for the child.

Sec. 14. Minnesota Statutes 1994, section 260.173, subdivision 2, is amended to read:

Subd. 2. Notwithstanding the provisions of subdivision 1, if the child had been taken into custody pursuant to section 260.165, subdivision 1, clause (a) or clause (c)(2), and is not alleged to be delinquent, the child shall be detained in the least restrictive setting consistent with the child's health and welfare and in closest proximity to the child's family as possible. Placement may be with a child's relative, a designated parent under chapter 257A, or in a shelter care facility.

Sec. 15. Minnesota Statutes 1994, section 524.5-505, is amended to read:

524.5-505 [DELEGATION OF POWERS BY PARENT OR GUARDIAN.]

A parent or a guardian of a minor or incapacitated person, by a properly executed power of attorney, may delegate to another person, for a period not exceeding six months, any powers regarding care, custody, or property of the minor or ward, except the power to consent to marriage or adoption of a minor ward. A parent of a minor child may delegate those powers for a period not exceeding one year by a designated parent agreement under chapter 257A.

Sec. 16. [EFFECTIVE DATE.]

Sections 1 to 15 are effective July 1, 1996.

ARTICLE 7

STATE-AID SYSTEM

Section 1. Minnesota Statutes 1994, section 162.02, subdivision 7, is amended to read:

Subd. 7. [ESTABLISHMENT IN NEW LOCATION OR OVER ESTABLISHED ROADS.] The county board of any county may establish and locate any county state-aid highway on new location where there is no existing road, or it may establish and locate the highway upon or over any established road or street or a specified portion thereof within its limits~~; provided, that~~. Except as provided in subdivision 8a, no county state-aid highway shall be established or located within the corporate limits of any city without the approval of the governing body of the city, except that when a county state-aid highway is relocated the approval of the plans by the governing body shall be deemed to be a transfer of the previous location of the highway to the jurisdiction of the city. The approval shall be in the manner and form required by the commissioner.

Sec. 2. Minnesota Statutes 1994, section 162.02, subdivision 8, is amended to read:

Subd. 8. [APPROVAL BY CITY.] Except as provided in subdivision 8a, no portion of the

county state-aid highway system lying within the corporate limits of any city shall be constructed, reconstructed, or improved nor the grade thereof changed without the prior approval of the plans by the governing body of such city and the approval shall be in the manner and form required by the commissioner.

Sec. 3. Minnesota Statutes 1994, section 162.02, is amended by adding a subdivision to read:

Subd. 8a. [DISPUTE RESOLUTION BOARD.] If a city has failed to approve establishment, construction, reconstruction, or improvement of a county state-aid highway within its corporate limits under subdivision 7 or 8, the county board may, by resolution, request the commissioner to appoint a dispute resolution board consisting of one county commissioner, one county engineer, one city council member or city mayor, one city engineer, and one representative of the department of transportation. The board shall review the proposed change and make a recommendation to the commissioner. Notwithstanding any other law, the commissioner may approve the establishment, construction, reconstruction, or improvement of a county state-aid highway recommended by the board.

Sec. 4. Minnesota Statutes 1994, section 162.07, subdivision 1, is amended to read:

Subdivision 1. [FORMULA.] After deducting for administrative costs and for the disaster account and research account and state park roads as heretofore provided, the remainder of the total sum provided for in section 162.06, subdivision 1, shall be identified as the apportionment sum and shall be apportioned by the commissioner to the several counties on the basis of the needs of the counties as determined in accordance with the following formula:

(1) An amount equal to ten percent of the apportionment sum shall be apportioned equally among the 87 counties.

(2) An amount equal to ten percent of the apportionment sum shall be apportioned among the several counties so that each county shall receive of such amount the percentage that its motor vehicle registration for the calendar year preceding the one last past, determined by residence of registrants, bears to the total statewide motor vehicle registration.

(3) An amount equal to 30 percent of the apportionment sum shall be apportioned among the several counties so that each county shall receive of such amount the percentage that its total ~~miles~~ lane-miles of approved county state-aid highways bears to the total ~~miles~~ lane-miles of approved statewide county state-aid highways. In 1997 and subsequent years no county may receive, as a result of an apportionment under this clause based on lane-miles rather than miles of approved county state-aid highways, an apportionment that is less than its apportionment in 1996.

(4) An amount equal to 50 percent of the apportionment sum shall be apportioned among the several counties so that each county shall receive of such amount the percentage that its money needs bears to the sum of the money needs of all of the individual counties; provided, that the percentage of such amount that each county is to receive shall be adjusted so that each county shall receive in 1958 a total apportionment at least ten percent greater than its total 1956 apportionments from the state road and bridge fund; and provided further that those counties whose money needs are thus adjusted shall never receive a percentage of the apportionment sum less than the percentage that such county received in 1958.

Sec. 5. Minnesota Statutes 1994, section 162.07, subdivision 5, is amended to read:

Subd. 5. [SCREENING BOARD.] On or before September 1 of each year the county engineer of each county shall forward to the commissioner, on forms prepared by the commissioner, all information relating to the mileage, in lane-miles, of the county state-aid highway system in the county, and the money needs of the county that the commissioner deems necessary in order to apportion the county state-aid highway fund in accordance with the formula heretofore set forth. Upon receipt of the information the commissioner shall appoint a board consisting of ~~nine~~ the following county engineers~~. The board shall be so selected that each county engineer appointed shall be from a different state highway construction district~~:

(1) two county engineers from the metropolitan highway construction district;

(2) one county engineer from each nonmetropolitan highway district; and

(3) one additional county engineer from each county with a population of 175,000 or more.

No county engineer shall be appointed under clause (1) or (2) so as to serve consecutively for more than ~~two~~ four years. The board shall investigate and review the information submitted by each county and shall on or before the first day of November of each year submit its findings and recommendations in writing as to each county's ~~mileage~~ lane-mileage and money needs to the commissioner on a form prepared by the commissioner. Final determination of the ~~mileage~~ lane-mileage of each system and the money needs of each county shall be made by the commissioner.

Sec. 6. Minnesota Statutes 1994, section 162.07, subdivision 6, is amended to read:

Subd. 6. [ESTIMATES TO BE MADE IF INFORMATION NOT PROVIDED.] In the event that any county shall fail to submit the information provided for herein, the commissioner shall estimate the ~~mileage~~ lane-mileage and the money needs of the county. The estimate shall be used in determining the apportionment formula. The commissioner may withhold payment of the amount apportioned to the county until the information is submitted."

Delete the title and insert:

"A bill for an act relating to the organization and operation of state government; appropriating money to the department of transportation and other agencies; providing for speed limits and recording of speeding violations; authorizing special license plates; providing for designated parent agreements; authorizing certain tax levies for replacement transit service; providing for highway disputes between counties and municipalities; amending Minnesota Statutes 1994, sections 115A.9651, subdivision 1; 160.83, by adding a subdivision; 160.85, by adding a subdivision; 161.085; 161.14, by adding subdivisions; 161.36, subdivisions 1, 2, 3, and 4; 161.46, subdivision 3; 161.53; 162.02, subdivisions 7, 8, and by adding a subdivision; 162.07, subdivisions 1, 5, and 6; 162.08, subdivisions 4 and 7; 162.14, subdivision 6; 168.013, subdivision 3; 168.042, subdivision 8, and by adding a subdivision; 168.12, subdivision 2; 168.123, subdivisions 1 and 4; 168.15; 168.33, by adding a subdivision; 169.07; 169.121, subdivision 3; 169.14, subdivision 2, and by adding a subdivision; 169.82, subdivision 3; 169.85; 169.871, by adding a subdivision; 169.983; 169.99, subdivision 1b; 171.05, by adding a subdivision; 171.07, by adding a subdivision; 171.12, subdivision 6; 171.26; 173.02, subdivision 6; 173.07, subdivision 1; 174.04; 222.37, subdivision 1; 260.173, subdivision 2; 473.388, subdivision 5, and by adding a subdivision; 473.446, by adding a subdivision; and 524.5-505; Minnesota Statutes 1995 Supplement, sections 13.69, subdivision 1; 168.1296, subdivision 1; 168.16; 169.862; 171.04, subdivision 1; 221.0355, subdivisions 5 and 15; 275.065, subdivisions 3 and 6; and 473.446, subdivisions 1 and 8; Laws 1994, chapter 589, section 8; proposing coding for new law in Minnesota Statutes, chapters 161; 168; and 173; proposing coding for new law as Minnesota Statutes, chapter 257A; repealing Minnesota Statutes 1994, sections 161.086; 161.115, subdivision 262; and 169.141."

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

Senate Conferees: (Signed) Keith Langseth, Jim Vickerman, Carol Flynn, Paula E. Hanson, Terry D. Johnston

House Conferees: (Signed) Bernard L. "Bernie" Lieder, Edwina Garcia, Tom Osthoff, Virgil J. Johnson, Carol Molnau

Mr. Langseth moved that the foregoing recommendations and Conference Committee Report on S.F. No. 2702 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.