THIRTY-NINTH DAY

St. Paul, Minnesota, Tuesday, April 20, 1993

The Senate met at 8:30 a.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 the Chaplain, Rev. Gary L. Langness.

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

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

The President declared a quorum present.

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

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce the passage by the House of the following Senate Files, herewith returned: S.F. Nos. 5, 394 and 582.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned April 19, 1993

Mr. President:

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

House Files, herewith transmitted: H.F. Nos. 977, 1161, 1525, 129, 1095 and 1428.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted April 19, 1993

FIRST READING OF HOUSE BILLS

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

H.F. No. 977: A bill for an act relating to retirement; Minneapolis employees retirement fund; permitting purchase of service credit by a certain member.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 825, now on General Orders.

H.F. No. 1161: A bill for an act relating to retirement; public employees retirement association; permitting payment in lieu of salary deductions to obtain service credit notwithstanding a one-year time limitation.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 833, now on General Orders.

H.F. No. 1525: A bill for an act relating to occupations and professions; abstracters; providing for certain applicants to be exempt from the bond and liability insurance requirement; amending Minnesota Statutes 1992, section 386.66.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 803, now on General Orders.

H.F. No. 129: A bill for an act relating to marriage dissolution; maintenance; applying child support enforcement actions to actions to enforce maintenance; expanding notice of rights of parties in dissolution or separation proceeding; requiring child support order to assign responsibility for child's medical coverage; clarifying visitation rights; requiring dissolution judgment or decree to provide notice about principal residence; amending Minnesota Statutes 1992, sections 214.101, subdivisions 1 and 4; 518.17, subdivision 3; 518.171, subdivision 1; 518.175, subdivision 6; 518.177; 518.55; 518.551, subdivision 12; 518.583; 518.611, subdivision 2; and 518.641, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 518.

Referred to the Committee on Taxes and Tax Laws.

H.F. No. 1095: A bill for an act relating to insurance; regulating investments, assets and liabilities, and annual statements of companies; providing for continuance of coverage upon liquidation; modifying the definition of resident for purposes of the Minnesota insurance guaranty association; regulating dividends and other distributions of insurance holding company systems; regulating risk retention groups; regulating the workers' compensation assigned risk plan; enacting the NAIC model legislation; amending Minnesota Statutes 1992, sections 60A.11, subdivision 9; 60A.12, subdivision 3; 60A.13, subdivisions 1 and 6; 60A.23, subdivision 4; 60B.22, subdivision 1; 60C.03, subdivision 7; 60D.20, subdivisions 2 and 4; 60E.01; 60E.02, subdivisions 9 and 12; 60E.03; 60E.04, subdivisions 1, 2, 3, 4, 7, 8,

11, and by adding a subdivision; 60E.05; 60E.07; 60E.08; 60E.09; 60E.10; 60E.12; and 60E.13; proposing coding for new law in Minnesota Statutes, chapters 60A and 60E; repealing Minnesota Statutes 1992, sections 60A.07, subdivision 5d; 60A.12, subdivision 10; 60B.24; 60E.11; and 79.252, subdivision 1.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 1446, now on General Orders.

H.F. No. 1428: A bill for an act relating to occupations and professions; dentistry; modifying a certain exception to the licensing requirements; establishing faculty, resident dentist, and specialty licenses; modifying a certain ground for disciplinary action; amending Minnesota Statutes 1992, sections 150A.01, by adding subdivisions; 150A.05, subdivision 2; 150A.06, by adding subdivisions; and 150A.08, subdivision 1.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 1299, now on General Orders.

MOTIONS AND RESOLUTIONS

Ms. Robertson moved that the name of Mr. Mondale be added as a co-author to S.F. No. 75. The motion prevailed.

Mr. Metzen moved that the name of Mr. Mondale be added as a co-author to S.F. No. 225. The motion prevailed.

Ms. Krentz moved that the name of Mr. Mondale be added as a co-author to S.F. No. 784. The motion prevailed.

Mr. Betzold moved that the name of Mr. Mondale be added as a co-author to S.F. No. 1175. The motion prevailed.

Mr. Johnson, D.E. moved that the name of Mr. Stevens be added as a co-author to S.F. No. 1277. The motion prevailed.

Mr. Price introduced—

Senate Resolution No. 38: A Senate resolution commemorating the sesquicentennial of the City of Cottage Grove.

Referred to the Committee on Rules and Administration.

Pursuant to Rule 10, Mr. Moe, R.D., Chair of the Committee on Rules and Administration, designated S.F. No. 1503 a Special Order to be heard immediately.

SPECIAL ORDER

S.F. No. 1503: A bill for an act relating to the organization and operation of state government; appropriating money for criminal justice, corrections, and related purposes; providing for the transfer of certain money in the state treasury; fixing and limiting the amount of fees, penalties, and other costs to be collected in certain cases; amending Minnesota Statutes 1992, sections 3.732, subdivision 1; 43A.02, subdivision 25; 43A.24, subdivision 2; 241.01, subdivision 5; 242.195, subdivision 1; 242.51; 401.13; 611.20; 611.216, by adding a subdivision; 611.25, subdivision 3; and 626.861, subdivision 4; proposing coding for new law in Minnesota Statutes, chapter

611; repealing Minnesota Statutes 1992, sections 241.43, subdivision 2 and 611.20, subdivision 3.

Mr. Knutson moved to amend S.F. No. 1503 as follows:

Page 3, line 32, after "the" insert "first,"

CALL OF THE SENATE

Mr. Merriam imposed a call of the Senate for the balance of the proceedings on S.F. No. 1503. The Sergeant at Arms was instructed to bring in the absent members.

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

The roll was called, and there were yeas 23 and nays 42, as follows:

Those who voted in the affirmative were:

Belanger	Johnson, D.E.	Larson	Oliver	Stevens
Benson, D.D.	Johnston	Lesewski	Olson	Terwilliger
Benson, J.E.	Kiscaden	McGowan	Pariseau	Wiener
Day	Knutson	Metzen	Robertson	
Dille	Laidig	Murphy	Runbeck	

Those who voted in the negative were:

Adkins	Cohen	Kelly	Morse	Riveness
Anderson	Finn	Krentz	Neuville	Sams
Beckman	Flynn	Langseth	Novak	Samuelson
Berg	Frederickson	Lessard	Pappas	Spear
Berglin	Hanson	Luther	Piper	Stumpf
Bertram	Hottinger	Marty	Pogemiller	Vickerman
Betzold	Janezich	Merriam	Price	
Chandler	Johnson, D.J.	Moe, R.D.	Ranum	
Chmielewski	Johnson, J.B.	Mondale	Reichgott	

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

Mr. Finn moved to amend S.F. No. 1503 as follows:

Page 14, line 28, delete everything after "*grant*" and insert "*under this subdivision.*"

The motion prevailed. So the amendment was adopted.

S.F. No. 1503 was read the third time, as amended, and placed on its final passage.

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

The roll was called, and there were yeas 64 and nays 3, as follows:

Those who voted in the affirmative were:

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

Messrs. Laidig, Larson and Ms. Robertson voted in the negative.

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

Pursuant to Rule 10, Mr. Moe, R.D., Chair of the Committee on Rules and Administration, designated S.F. No. 1613 a Special Order to be heard immediately.

SPECIAL ORDER

S.F. No. 1613: A bill for an act relating to the organization and operation of state government; appropriating money for the departments of labor and industry, public service, jobs and training, housing finance, and other purposes with certain conditions; establishing and modifying certain programs; providing penalties; amending Minnesota Statutes 1992, sections 16B.06, subdivision 2a; 116J.617; 116J.982; 179.02, by adding a subdivision; 239.011, subdivision 2; 239.10; 239.791, subdivisions 6 and 8; 268.022, subdivision 2; 268.975, subdivisions 3, 4, 6, 7, 8, and by adding subdivisions; 268.976, subdivision 2; 268.978, subdivision 1; 268.98; and 462A.21, by adding subdivisions; proposing coding for new law in Minnesota Statutes, chapter 116J; 116M; 239; 268; and 462A; repealing Minnesota Statutes 1992, sections 116J.982, subdivisions 6a, 8, and 9; 239.05, subdivision 2c; 239.52; 239.78; 268.977; and 268.978, subdivision 3.

Mr. Berg moved to amend S.F. No. 1613 as follows:

Page 13, delete lines 53 to 56

Page 14, delete lines 1 to 3

Correct the subdivision and section totals and the summaries by fund accordingly

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 6 and nays 51, as follows:

Those who voted in the affirmative were:

Berg	Larson	Merriam	Neuville	Oliver
Day				

Those who voted in the negative were:

Adkins	Frederickson	Kroening	Novak	Samuelson
Anderson	Hanson	Langseth	Pappas	Solon
Beckman	Hottinger	Lesewski	Piper	Spear
Belanger	Janezich	Lessard	Pogemiller	Stumpf
Berglin	Johnson, D.E.	Luther	Price	Terwilliger
Bertram	Johnson, D.J.	Marty	Ranum	Vickerman
Betzold	Johnson, J.B.	McGowan	Reichgott	Wiener
Chandler	Johnston	Metzen	Riveness	
Cohen	Kiscaden	Moe, R.D.	Robertson	
Finn	Knutson	Mondale	Runbeck	
Flynn	Krentz	Murphy	Sams	

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

Mr. Berg then moved to amend S.F. No. 1613 as follows:

Page 12, delete lines 19 to 25

Pages 24 to 26, delete sections 10 to 13

Correct the subdivision and section totals and the summaries by fund accordingly

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

Amend the title accordingly

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 21 and nays 37, as follows:

Those who voted in the affirmative were:

Benson, D.D.	Frederickson	Larson	Oliver	Terwilliger
Berg	Johnson, D.E.	Lesewski	Robertson	
Berglin	Johnston	McGowan	Runbeck	
Day	Kiscaden	Merriam	Spear	
Flynn	Knutson	Neuville	Stevens	

Those who voted in the negative were:

Adkins	Cohen	Kroening	Novak	Samuelson
Anderson	Finn	Langseth	Pappas	Solon
Beckman	Hanson	Lessard	Piper	Stumpf
Belanger	Hottinger	Luther	Pogemiller	Vickerman
Bertram	Janezich	Marty	Price	Wiener
Betzold	Johnson, D.J.	Metzen	Ranum	
Chandler	Johnson, J.B.	Mondale	Reichgott	
Chmielewski	Krentz	Murphy	Sams	

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

Ms. Wiener moved to amend S.F. No. 1613 as follows:

Page 12, delete lines 19 to 25

Correct the subdivision and section totals and the summaries by fund accordingly

Page 25, line 13, delete "*compensation,*"

Page 25, line 18, delete "*shall*" and insert "*may*"

Page 25, line 22, delete "*The*"

Page 25, delete line 23

Page 26, after line 22, insert:

"*Subd. 7.* [STATE FUNDING PROHIBITED.] *No state money may be appropriated to the board. The board must utilize private funds and nonstate public money to fund its activities.*"

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 40 and nays 18, as follows:

Those who voted in the affirmative were:

Adkins	Flynn	Krentz	Merriam	Reichgott
Belanger	Frederickson	Langseth	Murphy	Riveness
Benson, D.D.	Hanson	Larson	Neuville	Robertson
Berg	Hottinger	Lesewski	Oliver	Runbeck
Berglin	Johnson, D.E.	Lessard	Pappas	Spear
Betzold	Johnston	Luther	Piper	Stevens
Chandler	Kiscaden	Marty	Price	Terwilliger
Day	Knutson	McGowan	Ranum	Wiener

Those who voted in the negative were:

Anderson	Cohen	Johnson, J.B.	Novak	Solon
Beckman	Finn	Kroening	Pogemiller	Vickerman
Bertram	Janezich	Metzen	Sams	
Chmielewski	Johnson, D.J.	Mondale	Samuelson	

The motion prevailed. So the amendment was adopted.

Mr. Frederickson moved to amend S.F. No. 1613 as follows:

Page 4, delete section 6

Page 34, line 51, delete "18,172,000" and insert "18,372,000"

Page 36, line 9, delete "$1,361,000" and insert "$1,561,000"

Correct the subdivision and section totals and the summaries by fund accordingly

Renumber the sections of article 2 in sequence and correct the internal references

Amend the title accordingly

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 31 and nays 32, as follows:

Those who voted in the affirmative were:

Belanger	Dille	Lesewski	Pariseau	Terwilliger
Benson, D.D.	Frederickson	McGowan	Price	Vickerman
Benson, J.E.	Johnston	Merriam	Robertson	Wiener
Berg	Kiscaden	Murphy	Runbeck	
Berglin	Knutson	Neuville	Spear	
Chandler	Laidig	Oliver	Stevens	
Day	Larson	Olson	Stumpf	

Those who voted in the negative were:

Adkins	Flynn	Krentz	Mondale	Riveness
Anderson	Hanson	Kroening	Morse	Sams
Bertram	Hottinger	Langseth	Novak	Samuelson
Betzold	Janezich	Lessard	Pappas	Solon
Chmielewski	Johnson, D.J.	Luther	Piper	
Cohen	Johnson, J.B.	Marty	Ranum	
Finn	Kelly	Metzen	Reichgott	

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

Mr. Berg moved to amend S.F. No. 1613 as follows:

Page 34, delete lines 45 to 49

Page 34, line 50, delete "4" and insert "3"

Pages 42 to 44, delete section 11

Correct the subdivision and section totals and the summaries by fund accordingly

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

Amend the title accordingly

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 13 and nays 44, as follows:

Those who voted in the affirmative were:

Berg	Dille	Merriam	Riveness	Stevens
Betzold	Flynn	Murphy	Robertson	
Day	McGowan	Price	Spear	

Those who voted in the negative were:

Adkins	Cohen	Kelly	Luther	Pogemiller
Anderson	Finn	Kiscaden	Marty	Ranum
Beckman	Frederickson	Knutson	Metzen	Runbeck
Belanger	Hanson	Krentz	Mondale	Sams
Benson, D.D.	Hottinger	Kroening	Neuville	Samuelson
Berglin	Janezich	Langseth	Novak	Terwilliger
Bertram	Johnson, D.J.	Larson	Oliver	Vickerman
Chandler	Johnson, J.B.	Lesewski	Pappas	Wiener
Chmielewski	Johnston	Lessard	Piper	

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

Mr. Luther moved to amend S.F. No. 1613 as follows:

Page 15, line 7, delete "personal expenses" and insert "necessary expenses in the normal performance of the governor's duties for which no other reimbursement is provided."

Page 15, delete lines 8 and 9

Page 15, line 11, delete "personal expenses" and insert "necessary expenses in the normal performance of the lieutenant governor's duties for which no other reimbursement is provided."

Page 15, delete lines 12 and 13

The motion prevailed. So the amendment was adopted.

Ms. Runbeck moved to amend S.F. No. 1613 as follows:

Page 14, after line 3, insert:

"$100,000 the first year is for the 1995 NCAA women's final four basketball tournament."

Correct the subdivision and section totals and the summaries by fund accordingly

The motion prevailed. So the amendment was adopted.

Ms. Runbeck then moved to amend S.F. No. 1613 as follows:

Page 34, line 51, delete "18,172,000" and insert "21,226,000" and delete "11,419,000" and insert "13,722,000"

Page 35, line 57, before "$500,000" insert "$3,054,000 the first year and $2,303,000 the second year is appropriated to the commissioner of jobs and training for the Minnesota youth program."

Page 47, line 14, delete everything after "*(e)*"

Page 47, delete lines 15 to 18

Page 47, line 19, delete "*(f)*"

Correct the subdivision and section totals and the summaries by fund accordingly

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 10 and nays 51, as follows:

Those who voted in the affirmative were:

Benson, D.D.	Johnston	Knutson	Neuville	Runbeck
Dille	Kiscaden	Larson	Oliver	Terwilliger

Those who voted in the negative were:

Adkins	Finn	Kroening	Morse	Sams
Anderson	Flynn	Langseth	Murphy	Samuelson
Beckman	Frederickson	Lesewski	Novak	Solon
Berg	Hanson	Lessard	Pappas	Spear
Berglin	Hottinger	Luther	Piper	Stumpf
Bertram	Janezich	Marty	Pogemiller	Vickerman
Betzold	Johnson, D.E.	McGowan	Price	Wiener
Chandler	Johnson, D.J.	Merriam	Ranum	
Chmielewski	Johnson, J.B.	Metzen	Reichgott	
Cohen	Kelly	Moe, R.D.	Riveness	
Day	Krentz	Mondale	Robertson	

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

S.F. No. 1613 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 65 and nays 1, as follows:

Those who voted in the affirmative were:

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

Ms. Robertson voted in the negative.

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

Pursuant to Rule 10, Mr. Moe, R.D., Chair of the Committee on Rules and Administration, designated H.F. No. 163 a Special Order to be heard immediately.

SPECIAL ORDER

H.F. No. 163: A bill for an act relating to campaign reform; limiting noncampaign disbursements to items specified by law; requiring lobbyists and political committees and funds to include their registration number on contributions; prohibiting certain "friends of" committees; requiring reports by certain solicitors of campaign contributions; limiting use of contributions

carried forward; requiring unused postage to be carried forward as an expenditure; requiring certain notices; changing contribution limits; limiting contributions by political parties; prohibiting transfers from one candidate to another, with certain exceptions; limiting contributions by certain political committees, funds, and individuals; eliminating public subsidies to unopposed candidates; providing for a public subsidy to match in-district contributions; clarifying filing requirements for candidate agreements and the duration of the agreements; requiring return of public subsidies under certain conditions; imposing contribution limits on candidates for local offices; prohibiting political contributions by certain nonprofit corporations and partnerships; requiring a report of candidates on whose behalf political contributions have been refunded by the state; defining certain terms; clarifying certain language; appropriating money; amending Minnesota Statutes 1992, sections 10A.01, subdivision 10c, and by adding a subdivision; 10A.04, by adding a subdivision; 10A.065, subdivision 1; 10A.14, subdivision 2; 10A.15, by adding subdivisions; 10A.19, subdivision 1; 10A.20, subdivision 3, and by adding a subdivision; 10A.25, by adding subdivisions; 10A.27, subdivisions 1, 2, 9, and by adding subdivisions; 10A.31, subdivisions 6, 8, and by adding a subdivision; 10A.322, subdivisions 1 and 2; 10A.324, subdivisions 1 and 3; 211B.15; 290.06, subdivision 23; proposing coding for new law in Minnesota Statutes, chapters 10A; 211A; and 211B.

Mr. Luther moved to amend H.F. No. 163, the unofficial engrossment, as follows:

Page 26, after line 36, insert:

"Sec. 41. Minnesota Statutes 1992, section 204B.36, subdivision 4, is amended to read:

Subd. 4. [JUDICIAL CANDIDATES.] The official ballot shall contain the names of all candidates for each judicial office and shall state the number of those candidates for whom a voter may vote. *Each seat for an associate justice, associate judge, or judge of the district court must be numbered.* The title of each judicial office shall be printed on the official primary and general election ballot as follows:

(a) In the case of the supreme court:

"Chief justice ~~(or associate justice)~~ – supreme court ~~(last name of incumbent) seat~~";

"Associate justice (number) – supreme court"

(b) In the case of the court of appeals:

"Judge *(number)* – court of appeals ~~(last name of incumbent) seat~~"; *or*

(c) In the case of the district court:

"Judge *(number)* – (number) district court ~~(last name of incumbent) seat"; or~~

~~(d) In the case of the county court:~~

~~"Judge – (number) county court (last name of incumbent) seat.~~""

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Mr. Luther then moved to amend H.F. No. 163, the unofficial engrossment, as follows:

Page 34, delete lines 12 to 14 and insert:

"*(b) Public Subsidies under Minnesota Statutes, section 10A.25, subdivision 10* *100,000*

This appropriation is available until June 30, 1995.

(c) Public Subsidies under Minnesota Statutes, section 10A.25, subdivision 11 *100,000*"

Page 34, line 17, delete "*(c)*" and insert "*(d)*"

The motion prevailed. So the amendment was adopted.

Mr. Luther then moved to amend H.F. No. 163, the unofficial engrossment, as follows:

Page 15, line 19, after the headnote, insert "*A candidate may not solicit or accept a contribution made or delivered by a lobbyist.*"

Page 15, line 21, delete "*lobbyist,*"

Page 15, line 22, delete the first comma

The motion prevailed. So the amendment was adopted.

CALL OF THE SENATE

Mr. Johnson, D.E. imposed a call of the Senate for the balance of the proceedings on H.F. No. 163. The Sergeant at Arms was instructed to bring in the absent members.

Mr. Johnson, D.E. moved to amend H.F. No. 163, the unofficial engrossment, as follows:

Page 2, after line 4, insert:

"ARTICLE 1"

Page 34, line 38, delete "*act*" and insert "*article*"

Page 34, after line 38, insert:

"ARTICLE 2

Section 1. [CONSTITUTIONAL AMENDMENT.]

An amendment to the Minnesota Constitution, article IV, section 4, and article V, sections 2 and 4, is proposed to the people.

If the amendment is adopted, article IV, section 4, will read:

Sec. 4. Representatives shall be chosen for a term of two years, except to fill a vacancy. Senators shall be chosen for a term of four years, except to fill a vacancy and except there shall be an entire new election of all the senators at the first election of representatives after each new legislative apportionment

provided for in this article. *No person may file to be a candidate for election to a term that would cause the person to serve more than ten consecutive years in the legislature.* The governor shall call elections to fill vacancies in either house of the legislature.

article V, section 2, will read:

Sec. 2. The term of office for the governor and lieutenant governor is four years and until a successor is chosen and qualified. *No person may file to be a candidate for election to a third consecutive term as governor or to a third consecutive term as lieutenant governor.* Each shall have attained the age of 25 years and, shall have been a bona fide resident of the state for one year next preceding his election, and shall be a citizen of the United States.

and article V, section 4, will read:

Sec. 4. The term of office of the secretary of state, treasurer, attorney general and state auditor is four years and until a successor is chosen and qualified. *No person may file to be a candidate for election to a third consecutive term in one of the offices of secretary of state, state treasurer, attorney general, or state auditor.* The duties and salaries of the executive officers shall be prescribed by law.

Sec. 2. [SCHEDULE AND QUESTION.]

The amendment shall be submitted to the people at the 1994 general election.

Terms served pursuant to elections in 1994 or prior years shall be disregarded in the determination of the limits imposed by the amendment. The question submitted to the people shall be:

"Shall the Minnesota Constitution be amended to place limits on the terms of office of state legislators and executive officers?

Yes .....
No ....."

Amend the title accordingly

Mr. Marty questioned whether the amendment was germane.

The President ruled that the amendment was not germane.

Mr. Johnson, D.E. appealed the decision of the President.

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

Mr. Frederickson moved that those not voting be excused from voting. The motion prevailed.

The roll was called, and there were yeas 43 and nays 22, as follows:

Those who voted in the affirmative were:

Adkins	Cohen	Krentz	Murphy	Sams
Anderson	Finn	Kroening	Novak	Samuelson
Beckman	Flynn	Langseth	Pappas	Solon
Berg	Hanson	Lessard	Piper	Spear
Berglin	Hottinger	Luther	Pogemiller	Stumpf
Bertram	Janezich	Marty	Price	Vickerman
Betzold	Johnson, D.J.	Merriam	Ranum	Wiener
Chandler	Johnson, J.B.	Metzen	Reichgott	
Chmielewski	Kelly	Mondale	Riveness	

Those who voted in the negative were:

Belanger	Frederickson	Laidig	Oliver	Stevens
Benson, D.D.	Johnson, D.E.	Larson	Olson	Terwilliger
Benson, J.E.	Johnston	Lesewski	Pariseau	
Day	Kiscaden	McGowan	Robertson	
Dille	Knutson	Neuville	Runbeck	

So the decision of the President was sustained.

Mr. Bertram moved to amend H.F. No. 163, the unofficial engrossment, as follows:

Page 10, delete section 15

Page 13, delete section 20

Pages 27 and 28, delete section 42

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

Mr. Merriam requested division of the amendment as follows:

First portion:

Page 10, delete section 15

Pages 27 and 28, delete section 42

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

Second portion:

Page 13, delete section 20

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The question was taken on the adoption of the first portion of the Bertram amendment.

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

Those who voted in the affirmative were:

Adkins	Day	Langseth	Novak	Stumpf
Beckman	Hanson	Larson	Sams	Terwilliger
Benson, J.E.	Johnston	Lessard	Samuelson	Vickerman
Bertram	Knutson	Metzen	Solon	
Chmielewski	Kroening	Neuville	Stevens	

Those who voted in the negative were:

Anderson	Finn	Kiscaden	Morse	Ranum
Belanger	Flynn	Krentz	Murphy	Reichgott
Benson, D.D.	Frederickson	Laidig	Oliver	Riveness
Berg	Hottinger	Lesewski	Olson	Robertson
Berglin	Janezich	Luther	Pappas	Runbeck
Betzold	Johnson, D.E.	Marty	Pariseau	Spear
Chandler	Johnson, D.J.	McGowan	Piper	Wiener
Cohen	Johnson, J.B.	Merriam	Pogemiller	
Dille	Kelly	Mondale	Price	

The motion did not prevail. So the first portion of the Bertram amendment was not adopted.

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

The roll was called, and there were yeas 28 and nays 38, as follows:

Those who voted in the affirmative were:

Adkins	Day	Langseth	Metzen	Solon
Beckman	Hanson	Larson	Neuville	Stevens
Benson, J.E.	Johnston	Lesewski	Novak	Stumpf
Bertram	Knutson	Lessard	Robertson	Vickerman
Chandler	Kroening	Luther	Sams	
Chmielewski	Laidig	Merriam	Samuelson	

Those who voted in the negative were:

Anderson	Finn	Kelly	Oliver	Reichgott
Belanger	Flynn	Kiscaden	Olson	Riveness
Benson, D.D.	Frederickson	Krentz	Pappas	Runbeck
Berg	Hottinger	Marty	Pariseau	Spear
Berglin	Janezich	McGowan	Piper	Terwilliger
Betzold	Johnson, D.E.	Mondale	Pogemiller	Wiener
Cohen	Johnson, D.J.	Morse	Price	
Dille	Johnson, J.B.	Murphy	Ranum	

The motion did not prevail. So the second portion of the Bertram amendment was not adopted.

Mr. Mondale moved to amend H.F. No. 163, the unofficial engrossment, as follows:

Page 31, delete lines 27 to 33

Page 31, line 34, delete "*16*" and insert "*15*"

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 49 and nays 17, as follows:

Those who voted in the affirmative were:

Adkins	Finn	Krentz	Mondale	Riveness
Anderson	Flynn	Kroening	Morse	Runbeck
Beckman	Frederickson	Laidig	Murphy	Sams
Berg	Hanson	Lesewski	Novak	Samuelson
Berglin	Hottinger	Lessard	Pappas	Solon
Bertram	Janezich	Luther	Piper	Spear
Betzold	Johnson, D.J.	Marty	Pogemiller	Stumpf
Chandler	Johnson, J.B.	Merriam	Price	Vickerman
Chmielewski	Kelly	Metzen	Ranum	Wiener
Cohen	Knutson	Moe, R.D.	Reichgott	

Those who voted in the negative were:

Belanger	Dille	Larson	Olson	Terwilliger
Benson, D.D.	Johnson, D.E.	McGowan	Pariseau	
Benson, J.E.	Johnston	Neuville	Robertson	
Day	Kiscaden	Oliver	Stevens	

The motion prevailed. So the amendment was adopted.

Mr. Benson, D.D. moved to amend H.F. No. 163, the unofficial engrossment, as follows:

Page 34, after line 33, insert:

"Sec. 48. [VETO.]

The governor is respectfully reminded that in order to veto this bill, he must return it to the house of representatives with his objections within three days after it was presented to him."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

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

Mr. Kelly moved to amend H.F. No. 163, the unofficial engrossment, as follows:

Page 15, delete section 25

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 3 and nays 62, as follows:

Messrs. Dille, Kelly and Ms. Pappas voted in the affirmative.

Those who voted in the negative were:

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

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

Mr. Pogemiller moved to amend H.F. No. 163, the unofficial engrossment, as follows:

Page 21, line 29, delete "*and*" and insert:

"*(5) has been nominated to appear on the ballot in the general election; and*"

Page 29, line 30, delete "*(5)*" and insert "*(6)*"

The motion prevailed. So the amendment was adopted.

Mr. Chmielewski moved to amend H.F. No. 163, the unofficial engrossment, as follows:

Page 29, delete lines 4 and 5

Page 29, line 6, delete "*(3)*" and insert "*(2)*"

Page 29, line 10, delete "*(4)*" and insert "*(3)*"

The motion prevailed. So the amendment was adopted.

Mr. Marty moved to amend H.F. No. 163, the unofficial engrossment, as follows:

Page 31, delete line 36

Page 32, delete line 1

Renumber the clauses in sequence

The motion prevailed. So the amendment was adopted.

H.F. No. 163 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 43 and nays 24, as follows:

Those who voted in the affirmative were:

Anderson	Finn	Kroening	Morse	Riveness
Beckman	Flynn	Langseth	Murphy	Sams
Berg	Hanson	Lessard	Novak	Solon
Berglin	Hottinger	Luther	Pappas	Spear
Bertram	Janezich	Marty	Piper	Stumpf
Betzold	Johnson, D.J.	Merriam	Pogemiller	Vickerman
Chandler	Johnson, J.B.	Metzen	Price	Wiener
Chmielewski	Kelly	Moe, R.D.	Ranum	
Cohen	Krentz	Mondale	Reichgott	

Those who voted in the negative were:

Adkins	Dille	Knutson	Neuville	Runbeck
Belanger	Frederickson	Laidig	Oliver	Samuelson
Benson, D.D.	Johnson, D.E.	Larson	Olson	Stevens
Benson, J.E.	Johnston	Lesewski	Pariseau	Terwilliger
Day	Kiscaden	McGowan	Robertson	

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

Without objection, remaining on the Order of Business of Motions and Resolutions, the Senate reverted to the Orders of Business of Reports of Committees, Second Reading of Senate Bills and Second Reading of House Bills.

REPORTS OF COMMITTEES

Mr. Moe, R.D. moved that the Committee Reports at the Desk be now adopted, with the exception of the report on S.F. No. 1363. The motion prevailed.

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

S.F. No. 1570: A bill for an act relating to the organization and operation of state government; appropriating money for environmental, natural resource, and agricultural purposes; transferring responsibilities to the commissioner of natural resources; establishing food handling reinspection fees; continuing the citizen's council on Voyageurs national park; providing for crop protection assistance; changing certain license fees; imposing a solid waste assessment; modifying the hazardous waste generator tax; establishing a hazardous waste generator loan program; expanding the number of facilities subject to pollution prevention requirements; requiring a toxic air contaminant strategy; amending Minnesota Statutes 1992, sections 17.59, subdivision 5;

17A.11; 18B.05, subdivision 2; 18C.131; 21.115; 21.92; 25.39, subdivision 4; 27.07, subdivision 6; 28A.08; 32.394, subdivision 9; 32A.05, subdivision 4; 41A.09, by adding a subdivision; 84.027, by adding a subdivision; 85.016; 85.22, subdivision 2a; 85A.02, subdivision 17; 88.79, subdivision 2; 97A.055, subdivision 1, and by adding a subdivision; 97A.065, subdivision 3; 97A.071, subdivision 2; 97A.075, subdivisions 1 and 4; 97A.441, by adding a subdivision; 97A.475, subdivision 12; 97C.355, subdivision 2; 103F.725, by adding a subdivision; 115A.96, subdivisions 3 and 4; 115B.22, by adding subdivisions; 115B.24, subdivision 6; 115B.42, subdivision 2; 115D.07, subdivision 1; 115D.10; 115D.12, subdivision 2; 116J.401; 116P.10; 160.265; 168.013, by adding a subdivision; 297A.45, by adding a subdivision; 299K.08, by adding a subdivision; 473.351, subdivision 2; proposing coding for new law in Minnesota Statutes, chapters 85; 88; 97A; 115A; 115B; and 115D; repealing Minnesota Statutes 1992, sections 97A.065, subdivision 3; 97A.071, subdivision 2; 97A.075, subdivisions 2, 3, and 4; 97B.715, subdivision 1; 97B.801; 97C.305; 115B.21, subdivisions 4 and 6; 115B.22, subdivisions 1, 2, 3, 4, 5, and 6.

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

Page 2, line 10, delete "$144,780,000" and insert "$144,837,000" and delete "$141,517,000" and insert "$141,574,000" and delete "$286,417,000" and insert "$286,531,000"

Page 2, line 11, delete "26,172,000" and insert "25,948,000" and delete "26,432,000" and insert "26,208,000" and delete "52,604,000" and insert "52,156,000"

Page 2, line 22, delete "292,008,000" and insert "291,841,000" and delete "247,075,000" and insert "246,908,000" and delete "539,323,000" and insert "538,989,000"

Page 2, line 30, delete "35,165,000" and insert "34,941,000" and delete "33,138,000" and insert "32,914,000"

Page 2, line 33, delete "24,635,000" and insert "24,411,000" and delete "24,965,000" and insert "24,741,000"

Page 4, line 46, delete "6,228,000" and insert "6,004,000" and delete "6,520,000" and insert "6,296,000"

Page 4, line 49, delete "4,858,000" and insert "4,634,000" and delete "5,150,000" and insert "4,926,000"

Page 7, line 1, delete everything after "year"

Page 7, delete line 2

Page 7, line 3, delete "89.04,"

Page 12, line 35, delete "21,859,000" and insert "21,916,000" and delete "21,762,000" and insert "21,819,000"

Page 12, line 37, delete "12,126,000" and insert "12,183,000" and delete "11,994,000" and insert "12,051,000"

Page 12, line 44, delete "15,309,000" and insert "15,366,000" and delete "15,344,000" and insert "15,401,000"

Page 12, line 46, delete "5,759,000" and insert "5,816,000" in both places

Page 59, line 8, delete everything after "*system*"

Page 59, line 9, delete "*obtained and*" and insert "*, if the publicly owned treatment works or on-site treatment system*"

Page 59, line 11, delete "*from*" and insert "*issued by*"

Page 67, delete section 71

Page 69, lines 2 and 3, delete "*79*" and insert "*78*"

Page 70, line 23, delete "*72*" and insert "*71*"

Page 70, line 24, delete "*78*" and insert "*77*"

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 31, delete "168.013, by adding a subdivision;"

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

Mr. Lessard from the Committee on Environment and Natural Resources, to which was referred

H.F. No. 836: A bill for an act relating to game and fish; sale of licenses through subagents; taking deer of either sex by residents under the age of 16; amending Minnesota Statutes 1992, section 97A.485, subdivision 4.

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

Page 1, after line 15, insert:

"Sec. 2. Minnesota Statutes 1992, section 97B.301, is amended by adding a subdivision to read:

Subd. 6. [RESIDENTS UNDER AGE 16 MAY TAKE DEER OF EITHER SEX.] *(a) A resident under the age of 16 may take a deer of either sex. This subdivision does not authorize the taking of an antlerless deer by another member of a party under subdivision 3.*

(b) This subdivision is repealed effective December 31, 1995."

Amend the title as follows:

Page 1, line 3, after the semicolon, insert "taking deer of either sex by residents under the age of 16;" and delete "section" and insert "sections"

Page 1, line 4, before the period, insert "; and 97B.301, by adding a subdivision"

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

Mr. Lessard from the Committee on Environment and Natural Resources, to which was referred

S.F. No. 1363: A bill for an act relating to natural resources; amending requirements to replace wetlands; adding exemptions; increasing wetland acreage in certain counties; extending interim rules; amending Minnesota Statutes 1992, sections 103G.222; 103G.2241; 103G.2242, subdivisions 1 and 2; and 103G.2369, subdivision 2, and by adding a subdivision; Laws 1991, chapter 354, article 7, section 2; proposing coding for new law in Minnesota Statutes, chapter 103G.

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

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1992, section 103G.222, is amended to read:

103G.222 [REPLACEMENT OF WETLANDS.]

(a) After the effective date of the rules adopted under section 103B.3355 or 103G.2242, whichever is later, wetlands must not be drained or filled, wholly or partially, unless replaced by restoring or creating wetland areas of at least equal public value under either a replacement plan approved as provided in section 103G.2242 or, if a permit to mine is required under section 93.481, under a mining reclamation plan approved by the commissioner under the permit to mine. Mining reclamation plans shall apply the same principles and standards for replacing wetlands by restoration or creation of wetland areas that are applicable to mitigation plans approved as provided in section 103G.2242.

(b) Replacement must be guided by the following principles in descending order of priority:

(1) avoiding the direct or indirect impact of the activity that may destroy or diminish the wetland;

(2) minimizing the impact by limiting the degree or magnitude of the wetland activity and its implementation;

(3) rectifying the impact by repairing, rehabilitating, or restoring the affected wetland environment;

(4) reducing or eliminating the impact over time by preservation and maintenance operations during the life of the activity; and

(5) compensating for the impact by replacing or providing substitute wetland resources or environments.

(c) If a wetland is located in a cultivated field, then replacement must be accomplished through restoration only without regard to the priority order in paragraph (b), provided that a deed restriction is placed on the altered wetland prohibiting nonagricultural use for at least ten years.

(d) Restoration and replacement of wetlands must be accomplished in accordance with the ecology of the landscape area affected.

(e) Replacement shall be within the same watershed or county as the impacted wetlands, as based on the wetland evaluation in section 103G.2242, subdivision 2, except that counties or watersheds in which 80 percent or more of the presettlement wetland acreage is intact may accomplish replacement in counties or watersheds in which 50 percent or more of the presettlement

wetland acreage has been filled, drained, or otherwise degraded. Wetlands impacted by public transportation projects may be replaced statewide, provided they are approved by the commissioner under an established wetland banking system, or under the rules for wetland banking as provided for under section 103G.2242.

(f) *Except as provided in paragraph (g),* for a wetland located on nonagricultural land, replacement must be in the ratio of two acres of replaced wetland for each acre of drained or filled wetland.

(g) For a wetland located on agricultural land *or in counties or watersheds in which 80 percent or more of the presettlement wetland acreage exists,* replacement must be in the ratio of one acre of replaced wetland for each acre of drained or filled wetland.

(h) Wetlands that are restored or created as a result of an approved replacement plan are subject to the provisions of this section for any subsequent drainage or filling.

(i) Except in counties or watersheds where 80 percent or more of the presettlement wetlands are intact, only wetlands that have been restored from previously drained or filled wetlands, wetlands created by excavation in nonwetlands, wetlands created by dikes or dams along public or private drainage ditches, or wetlands created by dikes or dams associated with the restoration of previously drained or filled wetlands may be used in a statewide banking program established in rules adopted under section 103G.2242, subdivision 1. Modification or conversion of nondegraded naturally occurring wetlands from one type to another are not eligible for enrollment in a statewide wetlands bank.

(j) The technical evaluation panel established under section 103G.2242, subdivision 2, shall ensure that sufficient time has occurred for the wetland to develop wetland characteristics of soils, vegetation, and hydrology before recommending that the wetland be deposited in the statewide wetland bank. If the technical evaluation panel has reason to believe that the wetland characteristics may change substantially, the panel shall postpone its recommendation until the wetland has stabilized.

Sec. 2. Minnesota Statutes 1992, section 103G.2241, is amended to read:

103G.2241 [EXEMPTIONS.]

~~Subdivision 1. [EXEMPTIONS.]~~ (a) Subject to the conditions in paragraph (b), a replacement plan for wetlands is not required for:

(1) activities in a wetland that was planted with annually seeded crops, was in a crop rotation seeding of pasture grasses or legumes, or was required to be set aside to receive price support or other payments under United States Code, title 7, sections 1421 to 1469, in six of the last ten years prior to January 1, 1991;

(2) activities in a wetland that is or has been enrolled in the federal conservation reserve program under United States Code, title 16, section 3831, that:

(i) was planted with annually seeded crops, was in a crop rotation seeding, or was required to be set aside to receive price support or payment under United States Code, title 7, sections 1421 to 1469, in six of the last ten years prior to being enrolled in the program; and

(ii) has not been restored with assistance from a public or private wetland restoration program;

(3) activities necessary to repair and maintain existing public or private drainage systems as long as wetlands that have been in existence for more than 20 years are not drained;

(4) activities in a wetland that has received a commenced drainage determination provided for by the federal Food Security Act of 1985, that was made to the county agricultural stabilization and conservation service office prior to September 19, 1988, and a ruling and any subsequent appeals or reviews have determined that drainage of the wetland had been commenced prior to December 23, 1985;

(5) activities exempted from federal regulation under United States Code, title 33, section 1344(f);

(6) activities authorized under, and conducted in accordance with, an applicable general permit issued by the United States Army Corps of Engineers under section 404 of the federal Clean Water Act, United States Code, title 33, section 1344, except the nationwide permit in Code of Federal Regulations, title 33, section 330.5, paragraph (a), clause (14), limited to when a new road crosses a wetland, and all of clause (26);

(7) activities in a type 1 wetland on agricultural land, as defined in United States Fish and Wildlife Circular No. 39 (1971 edition) except for bottomland hardwood type 1 wetlands;

(8) activities in a type 2 wetland that is two acres in size or less located on agricultural land;

(9) activities in a wetland restored for conservation purposes under a contract or easement providing the landowner with the right to drain the restored wetland;

(10) activities in a wetland created solely as a result of:

(i) beaver dam construction;

(ii) blockage of culverts through roadways maintained by a public or private entity;

(iii) actions by public entities that were taken for a purpose other than creating the wetland; or

(iv) any combination of (i) to (iii);

(11) placement, maintenance, repair, enhancement, or replacement of utility or utility-type service, including the transmission, distribution, or furnishing, at wholesale or retail, of natural or manufactured gas, electricity, telephone, or radio service or communications if:

(i) the impacts of the proposed project on the hydrologic and biological characteristics of the wetland have been avoided and minimized to the extent possible; and

(ii) the proposed project significantly modifies or alters less than one-half acre of wetlands;

(12) activities associated with routine maintenance of utility and pipeline

rights-of-way, provided the activities do not result in additional intrusion into the wetland;

(13) alteration of a wetland associated with the operation, maintenance, or repair of an interstate pipeline;

(14) temporarily crossing or entering a wetland to perform silvicultural activities, including timber harvest as part of a forest management activity, so long as the activity limits the impact on the hydrologic and biologic characteristics of the wetland; the activities do not result in the construction of dikes, drainage ditches, tile lines, or buildings; and the timber harvesting and other silvicultural practices do not result in the drainage of the wetland or public waters;

(15) permanent access for forest roads across wetlands so long as the activity limits the impact on the hydrologic and biologic characteristics of the wetland; the construction activities do not result in the access becoming a dike, drainage ditch or tile line; with filling avoided wherever possible; and there is no drainage of the wetland or public waters;

(16) activities associated with routine maintenance *or repair* of existing public highways, roads, streets, and bridges, provided the activities do not result in additional intrusion into the wetland ~~and do not result in the draining or filling, wholly or partially, of a wetland~~ *outside of the existing right-of-way*;

(17) emergency repair and normal maintenance and repair of existing public works, provided the activity does not result in additional intrusion of the public works into the wetland and do not result in the draining or filling, wholly or partially, of a wetland;

(18) normal maintenance and minor repair of structures causing no additional intrusion of an existing structure into the wetland, and maintenance and repair of private crossings that do not result in the draining or filling, wholly or partially, of a wetland;

(19) duck blinds;

(20) aquaculture activities~~, except building or altering of docks and activities involving the draining or filling, wholly or partially, of a wetland~~ *including pond excavation and associated access roads and dikes authorized under, and conducted in accordance with, a permit issued by the United States Army Corps of Engineers under section 404 of the federal Clean Water Act, United States Code, title 33, section 1344, but not including buildings*;

(21) wild rice production activities, including necessary diking and other activities authorized under a permit issued by the United State Army Corps of Engineers under section 404 of the federal Clean Water Act, United States Code, title 33, section 1344;

(22) normal agricultural practices to control pests or weeds, defined by rule as either noxious or secondary weeds, in accordance with applicable requirements under state and federal law, including established best management practices;

(23) activities in a wetland that is on agricultural land annually enrolled in the federal Food, Agricultural, Conservation, and Trade Act of 1990, United States Code, title 16, section 3821, subsection (a), clauses (1) to (3), as amended, and is subject to sections 1421 to 1424 of the federal act in effect on January 1, 1991, except that land enrolled in a federal farm program is

eligible for easement participation for those acres not already compensated under a federal program;

(24) development projects and ditch improvement projects in the state that have received preliminary or final plat approval, or infrastructure that has been installed, or having local site plan approval, conditional use permits, or similar official approval by a governing body or government agency, within five years before July 1, 1991. In the seven-county metropolitan area and in cities of the first and second class, plat approval must be preliminary as approved by the appropriate governing body; *and*

(25) activities that result in the draining or filling of less than 400 square feet of wetlands.

(b) A person conducting an activity in a wetland under an exemption in paragraph (a) shall ensure that:

(1) appropriate erosion control measures are taken to prevent sedimentation of the water;

(2) the activity does not block fish passage in a watercourse; and

(3) the activity is conducted in compliance with all other applicable federal, state, and local requirements, including best management practices and water resource protection requirements established under chapter 103H.

Sec. 3. Minnesota Statutes 1992, section 103G.2242, subdivision 2, is amended to read:

Subd. 2. [EVALUATION.] Questions concerning the public value, location, size, or type of a wetland shall be submitted to and determined by a technical evaluation panel after an on-site inspection. The technical evaluation panel shall be composed of a technical professional employee of the board, a technical professional employee of the local soil and water conservation district or districts, and ~~an engineer for~~ *a technical professional with expertise in water resources management appointed by* the local government unit. The panel shall use the "Federal Manual for Identifying and Delineating Jurisdictional Wetlands" (January 1989). The panel shall provide the wetland determination to the local government unit that must approve a replacement plan under this section, and may recommend approval or denial of the plan. The authority must consider and include the decision of the technical evaluation panel in their approval or denial of a plan.

Sec. 4. Minnesota Statutes 1992, section 103G.2369, subdivision 2, is amended to read:

Subd. 2. [PROHIBITED ACTIVITIES.] (a) Except as provided in subdivision 3, until July 1, 1993, a person may not drain~~, burn,~~ or fill a wetland.

(b) Except as provided in subdivision 3, until July 1, 1993, a state agency or local unit of government may not issue a permit for an activity prohibited in paragraph (a) or for an activity that would include an activity prohibited in paragraph (a).

Sec. 5. Minnesota Statutes 1992, section 103G.2369, is amended by adding a subdivision to read:

Subd. 4a. [ELECTION BY LOCAL GOVERNMENT UNIT.] *Notwithstanding subdivision 2 and sections 103G.222 and 103G.2242, a local*

government unit may elect to operate under this section after July 1, 1993, but not beyond December 31, 1993.

Sec. 6. Laws 1991, chapter 354, article 7, section 2, is amended to read:

Sec. 2. [EFFECTIVE DATE.]

Section 1 is effective January 1, 1992, and is repealed ~~July~~ *January* 1, ~~1993~~ *1994*."

Delete the title and insert:

"A bill for an act relating to natural resources; amending requirements relating to replacement of wetlands; modifying exemptions; amending Minnesota Statutes 1992, sections 103G.222; 103G.2241; 103G.2242, subdivision 2; and 103G.2369, subdivision 2, and by adding a subdivision; Laws 1991, chapter 354, article 7, section 2."

And when so amended the bill do pass.

Pursuant to Joint Rule 2.03, the bill was referred to the Committee on Rules and Administration.

Ms. Reichgott from the Committee on Judiciary, to which was re-referred

S.F. No. 848: A bill for an act relating to natural resources; mineral leasing; environmental research and protection; exploratory mineral borings and data; lean ore stockpile removal; amending Minnesota Statutes 1992, sections 92.50, subdivision 1; 93.001; 93.002, subdivisions 1 and 3; 93.25; 93.46, by adding a subdivision; 93.481, subdivisions 1 and 2; 103I.113; 103I.601, subdivision 1; 103I.605, subdivision 4; and 282.04, subdivision 1.

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

Page 9, lines 9 and 18, strike "is" and insert "*are*"

Page 9, line 21, strike "thereafter" and insert "*after that time*"

Page 9, delete lines 31 and 32 and insert:

"(c) *Upon the written request of the explorer, data submitted under paragraph (a) are nonpublic data until 180 days*"

Page 10, line 10, delete "*thereafter*" and insert "*after that time*"

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

Ms. Reichgott from the Committee on Judiciary, to which was referred

S.F. No. 674: A bill for an act relating to civil actions; providing for stay of a bond required of plaintiffs in certain actions against a public body; amending Minnesota Statutes 1992, section 562.02.

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

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1992, section 562.02, is amended to read:

562.02 [CIVIL ACTIONS AFFECTING A PUBLIC BODY; SURETY BOND REQUIRED OF PLAINTIFF.]

Whenever any action at law or in equity is brought in any court in this state questioning directly or indirectly the existence of any condition or thing precedent to, or the validity of any action taken or proposed to be taken, by any public body or its officers or agents in the course of the authorization or sale, issuance or delivery of bonds, the making of a contract for public improvement or the validity of any proceeding to alter the organization of a school district in any manner, such public body may move the court for an order requiring the party, or parties, bringing such action to file a surety bond as hereinafter set forth. Three days' written notice of such motion shall be given. If the public body is not a party to the action, but if it deems that such action be injurious to the public interest and to the taxpayers, such public body may intervene or appear specially for the purpose of making such motion. If the court determines that loss or damage to the public or taxpayers may result from the pendency of the action or proceeding, the court may require such party, or parties, to file a surety bond, which shall be approved by the court, in such amount as the court may determine. *The court must also consider whether the action presents substantial constitutional issues or substantial issues of statutory construction, and the likelihood of a party prevailing on these issues, when determining the amount of a bond and whether a bond should be required under this section or section 473.675.* Such bond shall be conditioned for payment to the public body of any loss or damage which may be caused to the public body or taxpayers by such delay, to the extent of the penal sum of such bond, if such party, or parties, shall not prevail therein. If such surety bond is not filed within a reasonable time allowed therefor by the court, the action shall be dismissed with prejudice. If such party, or parties, file a bond as herein required and prevail in the action, any premium paid on the bond shall be repaid by or taxed against the public body.

Sec. 2. [EFFECTIVE DATE; APPLICATION.]

Section 1 is effective August 1, 1993, and applies to orders entered under Minnesota Statutes, section 562.02, on and after that date."

Delete the title and insert:

"A bill for an act relating to civil actions; regulating the posting of a bond required of plaintiffs in certain actions against a public body; amending Minnesota Statutes 1992, section 562.02."

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

Ms. Reichgott from the Committee on Judiciary, to which was referred

S.F. No. 741: A bill for an act relating to civil actions; authorizing appeals from the decisions of civil service commissions by both cities and their employees on the same basis and to the same extent; amending Minnesota Statutes 1992, section 480A.06, subdivision 4.

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

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1992, section 484.01, is amended to read:

484.01 [JURISDICTION.]

Subdivision 1. [GENERAL.] The district courts shall have original jurisdiction in all civil actions within their respective districts, in all cases of crime committed or triable therein, in all special proceedings not exclusively cognizable by some other court or tribunal, and in all other cases wherein such jurisdiction is especially conferred upon them by law. They shall also have appellate jurisdiction in every case in which an appeal thereto is allowed by law from any other court, officer, or body.

Subd. 2. [CIVIL SERVICE REVIEWS.] *Notwithstanding any law to the contrary, the district court has jurisdiction to review a final decision or order of a civil service commission or board upon the petition of an employee or appointing authority in any first-class city. The employee and appointing authority have standing to seek judicial review in all these cases. Review of the decision or order may be had by securing issuance of a writ of certiorari within 60 days after the date of mailing notice of the decision to the party applying for the writ. To the extent possible, the provisions of rules 110, 111, and 115 of the Rules of Civil Appellate Procedure govern the procedures to be followed. Each reference in those rules to the court of appeals, the trial court, the trial court administrator, and the notice of appeal must be read, where appropriate, as a reference to the district court, the body whose decision is to be reviewed, to the administrator, clerk, or secretary of that body, and to the writ of certiorari, respectively. This subdivision does not alter or amend the application of sections 197.455 and 197.46, relating to veterans preference.*

Sec. 2. [EFFECTIVE DATE.]

Section 1 is effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to civil actions; authorizing appeals from the decisions of civil service commissions by first-class cities and their employees on the same basis and to the same extent; amending Minnesota Statutes 1992, section 484.01."

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

Mr. Metzen from the Committee on Governmental Operations and Reform, to which was referred

H.F. No. 889: A bill for an act relating to economic development; clarifying provisions relating to the department of trade and economic development; clarifying the duties of the commissioner; amending Minnesota Statutes 1992, sections 17.49, subdivision 1; 18.024, subdivision 1; 86.72, subdivision 3; 86A.06; 86A.09, subdivisions 1, 2, 3, and 4; 92.35; 92.36; 103F.135, subdivision 1; 116J.01, by adding a subdivision; 116J.402; 116J.58, subdivision 1; 116J.61; 116J.68, subdivision 2; 116J.873, subdivisions 3 and 4; 116J.966, subdivision 1; 116J.980, subdivisions 1 and 2; 137.31, subdivision 6; 138.93, subdivision 4; 144.95, subdivision 7; 173.17; 216B.242; 216C.37, subdivision 1; 299A.01, subdivision 2; 446A.03, subdivision 1; 446A.10, subdivision 2; 473.857, subdivision 2; 473H.06, subdivision 5; and 641.24; proposing coding for new law in Minnesota Statutes, chapter 116J; repealing Minnesota Statutes 1992, sections 84.54; 86A.10; 116J.01, subdivision 3; 116J.615, subdivision 2; 116J.645; 116J.661; 116J.982; 116J.983; 116J.984;

301A.01; 301A.02; 301A.03; 301A.04; 301A.05; 301A.06; 301A.07; 301A.08; 301A.09; 301A.10; 301A.11; 301A.12; 301A.13; and 301A.14.

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

Delete everything after the enacting clause and insert:

"ARTICLE 1

Section 1. Minnesota Statutes 1992, section 17.49, subdivision 1, is amended to read:

Subdivision 1. [PROGRAM ESTABLISHED.] The commissioner shall establish and promote a program of aquaculture in consultation with an advisory committee consisting of the University of Minnesota, the commissioner of natural resources, the commissioner of agriculture, ~~the commissioner of trade and economic development,~~ representatives of the private aquaculture industry, and the chairs of the environment and natural resources committees of the house of representatives and senate.

Sec. 2. Minnesota Statutes 1992, section 18.024, subdivision 1, is amended to read:

Subdivision 1. [WOOD UTILIZATION.] The departments of agriculture and natural resources, after consultation with the Minnesota shade tree advisory committee and the ~~commissioners~~ *commissioner* of public service, ~~and trade and economic development,~~ shall investigate, evaluate, and make recommendations to the legislature concerning the potential uses of wood from community trees removed due to disease or other disorders. These recommendations shall include maximum resource recovery through recycling, use as an alternative energy source, or use in construction or the manufacture of new products. Wood utilization or disposal systems as defined in section 18.023 must be included to ensure maximum utilization of diseased shade trees with designs and procedures to ensure public safety and to assure compliance with approved disease control programs.

Sec. 3. Minnesota Statutes 1992, section 86.72, subdivision 3, is amended to read:

Subd. 3. Requests for allocation from the account for acquisition or development shall be accompanied by a certificate signed ~~jointly~~ by the ~~commissioner of trade and economic development and~~ commissioner of natural resources, showing a review of the application against chapter 86A. Copies of the certification shall be submitted to the appropriate legislative committees and commissions. Appropriations from the account shall be expended with the approval of the governor after consultation with the legislative advisory commission. The legislative commission on Minnesota resources shall make recommendations to the legislative advisory commission regarding the expenditures.

Sec. 4. Minnesota Statutes 1992, section 86A.06, is amended to read:

86A.06 [RULES.]

Each managing agency, ~~in consultation with the commissioner of trade and economic development,~~ shall promulgate rules relating to the units of the outdoor recreation system within its jurisdiction, which shall provide for

administration of the units in the manner specified in section 86A.05 and the laws relating to each type of unit.

Sec. 5. Minnesota Statutes 1992, section 86A.09, subdivision 1, is amended to read:

Subdivision 1. [MASTER PLAN REQUIRED.] No construction of new facilities or other development of an authorized unit, other than repairs and maintenance, shall commence until the managing agency has prepared and submitted to the commissioner of ~~trade and economic development~~ *natural resources* and the commissioner ~~of trade and economic development~~ has reviewed, pursuant to this section, a master plan for administration of the unit in conformity with this section. No master plan is required for wildlife management areas that do not have resident managers, for water access sites, for aquatic management areas, or for rest areas.

Sec. 6. Minnesota Statutes 1992, section 86A.09, subdivision 2, is amended to read:

Subd. 2. [MASTER PLAN; PREPARATION AND CONTENT.] The managing agency shall supervise preparation of the master plan and shall utilize the professional staffs of any agency of the state when the expertise of the staff of such agency is necessary to adequately prepare the master plan; the master plan shall present the information in a format and detail that is appropriate to the size and complexity of the authorized unit. When the master plan has been completed the managing agency shall announce to the public in a manner reasonably designed to inform interested persons that the master plan is available for public review and in the case of any major unit shall hold at least one public hearing on the plan in the vicinity of the unit. The managing agency shall make the master plan available for review and comment by the public and other state agencies for at least 30 days following the announcement and before submitting the master plan to the commissioner of ~~trade and economic development~~ *natural resources*. Copies of the plan shall be provided to members of the outdoor recreation advisory council and to any other person on request.

Sec. 7. Minnesota Statutes 1992, section 86A.09, subdivision 3, is amended to read:

Subd. 3. [MASTER PLAN; REVIEW AND APPROVAL.] All master plans required by this section shall be submitted to the commissioner of ~~trade and economic development~~ *natural resources* for review pursuant to this subdivision. The commissioner of ~~trade and economic development~~ *natural resources* shall review the master plan to determine whether the plan: (a) provides for administration of the unit in a manner that is consistent with the purposes for which the unit was authorized and with the principals governing the administration of the unit, as specified in section 86A.05 and the statutes relating to each type of unit; (b) recognizes values and resources within the unit that are primarily the responsibility of another managing agency to protect or develop, and provides for their protection or development either through a cooperative agreement with the other managing agency or through designation of the appropriate area as a secondary unit. In reviewing any master plan, the commissioner of ~~trade and economic development~~ *natural resources* shall consult with other state agencies. Within 60 days after receiving the master plan, the commissioner of ~~trade and economic development~~ *natural resources* shall notify the managing agency that the plan has been reviewed and forward its recommendations for any changes it might

suggest. The managing agency shall review the recommendations and notify the commissioner of ~~trade and economic development~~ *natural resources* of the disposition made of them. Failure to comment on a master plan within the time specified shall be considered approval of the plan by the commissioner of ~~trade and economic development~~ *natural resources*. If the ~~director of the~~ commissioner of ~~trade and economic development~~ *natural resources* feels that the master plan still fails significantly to comply with this subdivision, the commissioner may request review of the master plan by the governor. In that event review shall not be deemed completed until after the master plan has been approved by the governor or 60 days have elapsed without action by the governor to approve or reject the plan, whichever occurs first.

Sec. 8. Minnesota Statutes 1992, section 86A.09, subdivision 4, is amended to read:

Subd. 4. [DEVELOPMENT.] Construction of necessary facilities and other development of the unit shall commence as soon as practicable after review of the master plan by the commissioner of ~~trade and economic development~~ *natural resources*, and the governor if requested, and shall be carried out in conformity with the master plan.

Sec. 9. Minnesota Statutes 1992, section 92.35, is amended to read:

92.35 [DUTIES AND POWERS.]

The commissioner of ~~trade and economic development~~ *natural resources* must classify all public and private lands in the state by the use to which the lands are adapted, but principally as to adaptability to present known uses, such as agriculture and forestry. This classification must be based on consideration of the known physical and economic factors affecting use of the land. The commissioner must consult private, state, and federal agencies concerned with land use. The commissioner may appoint advisory committees of residents of the state concerned with and interested in land use. The advisory committees shall serve without pay, at the pleasure of the commissioner. The advisory committee must consider and report on land use problems submitted by the commissioner. The classification must be done first in the counties having land classification committees. In determining the land classification, the commissioner must consult and cooperate with the land classification committee. The determination of the land classification committee is final.

Sec. 10. Minnesota Statutes 1992, section 92.36, is amended to read:

92.36 [LANDS CLASSIFIED.]

Upon the basis of all of the facts concerning land use now obtainable and as provided in sections 92.34 to 92.37 the commissioner of ~~trade and economic development~~ *natural resources* shall temporarily classify land areas with reference to the known uses to which the areas are adapted or adaptable. A certified copy of the temporary classification, together with a brief statement of the reasons for it, must be recorded in the office of the county recorder in each county containing the lands classified. No fees need be paid for this recording. After the temporary classification has been adopted by the commissioner, none of the lands classified as nonagricultural may be sold or leased by the state for agricultural purposes.

Sec. 11. Minnesota Statutes 1992, section 103F.135, subdivision 1, is amended to read:

Subdivision 1. [COMMISSIONER'S DUTIES.] The commissioner shall:

(1) collect and distribute information relating to flooding and floodplain management;

(2) coordinate local, state, and federal floodplain management activities to the greatest extent possible, and encourage the United States Army Corps of Engineers and the United States Soil Conservation Service to make their flood control planning data available to local governmental units for planning purposes, to allow adequate local participation in the planning process and in the selection of desirable alternatives;

(3) assist local governmental units in their floodplain management activities ~~in cooperation with the commissioner of trade and economic development~~; and

(4) do all other things, within lawful authority, that are necessary or desirable to manage the floodplain for beneficial uses compatible with the preservation of the capacity of the floodplain to carry and discharge the regional flood.

Sec. 12. Minnesota Statutes 1992, section 116J.01, is amended by adding a subdivision to read:

Subd. 5. [DEPARTMENTAL ORGANIZATION.] *(a) The commissioner shall organize the department as provided in section 15.06.*

(b) The commissioner may establish divisions and offices within the department. The commissioner may employ three deputy commissioners in the unclassified service. One deputy must direct the Minnesota trade office and must be experienced and knowledgeable in matters of international trade. One deputy must be the director of the office of tourism.

(c) The commissioner shall:

(1) employ assistants and other officers, employees, and agents that the commissioner considers necessary to discharge the functions of the commissioner's office;

(2) define the duties of the officers, employees, and agents, and delegate to them any of the commissioner's powers, duties, and responsibilities, subject to the commissioner's control and under conditions prescribed by the commissioner.

Sec. 13. [116J.011] [MISSION.]

The mission of the department of trade and economic development is to employ all of the available state government resources to facilitate an economic environment that produces net new job growth in excess of the national average and to increase nonresident and resident tourism revenues.

Sec. 14. Minnesota Statutes 1992, section 116J.402, is amended to read:

116J.402 [COOPERATIVE CONTRACTS.]

The commissioner of trade and economic development may apply for, receive, and spend money for community development from municipal, county, regional, and other planning agencies. The commissioner may also apply for, accept, and disburse grants and other aids for community development and related planning from the federal government and other

sources. The commissioner may enter into contracts with agencies of the federal government, local governmental units, regional development commissions, and the metropolitan council, other state agencies, the University of Minnesota, and other educational institutions, and private persons as necessary to perform the commissioner's duties. Contracts made according to this section, except those with private persons, are not subject to the provisions of chapter 16 concerning competitive bidding.

The commissioner may apply for, receive, and spend money made available from federal sources or other sources for the purposes of carrying out the duties and responsibilities of the commissioner ~~relating to community development~~.

Money received by the commissioner under this section must be deposited in the state treasury and is appropriated to the commissioner for the purposes for which the money has been received. The money does not cancel and is available until spent.

Sec. 15. Minnesota Statutes 1992, section 116J.58, subdivision 1, is amended to read:

Subdivision 1. [ENUMERATION.] The commissioner shall:

(1) investigate, study, and undertake ways and means of promoting and encouraging the prosperous development and protection of the legitimate interest and welfare of Minnesota business, industry, and commerce, within and outside the state;

(2) locate markets for manufacturers and processors and aid merchants in locating and contacting markets;

(3) investigate and study conditions affecting Minnesota business, industry, and commerce and collect and disseminate information, and engage in technical studies, scientific investigations, and statistical research and educational activities necessary or useful for the proper execution of the powers and duties of the commissioner in promoting and developing Minnesota business, industry, and commerce, both within and outside the state;

(4) plan and develop an effective business information service both for the direct assistance of business and industry of the state and for the encouragement of business and industry outside the state to use economic facilities within the state;

(5) compile, collect, and develop periodically, or otherwise make available, information relating to current business conditions;

(6) conduct or encourage research designed to further new and more extensive uses of the natural and other resources of the state and designed to develop new products and industrial processes;

(7) study trends and developments in the industries of the state and analyze the reasons underlying the trends; study costs and other factors affecting successful operation of businesses within the state; and make recommendations regarding circumstances promoting or hampering business and industrial development;

(8) serve as a clearing house for business and industrial problems of the state; and advise small business enterprises regarding improved methods of accounting and bookkeeping;

(9) cooperate with interstate commissions engaged in formulating and promoting the adoption of interstate compacts and agreements helpful to business, industry, and commerce;

(10) cooperate with other state departments, and with boards, commissions, and other state agencies, in the preparation and coordination of plans and policies for the development of the state and for the use and conservation of its resources insofar as the use, conservation, and development may be appropriately directed or influenced by a state agency;

(11) assemble and coordinate information relative to the status, scope, cost, and employment possibilities and the availability of materials, equipment, and labor in connection with public works projects, state, county, and municipal; recommend limitations on the public works; gather current progress information with reference to public and private works projects of the state and its political subdivisions with reference to conditions of employment; inquire into and report to the governor, when requested by the governor, with respect to any program of public state improvements and the financing thereof; and request and obtain information from other state departments or agencies as may be needed properly to report thereon;

(12) study changes in population and current trends and prepare plans and suggest policies for the development and conservation of the resources of the state;

(13) confer and cooperate with the executive, legislative, or planning authorities of the United States and neighboring states *and provinces* and of the counties and municipalities of such neighboring states, for the purpose of bringing about a coordination between the development of such neighboring *provinces,* states, counties, and municipalities and the development of this state;

(14) generally, gather, compile, and make available statistical information relating to business, trade, commerce, industry, transportation, communication, natural resources, and other like subjects in this state, with authority to call upon other departments of the state for statistical data and results obtained by them and to arrange and compile that statistical information in a manner that seems wise;

(15) publish documents and annually convene regional meetings to inform businesses, local government units, assistance providers, and other interested persons of changes in state and federal law related to economic development; ~~and~~

(16) annually convene conferences of providers of economic development related financial and technical assistance for the purposes of exchanging information on economic development assistance, coordinating economic development activities, and formulating economic development strategies; *and*

(17) provide business with information on the economic benefits of energy conservation and on the availability of energy conservation assistance.

Sec. 16. Minnesota Statutes 1992, section 116J.61, is amended to read:

116J.61 [ADDITIONAL POWERS AND DUTIES.]

The commissioner shall:

(1) have control of the work of carrying on a continuous program of education for business people;

(2) publish, disseminate, and distribute information and statistics;

(3) promote and encourage the expansion and development of markets for Minnesota products;

(4) promote and encourage the location and development of new business in the state as well as the maintenance and expansion of existing business and for that purpose cooperate with state and local agencies and individuals, both within and outside the state;

(5) advertise and disseminate information as to natural resources, desirable locations, and other advantages for the purpose of attracting business to locate in this state;

(6) aid the various communities in this state in ~~getting~~ *attracting* business to locate therein;

(7) advise and cooperate with municipal, county, regional, and other planning agencies and planning groups within the state for the purpose of promoting coordination between the state and localities as to plans and development in order to maintain a high level of gainful employment in private profitable production and achieve commensurate advancement in social and cultural welfare; coordinate the activities of statewide and local planning agencies, correlate information secured from them and from state departments and disseminate information and suggestions to the planning agencies; and encourage and assist in the organization and functioning of local planning agencies where none exist; and may provide at the request of any governmental subdivision hereinafter mentioned planning assistance, which includes but is not limited to surveys, land use studies, urban renewal plans, technical services and other planning work to any city or other municipality in the state or perform similar planning work in any county, metropolitan or regional area in the state. The commissioner shall not perform the planning work with respect to a metropolitan or regional area which is under the jurisdiction for planning purposes of a county, metropolitan, regional or joint planning body, except at the request or with the consent of the respective county, metropolitan, regional or joint planning body. The commissioner is authorized to receive and expend money from municipal, county, regional and other planning agencies; and may accept and disburse grants and other aids for planning purposes from the federal government and from other public or private sources, and may utilize moneys so received for the employment of consultants and other temporary personnel to assist in the supervision or performance of planning work supported by money other than state appropriated money, and may enter into contracts with agencies of the federal government, units of local government or combinations thereof, and with private persons that are necessary in the performance of the planning assistance function of the commissioner. The commissioner may assist any local government unit in filling out application forms for the federal grants-in-aid. In furtherance of their planning functions, any city or town, however organized, may expend money and contract with agencies of the federal government, appropriate departments of state government, other local units of government and with private persons; and

(8) adopt measures calculated to promote public interest in and understanding of the problems of planning and, to that end, may publish and distribute

copies of any plan or any report and may employ other means of publicity and education that will give full effect to the provisions of sections 116J.58 to 116J.63.

Sec. 17. Minnesota Statutes 1992, section 116J.68, subdivision 2, is amended to read:

Subd. 2. The bureau shall:

(a) provide information and assistance with respect to all aspects of business planning and business management related to the start-up, operation, or expansion of a small business in Minnesota;

(b) refer persons interested in the start-up, operation, or expansion of a small business in Minnesota to assistance programs sponsored by federal agencies, state agencies, educational institutions, chambers of commerce, civic organizations, community development groups, private industry associations, and other organizations or to the business assistance referral system established by the Minnesota Project Outreach Corporation;

(c) plan, develop, and implement a master file of information on small business assistance programs of federal, state, and local governments, and other public and private organizations so as to provide comprehensive, timely information to the bureau's clients;

(d) employ staff with adequate and appropriate skills and education and training for the delivery of information and assistance;

(e) seek out and utilize, to the extent practicable, contributed expertise and services of federal, state, and local governments, educational institutions, and other public and private organizations;

(f) maintain a close and continued relationship with the director of the procurement program within the department of administration so as to facilitate the department's duties and responsibilities under sections 16B.19 to 16B.22 relating to the small targeted group business and economically disadvantaged business program of the state;

(g) develop an information system which will enable the commissioner and other state agencies to efficiently store, retrieve, analyze, and exchange data regarding small business development and growth in the state. All executive branch agencies of state government and the secretary of state shall to the extent practicable, assist the bureau in the development and implementation of the information system;

(h) establish and maintain a toll free telephone number so that all small business persons anywhere in the state can call the bureau office for assistance. An outreach program shall be established to make the existence of the bureau well known to its potential clientele throughout the state. If the small business person requires a referral to another provider the bureau may use the business assistance referral system established by the Minnesota Project Outreach Corporation;

(i) conduct research and provide data as required by the state legislature;

(j) develop and publish material on all aspects of the start-up, operation, or expansion of a small business in Minnesota;

(k) collect and disseminate information on state procurement opportunities, including information on the procurement process;

(l) develop a public awareness program through the use of newsletters, personal contacts, and electronic and print news media advertising about state assistance programs for small businesses, including those programs specifically for socially disadvantaged small business persons;

(m) publicize to small businesses section 14.115 which requires consideration of small business issues in state agency rulemaking;

(n) enter into agreements with the federal government and other public and private entities to serve as the statewide coordinator or host agency for the federal small business development center program under United States Code, title 15, section 648; *and*

(o) ~~establish an evaluation mechanism to determine if assistance providers have adequate expertise and resources to deliver quality services. Evaluation of assistance providers may be based on the ability of the provider to offer the advertised service, the training and experience of the provider, and the formal evaluation process used by the provider. The evaluation mechanism must be designed so that the business assistance referral system established by the Minnesota Project Outreach Corporation may use the results of the evaluation in providing clients with referrals to providers; and~~

~~(p)~~ assist providers in the evaluation of their programs and the assessment of their service area needs. The bureau may establish model evaluation techniques and performance standards for providers to use.

Sec. 18. Minnesota Statutes 1992, section 116J.873, subdivision 3, is amended to read:

Subd. 3. [GRANT EVALUATION.] The ~~division of community development in the department~~ *commissioner* shall accept, review, and evaluate applications for grants to local units of government made in accordance with rules adopted for economic development grants in the small cities development program. Applications recommended for funding~~, including recommended grant awards,~~ shall be submitted ~~by the division~~ to the commissioner ~~for approval~~.

Sec. 19. Minnesota Statutes 1992, section 116J.873, subdivision 4, is amended to read:

Subd. 4. [GRANT LIMITS.] An economic recovery grant may not be approved for an amount over $500,000. ~~The division may recommend less funding than requested if, in the opinion of the division, the amount requested is more than is necessary to meet the applicant's needs.~~ If the amount of the grant is ~~reduced~~ *less than $500,000*, the reasons for the reduction shall be given to the applicant. The portion of an economic recovery grant that exceeds $100,000 must be repaid to the state when it is repaid to the local community or recognized Indian tribal government by the person or entity to which it was loaned by the local community or Indian tribal government. Money repaid to the state must be credited to the general fund.

Sec. 20. Minnesota Statutes 1992, section 116J.966, subdivision 1, is amended to read:

Subdivision 1. [GENERALLY.] (a) The commissioner shall promote, develop, and facilitate trade and foreign investment in Minnesota. In

furtherance of these goals, and in addition to the powers granted by section 116J.035, the commissioner may:

(1) locate, develop, and promote international markets for Minnesota products and services;

(2) arrange and lead trade missions to countries with promising international markets for Minnesota goods, technology, services, and agricultural products;

(3) promote Minnesota products and services at domestic and international trade shows;

(4) organize, promote, and present domestic and international trade shows featuring Minnesota products and services;

(5) host trade delegations and assist foreign traders in contacting appropriate Minnesota businesses and investments;

(6) develop contacts with Minnesota businesses and gather and provide information to assist them in locating and communicating with international trading or joint venture counterparts;

(7) provide information, education, and counseling services to Minnesota businesses regarding the economic, commercial, legal, and cultural contexts of international trade;

(8) provide Minnesota businesses with international trade leads and information about the availability and sources of services relating to international trade, such as export financing, licensing, freight forwarding, international advertising, translation, and custom brokering;

(9) locate, attract, and promote foreign *direct* investment and business development in Minnesota to enhance employment opportunities in Minnesota;

(10) provide foreign businesses and investors desiring to locate facilities in Minnesota information regarding sources of governmental, legal, real estate, financial, and business services; *and*

(11) ~~undertake activities to support the world trade center; and~~

~~(12)~~ enter into contracts or other agreements with private persons and public entities, including agreements to establish and maintain offices and other types of representation in foreign countries, to carry out the purposes of promoting international trade and attracting investment from foreign countries to Minnesota and to carry out this section, without regard to sections 16B.07 and 16B.09.

(b) The programs and activities of the commissioner of trade and economic development and the Minnesota trade division may not duplicate programs and activities of the commissioner of agriculture or the Minnesota world trade center corporation.

(c) The commissioner shall notify the chairs of the senate finance and house appropriations committees of each agreement under this subdivision to establish and maintain an office or other type of representation in a foreign country.

Sec. 21. Minnesota Statutes 1992, section 116J.980, subdivision 1, is amended to read:

Subdivision 1. [DUTIES.] The ~~community development division is a division within the~~ department of trade and economic development. ~~It~~ shall:

(1) be responsible for administering all state community development and assistance programs, including the economic recovery account, the outdoor recreation grant program, the rural development board programs, ~~the community development corporation program, the urban revitalization program,~~ the Minnesota public facilities authority loan and grant programs, and the enterprise zone program;

(2) be responsible for state administration of federally funded community development and assistance programs, including the small cities development grant program and land and water conservation program;

(3) provide technical assistance to rural communities for community development in cooperation with regional development commissions;

(4) coordinate the development and review of state rural development policies;

(5) provide staff and consultant services to the rural development board; and

(6) be responsible for coordinating community assistance and development programs in cooperation with regional development commissions.

Sec. 22. Minnesota Statutes 1992, section 116J.980, subdivision 2, is amended to read:

Subd. 2. [GENERAL COMPLEMENT AUTHORITY.] The ~~community development division~~ *department* may combine all related state and federal complement positions into general fund positions, to carry out the responsibilities under subdivision 1. The number of general fund positions must not exceed the aggregate number of all state and federal positions that are to be combined. Records of the actual number of employee hours charged to each state and federal account must be maintained for each general fund position.

Sec. 23. Minnesota Statutes 1992, section 137.31, subdivision 6, is amended to read:

Subd. 6. [ANNUAL REPORT.] The University of Minnesota shall submit an annual report as provided in section 3.195, to the governor and the legislature, with a copy to the commissioner of ~~trade and economic development~~ *administration*, indicating the progress being made toward the objectives and goals of this section. The report shall include the following information:

(a) the total dollar value and number of procurement contracts identified and set aside during this period and the percentage of total value of university procurements that this figure reflects;

(b) the number of small businesses identified by and responding to the university set-aside program, the total dollar value and number of procurement contracts actually awarded to small businesses with appropriate designation as to the total number and value of procurement contracts awarded to each small business, and the total number of small businesses that were awarded procurement contracts; and

(c) the number of procurement contracts which were designated and set aside pursuant to this section but which were not awarded to a small business, the estimated total dollar value of these awards, the lowest offer or bid on each of these awards made by the small business, and the price at which these contracts were awarded pursuant to regular procurement procedures.

Sec. 24. Minnesota Statutes 1992, section 138.93, subdivision 4, is amended to read:

Subd. 4. [MASTER PLANS.] The owner shall prepare and submit to the regional planning commission a master plan for the development and management of the center, in a format and detail appropriate for the project. The regional planning commission shall choose a project and report its choice to the Minnesota historical society. The Minnesota historical society shall make the master plan available for review and comment by the public and other state agencies for at least 30 days. ~~Copies of the master plan shall be submitted to the commissioner of trade and economic development for review and comment.~~

Sec. 25. Minnesota Statutes 1992, section 144.95, subdivision 7, is amended to read:

Subd. 7. [RESEARCH PLOTS.] The commissioner of health may lease and maintain experimental plots of land for mosquito research. The commissioner of health shall determine the locations of the experimental plots and may enter into agreements with any public or private agency or individual to lease the land. The commissioners of agriculture, natural resources, transportation, *and* iron range resources and rehabilitation~~, and trade and economic development~~ shall cooperate with the commissioner of health.

Sec. 26. Minnesota Statutes 1992, section 173.17, is amended to read:

173.17 [REMOVAL OF DEVICES; COMPENSATION.]

It is hereby declared that where in order to carry out the provisions of this chapter it is necessary that property rights be acquired, such acquisition is for a public purpose and is necessary for a highway purpose. The commissioner of transportation is authorized to acquire by purchase, gift or condemnation all advertising devices and all property rights pertaining thereto which are prohibited under the provisions of this chapter, and any rules promulgated pursuant thereto, provided that such advertising devices were in lawful existence on June 8, 1971. In any such acquisition, purchase or condemnation, just compensation shall be paid for:

(1) The taking from the owner of such sign, display or device of all right, title, leasehold and interest in such sign, display or device; and

(2) The taking from the owner of the real property on which such advertising device is located immediately prior to its removal or relocation, the right to erect and maintain thereon advertising devices, and full compensation therefor, including severance damage and damage to the remainder of the outdoor advertising plant regardless of whether it is located on property contiguous to or a part of that on which such sign is located, shall be included in the amounts paid to the respective owners. Provided, however, that no compensation shall be paid for severance damage and damage to the remainder of the outdoor advertising plant unless federal laws, or rules and regulations promulgated by the United States Department of Transportation

provide for federal participation in the cost of such severance damage and damage to the remainder of the outdoor advertising plant.

(3) Compensation required herein shall be paid to the person or persons entitled thereto. Notwithstanding any other provisions of Laws 1971, chapter 883, no advertising device shall be required to be removed or relocated unless and until the commissioner of transportation shall tender payment to the owner of the advertising device and the owner of real property upon which the same is located, in cash or check drawn on the state treasury, of 100 percent of the amount of just compensation required herein, as determined by the commissioner of transportation; provided that the acceptance of said tendered amount by the person or persons to be compensated shall be without prejudice to further rights to have just compensation finally determined in accordance with the provisions of Laws 1971, chapter 883, and to receive any greater or additional amount under chapter 117.

(4) Notwithstanding any other provision of this chapter, including section 173.20, no advertising device which was lawfully erected shall be removed until all rights in the property, personal or real, have been acquired by purchase, gift, or eminent domain proceedings under chapter 117, whether or not the advertising device is removed pursuant to this chapter or any other statute, ordinance, or regulation of any political subdivision of the state or local zoning authority.

~~The Minnesota department of transportation with the assistance and cooperation of the department of trade and economic development shall make recommendations to the standing committees on transportation of both houses of the legislature by February 1, 1982 for a comprehensive directional signing program.~~

Sec. 27. Minnesota Statutes 1992, section 216B.242, is amended to read:

216B.242 [INVERTED RATES.]

The commission may initiate a program designed to demonstrate the effect of inverted rates on promoting conservation by the residential customers of natural gas utilities. Any inverted rates ordered by the commission shall present customers with a tailblock price that, to the maximum extent practicable, reflects the replacement cost of gas. Total revenues collected from customers involved in this pilot program may not exceed those that would be collected under a flat rate. The commission may order one public gas utility to implement a pilot program of inverted rates for residential customers and to monitor the effects of these rates on gas consumption, and on costs to residential customers. The program shall include a sufficient number of residential customers to provide statistically significant conclusions regarding the effects and costs of inverted rates. ~~The inverted rate schedules and monitoring plans shall be prepared in consultation with the commissioner of trade and economic development.~~

Sec. 28. Minnesota Statutes 1992, section 216C.37, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] In this section:

(a) "Commissioner" means the commissioner of public service. ~~Upon passage of legislation creating a body known as the Minnesota public facilities authority, the duties assigned to the commissioner in this section are delegated to the authority.~~

(b) "Maxi-audit" means a detailed engineering analysis of energy-saving improvements to existing buildings or stationary energy-using systems, including (1) modifications to building structures; (2) heating, ventilating, and air conditioning systems; (3) operation practices; (4) lighting; and (5) other factors that relate to energy use. The primary purpose of the engineering analysis is to quantify the economic and engineering feasibility of energy-saving improvements that require capital expenditures or major operational modifications.

(c) "Energy conservation investments" mean all capital expenditures that are associated with conservation measures identified in a maxi-audit and that have a ten-year or less payback period. Public school districts that received a federal institutional building grant in 1984 to convert a heating system to wood, and that apply for an energy conservation investment loan to match a federal grant for wood conversion, shall be allowed to calculate payback of conservation measures based on the costs of the traditional fuel in use prior to the wood conversion.

(d) "Municipality" means any county, statutory or home rule charter city, town, school district, or any combination of those units operating under an agreement to jointly undertake projects authorized in this section.

Sec. 29. Minnesota Statutes 1992, section 299A.01, subdivision 2, is amended to read:

Subd. 2. [DUTIES OF COMMISSIONER.] The duties of the commissioner shall include the following:

(a) the coordination, development and maintenance of services contracts with existing state departments and agencies assuring the efficient and economic use of advanced business machinery including computers;

(b) the execution of contracts and agreements with existing state departments for the maintenance and servicing of vehicles and communications equipment, and the use of related buildings and grounds;

(c) the development of integrated fiscal services for all divisions, and the preparation of an integrated budget for the department;

(d) the establishment of a planning bureau within the department~~, which bureau shall consult and coordinate its activities with the commissioner of trade and economic development~~.

Sec. 30. Minnesota Statutes 1992, section 446A.03, subdivision 1, is amended to read:

Subdivision 1. [MEMBERSHIP.] The Minnesota public facilities authority consists of the commissioner of trade and economic development, the commissioner of finance, ~~the commissioner of public service,~~ the commissioner of the pollution control agency, and three additional members appointed by the governor from the general public with the advice and consent of the senate.

Sec. 31. Minnesota Statutes 1992, section 446A.10, subdivision 2, is amended to read:

Subd. 2. [OTHER RESPONSIBILITIES.] (a) The responsibilities for the health care equipment loan program under Minnesota Statutes 1986, section 116M.07, subdivisions 7a, 7b, and 7c~~, the public school energy conservation~~

~~loan program under section 216C.37;~~, and the district heating and qualified energy improvement loan program under section 216C.36, are transferred from the Minnesota energy and economic development authority to the Minnesota public facilities authority. The commissioner of public service shall continue to administer the municipal energy grant and loan programs under section 216C.36 ~~and the school energy loan program under section 216C.37~~ until the commissioner of trade and economic development has adopted rules to implement the financial administration of the programs as provided under ~~sections~~ *section* 216C.36, subdivisions 2, 3b, 3c, 8, 8a, and 11~~, and 216C.37, subdivisions 1 and 8~~.

(b) Except as otherwise provided in this paragraph, section 15.039 applies to the transfer of responsibilities. The transfer includes 8-1/2 positions from the financial management division of the department of trade and economic development to the community development division of the department of trade and economic development. The commissioner of trade and economic development and the commissioner of public service shall determine which classified and unclassified positions associated with the responsibilities of the grant and loan programs under section 216C.36 and the school energy loan program under section 216C.37 are transferred to the commissioner of public service and which positions are transferred to the commissioner of trade and economic development in order to carry out the purposes of Laws 1987, chapter 386, article 3.

Sec. 32. Minnesota Statutes 1992, section 473.857, subdivision 2, is amended to read:

Subd. 2. A hearing shall be conducted within 60 days after the request, provided that the committee shall consolidate hearings on related requests. The hearing shall not consider the need for or reasonableness of the metropolitan system plans or parts thereof. The hearing shall afford all interested persons an opportunity to testify and present evidence. The advisory committee or administrative law judge may employ the appropriate technical and professional services of the ~~commissioner~~ *office* of ~~trade and economic development~~ *dispute resolution* for the purpose of evaluating disputes of fact. The proceedings shall not be deemed a contested case. Within 30 days after the hearing, the committee or hearing examiner shall report to the council respecting the proposed amendments to the system statements. The report shall contain findings of fact, conclusions, and recommendations and shall apportion the costs of the proceedings among the parties.

Sec. 33. Minnesota Statutes 1992, section 473H.06, subdivision 5, is amended to read:

Subd. 5. The metropolitan council shall maintain agricultural preserve maps, illustrating (a) certified long term agricultural lands; and (b) lands covenanted as agricultural preserves. The council shall make yearly reports to ~~the commissioner of trade and economic development,~~ the department of agriculture~~,~~ and such other agencies as the council deems appropriate.

Sec. 34. Minnesota Statutes 1992, section 641.24, is amended to read:

641.24 [LEASING.]

The county may, by resolution of the county board, enter into a lease agreement with any statutory or home rule charter city situated within the county, or a county housing and redevelopment authority established pursuant

to chapter 469 or any special law whereby the city or county housing and redevelopment authority will construct a jail or other law enforcement facilities for the county sheriff, deputy sheriffs, and other employees of the sheriff and other law enforcement agencies, in accordance with plans prepared by or at the request of the county board and, when required, approved by the commissioner of corrections and will finance it by the issuance of revenue bonds, and the county may lease the site and improvements for a term and upon rentals sufficient to produce revenue for the prompt payment of the bonds and all interest accruing thereon and, upon completion of payment, will acquire title thereto. The real and personal property acquired for the jail shall constitute a project and the lease agreement shall constitute a revenue agreement as contemplated in chapter 469, and all proceedings shall be taken by the city or county housing and redevelopment authority and the county in the manner and with the force and effect provided in chapter 469; provided that:

(1) no tax shall be imposed upon or in lieu of a tax upon the property;

(2) the approval of the project by the commissioner of commerce shall not be required;

(3) the department of corrections shall be furnished and shall record such information concerning each project as it may prescribe~~, in lieu of reports required on other projects to the commissioner of trade and economic development~~;

(4) the rentals required to be paid under the lease agreement shall not exceed in any year one-tenth of one percent of the market value of property within the county, as last finally equalized before the execution of the agreement;

(5) the county board shall provide for the payment of all rentals due during the term of the lease, in the manner required in section 641.264, subdivision 2;

(6) no mortgage on the property shall be granted for the security of the bonds, but compliance with clause (5) hereof may be enforced as a nondiscretionary duty of the county board; and

(7) the county board may sublease any part of the jail property for purposes consistent with the maintenance and operation of a county jail or other law enforcement facility.

Sec. 35. [REPEALER.]

Minnesota Statutes 1992, sections 84.54; 86A.10; 116J.01, subdivision 3; 116J.615, subdivision 2; 116J.645; 116J.661; 116J.982, subdivisions 6a, 8, and 9; 116J.983; 116J.984; 301A.01; 301A.02; 301A.03; 301A.04; 301A.05; 301A.06; 301A.07; 301A.08; 301A.09; 301A.10; 301A.11; 301A.12; 301A.13; and 301A.14, are repealed.

ARTICLE 2

Section 1. Minnesota Statutes 1992, section 116N.04, subdivision 1, is amended to read:

Subdivision 1. [GENERAL DUTIES.] The board shall investigate and evaluate new methods to enhance rural development, particularly methods

relating to *energy conservation and* economic diversification through private enterprises, including technologically innovative industries, value-added manufacturing, agriprocessing, information industries, ~~and~~ agricultural marketing, *and renewable energy technologies*.

Sec. 2. Minnesota Statutes 1992, section 116O.02, subdivision 6, is amended to read:

Subd. 6. [TECHNOLOGY-RELATED ASSISTANCE.] "Technology-related assistance" means the transfer of technological information and technologies to assist in the development and production of new technology-related products or services or to increase the productivity or otherwise enhance the production or delivery of existing products or services. *"Technology-related assistance" includes assistance in utilizing and developing processes and products that conserve energy.*

Sec. 3. Minnesota Statutes 1992, section 116O.03, subdivision 1a, is amended to read:

Subd. 1a. [PURPOSE.] The purpose of the corporation is to foster long-term economic growth and job creation by stimulating innovation and the development of new products, services, and production processes through *energy conservation,* technology transfer, applied research, and financial assistance. The corporation's purpose is not to create new programs or services but to build on the existing educational, business, and economic development infrastructure. The primary focus of the corporation's activities must be to benefit new or existing small and medium-sized businesses in greater Minnesota.

Sec. 4. Minnesota Statutes 1992, section 116O.04, subdivision 1, is amended to read:

Subdivision 1. [GENERALLY.] The board shall appoint and set the compensation for a president, who serves as chief executive officer of the corporation, and who may appoint subordinate officers. The president's salary may not exceed 95 percent of the governor's salary. The board may designate the president as its general agent. Subject to the control of the board, the president shall employ employees, consultants, and agents the president considers necessary. The staff of the corporation must include individuals knowledgeable in commercial and industrial financing, *energy conservation,* research and development, economic development, and general fiscal affairs. The board shall define the duties and designate the titles of the employees and agents.

Sec. 5. Minnesota Statutes 1992, section 116O.05, subdivision 2, is amended to read:

Subd. 2. [DUTIES.] (a) The primary duties of the corporation shall include:

(1) applied research; and

(2) technology transfer and early stage funding to small manufacturers.

(b) The corporation shall also:

(1) establish programs, activities, and policies that provide technology transfer and applied research and development assistance to individuals, sole proprietorships, partnerships, corporations, other business entities, and non-

profit organizations in the state that are primarily new and existing small and medium-sized businesses in greater Minnesota;

(2) provide or provide for technology-related assistance to individuals, sole proprietorships, partnerships, corporations, other business entities, and nonprofit organizations;

(3) provide financial assistance under section 116O.06 to assist the development of new products, services, or production processes, *to assist in energy conservation,* or to assist in bringing new products or services to the marketplace;

(4) provide or provide for research services including on-site research and testing of production techniques and product quality;

(5) establish and operate regional research institutes as provided for in section 116O.08;

(6) make matching research grants for applied research and development to public and private post-secondary education institutes as provided for in section 116O.11;

(7) enter into contracts for establishing formal relationships with public or private research institutes or facilities;

(8) establish the agricultural utilization research institute under section 116O.09; and

(9) not duplicate existing services or activities provided by other public and private organizations but shall build on the existing educational, business, and economic development infrastructure.

Sec. 6. Minnesota Statutes 1992, section 116O.06, subdivision 1, is amended to read:

Subdivision 1. [FINANCIAL ASSISTANCE; TYPES.] The corporation may provide financial assistance to individuals, sole proprietorships, partnerships, corporations, other business entities, or nonprofit organizations that have (1) received research assistance from a corporation research facility or as a result of a research grant under section 116O.09, subdivision 4, or 116O.11; or (2) received favorable review through a peer review process established under guidelines developed under section 116O.10, subdivision 2. Financial assistance includes, but is not limited to, loan guarantees or insurance, direct loans, and interest subsidy payments. The corporation may participate in loans by purchasing from a lender up to 50 percent of each loan. Financial assistance under this section is for assisting in the financing of a business's debt financing, *energy conservation,* product development financing, or working capital needs.

Sec. 7. Minnesota Statutes 1992, section 116O.08, subdivision 2, is amended to read:

Subd. 2. [PURPOSE.] The purpose of the institutes is to provide applied research and development services to individuals, businesses, or organizations for the purposes of developing the region's economy through the utilization of the region's resources and the development of technology. Research and development services may include *energy conservation consultations,* on-site research, product development grants, testing of production techniques and product quality and feasibility studies.

Sec. 8. [ENERGY AND ECONOMIC DEVELOPMENT PROJECT.]

Minnesota Technology, Inc., must by February 1, 1994, notify the chairs of the legislative committees with jurisdiction in energy or economic development issues of its efforts in providing energy conservation assistance to employers and of the economic value to businesses of that assistance."

Delete the title and insert:

"A bill for an act relating to economic development; clarifying provisions relating to the department of trade and economic development; clarifying the duties of the commissioner; providing certain duties for the rural development board and Minnesota Technology, Inc.; amending Minnesota Statutes 1992, sections 17.49, subdivision 1; 18.024, subdivision 1; 86.72, subdivision 3; 86A.06; 86A.09, subdivisions 1, 2, 3, and 4; 92.35; 92.36; 103F.135, subdivision 1; 116J.01, by adding a subdivision; 116J.402; 116J.58, subdivision 1; 116J.61; 116J.68, subdivision 2; 116J.873, subdivisions 3 and 4; 116J.966, subdivision 1; 116J.980, subdivisions 1 and 2; 116N.04, subdivision 1; 116O.02, subdivision 6; 116O.03, subdivision 1a; 116O.04, subdivision 1; 116O.05, subdivision 2; 116O.06, subdivision 1; 116O.08, subdivision 2; 137.31, subdivision 6; 138.93, subdivision 4; 144.95, subdivision 7; 173.17; 216B.242; 216C.37, subdivision 1; 299A.01, subdivision 2; 446A.03, subdivision 1; 446A.10, subdivision 2; 473.857, subdivision 2; 473H.06, subdivision 5; and 641.24; proposing coding for new law in Minnesota Statutes, chapter 116J; repealing Minnesota Statutes 1992, sections 84.54; 86A.10; 116J.01, subdivision 3; 116J.615, subdivision 2; 116J.645; 116J.661; 116J.982, subdivisions 6a, 8, and 9; 116J.983; 116J.984; 301A.01; 301A.02; 301A.03; 301A.04; 301A.05; 301A.06; 301A.07; 301A.08; 301A.09; 301A.10; 301A.11; 301A.12; 301A.13; and 301A.14."

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

Mr. Metzen from the Committee on Governmental Operations and Reform, to which was re-referred

H.F. No. 584: A bill for an act relating to utilities; regulating telephone services to communication-impaired persons; amending Minnesota Statutes 1992, sections 237.49; 237.50, subdivision 3; 237.51, subdivision 2; and 237.52, subdivision 2; repealing Laws 1987, chapter 308, section 8.

Reports the same back with the recommendation that the bill do pass and be re-referred to the Committee on Jobs, Energy and Community Development. Report adopted.

Mr. Metzen from the Committee on Governmental Operations and Reform, to which was referred

H.F. No. 454: A bill for an act relating to economic development; requiring a summary of performance measures for business loan or grant programs from the department of trade and economic development; amending Minnesota Statutes 1992, section 116J.58, subdivision 1.

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

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1992, section 116J.58, subdivision 1, is amended to read:

Subdivision 1. [ENUMERATION.] The commissioner shall:

(1) investigate, study, and undertake ways and means of promoting and encouraging the prosperous development and protection of the legitimate interest and welfare of Minnesota business, industry, and commerce, within and outside the state;

(2) locate markets for manufacturers and processors and aid merchants in locating and contacting markets;

(3) investigate and study conditions affecting Minnesota business, industry, and commerce and collect and disseminate information, and engage in technical studies, scientific investigations, and statistical research and educational activities necessary or useful for the proper execution of the powers and duties of the commissioner in promoting and developing Minnesota business, industry, and commerce, both within and outside the state;

(4) plan and develop an effective business information service both for the direct assistance of business and industry of the state and for the encouragement of business and industry outside the state to use economic facilities within the state;

(5) compile, collect, and develop periodically, or otherwise make available, information relating to current business conditions;

(6) conduct or encourage research designed to further new and more extensive uses of the natural and other resources of the state and designed to develop new products and industrial processes;

(7) study trends and developments in the industries of the state and analyze the reasons underlying the trends; study costs and other factors affecting successful operation of businesses within the state; and make recommendations regarding circumstances promoting or hampering business and industrial development;

(8) serve as a clearing house for business and industrial problems of the state; and advise small business enterprises regarding improved methods of accounting and bookkeeping;

(9) cooperate with interstate commissions engaged in formulating and promoting the adoption of interstate compacts and agreements helpful to business, industry, and commerce;

(10) cooperate with other state departments, and with boards, commissions, and other state agencies, in the preparation and coordination of plans and policies for the development of the state and for the use and conservation of its resources insofar as the use, conservation, and development may be appropriately directed or influenced by a state agency;

(11) assemble and coordinate information relative to the status, scope, cost, and employment possibilities and the availability of materials, equipment, and labor in connection with public works projects, state, county, and municipal; recommend limitations on the public works; gather current progress information with reference to public and private works projects of the state and its

political subdivisions with reference to conditions of employment; inquire into and report to the governor, when requested by the governor, with respect to any program of public state improvements and the financing thereof; and request and obtain information from other state departments or agencies as may be needed properly to report thereon;

(12) study changes in population and current trends and prepare plans and suggest policies for the development and conservation of the resources of the state;

(13) confer and cooperate with the executive, legislative, or planning authorities of the United States and neighboring states and of the counties and municipalities of such neighboring states, for the purpose of bringing about a coordination between the development of such neighboring states, counties, and municipalities and the development of this state;

(14) generally, gather, compile, and make available statistical information relating to business, trade, commerce, industry, transportation, communication, natural resources, and other like subjects in this state, with authority to call upon other departments of the state for statistical data and results obtained by them and to arrange and compile that statistical information in a manner that seems wise;

(15) publish documents and annually convene regional meetings to inform businesses, local government units, assistance providers, and other interested persons of changes in state and federal law related to economic development; ~~and~~

(16) annually convene conferences of providers of economic development related financial and technical assistance for the purposes of exchanging information on economic development assistance, coordinating economic development activities, and formulating economic development strategies; *and*

(17) prepare, as part of biennial budget process with an annual interim summary for the legislature, performance measures for each business loan or grant program within the jurisdiction of the commissioner, including source of funds for each program, numbers of jobs proposed or promised at the time of application and the number of jobs created, estimated number of jobs retained, the average salary and benefits for the jobs resulting from the program, estimated number of jobs displaced, if any, and the number of projects approved.

Sec. 2. [116J.581] [COMPETITIVENESS COUNCIL.]

Subdivision 1. [COMPOSITION.] *The council on the state's economic future and competitiveness is composed of the governor; the commissioners of the departments of jobs and training, trade and economic development, commerce, and labor and industry; the chancellor of the higher education board; the president of the largest statewide Minnesota organized labor organization as measured by the number of its members in affiliated labor organizations; the deans of the business schools at the University of Minnesota and St. Thomas University and the Hubert H. Humphrey Institute of Public Affairs; the science and technology advisor to the governor; six representatives from private sector businesses appointed by the governor, two from companies with more than 1,000 employees, two from companies with 101 to 1,000 employees, and two from companies with fewer than 100*

employees; two members representing environmental interests appointed by the governor; and designees of the majority and minority leaders of the senate and the majority and minority leaders of the house of representatives. The members of the council shall elect a chair from the members appointed by the governor. The governor shall set the terms of members appointed by the governor, for a minimum of three years and a maximum of five years.

Subd. 2. [DUTIES.] *The council shall:*

(1) monitor implementation of the state's economic blueprint, particularly as it pertains to the long-range competitiveness of Minnesota's companies, published by the department of trade and economic development in November 1992;

(2) issue long-range policy recommendations for the state to achieve its long-range economic goals;

(3) hold periodic forums and symposiums involving renowned experts in areas pertaining to economic development and job creation;

(4) meet at least twice a year at the call of the chair to receive reports and to provide ongoing counsel and advice to the legislature and the commissioner of trade and economic development;

(5) make recommendations as to modification or numeric changes in the economic blueprint to maintain its relevance and significance;

(6) ensure that goals, proposals, and recommendations should be quantified to the extent possible;

(7) utilize modern modeling tools to determine the long-range competitive impact of past, present, and proposed legislative action; and

(8) scrutinize all legislation that can impact the state's economic future or the competitiveness of Minnesota enterprise.

Subd. 3. [REPORTS.] *The council shall make annual reports to the governor and legislature by February 1.*

Subd. 4. [SUPPORT.] *The commissioner of trade and economic development shall provide staff and administrative support to the council.*

Subd. 5. [TERMINATION OF COUNCIL.] *The termination of the council's existence is governed by section 15.059, subdivision 5.*"

Delete the title and insert:

"A bill for an act relating to economic development; requiring a report from the department of trade and economic development; creating a council on the state's economic future and competitiveness; amending Minnesota Statutes 1992, section 116J.58, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 116J."

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

Mr. Spear from the Committee on Crime Prevention, to which was referred

H.F. No. 732: A bill for an act relating to law enforcement; exempting law

enforcement agencies from the requirements of the criminal offender rehabilitation employment law; amending Minnesota Statutes 1992, section 364.09.

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

Page 2, after line 3, insert:

"Sec. 2. Minnesota Statutes 1992, section 638.02, subdivision 2, is amended to read:

Subd. 2. Any person, convicted of a crime in any court of this state, who has served the sentence imposed by the court and has been discharged of the sentence either by order of court or by operation of law, may petition the board of pardons for the granting of a pardon extraordinary. Unless the board of pardons expressly provides otherwise in writing by unanimous vote, the application for a pardon extraordinary may not be filed until the applicable time period in clause (1) or (2) has elapsed:

(1) if the person was convicted of a crime of violence as defined in section 624.712, subdivision 5, ten years must have elapsed since the sentence was discharged and during that time the person must not have been convicted of any other crime; and

(2) if the person was convicted of any crime not included within the definition of crime of violence under section 624.712, subdivision 5, five years must have elapsed since the sentence was discharged and during that time the person must not have been convicted of any other crime.

If the board of pardons determines that the person is of good character and reputation, the board may, in its discretion, grant the person a pardon extraordinary. The pardon extraordinary, when granted, has the effect of setting aside and nullifying the conviction and of purging the person of it, and the person shall never after that be required to disclose the conviction at any time or place other than in a judicial proceeding ~~thereafter instituted~~ *or as part of the licensing process for peace officers.*

The application for a pardon extraordinary, the proceedings to review an application, and the notice requirements are governed by the statutes and the rules of the board in respect to other proceedings before the board. The application shall contain any further information that the board may require.

Unless the board of pardons expressly provides otherwise in writing by unanimous vote, if the person was convicted of a crime of violence, as defined in section 624.712, subdivision 5, the pardon extraordinary must expressly provide that the pardon does not entitle the person to ship, transport, possess, or receive a firearm until ten years have elapsed since the sentence was discharged and during that time the person was not convicted of any other crime of violence.

Sec. 3. [EFFECTIVE DATE.]

Sections 1 and 2 are effective the day following final enactment."

Amend the title as follows:

Page 1, line 4, after the semicolon, insert "requiring disclosure of conviction during peace officer licensing process even after pardon extraordinary has been granted;"

Page 1, line 5, delete "section" and insert "sections" and after "364.09" insert "; and 638.02, subdivision 2"

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

Ms. Piper from the Committee on Family Services, to which was referred

S.F. No. 1496: A bill for an act relating to health care and family services; the organization and operation of state government; appropriating money for human services, health, and other purposes with certain conditions; establishing and modifying certain programs; providing penalties; amending Minnesota Statutes 1992, section 214.06, subdivision 1.

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

Delete everything after the enacting clause and insert:

"ARTICLE 1

APPROPRIATIONS

Section 1. [HEALTH CARE AND FAMILY 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 "1994" and "1995" where used in this article, mean that the appropriation or appropriations listed under them are available for the fiscal year ending June 30, 1994, or June 30, 1995, respectively.

SUMMARY BY FUND

1993 DEFICIENCY

General
$15,286,000

APPROPRIATIONS	1994	1995	BIENNIAL TOTAL
General	$2,143,007,000	$2,285,383,000	$4,428,390,000
State Government Special Revenue	21,039,000	20,237,000	41,276,000
Environmental	191,000	204,000	395,000
Trunk Highway	1,488,000	1,510,000	2,998,000
Health Care Access	49,017,000	104,789,000	153,806,000
TOTAL	2,214,742,000	2,412,123,000	4,626,865,000
REVENUE			
General	56,825,000	87,578,000	144,403,000

	APPROPRIATIONS Available for the Year Ending June 30 1994	1995
Sec. 2. COMMISSIONER OF HUMAN SERVICES		
Subdivision 1. Total Appropriation	2,135,298,000	2,332,595,000
Summary by Fund		
General	2,088,943,000	2,230,511,000
Health Care Access	46,355,000	102,084,000

The amounts that may be spent from this appropriation for each program and activity are more specifically described in the following subdivisions.

Federal receipts as shown in the biennial budget document to be used for financing activities, programs, and projects under the supervision and jurisdiction of the commissioner must be credited to and become a part of the appropriations provided for in this section.

Federal money received in excess of the estimates shown in the 1994-1995 department of human services budget document reduces the state appropriation by the amount of the excess receipts, unless the governor directs otherwise, after consulting with the legislative advisory commission.

The commissioner of human services, with the approval of the commissioner of finance and by direction of the governor after consulting with the legislative advisory commission, may transfer unencumbered appropriation balances among the aid to families with dependent children, aid to families with dependent children child care, Minnesota family investment, general assistance, general assistance medical care, medical assistance, Minnesota supplemental aid, and work readiness programs, and the entitlement portion of the chemical dependency consolidated treatment fund, and between fiscal years of the biennium.

Effective the day following final enactment, the commissioner may transfer unencumbered appropriation balances for

fiscal year 1993 among the aid to families with dependent children, general assistance, general assistance medical care, medical assistance, Minnesota supplemental aid, and work readiness programs, and the entitlement portion of the chemical dependency consolidated treatment fund, with the approval of the commissioner of finance after notification of the chair of the senate family services and health care division and the chair of the house of representatives human services division.

Subd. 2. Finance and Management Administration	22,733,000	21,713,000
Summary by Fund		
General	21,285,000	20,154,000
Health Care Access	1,448,000	1,559,000

If federal money anticipated is less than that shown in the biennial budget document, the commissioner of finance shall reduce the amount available from the direct appropriation a corresponding amount. The reductions must be noted in the budget document submitted to the 78th legislature in addition to the estimate of similar federal money anticipated for the biennium ending June 30, 1995.

The $214,000 appropriated in fiscal year 1994 and the $205,000 appropriated in fiscal year 1995 from the state government special revenue fund for the purposes of Minnesota Statutes, chapter 148C, shall be transferred from the commissioner of human services to the commissioner of health. The complement of the department of health is increased by four positions.

The commissioner shall establish a special revenue fund account to manage shared communication costs necessary for the operation of the programs the commissioner supervises. The commissioner may distribute the costs of operating and maintaining communication systems to participants in a manner that reflects actual system usage. Costs may include acquisition, licensing, insurance, maintenance, repair, staff time, and other direct costs as determined by the commis-

sioner. The commissioner may accept for and on behalf of the state any gift, bequest, devise, or personal property of any kind or money tendered to the state for any purpose pertaining to the communication activities of the department. Any money received must be deposited in the state communication systems account. Money collected by the commissioner for the use of communication systems must be deposited in the state communication systems account and is appropriated to the commissioner for purposes of this section.

Subd. 3. Social Services Administration	69,351,000	69,735,000

Summary by Fund

General	69,351,000	69,735,000

An additional $20,000 each year is appropriated from the children's trust fund to the special revenue fund for administration and indirect costs of the children's trust fund program.

Of the appropriation for aging services grants, $50,000 each year is to increase the appropriation for home delivered meals.

The Minnesota board on aging, in cooperation with the area agencies on aging and statewide senior citizen organizations, shall develop and present to the legislature by February 1, 1994, a plan for operating the Aging Ombudsman programs through grants to private, nonprofit organizations. Goals of the plan and its implementation are to improve advocacy services for nursing home residents, acute care patients, and home care clients by strengthening quality, access, and independence, as well as by taking full advantage of local matching funds.

Of this appropriation, $5 million is for family services collaboratives to be spent as follows: (1) $1.5 million in fiscal year 1994 for planning and start-up grants to family services collaboratives approved by the interagency family services teams; and (2) $1.75 million each year of the biennium for family services collabora-

tive program grants to family services collaboratives.

Subd. 4. Family Self-Sufficiency Administration	352,159,000	330,704,000
Summary by Fund		
General	351,789,000	330,284,000
Health Care Access	370,000	420,000

The commissioner shall set the monthly standard of assistance for general assistance and work readiness assistance units consisting of an adult recipient who is childless and unmarried or living apart from parents or a legal guardian at $203.

Federal food stamp employment and training funds received for the work readiness program are appropriated to the commissioner to reimburse counties for work readiness service expenditures.

The commissioner of human services may accept assignment of an existing contract for electronic benefit transfer services, under terms and conditions approved by the attorney general. The term of any contract assigned to the state may not extend beyond June 30, 1995, and the commissioner must publish a request for proposals for succeeding electronic benefit services in the State Register before January 1, 1995.

Of this appropriation, $50,000 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.

Appropriations and federal receipts for information system projects for MAXIS, child support enforcement, and the Min-

nesota Medicaid information system must be deposited in the state systems account authorized in Minnesota Statutes, section 256.014. Money appropriated for computer projects approved by the information policy office, funded by the legislature, and approved by the commissioner of finance may be transferred from one project to another and from development to operations as the commissioner of human services considers necessary. Any unexpended balance in the appropriation for these projects does not cancel but is available for ongoing development and operations.

Effective the day following final enactment, the appropriation in Laws 1991, chapter 292, article 1, section 2, subdivision 4, is increased by $15,286,000. Of this amount, $15,186,000 is to cover MAXIS operating deficiencies in fiscal year 1993 and $100,000 is to be transferred to the department of administration information policy office for an independent information system review of MAXIS. The appropriation to the information policy office does not cancel but shall be available until expended. The review shall determine if operating expenses can be reduced, if distributed processing can be used, and if system performance can be improved. Findings of the review shall be reported to the legislature by February 1, 1994.

For the food stamp program error rate sanction for federal fiscal year 1986, the commissioner is granted an exception to the provisions of Minnesota Statutes, section 256.01, subdivision 2, clause (14), requiring allocation of sanctions to county human service agencies.

Of the appropriation for aid to families with dependent children, the commissioner shall provide supplementary grants not to exceed $200,000 a year for aid to families with dependent children. The commissioner shall include the following costs in determining the amount of the supplementary grants: major home repairs; repair of major home appliances; utility recaps; supplementary dietary needs not covered by medical assistance;

and replacements of furnishings and essential major appliances.

Any federal money remaining from receipt of state legalization impact assistance grants, after reimbursing the department of education for actual expenditures, must be deposited in the aid to families with dependent children account.

Unexpended money appropriated for (1) project STRIDE work experience activities under Minnesota Statutes, section 256.737; (2) work readiness employment and training services; or (3) the Minnesota family investment plan for fiscal year 1994 does not cancel but is available for fiscal year 1995.

Payments to the commissioner from other governmental units and private enterprise for services performed by the issuance operations center shall be deposited in the state systems account authorized in Minnesota Statutes, section 256.014. These funds are appropriated for the purposes of that section for the operation of the issuance center and are to be used according to the provisions of that section.

Subd. 5. Health Care Administration	1,383,342,000	1,546,932,000
Summary by Fund		
General	1,382,251,000	1,545,494,000
Health Care Access	1,091,000	1,438,000

The commissioner of finance shall transfer $7,988,000 for fiscal year 1994 and $19,138,000 for fiscal year 1995 from the health care access fund to the general fund.

Any money allocated to the alternative care program that is not spent for the purposes indicated does not cancel but shall be transferred to the medical assistance account.

Money appropriated for the interagency long-term care planning committee (INTERCOM) activity may be transferred among all agencies specified in Minnesota Statutes, section 144A.31, subdivision 1, with the approval of the members and the commissioner of finance.

The commissioner shall study modifications to Minnesota Rules, parts 9553.0010 to 9553.0080, governing the reimbursement system for intermediate care facilities for persons with mental retardation, and shall solicit advice from the public, including provider groups, advocates, and legislators when developing rule amendments. The commissioner shall report to the legislature by January 31, 1994, on the status of revision to these rule parts.

The nonfederal share of the costs of case management services provided to persons with mental retardation or related conditions relocated from nursing homes as required by federal law and receiving home and community-based services funded through the waiver granted under section 1915(c)(7)(B) of the Social Security Act shall be provided from state-appropriated medical assistance grant funds. The division of cost is subject to Minnesota Statutes, section 256B.19, and the services are included as covered programs and services under Minnesota Statutes, section 256.025, subdivision 2.

Up to $40,000 of the appropriation for preadmission screening and alternative care for fiscal year 1994 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.

The commissioner shall not implement Laws 1993, chapter 20, unless necessary to avoid federal fiscal sanctions or hospital ratable reductions.

Services provided by a physical therapy assistant shall be reimbursed at the same rate as services performed by a physical therapist when the services of the physical therapy assistant are provided under the direction of a physical therapist who is on the premises. Services provided by a physical therapy assistant that are provided under the direction of a physical therapist who is not on the premises shall be reimbursed at 65 percent of the physical therapist rate. Services provided by

an occupational therapy assistant shall be reimbursed at the same rate as services performed by an occupational therapist when the services of the occupational therapy assistant are provided under the direction of the occupational therapist who is on the premises. Services provided by an occupational therapy assistant that are not provided under the direction of an occupational therapist who is not on the premises shall be reimbursed at 65 percent of the occupational therapist rate.

The paragraph in Laws 1992, chapter 513, article 5, section 2, subdivision 7, providing for the transfer to the medical assistance account of $600,000 of community social services act grant funds for case management to act as a state match necessary for preplacement activity upon federal approval of adding preplacement case management for persons with mental retardation or related conditions to the state Medicaid plan, is repealed.

The commissioner shall study and report to the legislature by February 1, 1994, recommendations on the feasibility of developing a Medicaid inpatient hospital payment system similar to the current Medicare methodology. The study shall examine at least the following reimbursement options: (1) Medicare diagnostic related grouping methodology, (2) reimbursement of small volume Medicaid providers on a percentage-of-charges basis rather than on a prospective basis; (3) equitable methods for reimbursing the additional costs incurred by teaching hospitals, children's hospitals, and high-volume Medicaid hospitals; and (4) contracting with an outside agency for the administration of the Medicaid program. The commissioner shall establish a task force including department staff and hospital industry representatives to assist with the preparation of the report and recommendations. The report shall include recommendations on the feasibility of implementing a new reimbursement system on July 1, 1994, and an estimate of the cost or savings associated with any recommended changes.

The commissioner may not adjust hospital reimbursement rates to provide a new hospital payment for short length of stay mental health patients without the prior approval of the legislature unless the adjustment will result in budget savings.

The commissioner shall apply to the federal government for a waiver from Code of Federal Regulations, parts 441.206 and 441.256, which require certain attachments be included with Medicaid provider billings, in order to enable the commissioner to allow providers to submit most or all bills electronically.

Rates paid for anesthesiology services provided by physicians and certified registered nurse anesthetists (CRNAs) shall be according to the formula utilized in the Medicare program. For physicians, a conversion factor "at percentile of calendar year set by legislature" shall be used. For CRNAs, the conversion factor shall be that used by Medicare.

The amount of state semi-independent living services (SILS) funds and state community social services funds transferred to the state medical assistance account for the purpose of transferring certain persons from the SILS program to the home and community-based waivered services program for persons with mental retardation or related conditions shall be based on each county's participation in transferring persons to the waiver program. Funds shall not be transferred for any person until that person begins receiving waivered services. No person for whom these funds are transferred shall be required to obtain a new living arrangement, notwithstanding Minnesota Statutes, section 252.28, subdivision 3, paragraph (4), and Minnesota Rules, parts 9525.1800, subpart 26a, and 9525.1860, subpart 6. When supported living services are provided to persons for whom these funds are transferred, the commissioner may substitute the licensing standards of Minnesota Rules, parts 9525.0500 to 9525.0660, for Minnesota Rules, parts 9525.2000 to 9525.2140, if the services remain nonresidential as de-

fined in Minnesota Statutes, section 245A.02, subdivision 10.

Contingent upon federal approval of expanding eligibility for home and community-based services for persons with mental retardation or related conditions, the commissioner shall reduce the state semi-independent living services (SILS) payments to each county by the total medical assistance expenditures for nonresidential services attributable to former SILS recipients transferred by the county to the home and community-based services program for persons with mental retardation or related conditions. Of the reduced SILS payments determined above, the commissioner shall transfer to the state medical assistance account an amount equal to the nonfederal share of the nonresidential services under the home and community-based services for persons with mental retardation or related conditions. Of the remaining reduced SILS payments, 80 percent shall be returned to the SILS grant program to provide additional SILS services and 20 percent shall be transferred to the general fund.

The commissioner shall allocate money for home and community-based services to meet the needs of developmentally disabled individuals on the following priority basis: (1) to serve individuals on county waiting lists; and (2) to serve individuals who have been screened for discharge from regional treatment centers. In allocating waiver slots to a county under Minnesota Statutes, sections 256B.092 and 256B.501, the commissioner shall ensure that at least one individual from the county waiting list is served for each individual served as a discharge from a regional treatment center.

The commissioner of finance shall transfer $50,000 in fiscal year 1994 and $50,000 in 1995 from the department of human services' training budget to the state technical college system. This transfer is to be used for customized training of staff who work directly with persons with developmental disabilities. Any unex-

pended money shall revert to the general fund.

For the fiscal year ending June 30, 1994, if a facility which is in receivership under Minnesota Statutes, section 245A.12 or 245A.13, is sold to an unrelated organization: (a) the facility shall be considered a newly established facility for rate setting purposes notwithstanding any provisions to the contrary in Minnesota Statutes, section 256B.501, subdivision 11; and (b) the facility's historical basis for the physical plant, land, and land improvements for each facility must not exceed the prior owner's aggregate historical basis for these same assets for each facility. The allocation of the purchase price between land, land improvements, and physical plant shall be based on the real estate appraisal using the depreciated replacement cost method.

For the fiscal year ending June 30, 1994, a newly constructed or newly established intermediate care facility for the mentally retarded that is developed and financed during that period shall not be subject to the equity requirements in Minnesota Statutes, section 256B.501, subdivision 11, paragraph (d), or Minnesota Rules, part 9553.0060, subpart 3, item F, provided that the provider's interest rate does not exceed the interest rate available through state agency tax exempt financing.

Effective for services rendered on or after July 1, 1993, medical assistance payments to ambulance services are increased by 10 percent from the lower of: (1) the submitted charges; or (2) the 50th percentile of the prevailing charge for 1982.

Effective the day following final enactment, fiscal year 1993 appropriations made to the commissioner of human services for computer projects may be transferred between operations and development. A transfer under this paragraph may be made at the discretion of the commissioner, but must not be made to any project not previously approved by the commissioner of finance and the information policy office.

Up to $600,000 of the appropriation for systems modification and start-up costs for MinnesotaCare contained in Laws 1992, chapter 549, article 10, section 1, subdivision 4, shall not cancel, but may be transferred to the state systems account established in Minnesota Statutes, section 256.014, to complete the work of integrating MinnesotaCare into the Medicaid management information system.

Subd. 6. MinnesotaCare	43,446,000	98,667,000

This appropriation is from the health care access fund.

Subd. 7. Mental Health and Regional Treatment Center Administration	264,267,000	264,844,000

If the resident population at the regional treatment centers is projected to be higher than the estimates upon which the medical assistance forecast and budget recommendations were based, the amount of the medical assistance appropriation that is attributable to the cost of services that would have been provided as an alternative to regional treatment center services is transferred to the residential facilities appropriation.

The commissioner may transfer unencumbered appropriation balances between fiscal years for the state residential facilities repairs and betterments account and may transfer any unencumbered balances in special equipment remaining in the first year to the second year of the biennium.

Of this appropriation, $25,000 is to be transferred to the commissioner of administration for a study of legal and treatment issues related to persons with psychopathic personalities.

The transfer of the Osage building at the Faribault regional treatment center to the department of administration or the department of corrections or to any other state agency may not occur before December 31, 1994. Residents affected by the transfer of the Osage building shall not be transferred to another regional treatment center or state nursing home but must either be housed at the Faribault regional treatment center or placed in appropriate community-based facilities.

The transfer of the hospital building at the Faribault regional treatment center to the department of administration, to the department of corrections, or to any other state agency, may take place only after alternative, state-operated, skilled nursing facility and infirmary space has been developed for residents on the campus of the Faribault regional treatment center. The commissioner of human services is prohibited from transferring any other building on the campus of the Faribault regional treatment center to any other state agency, or from declaring any building or acreage on the campus to be surplus, unless specifically authorized to do so by the legislature.

It is the intent of the legislature that the transfer of vulnerable persons, construction of the psychiatric hospital, and the conversion of existing buildings at Moose Lake for use by the department of corrections shall be coordinated in order to minimize any disruptive impact on the care and treatment of vulnerable persons.

For purposes of restructuring the regional treatment centers and state nursing homes, any regional treatment center employee whose position is to be eliminated shall be afforded the options provided in applicable collective bargaining agreements. Provided there is no conflict with any collective bargaining agreement, any regional treatment center position reduction must only be accomplished through mitigation, attrition, transfer, and other measures as provided in state or applicable collective bargaining agreements and in Minnesota Statutes, section 252.50, subdivision 11, and not through layoff.

Agreements between the commissioner of corrections and the commissioner of human services concerning operation of a correctional facility on the Moose Lake regional treatment center campus shall include provisions for the utilization of the regional laundry facilities at the Brainerd regional treatment center.

The commissioner of human services shall transfer buildings at the Moose Lake campus housing persons with mental illness and psychogeriatric patients to the

commissioner of corrections upon the commencement of actual construction of a 100-bed psychopathic personality treatment facility at the Moose Lake regional treatment center.

When the operations of the regional treatment center chemical dependency fund created in Minnesota Statutes, section 246.18, subdivision 2, are impeded by projected cash deficiencies resulting from delays in the receipt of grants, dedicated income or other similar receivables, and when the deficiencies would be corrected within the budget period involved, the commissioner of finance shall transfer general fund cash reserves into this account as necessary to meet cash demands. The cash flow transfers must be returned to the general fund as soon as sufficient cash balances are available in the account to which the transfer was made. Any interest earned on general fund cash flow transfers accrues to the general fund and not the regional treatment center chemical dependency fund.

Sec. 3. COMMISSIONER OF HEALTH

Subdivision 1. Total Appropriation			56,125,000	55,118,000
Summary by Fund				
General	37,024,000	36,731,000		
Environmental	191,000	204,000		
State Government Special Revenue	14,760,000	13,968,000		
Trunk Highway	1,488,000	1,510,000		
Health Care Access	2,662,000	2,705,000		

The appropriation from the environmental fund is for monitoring well water supplies and conducting health assessments in the metropolitan area.

The appropriation from the trunk highway fund is for emergency medical services activities.

The amounts that may be spent from this appropriation for each program and activity are more specifically described in the following subdivisions.

Subd. 2. Health Protection	16,429,000	15,568,000

Summary by Fund

General	6,812,000	6,721,000
State Government Special Revenue	9,448,000	8,665,000
Environmental	169,000	182,000

Subd. 3. Health Care Resources Systems 6,262,000 6,296,000

Summary by Fund

General	320,000	320,000
State Government Special Revenue	3,330,000	3,321,000
Health Care Access	2,612,000	2,655,000

Any efforts undertaken by the Minnesota departments of health or human services to conduct periodic educational programs for nursing home residents shall build on and be coordinated with the resident and family advisory council education program established in Minnesota Statutes, section 144A.33.

Notwithstanding the provisions of Minnesota Statutes, sections 144.122 and 144.53, the commissioner shall increase the annual licensure fee charged to a hospital accredited by the joint commission on accreditation of health care organizations by $520 and shall increase the annual licensure fee charged to nonaccredited hospitals by $225.

Notwithstanding the provisions of Minnesota Statutes, sections 144.122, 144.53, and 144A.07, a health care facility licensed under the provisions of Minnesota Statutes, chapter 144 or 144A, may submit the required fee for licensure renewal in quarterly installments. Any health care facility requesting to pay the renewal fees in quarterly payments shall make the request at the time of license renewal. Facilities licensed under the provisions of Minnesota Statutes, chapter 144, shall submit quarterly payment by January 1, April 1, July 1, and October 1 of each year. Nursing homes licensed under Minnesota Statutes, chapter 144A, shall submit the first quarterly payment with the application for renewal, and the remaining payments shall be submitted at three-month intervals from the license expiration date. The commissioner of

health can require full payment of any outstanding balance if a quarterly payment is late. Full payment of the annual renewal fee will be required in the event that the facility is sold or ceases operation during the licensure year. Failure to pay the licensure fee is grounds for the nonrenewal of the license.

The commissioner shall adjust the fees for hospital licensure renewal in such a way that fees for hospitals not accredited by the joint commission on accreditation of health care organizations are capped at $2,000, plus $100 per bed. Any loss of revenue that results from this cap must be evenly distributed to hospitals which are accredited by the joint commission.

The commissioner shall report to the chairs of the house of representatives health and housing finance division and the senate health and family services finance division by January 1, 1995, on progress in developing a revised cost allocation system to determine licensing fees for health care facilities and shall recommend language to modify hospital and nursing home fees accordingly.

Effective the day following final enactment, in the event that the commissioner of health is ordered by a court or otherwise agrees to assume responsibility for the handling of patient's medical records from a closed hospital, such records shall be considered as medical data under the provisions of Minnesota Statutes, section 13.42, subdivision 3. The commissioner of health is authorized to handle and to provide access to these records in accordance with the provisions of Minnesota Statutes, sections 145.30 to 145.32 and 144.335. A written certification by the commissioner of health or the commissioner's designee that a photographic or photostatic copy of a record is a complete and correct copy shall have the same force and effect as a comparable certification of an officer or employee in charge of the records of the closed hospital. Costs incurred for the handling of these records pursuant to Minnesota Statutes, sections 145.30 to 145.32, shall be considered as a lien on the property of the

closed hospital in accordance with the provisions of Minnesota Statutes, section 514.67. At the commissioner of health's discretion, all or a portion of this lien may be released in consideration for payment of a reasonable portion of the costs incurred by the commissioner. Any costs incurred by the commissioner for the handling of or providing access to the medical records must be recovered through charges for the access to records under Minnesota Statutes, section 144.335. The commissioner may contract for services for the handling of the medical records pursuant to Minnesota Statutes, sections 145.30 to 145.32, and for the provision of access to these records. Any revenues received by the commissioner through collections from the closed hospital or from charges for access shall be used to cover any contractual costs. Any remaining money shall be deposited into the state government special revenue fund.

Subd. 4. Health Delivery Systems	29,173,000	28,993,000

Summary by Fund

General	27,767,000	27,565,000
Trunk Highway	1,406,000	1,428,000

Of this appropriation, $90,000 is to be transferred to the higher education coordinating board to implement the rural clinical nurse practitioner program and $10,000 is to provide stipends to members of nurse practitioner promotion teams.

General fund appropriations for the women, infants, and children food supplement program (WIC) are available for either year of the biennium. Transfers of appropriations between fiscal years must be for the purpose of maximizing federal funds or minimizing fluctuations in the number of participants.

When cost effective, the commissioner may use money received for the services for children with handicaps program to purchase health coverage for eligible children.

$50,000 of the appropriation for fiscal year 1994 for services to the children treatment fund may be used to conduct a needs assessment.

In the event that Minnesota is required to comply with the provision in the federal maternal and child health block grant law, which requires 30 percent of the allocation to be spent on primary services for children, federal funds allocated to the commissioner of health under Minnesota Statutes, section 145.882, subdivision 2, may be transferred to the commissioner of human services for the purchase of primary services for children covered by MinnesotaCare. The commissioner of human services shall transfer an equal amount of the money appropriated for MinnesotaCare to the commissioner of health to assure access to quality child health services under Minnesota Statutes, section 145.88.

General fund appropriations for treatment services in the services for children with handicaps program are available for either year of the biennium.

Subd. 5. Support Services		4,261,000	4,261,000
Summary by Fund			
General	2,125,000	2,125,000	
Environmental	22,000	22,000	
Health Care Access	50,000	50,000	
Trunk Highway	82,000	82,000	
State Government Special Revenue	1,982,000	1,982,000	

Sec. 4. VETERANS NURSING HOMES BOARD	15,626,000	16,737,000

Of this appropriation, $75,000 in fiscal year 1994 is for an alternative site study for the Minneapolis veterans home.

Of this appropriation, $100,000 in fiscal year 1995 is for an information system. All information policy office requirements must be met before hardware and software are purchased.

Sec. 5. HEALTH-RELATED BOARDS		
Subdivision 1. Total Appropriation	6,279,000	6,269,000

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

The commissioner of finance shall not permit the allotment, encumbrance, or expenditure of money appropriated in this section in excess of the anticipated biennial 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.

A board named in this article may transfer appropriated funds to the health-related licensing board administrative services unit within the board of chiropractic examiners for additional administrative support services.

$63,000 the first year and $63,000 the second year is to provide administrative services to all health-related licensing boards.

Subd. 2. Board of Chiropractic Examiners	362,000	362,000
Subd. 3. Board of Dentistry	651,000	638,000
Subd. 4. Board of Marriage and Family Therapy	92,000	92,000
Subd. 5. Board of Medical Practice	2,011,000	2,010,000
Subd. 6. Board of Nursing	1,466,000	1,469,000
Subd. 7. Board of Nursing Home Administrators	168,000	167,000
Subd. 8. Board of Optometry	70,000	71,000
Subd. 9. Board of Pharmacy	587,000	588,000
Subd. 10. Board of Podiatry	30,000	30,000
Subd. 11. Board of Psychology	308,000	308,000
Subd. 12. Board of Social Work	428,000	428,000
Subd. 13. Board of Veterinary Medicine	106,000	106,000
Sec. 6. OMBUDSMAN FOR MENTAL HEALTH AND MENTAL RETARDATION	860,000	850,000

Notwithstanding Minnesota Statutes, section 245.93, the ombudsman for mental health and mental retardation may not appoint a deputy.

Of this appropriation, $10,000 shall be transferred to the commissioner of administration for a study on the feasibility of combining various state ombudsman functions, including the ombudsman for mental health and mental retardation, the ombudsman for older Minnesotans and long-term care, the crime victim ombudsman, and other ombudsman and advocacy functions. The commissioner of administration shall report the results of the study to the legislature by January 15, 1994, along with any recommendations for consolidation.

Sec. 7. COUNCIL ON DISABILITY 554,000 554,000

Sec. 8. CARRYOVER LIMITATION

None of the appropriations in this act which are allowed to be carried forward from fiscal year 1994 to fiscal year 1995 shall become part of the base level funding for the 1995-1997 biennial budget.

Sec. 9. TRANSFERS

Subdivision 1. Approval Required

Transfers may be made by the commissioners of human services and health and the veterans nursing homes board to salary accounts and unencumbered salary money may be transferred to the next fiscal year in order to avoid layoffs with the advance approval of the commissioner of finance and upon notification of the chairs of the senate health care and family services finance division and the house of representatives human services finance and health and housing finance divisions. Amounts transferred to fiscal year 1995 shall not increase the base funding level for the 1996-1997 appropriation. The commissioners and the board shall not transfer money to or from the object of expenditure "grants and aid" without the written approval of the governor after consulting with the legislative advisory commission.

Subd. 2. Transfers of Unencumbered Appropriations

The commissioners of human services, health, and the veterans nursing homes board, by direction of the governor after consulting with the legislative advisory commission, may transfer unencumbered appropriation balances and positions among all programs.

Sec. 10. PROVISIONS

Money appropriated to the commissioner of human services and the veterans nursing homes board in this act for the purchase of provisions within the item "current expense" must be used solely for that purpose. Money provided and not used for purchase of provisions must be canceled into the fund from which appropriated, except that money provided and not used for the purchase of provisions because of population decreases may be transferred and used for the purchase of medical and hospital supplies with the written approval of the governor after consulting with the legislative advisory commission. The allowance for food may be adjusted annually according to the United States Department of Labor, Bureau of Labor Statistics publication, producer price index, with the approval of the commissioner of finance. Adjustments for fiscal year 1994 and fiscal year 1995 must be based on the June 1993 and June 1994 producer price index respectively, but the adjustment must be prorated if the wholesale food price index adjustment would require money in excess of this appropriation.

Sec. 11. PROJECT LABOR

Wages for project labor may be paid by the commissioner of human services out of repairs and betterment funds if the individual is to be engaged in a construction project or repair project of a short-term and nonrecurring nature. Compensation for project labor shall be based on the prevailing wage rates, as defined in Minnesota Statutes, section 177.42, subdivision 6. Project laborers are excluded from the provisions of Minnesota Statutes, sections 43A.22 to

43A.30, and shall not be eligible for state-paid insurance and benefits.

Sec. 12. UNCODIFIED LANGUAGE

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

Sec. 13. Minnesota Statutes 1992, section 198.34, is amended to read:

198.34 [DEPOSIT OF RECEIPTS.]

Federal money received by the board for the care of veterans in a veterans home~~, after being credited to a federal receipt account, must be transferred to the general revenue fund in the state treasury~~ *must be deposited into a dedicated account in the state treasury and is appropriated to the veterans homes board of directors for the operational needs of the veterans homes and the board of directors*. Money paid to the board by a veteran or by another person on behalf of a veteran for care in a veterans home must be deposited in the state treasury ~~and credited to the general fund~~ *in a dedicated resources account and is appropriated to the veterans homes board of directors for the operational needs of the veterans homes and the board of directors*.

ARTICLE 2

HEALTH DEPARTMENT AND HEALTH BOARDS

Section 1. [136A.1358] [RURAL CLINICAL SITES FOR NURSE PRACTITIONER EDUCATION.]

Subdivision 1. [DEFINITION.] *For purposes of this section, "rural" means any area of the state outside of the seven metropolitan counties, as defined in section 473.121, subdivision 4.*

Subd. 2. [ESTABLISHMENT.] *A grant program is established under the authority of the higher education coordinating board to provide grants to colleges or schools of nursing located in Minnesota that operate programs of study designed to prepare registered nurses for advanced practice as nurse practitioners.*

Subd. 3. [PROGRAM GOALS.] *Colleges and schools of nursing shall use grants received to provide rural students with increased access to programs of study for nurse practitioners, by:*

(1) developing rural clinical sites;

(2) allowing students to remain in their rural communities for clinical rotations; and

(3) providing faculty to supervise students at rural clinical sites.

The overall goal of the grant program is to increase the number of graduates of nurse practitioner programs who work in rural areas of the state.

Subd. 4. [RESPONSIBILITY OF NURSING PROGRAMS.] *(a) Colleges or schools of nursing interested in participating in the grant program must apply to the higher education coordinating board, according to the policies established by the board. Applications submitted by colleges or schools of*

nursing must include a detailed proposal for achieving the goals listed in subdivision 3, a plan for encouraging sufficient applications from rural applicants to meet the requirements of paragraph (b), and any additional information required by the board.

(b) Each college or school of nursing, as a condition of accepting a grant, shall make at least 25 percent of the openings in each nurse practitioner entering class available to applicants who live in rural areas and desire to practice as a nurse practitioner in rural areas. This requirement is effective beginning with the fall 1994 entering class and remains in effect for each biennium thereafter for which a college or school of nursing is awarded a grant renewal. The board may exempt colleges or schools of nursing from this requirement if the college or school can demonstrate, to the satisfaction of the board, that the nurse practitioner program did not receive enough applications or acceptance letters from qualified rural applicants to meet the requirement.

(c) Colleges or schools of nursing participating in the grant program shall report to the higher education coordinating board on their program activity as requested by the board.

Subd. 5. [RESPONSIBILITIES OF THE HIGHER EDUCATION COORDINATING BOARD.] *(a) The board shall establish an application process for interested colleges and schools of nursing, and shall require colleges and schools of nursing to submit grant applications to the board by November 1, 1993. The board may award up to two grants for the biennium ending June 30, 1995.*

(b) In selecting grant recipients, the board shall consider:

(1) the likelihood that an applicant's grant proposal will be successful in achieving the program goals listed in subdivision 3;

(2) the potential effectiveness of the college's or school's plan to encourage applications from rural applicants; and

(3) the academic quality of the college's or school's program of education for nurse practitioners.

(c) The board shall notify grant recipients of an award by December 1, 1993, and shall disburse the grants by January 1, 1994. The board may renew grants if a college or school of nursing demonstrates that satisfactory progress has been made during the past biennium toward achieving the goals listed in subdivision 3.

Sec. 2. Minnesota Statutes 1992, 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 ~~general~~ *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 1993 and beyond, shall set license fees for hospitals and nursing homes that are not boarding care homes at a level sufficient to recover, over a two-year period, the deficit associated with the collection of license fees from these facilities. The license fees for these facilities shall be set at the following levels:

Joint Commission on Accreditation of Healthcare Organizations (JCAHO hospitals)	$2,142
Non-JCAHO hospitals	$2,228 plus $138 per bed
Nursing home	$324 plus $76 per bed

For fiscal years 1993 and beyond, the commissioner shall set license fees for outpatient surgical centers, boarding care homes, and supervised living facilities at a level sufficient to recover, over a four-year period, the deficit associated with the collection of license fees from these facilities. The license fees for these facilities shall be set at the following levels:

Outpatient surgical centers	$1,645
Boarding care homes	$249 plus $58 per bed
Supervised living facilities	$249 plus $58 per bed.

Sec. 3. Minnesota Statutes 1992, section 144.123, subdivision 1, is amended to read:

Subdivision 1. [WHO MUST PAY.] Except for the limitation contained in this section, the commissioner of health shall charge a handling fee for each specimen submitted to the department of health for analysis for diagnostic purposes by any hospital, private laboratory, private clinic, or physician. No fee shall be charged to any entity which receives direct or indirect financial assistance from state or federal funds administered by the department of health, including any public health department, nonprofit community clinic, venereal disease clinic, family planning clinic, or similar entity. The commis-

sioner of health may establish by rule other exceptions to the handling fee as may be necessary to gather information for epidemiologic purposes. All fees collected pursuant to this section shall be deposited in the state treasury and credited to the ~~general~~ *state government special revenue* fund.

Sec. 4. Minnesota Statutes 1992, section 144.226, subdivision 2, is amended to read:

Subd. 2. [FEES TO ~~GENERAL~~ *STATE GOVERNMENT SPECIAL REVENUE* FUND.] Fees collected under this section by the state registrar shall be deposited to the ~~general~~ *state government special revenue* fund.

Sec. 5. Minnesota Statutes 1992, section 144.3831, subdivision 2, is amended to read:

Subd. 2. [COLLECTION AND PAYMENT OF FEE.] The public water supply described in subdivision 1 shall:

(1) collect the fees assessed on its service connections;

(2) pay the department of revenue an amount equivalent to the fees based on the total number of service connections. The service connections for each public water supply described in subdivision 1 shall be verified every four years by the department of health; and

(3) pay one-fourth of the total yearly fee to the department of revenue each calendar quarter. The first quarterly payment is due on or before September 30, 1992. In lieu of quarterly payments, a public water supply described in subdivision 1 with fewer than 50 service connections may make a single annual payment by June 30 each year, starting in 1993. The fees payable to the department of revenue shall be deposited in the state treasury as nondedicated ~~general~~ *state government special revenue* fund revenues.

Sec. 6. Minnesota Statutes 1992, section 144.802, subdivision 1, is amended to read:

Subdivision 1. [LICENSES; CONTENTS, CHANGES, AND TRANSFERS.] No natural person, partnership, association, corporation or unit of government may operate an ambulance service within this state unless it possesses a valid license to do so issued by the commissioner. The license shall specify the base of operations, primary service area, and the type or types of ambulance service for which the licensee is licensed. The licensee shall obtain a new license if it wishes to establish a new base of operation, or to expand its primary service area, or to provide a new type or types of service. A license, or the ownership of a licensed ambulance service, may be transferred only after the approval of the commissioner, based upon a finding that the proposed licensee or proposed new owner of a licensed ambulance service meets or will meet the requirements of section 144.804. If the proposed transfer would result in a change in or addition of a new base of operations, expansion of the service's primary service area, or provision of a new type or types of ambulance service, the commissioner shall require the prospective licensee or owner to comply with subdivision 3. The commissioner may approve the license or ownership transfer prior to completion of the application process described in subdivision 3 upon obtaining written assurances from the proposed licensee or proposed new owner that no change in the service's base of operations, expansion of the service's primary service area, or provision of a new type or types of ambulance service will occur during the processing of the application. The cost of licenses shall be in an

amount prescribed by the commissioner pursuant to section 144.122. Licenses shall expire and be renewed as prescribed by the commissioner pursuant to section 144.122. *Fees collected shall be deposited to the trunk highway fund.*

Sec. 7. Minnesota Statutes 1992, section 144.98, subdivision 5, is amended to read:

Subd. 5. [~~LABORATORY CERTIFICATION ACCOUNT~~ *STATE GOVERNMENT SPECIAL REVENUE FUND.*] ~~There is an account in the special revenue fund called the laboratory certification account.~~ Fees collected under this section ~~and appropriations for the purposes of this section~~ must be deposited in the ~~laboratory certification account. Money in the laboratory certification account is annually appropriated to the commissioner of health to administer this section~~ *state government special revenue fund.*

Sec. 8. Minnesota Statutes 1992, section 144A.071, is amended to read:

144A.071 [MORATORIUM ON CERTIFICATION OF NURSING HOME BEDS.]

Subdivision 1. [FINDINGS.] ~~The legislature finds that medical assistance expenditures are increasing at a much faster rate than the state's ability to pay them; that reimbursement for nursing home care and ancillary services comprises over half of medical assistance costs, and, therefore, controlling expenditures for nursing home care is essential to prudent management of the state's budget; that construction of new nursing homes and the addition of more nursing home beds to the state's long-term care resources inhibits the ability to control expenditures; that Minnesota already leads the nation in nursing home expenditures per capita, has the fifth highest number of beds per capita elderly, and that private paying individuals and medical assistance recipients have equivalent access to nursing home care; and that in the absence of a moratorium the increased numbers of nursing homes and nursing home beds will consume resources that would otherwise be available to develop a comprehensive long-term care system that includes a continuum of care. Unless action is taken, this expansion of bed capacity is likely to accelerate with the repeal of the certificate of need program effective March 15, 1984. The legislature also finds that Minnesota's dependence on institutional care for elderly persons is due in part to the dearth of alternative services in the home and community. The legislature also finds that further increases in the number of licensed nursing home beds, especially in nursing homes not certified for participation in the medical assistance program, is contrary to public policy, because: (1) nursing home residents with limited resources may exhaust their resources more rapidly in these facilities, creating the need for a transfer to a certified nursing home, with the concomitant risk of transfer trauma; (2) a continuing increase in the number of nursing home beds will foster continuing reliance on institutional care to meet the long-term care needs of residents of the state; (3) a further expansion of nursing home beds will diminish incentives to develop more appropriate and cost-effective alternative services and divert community resources that would otherwise be available to fund alternative services; (4) through corporate reorganization resulting in the separation of certified and licensed beds, a nursing home may evade the provisions of section 256B.48, subdivision 1, clause (a); and (5) it is in the best interests of the state to ensure that the long-term care system is designed to protect the private resources of individuals as well as to use state resources most effectively and efficiently.~~

The legislature declares that a moratorium on the licensure and medical assistance certification of new nursing home beds *and construction projects that exceed $500,000 or 25 percent of a facility's appraised value* is necessary to control nursing home expenditure growth and enable the state to meet the needs of its elderly by providing high quality services in the most appropriate manner along a continuum of care.

Subd. 1a. [DEFINITIONS.] *For purposes of sections 144A.071 to 144A.073, the following terms have the meanings given them:*

(a) "attached fixtures" has the meaning given in Minnesota Rules, part 9549.0020, subpart 6.

(b) "buildings" has the meaning given in Minnesota Rules, part 9549.0020, subpart 7.

(c) "capital assets" has the meaning given in section 256B.421, subdivision 16.

(d) "commenced construction" means that all of the following conditions were met: the final working drawings and specifications were approved by the commissioner of health; the construction contracts were let; a timely construction schedule was developed, stipulating dates for beginning, achieving various stages, and completing construction; and all zoning and building permits were applied for.

(e) "completion date" means the date on which a certificate of occupancy is issued for a construction project, or if a certificate of occupancy is not required, the date on which the construction project is available for facility use.

(f) "construction" means any erection, building, alteration, reconstruction, modernization, or improvement necessary to comply with the nursing home licensure rules.

(g) "construction project" means:

(1) a capital asset addition to, or replacement of a nursing home or certified boarding care home that results in new space or the remodeling of or renovations to existing facility space;

(2) the remodeling or renovation of existing facility space the use of which is modified as a result of the project described in clause (1). This existing space and the project described in clause (1) must be used for the functions as designated on the construction plans on completion of the project described in clause (1) for a period of not less than 24 months; or

(3) capital asset additions or replacements that are completed within 12 months before or after the completion date of the project described in clause (1).

(h) "new licensed" or "new certified beds" means:

(1) newly constructed beds in a facility or the construction of a new facility that would increase the total number of licensed nursing home beds or certified boarding care or nursing home beds in the state; or

(2) newly licensed nursing home beds or newly certified boarding care or nursing home beds that result from remodeling of the facility that involves relocation of beds but does not result in an increase in the total number of

beds, except when the project involves the upgrade of boarding care beds to nursing home beds, as defined in section 144A.073, subdivision 1. "Remodeling" includes any of the type of conversion, renovation, replacement, or upgrading projects as defined in section 144A.073, subdivision 1.

(i) "project construction costs" means the cost of the facility capital asset additions, replacements, renovations, or remodeling projects, construction site preparation costs, and related soft costs. Project construction costs also include the cost of any remodeling or renovation of existing facility space which is modified as a result of the construction project.

Subd. 2. [MORATORIUM.] The commissioner of health, in coordination with the commissioner of human services, shall deny each request ~~by a nursing home or boarding care home, except an intermediate care facility for the mentally retarded,~~ for ~~addition of~~ new *licensed or* certified *nursing home or certified boarding care* beds ~~or for a change or changes in the certification status of existing beds~~ except as provided in subdivision 3 *or 4a, or section 144A.073*. ~~The total number of certified beds in the state shall remain at or decrease from the number of beds certified on May 23, 1983, except as allowed under subdivision 3.~~ "Certified bed" means a nursing home bed or a boarding care bed certified by the commissioner of health for the purposes of the medical assistance program, under United States Code, title 42, sections 1396 et seq.

The commissioner of human services, in coordination with the commissioner of health, shall deny any request to issue a license under ~~sections 245A.01 to 245A.16 and~~ *section* 252.28 *and chapter 245A* to a nursing home or boarding care home, if that license would result in an increase in the medical assistance reimbursement amount. ~~The commissioner of health shall deny each request for licensure of nursing home beds except as provided in subdivision 3.~~

In addition, the commissioner of health must not approve any construction project whose cost exceeds $500,000, or 25 percent of the facility's appraised value, whichever is less, unless:

(a) any construction costs exceeding the lesser of $500,000 or 25 percent of the facility's appraised value are not added to the facility's appraised value and are not included in the facility's payment rate for reimbursement under the medical assistance program; or

(b) the project:

(1) has been approved through the process described in section 144A.073;

(2) meets an exception in subdivision 3 *or 4a*;

(3) is necessary to correct violations of state or federal law issued by the commissioner of health;

(4) is necessary to repair or replace a portion of the facility that was destroyed by fire, lightning, or other hazards provided that the provisions of subdivision ~~3~~ *4a*, clause ~~(g)~~ *(a)*, are met; ~~or~~

(5) as of May 1, 1992, the facility has submitted to the commissioner of health written documentation evidencing that the facility meets the "commenced construction" definition as specified in subdivision ~~3~~ *1a*, clause ~~(b)~~ *(f)*, or that substantial steps have been taken prior to April 1, 1992, relating to the construction project. "Substantial steps" require that the facility has made

arrangements with outside parties relating to the construction project and include the hiring of an architect or construction firm, submission of preliminary plans to the department of health or documentation from a financial institution that financing arrangements for the construction project have been made;

(6) is a project which will be completed in conjunction with an approved moratorium exception project for a nursing home in southern Cass county and which is directly related to that portion of the facility that must be repaired, renovated, or replaced to correct an emergency plumbing problem for which a state correction order has been issued and which must be corrected by August 31, 1993; or

(7) is being proposed by a licensed nursing facility that is not certified to participate in the medical assistance program and will not result in new licensed or certified beds.

Prior to the *final plan* approval of any construction project, the commissioner of health shall be provided with an itemized cost estimate for the *project* construction ~~project~~ *costs*. If a construction project is anticipated to be completed in phases, the total estimated cost of all phases of the project shall be submitted to the commissioner and shall be considered as one construction project. Once the construction project is completed and prior to the final clearance by the commissioner, the total ~~actual~~ *project construction* costs for the construction project shall be submitted to the commissioner. If the final *project* construction cost exceeds the *dollar* threshold in this subdivision, the commissioner of human services shall not recognize any of the *project* construction costs or the related financing costs in excess of this threshold in establishing the facility's property-related payment rate.

The dollar thresholds for construction projects are as follows: for construction projects other than those authorized in clauses (1) to (7), the dollar threshold is $500,000 or 25 percent of appraised value, whichever is less. For projects authorized after July 1, 1993, under clause (1), the dollar threshold is the cost estimate submitted with a proposal for an exception under section 144A.073, plus inflation as calculated according to section 256B.431, subdivision 3f, paragraph (a). For projects authorized under clauses (2) to (4), the dollar threshold is the itemized estimate project construction costs submitted to the commissioner of health at the time of final plan approval, plus inflation as calculated according to section 256B.431, subdivision 3f, paragraph (a).

The commissioner of health shall adopt emergency or permanent rules to implement this section or to amend the emergency rules for granting exceptions to the moratorium on nursing homes under section 144A.073. The authority to adopt emergency rules continues to December 30, 1992.

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 ~~replace a bed~~ *license or certify a new bed in place of one* decertified after ~~May 23, 1983~~ *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. ~~In allowing replacement of a decertified bed, the commissioners shall ensure that the number of added or recertified beds does not exceed the total number of decertified beds in the state in that level of care.~~ An extreme hardship situation can only be found after the county documents the existence of unmet medical needs that cannot be addressed by any other alternatives;

~~(b) to certify a new bed in a facility that commenced construction before May 23, 1983. For the purposes of this section, "commenced construction" means that all of the following conditions were met: the final working drawings and specifications were approved by the commissioner of health; the construction contracts were let; a timely construction schedule was developed, stipulating dates for beginning, achieving various stages, and completing construction; and all zoning and building permits were secured;~~

~~(c) to certify beds in a new nursing home that is needed in order to meet the special dietary needs of its residents, if: the nursing home proves to the commissioner's satisfaction that the needs of its residents cannot otherwise be met; elements of the special diet are not available through most food distributors; and proper preparation of the special diet requires incurring various operating expenses, including extra food preparation or serving items, not incurred to a similar extent by most nursing homes;~~

~~(d) to license a new nursing home bed in a facility that meets one of the exceptions contained in clauses (a) to (c);~~

~~(e) to license nursing home beds in a facility that has submitted either a completed licensure application or a written request for licensure to the commissioner before March 1, 1985, and has either commenced any required construction as defined in clause (b) before May 1, 1985, or has, before May 1, 1985, received from the commissioner approval of plans for phased in construction and written authorization to begin construction on a phased in basis. For the purpose of this clause, "construction" means any erection, building, alteration, reconstruction, modernization, or improvement necessary to comply with the nursing home licensure rules;~~

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

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

~~(1) destruction was not caused by the intentional act of or at the direction of a controlling person of the facility;~~

~~(2) at the time the facility was destroyed the controlling persons of the~~

~~facility maintained insurance coverage for the type of hazard that occurred in an amount that a reasonable person would conclude was adequate;~~

~~(3) the net proceeds from an insurance settlement for the damages caused by the hazard are applied to the cost of the new facility;~~

~~(4) the new facility is constructed on the same site as the destroyed facility or on another site subject to the restrictions in section 144A.073, subdivision 5; and~~

~~(5) the number of licensed and certified beds in the new facility does not exceed the number of licensed and certified beds in the destroyed facility;~~

~~(h) to license or certify beds that are moved from one location to another within a nursing home facility, provided the total costs of remodeling performed in conjunction with the relocation of beds does not exceed 25 percent of the appraised value of the facility or $500,000, whichever is less, or to license or certify beds in a facility for which the total costs of remodeling or renovation exceed 25 percent of the appraised value of the facility or $500,000, whichever is less, if the facility makes a written commitment to the commissioner of human services that it will not seek to receive an increase in its property-related payment rate by reason of the remodeling or renovation;~~

~~(i)~~ *(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;.

~~(j) to license or certify beds in a project recommended for approval by the interagency long-term care planning committee under section 144A.073;~~

~~(k) to license nursing home beds in a hospital facility that are relocated from a different hospital facility under common ownership or affiliation, provided:~~

~~(1) the nursing home beds are not certified for participation in the medical assistance program; and~~

~~(2) the relocation of nursing home beds under this clause should not exceed a radius of six miles;~~

~~(l) to license or certify beds that are moved from one location to another within an existing identifiable complex of hospital buildings, from a hospital-attached nursing home to the hospital building, or from a separate nursing home to a building formerly used as a hospital, provided the original nursing home building will no longer be operated as a nursing home and the building to which the beds are moved will no longer be operated as a hospital. As a condition of receiving a license or certification under this clause, the facility must make a written commitment to the commissioner of human services that it will not seek to receive an increase in its property-related payment rate as a result of the relocation. At the time of the licensure and certification of the nursing home beds, the commissioner of health shall delicense the same number of acute care beds within the existing complex of hospital buildings or building. Relocation of nursing home beds under this clause is subject to the limitations in section 144A.073, subdivision 5;~~

~~(m) to license or certify beds that are moved from an existing state nursing home to a different state facility, provided there is no net increase in the number of state nursing home beds. The relocated beds need not be licensed and certified at the new location simultaneously with the delicensing and~~

decertification of the old beds and may be licensed and certified at any time after the old beds are delicensed and decertified;

(n) to license new nursing home beds in a continuing care retirement community affiliated with a national referral center engaged in substantial programs of patient care, medical research, and medical education meeting state and national needs that receives more than 40 percent of its residents from outside the state for the purpose of meeting contractual obligations to residents of the retirement community, provided the facility makes a written commitment to the commissioner of human services that it will not seek medical assistance certification for the new beds;

(o) to certify or license new beds in a new facility on the Red Lake Indian Reservation for which payments will be made under the Indian Health Care Improvement Act, Public Law Number 94-437, at the rates specified in United States Code, title 42, section 1396d(b);

(p) to certify and license as nursing home beds boarding care beds in a certified boarding care facility if the beds meet the standards for nursing home licensure, or in a facility that was granted an exception to the moratorium under section 144A.073, and if the cost of any remodeling of the facility does not exceed 25 percent of the appraised value of the facility or $500,000, whichever is less; or to license as nursing home beds boarding care beds in a facility with an addendum to its provider agreement effective beginning July 1, 1983, if the boarding care beds to be upgraded meet the standards for nursing home licensure. If boarding care beds are licensed as nursing home beds, the number of boarding care beds in the facility must not increase in the future. The provisions contained in section 144A.073 regarding the upgrading of the facilities do not apply to facilities that satisfy these requirements;

(q) to license and certify up to 40 beds transferred from an existing facility owned and operated by the Amherst H. Wilder Foundation in the city of Saint Paul to a new unit at the same location as the existing facility that will serve persons with Alzheimer's disease and other related disorders. The transfer of beds may occur gradually or in stages, provided the total number of beds transferred does not exceed 40. At the time of licensure and certification of a bed or beds in the new unit, the commissioner of health shall delicense and decertify the same number of beds in the existing facility. As a condition of receiving a license or certification under this clause, the facility must make a written commitment to the commissioner of human services that it will not seek to receive an increase in its property-related payment rate as a result of the transfers allowed under this clause;

(r) to license and certify nursing home beds to replace currently licensed and certified boarding care beds which may be located either in a remodeled or renovated boarding care or nursing home facility or in a remodeled, renovated, newly constructed, or replacement nursing home facility within the identifiable complex of health care facilities in which the currently licensed boarding care beds are presently located, provided that the number of boarding care beds in the facility or complex are decreased by the number to be licensed as nursing home beds and further provided that, if the total costs of new construction, replacement, remodeling, or renovation exceed ten percent of the appraised value of the facility or $200,000, whichever is less, the facility makes a written commitment to the commissioner of human services that it will not seek to receive an increase in its property-related payment rate by reason of the new construction, replacement, remodeling, or

~~renovation. The provisions contained in section 144A.073 regarding the upgrading of facilities do not apply to facilities that satisfy these requirements;~~

~~(s) to license or certify beds that are moved from a nursing home to a separate facility under common ownership or control that was formerly licensed as a hospital and is currently licensed as a nursing facility and that is located within eight miles of the original facility, provided the original nursing home building will no longer be operated as a nursing home. As a condition of receiving a license or certification under this clause, the facility must make a written commitment to the commissioner of human services that it will not seek to receive an increase in its property-related payment rate as a result of the relocation;~~

~~(t) to license as a nursing home and certify as a nursing facility a facility that is licensed as a boarding care facility but not certified under the medical assistance program, but only if the commissioner of human services certifies to the commissioner of health that licensing the facility as a nursing home and certifying the facility as a nursing facility will result in a net annual savings to the state general fund of $200,000 or more;~~

~~(u) to certify, after September 30, 1992, and prior to July 1, 1993, existing nursing home beds in a facility that was licensed and in operation prior to January 1, 1992;~~

~~(v) to license and certify new nursing home beds to replace beds in a facility condemned as part of an economic redevelopment plan in a city of the first class, provided the new facility is located within one mile of the site of the old facility. Operating and property costs for the new facility must be determined and allowed under existing reimbursement rules; or~~

~~(w) to license and certify up to 20 new nursing home beds in a community-operated hospital and attached convalescent and nursing care facility with 40 beds on April 21, 1991, that suspended operation of the hospital in April 1986. The commissioner of human services shall provide the facility with the same per diem property-related payment rate for each additional licensed and certified bed as it will receive for its existing 40 beds.~~

Subd. 4. [MONITORING EXCEPTIONS FOR REPLACEMENT BEDS.] The commissioner of health, in coordination with the commissioner of human services, shall implement mechanisms to monitor and analyze the effect of the moratorium in the different geographic areas of the state. The commissioner of health shall submit to the legislature, no later than January 15, 1984, and annually thereafter, an assessment of the impact of the moratorium by geographic area, with particular attention to service deficits or problems and a corrective action plan.

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; or

(n) to allow a facility that on April 16, 1993, was a 106-bed licensed and certified nursing facility located in Minneapolis to lay away all of its licensed and certified nursing home beds, which may be relicensed and recertified in a newly-constructed teaching nursing home facility affiliated with a teaching hospital upon approval by the legislature.

Subd. 5. [REPORT.] The commissioner of the state planning agency, in consultation with the commissioners of health and human services, shall report to the senate health and human services committee and the house health and welfare committee by January 15, 1986 and biennially thereafter regarding:

(1) projections on the number of elderly Minnesota residents including medical assistance recipients;

(2) the number of residents most at risk for nursing home placement;

(3) the needs for long-term care and alternative home and noninstitutional services;

(4) availability of and access to alternative services by geographic region; and

(5) the necessity or desirability of continuing, modifying, or repealing the moratorium in relation to the availability and development of the continuum of long-term care services.

Subd. 6. [PROPERTY-RELATED PAYMENT RATES OF NEW BEDS.] *The property-related payment rates of nursing home or boarding care home beds certified or recertified under subdivision 3 or 4a, shall be adjusted according to Minnesota nursing facility reimbursement laws and rules unless the facility has made a commitment in writing to the commissioner of human services not to seek adjustments to these rates due to property-related expenses incurred as a result of the certification or recertification. Any licensure or certification action authorized under repealed statutes which were approved by the commissioner of health prior to July 1, 1993, shall remain in effect. Any conditions pertaining to property rate reimbursement covered by these repealed statutes prior to July 1, 1993, remain in effect.*

Subd. 7. [SUBMISSION OF COST INFORMATION.] *Before approval of final construction plans for a nursing home or a certified boarding care home construction project, the licensee shall submit to the commissioner of health an itemized statement of the project construction cost estimates.*

If the construction project includes a capital asset addition, replacement, remodeling, or renovation of space such as a hospital, apartment, or shared or common areas, the facility must submit to the commissioner an allocation of capital asset costs, soft costs, and debt information prepared according to Minnesota Rules, part 9549.

Project construction cost estimates must be prepared by a contractor or architect and other licensed participants in the development of the project.

Subd. 8. [FINAL APPROVAL.] *Before conducting the final inspection of the construction project required by Minnesota Rules, part 4660.0100, and issuing final clearances for use, the licensee shall provide to the commissioner of health the total project construction costs of the construction project. If total costs are not available, the most recent cost figures shall be provided. Final cost figures shall be submitted to the commissioner when*

available. The commissioner shall provide a copy of this information to the commissioner of human services.

Sec. 9. Minnesota Statutes 1992, section 144A.073, subdivision 2, is amended to read:

Subd. 2. [REQUEST FOR PROPOSALS.] At the intervals specified in rules, the interagency committee shall publish in the State Register a request for proposals for nursing home projects to be licensed or certified under section 144A.071, subdivision 3 *4a*, clause ~~(j)~~ *(c)*. The notice must describe the information that must accompany a request and state that proposals must be submitted to the interagency committee within 90 days of the date of publication. The notice must include the amount of the legislative appropriation available for the additional costs to the medical assistance program of projects approved under this section. If no money is appropriated for a year, the notice for that year must state that proposals will not be requested because no appropriations were made. To be considered for approval, a proposal must include the following information:

(1) whether the request is for renovation, replacement, upgrading, or conversion;

(2) a description of the problem the project is designed to address;

(3) a description of the proposed project;

(4) an analysis of projected costs, including initial construction and remodeling costs, site preparation costs, financing costs, and estimated operating costs during the first two years after completion of the project;

(5) for proposals involving replacement of all or part of a facility, the proposed location of the replacement facility and an estimate of the cost of addressing the problem through renovation;

(6) for proposals involving renovation, an estimate of the cost of addressing the problem through replacement;

(7) the proposed timetable for commencing construction and completing the project; and

(8) other information required by rule of the commissioner of health.

Sec. 10. Minnesota Statutes 1992, section 144A.073, subdivision 3, is amended to read:

Subd. 3. [REVIEW AND APPROVAL OF PROPOSALS.] Within the limits of money specifically appropriated to the medical assistance program for this purpose, the interagency *long-term care planning* committee ~~for quality assurance~~ may recommend that the commissioner of health grant exceptions to the nursing home licensure or certification moratorium for proposals that satisfy the requirements of this section. The interagency committee shall appoint an advisory review panel composed of representatives of consumers and providers to review proposals and provide comments and recommendations to the committee. The commissioners of human services and health shall provide staff and technical assistance to the committee for the review and analysis of proposals. The interagency committee shall hold a public hearing before submitting recommendations to the commissioner of health on project requests. The committee shall submit recommendations within 150 days of the date of the publication of the notice, based on a comparison and ranking of

proposals using the criteria in subdivision 4. The commissioner of health shall approve or disapprove a project within 30 days after receiving the committee's recommendations. The cost to the medical assistance program of the proposals approved must be within the limits of the appropriations specifically made for this purpose. Approval of a proposal expires 18 months after approval by the commissioner of health unless the facility has commenced construction as defined in section 144A.071, subdivision ~~3~~ *1a*, paragraph ~~(b)~~ *(d)*. The committee's report to the legislature, as required under section 144A.31, must include the projects approved, the criteria used to recommend proposals for approval, and the estimated costs of the projects, including the costs of initial construction and remodeling, and the estimated operating costs during the first two years after the project is completed.

Sec. 11. Minnesota Statutes 1992, section 144A.073, is amended by adding a subdivision to read:

Subd. 3b. [AMENDMENTS TO APPROVED PROJECTS.] *(a) Nursing facilities that have received approval after July 1, 1993, for exceptions to the moratorium on nursing homes through the process described in this section may request amendments to the designs of the projects by writing the commissioner within 18 months of receiving approval. Applicants shall submit supporting materials that demonstrate how the amended projects meet the criteria described in paragraph (b).*

(b) The commissioner shall approve requests for amendments according to the following criteria:

(1) the amended project designs must provide solutions to all of the problems addressed by the original application that are at least as effective as the original solutions;

(2) the amended project designs may not reduce the space in each resident's living area or in the total amount of common space devoted to resident and family uses by more than five percent;

(3) the costs recognized for reimbursement of amended project designs shall be the threshold amount of the original proposal as identified according to section 144A.071, subdivision 2, except under conditions described in clause (4); and

(4) total costs up to ten percent greater than the cost identified in clause (3) may be recognized for reimbursement if the proposer can document that one of the following circumstances is true:

(i) changes are needed due to a natural disaster;

(ii) conditions that affect the safety or durability of the project that could not have reasonably been known prior to approval are discovered;

(iii) state or federal law require changes in project design; or

(iv) documentable circumstances occur that are beyond the control of the owner and require changes in the design.

(c) Approval of a request for an amendment does not alter the expiration of approval of the project according to subdivision 3.

Sec. 12. Minnesota Statutes 1992, section 148C.01, subdivision 3, is amended to read:

Subd. 3. [OTHER TITLES.] For the purposes of sections 148C.01 to 148C.11 and 595.02, subdivision 1, all individuals, *except as provided in section 148C.11,* who practice~~, as their main vocation,~~ chemical dependency counseling as defined in subdivision 2, regardless of their titles, shall be covered by sections 148C.01 to 148C.11. This includes, but is not limited to, individuals who may refer to themselves as "alcoholism counselor," "drug abuse therapist," "chemical dependency recovery counselor," "chemical dependency relapse prevention planner," "addiction therapist," "chemical dependency intervention specialist," "family chemical dependency counselor," "chemical health specialist," "chemical health coordinator," and "substance abuse counselor."

Sec. 13. Minnesota Statutes 1992, section 148C.01, subdivision 6, is amended to read:

Subd. 6. [COMMISSIONER.] "Commissioner" means the commissioner of ~~human services~~ *health*.

Sec. 14. Minnesota Statutes 1992, section 148C.02, is amended to read:

148C.02 [CHEMICAL DEPENDENCY COUNSELING LICENSING ADVISORY COUNCIL.]

Subdivision 1. [MEMBERSHIP*; STAFF.*] *(a)* The chemical dependency *counseling* licensing advisory council consists of 13 members. The ~~governor~~ *commissioner* shall appoint:

(1) *except for those members initially appointed,* seven members who must be licensed chemical 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 chemical dependency training program; and

(4) one member who must be a former consumer of chemical 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.

(b) The provision of staff, administrative services, and office space are as provided in chapter 214.

Subd. 2. [DUTIES.] ~~The council shall study the provision of chemical dependency counseling and advise the commissioner, the profession, and the public.~~ *The commissioner, after consultation with the advisory council, shall:*

(1) develop rules for the licensure of chemical dependency counselors; and

(2) administer or contract for the competency testing, licensing, and ethical review of chemical dependency counselors.

Sec. 15. Minnesota Statutes 1992, section 148C.03, subdivision 1, is amended to read:

Subdivision 1. [GENERAL.] The commissioner shall:

(a) adopt and enforce rules for licensure of chemical dependency counselors and for regulation of professional conduct. The rules must be designed to protect the public;

(b) adopt rules establishing standards and methods of determining whether applicants and licensees are qualified under section 148C.04. The rules must provide for examinations ~~and must~~; establish standards for professional conduct, including adoption of a professional code of ethics; *and provide for sanctions as described in section 148C.09;*

(c) hold examinations at least twice a year to assess applicants' knowledge and skills. The examinations ~~may~~ *must* be written ~~or~~ *and* oral and may be administered by the commissioner or by a nonprofit agency 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 chemical dependency;

(d) issue licenses to individuals qualified under sections 148C.01 to 148C.11;

(e) issue copies of the rules for licensure to all applicants;

(f) establish and implement procedures, including a standard disciplinary process and a code of ethics, to ensure that individuals licensed as chemical dependency counselors will comply with the commissioner's rules;

(g) establish, maintain, and publish annually a register of current licensees;

(h) establish initial and renewal application and examination fees sufficient to cover operating expenses of the commissioner;

(i) educate the public about the existence and content of the rules for chemical dependency counselor licensing to enable consumers to file complaints against licensees who may have violated the rules; and

(j) evaluate the rules in order to refine and improve the methods used to enforce the commissioner's standards.

Sec. 16. Minnesota Statutes 1992, section 148C.03, subdivision 2, is amended to read:

Subd. 2. [CONTINUING EDUCATION COMMITTEE.] The commissioner shall appoint *or contract for* a continuing education committee of five persons, including a chair, which shall advise the commissioner on the administration of continuing education requirements in section 148C.05, subdivision 2.

Sec. 17. Minnesota Statutes 1992, section 148C.03, subdivision 3, is amended to read:

Subd. 3. [RESTRICTIONS ON MEMBERSHIP.] A member or an employee of the ~~department~~ *entity* that carries out the functions under this section may not be an officer, employee, or paid consultant of a trade association in the counseling services industry.

Sec. 18. Minnesota Statutes 1992, section 148C.04, subdivision 2, is amended to read:

Subd. 2. [FEE.] Each applicant shall pay a nonrefundable fee set by the

commissioner. Fees paid to the commissioner shall be deposited in the ~~general~~ *special revenue* fund.

Sec. 19. Minnesota Statutes 1992, section 148C.04, subdivision 3, is amended to read:

Subd. 3. [LICENSING REQUIREMENTS FOR CHEMICAL DEPENDENCY COUNSELOR; EVIDENCE.] (a) To be licensed as a chemical dependency counselor, an applicant must meet the requirements in clauses (1) to (3).

(1) Except as provided in subdivision 4, the applicant must have received an associate degree including 270 clock hours of chemical dependency education and 880 clock hours of chemical dependency practicum.

(2) The applicant must have completed a written ~~and oral~~ case presentation *and oral examination* that demonstrates competence in the 12 core functions.

(3) The applicant must have satisfactorily passed a written examination as established by the commissioner.

(b) To be licensed as a chemical dependency counselor, an applicant must furnish evidence satisfactory to the commissioner that the applicant has met the requirements of paragraph (a).

Sec. 20. Minnesota Statutes 1992, section 148C.04, subdivision 4, is amended to read:

Subd. 4. [ADDITIONAL LICENSING REQUIREMENTS.] Beginning five years after the effective date of ~~sections 148C.01 to 148C.11~~ *the rules authorized in section 148C.03, subdivision 1*, an applicant for licensure must have received a bachelor's degree in a human services area, and must have completed 480 clock hours of chemical dependency education and 880 clock hours of chemical dependency practicum.

Sec. 21. Minnesota Statutes 1992, section 148C.05, subdivision 2, is amended to read:

Subd. 2. [CONTINUING EDUCATION.] At the time of renewal, each licensee shall furnish evidence satisfactory to the commissioner that the licensee has completed ~~annually~~ at least the equivalent of 40 clock hours of continuing professional postdegree education every two years, in programs approved by the commissioner, and that the licensee continues to be qualified to practice under sections 148C.01 to 148C.11.

Sec. 22. Minnesota Statutes 1992, section 148C.06, is amended to read:

148C.06 [~~LICENSE WITHOUT EXAMINATION;~~ TRANSITION PERIOD.]

For two years from ~~July 1, 1993~~ *the effective date of the rules authorized in section 148C.03, subdivision 1*, the commissioner shall issue a license without examination 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 three years or 6,000 hours of supervised chemical dependency counselor experience *as defined by the 12 core functions*, 270 clock hours of chemical dependency training, 300 hours of chemical dependency practicum, and has successfully completed ~~a written and oral test~~ *the requirements in section 148C.04, subdivision 3, paragraph (a), clauses (2) and (3)*;

(c) has five years or 10,000 hours of chemical dependency counselor experience as defined by the 12 core functions, 270 clock hours of chemical dependency training, and has successfully completed ~~a written or oral test~~ *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.; or

(d) has seven years or 14,000 hours of supervised chemical dependency counselor experience as defined by the 12 core functions and 270 clock hours of chemical dependency training with 60 hours of this training occurring within the past five years.

~~After July 1, 1995,~~ *Beginning two years after the effective date of the rules authorized in section 148C.03, subdivision 1,* no person may be licensed without ~~passing the examination~~ *meeting the requirements in section 148C.04, subdivision 3, paragraph (a), clauses (2) and (3).*

Sec. 23. Minnesota Statutes 1992, section 148C.11, subdivision 3, is amended to read:

Subd. 3. [FEDERALLY RECOGNIZED TRIBES AND PRIVATE NON-PROFIT AGENCIES WITH A MINORITY FOCUS.] (a) The licensing of chemical dependency counselors who are employed by federally recognized tribes shall be voluntary.

(b) The commissioner shall develop special licensing criteria for issuance of a license to chemical dependency counselors who: (1) are members of ethnic minority groups; and (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. 24. Minnesota Statutes 1992, section 148C.11, is amended by adding a subdivision to read:

Subd. 5. [CITY, COUNTY, AND STATE AGENCY CHEMICAL DEPENDENCY COUNSELORS.] *The licensing of city, county, and state agency chemical dependency counselors shall be voluntary. City, county, and state agencies employing chemical dependency counselors shall not be required to employ licensed chemical dependency counselors, nor shall they require their chemical dependency counselors to be licensed.*

Sec. 25. Minnesota Statutes 1992, section 149.04, is amended to read:

149.04 [RENEWAL OF LICENSE.]

Any license may be renewed from time to time and shall be in force after such renewal for a period specified by the state commissioner of health upon

the payment of a renewal fee in an amount prescribed by the commissioner pursuant to section 144.122.

All fees received under this chapter shall be paid by the state commissioner of health to the credit of the ~~general~~ *state government special revenue* fund in the state treasury. The salaries of the necessary employees of the commissioner, the per diem of the inspectors and examiners, their expenses, and all incidental expenses of the commissioner in carrying out the provisions of this chapter shall be paid from the appropriations made to the state commissioner of health, but no expense or claim shall be incurred or paid in excess of the amount received from the fees herein provided.

Sec. 26. Minnesota Statutes 1992, section 157.045, is amended to read:

157.045 [INCREASE IN FEES.]

For licenses issued for 1989 and succeeding years, the commissioner of health shall increase license fees for facilities licensed under this chapter and chapter 327 to a level sufficient to recover all expenses related to the licensing, inspection, and enforcement activities prescribed in those chapters. In calculating the fee increase, the commissioner shall include the salaries and expenses of 5.5 new positions required to meet the inspection frequency prescribed in section 157.04. Fees collected must be deposited in the *state government* special revenue ~~account~~ *fund*.

Sec. 27. Minnesota Statutes 1992, section 214.04, subdivision 1, is amended to read:

Subdivision 1. [SERVICES PROVIDED.] The commissioner of administration with respect to the board of electricity, the commissioner of education with respect to the board of teaching, the commissioner of public safety with respect to the board of private detective and protective agent services, and the board of peace officer standards and training, and the commissioner of revenue with respect to the board of assessors, shall provide suitable offices and other space, joint conference and hearing facilities, examination rooms, and the following administrative support services: purchasing service, accounting service, advisory personnel services, consulting services relating to evaluation procedures and techniques, data processing, duplicating, mailing services, automated printing of license renewals, and such other similar services of a housekeeping nature as are generally available to other agencies of state government. Investigative services shall be provided the boards by employees of the office of attorney general. The commissioner of health with respect to the health-related licensing boards ~~and~~ *shall provide mailing and office supply services and may provide other facilities and services listed in this subdivision at a central location upon request of the health-related licensing boards*. The ~~chair of the department~~ *commissioner* of commerce with respect to the remaining non-health-related licensing boards shall provide the above facilities and services at a central location for the ~~health-related and~~ remaining non-health-related licensing boards. The legal and investigative services for the boards shall be provided by employees of the attorney general assigned to the departments servicing the boards. Notwithstanding the foregoing, the attorney general shall not be precluded by this section from assigning other attorneys to service a board if necessary in order to insure competent and consistent legal representation. Persons providing legal and investigative services shall to the extent practicable provide the services on a regular basis to the same board or boards.

Sec. 28. Minnesota Statutes 1992, section 214.06, subdivision 1, is amended to read:

Subdivision 1. [FEE ADJUSTMENT.] Notwithstanding any law to the contrary, the commissioner of health as authorized by section 214.13, all health-related licensing boards and all non-health-related licensing boards shall by rule, with the approval of the commissioner of finance, adjust any fee which the commissioner of health or the board is empowered to assess a sufficient amount so that the total fees collected by each board will as closely as possible equal anticipated expenditures during the fiscal biennium, as provided in section 16A.128. For members of an occupation registered after July 1, 1984, by the commissioner of health under the provisions of section 214.13, the fee established must include an amount necessary to recover, over a five-year period, the commissioner's direct expenditures for adoption of the rules providing for registration of members of the occupation. All fees received shall be deposited in the state treasury. Fees received by *the commissioner of health or* health-related licensing boards must be credited to *the health occupations licensing account in* the *state government* special revenue fund.

Sec. 29. Minnesota Statutes 1992, section 214.06, is amended by adding a subdivision to read:

Subd. 3. [HEALTH-RELATED LICENSING BOARDS.] *Notwithstanding section 14.22, subdivision 1, clause (3), a public hearing is not required to be held when the health-related licensing boards need to raise fees to cover anticipated expenditures in a biennium. The notice of intention to adopt the rules, as required under section 14.22, must state that no hearing will be held.*

Sec. 30. Minnesota Statutes 1992, section 326.44, is amended to read:

326.44 [FEES PAID TO ~~GENERAL~~ *STATE GOVERNMENT SPECIAL REVENUE* FUND.]

All fees received under sections 326.37 to 326.45 shall be deposited by the state commissioner of health to the credit of the ~~general~~ *state government special revenue* fund in the state treasury. The salaries of the necessary employees of the commissioner and the per diem of the inspectors and examiners hereinbefore provided, their expenses and all incidental expenses of the commissioner in carrying out the provisions of sections 326.37 to 326.45, shall be paid, from the appropriations made to the state commissioner of health, but no expense or claim shall be incurred or paid in excess of the amount received from the fees herein provided.

Sec. 31. Minnesota Statutes 1992, section 326.75, subdivision 4, is amended to read:

Subd. 4. [DEPOSIT OF FEES.] Fees collected under this section shall be deposited in the ~~general~~ *state government special revenue* fund.

Sec. 32. [NURSE PRACTITIONER PROMOTION TEAMS.]

The commissioner of health, through the office of rural health, shall establish nurse practitioner promotion teams, consisting of one nurse practitioner and one physician who are practicing jointly. The promotion teams shall travel to rural communities and provide physicians, medical clinic administrators, and other interested parties with information on: the benefits

of joint practices between nurse practitioners and physicians and methods of establishing and maintaining joint practices. The office of rural health shall contract with promotion teams to visit up to 20 rural communities during the biennium ending June 30, 1995. The office of rural health shall provide members of promotion teams with stipends for their time and travel expenses not to exceed the amount specified in Minnesota Statutes, section 15.059, subdivision 3.

Sec. 33. [STUDY OF NURSING HOME BED DISTRIBUTION.]

The interagency long-term care planning committee must submit to the legislature by February 1, 1994, recommendations for facilitating the redistribution of existing nursing home beds and certified boarding care home beds to meet demographic need, including recommendations on the concepts of bed layaway and bed transfer. The committee shall convene a task force of providers, consumers, and state officials to provide the recommendations.

Sec. 34. [REPEALER.]

Minnesota Statutes 1992, section 148B.72, is repealed effective June 30, 1993.

ARTICLE 3

DEPARTMENT OF HUMAN SERVICES FINANCE AND ADMINISTRATION

Section 1. Minnesota Statutes 1992, section 256.025, subdivision 3, is amended to read:

Subd. 3. [PAYMENT METHODS.] (a) Beginning July 1, 1991, the state will reimburse counties for the county share of county agency expenditures for benefits and services distributed under subdivision 2 ~~and funded by the human services account established under section 273.1392~~.

(b) Payments under subdivision 4 are only for client benefits and services distributed under subdivision 2 and do not include reimbursement for county administrative expenses.

(c) The state and the county agencies shall pay for assistance programs as follows:

(1) Where the state issues payments for the programs, the county shall monthly advance to the state, as required by the department of human services, the portion of program costs not met by federal and state funds. The advance shall be an estimate that is based on actual expenditures from the prior period and that is sufficient to compensate for the county share of disbursements as well as state and federal shares of recoveries;

(2) Where the county agencies issue payments for the programs, the state shall monthly advance to counties all federal funds available for those programs together with an amount of state funds equal to the state share of expenditures; and

(3) Payments made under this paragraph are subject to section 256.017. Adjustment of any overestimate or underestimate in advances shall be made by the state agency in any succeeding month.

Sec. 2. Minnesota Statutes 1992, section 256.025, subdivision 4, is amended to read:

Subd. 4. [PAYMENT SCHEDULE.] Except as provided for in subdivision 3, beginning July 1, 1991, the state will reimburse counties, according to the following payment schedule, for the county share of county agency expenditures for the programs specified in subdivision 2.

(a) Beginning July 1, 1991, the state will reimburse or pay the county share of county agency expenditures according to the reporting cycle as established by the commissioner, for the programs identified in subdivision 2. Payments for the period of January 1 through July 31, for calendar years 1991, 1992, ~~and~~ 1993, *1994, and 1995* shall be made on or before July 10 in each of those years. Payments for the period August through December for calendar years 1991, 1992, ~~and~~ 1993, *1994, and 1995* shall be made on or before the third of each month thereafter through December 31 in each of those years.

(b) Payment for 1/24 of the base amount and the January ~~1994~~ *1996* county share of county agency expenditures growth amount for the programs identified in subdivision 2 shall be made on or before January 3, ~~1994~~ *1996*. For the period of February 1, ~~1994~~ *1996*, through July 31, ~~1994~~ *1996*, payment of the base amount shall be made on or before July 10, ~~1994~~ *1996*, and payment of the growth amount over the base amount shall be made on or before July 10, ~~1994~~ *1996*. Payments for the period August ~~1994~~ *1996* through December ~~1994~~ *1996* shall be made on or before the third of each month thereafter through December 31, ~~1994~~ *1996*.

(c) Payment for the county share of county agency expenditures during January ~~1995~~ *1997* shall be made on or before January 3, ~~1995~~ *1997*. Payment for 1/24 of the base amount and the February ~~1995~~ *1997* county share of county agency expenditures growth amount for the programs identified in subdivision 2 shall be made on or before February 3, ~~1995~~ *1997*. For the period of March 1, ~~1995~~ *1997*, through July 31, ~~1995~~ *1997*, payment of the base amount shall be made on or before July 10, ~~1995~~ *1997*, and payment of the growth amount over the base amount shall be made on or before July 10, ~~1995~~ *1997*. Payments for the period August ~~1995~~ *1997* through December ~~1995~~ *1997* shall be made on or before the third of each month thereafter through December 31, ~~1995~~ *1997*.

(d) Monthly payments for the county share of county agency expenditures from January ~~1996~~ *1998* through February ~~1996~~ *1998* shall be made on or before the third of each month through February ~~1996~~ *1998*. Payment for 1/24 of the base amount and the March ~~1996~~ *1998* county share of county agency expenditures growth amount for the programs identified in subdivision 2 shall be made on or before March ~~1996~~ *1998*. For the period of April 1, ~~1996~~ *1998*, through July 31, ~~1996~~ *1998*, payment of the base amount shall be made on or before July 10, ~~1996~~ *1998*, and payment of the growth amount over the base amount shall be made on or before July 10, ~~1996~~ *1998*. Payments for the period August ~~1996~~ *1998* through December ~~1996~~ *1998* shall be made on or before the third of each month thereafter through December 31, ~~1996~~ *1998*.

(e) Monthly payments for the county share of county agency expenditures from January ~~1997~~ *1999* through March ~~1997~~ *1999* shall be made on or before the third of each month through March ~~1997~~ *1999*. Payment for 1/24 of the base amount and the April ~~1997~~ *1999* county share of county agency expenditures growth amount for the programs identified in subdivision 2 shall be made on or before April 3, ~~1997~~ *1999*. For the period of May 1, ~~1997~~ *1999*,

through July 31, ~~1997~~ *1999*, payment of the base amount shall be made on or before July 10, ~~1997~~ *1999*, and payment of the growth amount over the base amount shall be made on or before July 10, ~~1997~~ *1999*. Payments for the period August ~~1997~~ *1999* through December ~~1997~~ *1999* shall be made on or before the third of each month thereafter through December 31, ~~1997~~ *1999*.

(f) Monthly payments for the county share of county agency expenditures from January ~~1998~~ *2000* through April ~~1998~~ *2000* shall be made on or before the third of each month through April ~~1998~~ *2000*. Payment for 1/24 of the base amount and the May ~~1998~~ *2000* county share of county agency expenditures growth amount for the programs identified in subdivision 2 shall be made on or before May 3, ~~1998~~ *2000*. For the period of June 1, ~~1998~~ *2000*, through July 31, ~~1998~~ *2000*, payment of the base amount shall be made on or before July 10, ~~1998~~ *2000*, and payment of the growth amount over the base amount shall be made on or before July 10, ~~1998~~ *2000*. Payments for the period August ~~1998~~ *2000* through December ~~1998~~ *2000* shall be made on or before the third of each month thereafter through December 31, ~~1998~~ *2000*.

(g) Monthly payments for the county share of county agency expenditures from January ~~1999~~ *2001* through May ~~1999~~ *2001* shall be made on or before the third of each month through May ~~1999~~ *2001*. Payment for 1/24 of the base amount and the June ~~1999~~ *2001* county share of county agency expenditures growth amount for the programs identified in subdivision 2 shall be made on or before June 3, ~~1999~~ *2001*. Payments for the period July ~~1999~~ *2001* through December ~~1999~~ *2001* shall be made on or before the third of each month thereafter through December 31, ~~1999~~ *2001*.

(h) Effective January 1, ~~2000~~ *2002*, monthly payments for the county share of county agency expenditures shall be made subsequent to the first of each month.

Payments under this subdivision are subject to the provisions of section 256.017.

Sec. 3. [256.026] [ANNUAL APPROPRIATION.]

(a) There shall be appropriated from the general fund to the commissioner of human services in fiscal year 1994 and each fiscal year thereafter the amount of $142,339,359, which is the sum of the amount of human services aid determined for all counties in Minnesota for calendar year 1992 under Minnesota Statutes 1992, section 273.1398, subdivision 5a, before any adjustments for calendar year 1991.

(b) In addition to the amount in paragraph (a), there shall also be annually appropriated to the commissioner of human services in fiscal years 1996, 1997, 1998, 1999, 2000, and 2001 the amount of $5,930,807.

(c) The amounts appropriated under paragraphs (a) and (b) shall be used with other appropriations to make payments required under section 256.025 for fiscal year 1994 and thereafter.

Sec. 4. Minnesota Statutes 1992, section 273.1392, is amended to read:

273.1392 [PAYMENT; SCHOOL DISTRICTS; ~~COUNTIES~~.]

~~(1)~~ [~~AIDS TO SCHOOL DISTRICTS.~~] The amounts of conservation tax credits under section 273.119; disaster or emergency reimbursement under section 273.123; attached machinery aid under section 273.138; homestead credit under section 273.13; aids and credits under section 273.1398;

enterprise zone property credit payments under section 469.171; and metropolitan agricultural preserve reduction under section 473H.10, shall be certified to the department of education by the department of revenue. The amounts so certified shall be paid according to section 124.195, subdivisions 6 and 10.

~~(2) [AIDS TO COUNTIES.] The amounts of human services aid increase determined under section 273.1398, subdivision 5b, shall be deposited in a human services aid account hereby created as an account within the state's general fund. The amount within the account shall annually be transferred to the department of human services by the department of revenue. The amounts so transferred shall be paid according to section 256.025.~~

Sec. 5. Minnesota Statutes 1992, section 273.1398, subdivision 5b, is amended to read:

Subd. 5b. [STATE AID FOR COUNTY HUMAN SERVICES COSTS.] (a) Human services aid increase for each county equals an amount representing the county's costs for human services programs cited in subdivision 1, paragraph (i). The amount of the aid increase is calculated as provided in this section. ~~The aid increase shall be deposited in the human services account created pursuant to section 273.1392.~~

(b) On July 15, 1990, each county shall certify to the department of revenue the estimated difference between the county's base amount costs as defined in section 256.025 for human services programs cited in subdivision 1, paragraph (i), for calendar year 1990 and human services program revenues from all nonproperty tax sources excluding revenue from state and federal payments for the programs listed in subdivision 1, paragraph (i), and revenue from incentive programs pursuant to sections 256.019, 256.98, subdivision 7, 256D.06, subdivision 5, 256D.15, and 256D.54, subdivision 3, used at the time the levy was certified in 1989. At that time each county may revise its estimate for taxes payable in 1990 for purposes of this subdivision. The human services program estimates provided pursuant to this clause shall only include those costs and related revenues up to the extent the county provides benefits within statutory mandated standards. This amount shall be the county's human services aid amount under this section.

(c) On July 15, 1991, each county shall certify to the department of revenue the actual difference between the county's human services program costs and nonproperty tax revenues as provided in paragraph (b) for calendar year 1990. If the actual difference is larger than the estimated difference as calculated in paragraph (b), the aid amount for the county shall be increased by that amount. If the actual difference is smaller than the estimated difference as calculated in paragraph (b), the aid amount to the county shall be reduced by that amount.

~~(d) On January 1, 1991, the department of finance shall certify to the department of revenue the estimated amount of county receipts deducted from county human services expenditures pursuant to Minnesota Statutes 1988, section 287.12, in calendar year 1990. This amount shall be added to the human services aid increase amount under this section.~~

Sec. 6. Minnesota Statutes 1992, section 275.07, subdivision 3, is amended to read:

Subd. 3. The county auditor shall adjust each local government's levy certified under subdivision 1, except for the equalization levies defined in section 273.1398, subdivision 2a, paragraph (a), by the amount of homestead and agricultural credit aid certified by section 273.1398, subdivision 2, ~~reduced by the amount under section 273.1398, subdivision 5a~~; fiscal disparity homestead and agricultural credit aid under section 273.1398, subdivision 2b; and equalization aid certified by section 477A.013, subdivision 5.

Sec. 7. [REPEALER.]

Minnesota Statutes 1992, section 273.1398, subdivisions 5a and 5c, are repealed.

ARTICLE 4

SOCIAL SERVICES

Section 1. Minnesota Statutes 1992, section 254A.17, subdivision 3, is amended to read:

Subd. 3. [STATEWIDE DETOXIFICATION TRANSPORTATION PROGRAM.] The commissioner shall provide grants to counties, Indian reservations, other nonprofit agencies, or local detoxification programs for provision of transportation of intoxicated individuals to detoxification programs *to open shelters, and to secure shelters as defined in section 254A.085 and to shelters serving intoxicated persons*. ~~Funds shall be allocated among counties annually in proportion to each county's average number of detoxification admissions for the prior two years~~ *In state fiscal years 1994 and 1995, funds shall be allocated to counties in proportion to each county's allocation in fiscal year 1993*, except that no county shall receive less than $400. Unless a county has approved a grant of funds under this section, the commissioner shall make quarterly payments of detoxification funds to a county only after receiving an invoice describing the number of persons transported and the cost of transportation services for the previous quarter.

Sec. 2. [AUTHORIZATION FOR DEMONSTRATION PROJECT.]

The commissioner of human services shall allow Pine county to send a letter of intent in lieu of completing a grant application to apply for categorical social service funding as part of a four-year intergovernmental agreement demonstration project. The demonstration project is an alternative method of obtaining social service funding which is part of a larger project to simplify and consolidate social services planning and reporting in Pine county. The demonstration project is an effort to streamline planning and remove administrative burdens on smaller counties.

Sec. 3. [SOCIAL SERVICE PLAN.]

Pine county must amend its social service plan within 12 months of receiving funding to incorporate the requirements of the grant application process into the social service plan.

Sec. 4. [COMPLIANCE AND MONITORING.]

The commissioner may terminate the demonstration project if Pine county is not using the categorical funding for the intended purpose. The commis-

sioner shall send Pine county a 60-day notice and provide an opportunity for Pine county to appeal before terminating the project.

Sec. 5. [REPORT.]

The commissioner shall report to the legislature annually beginning January 1, 1995. The report shall evaluate Pine county's intergovernmental agreements project and also the advantages of the alternative funding process for counties with a population under 30,000.

ARTICLE 5

DEVELOPMENTAL DISABILITIES

Section 1. Minnesota Statutes 1992, section 252.275, subdivision 8, is amended to read:

Subd. 8. [USE OF FEDERAL FUNDS *AND TRANSFER OF FUNDS TO MEDICAL ASSISTANCE.*] *(a)* The commissioner shall make every reasonable effort to maximize the use of federal funds for semi-independent living services.

(b) The commissioner shall reduce the payments to be made under this section to each county from January 1, 1994, to June 30, 1996, by the amount of the state share of medical assistance reimbursement for services other than residential services provided under the home- and community-based waiver program under section 256B.092 from January 1, 1994, to June 30, 1996, for clients for whom the county is financially responsible and who have been transferred by the county from the semi-independent living services program to the home- and community-based waiver program. Unless otherwise specified, all reduced amounts shall be transferred to the medical assistance state account.

(c) For fiscal year 1997, the base appropriation available under this section shall be reduced by the amount of the state share of medical assistance reimbursement for services other than residential services provided under the home- and community-based waiver program authorized in section 256B.092 from January 1, 1995, to December 31, 1995, for persons who have been transferred from the semi-independent living services program to the home- and community-based waiver program. The base appropriation for the medical assistance state account shall be increased by the same amount.

(d) For purposes of calculating the guaranteed floor under subdivision 4b and to establish the calendar year 1996 allocations, each county's original allocation for calendar year 1995 shall be reduced by the amount transferred to the state medical assistance account under paragraph (b) during the six months ending on June 30, 1995. For purposes of calculating the guaranteed floor under subdivision 4b and to establish the calendar year 1997 allocations, each county's original allocation for calendar year 1996 shall be reduced by the amount transferred to the state medical assistance account under paragraph (b) during the six months ending on June 30, 1996.

Sec. 2. [252B.151] [EXPANSION OF HOME- AND COMMUNITY-BASED SERVICES.]

(a) The commissioner shall expand availability of home- and community-based services for persons with mental retardation and related conditions to the extent allowed by federal law and regulation and shall assist counties in

transferring persons from semi-independent living services to home- and community-based services. The commissioner may transfer funds from the state semi-independent living services account available under section 252.275, subdivision 8, and state community social services aids available under section 256E.20 to the medical assistance account to pay for the nonfederal share of home- and community-based services authorized under section 256B.092 for persons transferring from semi-independent living services.

(b) Upon federal approval, county boards are not responsible for funding semi-independent living services as a social service for those persons who have transferred to the home- and community-based waiver program as a result of the expansion under this subdivision. The county responsibility for those persons transferred shall be assumed under section 256B.092. Notwithstanding the provisions of section 252.275, the commissioner shall continue to allocate funds under that section for semi-independent living services and county boards shall continue to fund services under sections 256E.06 and 256E.14 for those persons who cannot access home- and community-based services under section 256B.092.

(c) Eighty percent of the state funds made available to the commissioner under section 252.275 as a result of persons transferring from the semi-independent living services program to the home- and community-based services program shall be used to fund additional persons in the semi-independent living services program.

Sec. 3. [256E.20] [TRANSFER OF FUNDS TO MEDICAL ASSISTANCE.]

(a) The commissioner shall reduce the payment to be made under sections 256E.06 and 256E.14 to each county on July 1, 1994, by the amount of the state share of medical assistance reimbursement for residential services provided under the home- and community-based waiver program authorized in section 256B.092 from January 1, 1994, to March 31, 1994, for clients for whom the county is financially responsible and have transferred from the semi-independent living services program to the home- and community-based waiver program. For the purposes of this section, residential services include supervised living, in-home support, and respite care services. The commissioner shall similarly reduce the payments to be made between October 1, 1994, and December 31, 1996, for the quarters between April 1, 1994, and June 30, 1996. All reduced amounts shall be transferred to the medical assistance state account.

(b) Beginning fiscal year 1997, the appropriation under sections 256E.06 and 256E.14 shall be reduced by the amount of the state share of medical assistance reimbursement for residential services provided under the home- and community-based waiver program under section 256B.092 from January 1, 1995, to December 31, 1995, for persons who have transferred from the semi-independent living services program to the home- and community-based waiver program. The base appropriation for the medical assistance state account shall be increased by the same amount.

(c) Eighty percent of community social service funds made available to county boards as a result of persons transferring from the semi-independent living services program to the home- and community-based services shall be used to fund additional services to persons with mental retardation or related conditions.

Sec. 4. [EXEMPTION FROM RULES GOVERNING DAY TRAINING AND HABILITATION SERVICES FOR PERSONS WITH MENTAL RETARDATION OR RELATED CONDITIONS.]

Until the commissioner of human services adopts consolidated licensing rules, providers of day training and habilitation services are exempt from the following Minnesota Rules:

(1) part 9525.1540;

(2) part 9525.1550, subparts 2, items C and D; 3; 4, items B to E; 5; 9 to 11; and 13;

(3) part 9525.1590, subpart 2, item C;

(4) part 9525.1600, subpart 9;

(5) part 9525.1610, subpart 2;

(6) part 9525.1640, subparts 1, items A and F; and 2;

(7) part 9525.1650, subpart 1;

(8) part 9525.1660, subparts 8 and 12; and

(9) part 9525.1670, subparts 1 to 3 and 5.

Sec. 5. [AUTHORITY TO SEEK FEDERAL WAIVER.]

Subdivision 1. [AUTHORITY.] *The commissioner of human services may seek federal waivers necessary to implement an integrated management and planning system for persons with mental retardation or related conditions that would enable the commissioner to achieve the goals outlined in subdivisions 2 to 4.*

Subd. 2. [COMPREHENSIVE REFORM.] *The system shall include new methods of administering services for persons with mental retardation or related conditions that support the needs of the persons and their families in the community to the maximum extent possible by.*

Subd. 3. [SERVICE ACCESS AND COORDINATION.] *The system must include procedural requirements for accessing services that are simple and easily understood by the person or their legal representative if any. Where duplicative, the requirements shall be unified or streamlined, as appropriate. Service coordination activities shall be flexible to allow the person's needs and preferences to be met.*

Subd. 4. [REGULATORY STANDARDS AND QUALITY ASSURANCE.] *Regulatory standards requiring unnecessary paperwork, determined to be duplicative, or which are ineffective in establishing accountability in service delivery shall be eliminated. Quality assurance methods shall continue to include safeguards to ensure the health and welfare of persons receiving services.*

Subd. 5. [REPORT.] *The commissioner shall report to the legislature by January 1, 1994, on the results of the waiver request. If the waiver is approved, the report must include recommendations to implement the waiver, including budget recommendations, proposed strategies, and implementation timelines.*

Sec. 6. [DELAYED RULE IMPLEMENTATION.]

The commissioner shall promulgate rules to implement Minnesota Statutes, sections 252.40 to 252.47, effective July 1, 1994.

Sec. 7. [DOWNSIZING.]

The commissioner of human services may authorize a pilot project creating community-based short-term alternative services in Olmsted county for persons with overriding health care needs by reconfiguring the capacity of a 43-bed intermediate care facility for persons with mental retardation or related conditions. The commissioner may:

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

(2) adjust the program operating cost rate of the facility under Minnesota Rules, part 9553.0050, subpart 3, as necessary to implement the project.

For the purpose of this pilot project, the average medical assistance rate for the home- and community-based services shall not exceed the rate made available, under Laws 1992, chapter 513, article 5, section 2, to residents of intermediate care facilities for persons with mental retardation or related conditions who are relocated to alternative home- and community-based services. This pilot project shall primarily serve persons who are the responsibility of Olmsted county and other counties in economic development region 10. This project must be approved by the commissioner under Minnesota Statutes, section 252.28, and must include criteria for determining how individuals are selected for alternative services and the use of a request for proposal process. The commissioner shall report to the legislature on the cost-effectiveness of the pilot project, by January 1, 1995.

Sec. 8. [DOWNSIZING PILOT PROJECT.]

The commissioner of human services shall establish a pilot project in Wabasha county to downsize two existing eight-bed intermediate care facilities for persons with mental retardation or related conditions in Lake City and Wabasha to six beds in each facility. 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 vendors for alternative services. The project must include:

(1) development and provision of alternative services, including approval of four additional waiver slots for adult foster care, for the residents being relocated; and

(2) adjustment of each facility's program operating cost rate, determined under Minnesota Rules, part 9553.0050, subpart 3, as necessary to implement the project.

After downsizing, each facility's total allowable operating costs must not exceed the total allowable operating costs before downsizing. Property-related costs and special operating costs may be redistributed but must be based on the actual costs reflected in existing rates. 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 1992, chapter 513, article 5.

Sec. 9. [DOWNSIZING PILOT PROJECT.]

The commissioner of human services shall establish a pilot project in Cottonwood county to downsize to 21 beds an existing 45-bed intermediate care facility for persons with mental retardation or related conditions. 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 program operating cost rate under Minnesota Rules, part 9553.0050, subpart 3, as necessary to implement the project.

After downsizing, the facility's total allowable operating costs must not exceed the total allowable operating costs before downsizing. Property-related costs and special operating costs may be redistributed but must be distributed at the current per bed limitation applied to facilities put into service in 1993. 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 1992, chapter 513, article 5.

Sec. 10. [DOWNSIZING PILOT PROJECT.]

The commissioner of human services shall establish a pilot project in Polk county to downsize an existing ten-bed intermediate care facility for persons with mental retardation or related conditions in East Grand Forks to six beds. 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) development and provision of alternative services, for the residents being relocated; and

(2) adjustment of the facility's program operating cost payment rate, determined under Minnesota Rules, part 9553.0050, subpart 3, as necessary to implement the 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 1992, chapter 513, article 5.

ARTICLE 6

HEALTH CARE ADMINISTRATION

Section 1. Minnesota Statutes 1992, section 62A.045, is amended to read:

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

No policy of accident and sickness insurance regulated under this chapter; vendor of risk management services regulated under section 60A.23; non-profit health service plan corporation regulated under chapter 62C; health maintenance organization regulated under chapter 62D; or self-insured plan regulated under chapter 62E shall contain any provision denying or reducing benefits because services are rendered to a person who is eligible for or receiving medical benefits pursuant to chapter 256; 256B; or 256D or services pursuant to section 252.27; 256.9351 to 256.9361; 260.251, subdivision 1a; or 393.07, subdivision 1 or 2. *No insurer providing benefits under policies*

covered by this section shall use eligibility for medical programs named in this section as an underwriting guideline or reason for nonacceptance of the risk.

Notwithstanding any law to the contrary, when a person covered under a policy of accident and sickness insurance, risk management plan, nonprofit health service plan, health maintenance organization, or self-insured plan receives medical benefits according to any statute listed in this section, payment for covered services or notice of denial for services billed by the provider must be issued directly to the provider. If a person was receiving medical benefits through the department of human services at the time a service was provided, the provider must indicate this benefit coverage on any claim forms submitted by the provider to the insurer for those services. If the commissioner of human services notifies the insurer that the commissioner has made payments to the provider, payment for benefits or notices of denials issued by the insurer must be issued directly to the commissioner. Submission by the department to the insurer of the claim on a department of human services claim form is proper notice and shall be considered proof of payment of the claim to the provider and supersedes any contract requirements of the insurer relating to the form of submission. Liability to the insured for coverage is satisfied to the extent that payments for those benefits are made by the insurer to the provider or the commissioner.

Sec. 2. Minnesota Statutes 1992, section 147.01, subdivision 6, is amended to read:

Subd. 6. [LICENSE SURCHARGE.] In addition to any fee established under section 214.06, the board shall assess an annual license surcharge of $400 against each physician licensed under this chapter *on or after April 1, 1992,* as follows:

(1) a physician whose license is issued or renewed between April 1 and September 30 shall be billed on or before November 15, and the physician must pay the surcharge by December 15; and

(2) a physician whose license is issued or renewed between October 1 and March 31 shall be billed on or before May 15, and the physician must pay the surcharge by June 15.

The board shall provide that the surcharge payment must be remitted to the commissioner of human services to be deposited in the general fund under section 256.9656. The board shall not renew the license of a physician who has not paid the surcharge required under this section. The board shall promptly provide to the commissioner of human services upon request information available to the board and specifically required by the commissioner to operate the provider surcharge program. The board shall limit the surcharge to physicians residing in Minnesota and the states contiguous to Minnesota upon notification from the commissioner of human services that the federal government has approved a waiver to allow the surcharge to be applied in that manner.

Sec. 3. Minnesota Statutes 1992, section 147.02, subdivision 1, is amended to read:

Subdivision 1. [UNITED STATES OR CANADIAN MEDICAL SCHOOL GRADUATES.] The board shall, with the consent of six of its members, issue a license to practice medicine to a person who meets the following requirements:

(a) An applicant for a license shall file a written application on forms provided by the board, showing to the board's satisfaction that the applicant is of good moral character and satisfies the requirements of this section.

(b) The applicant shall present evidence satisfactory to the board of being a graduate of a medical or osteopathic school located in the United States, its territories or Canada, and approved by the board based upon its faculty, curriculum, facilities, accreditation by a recognized national accrediting organization approved by the board, and other relevant data, or is currently enrolled in the final year of study at the school.

(c) The applicant must have passed a comprehensive examination for initial licensure prepared and graded by the national board of medical examiners or the federation of state medical boards. The board shall by rule determine what constitutes a passing score in the examination.

(d) The applicant shall present evidence satisfactory to the board of the completion of one year of graduate, clinical medical training in a program accredited by a national accrediting organization approved by the board or other graduate training approved in advance by the board as meeting standards similar to those of a national accrediting organization.

(e) The applicant shall make arrangements with the executive director to appear in person before the board or its designated representative to show that the applicant satisfies the requirements of this section. The board may establish as internal operating procedures the procedures or requirements for the applicant's personal presentation.

(f) The applicant shall pay a fee established by the board by rule. The fee may not be refunded. *Upon application or notice of license renewal, the board must provide notice to the applicant and to a person whose license is scheduled to be issued or renewed of any additional fees, surcharges, or other costs which the person is obligated to pay as a condition of licensure. The notice must:*

(1) state the dollar amount of the additional costs;

(2) clearly identify to the applicant the payment schedule of additional costs; and

(3) advise the applicant of the right to apply to be excused from the surcharge if a waiver is granted under section 256.9657, subdivision 1b, or relinquish the license to practice medicine in lieu of future payment if applicable.

(g) The applicant must not have engaged in conduct warranting disciplinary action against a licensee. If the applicant does not satisfy the requirements of this paragraph, the board may refuse to issue a license unless it determines that the public will be protected through issuance of a license with conditions and limitations the board considers appropriate.

Sec. 4. Minnesota Statutes 1992, section 246.18, subdivision 4, is amended to read:

Subd. 4. [COLLECTIONS DEPOSITED IN ~~MEDICAL ASSISTANCE ACCOUNT~~ *THE GENERAL FUND.*] Except as provided in subdivisions 2 and 5, all receipts from collection efforts for the regional treatment centers, state nursing homes, and other state facilities as defined in section 246.50, subdivision 3, must be deposited in the ~~medical assistance account and~~ are

~~appropriated for that purpose~~ *general fund.* The commissioner shall ensure that the departmental financial reporting systems and internal accounting procedures comply with federal standards for reimbursement for program and administrative expenditures and fulfill the purpose of this paragraph.

Sec. 5. Minnesota Statutes 1992, section 256.015, subdivision 4, is amended to read:

Subd. 4. [NOTICE.] The state agency must be given notice of monetary claims against a person, firm, or corporation that may be liable in damages to the injured person when the state agency has paid for or become liable for the cost of medical care or payments related to the injury. Notice must be given as follows:

(a) Applicants for public assistance shall notify the state or county agency of any possible claims they may have against a person, firm, or corporation when they submit the application for assistance. Recipients of public assistance shall notify the state or county agency of any possible claims when those claims arise.

(b) A person providing medical care services to a recipient of public assistance shall notify the state agency when the person has reason to believe that a third party may be liable for payment of the cost of medical care.

(c) A person who is a party to a claim upon which the state agency may be entitled to a lien under this section shall notify the state agency of its potential lien claim before filing a claim, commencing an action, or negotiating a settlement. *A person who is a party to a claim includes the plaintiff, the defendants, and any other named party to the cause of action.*

Notice given to the county agency is not sufficient to meet the requirements of paragraphs (b) and (c).

Sec. 6. Minnesota Statutes 1992, section 256.9657, subdivision 1, is amended to read:

Subdivision 1. [NURSING HOME LICENSE SURCHARGE.] Effective ~~October 1, 1992~~ *July 1, 1993*, each non-state-operated nursing home licensed under chapter 144A shall pay to the commissioner an annual surcharge according to the schedule in subdivision 4. The surcharge shall be calculated as ~~$535~~ *$720* per *licensed* bed ~~licensed on the previous July 1, except that~~. If the number of licensed beds is reduced ~~after July 1 but prior to August 1~~, the surcharge shall be based on the number of remaining licensed beds *the second month following the receipt of timely notice by the commissioner of human services that beds have been delicensed.* ~~A nursing home entitled to a reduction in the number of beds subject to the surcharge under this provision must demonstrate to the satisfaction of the commissioner by August 5 that the number of beds has been reduced.~~ *The nursing home must notify the commissioner of health in writing when beds are delicensed. The commissioner of health must notify the commissioner of human services within ten working days after receiving written notification. If the notification is received by the commissioner of human services by the 15th of the month, the invoice for the second following month must be reduced to recognize the delicensing of beds. Beds on lay-away status continue to be subject to the surcharge. The commissioner of human services must acknowledge a medical care surcharge appeal within 30 days of receipt of the written appeal from the provider.*

Sec. 7. Minnesota Statutes 1992, section 256.9657, is amended by adding a subdivision to read:

Subd. 1b, [PHYSICIAN SURCHARGE WAIVER REQUEST.] *(a) The commissioner shall request a waiver from the secretary of health and human services to exclude from the surcharge under section 147.01, subdivision 6, a physician whose license is issued or renewed on or after April 1, 1993, and who:*

(1) provides physician services at a free clinic, community clinic, or in an underdeveloped foreign nation and does not charge for any physician services;

(2) has taken a leave of absence of at least one year from the practice of medicine but who intends to return to the practice in the future;

(3) is unable to practice medicine because of terminal illness or permanent disability as certified by an attending physician;

(4) is unemployed; or

(5) is retired.

(b) If a waiver is approved under this subdivision, the commissioner shall direct the board of medical practice to adjust the physician license surcharge under section 147.01, subdivision 6, accordingly.

Sec. 8. Minnesota Statutes 1992, section 256.9657, is amended by adding a subdivision to read:

Subd. 1c. [WAIVER IMPLEMENTATION.) *If a waiver is approved under subdivision 1b, the commissioner shall implement subdivision 1b as follows:*

(a) The commissioner, in cooperation with the board of medical practice, shall notify each physician whose license is scheduled to be issued or renewed between April 1 and September 30 that an application to be excused from the surcharge must be received by the commissioner prior to September 1 of that year for the period of 12 consecutive calendar months beginning December 15. For each physician whose license is scheduled to be issued or renewed between October 1 and March 31, the application must be received from the physician by March 1 for the period of 12 consecutive calendar months beginning June 15. For each physician whose license is scheduled to be issued or renewed prior to July 1, 1993, the commissioner shall make the notification required in this paragraph by July 1, 1993. For each physician whose license is scheduled to be issued or renewed on or after July 1, 1993, the notification must accompany the notice of license renewal.

(b) The commissioner shall establish an application form for waiver applications. Each physician who applies to be excused from the surcharge under subdivision 1b, paragraph (a), clause (1), must include with the application:

(1) a statement from the operator of the facility at which the physician provides services, that the physician provides services without charge; and

(2) a statement by the physician that the physician will not charge for any physician services during the period for which the exemption from the surcharge is granted.

Each physician who applies to be excused from the surcharge under

subdivision 1b, paragraph (a), clauses (2) to (5), must include with the application:

(i) the physician's own statement certifying that the physician does not intend to practice medicine and will not charge for any physician services during the period for which the exemption from the surcharge is granted;

(ii) the physician's own statement describing in general the reason for the leave of absence from the practice of medicine and the anticipated date when the physician will resume the practice of medicine, if applicable;

(iii) an attending physician's statement certifying that the applicant has a terminal illness or permanent disability, if applicable; and

(iv) the physician's own statement indicating on what date the physician retired or became unemployed, if applicable.

(c) The commissioner shall notify in writing the physicians who are excused from the surcharge under subdivision 1b.

(d) A physician who decides to charge for physician services prior to the end of the period for which the exemption from the surcharge has been granted under subdivision 1b, paragraph (a), clause (1), or to return to the practice of medicine prior to the end of the period for which the exemption from the surcharge has been granted under subdivision 1b, paragraph (a), clause (2), (4), or (5), may do so by notifying the commissioner and shall be responsible for payment of the full surcharge for that period.

(e) Whenever the commissioner determines that the number of physicians likely to be excused from the surcharge under subdivision 1b may cause the physician surcharge to violate the requirements of Public Law Number 102-234 or regulations adopted under that law, the commissioner shall immediately notify the chairs of the senate health care committee and health care and family services funding division and the house of representatives human services committee and human services funding division.

Sec. 9. Minnesota Statutes 1992, section 256.9657, subdivision 2, is amended to read:

Subd. 2. [HOSPITAL SURCHARGE.] *(a)* Effective October 1, 1992, each Minnesota hospital except facilities of the federal Indian Health Service and regional treatment centers shall pay to the medical assistance account a surcharge equal to 1.4 percent of net patient revenues excluding net Medicare revenues reported by that provider to the health care cost information system according to the schedule in subdivision 4.

(b) Effective July 1, 1994, the surcharge under paragraph (a) is increased to 1.8 percent.

Sec. 10. Minnesota Statutes 1992, section 256.9657, subdivision 3, is amended to read:

Subd. 3. [HEALTH MAINTENANCE ORGANIZATION SURCHARGE.] *(a)* Effective October 1, 1992, each health maintenance organization with a certificate of authority issued by the commissioner of health under chapter 62D shall pay to the commissioner of human services a surcharge equal to six-tenths of one percent of the total premium revenues of the health maintenance organization as reported to the commissioner of health according to the schedule in subdivision 4.

(b) Effective July 1, 1994, the surcharge under paragraph (a) is increased to .85 percent.

(c) For purposes of this subdivision, total premium revenue means:

(1) premium revenue recognized on a prepaid basis from individuals and groups for provision of a specified range of health services over a defined period of time, normally one month, excluding premiums paid to an HMO from the Federal Employees Health Benefit Program (FEHBP);

(2) premiums from Medicare Wraparound subscribers for health benefits which supplement Medicare coverage;

(3) Title XVIII Medicare revenue, as a result of an arrangement between an HMO and the Health Care Financing Administration, for services to a Medicare beneficiary; and

(4) Title XIX Medicaid revenue, as a result of an arrangement between an HMO and a Medicaid state agency, for services to a Medicaid beneficiary.

If advance payments are made under item (1) or (2) to the HMO for more than one reporting period, the portion of the payment that has not yet been earned must be treated as a liability.

Sec. 11. Minnesota Statutes 1992, section 256.9657, is amended by adding a subdivision to read:

Subd. 3a. [INTERMEDIATE CARE FACILITY FOR PERSONS WITH MENTAL RETARDATION SURCHARGE.] *Effective August 1, 1993, each nonstate-operated facility licensed as a mental retardation residential facility under section 252.28, licensed as a supervised living facility under chapter 144, and certified as an intermediate care facility for persons with mental retardation or related conditions shall pay to the commissioner a surcharge equal to .7 percent of gross revenues according to the schedule in subdivision 4. Payments under this subdivision are an allowable cost for purposes of section 256B.501.*

Sec. 12. Minnesota Statutes 1992, section 256.9657, subdivision 4, is amended to read:

Subd. 4. [PAYMENTS INTO THE ACCOUNT.] Payments to the commissioner under subdivisions 1 to 3 must be paid in monthly installments due on the 15th of the month beginning October 15, 1992. The monthly payment must be equal to the annual surcharge divided by 12. Payments to the commissioner under subdivisions 2 and 3 for fiscal year 1993 must be based on calendar year 1990 revenues. Effective July 1 of each year, beginning in 1993, payments under subdivisions 2 and 3 must be based on revenues earned in the second previous calendar year. *Payments under subdivision 3a must be paid in monthly installments due on the 15th of the month, beginning August 15, 1993. The monthly payment must be equal to the annual surcharge divided by 12. Payments under subdivision 3a must be based on revenues received by the facility in calendar year 1992.*

Sec. 13. Minnesota Statutes 1992, section 256.9657, subdivision 7, is amended to read:

Subd. 7. [COLLECTION; CIVIL PENALTIES.] The provisions of sections 289A.35 to 289A.50 relating to the authority to audit, assess, collect, and pay refunds of other state taxes may be implemented by the commissioner of

human services with respect to the tax, penalty, and interest imposed by this section and section 147.01, subdivision 6. The commissioner of human services shall impose civil penalties for violation of this section or section 147.01, subdivision 6, as provided in section 289A.60, and the tax and penalties are subject to interest at the rate provided in section 270.75. *The commissioner of human services shall have the power to abate penalties and interest when discrepancies occur resulting from, but not limited to, circumstances of error and mail delivery. The commissioner of human services shall bring appropriate civil actions to collect provider payments due under this section and section 147.01, subdivision 6.*

Sec. 14. Minnesota Statutes 1992, section 256.9685, subdivision 1, is amended to read:

Subdivision 1. [AUTHORITY.] The commissioner shall establish procedures for determining medical assistance and general assistance medical care payment rates under a prospective payment system for inpatient hospital services in hospitals that qualify as vendors of medical assistance. The commissioner shall establish, by rule, procedures for implementing this section and sections 256.9686, 256.969, and 256.9695. The medical assistance payment rates must be based on methods and standards that the commissioner finds are adequate to provide for the costs that must be incurred for the care of recipients in efficiently and economically operated hospitals. Services must meet the requirements of section 256B.04, subdivision 15, or 256D.03, subdivision 7, paragraph (b), to be eligible for payment except the commissioner may establish exemptions to specific requirements based on diagnosis, procedure, or service after notice in the State Register and a 30-day comment period.

Subd. 1a. [ADMINISTRATIVE RECONSIDERATION.] *Notwithstanding sections 256B.04, subdivision 15, and 256D.03, subdivision 7,* the commissioner ~~may~~ *shall* establish an administrative reconsideration process for appeals of inpatient hospital services determined to be medically unnecessary. The reconsideration process shall take place prior to the contested case procedures of ~~chapter 14~~ *subdivision 1b* and shall be conducted by physicians that are independent of the case under reconsideration. A majority decision by the physicians is necessary to make a determination that the services were not medically necessary.

Subd. 1b. [CONTESTED CASE.] Notwithstanding section 256B.72, the commissioner may recover inpatient hospital payments for services that have been determined to be medically unnecessary ~~under~~ *after* the reconsideration ~~process~~ *and contested case determinations. A physician or hospital may contest the result of the reconsideration process by submitting a written request for review to the commissioner within 30 days after receiving notice of the action. The commissioner shall review the medical record and information submitted during the reconsideration process and the medical review agent's basis for the determination that the services were not medically necessary for inpatient hospital services. The commissioner shall issue an order upholding or reversing the decision of the reconsideration process based on the review. A hospital or physician who is aggrieved by an order of the commissioner may appeal the order to the district court of the county in which the physician or hospital is located by serving a written copy of the notice of appeal upon the commissioner within 30 days after the date the commissioner issued the order.*

Sec. 15. Minnesota Statutes 1992, section 256.969, subdivision 1, is amended to read:

Subdivision 1. [HOSPITAL COST INDEX.] (a) The hospital cost index shall be obtained from an independent source and shall represent a weighted average of historical, as limited to statutory maximums, and projected cost change estimates determined for expense categories to include wages and salaries, employee benefits, medical and professional fees, raw food, utilities, insurance including malpractice insurance, and other applicable expenses as determined by the commissioner. The index shall reflect Minnesota cost category weights. Individual indices shall be specific to Minnesota if the commissioner determines that sufficient accuracy of the hospital cost index is achieved. The hospital cost index may be used to adjust the base year operating payment rate through the rate year on an annually compounded basis. Notwithstanding section 256.9695, subdivision 3, paragraph (c), the hospital cost index shall not be effective under the general assistance medical care program *and shall be limited to five percent under the medical assistance program* for admissions occurring during the biennium ending June 30, ~~1993~~ *1995*, and the hospital cost index under medical assistance, excluding general assistance medical care, shall be increased by one percentage point to reflect changes in technology for admissions occurring after September 30, 1992.

(b) For fiscal years beginning on or after July 1, 1993, the commissioner of human services shall not provide automatic annual inflation adjustments for hospital payment rates under medical assistance, excluding the technology factor under paragraph (a), nor under general assistance medical care. The commissioner of finance shall include as a budget change request in each biennial detailed expenditure budget submitted to the legislature under section 16A.11 annual adjustments in hospital payment rates under medical assistance and general assistance medical care, based upon the hospital cost index.

Sec. 16. Minnesota Statutes 1992, section 256.969, subdivision 8, is amended to read:

Subd. 8. [UNUSUAL ~~COST OR~~ LENGTH OF STAY EXPERIENCE.] The commissioner shall establish day ~~and cost~~ outlier thresholds for each diagnostic category established under subdivision 2 at two standard deviations beyond the mean length of stay ~~or allowable cost~~. Payment for the days ~~and cost~~ beyond the outlier threshold shall be in addition to the operating and property payment rates per admission established under subdivisions 2, 2b, and 2c. Payment for outliers shall be at 70 percent of the allowable operating cost, after adjustment by the case mix index, hospital cost index, relative values and the disproportionate population adjustment. The outlier threshold for neonatal and burn diagnostic categories shall be established at one standard deviation beyond the mean length of stay ~~or allowable cost,~~ and payment shall be at 90 percent of allowable operating cost calculated in the same manner as other outliers. A hospital may choose an alternative to the 70 percent outlier payment that is at a minimum of 60 percent and a maximum of 80 percent if the commissioner is notified in writing of the request by October 1 of the year preceding the rate year. The chosen percentage applies to all diagnostic categories except burns and neonates. The percentage of allowable cost that is unrecognized by the outlier payment shall be added back to the base year operating payment rate per admission. ~~Cost outliers shall be calculated using hospital specific allowable cost data. If a stay is both a day and a cost outlier, outlier payments shall be based on the higher outlier payment.~~

Sec. 17. Minnesota Statutes 1992, section 256.969, subdivision 9, as amended by Laws 1993, chapter 20, section 1, 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~~ *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 *one standard deviation above* the arithmetic mean. The adjustment must be ~~determined~~ *paid* as follows: *(1) $908,333 per month, payable on the 16th of the month, beginning July 16, 1993, to a hospital with medical assistance fee-for-service payment volume during calendar 1991 in excess of eight percent of total medical assistance fee-for-service payment volume; or (2) for a hospital not eligible under clause (1), $1,000 per year, payable on June 1, beginning in 1994.*

(b) The commissioner shall not adjust rates paid to a health maintenance organization under contract with the commissioner to reflect rate increases provided in paragraph (a).

Sec. 18. Minnesota Statutes 1992, section 256.969, subdivision 22, as amended by Laws 1993, chapter 20, section 5, is amended to read:

Subd. 22. [HOSPITAL PAYMENT ADJUSTMENT.] For admissions occurring ~~from January 1, 1993, until June 30, 1993~~ *on or after July 1, 1993*, the commissioner shall adjust the medical assistance payment 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, 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 under clause (1) for that hospital by 1.1. ~~Any payment under this clause must be reduced by the amount of any payment received under subdivision 9a.~~ For purposes of this subdivision, medical assistance does not include general assistance medical care. *The commissioner shall adjust rates paid to a health maintenance organization under contract with the commissioner to reflect rate increases provided in this section. The adjustment must be made on a nondiscounted hospital-specific basis.*

Sec. 19. Minnesota Statutes 1992, section 256.9695, subdivision 3, is amended to read:

Subd. 3. [TRANSITION.] Except as provided in section 256.969, subdivision 8, the commissioner shall establish a transition period for the calculation of payment rates from July 1, 1989, to the implementation date of

the upgrade to the Medicaid management information system or July 1, 1992, whichever is earlier.

During the transition period:

(a) Changes resulting from section 256.969, subdivisions 7, 9, 10, 11, and 13, shall not be implemented, except as provided in section 256.969, subdivisions 12 and 20.

(b) The beginning of the 1991 rate year shall be delayed and the rates notification requirement shall not be applicable.

(c) Operating payment rates shall be indexed from the hospital's most recent fiscal year ending prior to January 1, 1991, by prorating the hospital cost index methodology in effect on January 1, 1989. For payments made for admissions occurring on or after June 1, 1990, until the implementation date of the upgrade to the Medicaid management information system the hospital cost index excluding the technology factor shall not exceed five percent. This hospital cost index limitation shall not apply to hospitals that meet the requirements of section 256.969, subdivision 20, paragraphs (a) and (b).

(d) Property and pass-through payment rates shall be maintained at the most recent payment rate effective for June 1, 1990. However, all hospitals are subject to the hospital cost index limitation of subdivision 2c, for two complete fiscal years. Property and pass-through costs shall be retroactively settled through the transition period. The laws in effect on the day before July 1, 1989, apply to the retroactive settlement.

(e) If the upgrade to the Medicaid management information system has not been completed by July 1, 1992, the commissioner shall make adjustments for admissions occurring on or after that date as follows:

(1) provide a ten percent increase to hospitals that meet the requirements of section 256.969, subdivision 20, or, upon written request from the hospital to the commissioner, 50 percent of the rate change that the commissioner estimates will occur after the upgrade to the Medicaid management information system; and

(2) adjust the *Minnesota and local trade area* rebased payment rates that are established after the upgrade to the Medicaid management information system to compensate for a rebasing effective date of July 1, 1992. The adjustment shall be ~~based on the change in rates from July 1, 1992, to the rebased rates in effect under~~ *determined using claim specific payment changes that result from the rebased rates and revised methodology in effect after* the systems upgrade. The adjustment shall ~~reflect~~ *be reduced for* payments under clause (1), differences in the hospital cost index ~~and dissimilar rate establishment procedures such as the variable outlier and the treatment of births and~~. *Hospitals shall revise claims so that services provided by* rehabilitation units of hospitals *are reported separately*. The adjustment shall be in effect ~~for a period not to exceed the amount of time from July 1, 1992, to the systems upgrade~~ *until the amount due to or owed by the hospital is fully paid over a number of admissions that is equal to the number of admissions under adjustment. The adjustment for admissions occurring from July 1, 1992, to December 31, 1992, shall be based on claims paid as of August 1, 1993, and the adjustment shall begin with the effective date of rules governing rebasing. The adjustment for admissions occurring from January 1, 1993, to the effective date of the rules shall be based on claims paid as of February 1,*

1994, and shall begin after the first adjustment period is fully paid. For purposes of appeals under subdivision 1, the adjustment shall be considered payment at the time of admission.

Sec. 20. [256B.037] [PROSPECTIVE PAYMENT OF DENTAL SERVICES.]

Subdivision 1. [CONTRACT FOR DENTAL SERVICES.] *The commissioner may conduct a demonstration project to contract, on a prospective per capita payment basis, with an organization or organizations licensed under chapter 62C or 62D, for the provision of all dental care services beginning July 1, 1994, under the medical assistance, general assistance medical care, and MinnesotaCare programs, or when necessary waivers are granted by the secretary of health and human services, whichever occurs later. The commissioner shall identify a geographic area or areas, including both urban and rural areas, where access to dental services has been inadequate, in which to conduct demonstration projects. The commissioner shall seek any federal waivers or approvals necessary to implement this section from the secretary of health and human services.*

The commissioner may exclude from participation in the demonstration project any or all groups currently excluded from participation in the prepaid medical assistance program under section 256B.69.

Subd. 2. [ESTABLISHMENT OF PREPAYMENT RATES.] *The commissioner shall consult with an independent actuary to establish prepayment rates, but shall retain final authority over the methodology used to establish the rates. The prepayment rates shall not result in payments that exceed the per capita expenditures that would have been made for dental services by the programs under a fee-for-service reimbursement system. The package of dental benefits provided to individuals under this subdivision shall not be less than the package of benefits provided under the medical assistance fee-for-service reimbursement system for dental services.*

Subd. 3. [APPEALS.] *All recipients of services under this section have the right to appeal to the commissioner under section 256.045.*

Subd. 4. [INFORMATION REQUIRED BY COMMISSIONER.] *A contractor shall submit encounter-specific information as required by the commissioner, including, but not limited to, information required for assessing client satisfaction, quality of care, and cost and utilization of services.*

Subd. 5. [OTHER CONTRACTS PERMITTED.] *Nothing in this section prohibits the commissioner from contracting with an organization for comprehensive health services, including dental services, under section 256B.031, 256B.035, 256B.69, or 256D.03, subdivision 4, paragraph (c).*

Sec. 21. Minnesota Statutes 1992, section 256B.042, subdivision 4, is amended to read:

Subd. 4. [NOTICE.] The state agency must be given notice of monetary claims against a person, firm, or corporation that may be liable to pay part or all of the cost of medical care when the state agency has paid or become liable for the cost of that care. Notice must be given as follows:

(a) Applicants for medical assistance shall notify the state or local agency of any possible claims when they submit the application. Recipients of

medical assistance shall notify the state or local agency of any possible claims when those claims arise.

(b) A person providing medical care services to a recipient of medical assistance shall notify the state agency when the person has reason to believe that a third party may be liable for payment of the cost of medical care.

(c) A person who is a party to a claim upon which the state agency may be entitled to a lien under this section shall notify the state agency of its potential lien claim before filing a claim, commencing an action, or negotiating a settlement. *A person who is a party to a claim includes the plaintiff, the defendant(s), and any other named party to the cause of action.*

Notice given to the local agency is not sufficient to meet the requirements of paragraphs (b) and (c).

Sec. 22. Minnesota Statutes 1992, section 256B.055, subdivision 1, is amended to read:

Subdivision 1. [CHILDREN ELIGIBLE FOR SUBSIDIZED ADOPTION ASSISTANCE.] Medical assistance may be paid for a child eligible for or receiving adoption assistance payments under Title IV-E of the Social Security Act, United States Code, title 42, sections 670 to 676, *and to any child who is not Title IV-E eligible but who was determined eligible for adoption assistance* under Minnesota Statutes, section 259.40 ~~or 259.431~~, *subdivision 4, clauses (a) to (c), and has a special need for medical or rehabilitative care.*

Sec. 23. Minnesota Statutes 1992, section 256B.056, subdivision 2, is amended to read:

Subd. 2. [HOMESTEAD; EXCLUSION FOR INSTITUTIONALIZED PERSONS.] The homestead shall be excluded for the first six calendar months of a person's stay in a long-term care facility and shall continue to be excluded for as long as the recipient can be reasonably expected to return~~, as provided under the methodologies for the supplemental security income program~~ *to the homestead. For purposes of this subdivision, "reasonably expected to return to the homestead" means the recipient's attending physician has certified that the expectation is reasonable, and the recipient can show that the cost of care upon returning home will be met through medical assistance or other sources.* The homestead shall continue to be excluded for persons residing in a long-term care facility if it is used as a primary residence by one of the following individuals:

(a) the spouse;

(b) a child under age 21;

(c) a child of any age who is blind or permanently and totally disabled as defined in the supplemental security income program;

(d) a sibling who has equity interest in the home and who resided in the home for at least one year immediately before the date of the person's admission to the facility; or

(e) a child of any age, or, subject to federal approval, a grandchild of any age, who resided in the home for at least two years immediately before the date of the person's admission to the facility, and who provided care to the person that permitted the person to reside at home rather than in an institution.

Sec. 24. Minnesota Statutes 1992, 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 ~~any veteran's pension~~ *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 if the children resided with the institutionalized person immediately prior to admission;

(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

(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. 25. Minnesota Statutes 1992, section 256B.059, subdivision 3, is amended to read:

Subd. 3. [COMMUNITY SPOUSE ASSET ALLOWANCE.] (a) An institutionalized spouse may transfer assets to the community spouse solely for the benefit of the community spouse. Except for increased amounts allowable under subdivision 4, the maximum amount of assets allowed to be transferred is the amount which, when added to the assets otherwise available to the community spouse, is ~~the greater of~~ *as follows*:

(1) ~~$12,000~~ *prior to July 1, 1994, the greater of:*

(i) $14,148;

~~(2)~~ *(ii)* the lesser of the spousal share or ~~$60,000~~ *$70,740*; or

~~(3)~~ *(iii)* the amount required by court order to be paid to the community spouse*; and*

(2) from July 1, 1994, and thereafter, the greater of:

(i) $20,000;

(ii) the lesser of the spousal share or $70,740; or

(iii) the amount required by court order to be paid to the community spouse.

If the assets available to the community spouse are already at the limit permissible under this section, or the higher limit attributable to increases under subdivision 4, no assets may be transferred from the institutionalized spouse to the community spouse. The transfer must be made as soon as practicable after the date the institutionalized spouse is determined eligible for medical assistance, or within the amount of time needed for any court order required for the transfer. On January 1, ~~1990~~ *1994*, and every January 1 thereafter, the ~~$12,000 and $60,000~~ limits *in this subdivision* shall be adjusted by the same percentage change in the consumer price index for all urban consumers (all items; United States city average) between the two previous Septembers. These adjustments shall also be applied to the ~~$12,000 and $60,000~~ limits in subdivision 5.

Sec. 26. Minnesota Statutes 1992, section 256B.059, subdivision 5, is amended to read:

Subd. 5. [ASSET AVAILABILITY.] (a) At the time of application for medical assistance benefits, assets considered available to the institutionalized spouse shall be the total value of all assets in which either spouse has an ownership interest, reduced by the ~~greater of~~ *following*:

(1) ~~$12,000;~~ ~~or~~ *prior to July 1, 1994, the greater of:*

(i) $14,148;

~~(2)~~ *(ii)* the lesser of the spousal share or ~~$60,000~~ *$70,740*; or

~~(3)~~ *(iii)* the amount required by court order to be paid to the community spouse;

(2) for the period from July 1, 1994, and thereafter, the greater of:

(i) $20,000;

(ii) the lesser of the spousal share or $70,740; or

(iii) the amount required by court order to be paid to the community spouse.

If the community spouse asset allowance has been increased under subdivision 4, then the assets considered available to the institutionalized spouse under this subdivision shall be further reduced by the value of additional amounts allowed under subdivision 4.

(b) An institutionalized spouse may be found eligible for medical assistance even though assets in excess of the allowable amount are found to be available under paragraph (a) if the assets are owned jointly or individually by the community spouse, and the institutionalized spouse cannot use those assets to pay for the cost of care without the consent of the community spouse, and if: (i) the institutionalized spouse assigns to the commissioner the right to support from the community spouse under section ~~256B.14~~ *256B.15*, subdivision ~~2~~ *3*; (ii) the institutionalized spouse lacks the ability to execute an assignment due to a physical or mental impairment; or (iii) the denial of eligibility would cause an imminent threat to the institutionalized spouse's health and well-being.

(c) After the month in which the institutionalized spouse is determined eligible for medical assistance, during the continuous period of institutionalization, no assets of the community spouse are considered available to the institutionalized spouse, unless the institutionalized spouse has been found eligible under clause (b).

(d) Assets determined to be available to the institutionalized spouse under this section must be used for the health care or personal needs of the institutionalized spouse.

(e) For purposes of this section, assets do not include assets excluded under section 256B.056, without regard to the limitations on total value in that section.

Sec. 27. Minnesota Statutes 1992, section 256B.0595, subdivision 1, is amended to read:

Subdivision 1. [PROHIBITED TRANSFERS.] (a) ~~If a person or the person's spouse has given away, sold, or disposed of, for less than fair market value, any asset or interest therein, except assets other than the homestead that are excluded under section 256B.056, subdivision 3, within 30 months before or any time after the date of institutionalization if the person has been determined eligible for medical assistance, or within 30 months before or any time after the date of the first approved application for medical assistance if the person has not yet been determined eligible for medical assistance, the person is ineligible for long-term care services for the period of time~~

~~determined under subdivision 2~~ *No person, a person's spouse, nor a person's authorized representative may 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 medical assistance, any transfer of an asset, including assets excluded under section 256B.056, subdivision 3, for less than fair market value may be considered. Any transfer made within 60 months preceding application for medical assistance or during the period of medical assistance eligibility is presumed to have been made for the purpose of establishing or maintaining medical assistance eligibility and the person is ineligible for medical assistance 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. Any other transfer of an asset for less than fair market value more than 60 months prior to application for medical assistance eligibility may be considered for purposes of determining eligibility.*

(b) This section applies to transfers, for less than fair market value, of income or assets that are considered income in the month received, such as inheritances, court settlements, and retroactive benefit payments.

(c) This section applies to payments for care or personal services provided by a relative, unless the compensation was stipulated in a notarized, written agreement which was in existence when the service was performed, the care or services directly benefited the person, and the payments made represented reasonable compensation for the care or services provided. A notarized written agreement is not required if payment for the services was made within 60 days after the service was provided.

(d) This section applies to the portion of any asset or interest that a person or a person's spouse transfers to an irrevocable trust, annuity, or other instrument, that exceeds the value of the benefit likely to be returned to the person or spouse 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.

(e) For purposes of this section, long-term care services include nursing facility services, and home- and community-based services provided pursuant to section 256B.491. For purposes of this subdivision and subdivisions 2, 3, and 4, "institutionalized person" includes a person who is an inpatient in a nursing facility, or who is receiving home- and community-based services under section 256B.491.

Sec. 28. Minnesota Statutes 1992, section 256B.0595, subdivision 2, is amended to read:

Subd. 2. [PERIOD OF INELIGIBILITY.] For ~~any~~ uncompensated ~~transfer~~ *transfers*, the number of months of ineligibility *including partial months*, for ~~long-term care~~ *medical assistance* services shall be ~~the lesser of 30 months, or~~ the *total* uncompensated ~~transfer amount~~ *value of the resources transferred* divided by the average medical assistance rate for nursing facility services in the state in effect on the date of application. *If a calculation of a penalty period results in a partial month, payments for medical assistance services will be reduced in an amount equal to the fraction, except that in calculating the value of uncompensated transfers, uncompensated transfers not to exceed*

$1,000 in total value per month shall be disregarded for each month prior to the month of application for medical assistance. The amount used to calculate the average medical assistance payment rate shall be adjusted each July 1 to reflect payment rates for the previous calendar year. The period of ineligibility begins with the month in which the assets were transferred *except that if one or more uncompensated transfers are made during a period of ineligibility, the total assets transferred during the ineligibility period shall be combined and a penalty period calculated to begin in the month the first assets were transferred. The penalty in this section shall not apply to gifts not to exceed a total of $1,000 per month during a medical assistance eligibility certification period.* If the transfer was not reported to the local agency at the time of application, and the applicant received 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.

Sec. 29. Minnesota Statutes 1992, 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~~ *medical assistance* services due to a transfer of assets for less than fair market value if the asset transferred was a homestead and:

(1) title to the homestead was transferred to the individual's

(i) spouse;

(ii) child who is under age 21;

(iii) blind or permanently and totally disabled child as defined in the supplemental security income program;

(iv) sibling who has equity interest in the home and who was residing in the home for a period of at least one year immediately before the date of the individual's admission to the facility; or

(v) son or daughter who was residing in the individual's home for a period of at least two years immediately before the date of the individual's admission to the facility, and who provided care to the individual that permitted the individual to reside at home rather than in an institution or facility;

(2) a satisfactory showing is made that the individual intended to dispose of the homestead at fair market value or for other valuable consideration; or

(3) the local agency grants a waiver of the excess resources created by the uncompensated transfer because denial of eligibility would cause undue hardship for the individual, based on imminent threat to the individual's health and well-being.

(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~~ *medical assistance* services granted ~~within 30 months of the transfer~~ *during the period of ineligibility under subdivision 2* or

the amount of the uncompensated transfer, whichever is less, together with the costs incurred due to the action. The action may be brought by the state or the local agency responsible for providing medical assistance under chapter 256G.

Sec. 30. Minnesota Statutes 1992, 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~~ *medical assistance* services if one of the following conditions applies:

(1) the assets were transferred to the community spouse, as defined in section 256B.059; or

(2) the institutionalized spouse, prior to being institutionalized, transferred assets to a spouse, provided that the spouse to whom the assets were transferred does not then transfer those assets to another person for less than fair market value. (At the time when one spouse is institutionalized, assets must be allocated between the spouses as provided under section 256B.059); or

(3) the assets were transferred to the individual's child who is blind or permanently and totally disabled as determined in the supplemental security income program; or

(4) a satisfactory showing is made that the individual intended to dispose of the assets either at fair market value or for other valuable consideration; or

(5) the local agency determines that denial of eligibility for ~~long-term care~~ *medical assistance* services would work an undue hardship and grants a waiver of excess assets. When a waiver is granted, a cause of action exists against the person to whom the assets were transferred for that portion of ~~long-term care~~ *medical assistance* services granted ~~within 30 months of the transfer,~~ *during the period of ineligibility determined under subdivision 2* or the amount of the uncompensated transfer, whichever is less, together with the costs incurred due to the action. The action may be brought by the state or the local agency responsible for providing medical assistance under this chapter.

Sec. 31. Minnesota Statutes 1992, section 256B.0625, subdivision 13, is amended to read:

Subd. 13. [DRUGS.] (a) Medical assistance covers drugs if prescribed by a licensed practitioner and dispensed by a licensed pharmacist, or by a physician enrolled in the medical assistance program as a dispensing physician. The commissioner, after receiving recommendations from ~~the Minnesota~~ *professional* medical ~~association~~ *associations* and ~~the Minnesota pharmacists association~~ *professional pharmacist associations*, shall designate a formulary committee to advise the commissioner on the names of drugs for which payment is made, recommend a system for reimbursing providers on a set fee or charge basis rather than the present system, and develop methods encouraging use of generic drugs when they are less expensive and equally effective as trademark drugs. ~~The commissioner shall appoint the formulary committee members no later than 30 days following July 1, 1981.~~ The formulary committee shall consist of nine members, four of whom shall be physicians who are not employed by the department of human services, and a majority of whose practice is for persons paying privately or through health

insurance, three of whom shall be pharmacists who are not employed by the department of human services, and a majority of whose practice is for persons paying privately or through health insurance, a consumer representative, and a nursing home representative. Committee members shall serve ~~two-year~~ *three-year* terms and shall serve without compensation. *Members may be reappointed once.* The commissioner shall establish a drug formulary. Its establishment and publication shall not be subject to the requirements of the administrative procedure act, but the formulary committee shall review and comment on the formulary contents. The formulary committee shall review and recommend drugs which require prior authorization. The formulary committee may recommend drugs for prior authorization directly to the commissioner, as long as opportunity for public input is provided. Prior authorization may be requested by the commissioner based on medical and clinical criteria before certain drugs are eligible for payment. Before a drug may be considered for prior authorization at the request of the commissioner:

(1) the drug formulary committee must develop criteria to be used for identifying drugs; the development of these criteria is not subject to the requirements of chapter 14, but the formulary committee shall provide opportunity for public input in developing criteria;

(2) the drug formulary committee must hold a public forum and receive public comment for an additional 15 days; and

(3) the commissioner must provide information to the formulary committee on the impact that placing the drug on prior authorization will have on the quality of patient care and information regarding whether the drug is subject to clinical abuse or misuse. Prior authorization may be required by the commissioner before certain formulary drugs are eligible for payment. The formulary shall not include: drugs or products for which there is no federal funding; over-the-counter drugs, except for antacids, acetaminophen, family planning products, aspirin, insulin, products for the treatment of lice, and vitamins for children under the age of seven and pregnant or nursing women; or any other over-the-counter drug identified by the commissioner, in consultation with the drug formulary committee as necessary, appropriate and cost effective for the treatment of certain specified chronic diseases, conditions or disorders, and this determination shall not be subject to the requirements of chapter 14, the administrative procedure act; nutritional products, except for those products needed for treatment of phenylketonuria, hyperlysinemia, maple syrup urine disease, a combined allergy to human milk, cow milk, and soy formula, or any other childhood or adult diseases, conditions, or disorders identified by the commissioner as requiring a similarly necessary nutritional product; anorectics; and drugs for which medical value has not been established. Nutritional products needed for the treatment of a combined allergy to human milk, cow's milk, and soy formula require prior authorization. Separate payment shall not be made for nutritional products for residents of long-term care facilities; payment for dietary requirements is a component of the per diem rate paid to these facilities. ~~Payment to drug vendors shall not be modified before the formulary is established except that the commissioner shall not permit payment for any drugs which may not by law be included in the formulary, and the commissioner's determination shall not be subject to chapter 14, the administrative procedure act.~~ The commissioner shall publish conditions for prohibiting payment for specific drugs after considering the formulary committee's recommendations.

(b) The basis for determining the amount of payment shall be the lower of the actual acquisition costs of the drugs plus a fixed dispensing fee established by the commissioner, the maximum allowable cost set by the federal government or by the commissioner plus the fixed dispensing fee or the usual and customary price charged to the public. Actual acquisition cost includes quantity and other special discounts except time and cash discounts. The actual acquisition cost of a drug may be estimated by the commissioner. The maximum allowable cost of a multisource drug may be set by the commissioner and it shall be comparable to, but no higher than, the maximum amount paid by other third party payors in this state who have maximum allowable cost programs. Establishment of the amount of payment for drugs shall not be subject to the requirements of the administrative procedure act. An additional dispensing fee of $.30 may be added to the dispensing fee paid to pharmacists for legend drug prescriptions dispensed to residents of long-term care facilities when a unit dose blister card system, approved by the department, is used. Under this type of dispensing system, the pharmacist must dispense a 30-day supply of drug. The National Drug Code (NDC) from the drug container used to fill the blister card must be identified on the claim to the department. The unit dose blister card containing the drug must meet the packaging standards set forth in Minnesota Rules, part 6800.2700, that govern the return of unused drugs to the pharmacy for reuse. The pharmacy provider will be required to credit the department for the actual acquisition cost of all unused drugs that are eligible for reuse. Over-the-counter medications must be dispensed in the manufacturer's unopened package. The commissioner may permit the drug clozapine to be dispensed in a quantity that is less than a 30-day supply. Whenever a generically equivalent product is available, payment shall be on the basis of the actual acquisition cost of the generic drug, unless the prescriber specifically indicates "dispense as written – brand necessary" on the prescription as required by section 151.21, subdivision 2. Implementation of any change in the fixed dispensing fee that has not been subject to the administrative procedure act is limited to not more than 180 days, unless, during that time, the commissioner initiates rulemaking through the administrative procedure act.

(c) Until ~~January 4, 1993~~ *June 30, 1994*, or the date the *on line, real time* Medicaid Management Information System (MMIS) upgrade is *successfully* implemented, *as determined by the commissioner of administration,* whichever occurs last, a pharmacy provider may require individuals who seek to become eligible for medical assistance under a one-month spend-down, as provided in section 256B.056, subdivision 5, to pay for services to the extent of the spend-down amount at the time the services are provided. A pharmacy provider choosing this option shall file a medical assistance claim for the pharmacy services provided. If medical assistance reimbursement is received for this claim, the pharmacy provider shall return to the individual the total amount paid by the individual for the pharmacy services reimbursed by the medical assistance program. If the claim is not eligible for medical assistance reimbursement because of the provider's failure to comply with the provisions of the medical assistance program, the pharmacy provider shall refund to the individual the total amount paid by the individual. Pharmacy providers may choose this option only if they apply similar credit restrictions to private pay or privately insured individuals. A pharmacy provider choosing this option must inform individuals who seek to become eligible for medical assistance under a one-month spend-down of (1) their right to appeal the denial of services on the grounds that they have satisfied the spend-down requirement,

and (2) their potential eligibility for the health right program or the children's health plan.

Sec. 32. Minnesota Statutes 1992, section 256B.0625, subdivision 13a, is amended to read:

Subd. 13a. [DRUG UTILIZATION REVIEW BOARD.] A 12-member drug utilization review board is established. The board is comprised of six licensed physicians actively engaged in the practice of medicine in Minnesota; five licensed pharmacists actively engaged in the practice of pharmacy in Minnesota; and one consumer representative. The board shall be staffed by an employee of the department who shall serve as an ex officio nonvoting member of the board. The members of the board shall be appointed by the commissioner and shall serve three-year terms. The physician members shall be selected from ~~a list~~ *lists* submitted by ~~the Minnesota~~ *professional* medical ~~association~~ *associations*. The pharmacist members shall be selected from ~~a list~~ *lists* submitted by ~~the Minnesota~~ *professional* pharmacist ~~Association~~ *associations*. The commissioner shall appoint the initial members of the board for terms expiring as follows: four members for terms expiring June 30, 1995; four members for terms expiring June 30, 1994; and four members for terms expiring June 30, 1993. Members may be reappointed once. The board shall annually elect a chair from among the members.

The commissioner shall, with the advice of the board:

(1) implement a medical assistance retrospective and prospective drug utilization review program as required by United States Code, title 42, section 1396r-8(g)(3);

(2) develop and implement the predetermined criteria and practice parameters for appropriate prescribing to be used in retrospective and prospective drug utilization review;

(3) develop, select, implement, and assess interventions for physicians, pharmacists, and patients that are educational and not punitive in nature;

(4) establish a grievance and appeals process for physicians and pharmacists under this section;

(5) publish and disseminate educational information to physicians and pharmacists regarding the board and the review program;

(6) adopt and implement procedures designed to ensure the confidentiality of any information collected, stored, retrieved, assessed, or analyzed by the board, staff to the board, or contractors to the review program that identifies individual physicians, pharmacists, or recipients;

(7) establish and implement an ongoing process to (i) receive public comment regarding drug utilization review criteria and standards, and (ii) consider the comments along with other scientific and clinical information in order to revise criteria and standards on a timely basis; and

(8) adopt any rules necessary to carry out this section.

The board may establish advisory committees. The commissioner may contract with appropriate organizations to assist the board in carrying out the board's duties. The commissioner may enter into contracts for services to develop and implement a retrospective and prospective review program.

The board shall report to the commissioner annually on December 1. The commissioner shall make the report available to the public upon request. The report must include information on the activities of the board and the program; the effectiveness of implemented interventions; administrative costs; and any fiscal impact resulting from the program.

Sec. 33. Minnesota Statutes 1992, section 256B.0625, subdivision 15, is amended to read:

Subd. 15. [HEALTH PLAN PREMIUMS *AND COPAYMENTS.*] Medical assistance covers health care prepayment plan premiums ~~and~~, insurance premiums ~~if paid directly to a vendor and supplementary medical insurance benefits under Title XVIII of the Social Security Act~~, *and copayments if determined to be cost-effective by the commissioner.* For purposes of obtaining Medicare part *A and part* B, *and copayments,* expenditures may be made even if federal funding is not available.

Sec. 34. Minnesota Statutes 1992, 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. 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 ~~$13~~ *$14* for the base rate and ~~$1~~ *$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. 35. Minnesota Statutes 1992, section 256B.0625, subdivision 25, is amended to read:

Subd. 25. [PRIOR AUTHORIZATION REQUIRED.] *(a)* The commissioner shall publish in the State Register a list of health services that require prior authorization, as well as the criteria and standards used to select health services on the list. The list and the criteria and standards used to formulate it are not subject to the requirements of sections 14.001 to 14.69. The commissioner's decision whether prior authorization is required for a health service is not subject to administrative appeal.

(b) The commissioner shall not require prior authorization for physical therapy, occupational therapy, and speech therapy services provided by an entity that operates both a Medicare certified comprehensive outpatient rehabilitation facility and a facility which was certified prior to January 1, 1993, that is licensed under Minnesota Rules, parts 9570.2000 to 9570.3600,

when those services are (1) provided within the comprehensive outpatient rehabilitation facility and (2) provided to residents of facilities owned by the entity.

Sec. 36. Minnesota Statutes 1992, section 256B.0625, subdivision 28, is amended to read:

Subd. 28. [CERTIFIED NURSE PRACTITIONER SERVICES.] Medical assistance covers 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.

Sec. 37. Minnesota Statutes 1992, section 256B.0625, subdivision 29, is amended to read:

Subd. 29. [PUBLIC HEALTH NURSING CLINIC SERVICES.] Medical assistance covers the 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 *or registered* nurse's license as a registered nurse, as defined in section 148.171.

Sec. 38. Minnesota Statutes 1992, section 256B.0913, subdivision 5, is amended to read:

Subd. 5. [SERVICES COVERED UNDER ALTERNATIVE CARE.] (a) Alternative care funding may be used for payment of costs of:

(1) adult foster care;

(2) adult day care;

(3) home health aide;

(4) homemaker services;

(5) personal care;

(6) case management;

(7) respite care;

(8) assisted living; ~~and~~

(9) *residential care services;*

(10) care-related supplies and equipment~~.~~;

~~(b) The county agency may use up to ten percent of the annual allocation of alternative care funding for payment of costs of~~

(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.

~~The commissioner shall determine the impact on alternative care costs of allowing these additional services to be provided and shall report the findings to the legislature by February 15, 1993, including any recommendations regarding provision of the additional services.~~

~~(c)~~ *(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.

~~(d) These services must be provided by a licensed provider, a home health agency certified for reimbursement under Titles XVIII and XIX of the Social Security Act, or by~~ *(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 ~~contracted~~ *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.*

~~(e)~~ *(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.

~~(f)~~ *(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.

~~(g)~~ *(f)* Costs for supplies and equipment that exceed $150 per item per month must have prior approval from the commissioner. A county may use alternative care funds to purchase supplies and equipment from a non-Medicaid certified vendor if the cost for the items is less than that of a Medicaid vendor.

(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 ~~two or more alternative care~~ clients who reside in the same apartment building of ~~ten~~ *three* or more units. ~~These services may include care coordination, the costs of preparing one or more nutritionally balanced meals per day, general oversight, and other supportive services which the vendor is licensed to provide according to sections 144A.43 to 144A.49, and which would otherwise be available to individual alternative care clients. Reimbursement from the lead agency shall be made to the vendor as a monthly capitated rate negotiated with the county agency. The capitated rate shall not exceed the state share of the greater of either the statewide or any of the geographic groups' weighted average monthly medical assistance nursing facility payment rate of the case mix resident class to which the 180-day eligible client would be assigned under Minnesota Rules, parts 9549.0050 to 9549.0059. The capitated rate may not cover rent and direct food costs.~~ *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 services. Individualized means services are chosen and designed specifically for each resident's needs, rather than provided or offered to all residents regardless of their illnesses, disabilities, or physical conditions.

(2) Home care aide tasks means:

(i) preparing modified diets, such as diabetic or low sodium diets;

(ii) reminding residents to take regularly scheduled medications or to perform exercises;

(iii) household chores in the presence of technically sophisticated medical equipment or episodes of acute illness or infectious disease;

(iv) household chores when the resident's care requires the prevention of exposure to infectious disease or containment of infectious disease; and

(v) assisting with dressing, oral hygiene, hair care, grooming, and bathing, if the resident is ambulatory, and if the resident has no serious acute illness or infectious disease. Oral hygiene means care of teeth, gums, and oral prosthetic devices.

(3) Home management tasks means:

(i) housekeeping;

(ii) laundry;

(iii) preparation of regular snacks and meals; and

(iv) shopping.

A person's eligibility to reside in the building must not be contingent on the person's acceptance or use of the assisted living services. Assisted living services as defined in this section shall not be authorized in boarding and lodging establishments licensed according to sections 157.01 to 157.031.

Reimbursement for assisted living services and residential care services shall be made by the lead agency to the vendor as a monthly rate negotiated with the county agency. The rate shall not exceed the nonfederal share of the greater of either the statewide or any of the geographic groups' weighted average monthly medical assistance nursing facility payment rate of the case mix resident class to which the 180-day eligible client would be assigned under Minnesota Rules, parts 9549.0050 to 9549.0059, except for alternative care assisted living projects established under chapter 256 whose rates may not exceed 65 percent of either the statewide or any of the geographic groups' weighted average monthly medical assistance nursing facility payment rate of the case mix resident class to which the 180-day eligible client would be assigned under Minnesota Rules, parts 9549.0050 to 9549.0059. The rate may not cover rent and direct food costs.

(i) For purposes of this section, companion services are defined as nonmedical care, supervision and oversight, provided to a functionally impaired adult. Companions may assist the individual with such tasks as meal preparation, laundry and shopping, but do not perform these activities as discrete services. The provision of companion services does not entail hands-on medical care. Providers may also perform light housekeeping tasks which are incidental to the care and supervision of the recipient. This service must be approved by the case manager as part of the care plan. Companion services must be provided by individuals or nonprofit organizations who are under contract with the local agency to provide the service. Any person related to the waiver recipient by blood, marriage or adoption cannot be reimbursed under this service. Persons providing companion services will be monitored by the case manager.

(j) For purposes of this section, training for direct informal caregivers is defined as a classroom or home course of instruction which may include: transfer and lifting skills, nutrition, personal and physical cares, home safety in a home environment, stress reduction and management, behavioral management, long-term care decision making, care coordination and family dynamics. The training is provided to an informal unpaid caregiver of a 180-day eligible client which enables the caregiver to deliver care in a home setting with high levels of quality. The training must be approved by the case manager as part of the individual care plan. Individuals, agencies, and

educational facilities which provide caregiver training and education will be monitored by the case manager.

Sec. 39. Minnesota Statutes 1992, section 256B.0915, subdivision 3, is amended to read:

Subd. 3. [LIMITS OF CASES, RATES, REIMBURSEMENT, AND FORECASTING.] (a) The number of medical assistance waiver recipients that a county may serve must be allocated according to the number of medical assistance waiver cases open on July 1 of each fiscal year. Additional recipients may be served with the approval of the commissioner.

(b) The monthly limit for the cost of waivered services to an individual waiver client shall be the statewide average payment rate of the case mix resident class to which the waiver client would be assigned under medical assistance case mix reimbursement system. The statewide average payment rate is calculated by determining the statewide average monthly nursing home rate effective July 1 of the fiscal year in which the cost is incurred, less the statewide average monthly income of nursing home residents who are age 65 or older, and who are medical assistance recipients in the month of March of the previous state fiscal year. The following costs must be included in determining the total monthly costs for the waiver client:

(1) cost of all waivered services, including extended medical supplies and equipment; and

(2) cost of skilled nursing, home health aide, and personal care services reimbursable by medical assistance.

(c) Medical assistance funding for skilled nursing services, home health aide, and personal care services for waiver recipients must be approved by the case manager and included in the individual care plan.

(d) Expenditures for extended medical supplies and equipment that cost over $150 per month for both the elderly waiver and the disabled waiver must have the commissioner's prior approval.

(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.

The adult foster care daily rate for the elderly and disabled waivers shall be negotiated between the county agency and the foster care provider. The rate established under this section shall not exceed the state average monthly nursing home payment for the case mix classification to which the individual

receiving foster care is assigned, and it must allow for other waiver and medical assistance home care services to be authorized by the case manager.

The assisted living and residential care service rates for elderly and disabled waivers must be a monthly rate negotiated between the county agency and the vendor. The rate must 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 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, except for alternative care assisted living projects established under chapter 256 whose rates may not exceed 65 percent of the greater of either the statewide or any of the geographic groups' weighted average monthly medical assistance nursing facility payment rate for the case mix resident class to which the elderly or disabled client would be assigned under Minnesota Rules, parts 9549.0050 to 9549.0059. The rate may not cover rent or direct food costs.

(f) Reimbursement for the medical assistance recipients under the approved waiver shall be made from the medical assistance account through the invoice processing procedures of the department's Medicaid Management Information System (MMIS), only with the approval of the client's case manager. The budget for the state share of the Medicaid expenditures shall be forecasted with the medical assistance budget, and shall be consistent with the approved waiver.

(g) Beginning July 1, 1991, the state shall reimburse counties according to the payment schedule in section 256.025 for the county share of costs incurred under this subdivision on or after January 1, 1991, for individuals who are receiving medical assistance.

Sec. 40. Minnesota Statutes 1992, section 256B.15, subdivision 1, is amended to read:

Subdivision 1. [DEFINITION.] For purposes of this section, "medical assistance" includes the medical assistance program under this chapter and the general assistance medical care program under chapter 256D, but does not include the alternative care program ~~under this chapter~~ *for nonmedical assistance recipients under section 256B.0913, subdivision 4.*

Sec. 41. Minnesota Statutes 1992, section 256B.15, subdivision 2, is amended to read:

Subd. 2. [LIMITATIONS ON CLAIMS.] The claim shall include only the total amount of medical assistance rendered after age 65 or during a period of institutionalization described in subdivision ~~1~~ *1a*, clause (b), and the total amount of general assistance medical care rendered, and shall not include interest. Claims that have been allowed but not paid shall bear interest according to section 524.3-806, paragraph (d). A claim against the estate of a surviving spouse who did not receive medical assistance, for medical assistance rendered for the predeceased spouse, is limited to the value of the assets of the estate that were marital property or jointly owned property at any time during the marriage.

Sec. 42. Minnesota Statutes 1992, section 256B.19, subdivision 1b, is amended to read:

Subd. 1b. [PORTION OF NONFEDERAL SHARE TO BE PAID BY GOVERNMENT HOSPITALS.] *(a)* In addition to the percentage contribution

paid by a county under subdivision 1, the governmental units designated in this subdivision shall be responsible for an additional portion of the nonfederal share of medical assistance costs attributable to them. For purposes of this subdivision, "designated governmental unit" means Hennepin county, ~~and the public corporation known as Ramsey Health Care, Inc. which is operated under the authority of chapter 246A~~ *Ramsey county, and the University of Minnesota*. For purposes of this subdivision, "public hospital" means the Hennepin County Medical Center, *the University of Minnesota hospital,* and the St. Paul-Ramsey Medical Center.

(b) ~~Each of the governmental units designated in this subdivision~~ *Hennepin county and Ramsey county* shall on a monthly basis transfer an amount equal to two percent of the public hospital's net patient revenues, excluding net Medicare revenue to the state Medicaid agency.

(c) Effective July 1, 1994, each of the governmental units designated in paragraph (a) shall on a monthly basis transfer an amount equal to a percentage of the public hospital's net patient revenues, excluding net Medicare revenue, to the state Medicaid agency as follows: Ramsey county and the University of Minnesota, 1.8 percent, and Hennepin county, 2.3 percent.

(d) These sums shall be part of the ~~local~~ *designated* governmental unit's portion of the nonfederal share of medical assistance costs, but shall not be subject to payback provisions of section 256.025.

Sec. 43. Minnesota Statutes 1992, section 256B.19, is amended by adding a subdivision to read:

Subd. 1c. [ADDITIONAL PORTION OF NONFEDERAL SHARE.] *In addition to any payment required under subdivision 1b, Ramsey county, Hennepin county, and the University of Minnesota shall be responsible for a monthly transfer payment of $903,000, due on the 15th of each month beginning July 15, 1993. These sums shall be part of the designated governmental unit's portion of the nonfederal share of medical assistance costs, but shall not be subject to payback provisions of section 256.025.*

Sec. 44. Minnesota Statutes 1992, section 256B.19, is amended by adding a subdivision to read:

Subd. 1d. [PORTION OF NONFEDERAL SHARE TO BE PAID BY CERTAIN COUNTIES.] *In addition to the percentage contribution paid by a county under subdivision 1, the governmental units designated in this subdivision shall be responsible for an additional portion of the nonfederal share of medical assistance cost. For purposes of this subdivision, "designated governmental unit" means the counties of Becker, Beltrami, Cook, Dodge, Hubbard, Itasca, Lake, Mahnomen, Pennington, Pipestone, Ramsey, St. Louis, Steele, Traverse, and Wadena.*

Beginning in 1994, each of the governmental units designated in this subdivision shall transfer on May 31 to the state Medicaid agency an amount equal to the number of licensed beds in any nursing home owned by the county multiplied by $5,723. If two or more counties own a nursing home, the payment shall be prorated. These sums shall be part of the designated governmental unit's portion of the nonfederal share of medical assistance costs, but shall not be subject to payback provisions of section 256.025.

Sec. 45. Minnesota Statutes 1992, section 256B.37, subdivision 3, is amended to read:

Subd. 3. [NOTICE.] The state agency must be given notice of monetary claims against a person, firm, or corporation that may be liable in damages, or otherwise obligated to pay part or all of the cost of medical care when the state agency has paid or become liable for the cost of care. Notice must be given as follows:

(a) Applicants for medical assistance shall notify the state or local agency of any possible claims when they submit the application. Recipients of medical assistance shall notify the state or local agency of any possible claims when those claims arise.

(b) A person providing medical care services to a recipient of medical assistance shall notify the state agency when the person has reason to believe that a third party may be liable for payment of the cost of medical care.

(c) A person who is party to a claim upon which the state agency may be entitled to subrogation under this section shall notify the state agency of its potential subrogation claim before filing a claim, commencing an action, or negotiating a settlement. *A person who is a party to a claim includes the plaintiff, the defendants, and any other named party to the cause of action.*

Notice given to the local agency is not sufficient to meet the requirements of paragraphs (b) and (c).

Sec. 46. Minnesota Statutes 1992, section 256B.37, subdivision 5, is amended to read:

Subd. 5. [PRIVATE BENEFITS TO BE USED FIRST.] Private accident and health care coverage for medical services is primary coverage and must be exhausted before medical assistance is paid. When a person who is otherwise eligible for medical assistance has private accident or health care coverage, including a prepaid health plan, the private health care benefits available to the person must be used first and to the fullest extent. ~~Supplemental payment may be made by medical assistance, but the combined total amount paid must not exceed the amount payable under medical assistance in the absence of other coverage. Medical assistance must not make supplemental payment for covered services rendered by a vendor who participates or contracts with a health coverage plan if the plan requires the vendor to accept the plan's payment as payment in full.~~

Sec. 47. Minnesota Statutes 1992, section 256B.37, is amended by adding a subdivision to read:

Subd. 5a. [SUPPLEMENTAL PAYMENT BY MEDICAL ASSISTANCE.] *Medical assistance payment will not be made when either covered charges are paid in full by a third party or the provider has an agreement to accept payment for less than charges as payment in full. Payment for patients that are simultaneously covered by medical assistance and a liable third party other than Medicare will be determined as the lesser of clauses (1) to (3):*

(1) the patient liability according to the provider/insurer agreement;

(2) covered charges minus the third party payment amount; or

(3) the medical assistance rate minus the third party payment amount.

A negative difference will not be implemented.

Sec. 48. Minnesota Statutes 1992, section 256B.421, subdivision 14, is amended to read:

Subd. 14. [FRINGE BENEFITS.] "Fringe benefits" means workers' compensation insurance, *including costs related to operating a self-insured workers' compensation program under chapter 79A,* group health or dental insurance, group life insurance, retirement benefits or plans, except for public employee retirement act contributions, and uniform allowances.

Sec. 49. Minnesota Statutes 1992, section 256B.431, subdivision 2b, is amended to read:

Subd. 2b. [OPERATING COSTS, AFTER JULY 1, 1985.] (a) For rate years beginning on or after July 1, 1985, the commissioner shall establish procedures for determining per diem reimbursement for operating costs.

(b) The commissioner shall contract with an econometric firm with recognized expertise in and access to national economic change indices that can be applied to the appropriate cost categories when determining the operating cost payment rate.

(c) The commissioner shall analyze and evaluate each nursing facility's cost report of allowable operating costs incurred by the nursing facility during the reporting year immediately preceding the rate year for which the payment rate becomes effective.

(d) The commissioner shall establish limits on actual allowable historical operating cost per diems based on cost reports of allowable operating costs for the reporting year that begins October 1, 1983, taking into consideration relevant factors including resident needs, geographic location, size of the nursing facility, and the costs that must be incurred for the care of residents in an efficiently and economically operated nursing facility. In developing the geographic groups for purposes of reimbursement under this section, the commissioner shall ensure that nursing facilities in any county contiguous to the Minneapolis-St. Paul seven-county metropolitan area are included in the same geographic group. The limits established by the commissioner shall not be less, in the aggregate, than the 60th percentile of total actual allowable historical operating cost per diems for each group of nursing facilities established under subdivision 1 based on cost reports of allowable operating costs in the previous reporting year. For rate years beginning on or after July 1, 1989, facilities located in geographic group I as described in Minnesota Rules, part 9549.0052, on January 1, 1989, may choose to have the commissioner apply either the care related limits or the other operating cost limits calculated for facilities located in geographic group II, or both, if either of the limits calculated for the group II facilities is higher. The efficiency incentive for geographic group I nursing facilities must be calculated based on geographic group I limits. The phase-in must be established utilizing the chosen limits. For purposes of these exceptions to the geographic grouping requirements, the definitions in Minnesota Rules, parts 9549.0050 to 9549.0059 (Emergency), and 9549.0010 to 9549.0080, apply. The limits established under this paragraph remain in effect until the commissioner establishes a new base period. Until the new base period is established, the commissioner shall adjust the limits annually using the appropriate economic change indices established in paragraph (e). In determining allowable historical operating cost per diems for purposes of setting limits and nursing facility

payment rates, the commissioner shall divide the allowable historical operating costs by the actual number of resident days, except that where a nursing facility is occupied at less than 90 percent of licensed capacity days, the commissioner may establish procedures to adjust the computation of the per diem to an imputed occupancy level at or below 90 percent. The commissioner shall establish efficiency incentives as appropriate. The commissioner may establish efficiency incentives for different operating cost categories. The commissioner shall consider establishing efficiency incentives in care related cost categories. The commissioner may combine one or more operating cost categories and may use different methods for calculating payment rates for each operating cost category or combination of operating cost categories. For the rate year beginning on July 1, 1985, the commissioner shall:

(1) allow nursing facilities that have an average length of stay of 180 days or less in their skilled nursing level of care, 125 percent of the care related limit and 105 percent of the other operating cost limit established by rule; and

(2) exempt nursing facilities licensed on July 1, 1983, by the commissioner to provide residential services for the physically handicapped under Minnesota Rules, parts 9570.2000 to 9570.3600, from the care related limits and allow 105 percent of the other operating cost limit established by rule.

For the purpose of calculating the other operating cost efficiency incentive for nursing facilities referred to in clause (1) or (2), the commissioner shall use the other operating cost limit established by rule before application of the 105 percent.

(e) The commissioner shall establish a composite index or indices by determining the appropriate economic change indicators to be applied to specific operating cost categories or combination of operating cost categories.

(f) Each nursing facility shall receive an operating cost payment rate equal to the sum of the nursing facility's operating cost payment rates for each operating cost category. The operating cost payment rate for an operating cost category shall be the lesser of the nursing facility's historical operating cost in the category increased by the appropriate index established in paragraph (e) for the operating cost category plus an efficiency incentive established pursuant to paragraph (d) or the limit for the operating cost category increased by the same index. If a nursing facility's actual historic operating costs are greater than the prospective payment rate for that rate year, there shall be no retroactive cost settle-up. In establishing payment rates for one or more operating cost categories, the commissioner may establish separate rates for different classes of residents based on their relative care needs.

(g) The commissioner shall include the reported actual real estate tax liability or payments in lieu of real estate tax of each nursing facility as an operating cost of that nursing facility. Allowable costs under this subdivision for payments made by a nonprofit nursing facility that are in lieu of real estate taxes shall not exceed the amount which the nursing facility would have paid to a city or township and county for fire, police, sanitation services, and road maintenance costs had real estate taxes been levied on that property for those purposes. For rate years beginning on or after July 1, 1987, the reported actual real estate tax liability or payments in lieu of real estate tax of nursing facilities shall be adjusted to include an amount equal to one-half of the dollar change in real estate taxes from the prior year. The commissioner shall include a reported actual special assessment, and reported actual license fees required by the Minnesota department of health, for each nursing facility as an

operating cost of that nursing facility. For rate years beginning on or after July 1, 1989, the commissioner shall include a nursing facility's reported public employee retirement act contribution for the reporting year as apportioned to the care-related operating cost categories and other operating cost categories multiplied by the appropriate composite index or indices established pursuant to paragraph (e) as costs under this paragraph. Total adjusted real estate tax liability, payments in lieu of real estate tax, actual special assessments paid, the indexed public employee retirement act contribution, and license fees paid as required by the Minnesota department of health, for each nursing facility (1) shall be divided by actual resident days in order to compute the operating cost payment rate for this operating cost category, (2) shall not be used to compute the care-related operating cost limits or other operating cost limits established by the commissioner, and (3) shall not be increased by the composite index or indices established pursuant to paragraph (e), unless otherwise indicated in this paragraph.

(h) For rate years beginning on or after July 1, 1987, the commissioner shall adjust the rates of a nursing facility that meets the criteria for the special dietary needs of its residents ~~as specified in section 144A.071, subdivision 3, clause (e),~~ and the requirements in section 31.651. The adjustment for raw food cost shall be the difference between the nursing facility's allowable historical raw food cost per diem and 115 percent of the median historical allowable raw food cost per diem of the corresponding geographic group.

The rate adjustment shall be reduced by the applicable phase-in percentage as provided under subdivision 2h.

Sec. 50. Minnesota Statutes 1992, section 256B.431, subdivision 2o, is amended to read:

Subd. 2o. [SPECIAL PAYMENT RATES FOR SHORT-STAY NURSING FACILITIES.] Notwithstanding contrary provisions of this section and rules adopted by the commissioner, for the rate years beginning on or after July 1, ~~1992~~ *1993*, a nursing facility whose average length of stay for the ~~rate~~ *preceding reporting* year ~~beginning July 1, 1991,~~ is *(1)* less than 180 days*; or (2) less than 225 days in a nursing facility with more than 315 licensed beds* must be reimbursed for allowable costs up to 125 percent of the total care-related limit and 105 percent of the other-operating-cost limit for hospital-attached nursing facilities. ~~The~~ *A* nursing facility *that received the benefit of this limit during the rate year beginning July 1, 1992,* continues to receive this rate *during the rate year beginning July 1, 1993,* even if the facility's average length of stay is more than 180 days in the rate years subsequent to the rate year beginning July 1, 1991. *For purposes of this subdivision, a nursing facility shall compute its average length of stay by dividing the nursing facility's actual resident days for the reporting year by the nursing facility's total resident discharges for that reporting year.*

Sec. 51. Minnesota Statutes 1992, section 256B.431, subdivision 13, is amended to read:

Subd. 13. [HOLD-HARMLESS PROPERTY-RELATED RATES.] (a) Terms used in subdivisions 13 to 21 shall be as defined in Minnesota Rules, parts 9549.0010 to 9549.0080, and this section.

(b) Except as provided in this subdivision, for rate periods beginning on October 1, 1992, and for rate years beginning after June 30, 1993, the property-related rate for a nursing facility shall be the greater of $4 or the

property-related payment rate in effect on September 30, 1992. In addition, the incremental increase in the nursing facility's rental rate will be determined under Minnesota Rules, parts 9549.0010 to 9549.0080, and this section.

(c) Notwithstanding Minnesota Rules, part 9549.0060, subpart 13, item F, a nursing facility that has a sale permitted under subdivision 14 after June 30, 1992, shall receive the property-related payment rate in effect at the time of the sale or reorganization. For rate periods beginning after October 1, 1992, and for rate years beginning after June 30, 1993, a nursing facility shall receive, in addition to its property-related payment rate in effect at the time of the sale, the incremental increase allowed under subdivision 14.

(d) For rate years beginning after June 30, 1993, the property-related rate for a nursing facility licensed after July 1, 1989, after relocating its beds from a separate nursing home to a building formerly used as a hospital and sold during the cost reporting year ending September 30, 1991, shall be its property-related rate prior to the sale in addition to the incremental increases provided under this section effective on October 1, 1992, of 29 cents per day, and any incremental increases after October 1, 1992, calculated by using its rental rate under Minnesota Rules, parts 9549.0010 to 9549.0080, and this section, recognizing the current appraised value of the facility at the new location, and including as allowable debt otherwise allowable debt incurred to remodel the facility in the new location prior to the relocation of beds.

Sec. 52. Minnesota Statutes 1992, section 256B.431, subdivision 14, is amended to read:

Subd. 14. [LIMITATIONS ON SALES OF NURSING FACILITIES.] (a) For rate periods beginning on October 1, 1992, and for rate years beginning after June 30, 1993, a nursing facility's property-related payment rate as established under subdivision 13 shall be adjusted by either paragraph (b) or (c) for the sale of the nursing facility, including sales occurring after June 30, 1992, as provided in this subdivision.

(b) If the nursing facility's property-related payment rate under subdivision 13 prior to sale is greater than the nursing facility's rental rate under Minnesota Rules, parts 9549.0010 to 9549.0080, and this section prior to sale, the nursing facility's property-related payment rate after sale shall be the greater of its property-related payment rate under subdivision 13 prior to sale or its rental rate under Minnesota Rules, parts 9549.0010 to 9549.0080, and this section calculated after sale.

(c) If the nursing facility's property-related payment rate under subdivision 13 prior to sale is equal to or less than the nursing facility's rental rate under Minnesota Rules, parts 9549.0010 to 9549.0080, and this section prior to sale, the nursing facility's property-related payment rate after sale shall be the nursing facility's property-related payment rate under subdivision 13 plus the difference between its rental rate calculated under Minnesota Rules, parts 9549.0010 to 9549.0080, and this section prior to sale and its rental rate calculated under Minnesota Rules, parts 9549.0010 to 9549.0080, and this section calculated after sale.

(d) For purposes of this subdivision, "sale" means the purchase of a nursing facility's capital assets with cash or debt. The term sale does not include a stock purchase of a nursing facility or any of the following transactions:

(1) a sale and leaseback to the same licensee that does not constitute a change in facility license;

(2) a transfer of an interest to a trust;

(3) gifts or other transfers for no consideration;

(4) a merger of two or more related organizations;

(5) a change in the legal form of doing business, other than a publicly held organization that becomes privately held or vice versa;

(6) the addition of a new partner, owner, or shareholder who owns less than 20 percent of the nursing facility or the issuance of stock; and

(7) a sale, merger, reorganization, or any other transfer of interest between related organizations other than those permitted in this section. *For purposes of this subdivision "sale" includes the sale or transfer of a nursing facility to a close relative as defined in Minnesota Rules, part 9549.0020, subpart 38, item C, upon the death of an owner, due to serious illness or disability, as defined under the Social Security Act, under United States Code, title 42, section 423(d)(1)(A), or upon retirement of an owner from the business of owning or operating a nursing home at 62 years of age or older. For sales to a close relative allowed under this clause, otherwise allowable related organization debt resulting from seller financing of all or a portion of the debt resulting from the sale shall be allowed and shall not be subject to Minnesota Rules, part 9549.0060, subpart 5, item E, provided that in addition to existing requirements for allowance of debt and interest, the debt is subject to repayment through annual principal payments and the interest rate on the related organization debt does not exceed the lesser of the interest rate offered on the day of the sale to for-profit nursing homes by the Minnesota housing finance agency, if such information is available from that agency, or three percentage points above the posted yield for standard conventional fixed rate mortgages of the Federal Home Loan Mortgage Corporation for delivery in 60 days in effect on the day of sale. If at any time, the seller forgives or otherwise reduces the amount of the related organization debt allowed under this clause between the parties for other than equal amount of payment on that debt, then the buyer shall pay to the state the total revenue received by the facility after the sale attributable to the amount of allowable debt which has been forgiven or otherwise reduced for less than fair value. Any assignment, sale, or transfer of the contract for deed or debt instrument entered into by the related organization seller and the related organization buyer that grants to the buyer the right to receive all or a portion of the payments under the contract for deed or debt instrument shall, effective on the date of the transfer, result in the prospective reduction in the allowable related organization debt equal to the total amount transferred attributable to payment of principal and effective beginning with the cost reporting period during which the transfer takes place shall result in the offset against allowable interest of amounts received pursuant to the transfer annually thereafter attributable to payment of interest. Upon the death of the related organization seller, any remaining balance of the related organization debt must be refinanced and such refinancing shall be subject to the provisions of Minnesota Rules, part 9549.0060, subpart 7, item G.*

(e) For purposes of this subdivision, "effective date of sale" means the later of either the date on which legal title to the capital assets is transferred or the date on which closing for the sale occurred.

(f) The effective day for the property-related payment rate determined under this subdivision shall be the first day of the month following the month in which the effective date of sale occurs or October 1, 1992, whichever is later, provided that the notice requirements under section 256B.47, subdivision 2, have been met.

(g) Notwithstanding Minnesota Rules, part 9549.0060, subparts 5, item A, subitems (3) and (4), and 7, items E and F, the commissioner shall limit the total allowable debt and related interest for sales occurring after June 30, 1992, to the sum of clauses (1) to (3):

(1) the historical cost of capital assets, as of the nursing facility's most recent previous effective date of sale or, if there has been no previous sale, the nursing facility's initial historical cost of constructing capital assets;

(2) the average annual capital asset additions after deduction for capital asset deletions, not including depreciations; and

(3) one-half of the allowed inflation on the nursing facility's capital assets. The commissioner shall compute the allowed inflation as described in paragraph (h).

(h) For purposes of computing the amount of allowed inflation, the commissioner must apply the following principles:

(1) the lesser of the Consumer Price Index for all urban consumers or the Dodge Construction Systems Costs for Nursing Homes for any time periods during which both are available must be used. If the Dodge Construction Systems Costs for Nursing Homes becomes unavailable, the commissioner shall substitute the index in subdivision 3f, or such other index as the secretary of the health care financing administration may designate;

(2) the amount of allowed inflation to be applied to the capital assets in paragraph (g), clauses (1) and (2), must be computed separately;

(3) the amount of allowed inflation must be determined on an annual basis, prorated on a monthly basis for partial years and if the initial month of use is not determinable for a capital asset, then one-half of that calendar year shall be used for purposes of prorating;

(4) the amount of allowed inflation to be applied to the capital assets in paragraph (g), clauses (1) and (2), must not exceed 300 percent of the total capital assets in any one of those clauses; and

(5) the allowed inflation must be computed starting with the month following the nursing facility's most recent previous effective date of sale or, if there has been no previous sale, the month following the date of the nursing facility's initial occupancy, and ending with the month preceding the effective date of sale.

(i) If the historical cost of a capital asset is not readily available for the date of the nursing facility's most recent previous sale or if there has been no previous sale for the date of the nursing facility's initial occupancy, then the commissioner shall limit the total allowable debt and related interest after sale to the extent recognized by the Medicare intermediary after the sale. For a nursing facility that has no historical capital asset cost data available and does not have allowable debt and interest calculated by the Medicare intermediary, the commissioner shall use the historical cost of capital asset data from the

point in time for which capital asset data is recorded in the nursing facility's audited financial statements.

(j) The limitations in this subdivision apply only to debt resulting from a sale of a nursing facility occurring after June 30, 1992, including debt assumed by the purchaser of the nursing facility.

Sec. 53. Minnesota Statutes 1992, section 256B.431, subdivision 15, is amended to read:

Subd. 15. [CAPITAL REPAIR AND REPLACEMENT COST REPORTING AND RATE CALCULATION.] For rate years beginning after June 30, 1993, a nursing facility's capital repair and replacement payment rate shall be established annually as provided in paragraphs (a) to (d).

(a) Notwithstanding Minnesota Rules, part 9549.0060, subpart 12, the costs of acquiring *any of* the following items, including cash payment for equity investment and principal and interest expense for debt financing, shall be reported in the capital repair and replacement cost category *when the cost of the item exceeds $500*:

(1) wall coverings;

(2) paint;

(3) floor coverings;

(4) window coverings;

(5) roof repair;

(6) heating or cooling system repair or replacement;

(7) window repair or replacement;

(8) initiatives designed to reduce energy usage by the facility if accompanied by an energy audit prepared by a professional engineer or architect registered in Minnesota, or by an auditor certified under Minnesota Rules, part 7635.0130, to do energy audits and the energy audit identifies the initiative as a conservation measure; and

(9) ~~capitalized~~ repair or replacement of capital assets not included in the equity incentive computations under subdivision 16.

(b) To compute the capital repair and replacement payment rate, the allowable annual repair and replacement costs for the reporting year must be divided by actual resident days for the reporting year. The annual allowable capital repair and replacement costs shall not exceed $150 per licensed bed. The excess of the allowed capital repair and replacement costs over the capital repair and replacement limit shall be a cost carryover to succeeding cost reporting periods, except that sale of a facility, under subdivision 14, shall terminate the carryover of all costs except those incurred in the most recent cost reporting year. The termination of the carryover shall have effect on the capital repair and replacement rate on the same date as provided in subdivision 14, paragraph (f), for the sale. For rate years beginning after June 30, 1994, the capital repair and replacement limit shall be subject to the index provided in subdivision 3f, paragraph (a). For purposes of this subdivision, the number of licensed beds shall be the number used to calculate the nursing facility's capacity days. The capital repair and replacement rate must be added to the nursing facility's total payment rate.

(c) Capital repair and replacement costs under this subdivision shall not be counted as either care-related or other operating costs, nor subject to care-related or other operating limits.

(d) If costs otherwise allowable under this subdivision are incurred as the result of a project approved under the moratorium exception process in section 144A.073, or in connection with an addition to or replacement of buildings, attached fixtures, or land improvements for which the total historical cost of these assets exceeds the lesser of $150,000 or ten percent of the nursing facility's appraised value, these costs must be claimed under subdivision 16 or 17, as appropriate.

Sec. 54. Minnesota Statutes 1992, section 256B.431, subdivision 21, is amended to read:

Subd. 21. [INDEXING THRESHOLDS.] Beginning January 1, 1993, and each January 1 thereafter, the commissioner shall annually update the dollar threshholds in subdivisions 15, paragraph (d), 16, and 17, and in section 144A.071, ~~subdivision~~ *subdivisions* 2; and 3 *4a*, clauses ~~(h)~~ *(b)* and ~~(p)~~ *(e)*, by the inflation index referenced in subdivision 3f, paragraph (a).

Sec. 55. Minnesota Statutes 1992, section 256B.431, is amended by adding a subdivision to read:

Subd. 22. [CHANGES TO NURSING FACILITY REIMBURSEMENT.] *The nursing facility reimbursement changes in paragraphs (a) to (c) apply to Minnesota Rules, parts 9549.0010 to 9549.0080, and this section, and are effective for rate years beginning on or after July 1, 1993, unless otherwise indicated.*

(a) The care related operating rate shall be increased by 40 cents to reimburse facilities for unfunded federal mandates, including costs related to hepatitis B vaccinations.

(b) In addition to the approved pension or profit sharing plans allowed by the reimbursement rule, the commissioner shall allow those plans specified in Internal Revenue Code, sections 403(b) and 408(k).

(c) In the determination of incremental increases in the nursing facility's rental rate as required in subdivisions 14 to 21, except for a refinancing permitted under subdivision 19, the commissioner must adjust the nursing facility's property-related payment rate for both incremental increases and decreases in recomputations of its rental rate.

Sec. 56. Minnesota Statutes 1992, section 256B.431 is amended by adding a subdivision to read:

Subd. 23. [COUNTY NURSING HOME PAYMENT ADJUSTMENTS.] *(a) Beginning in 1994, the commissioner shall pay a nursing home payment adjustment on June 1 to a county in which is located a county-owned nursing home with over 40 beds and medical assistance occupancy in excess of 50 percent during the reporting year ending September 30, 1991. The adjustment shall be an amount equal to $16 per calendar day multiplied by the number of beds licensed in the facility as of September 30, 1991.*

(b) Payments under paragraph (a) are excluded from medical assistance per diem rate calculations. These payments are required notwithstanding any rule prohibiting medical assistance payments from exceeding payments from private pay residents. A facility receiving a payment under paragraph (a) may

not increase charges to private pay residents by an amount equivalent to the per diem amount payments under paragraph (a) would equal if converted to a per diem.

Sec. 57. Minnesota Statutes 1992, section 256B.432, is amended by adding a subdivision to read:

Subd. 8. [ADEQUATE DOCUMENTATION SUPPORTING NURSING FACILITY PAYROLLS.] *Beginning July 1, 1993, payroll records supporting compensation costs claimed by long-term care facilities must be supported by affirmative time and attendance records prepared by each individual at intervals of not more than one month. The affirmative time and attendance record must identify the individual's name; the days worked during each pay period; the number of hours worked each day; and the number of hours taken each day by the individual for vacation, sick, and other leave. The affirmative time and attendance record must include a signed verification by the individual and the individual's supervisor, if any, that the entries reported on the record are correct.*

Sec. 58. Minnesota Statutes 1992, section 256B.48, subdivision 1, is amended to read:

Subdivision 1. [PROHIBITED PRACTICES.] A nursing facility is not eligible to receive medical assistance payments unless it refrains from all of the following:

(a) Charging private paying residents rates for similar services which exceed those which are approved by the state agency for medical assistance recipients as determined by the prospective desk audit rate, except under the following circumstances: the nursing facility may (1) charge private paying residents a higher rate for a private room, and (2) charge for special services which are not included in the daily rate if medical assistance residents are charged separately at the same rate for the same services in addition to the daily rate paid by the commissioner. Services covered by the payment rate must be the same regardless of payment source. Special services, if offered, must be available to all residents in all areas of the nursing facility and charged separately at the same rate. Residents are free to select or decline special services. Special services must not include services which must be provided by the nursing facility in order to comply with licensure or certification standards and that if not provided would result in a deficiency or violation by the nursing facility. Services beyond those required to comply with licensure or certification standards must not be charged separately as a special service if they were included in the payment rate for the previous reporting year. A nursing facility that charges a private paying resident a rate in violation of this clause is subject to an action by the state of Minnesota or any of its subdivisions or agencies for civil damages. A private paying resident or the resident's legal representative has a cause of action for civil damages against a nursing facility that charges the resident rates in violation of this clause. The damages awarded shall include three times the payments that result from the violation, together with costs and disbursements, including reasonable attorneys' fees or their equivalent. A private paying resident or the resident's legal representative, the state, subdivision or agency, or a nursing facility may request a hearing to determine the allowed rate or rates at issue in the cause of action. Within 15 calendar days after receiving a request for such a hearing, the commissioner shall request assignment of an administrative law judge under sections 14.48 to 14.56 to conduct the hearing as soon as possible or

according to agreement by the parties. The administrative law judge shall issue a report within 15 calendar days following the close of the hearing. The prohibition set forth in this clause shall not apply to facilities licensed as boarding care facilities which are not certified as skilled or intermediate care facilities level I or II for reimbursement through medical assistance.

(b) Requiring an applicant for admission to the facility, or the guardian or conservator of the applicant, as a condition of admission, to pay any fee or deposit in excess of $100, loan any money to the nursing facility, or promise to leave all or part of the applicant's estate to the facility.

(c) Requiring any resident of the nursing facility to utilize a vendor of health care services ~~who is a licensed physician or pharmacist chosen by the nursing facility~~ *chosen by the nursing home.*

(d) Providing differential treatment on the basis of status with regard to public assistance.

(e) Discriminating in admissions, services offered, or room assignment on the basis of status with regard to public assistance or refusal to purchase special services. Admissions discrimination shall include, but is not limited to:

(1) basing admissions decisions upon assurance by the applicant to the nursing facility, or the applicant's guardian or conservator, that the applicant is neither eligible for nor will seek public assistance for payment of nursing facility care costs; and

(2) engaging in preferential selection from waiting lists based on an applicant's ability to pay privately or an applicant's refusal to pay for a special service.

The collection and use by a nursing facility of financial information of any applicant pursuant to a preadmission screening program established by law shall not raise an inference that the nursing facility is utilizing that information for any purpose prohibited by this paragraph.

(f) Requiring any vendor of medical care as defined by section 256B.02, subdivision 7, who is reimbursed by medical assistance under a separate fee schedule, to pay any amount based on utilization or service levels or any portion of the vendor's fee to the nursing facility except as payment for renting or leasing space or equipment or purchasing support services from the nursing facility as limited by section 256B.433. All agreements must be disclosed to the commissioner upon request of the commissioner. Nursing facilities and vendors of ancillary services that are found to be in violation of this provision shall each be subject to an action by the state of Minnesota or any of its subdivisions or agencies for treble civil damages on the portion of the fee in excess of that allowed by this provision and section 256B.433. Damages awarded must include three times the excess payments together with costs and disbursements including reasonable attorney's fees or their equivalent.

(g) Refusing, for more than 24 hours, to accept a resident returning to the same bed or a bed certified for the same level of care, in accordance with a physician's order authorizing transfer, after receiving inpatient hospital services.

The prohibitions set forth in clause (b) shall not apply to a retirement

facility with more than 325 beds including at least 150 licensed nursing facility beds and which:

(1) is owned and operated by an organization tax-exempt under section 290.05, subdivision 1, clause (i); and

(2) accounts for all of the applicant's assets which are required to be assigned to the facility so that only expenses for the cost of care of the applicant may be charged against the account; and

(3) agrees in writing at the time of admission to the facility to permit the applicant, or the applicant's guardian, or conservator, to examine the records relating to the applicant's account upon request, and to receive an audited statement of the expenditures charged against the applicant's individual account upon request; and

(4) agrees in writing at the time of admission to the facility to permit the applicant to withdraw from the facility at any time and to receive, upon withdrawal, the balance of the applicant's individual account.

For a period not to exceed 180 days, the commissioner may continue to make medical assistance payments to a nursing facility or boarding care home which is in violation of this section if extreme hardship to the residents would result. In these cases the commissioner shall issue an order requiring the nursing facility to correct the violation. The nursing facility shall have 20 days from its receipt of the order to correct the violation. If the violation is not corrected within the 20-day period the commissioner may reduce the payment rate to the nursing facility by up to 20 percent. The amount of the payment rate reduction shall be related to the severity of the violation and shall remain in effect until the violation is corrected. The nursing facility or boarding care home may appeal the commissioner's action pursuant to the provisions of chapter 14 pertaining to contested cases. An appeal shall be considered timely if written notice of appeal is received by the commissioner within 20 days of notice of the commissioner's proposed action.

In the event that the commissioner determines that a nursing facility is not eligible for reimbursement for a resident who is eligible for medical assistance, the commissioner may authorize the nursing facility to receive reimbursement on a temporary basis until the resident can be relocated to a participating nursing facility.

Certified beds in facilities which do not allow medical assistance intake on July 1, 1984, or after shall be deemed to be decertified for purposes of section 144A.071 only.

Sec. 59. Minnesota Statutes 1992, section 256B.50, subdivision 1b, is amended to read:

Subd. 1b. [FILING AN APPEAL.] To appeal, the provider shall file with the commissioner a written notice of appeal; the appeal must be postmarked *or received by the commissioner* within 60 days of the date the determination of the payment rate was mailed *or personally received by a provider, whichever is earlier*. The notice of appeal must specify each disputed item; the reason for the dispute; the total dollar amount in dispute for each separate disallowance, allocation, or adjustment of each cost item or part of a cost item; the computation that the provider believes is correct; the authority in statute or rule upon which the provider relies for each disputed item; the name and address of the person or firm with whom contacts may be made regarding

the appeal; and other information required by the commissioner. The commissioner shall review an appeal by a nursing facility, if the appeal was sent by certified mail and postmarked prior to August 1, 1991, and would have been received by the commissioner within the 60-day deadline if it had not been delayed due to an error by the postal service.

Sec. 60. Minnesota Statutes 1992, section 256B.50, is amended by adding a subdivision to read:

Subd. 1h. [APPEALS REVIEW PROJECT.] *(a) The appeals review procedure described in this subdivision is effective for desk audit appeals for rate years beginning between July 1, 1993, and June 30, 1997, and for field audit appeals filed during that time period. For appeals reviewed under this subdivision, subdivision 1c applies only to contested case demands under paragraph (c) and subdivision 1d does not apply.*

(b) The commissioner shall review appeals and issue a written determination on each appealed item within one year of the due date of the appeal. Upon mutual agreement, the commissioner and the provider may extend the time for issuing a determination for a specified period. The commissioner shall notify the provider by first class mail of the determination. The determination takes effect 30 days following the date of issuance specified in the determination.

(c) In reviewing the appeal, the commissioner may request additional written or oral information from the provider. The provider shall have the right to present information by telephone or in person concerning the appeal to the commissioner or a designee prior to the issuance of the determination if a conference is requested within six months of the date the appeal was received by the commissioner. Statements made during the review are not admissible in a contested case hearing under paragraph (d) absent an express stipulation by the parties to the contested case.

(d) For an appeal item on which the provider disagrees with the determination, the provider may file with the commissioner a written demand for a contested case hearing to determine the proper resolution of specified appeal items. The demand must be postmarked or received by the commissioner within 30 days of the date of issuance specified in the determination. The commissioner shall refer any contested case demand to the office of the attorney general. When a contested case demand is referred to the office of the attorney general, the contested case procedures described in subdivision 1c apply and the written determination issued by the commissioner is of no effect.

(e) The commissioner has discretion to issue to the provider a proposed resolution for specified appeal items upon a request from the provider filed separately from the notice of appeal. The proposed resolution is final upon written acceptance by the provider within 30 days of the date the proposed resolution was mailed to or personally received by the provider, whichever is earlier.

(f) The commissioner may use the procedures described in this subdivision to resolve appeals filed prior to July 1, 1993.

Sec. 61. Minnesota Statutes 1992, section 256B.50, is amended by adding a subdivision to read:

Subd. 3. [TIME AND ATTENDANCE DISPUTED ITEMS.] *The commissioner shall resolve pending appeals by a nursing facility of disallowances or*

adjustments of compensation costs for rate years beginning prior to June 30, 1994, by recognizing the compensation costs reported by the nursing facility when the appealed disallowances or adjustments were based on a determination of inadequate documentation of time and attendance or equivalent records to support payroll costs. The recognition of costs provided in this subdivision pertains only to appeals of disallowances and adjustments based solely on disputed time and attendance or equivalent records. Appeals of disallowances and adjustments of compensation costs based on other grounds, including misrepresentation of costs or failure to meet the general cost criteria under Minnesota Rules, parts 9549.0010 to 9549.0080, are not governed by this subdivision.

Sec. 62. Minnesota Statutes 1992, section 256B.501, subdivision 1, is amended to read:

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

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

(b) "Facility" means a facility licensed as a mental retardation residential facility under section 252.28, licensed as a supervised living facility under chapter 144, and certified as an intermediate care facility for persons with mental retardation or related conditions.

(c) "Waivered service" means home or community-based service authorized under United States Code, title 42, section 1396n(c), as amended through December 31, 1987, and defined in the Minnesota state plan for the provision of medical assistance services. Waivered services include, at a minimum, case management, family training and support, developmental training homes, supervised living arrangements, semi-independent living services, respite care, and training and habilitation services.

(d) "Fringe benefits" means workers' compensation insurance, including costs related to operating a self-insured workers' compensation program under chapter 79A, group health insurance, disability insurance, dental insurance, group life insurance, and retirement benefits or plans.

Sec. 63. Minnesota Statutes 1992, section 256B.501, subdivision 3g, is amended to read:

Subd. 3g. [ASSESSMENT OF RESIDENTS.] ~~For rate years beginning on or after October 1, 1990, the commissioner shall establish program operating cost rates for care of residents in facilities that take into consideration service characteristics of residents in those facilities.~~ To establish the service characteristics of residents, the quality assurance and review teams in the department of health shall assess all residents annually beginning January 1, 1989, using a uniform assessment instrument developed by the commissioner. This instrument shall include assessment of the ~~client's~~ *services needed and provided to each client to address* behavioral needs, integration into the community, ability to perform activities of daily living, medical and therapeutic needs, and other relevant factors determined by the commissioner. ~~The commissioner may adjust the program operating cost rates of facilities based on a comparison of client service characteristics, resource needs, and costs. The commissioner may adjust a facility's payment rate during the rate year when accumulated changes in the facility's average service units exceed the~~

~~minimums established in the rules required by subdivision 3j.~~ *By January 30, 1994, the commissioner shall report to the legislature on:*

(1) the assessment process and scoring system utilized;

(2) possible utilization of assessment information by facilities for management purposes; and

(3) possible application of the assessment for purposes of adjusting the operating cost rates of facilities based on a comparison of client services characteristics, resource needs, and costs.

Sec. 64. Minnesota Statutes 1992, section 256B.501, subdivision 3i, is amended to read:

Subd. 3i. [SCOPE.] Subdivisions 3a to *3e and* 3h do not apply to facilities whose payment rates are governed by Minnesota Rules, part 9553.0075.

Sec. 65. Minnesota Statutes 1992, section 256B.501, is amended by adding a subdivision to read:

Subd. 5a. [CHANGES TO ICF/MR REIMBURSEMENT.] *The reimbursement rule changes in paragraphs (a) and (b) apply to Minnesota Rules, parts 9553.0010 to 9553.0080, and this section, and are effective for rate years beginning on or after October 1, 1993, unless otherwise specified.*

(a) In addition to the approved pension or profit sharing plans allowed by the reimbursement rule, the commissioner shall allow those plans specified in Internal Revenue Code, sections 403(b) and 408(k).

(b) The operating cost payment rate shall be increased by 72 cents effective July 1, 1993, to reimburse facilities for federal, state, and local mandates relating to hepatitis B vaccinations, workers' compensation increases, facility bed licensing charges, and other requirements. For rate periods and rate years beginning July 1, 1994, the adjustment to the operating cost payment rate for these costs shall be 31 cents.

(c) The commissioner must retroactively review a facility's expenditures related to this operating cost payment rate adjustment. The period of review shall be July 1, 1993, to June 30, 1995. Each facility must report its expenditures on forms specified by the commissioner. The expenditures subject to review are costs of hepatitis B vaccinations; workers' compensation increases which exceed by five percent the amount of the facility's workers' compensation expense for the prior reporting year; facility bed licensing charge increases above those for the prior reporting year; and other new governmental mandates which occur during these two rate years. Any excess payments under this provision over these expenses must be recovered by the department. The excess payment, if any, shall be divided by the facilities resident days for its most recent desk audited reporting year, and shall be repaid over the facility's next rate year.

Sec. 66. Minnesota Statutes 1992, section 256D.03, subdivision 4, is amended to read:

Subd. 4. [GENERAL ASSISTANCE MEDICAL CARE; SERVICES.] (a) For a person who is eligible under subdivision 3, paragraph (a), clause (3), general assistance medical care covers:

(1) inpatient hospital services;

(2) outpatient hospital services;

(3) services provided by Medicare certified rehabilitation agencies;

(4) prescription drugs and other products recommended through the process established in section 256B.0625, subdivision 13;

(5) equipment necessary to administer insulin and diagnostic supplies and equipment for diabetics to monitor blood sugar level;

(6) eyeglasses and eye examinations provided by a physician or optometrist;

(7) hearing aids;

(8) prosthetic devices;

(9) laboratory and X-ray services;

(10) physician's services;

(11) medical transportation;

(12) chiropractic services as covered under the medical assistance program;

(13) podiatric services;

(14) dental services;

(15) outpatient services provided by a mental health center or clinic that is under contract with the county board and is established under section 245.62;

(16) day treatment services for mental illness provided under contract with the county board;

(17) prescribed medications for persons who have been diagnosed as mentally ill as necessary to prevent more restrictive institutionalization;

(18) case management services for a person with serious and persistent mental illness who would be eligible for medical assistance except that the person resides in an institution for mental diseases;

(19) psychological services, medical supplies and equipment, and Medicare premiums, coinsurance and deductible payments; ~~and~~

(20) medical equipment not specifically listed in this paragraph when the use of the equipment will prevent the need for costlier services that are reimbursable under this subdivision*; and*

(21) services performed by a certified pediatric nurse practitioner, a certified family nurse practitioner, a certified adult nurse practitioner, a certified obstetric/gynecological nurse practitioner, or a certified geriatric nurse practitioner in independent practice, if the services are otherwise covered under this chapter as a physician service, and if the service is within the scope of practice of the nurse practitioner's license as a registered nurse, as defined in section 148.171.

(b) For a recipient who is eligible under subdivision 3, paragraph (a), clause (1) or (2), general assistance medical care covers the services listed in paragraph (a) with the exception of special transportation services.

(c) In order to contain costs, the commissioner of human services shall select vendors of medical care who can provide the most economical care consistent with high medical standards and shall where possible contract with

organizations on a prepaid capitation basis to provide these services. The commissioner shall consider proposals by counties and vendors for prepaid health plans, competitive bidding programs, block grants, or other vendor payment mechanisms designed to provide services in an economical manner or to control utilization, with safeguards to ensure that necessary services are provided. Before implementing prepaid programs in counties with a county operated or affiliated public teaching hospital or a hospital or clinic operated by the University of Minnesota, the commissioner shall consider the risks the prepaid program creates for the hospital and allow the county or hospital the opportunity to participate in the program in a manner that reflects the risk of adverse selection and the nature of the patients served by the hospital, provided the terms of participation in the program are competitive with the terms of other participants considering the nature of the population served. Payment for services provided pursuant to this subdivision shall be as provided to medical assistance vendors of these services under sections 256B.02, subdivision 8, and 256B.0625. For payments made during fiscal year 1990 and later years, the commissioner shall consult with an independent actuary in establishing prepayment rates, but shall retain final control over the rate methodology.

(d) The commissioner of human services may reduce payments provided under sections 256D.01 to 256D.21 and 261.23 in order to remain within the amount appropriated for general assistance medical care, within the following restrictions.

For the period July 1, 1985, to December 31, 1985, reductions below the cost per service unit allowable under section 256.966, are permitted only as follows: payments for inpatient and outpatient hospital care provided in response to a primary diagnosis of chemical dependency or mental illness may be reduced no more than 30 percent; payments for all other inpatient hospital care may be reduced no more than 20 percent. Reductions below the payments allowable under general assistance medical care for the remaining general assistance medical care services allowable under this subdivision may be reduced no more than ten percent.

For the period January 1, 1986, to December 31, 1986, reductions below the cost per service unit allowable under section 256.966 are permitted only as follows: payments for inpatient and outpatient hospital care provided in response to a primary diagnosis of chemical dependency or mental illness may be reduced no more than 20 percent; payments for all other inpatient hospital care may be reduced no more than 15 percent. Reductions below the payments allowable under general assistance medical care for the remaining general assistance medical care services allowable under this subdivision may be reduced no more than five percent.

For the period January 1, 1987, to June 30, 1987, reductions below the cost per service unit allowable under section 256.966 are permitted only as follows: payments for inpatient and outpatient hospital care provided in response to a primary diagnosis of chemical dependency or mental illness may be reduced no more than 15 percent; payments for all other inpatient hospital care may be reduced no more than ten percent. Reductions below the payments allowable under medical assistance for the remaining general assistance medical care services allowable under this subdivision may be reduced no more than five percent.

For the period July 1, 1987, to June 30, 1988, reductions below the cost per service unit allowable under section 256.966 are permitted only as follows: payments for inpatient and outpatient hospital care provided in response to a primary diagnosis of chemical dependency or mental illness may be reduced no more than 15 percent; payments for all other inpatient hospital care may be reduced no more than five percent. Reductions below the payments allowable under medical assistance for the remaining general assistance medical care services allowable under this subdivision may be reduced no more than five percent.

For the period July 1, 1988, to June 30, 1989, reductions below the cost per service unit allowable under section 256.966 are permitted only as follows: payments for inpatient and outpatient hospital care provided in response to a primary diagnosis of chemical dependency or mental illness may be reduced no more than 15 percent; payments for all other inpatient hospital care may not be reduced. Reductions below the payments allowable under medical assistance for the remaining general assistance medical care services allowable under this subdivision may be reduced no more than five percent.

There shall be no copayment required of any recipient of benefits for any services provided under this subdivision. A hospital receiving a reduced payment as a result of this section may apply the unpaid balance toward satisfaction of the hospital's bad debts.

(e) Any county may, from its own resources, provide medical payments for which state payments are not made.

(f) Chemical dependency services that are reimbursed under chapter 254B must not be reimbursed under general assistance medical care..

(g) The maximum payment for new vendors enrolled in the general assistance medical care program after the base year shall be determined from the average usual and customary charge of the same vendor type enrolled in the base year.

(h) The conditions of payment for services under this subdivision are the same as the conditions specified in rules adopted under chapter 256B governing the medical assistance program, unless otherwise provided by statute or rule.

Sec. 67. Minnesota Statutes 1992, section 256D.03, subdivision 8, is amended to read:

Subd. 8. [PRIVATE INSURANCE POLICIES.] (a) Private accident and health care coverage for medical services is primary coverage and must be exhausted before general assistance medical care is paid. When a person who is otherwise eligible for general assistance medical care has private accident or health care coverage, including a prepaid health plan, the private health care benefits available to the person must be used first and to the fullest extent. ~~Supplemental payment may be made by general assistance medical care, but the combined total amount paid must not exceed the amount payable under general assistance medical care in the absence of other coverage. General assistance medical care must not make supplemental payment for covered services rendered by a vendor who participates or contracts with any health coverage plan if the plan requires the vendor to accept the plan's payment as payment in full.~~ *General assistance medical care payment will not be made when either covered charges are paid in full by a third party or the provider*

has an agreement to accept payment for less than charges as payment in full. Payment for patients that are simultaneously covered by general assistance medical care and a liable third party other than Medicare will be determined as the lesser of clauses (1) to (3):

(1) the patient liability according to the provider/insurer agreement;

(2) covered charges minus the third party payment amount; or

(3) the general assistance medical care rate minus the third party payment amount.

A negative difference will not be implemented.

(b) When a parent or a person with an obligation of support has enrolled in a prepaid health care plan under section 518.171, subdivision 1, the commissioner of human services shall limit the recipient of general assistance medical care to the benefits payable under that prepaid health care plan to the extent that services available under general assistance medical care are also available under the prepaid health care plan.

(c) Upon furnishing general assistance medical care or general assistance to any person having private accident or health care coverage, or having a cause of action arising out of an occurrence that necessitated the payment of assistance, the state agency shall be subrogated, to the extent of the cost of medical care, subsistence, or other payments furnished, to any rights the person may have under the terms of the coverage or under the cause of action.

This right of subrogation includes all portions of the cause of action, notwithstanding any settlement allocation or apportionment that purports to dispose of portions of the cause of action not subject to subrogation.

(d) To recover under this section, the attorney general or the appropriate county attorney, acting upon direction from the attorney general, may institute or join a civil action to enforce the subrogation rights established under this section.

(e) The state agency must be given notice of monetary claims against a person, firm, or corporation that may be liable in damages, or otherwise obligated to pay part or all of the costs related to an injury when the state agency has paid or become liable for the cost of care or payments related to the injury. Notice must be given as follows:

(i) Applicants for general assistance or general assistance medical care shall notify the state or county agency of any possible claims when they submit the application. Recipients of general assistance or general assistance medical care shall notify the state or county agency of any possible claims when those claims arise.

(ii) A person providing medical care services to a recipient of general assistance medical care shall notify the state agency when the person has reason to believe that a third party may be liable for payment of the cost of medical care.

(iii) A person who is party to a claim upon which the state agency may be entitled to subrogation under this section shall notify the state agency of its potential subrogation claim before filing a claim, commencing an action, or

negotiating a settlement. *A person who is a party to a claim includes the plaintiff, the defendant(s), and any other named party to the cause of action.*

Notice given to the county agency is not sufficient to meet the requirements of paragraphs (b) and (c).

(f) Upon any judgment, award, or settlement of a cause of action, or any part of it, upon which the state agency has a subrogation right, including compensation for liquidated, unliquidated, or other damages, reasonable costs of collection, including attorney fees, must be deducted first. The full amount of general assistance or general assistance medical care paid to or on behalf of the person as a result of the injury must be deducted next and paid to the state agency. The rest must be paid to the public assistance recipient or other plaintiff. The plaintiff, however, must receive at least one-third of the net recovery after attorney fees and collection costs.

Sec. 68. Minnesota Statutes 1992, section 259.431, subdivision 5, is amended to read:

Subd. 5. [MEDICAL ASSISTANCE; DUTIES OF THE COMMISSIONER OF HUMAN SERVICES.] The commissioner of human services shall:

(a) Issue a medical assistance identification card to any child with special needs *who is Title IV-E eligible, or who is not Title IV-E eligible but was determined by another state to have a special need for medical or rehabilitative care, and* who is a resident in this state and *is* the subject of an adoption assistance agreement with another state when a certified copy of the adoption assistance agreement obtained from the adoption assistance state has been filed with the commissioner. The adoptive parents shall be required at least annually to show that the agreement is still in force or has been renewed.

(b) Consider the holder of a medical assistance identification card under this subdivision as any other recipient of medical assistance under chapter 256B; process and make payment on claims for the recipient in the same manner as for other recipients of medical assistance.

(c) Provide coverage and benefits for a child *who is Title IV-E eligible or who is not Title IV-E eligible but was determined to have a special need for medical or rehabilitative care and* who is in another state and who is covered by an adoption assistance agreement made by the commissioner for the coverage or benefits, if any, which is not provided by the resident state. The adoptive parents acting for the child may submit evidence of payment for services or benefit amounts not payable in the resident state and shall be reimbursed. However, there shall be no reimbursement for services or benefit amounts covered under any insurance or other third party medical contract or arrangement held by the child or the adoptive parents.

(d) Publish emergency and permanent rules implementing this subdivision. Such rules shall include procedures to be followed in obtaining prior approvals for services which are required for the assistance.

Sec. 69. Minnesota Statutes 1992, section 393.07, subdivision 3, is amended to read:

Subd. 3. [FEDERAL SOCIAL SECURITY.] The county welfare board shall be charged with the duties of administration of all forms of public assistance and public child welfare or other programs within the purview of the federal Social Security Act, other than public health nursing and home

health services, and which now are, or hereafter may be, imposed on the commissioner of human services by law, of both children and adults. The duties of such county welfare board shall be performed in accordance with the standards and rules which may be promulgated by the commissioner of human services in order to achieve the purposes of the law and to comply with the requirements of the federal Social Security Act needed to qualify the state to obtain grants-in-aid available under that act. Notwithstanding the provisions of any other law to the contrary, the welfare board ~~may~~ *shall* delegate to the director the authority to determine eligibility and disburse funds without first securing board action, provided that the director shall present to the board, at the next scheduled meeting, any such action taken for ratification by the board.

Sec. 70. [514.980] [MEDICAL ASSISTANCE LIENS; DEFINITIONS.]

Subdivision 1. [APPLICABILITY.] *The definitions in this section apply to sections 514.980 to 514.985.*

Subd. 2. [MEDICAL ASSISTANCE AGENCY OR AGENCY.] *"Medical assistance agency" or "agency" means the state or any county medical assistance agency that provides a medical assistance benefit.*

Subd. 3. [MEDICAL ASSISTANCE BENEFIT.] *"Medical assistance benefit" means a benefit provided under chapter 256B to a person while in a medical institution. A "medical institution" is defined as a nursing facility, intermediate care facility for persons with mental retardation, or inpatient hospital.*

Sec. 71. [514.981] [MEDICAL ASSISTANCE LIEN.]

Subdivision 1. [PROPERTY SUBJECT TO LIEN; LIEN AMOUNT.] *(a) Subject to sections 514.980 to 514.985, payments made by a medical assistance agency to provide medical assistance benefits to a medical assistance recipient who owns property in this state or to the recipient's spouse constitute a lien in favor of the agency upon all real property that is owned by the medical assistance recipient on or after the time when the recipient is institutionalized.*

(b) The amount of the lien is limited to the same extent as a claim against the estate under section 256B.15, subdivision 2.

Subd. 2. [ATTACHMENT.] *(a) A medical assistance lien attaches and becomes enforceable against specific real property as of the date when the following conditions are met:*

(1) payments have been made by an agency for a medical assistance benefit;

(2) notice and an opportunity for a hearing have been provided under paragraph (b);

(3) a lien notice has been filed as provided in section 514.982;

(4) if the property is registered property, the lien notice has been memorialized on the certificate of title of the property affected by the lien notice; and

(5) all restrictions against enforcement have ceased to apply.

(b) An agency may not file a medical assistance lien notice until the medical assistance recipient and the recipient's spouse or their legal representatives have been sent, by certified or registered mail, written notice of the agency's lien rights and there has been an opportunity for a hearing under section 256.045. In addition, the agency may not file a lien notice unless the agency determines that the medical assistance recipient cannot reasonably be expected to be discharged from a medical institution to return home, as medically verified by the recipient's attending physician.

(c) An agency may not file a medical assistance lien notice against real property while it is the home of the recipient's spouse.

(d) An agency may not file a medical assistance lien notice against real property that was the homestead of the medical assistance recipient or the recipient's spouse when the medical assistance recipient received medical institution services if any of the following persons are lawfully residing in the property:

(1) a child of the medical assistance recipient if the child is under age 21 or is blind or permanently and totally disabled according to the supplemental security income criteria;

(2) a child of the medical assistance recipient if the child resided in the homestead for at least two years immediately before the date the medical assistance recipient received medical institution services, and the child provided care to the medical assistance recipient that permitted the recipient not to require medical institution services; or

(3) a sibling of the medical assistance recipient if the sibling has an equity interest in the property and has resided in the property for at least one year immediately before the date the medical assistance recipient began receiving medical institution services.

(e) A medical assistance lien applies only to the specific real property described in the lien notice.

Subd. 3. [CONTINUATION OF LIEN NOTICE AND LIEN.] *A medical assistance lien notice remains effective from the time it is filed until it can be disregarded under sections 514.980 to 514.985. A medical assistance lien that has attached to specific real property continues until the lien is satisfied, becomes unenforceable under subdivision 6, or is released and discharged under subdivision 5.*

Subd. 4. [LIEN PRIORITY.] *A medical assistance lien that attaches to specific real property is subject to the rights of any other person, including an owner, other than the recipient or recipient's spouse, purchaser, holder of a mortgage or security interest, or judgment lien creditor, whose interest in the real property is perfected before a lien notice has been filed under section 514.982. The rights of the other person have the same protections against a medical assistance lien as are afforded against a judgment lien that arises out of an unsecured obligation and that arises as of the time of the filing of the medical assistance lien notice under section 514.982. A medical assistance lien is inferior to a lien for taxes or special assessments or other lien that would be superior to the perfected lien of a judgment creditor.*

Subd. 5. [RELEASE.] *(a) An agency that files a medical assistance lien notice shall release and discharge the lien in full if:*

(1) the medical assistance recipient is discharged from the medical institution and returns home;

(2) the medical assistance lien is satisfied;

(3) the agency has received reimbursement for the amount secured by the lien or a legally enforceable agreement has been executed providing for reimbursement of the agency for that amount; or

(4) the medical assistance recipient, if single, or the recipient's surviving spouse, has died, and a claim may not be filed against the estate of the decedent under section 256B.15, subdivision 3.

(b) Upon request, the agency that files a medical assistance lien notice shall release a specific parcel of real property from the lien if:

(1) the property is or was the homestead of the recipient's spouse during the time of the medical assistance recipient's institutionalization, or the property is or was attributed to the spouse under section 256B.059, subdivision 3 or 4, and the spouse is not receiving medical assistance benefits;

(2) the property would be exempt from a claim against the estate under section 256B.15, subdivision 4;

(3) the agency receives reimbursement, or other collateral sufficient to secure payment of reimbursement, in an amount equal to the lesser of the amount secured by the lien, or the amount the agency would be allowed to recover upon enforcement of the lien against the specific parcel of property if the agency attempted to enforce the lien on the date of the request to release the lien; or

(4) the medical assistance lien cannot lawfully be enforced against the property because of an error, omission, or other material defect in procedure, description, identity, timing, or other prerequisite to enforcement.

(c) The agency that files a medical assistance lien notice may release the lien if the attachment or enforcement of the lien is determined by the agency to be contrary to the public interest.

(d) The agency that files a medical assistance lien notice shall execute the release of the lien and file the release as provided in section 514.982, subdivision 2.

Subd. 6. [TIME LIMITS; CLAIM LIMITS.] *(a) A medical assistance lien is not enforceable against specific real property if any of the following occurs:*

(1) the lien is not satisfied or proceedings are not lawfully commenced to foreclose the lien within 18 months of the agency's receipt of notice of the death of the medical assistance recipient or the death of the surviving spouse, whichever occurs later; or

(2) the lien is not satisfied or proceedings are not lawfully commenced to foreclose the lien within three years of the death of the medical assistance recipient or the death of the surviving spouse, whichever occurs later. This limitation is tolled during any period when the provisions of section 514.983, subdivision 2, apply to delay enforcement of the lien.

(b) A medical assistance lien is not enforceable against the real property of an estate to the extent there is a determination by a court of competent jurisdiction, or by an officer of the court designated for that purpose, that

there are insufficient assets in the estate to satisfy the agency's medical assistance lien in whole or in part in accordance with the priority of claims established by chapters 256B and 524. The agency's lien remains enforceable to the extent that assets are available to satisfy the agency's lien, subject to the priority of other claims, and to the extent that the agency's claim is allowed against the estate under chapters 256B and 524.

Sec. 72. [514.982] [MEDICAL ASSISTANCE LIEN NOTICE.]

Subdivision 1. [CONTENTS.] *A medical assistance lien notice must be dated and must contain:*

(1) the full name, last known address, and social security number of the medical assistance recipient and the full name, address, and social security number of the recipient's spouse;

(2) a statement that medical assistance payments have been made to or for the benefit of the medical assistance recipient named in the notice, specifying the first date of eligibility for benefits;

(3) a statement that all interests in real property owned by the persons named in the notice may be subject to or affected by the rights of the agency to be reimbursed for medical assistance benefits; and

(4) the legal description of the real property upon which the lien attaches, and whether the property is registered property.

Subd. 2. [FILING.] *Any notice, release, or other document required to be filed under sections 514.980 to 514.985 must be filed in the office of the county recorder or registrar of titles, as appropriate, in the county where the real property is located. Notwithstanding section 386.77, the agency shall pay the applicable filing fee for any document filed under sections 514.980 to 514.985. The commissioner of human services shall reimburse the county agency for filing fees paid under this section. An attestation, certification, or acknowledgment is not required as a condition of filing. Upon filing of a medical assistance lien notice, the registrar of titles shall record it on the certificate of title of each parcel of property described in the lien notice. The county recorder of each county shall establish an index of medical assistance lien notices, other than those that affect only registered property, showing the names of all persons named in the medical assistance lien notices filed in the county, arranged alphabetically. The index must be combined with the index of state tax lien notices. The filing or mailing of any notice, release, or other document under sections 514.980 to 514.985 is the responsibility of the agency. The agency shall send a copy of the medical assistance lien notice by registered or certified mail to each record owner and mortgagee of the real property.*

Sec. 73. [514.983] [LIEN ENFORCEMENT; LIMITATION.]

Subdivision 1. [FORECLOSURE PROCEDURE.] *Subject to subdivision 2, a medical assistance lien may be enforced by the agency that filed it by foreclosure in the manner provided for foreclosure of a judgment lien under chapter 550.*

Subd. 2. [HOMESTEAD PROPERTY.] *(a) A medical assistance lien may not be enforced against homestead property of the medical assistance recipient or the spouse while it remains the lawful residence of the medical assistance recipient's spouse.*

(b) A medical assistance lien remains enforceable as provided in sections 514.980 to 514.985, notwithstanding any law limiting the enforceability of a judgment.

Sec. 74. [514.984] [LIEN DOES NOT AFFECT OTHER REMEDIES.]

Sections 514.980 to 514.985 do not limit the right of an agency to file a claim against the estate of a medical assistance recipient or the estate of the spouse or limit any other claim for reimbursement of agency expenses or the availability of any other remedy provided to the agency.

Sec. 75. [514.985] [AMOUNTS RECEIVED TO SATISFY LIEN.]

Amounts received by the state to satisfy a medical assistance lien filed by the state must be deposited in the state treasury and credited to the fund from which the medical assistance payments were made. Amounts received by a county medical assistance agency to satisfy a medical assistance lien filed by the county medical assistance agency must be deposited in the county treasury and credited to the fund from which the medical assistance payments were made.

Sec. 76. Laws 1992, chapter 513, article 7, section 131, is amended to read:

Sec. 131. [PHYSICIAN AND DENTAL REIMBURSEMENT.]

(a) The physician reimbursement increase provided in Minnesota Statutes, section 256B.74, subdivision 2, shall not be implemented. Effective for services rendered on or after October 1, 1992, the commissioner shall make payments for physician services as follows:

(1) payment for level one Health Care Finance Administration's common procedural coding system (HCPCS) codes titled "office and other outpatient services," "preventive medicine new and established patient," "delivery, antepartum, and postpartum care," "critical care," caesarean delivery and pharmacologic management provided to psychiatric patients, and HCPCS level three codes for enhanced services for prenatal high risk, shall be paid at the lower of (i) submitted charges, or (ii) 25 percent above the rate in effect on June 30, 1992. If the rate on any procedure code within these categories is different than the rate that would have been paid under the methodology in Minnesota Statutes, section 256B.74, subdivision 2, then the larger rate shall be paid;

(2) payments for all other services shall be paid at the lower of (i) submitted charges, or (ii) 15.4 percent above the rate in effect on June 30, 1992; and

(3) all physician rates shall be converted from the 50th percentile of 1982 to the 50th percentile of 1989, less the percent in aggregate necessary to equal the above increases.

(b) The dental reimbursement increase provided in Minnesota Statutes, section 256B.74, subdivision 5, shall not be implemented. Effective for services rendered on or after October 1, 1992, the commissioner shall make payments for dental services as follows:

(1) dental services shall be paid at the lower of (i) submitted charges, or (ii) 25 percent above the rate in effect on June 30, 1992; and

(2) dental rates shall be converted from the 50th percentile of 1982 to the 50th percentile of 1989, less the percent in aggregate necessary to equal the above increases.

(c) An entity that operates both a Medicare certified comprehensive outpatient rehabilitation facility and a facility which was certified prior to January 1, 1993, that is licensed under Minnesota Rules, parts 9570.2000 to 9570.3600, and for whom at least 33 percent of the clients receiving rehabilitation services in the most recent calendar year are medical assistance recipients, shall be reimbursed by the commissioner for rehabilitation services at rates that are 38 percent greater than the maximum reimbursement rate allowed under paragraph (a), clause (2), when those services are (1) provided within the comprehensive outpatient rehabilitation facility and (2) provided to residents of nursing facilities owned by the entity.

Sec. 77. [WAIVER REQUEST TO LIMIT ASSET TRANSFERS.]

The commissioner of human services shall seek federal law changes and federal waivers necessary to implement Minnesota Statutes, sections 256B.0595, subdivisions 1 and 2.

Sec. 78. [INFLATION ADJUSTMENTS FOR NURSING FACILITIES AND ICF/MR FACILITIES.]

For the biennium ending June 30, 1995, the commissioner of human services shall grant inflation adjustments for nursing facilities with rate years beginning during the biennium according to Minnesota Statutes, section 256B.431, subdivision 21, and shall grant inflation adjustments for ICF's/MR with rate years beginning during the biennium according to Minnesota Statutes, section 256B.501, subdivision 3c.

Sec. 79. [REIMBURSEMENT OF MASTERS-PREPARED MENTAL HEALTH PRACTITIONERS.]

For the fiscal year ending June 30, 1994, medical assistance and general assistance medical care payments for mental health services provided by masters-prepared mental health professionals, except services provided by community mental health centers, shall be 80 percent of the rate paid to doctoral-prepared mental health professionals, and for the fiscal year ending June 30, 1995, these payments shall be 90 percent of the doctoral-level rate.

Sec. 80. [PHYSICIAN SURCHARGE STUDY.]

The commissioner of human services, in cooperation with the commissioner of revenue, shall study and recommend to the legislature by January 15, 1994, a plan to replace the physician license surcharge with a surcharge on the tax levied on physicians under Minnesota Statutes, section 295.52. The plan must be designed to take effect July 1, 1994, and to raise an amount of revenue equal to the amount anticipated from the current surcharge.

Sec. 81. [HOSPITAL PAYMENT MODIFICATIONS.]

The commissioner of human services shall study and report to the legislature by January 15, 1994, with a plan to combine the medical assistant inpatient hospital reimbursement system with the reimbursement system to be developed by the health care commission.

Sec. 82. [NURSING HOME SURCHARGE DISCLOSURE.]

A nursing home licensed under Minnesota Statutes, chapter 144A, and not certified to participate in the medical assistance program shall include the following in 10-point type in any rate notice issued after the effective date of this section: THE NURSING HOME SURCHARGE THAT APPLIES TO THIS FACILITY EFFECTIVE OCTOBER 1, 1992, THROUGH JUNE 30, 1993, IS $535 PER BED PER YEAR, OR $1.47 PER DAY. THE SURCHARGE IS INCREASED EFFECTIVE JULY 1, 1993, TO $720 PER BED PER YEAR, OR A TOTAL OF $1.98 PER DAY. ANY RATE IN EXCESS OF THESE AMOUNTS IS NOT DUE TO THE NURSING HOME SURCHARGE.

Sec. 83. [LEGISLATIVE INTENT.]

Section 2 and section 10, paragraph (c), are intended to clarify, rather than to change, the original intent of the statutes amended.

Sec. 84. [REPORT TO THE LEGISLATURE.]

The commissioner of human services, in coordination with the commissioner of finance, shall study and report to the legislature by January 15, 1994, on the following: (1) recommendations on how to phase out provider surcharge collections included by the governor in the revenue base for the 1994-95 biennium, and (2) an evaluation of compliance by the commissioner of finance with the paragraph in Laws 1992, chapter 513, article 5, section 2, subdivision 1, which required the commissioner of finance to (i) prepare a biennial budget for fiscal years 1994-95 that did not include provider surcharge revenues in excess of the estimated costs associated with the MinnesotaCare program, and (ii) prepare a plan to phase out the non-MinnesotaCare surcharges by June 30, 1995.

Sec. 85. [ALTERNATIVE CARE PROGRAM PILOT PROJECTS.]

Subdivision 1. [PROJECT PURPOSE.] *(a) By September 1, 1993, the commissioner of human services shall select up to six pilot projects for the alternative care program. The purpose of the pilot projects is to simplify program administration and reduce documentation, increase service flexibility, and more clearly identify program outcomes. The pilot projects must begin January 1, 1994, and expire June 30, 1996.*

(b) Projects must be selected based on their ability to improve client outcomes, broaden service choices, and reduce average per client costs and administrative costs. If sufficient satisfactory applications are received, the commissioner shall approve three projects in the seven-county metropolitan area and three projects outside the metropolitan area. If sufficient satisfactory applications are not received, more than three projects may be approved in either the metropolitan or nonmetropolitan areas. Up to two projects may include SAIL counties.

Subd. 2. [TERMS.] *A county or counties may apply to participate in the pilot project by submitting to the commissioner an amendment to the biennial plan that identifies measurable outcomes to be achieved under the pilot project. Participating counties shall determine the types of services to be reimbursed with alternative care program grant funds and any individual client reimbursement limits. Participating counties shall determine the payment rates for all services under the pilot project. Participating counties will maintain their average monthly alternative care expenditures per client at their calendar 1993 averages adjusted for any overall increase in the case mix complexity of their caseload. A county may spend up to five percent of grant*

funds for needed client services that are not listed under Minnesota Statutes, section 256B.0913, subdivision 5. The average expenditure per client in a pilot project must not exceed 75 percent of the statewide individual average nursing home costs.

Subd. 3. [DOCUMENTATION.] *Beginning January 1, 1994, a county or counties participating in a pilot project shall not submit invoices for processing through the medical assistance management information system (MMIS) or other individual client service and reimbursement data for services delivered after December 31, 1993. A pilot project county must provide to the commissioner the minimum client-specific characteristics required to make nursing facility occupancy and alternative care program cost forecasts and the minimum client-specific data necessary for long-term care planning and alternative care pilot project evaluation. The client-specific characteristics must be submitted to the commissioner quarterly. The commissioner shall minimize the reporting required from counties.*

Subd. 4. [FUNDING.] *On March 1, 1994, and monthly thereafter until June 30, 1994, the commissioner shall issue to counties participating in the pilot projects an amount of money equal to one-sixth of each county's unexpended allocation of base and targeted alternative care appropriations under Minnesota Statutes, section 256B.0913, subdivisions 10 and 11. On July 1, 1994, and monthly thereafter, the commissioner shall issue an amount of money equal to one-twelfth of the fiscal year 1994 allocation. Additional targeted funds may be allocated based on the criteria established in Minnesota Statutes, section 256B.0913, to the extent that money is available. Targeted funds will be equally distributed over the remaining months of the fiscal year. Counties participating in the pilot projects must submit to the commissioner quarterly expenditure reports and reconcile the actual expenditure on September 1, 1995.*

Sec. 86. [REPORT.]

The commissioner must evaluate the pilot projects and report findings to the legislature by February 1, 1995. The report must evaluate client outcomes and service utilization, total spending and average per client costs, administrative cost reductions, changes in the types of services provided, and any border problems with contiguous nonpilot counties.

Sec. 87. [REPEALER.]

Minnesota Statutes 1992, section 144A.071, subdivisions 4 and 5, are repealed.

Sec. 88. [EFFECTIVE DATE.]

Sections 2 and 83 are effective the day following final enactment and apply to cases pending or brought on or after their effective date. Section 24 is effective retroactive to October 1, 1992. Section 33 is effective retroactive to July 1, 1992. The definition of total premium revenue in section 10, paragraph (c), applies to all health maintenance organization surcharges effective October 1, 1992. Sections 3, 7, and 82 are effective the day following final enactment.

Section 25 shall be in effect as to all persons who begin their first continuous period of institutionalization on or after July 1, 1994. Sections 27 and 28 apply to transfers that occur after June 30, 1993, or after the effective date of the waivers or law changes referred to in section 77, whichever is

later, except that those portions of section 28 that may be implemented without federal approval apply to transfers for less than fair market value made on or after July 1, 1993.

ARTICLE 7

FAMILY SELF-SUFFICIENCY AND CHILD SUPPORT ENFORCEMENT

Section 1. Minnesota Statutes 1992, section 144.215, subdivision 3, is amended to read:

Subd. 3. [FATHER'S NAME; CHILD'S NAME.] In any case in which paternity of a child is determined by a court of competent jurisdiction, ~~or upon compliance with the provisions of~~ *a declaration of parentage is executed under* section ~~257.55, subdivision 1, clause (e)~~ *257.34, or a recognition of parentage is executed under section 257.75*, the name of the father shall be entered on the birth certificate. If the order of the court declares the name of the child, it shall also be entered on the birth certificate. If the order of the court does not declare the name of the child, or there is no court order, then upon the request of both parents in writing, the surname of the child shall be that of the father.

Sec. 2. Minnesota Statutes 1992, section 256.025, subdivision 1, is amended to read:

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

(b) "Base amount" means the calendar year 1990 county share of county agency expenditures for all of the programs specified in subdivision 2, *except for the programs in subdivision 2, clauses (4), (7), and (13). The 1990 base amount for subdivision 2, clause (4), shall be reduced by one-seventh for each county, and the 1990 base amount for subdivision 2, clause (7), shall be reduced by seven-tenths for each county, and those amounts in total shall be the 1990 base amount for group residential housing in subdivsion 2, clause (13).*

(c) "County agency expenditure" means the total expenditure or cost incurred by the county of financial responsibility for the benefits and services for each of the programs specified in subdivision 2. The term includes the federal, state, and county share of costs for programs in which there is federal financial participation. For programs in which there is no federal financial participation, the term includes the state and county share of costs. The term excludes county administrative costs, unless otherwise specified.

(d) "Nonfederal share" means the sum of state and county shares of costs of the programs specified in subdivision 2.

(e) The "county share of county agency expenditures growth amount" is the amount by which the county share of county agency expenditures in calendar years 1991 to 2000 has increased over the base amount.

Sec. 3. Minnesota Statutes 1992, section 256.025, subdivision 2, is amended to read:

Subd. 2. [COVERED PROGRAMS AND SERVICES.] The procedures in this section govern payment of county agency expenditures for benefits and services distributed under the following programs:

(1) aid to families with dependent children under sections 256.82, subdivision 1, and 256.935, subdivision 1;

(2) medical assistance under sections 256B.041, subdivision 5, and 256B.19, subdivision 1;

(3) general assistance medical care under section 256D.03, subdivision 6;

(4) general assistance under section 256D.03, subdivision 2;

(5) work readiness under section 256D.03, subdivision 2;

(6) emergency assistance under section 256.871, subdivision 6;

(7) Minnesota supplemental aid under section 256D.36, subdivision 1;

(8) preadmission screening and alternative care grants;

(9) work readiness services under section 256D.051;

(10) case management services under section 256.736, subdivision 13;

(11) general assistance claims processing, medical transportation and related costs; ~~and~~

(12) medical assistance, medical transportation and related costs; *and*

(13) group residential housing under section 256I.05, subdivision 8, transferred from programs in clauses (4) and (7).

Sec. 4. Minnesota Statutes 1992, section 256.73, subdivision 2, is amended to read:

Subd. 2. [ALLOWANCE BARRED BY OWNERSHIP OF PROPERTY.] Ownership by an assistance unit of property as follows is a bar to any allowance under sections 256.72 to 256.87:

(1) The value of real property other than the homestead, which when combined with other assets exceeds the limits of paragraph (2), unless the assistance unit is making a good faith effort to sell the nonexcludable real property. The time period for disposal must not exceed nine *consecutive* months ~~and~~. The assistance unit ~~shall execute~~ *must sign* an agreement to dispose of the property *and* to repay assistance received during the nine months ~~up to~~ *that would not have been paid had the property been sold at the beginning of such period, but not to exceed* the amount of the net sale proceeds. The ~~payment must be made when the property is sold.~~ *family has five working days from the date it realizes cash from the sale of the property to repay the overpayment.* If the property is not sold within the required time or the assistance unit becomes ineligible for any reason ~~the entire amount received during the nine months is an overpayment and subject to recovery~~ *during the nine-month period, the amount payable under the agreement will not be determined and recovery will not begin until the property is in fact sold. If the property is intentionally sold at less than fair market value or if a good faith effort to sell the property is not being made, the overpayment amount shall be computed using the fair market value determined at the beginning of the nine-month period.* For the purposes of this section, "homestead" means the home that is owned by, and is the usual residence of, the child, relative, or other member of the assistance unit together with the surrounding property which is not separated from the home by intervening property owned by others. "Usual residence" includes the home from which the child, relative,

or other members of the assistance unit is temporarily absent due to an employability development plan approved by the local human service agency, which includes education, training, or job search within the state but outside of the immediate geographic area. Public rights-of-way, such as roads which run through the surrounding property and separate it from the home, will not affect the exemption of the property; or

(2) Personal property of an equity value in excess of $1,000 for the entire assistance unit, exclusive of personal property used as the home, one motor vehicle of an equity value not exceeding $1,500 or the entire equity value of a motor vehicle determined to be necessary for the operation of a self-employment business, one burial plot for each member of the assistance unit, one prepaid burial contract with an equity value of no more than $1,000 for each member of the assistance unit, clothing and necessary household furniture and equipment and other basic maintenance items essential for daily living, in accordance with rules promulgated by and standards established by the commissioner of human services.

Sec. 5. Minnesota Statutes 1992, section 256.73, subdivision 3a, is amended to read:

Subd. 3a. [PERSONS INELIGIBLE.] No assistance shall be given under sections 256.72 to 256.87:

(1) on behalf of any person who is receiving supplemental security income under title XVI of the Social Security Act unless permitted by federal regulations;

(2) for any month in which the assistance unit's gross income, without application of deductions or disregards, exceeds 185 percent of the standard of need for a family of the same size and composition; except that the earnings of a dependent child who is a full-time student may be disregarded for six ~~calendar~~ months per *calendar* year and the earnings of a dependent child ~~who is a full-time student~~ that are derived from the jobs training and partnership act *(JTPA)* may be disregarded for six ~~calendar~~ months per *calendar* year. *These two earnings disregards cannot be combined to allow more than a total of six months per calendar year when the earned income of a full-time student is derived from participation in a program under the JTPA.* If a stepparent's income is taken into account in determining need, the disregards specified in section 256.74, subdivision 1a, shall be applied to determine income available to the assistance unit before calculating the unit's gross income for purposes of this paragraph;

(3) to any assistance unit for any month in which any caretaker relative with whom the child is living is, on the last day of that month, participating in a strike;

(4) on behalf of any other individual in the assistance unit, nor shall the individual's needs be taken into account for any month in which, on the last day of the month, the individual is participating in a strike;

(5) on behalf of any individual who is the principal earner in an assistance unit whose eligibility is based on the unemployment of a parent when the principal earner, without good cause, fails or refuses to accept employment, or to register with a public employment office, unless the principal earner is exempt from these work requirements.

Sec. 6. Minnesota Statutes 1992, section 256.73, subdivision 5, is amended to read:

Subd. 5. [AID FOR ~~UNBORN CHILDREN~~ *PREGNANT WOMEN*,] (a) For the purposes of sections 256.72 to 256.87, assistance payments shall be made ~~during the final three months of pregnancy~~ to a *pregnant* woman ~~who has~~ *with* no other children ~~but who otherwise qualifies for assistance except for medical assistance payments which shall be made at the time that pregnancy is confirmed by a physician if the pregnant woman has no other children and otherwise qualifies for assistance as provided in sections 256B.055 and 256B.056~~ *receiving assistance when it is medically verified that the unborn child is expected to be born in the month the payment is made or within the three-month period following the month of payment. Eligibility must be determined as if the unborn child had been born and was living with her, considering the needs, income, and resources of all individuals in the filing unit. If eligibility exists for this fictional unit, the pregnant woman is eligible and her payment amount is determined based solely on her needs, income, including deemed income, and resources*. No payments shall be made for the needs of the unborn or for any special needs occasioned by the pregnancy except as provided in ~~clause~~ *paragraph* (b). The commissioner of human services shall promulgate, pursuant to the administrative procedures act, rules to implement this subdivision.

(b) The commissioner may, according to rules, make payments for the purpose of meeting special needs occasioned by or resulting from pregnancy both for a pregnant woman with no other children *receiving assistance* as well as for a pregnant woman receiving assistance as provided in sections 256.72 to 256.87. The special needs payments shall be dependent upon the needs of the pregnant woman and the resources allocated to the county by the commissioner and shall be limited to payments for medically recognized special or supplemental diet needs and the purchase of a crib and necessary clothing for the future needs of the unborn child at birth. ~~The commissioner shall, according to rules, make payments for medically necessary prenatal care of the pregnant woman and the unborn child.~~

Sec. 7. Minnesota Statutes 1992, section 256.73, subdivision 8, is amended to read:

Subd. 8. [RECOVERY OF OVERPAYMENTS.] (a) 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. ~~For any month in which an overpayment must be recovered, recoupment may be made by reducing the grant but only if the reduced assistance payment, together with the assistance unit's total income after deducting work expenses as allowed under section 256.74, subdivision 1, clauses (3) and (4), equals at least 95 percent of the standard of need for the assistance unit, except that if the overpayment is due solely to agency error, this total after deducting allowable work expenses must equal at least 99 percent of the standard of need. Notwithstanding the preceding sentence, beginning on the date on which the~~

~~commissioner implements a computerized client eligibility and information system in one or more counties,~~ 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. *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. 8. Minnesota Statutes 1992, 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 ~~required to register~~ *permitted to participate* under subdivision ~~3~~ *3a* to an employment and training service provider for participation in employment and training services;

(2) identify to the employment and training service provider ~~caretakers who fall into the targeted groups~~ *the target group of which the referred caretaker is a member*;

(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 ~~targeted~~ *target* groups;

(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 ~~nontargeted~~ *nontarget* caretakers to develop a plan to obtain self-sufficiency;

(8) notify the commissioner of the caretakers required to 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 orientation, job search, services to custodial parents under the age of 20, *educational activities and work experience for AFDC-UP 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;

(12) explain in its local service unit plan under section 268.88 how it will ensure that ~~targeted~~ *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 ~~and at least one of the following employment and training services: community work experience program (CWEP) as defined in section 256.737~~, *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~~, or~~. *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. ~~Each county is urged to adopt grant diversion as the second program required under this clause~~ *A county is not required to provide a community work experience program if the county agency is successful in placing at least 40 percent of the monthly average of all caretakers who are subject to the job search requirements of subdivision 14 in a 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) to the extent possible, reflects the preferences of the participant; and (viii) specifies the recipient's long-term employment goal which shall lead to self-sufficiency; ~~and~~

(16) *obtain the written or oral concurrence of the appropriate exclusive bargaining representatives with respect to job duties covered under collective bargaining agreements to* assure that no work assignment under this section or sections 256.737, 256.738, and 256.739 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; *and*

(17) assess each caretaker in an AFDC-UP 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 purposes of 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.

(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 ~~targeted~~ *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 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 ~~nontargeted~~ *nontarget* caretaker relocates to another county or when a ~~targeted~~ *target* caretaker again becomes eligible for AFDC after having been ineligible for at least 30 days.

Sec. 9. Minnesota Statutes 1992, 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 ~~who are determined eligible for AFDC on or after July 1, 1989, and who are required to attend an orientation. The county agency shall require attendance at orientation of all caretakers except~~ *in the time limits described in this paragraph:*

(1) ~~caretakers who are exempt from registration under subdivision 3~~ *within 60 days of being determined eligible for AFDC for caretakers with a continued absence or incapacitated parent basis of eligibility;* ~~and~~ *or*

(2) ~~caretakers who are not~~ *within 30 days of being determined eligible for AFDC for caretakers with an unemployed parent basis of eligibility.*

(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), ~~and who are either responsible for the care of an incapacitated person or a dependent child under the age of six or enrolled at least half time in any recognized school, training program, or institution of higher learning~~ *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 ~~they become~~ *the commissioner determines that the groups are* eligible for participation in employment and training services.

~~(b) Except as provided in paragraph (e),~~ *(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;

(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; ~~and~~

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

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

~~(c)~~ *(d)* 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.

~~(d)~~ *(e)* 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.

~~(e) Orientation for caretakers not eligible for participation in employment and training services under the provisions of subdivision 3a, paragraphs (a) and (b), shall present information only on those employment, training, and support services available to those caretakers, and information on clauses (2), (3), (9), (10), and (11) of paragraph (a) and all of paragraph (c), and may not last more than two hours.~~ *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), 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.*

(f) 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.

(g) 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.

(h) 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. 10. Minnesota Statutes 1992, section 256.736, subdivision 14, is amended to read:

Subd. 14. [JOB SEARCH.] (a) ~~The commissioner of human services shall~~ *Each county agency must* establish *and operate* a job search program *as provided* under ~~Public Law Number 100-485~~ *this section*. Unless exempt, the principal wage earner in an AFDC-UP assistance unit must be referred to *and begin participation in* the job search program within 30 days of being determined eligible for AFDC~~, and must begin participation within four months of being determined eligible~~. *If the principal wage earner is exempt from participation in job search, the other caretaker must be referred to and begin participation in the job search program within 30 days of being determined eligible for AFDC.* The principal wage earner *or the other caretaker* is exempt from job search participation if:

(1) ~~the caretaker is already participating in another approved employment and training service;~~

~~(2) the caretaker's employability plan specifies other activities;~~

~~(3)~~ the caretaker is exempt from registration under subdivision 3; or

~~(4) the caretaker is unable to secure employment due to inability to communicate in the English language, is participating in an English as a second language course, and is making satisfactory progress towards completion of the course. If an English as a second language course is not available to the caretaker, the caretaker is exempt from participation until a course becomes available~~ *(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 ~~the following services:~~

~~(1) an initial period of up to~~ 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 ~~board~~ *agency* if the caretaker fails to cooperate with the job search requirement; ~~and~~.

~~(2) an additional period of job search following the first period at the discretion of the employment and training service provider. The total of these two periods of job search may not exceed eight weeks for any 12 consecutive month period beginning with the month of application.~~

(c) The job search program may provide services to non-AFDC-UP caretakers.

(d) After completion of job search requirements in this section, 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.

Sec. 11. Minnesota Statutes 1992, 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 ~~(i)~~ *(j)*.

(b) For purposes of this ~~section~~ *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 ~~targeted~~ *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 ~~targeted~~ *target* groups, and up to 45 percent of the money may be used for employment and training services for ~~nontargeted~~ *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 ~~targeted~~ *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 ~~and~~, the department of jobs and training, *and entities under contract with either the department of jobs and training or the department of human services for provision of Project 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 jobs and training 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 jobs and training, 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 ~~fourth~~ *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.

Sec. 12. Minnesota Statutes 1992, section 256.736, is amended by adding a subdivision to read:

Subd. 19. [EVALUATION.] *In order to evaluate the services provided under this section, the commissioner may randomly assign no more than 2,500 families to a control group. Families assigned to the control group shall not participate in services under this section, except that families participating in services under this section at the time they are assigned to the control group may continue such participation. Recipients assigned to the control group who are included under subdivision 3a, paragraph (a), shall be guaranteed child care assistance under chapter 256H for an educational plan authorized by the county. Once assigned to the control group, a family must remain in that group for the duration of the evaluation period. The evaluation period shall coincide with the demonstration authorized in section 256.031, subdivision 3.*

Sec. 13. [256.7364] [FEDERAL WAIVER.]

The commissioner of human services shall make changes in the state plan and seek waivers or demonstration authority needed to minimize the barriers to effective and efficient use of grant diversion under section 256.739 as a method of placing AFDC recipients in suitable employment. The commissioner shall implement the federally approved changes as soon as possible.

Sec. 14. Minnesota Statutes 1992, section 256.737, subdivision 1, is amended to read:

Subdivision 1. [ESTABLISHMENT AND PURPOSE.] ~~In order that persons receiving aid under this chapter may be assisted in achieving self-sufficiency by enhancing their employability through meaningful work experience and training and the development of job search skills, the commissioner of human services shall continue the pilot community work experience demonstration programs that were approved by January 1, 1984. The commissioner may establish additional community work experience programs in as many counties as necessary to comply with the participation requirements of the Family Support Act of 1988, Public Law Number 100-485. Programs established on or after July 1, 1989, must be operated on a volunteer basis and must be operated according to the Family Support Act of 1988, Public Law Number 100-485.~~ *To the degree required by federal law or regulation, each county agency must establish and operate a community work experience program to assist nonexempt caretakers in AFDC-UP households achieve self-sufficiency by enhancing their employability through participation in meaningful work experience and training, the development of job search skills, and the development of marketable job skills. This subdivision does not apply to AFDC recipients participating in the Minnesota family investment program under sections 256.031 to 256.0361.*

Sec. 15. Minnesota Statutes 1992, section 256.737, subdivision 1a, is amended to read:

Subd. 1a. [COMMISSIONER'S DUTIES.] The commissioner shall: (a) assist counties in the design and implementation of these programs; (b) promulgate, in accordance with chapter 14, emergency rules necessary for the

implementation of this section, except that the time restrictions of section 14.35 shall not apply and the rules may be in effect until June 30, 1993, unless superseded by permanent rules; (c) seek any federal waivers necessary for proper implementation of this section in accordance with federal law; and (d) prohibit the use of participants in the programs to do work that was part or all of the duties or responsibilities of an authorized public employee *bargaining unit* position established as of January 1, ~~1989~~ *1993*. The exclusive bargaining representative shall be notified no less than 14 days in advance of any placement by the community work experience program. *Written or oral* concurrence with respect to job duties of persons placed under the community work experience program shall be obtained from the appropriate exclusive bargaining representative *within seven days*. The appropriate oversight committee shall be given monthly lists of all job placements under a community work experience program.

Sec. 16. Minnesota Statutes 1992, section 256.737, subdivision 2, is amended to read:

Subd. 2. [PROGRAM REQUIREMENTS.] (a) ~~Programs~~ *Worksites developed* under this section are limited to projects that serve a useful public service such as: health, social service, environmental protection, education, urban and rural development and redevelopment, welfare, recreation, public facilities, public safety, *community service, services to aged or disabled citizens,* and child care. To the extent possible, the prior training, skills, and experience of a recipient must be used in making appropriate work experience assignments.

(b) As a condition to placing a person receiving aid to families with dependent children in a program under this subdivision, the county agency shall first provide the recipient the opportunity ~~to participate in the following services~~:

(1) *for* placement in suitable subsidized or unsubsidized employment through participation in job search under section 256.736, subdivision 14; or

(2) ~~basic educational or vocational or occupational training for an identifiable job opportunity~~ *for placement in suitable employment through participation in on-the-job training under section 256.738 or grant diversion under section 256.739, if such employment is available.*

(c) A ~~recipient who has completed a~~ *caretaker referred to* job search under section 256.736, subdivision 14, *and* who ~~is unable~~ *has failed* to secure suitable employment~~, and who is not enrolled in an approved training program may~~ *must* participate in a community work experience program.

(d) The county agency shall limit the maximum number of hours any participant under this section may work in any month to:

(1) for counties operating an approved mandatory community work experience program as of January 1, 1993, who elect this method for countywide operations, a number equal to the amount of the aid to families with dependent children payable to the family divided by the greater of the federal minimum wage or the applicable state minimum wage*; or*

(2) for all other counties, a caretaker must participate in any week 20 hours with no less than 16 hours spent participating in a work experience placement and no more than four of the hours spent in alternate activities as described in the caretaker's employability development plan. Placement in a work

experience worksite must be based on the assessment required under section 256.736 and the caretaker's employability development plan. Caretakers participating under this clause may be allowed excused absences from the assigned job site of up to eight hours per month. For the purposes of this clause, "excused absence" means absence due to temporary illness or injury of the caretaker or a member of the caretaker's family, the unavailability of licensed child care or transportation needed to participate in the work experience placement, a job interview, or a nonmedical emergency. For purposes of this clause, "emergency" has the meaning given it in section 256.736, subdivision 10a, paragraph (g).

(e) After a participant has been assigned to a position under ~~this section~~ *paragraph (d), clause (1),* for nine months, the participant may not continue in that assignment unless the maximum number of hours a participant works is no greater than the amount of the aid to families with dependent children payable with respect to the family divided by the higher of (1) the federal minimum wage or the applicable state minimum wage, whichever is greater, or (2) the rate of pay for individuals employed in the same or similar occupations by the same employer at the same site.

(f) After each six months of a recipient's participation in an assignment, and at the conclusion of each assignment under this section, the county agency shall reassess and revise, as appropriate, each participant's employability development plan.

(g) Structured, supervised volunteer work with an agency or organization which is monitored by the county service provider may, with the approval of the commissioner of jobs and training, be used as a work experience placement.

Sec. 17. Minnesota Statutes 1992, section 256.737, is amended by adding a subdivision to read:

Subd. 3. [EXEMPTIONS.] *A caretaker is exempt from participation in a work experience placement under this section if the caretaker is exempt from participation in job search under section 256.736, subdivision 14, or the caretaker is suitably employed in a grant diversion or an on-the-job training placement. Caretakers who, as of October 1, 1993, are participating in an education or training activity approved under a Project STRIDE employability development plan are exempt from participation in a work experience placement until July 1, 1994.*

Sec. 18. Minnesota Statutes 1992, section 256.737, is amended by adding a subdivision to read:

Subd. 4. [GOOD CAUSE.] *A caretaker shall have good cause for failure to cooperate if:*

(1) the worksite participation adversely affects the caretaker's physical or mental health as verified by a physician, licensed or certified psychologist, physical therapist, vocational expert, or by other sound medical evidence; or

(2) the caretaker does not possess the skill or knowledge required for the work.

Sec. 19. Minnesota Statutes 1992, section 256.737, is amended by adding a subdivision to read:

Subd. 5. [FAILURE TO COMPLY.] *A caretaker required to participate under this section who has failed without good cause to participate shall be provided with notices, appeal opportunities, and offered a conciliation conference under the provisions of section 256.736, subdivision 4a, and shall be subject to the sanction provisions of section 256.736, subdivision 4, clause (6).*

Sec. 20. Minnesota Statutes 1992, section 256.737, is amended by adding a subdivision to read:

Subd. 6. [FEDERAL REQUIREMENTS.] *If the Family Support Act of 1988, Public Law Number 100-485, is revised or if federal implementation of that law is revised so that Minnesota is no longer obligated to operate a mandatory work experience program for AFDC-UP families, the commissioner shall operate the work experience program under this section as a volunteer program, and shall utilize the funding authorized for work experience to improve and expand the availability of other employment and training services authorized under this section.*

Sec. 21. Minnesota Statutes 1992, section 256.74, subdivision 1, is amended to read:

Subdivision 1. [AMOUNT.] The amount of assistance which shall be granted to or on behalf of any dependent child and mother or other needy eligible relative caring for the dependent child shall be determined by the county agency in accordance with rules promulgated by the commissioner and shall be sufficient, when added to all other income and support available to the child, to provide the child with a reasonable subsistence compatible with decency and health. The amount shall be based on the method of budgeting required in Public Law Number 97-35, section 2315, United States Code, title 42, section 602, as amended and federal regulations at Code of Federal Regulations, title 45, section 233. Nonrecurring lump sum income received by an ~~assistance unit~~ *AFDC family* must be budgeted in the normal retrospective cycle. ~~The number of months of ineligibility is determined by dividing the amount of the lump sum income and all other~~ *When the family's* income, after application of the applicable disregards, ~~by~~ *exceeds* the ~~standard of~~ need *standard* for the ~~assistance unit~~ *family because of receipt of earned or unearned lump sum income, the family will be ineligible for the full number of month derived by dividing the sum of the lump sum income and other income by the monthly need standard for a family of that size.* ~~An amount~~ *Any income* remaining ~~after~~ *from* this calculation is income in the first month *following the period* of ~~eligibility~~ *ineligibility.* ~~If the total monthly income including the lump sum income is larger than the standard of need for a single month~~ The first month of ineligibility is the payment month that corresponds with the budget month in which the lump sum income was received. *For purposes of applying the lump sum provision, family includes those persons defined in the Code of Federal Regulations, title 45, section 233.20(a)(3)(ii)(F). A period of ineligibility must be shortened when the standard of need increases and the amount the family would have received also changes, an amount is documented as stolen, an amount is unavailable because a member of the family left the household with that amount and has not returned, an amount is paid by the family during the period of ineligibility to cover a cost that would otherwise qualify for emergency assistance, or the family incurs and pays for medical expenses which would have been covered by medical assistance if eligibility existed.* In making its determination the county agency shall disregard the following from family income:

(1) *all the earned income of each dependent child applying for AFDC if the child is a full-time student and* all of the earned income of each dependent child receiving ~~aid to families with dependent children~~ *AFDC* who is a full-time student or *is a* part-time student~~, and~~ *who is* not a full-time employee~~,~~. *A student is one who is* attending a school, college, or university, or a course of vocational or technical training designed to fit students for gainful employment ~~as well as~~ *and includes a participant in the job corps program under the job training and partnership act (JTPA). Also, disregard* all ~~the earned~~ income ~~derived from the job training and partnership act (JTPA) for a~~ *of each* dependent child ~~for~~ *applying for or receiving AFDC when the income is derived from a program carried out under JTPA, except that disregard of earned income may not exceed* six ~~calendar~~ months per *calendar* year~~, together with unearned income derived from the job training and partnership act~~;

(2) all educational grants and loans;

(3) the first $90 of each individual's earned income. For self-employed persons, the expenses directly related to producing goods and services and without which the goods and services could not be produced shall be disregarded pursuant to rules promulgated by the commissioner;

(4) thirty dollars plus one-third of each individual's earned income for individuals found otherwise eligible to receive aid or who have received aid in one of the four months before the month of application. With respect to any month, the county welfare agency shall not disregard under this clause any earned income of any person who has: (a) reduced earned income without good cause within 30 days preceding any month in which an assistance payment is made; (b) refused without good cause to accept an offer of suitable employment; (c) left employment or reduced earnings without good cause and applied for assistance so as to be able later to return to employment with the advantage of the income disregard; or (d) failed without good cause to make a timely report of earned income in accordance with rules promulgated by the commissioner of human services. Persons who are already employed and who apply for assistance shall have their needs computed with full account taken of their earned and other income. If earned and other income of the family is less than need, as determined on the basis of public assistance standards, the county agency shall determine the amount of the grant by applying the disregard of income provisions. The county agency shall not disregard earned income for persons in a family if the total monthly earned and other income exceeds their needs, unless for any one of the four preceding months their needs were met in whole or in part by a grant payment. The disregard of $30 and one-third of earned income in this clause shall be applied to the individual's income for a period not to exceed four consecutive months. Any month in which the individual loses this disregard because of the provisions of subclauses (a) to (d) shall be considered as one of the four months. An additional $30 work incentive must be available for an eight-month period beginning in the month following the last month of the combined $30 and one-third work incentive. This period must be in effect whether or not the person has earned income or is eligible for AFDC. To again qualify for the earned income disregards under this clause, the individual must not be a recipient of aid for a period of 12 consecutive months. When an assistance unit becomes ineligible for aid due to the fact that these disregards are no longer applied to income, the assistance unit shall be eligible for medical

assistance benefits for a 12-month period beginning with the first month of AFDC ineligibility;

(5) an amount equal to the actual expenditures for the care of each dependent child or incapacitated individual living in the same home and receiving aid, not to exceed: ~~(a)~~ $175 for each individual age two and older, and $200 for each individual under the age of two~~, when the family member whose needs are included in the eligibility determination is employed for 30 or more hours per week; or (b) $174 for each individual age two or older, and $199 for each individual under the age of two, when the family member whose needs are included in the eligibility determination is not employed throughout the month or when employment is less than 30 hours per week~~. The dependent care disregard must be applied after all other disregards under this subdivision have been applied;

(6) the first $50 per assistance unit of the monthly support obligation collected by the support and recovery (IV-D) unit. The first $50 of periodic support payments collected by the public authority responsible for child support enforcement from a person with a legal obligation to pay support for a member of the assistance unit must be paid to the assistance unit within 15 days after the end of the month in which the collection of the periodic support payments occurred and must be disregarded when determining the amount of assistance. A review of a payment decision under this clause must be requested within 30 days after receiving the notice of collection of assigned support or within 90 days after receiving the notice if good cause can be shown for not making the request within the 30-day limit;

(7) that portion of an insurance settlement earmarked and used to pay medical expenses, funeral and burial costs, or to repair or replace insured property; and

(8) all earned income tax credit payments received by the family as a refund of federal income taxes or made as advance payments by an employer.

All payments made pursuant to a court order for the support of children not living in the assistance unit's household shall be disregarded from the income of the person with the legal obligation to pay support, provided 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 a modification of the support order.

Sec. 22. Minnesota Statutes 1992, section 256.78, is amended to read:

256.78 [ASSISTANCE GRANTS RECONSIDERED.]

All assistance granted under sections 256.72 to 256.87 shall be reconsidered as frequently as may be required by the rules of the state agency. After such further investigation as the county agency may deem necessary or the state agency may require, the amount of assistance may be changed or assistance may be entirely withdrawn if the state or county agency find that the child's circumstances have altered sufficiently to warrant such action. ~~The period of ineligibility for AFDC which results when an assistance unit receives lump sum income must be reduced when:~~

~~(1) the assistance unit's standard of need increases due to changes in state law or due to changes in the size or composition of the assistance unit, so that~~

~~the amount of aid the assistance unit would have received would have increased had it not become ineligible;~~

~~(2) the lump sum income, or a portion of it becomes unavailable to the assistance unit due to expenditures to avoid a life-threatening circumstance, theft, or dissipation which is beyond the family's control by a member of the family who is no longer part of the assistance unit when the lump sum income is not used to meet the needs of members of the assistance unit; or~~

~~(3) the assistance unit incurs and pays medical expenses for care and services specified in sections 256B.02, subdivision 8, and 256B.0625.~~

The county agency may for cause at any time revoke, modify, or suspend any order for assistance previously made. When assistance is thus revoked, modified, or suspended the county agency shall at once report to the state agency such decision together with supporting evidence required by the rules of the state agency. All such decisions shall be subject to appeal and review by the state agency as provided in section 256.045.

Sec. 23. Minnesota Statutes 1992, section 256.983, subdivision 3, is amended to read:

Subd. 3. [DEPARTMENT RESPONSIBILITIES.] The commissioner shall establish training programs which shall be attended by all investigative and supervisory staff of the involved county agencies. The commissioner shall also develop the necessary operational guidelines, forms, and reporting mechanisms, which shall be used by the involved county agencies. *An individual's application or redetermination form shall include an authorization for release by the individual to obtain documentation for any information on that form which is involved in a fraud prevention investigation. The authorization for release would be effective until six months after public assistance benefits have ceased.*

Sec. 24. Minnesota Statutes 1992, section 388.23, subdivision 1, is amended to read:

Subdivision 1. [AUTHORITY.] The county attorney, or any deputy or assistant county attorney whom the county attorney authorizes in writing, has the authority to subpoena and require the production of any records of telephone companies, cellular phone companies, paging companies, electric companies, gas companies, water utilities, chemical suppliers, hotels and motels, airlines, buses, taxis, and other entities engaged in the business of transporting people, and freight companies, warehousing companies, package delivery companies, and other entities engaged in the businesses of transport, storage, or delivery, and records of the existence of safe deposit box account numbers and customer savings and checking account numbers maintained by financial institutions and safe deposit companies, *insurance records relating to the monetary payment or settlement of claims, and wage and employment records of an applicant or recipient of public assistance who is the subject of a welfare fraud investigation relating to eligibility information for public assistance programs*. Subpoenas may only be issued for records that are relevant to an ongoing legitimate law enforcement investigation *or welfare fraud investigation and there is probable cause that a crime has been committed. This provision applies only to the records of business entities and does not extend to private individuals or their dwellings. Subpoenas may only be served by peace officers as defined by section 626.84, subdivision 1, paragraph (c).*

Sec. 25. Minnesota Statutes 1992, section 256B.056, subdivision 1a, is amended to read:

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

Sec. 26. Minnesota Statutes 1992, section 256B.0625, is amended by adding a subdivision to read:

Subd. 32. [CHILD WELFARE TARGETED CASE MANAGEMENT.] *Medical assistance, subject to federal approval, covers child welfare targeted case management services as defined in section 256B.094 to children under age 21 who have been assessed and determined in accordance with section 256F.10 to be:*

(1) at risk of placement or in placement as defined in section 257.071, subdivision 1;

(2) at risk of maltreatment or experiencing maltreatment as defined in section 626.556, subdivision 10e; or

(3) in need of protection or services as defined in section 260.015, subdivision 2a.

Sec. 27. [256B.094] [CHILD WELFARE TARGETED CASE MANAGEMENT SERVICES.]

Subdivision 1. [DEFINITION.] *"Child welfare targeted case management services" means activities that coordinate social and other services designed to help the child under age 21 and the child's family gain access to needed social services, mental health services, habilitative services, educational services, health services, vocational services, recreational services, and related services including, but not limited to, the areas of volunteer services, advocacy, transportation, and legal services. Case management services include developing an individual service plan and assisting the child and the child's family in obtaining needed services through coordination with other agencies and assuring continuity of care. Case managers must assess the delivery, appropriateness, and effectiveness of services on a regular basis.*

Subd. 2. [ELIGIBLE SERVICES.] *Services eligible for medical assistance reimbursement include:*

(1) assessment of the recipient's need for case management services to gain access to medical, social, educational, and other related services;

(2) development, completion, and regular review of a written individual service plan based on the assessment of need for case management services to ensure access to medical, social, educational, and other related services;

(3) routine contact or other communication with the client, the client's family, primary caregiver, legal representative, substitute care provider, service providers, or other relevant persons identified as necessary to the development or implementation of the goals of the individual service plan, regarding the status of the client, the individual service plan, or the goals for the client, exclusive of transportation of the child;

(4) coordinating referrals for, and the provision of, case management services for the client with appropriate service providers, consistent with section 1902(a)(23) of the Social Security Act;

(5) coordinating and monitoring the overall service delivery to ensure quality of services;

(6) monitoring and evaluating services on a regular basis to ensure appropriateness and continued need;

(7) completing and maintaining necessary documentation that supports and verifies the activities in this subdivision;

(8) traveling to conduct a visit with the client or other relevant person necessary to the development or implementation of the goals of the individual service plan; and

(9) coordinating with the medical assistance facility discharge planner in the 30-day period before the client's discharge into the community. This case management service provided to patients or residents in a medical assistance facility is limited to a maximum of two 30-day periods per calendar year.

Subd. 3. [COORDINATION AND PROVISION OF SERVICES.] *(a) In a county where a prepaid medical assistance provider has contracted under section 256B.031 or 256B.69 to provide mental health services, the case management provider shall coordinate with the health maintenance organization to ensure that all necessary mental health services required under the contract are provided to recipients of case management services.*

(b) When the case management provider determines that a health maintenance organization is not providing mental health services as required under the contract, the case management provider shall make other arrangements for provision of the covered services.

(c) The case management provider may bill the provider of prepaid health care services for any mental health services provided to a recipient of case management services which the county arranges for or provides and which is included in the prepaid provider's contract. The prepaid provider must reimburse the county, at the provider's standard rate for that service, for any services delivered under this subdivision.

(d) If the county has not obtained prior authorization for this service, the prepaid provider may appeal the payment for services under section 256.045 if the prepaid provider determines the services were not medically necessary.

(e) The case management provider may appeal under section 256.045 a refusal by the prepaid provider to pay the costs of any services provided under this subdivision.

Subd. 4. [CASE MANAGEMENT PROVIDER.] *To be eligible to receive medical assistance reimbursement, the case management provider must meet all provider qualification and certification standards under section 256F.10.*

Subd. 5. [CASE MANAGER.] *To provide case management services, a case manager must be employed by and authorized by the case management provider to provide case management services and meet all requirements under section 256F.10.*

Subd. 6. [MEDICAL ASSISTANCE REIMBURSEMENT OF CASE MANAGEMENT SERVICES.] *(a) Medical assistance reimbursement for services under this section shall be made on a monthly basis. Payment is based on face-to-face or telephone contacts between the case manager and the client, client's family, primary caregiver, legal representative, or other relevant person identified as necessary to the development or implementation of the goals of the individual service plan regarding the status of the client, the individual service plan, or the goals for the client. These contacts must meet the minimum standards in clauses (1) and (2):*

(1) There must be a face to face contact with each client at least once a month except as provided in clause (2).

(2) For a client placed outside of the county of financial responsibility in an excluded time facility under section 256G, subdivision 6, or through the interstate compact on the placement of children, section 257.40, and the placement in either case is more than 60 miles beyond the county boundaries, there must be at least one contact per month and not more than two consecutive months without a face to face contact.

(b) The payment rate is established using time study data on activities of provider service staff and reports required under sections 245.482, 256.01, subdivision 2, clause (17), and 256E.08, subdivision 8. Separate payment rates may be established for different groups of providers to maximize reimbursement as determined by the commissioner. The payment rate will be reviewed annually and revised periodically to be consistent with the most recent time study and other data. Payment for services will be made upon submission of a valid claim and verification of proper documentation described in subdivision 6. Federal administrative revenue earned through the time study shall be distributed according to earnings, to counties or groups of counties which have the same payment rate under this subdivision, and to the group of counties which are not certified providers under section 256F.10. The commissioner shall modify the requirements set out in Minnesota Rules, parts 9550.0300 to 9550.0370, as necessary to accomplish this.

Subd. 7. [DOCUMENTATION FOR CASE RECORD AND CLAIM.] *(a) The assessment, case finding, and individual service plan shall be maintained in the individual case record under the data practices act, chapter 13. The individual service plan must be reviewed at least annually and updated as necessary. Each individual case record must maintain documentation of*

routine, ongoing, contacts and services. Each claim must be supported by written documentation in the individual case record.

(b) Each claim must include:

(1) the name of the recipient;

(2) the date of the service;

(3) the name of the provider agency and the person providing service;

(4) the nature and extent of services; and

(5) the place of the services.

Subd. 8. [PAYMENT LIMITATION.] *Services that are not eligible for payment as a child welfare targeted case management service include but are not limited to:*

(1) assessments prior to opening a case;

(2) therapy and treatment services;

(3) legal services, including legal advocacy, for the client;

(4) information and referral services that are part of a county's community social services plan, that are not provided to an eligible recipient;

(5) outreach services including outreach services provided through the community support services program;

(6) services that are not documented as required under subdivision 6 and Minnesota Rules, parts 9505.1800 to 9505.1880;

(7) services that are otherwise eligible for payment on a separate schedule under rules of the department of human services;

(8) services to a client that duplicate the same case management service from another case manager;

(9) case management services provided to patients or residents in a medical assistance facility except as described under subdivision 2, clause 9; and

(10) for children in foster care, group homes, or residential care, payment for case management services is limited to case management services that focus on permanency planning or return to the family home and that do not duplicate the facility's discharge planning services.

Sec. 28. Minnesota Statutes 1992, section 256D.03, subdivision 3, is amended to read:

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

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

(2)(i) who is a resident of Minnesota; and whose equity in assets is not in excess of $1,000 per assistance unit. Exempt assets, the reduction of excess

assets, and the waiver of excess assets must conform to the medical assistance program in chapter 256B, with the following exception: the maximum amount of undistributed funds in a trust that could be distributed to or on behalf of the beneficiary by the trustee, assuming the full exercise of the trustee's discretion under the terms of the trust, must be applied toward the asset maximum; and

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

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

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

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

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

(e) In determining the amount of assets of an individual, there shall be included any asset or interest in an asset, including an asset excluded under paragraph (a), that was given away, sold, or disposed of for less than fair market value within the 30 months preceding application for general assistance medical care or during the period of eligibility. Any transfer described in this paragraph shall be presumed to have been for the purpose of establishing eligibility for general assistance medical care, unless the individual furnishes convincing evidence to establish that the transaction was exclusively for another purpose. For purposes of this paragraph, the value of the asset or interest shall be the fair market value at the time it was given away, sold, or disposed of, less the amount of compensation received. For any uncompensated transfer, the number of months of ineligibility, including partial months, shall be calculated by dividing the uncompensated transfer

amount by the average monthly per person payment made by the medical assistance program to skilled nursing facilities for the previous calendar year. The individual shall remain ineligible until this fixed period has expired. The period of ineligibility may exceed 30 months, and a reapplication for benefits after 30 months from the date of the transfer shall not result in eligibility unless and until the period of ineligibility has expired. The period of ineligibility begins in the month the transfer was reported to the county agency, or if the transfer was not reported, the month in which the county agency discovered the transfer, whichever comes first. For applicants, the period of ineligibility begins on the date of the first approved application.

(f)(1) 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) For the five-year period beginning on the date when lawful temporary resident status was granted under United States Code, title 8, section 1255a, an alien granted lawful temporary residence status is ineligible for general assistance medical care other than emergency services. An alien admitted to the United States for purposes of family unity with an alien granted lawful temporary residence status as provided under Public Law Number 101-649, section 301, is ineligible for general assistance medical care other than emergency services for the same ineligibility period as the family member granted lawful temporary residence status.

(3) 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).

(4) For purposes of paragraph (f), "emergency services" has the meaning given in the Code of Federal Regulations, title 42, section 440.255(b)(1).

Sec. 29. Minnesota Statutes 1992, section 256D.05, is amended by adding a subdivision to read:

Subd. 8. [PERSONS INELIGIBLE.] *(a) An undocumented alien or a nonimmigrant is ineligible for work readiness and general assistance benefits. 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.*

(b) For the five-year period beginning on the date when lawful temporary resident status was granted under United States Code, title 8, section 1255a, an alien granted lawful temporary residence status is ineligible for work readiness and general assistance benefits. An alien admitted to the United States for purposes of family unity with an alien granted lawful temporary residence status as provided under Public Law Number 101-649, section 301, is ineligible for work readiness and general assistance benefits for the same ineligibility period as the family member granted lawful temporary residence status.

(c) 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).

Sec. 30. Minnesota Statutes 1992, section 256D.051, subdivision 1, is amended to read:

Subdivision 1. [WORK REGISTRATION.] (a) Except as provided in this subdivision, persons who are residents of the state and whose income and resources are less than the standard of assistance established by the commissioner, but who are not categorically eligible under section 256D.05, subdivision 1, are eligible for the work readiness program for a maximum period of six calendar months during any 12 consecutive calendar month period, subject to the provisions of paragraph (d), subdivision 3, and section 256D.052, subdivision 4. The person's eligibility period begins on the first day of the calendar month following the date of application for assistance or following the date all eligibility factors are met, whichever is later; however, the person may voluntarily continue to participate in work readiness services for up to three additional consecutive months immediately following the last month of benefits to complete the provisions of the person's employability development plan. After July 1, 1992, if orientation is available within three weeks after the date eligibility is determined, initial payment will not be made until the registrant attends orientation to the work readiness program. Prior to terminating work readiness assistance the county agency must provide advice on the person's eligibility for general assistance medical care and must assess the person's eligibility for general assistance under section 256D.05 to the extent possible, using information in the case file, and determine the person's eligibility for general assistance. A determination that the person is not eligible for general assistance must be stated in the notice of termination of work readiness benefits.

(b) Persons, families, and married couples who are not state residents but who are otherwise eligible for work readiness assistance may receive emergency assistance to meet emergency needs.

(c) Except for family members who must participate in work readiness services under the provisions of section 256D.05, subdivision 1, clause (14), any person who would be defined for purposes of the food stamp program as being enrolled *or participating* at least half-time in an institution of higher education, *or a post-secondary program* is ineligible for the work readiness program. *Post-secondary education does not include the following programs: (1) high school equivalency; (2) adult basic education; (3) English as a second language; (4) literacy training; and (5) skill-specific technical training that has a course of study of less than three months, that is not paid for using work readiness funds, and that is specified in the work readiness employability development plan developed with the recipient prior to the recipient beginning the training course.*

(d) Notwithstanding the provisions of sections 256.045 and 256D.10, during the pendency of an appeal, work readiness payments and services shall not continue to a person who appeals the termination of benefits due to exhaustion of the period of eligibility specified in paragraph (a) or (d).

Sec. 31. Minnesota Statutes 1992, section 256D.051, subdivision 1a, is amended to read:

Subd. 1a. [WORK READINESS PAYMENTS.] (a) Except as provided in this subdivision, grants of work readiness shall be determined using the standards of assistance, exclusions, disregards, and procedures which are used in the general assistance program. Work readiness shall be granted in an amount that, when added to the nonexempt income actually available to the assistance unit, the total amount equals the applicable standard of assistance.

(b) Except as provided in section 256D.05, subdivision 6, work readiness assistance must be paid on the first day of each month.

At the time the county agency notifies the assistance unit that it is eligible for family general assistance or work readiness assistance and by the first day of each month of services, the county agency must inform all mandatory registrants in the assistance unit that they must comply with all work readiness requirements that month, and that work readiness eligibility will end at the end of the month unless the registrants comply with work readiness requirements specified in the notice. A registrant who fails, without good cause, to comply with requirements during this time period, including attendance at orientation, will lose family general assistance or work readiness eligibility without notice under section 256D.101, subdivision 1, paragraph (b). The registrant shall, however, be sent a notice no later than five days after eligibility ends, which informs the registrant that family general assistance or work readiness eligibility has ended in accordance with this section for failure to comply with work readiness requirements. The notice shall set forth the factual basis for such determination and advise the registrant of the right to reinstate eligibility upon a showing of good cause for the failure to meet the requirements. *The first time in a 12-month period that a recipient's benefits are terminated for failure to comply with work readiness requirements,* subsequent assistance must not be issued unless the person completes an application, is determined eligible, and complies with the work readiness requirements that had not been complied with, or demonstrates that the person had good cause for failing to comply with the requirement. *If a recipient's benefits are terminated more than once in a 12-month period for failure to comply with work readiness requirements, subsequent assistance must not be issued unless a period of three calendar months of benefit ineligibility has expired, the person completes an application, is determined eligible, and complies with the work readiness requirements that had not been complied with, or the person demonstrates good cause for failing to comply with the requirement. In all instances of termination of work readiness benefits for failure without good cause to comply with work readiness requirements, eligibility for subsequent assistance shall not begin sooner than the beginning of the month following reapplication for benefits.* The time during which the person is ineligible under these provisions is counted as part of the person's period of eligibility under subdivision 1.

(c) Notwithstanding the provisions of section 256D.01, subdivision 1a, paragraph (d), when one member of a married couple has exhausted the five months of work readiness eligibility in a 12-month period and the other member has one or more months of eligibility remaining within the same 12-month period, the standard of assistance applicable to the member who remains eligible is the first adult standard in the aid to families with dependent children program.

(d) Notwithstanding sections 256.045 and 256D.10, during the pendency of an appeal, work readiness payments and services shall not continue to a person who appeals the termination of benefits under paragraph (b).

Sec. 32. Minnesota Statutes 1992, section 256D.051, subdivision 2, is amended to read:

Subd. 2. [COUNTY AGENCY DUTIES.] (a) The county agency shall provide to registrants a work readiness program. The work readiness program must include:

(1) orientation to the work readiness program;

(2) an individualized employability assessment and an individualized employability development plan that includes assessment of literacy, ability to communicate in the English language, educational and employment history, and that estimates the length of time it will take the registrant to obtain employment. The employability assessment and development plan must be completed in consultation with the registrant, must assess the registrant's assets, barriers, and strengths, and must identify steps necessary to overcome barriers to employment. A copy of the employability development plan must be provided to the registrant;

(3) referral to available accredited remedial or skills training programs designed to address registrant's barriers to employment;

(4) referral to available programs including the Minnesota employment and economic development program;

(5) a job search program, including job seeking skills training; and

(6) other activities, to the extent of available resources designed by the county agency to prepare the registrant for permanent employment.

~~The work readiness program may include a public sector or nonprofit work experience component only if the component is established according to section 268.90.~~

In order to allow time for job search, the county agency may not require an individual to participate in the work readiness program for more than 32 hours a week. The county agency shall require an individual to spend at least eight hours a week in job search or other work readiness program activities.

(b) The county agency shall prepare an annual plan for the operation of its work readiness program. The plan must be submitted to and approved by the commissioner of jobs and training. The plan must include:

(1) a description of the services to be offered by the county agency;

(2) a plan to coordinate the activities of all public entities providing employment-related services in order to avoid duplication of effort and to provide services more efficiently;

(3) a description of the factors that will be taken into account when determining a client's employability development plan;

(4) provisions to assure that applicants and recipients are evaluated for eligibility for general assistance prior to termination from the work readiness program; and

(5) provisions to ensure that the county agency's employment and training service provider provides each recipient with an orientation, employability assessment, and employability development plan as specified in paragraph

(a), clauses (1) and (2), within 30 days of the recipient's application for assistance.

(c) The county agency shall develop a work experience program by contracting with nonprofit agencies or public agencies, giving preference to nonprofit agencies, to provide employment for participants who are not employed after three months of participating in the work readiness program. Nonexempt recipients must be referred to the work experience program at the end of their third month of work readiness eligibility and must participate in the program for the final months of work readiness eligibility. The county agency shall give the participant the option to begin the work experience program after 30 days of participating in work readiness. The employment need not provide the participant with training or work experience that will enhance the participant's employability. The employment may include, but is not limited to, housing rehabilitation, agricultural projects, road and building repair and improvement, grooming and beautification of parks and trails, and assistance with food shelf or shelter services. The county agency shall place the participant in employment if it is available through the contract and continue placement unless permanent suitable employment is offered through grant diversion under section 256D.091 or unless work readiness benefits are terminated under subdivision 1a. If no employment positions are available under the county contract, the participant shall continue with the other duties required to maintain eligibility until a position becomes available and the county shall place the participant in the next available position. The county shall monitor the participant to ensure continued compliance with the requirements for eligibility. In order to maintain eligibility, the participant under the contract must work for that number of hours calculated by dividing the assistance units work readiness assistance payment by the state minimum wage per month.

(d) An eligible employer may not terminate, lay off, or reduce the regular working hours of an employee for the purpose of hiring an individual with money available under this program. An eligible employer may not hire an individual with money available through this program if any other person is on layoff from the same or a substantially equivalent job or to fill an established vacant position. Written or oral concurrence with respect to job duties of persons placed under this program shall be obtained from the appropriate exclusive bargaining representative.

(e) County agencies who, as of January 1, 1993, operated a public sector or nonprofit work experience component under the community investment program provisions of section 268.90, may continue to operate that program in lieu of the work experience provisions of this subdivision for work readiness recipients who lack a work history or a local work reference. A recipient shall not be required to participate in such community investment program employment for more than two months, and participation must take place during the recipient's first three months of work readiness eligibility. Recipients placed in community investment program employment may not participate in the work experience component required under paragraph (c) of this subdivision. The increased funding provided under subdivision 6 for recipients placed in a work experience component is not available to recipients placed in a community investment program placement under this paragraph.

(f) Work readiness recipients who are functionally illiterate and participating in literacy training, persons who are attending high school at least half-time, and family general assistance recipients who are required to

participate in work readiness services under section 256D.05, subdivision 1, clause 15, are exempt from the work experience participation requirements of this subdivision and must instead participate in standard work readiness employment and training services.

Sec. 33. Minnesota Statutes 1992, section 256D.051, subdivision 3, is amended to read:

Subd. 3. [REGISTRANT DUTIES.] In order to receive work readiness assistance, a registrant shall: (1) cooperate with the county agency in all aspects of the work readiness program; (2) accept any suitable employment, including employment offered through the job training partnership act, and other employment and training options; ~~and~~ (3) participate in work readiness activities assigned by the county agency; *and (4) participate in the work experience program under subdivision 2, paragraph (c).* The county agency may terminate assistance to a registrant who fails to ~~cooperate in the work readiness program,~~ *perform the duties listed in clauses (1) to (3) and* as provided in subdivision 1a.

Sec. 34. Minnesota Statutes 1992, section 256D.051, subdivision 6, is amended to read:

Subd. 6. [SERVICE COSTS.] The commissioner shall reimburse 92 percent of county agency expenditures for providing work readiness services including direct participation expenses and administrative costs, except as provided in section 256.017. State work readiness funds shall be used only to pay the county agency's and work readiness service provider's actual costs of providing participant support services, direct program services, and program administrative costs for persons who participate in work readiness services. ~~Beginning January 1, 1991, the average reimbursable cost per recipient must not exceed $283 annually.~~ Beginning July 1, 1991, the average annual reimbursable cost for providing work readiness services to a recipient for whom an individualized employability development plan is not completed must not exceed $60 for the work readiness services, and $223 for necessary recipient support services such as transportation or child care needed to participate in work readiness services. If an individualized employability development plan has been completed, the *average* annual reimbursable cost for providing work readiness services must not exceed $283, *except that the total annual average reimbursable cost shall not exceed $804 for recipients who participate in a work experience program under subdivision 2, paragraph (c),* 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 work readiness services. Beginning July 1, 1991, the state will reimburse counties, up to the limit of state appropriations, according to the payment schedule in section 256.025 for the county share of costs incurred under this subdivision on or after January 1, 1991. Payment to counties under this subdivision is subject to the provisions of section 256.017.

Sec. 35. Minnesota Statutes 1992, section 256D.35, subdivision 3a, is amended to read:

Subd. 3a. [ASSISTANCE UNIT.] "Assistance unit" means the individual applicant or recipient *or an eligible applicant or recipient couple who live together.*

Sec. 36. Minnesota Statutes 1992, section 256D.44, subdivision 2, is amended to read:

Subd. 2. [STANDARD OF ASSISTANCE FOR SHELTER.] The state standard of assistance for shelter provides for the recipient's shelter costs. The monthly state standard of assistance for shelter must be determined according to paragraphs (a) to ~~(c)~~ *(f)*.

(a) If ~~the~~ *an applicant or* recipient does not reside with another person *or persons*, the state standard of assistance is the actual cost for shelter items or $124, whichever is less.

(b) ~~If the recipient resides with another person, the state standard of assistance is the actual costs for shelter items or $93, whichever is less.~~ *If an applicant married couple, who live together, does not reside with others, the state standard of assistance is the actual cost for shelter items or $186, whichever is less.*

(c) ~~Actual shelter costs for applicants or recipients are determined by dividing the total monthly shelter costs by the number of persons who share the residence.~~ *If an applicant or recipient resides with another person or persons, the state standard of assistance is the actual cost for shelter items or $93, whichever is less.*

(d) If an applicant or recipient married couple, who live together, resides with others, the state standard of assistance is the actual cost for shelter items or $124, whichever is less.

(e) Actual shelter costs for applicants or recipients, who reside with others, are determined by dividing the total monthly shelter costs by the number of persons who share the residence.

(f) Married couples, living together and receiving MSA on January 1, 1994, and whose eligibility has not been terminated for a full calendar month, are exempt from the standards in paragraphs (b) and (d).

Sec. 37. Minnesota Statutes 1992, section 256D.44, subdivision 3, is amended to read:

Subd. 3. [STANDARD OF ASSISTANCE FOR BASIC NEEDS.] The state standard of assistance for basic needs provides for the applicant's or recipient's maintenance needs, other than actual shelter costs. Except as provided in subdivision 4, the monthly state standard of assistance for basic needs is as follows:

(a) ~~For~~ *If* an applicant or recipient who does not reside with another person *or persons*, the state standard of assistance is ~~$305~~ *$371*.

(b) ~~For an individual who resides with another person or persons, the state standard of assistance is $242.~~ *If an applicant or recipient married couple who live together, does not reside with others, the state standard of assistance is $557.*

(c) If an applicant or recipient resides with another person or persons, the state standard of assistance is $286.

(d) If an applicant or recipient married couple who live together, resides with others, the state standard of assistance is $371.

(e) Married couples, living together and receiving MSA on January 1, 1994, and whose eligibility has not been terminated a full calendar month, are exempt from the standards in paragraphs (b) and (d).

Sec. 38. Minnesota Statutes 1992, section 256F.06, subdivision 2, is amended to read:

Subd. 2. [USES OF GRANTS.] The grant must be used exclusively for family-based services. ~~The grant may not be used as a match for other federal money or to meet the requirements of section 256E.06, subdivision 5.~~

Sec. 39. [256F.10] [CHILD WELFARE TARGETED CASE MANAGEMENT.]

Subdivision 1. [ELIGIBILITY.] *Persons under 21 years of age who are eligible to receive medical assistance are eligible for child welfare targeted case management services under section 256B.094 and this section if they have received an assessment and have been determined by the local county agency to be:*

(1) at risk of placement or in placement as defined in section 257.071, subdivision 1;

(2) at risk of maltreatment or experiencing maltreatment as defined in section 626.556, subdivision 10e; or

(3) in need of protection or services as defined in section 260.015, subdivision 2a.

Subd. 2. [AVAILABILITY OF SERVICES.] *Child welfare targeted case management services are available from providers meeting qualification requirements and the certification standards specified in subdivision 4. Eligible recipients may choose any certified provider of child welfare targeted case management services.*

Subd. 3. [VOLUNTARY PROVIDER PARTICIPATION.] *Providers may seek certification for medical assistance reimbursement to provide child welfare targeted case management services. The certification process is initiated by submitting a written statement of interest to the commissioner.*

Certified providers may elect to discontinue participation by a written notice to the commissioner at least 120 days before the end of the final calendar quarter of participation.

Subd. 4. [PROVIDER QUALIFICATIONS AND CERTIFICATION STANDARDS.] *The commissioner must certify each provider before enrolling it as a child welfare targeted case management provider of services under section 256B.094 and this section. The certification process shall examine the provider's ability to meet the qualification requirements and certification standards in this subdivision and other federal and state requirements of this service. A certified child welfare targeted case management provider is an enrolled medical assistance provider who is determined by the commissioner to have all of the following:*

(1) the legal authority to provide public welfare under sections 393.01, subdivision 7, and 393.07;

(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 complete investigative and protective services under section 626.556, subdivision 10, and child welfare and foster care services under section 393.07, subdivisions 1 and 2;

(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.

Subd. 5. [CASE MANAGERS.] *Case managers are individuals employed by and authorized by the certified child welfare targeted case management provider to provide case management services under section 256B.094 and this section. A case manager must have:*

(1) skills in identifying and assessing a wide range of children's needs;

(2) knowledge of local child welfare and a variety of community resources and effective use of those resources for the benefit of the child; and

(3) a bachelor's degree in social work, psychology, sociology, or a closely related field from an accredited four-year college or university; or a bachelor's degree from an accredited four-year college or university in a field other than social work, psychology, sociology, or a closely related field, plus one year of experience in the delivery of social services to children as a supervised social worker in a public or private social services agency.

Subd. 6. [DISTRIBUTION OF NEW FEDERAL REVENUE.] *(a) Except for portion set aside in paragraph (b), the federal funds earned under this section and section 256B.094 by counties shall be paid to each county based on its earnings, and must be used by each county to expand preventive child welfare services. If a county chooses to be a provider of child welfare targeted case management and if that county also joins a local children's mental health collaborative as authorized by the 1993 legislature, then the federal reimbursement received by the county for providing child welfare targeted case management services to the local collaborative's target population shall be transferred by the county to the integrated fund. The federal reimbursement transferred to the integrated fund by the county must not be used for residential care other than respite care described under subdivision 7, paragraph (d).*

(b) The commissioner shall set aside a portion of the federal funds earned under this section to repay the special revenue maximization account under section 256.01, subdivision 2, clause (15). The repayment is limited to:

(1) the costs of developing and implementing this section and sections 256.8711 and 256B.094;

(2) programming the information systems; and

(3) the lost federal revenue for the central office claim directly caused by the implementation of these sections.

Any unexpended funds from the set aside under this paragraph shall be distributed to counties according to paragraph (a).

Subd. 7. [EXPANSION OF SERVICES AND BASE LEVEL OF EXPENDITURES.] *(a) Counties must continue the base level of expenditures for preventive child welfare services from either or both of any state, county, or federal funding source, which, in the absence of federal funds earned under this section, would have been available for these services. The commissioner shall review the county expenditures annually using reports required under sections 245.482, 256.01, subdivision 2, clause (17), and 256E.08, subdivision 8, to ensure that the base level of expenditures for preventive child welfare services is continued from sources other than the federal funds earned under this section.*

(b) The commissioner may reduce, suspend, or eliminate either or both of a county's obligations to continue the base level of expenditures and to expand child welfare preventive services if the commissioner determines that one or more of the following conditions apply to that county:

(1) imposition of levy limits that significantly reduce available social service funds;

(2) reduction in the net tax capacity of the taxable property within a county that significantly reduces available social service funds;

(3) reduction in the number of children under age 19 in the county by 25 percent when compared with the number in the base year using the most recent data provided by the state demographer's office; or

(4) termination of the federal revenue earned under this section.

(c) The commissioner may suspend for one year either or both of a county's obligations to continue the base level of expenditures and to expand child welfare preventive services if the commissioner determines that in the previous year one or more of the following conditions applied to that county:

(1) the total number of children in placement under sections 257.071 and 393.07, subdivisions 1 and 2, has been reduced by 50 percent from the total number in the base year; or

(2) the average number of children in placement under sections 257.071 and 393.07, subdivisions 1 and 2, on the last day of each month is equal to or less than one child per 1,000 children in the county.

(d) For the purposes of this section, child welfare preventive services are those services directed toward a specific child or family that further the goals of section 256F.01 and include assessments, family preservation services, service coordination, community-based treatment, respite care except when it is provided under a medical assistance waiver, home-based services, and other related services. For the purposes of this section, child welfare preventive services shall not include shelter care to address an emergency, residential services except for respite care, child care for the purposes of employment and training, adult services, services other than child welfare targeted case management when they are provided under medical assistance, placement services, or activities not directed toward a specific child or family. Respite care must be planned, routine care to support the continuing residence of the child with its family or long-term primary caretaker and must not be provided to address an emergency.

(e) For the counties beginning to claim federal reimbursement for services under this section and section 256B.094, the base year is the calendar year ending at least two calendar quarters before the first calendar quarter in which the county begins claiming reimbursement. For the purposes of this section, the base level of expenditures is the level of county expenditures in the base year for eligible child welfare preventive services described in this subdivision.

Subd. 8. [PROVIDER RESPONSIBILITIES.] *(a) Notwithstanding section 256B.19, subdivision 1, for the purposes of child welfare targeted case management under section 256B.094 and this section, the nonfederal share of costs shall be provided by the provider of child welfare targeted case management from sources other than federal funds or funds used to match other federal funds.*

(b) Provider expenditures eligible for federal reimbursement under this section must not be made from federal funds or funds used to match other federal funds.

(c) The commissioner may suspend, reduce, or terminate the federal reimbursement to a provider that does not meet the reporting or other requirements of section 256B.094 and this section.

Subd. 9. [PAYMENTS.] *Notwithstanding section 256.025, subdivision 2, payments to certified providers for child welfare targeted case management expenditures under section 256B.094 and this section shall only be made of federal earnings from services provided under section 256B.094 and this section.*

Subd. 10. [CENTRALIZED DISBURSEMENT OF MEDICAL ASSISTANCE PAYMENTS.] *Notwithstanding section 256B.041, county payments for the cost of child welfare targeted case management services shall not be made to the state treasurer. For the purposes of child welfare targeted case management services under section 256B.094 and this section, the centralized disbursement of payments to providers under section 256B.041 consists only of federal earnings from services provided under section 256B.094 and this section.*

Sec. 40. Minnesota Statutes 1992, section 256I.01, is amended to read:

256I.01 [CITATION.]

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

Sec. 41. Minnesota Statutes 1992, section 256I.02, is amended to read:

256I.02 [PURPOSE.]

The group residential housing ~~rate~~ act establishes a comprehensive system of rates and payments for persons who reside in a group residence and who meet the eligibility criteria ~~of the general assistance program under sections 256D.01 to 256D.21, or the Minnesota supplemental aid program under sections 256D.33 to 256D.54~~ *under section 256I.04, subdivision 1.*

Sec. 42. Minnesota Statutes 1992, section 256I.03, subdivision 2, is amended to read:

Subd. 2. [GROUP RESIDENTIAL HOUSING RATE.] "Group residential housing rate" means a monthly rate set for shelter, fuel, food, utilities, household supplies, and other costs necessary to provide room and board for *eligible* individuals ~~eligible for general assistance under sections 256D.01 to 256D.21 or supplemental aid under sections 256D.33 to 256D.54~~. Group residential housing rate does not include payments for foster care for children who are not blind, child welfare services, medical care, dental care, hospitalization, nursing care, drugs or medical supplies, *or* program costs, ~~or other social services~~ *except for facilities licensed on August 1, 1984, by the commissioner of human services under Minnesota Rules, parts 9525.0520 to 9525.0660, but funded as a group residence under general assistance or Minnesota supplemental aid.* ~~However, the group residential housing rate for recipients living in residences in section 256I.05, subdivision 2, paragraph (c), clause (2), includes all items covered by that residence's medical assistance per diem rate.~~ The rate is negotiated by the county agency ~~or the state~~ according to the provisions of sections 256I.01 to 256I.06.

Sec. 43. Minnesota Statutes 1992, section 256I.03, subdivision 3, is amended to read:

Subd. 3. [GROUP RESIDENTIAL HOUSING.] "Group residential housing" means a group living situation that provides at a minimum room and board to unrelated persons who meet the eligibility requirements of section 256I.04. This definition includes foster care settings for a single adult. To receive payment for a group residence rate, the residence must ~~be licensed by either the department of health or human services and must comply with applicable laws and rules establishing standards for health, safety, and licensure. Secure crisis shelters for battered women and their children designated by the department of corrections are not group residences under this chapter~~ *meet the requirements under section 256I.04, subdivision 2a.*

Sec. 44. Minnesota Statutes 1992, section 256I.03, is amended by adding a subdivision to read:

Subd. 5. [MSA EQUIVALENT RATE.] *"MSA equivalent rate" means an amount equal to the total of:*

(1) the combined maximum shelter and basic needs standards for MSA recipients living alone specified in section 256D.44, subdivisions 2, paragraph (a); and 3, paragraph (a); plus

(2) for persons who are not eligible to receive food stamps due to living arrangement, the maximum allotment authorized by the federal Food Stamp Program for a single individual which is in effect on the first day of July each year; less

(3) the personal needs allowance authorized for medical assistance recipients under section 256B.35.

The MSA equivalent rate is to be adjusted on the first day of July each year to reflect changes in any of the component rates under clauses (1) to (3).

Sec. 45. Minnesota Statutes 1992, section 256I.03, is amended by adding a subdivision to read:

Subd. 6. [MEDICAL ASSISTANCE ROOM AND BOARD RATE.] *"Medical assistance room and board rate" means an amount equal to the medical assistance income standard for a single individual living alone in the*

community less the medical assistance personal needs allowance under section 256B.35. For the purposes of this section, the amount of the group residential housing rate that exceeds the medical assistance room and board rate is considered a remedial care cost. A remedial care cost may be used to meet a spend-down obligation under section 256B.056, subdivision 5. The medical assistance room and board rate is to be adjusted on the first day of January of each year.

Sec. 46. Minnesota Statutes 1992, section 256I.04, subdivision 1, is amended to read:

Subdivision 1. [*INDIVIDUAL* ELIGIBILITY REQUIREMENTS.] ~~To be eligible for a group residential housing payment, the individual must be eligible for general assistance under sections 256D.01 to 256D.21, or supplemental aid under sections 256D.33 to 256D.54. If the individual is in the group residence due to illness or incapacity, the individual must be in the residence under a plan developed or approved by the county agency. Residence in other group residences must be approved by the county agency.~~ *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'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. 47. Minnesota Statutes 1992, section 256I.04, is amended by adding a subdivision to read:

Subd. 1a. [COUNTY APPROVAL.] *A county agency may not approve a group residential housing payment for an individual in any setting with a rate in excess of the MSA equivalent rate for more than 30 days in a calendar year unless the county agency has developed or approved a plan for the individual which specifies that:*

(1) the individual has an illness or incapacity which prevents the person from living independently in the community; and

(2) the individual's illness or incapacity requires the services which are available in the group residence.

Sec. 48. Minnesota Statutes 1992, section 256I.04, is amended by adding a subdivision to read:

Subd. 1b. [OPTIONAL STATE SUPPLEMENTS TO SSI.] *Group residential housing payments made on behalf of persons eligible under subdivision 1, paragraph (a), are optional state supplements to the SSI program.*

Sec. 49. Minnesota Statutes 1992, section 256I.04, is amended by adding a subdivision to read:

Subd. 1c. [INTERIM ASSISTANCE.] *Group residential housing payments made on behalf of persons eligible under subdivision 1, paragraph (b), are considered interim assistance payments to applicants for the federal SSI program.*

Sec. 50. Minnesota Statutes 1992, section 256I.04, subdivision 2, is amended to read:

Subd. 2. [DATE OF ELIGIBILITY.] ~~For a person living in a group residence who is eligible for general assistance under sections 256D.01 to 256D.21, payment shall be made from the date a signed application form is received by the county agency or the date the applicant meets all eligibility factors, whichever is later. For a person living in a group residence who is eligible for supplemental aid under sections 256D.33 to 256D.54, payment shall be made from the first of the month in which an approved application is received by a county agency.~~ *An individual who has met the eligibility requirements of subdivision 1, shall have a group residential housing payment made on the individual's behalf from the first day of the month in which a signed application form is received by a county agency, or the first day of the month in which all eligibility factors have been met, whichever is later.*

Sec. 51. Minnesota Statutes 1992, section 256I.04, is amended by adding a subdivision to read:

Subd. 2a. [LICENSE REQUIRED.] *A county agency may not enter into an agreement with an establishment to provide group residential housing unless:*

(1) the establishment is licensed by the department of health as a hotel and restaurant; a board and lodging establishment; a residential care home; a boarding care home before March 1, 1985; or a supervised living facility, and the service provider for residents of the facility is licensed under chapter 245A; or

(2) the residence is licensed by the department of human services under Minnesota Rules, parts 9555.5050 to 9555.6265, or certified by a county human services agency prior to July 1, 1992, using the standards under Minnesota Rules, parts 9555.5050 to 9555.6265.

The requirements under clauses (1) and (2) do not apply to establishments exempt from state licensure because they are located on Indian reservations and subject to tribal health and safety requirements.

Sec. 52. Minnesota Statutes 1992, section 256I.04, is amended by adding a subdivision 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 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; 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.

Sec. 53. Minnesota Statutes 1992, section 256I.04, is amended by adding a subdivision to read:

Subd. 2c. [CRISIS SHELTERS.] *Secure crisis shelters for battered women and their children designated by the Minnesota department of corrections are not group residences under this chapter.*

Sec. 54. Minnesota Statutes 1992, 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 ~~general assistance or Minnesota supplemental aid~~ group ~~residence~~ *residential* housing beds except:

(1) ~~for adult foster homes licensed by the commissioner of human services under Minnesota Rules, parts 9555.5105 to 9555.6265~~ *for group residential housing establishments meeting the requirements of subdivision 2a, clause (2)*;

(2) for ~~facilities~~ *group residential housing establishments* licensed under Minnesota Rules, parts 9525.0215 to 9525.0355, provided the facility is needed to meet the census reduction targets for persons with mental retardation or related conditions at regional treatment centers;

(3) to ensure compliance with the federal Omnibus Budget Reconciliation Act alternative disposition plan requirements for inappropriately placed persons with mental retardation or related conditions or mental illness; ~~or~~

(4) 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)~~.~~*;*

(5) for up to 22 beds in a facility located in Mahnomen county on the White Earth Reservation to provide housing for persons who are 55 years or older. The facility may not be classified as an institution for mental diseases. Planning for the facility must have been initiated before January 30, 1993;

(6) for up to 16 beds in a board and lodging establishment licensed by the commissioner of health, registered under section 157.031, subdivision 2, and located in Anoka county;

(7) for up to 15 beds in a single, specialized facility located in Ramsey county that will provide board and lodging transitional housing for single women and women without children who are in need of chemical dependency treatment, aftercare services, and making the transition to chemical-free self-sufficiency; or

(8) up to 53 beds in two specialized facilities located in Rice county that will provide housing for seniors or the disabled. Planning for the facilities must have been initiated before March 1990.

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

(c) Group residential housing beds which become available as a result of downsizing settings which have a license under Minnesota Rules, parts 9535.2000 to 9535.3000, must be permanently removed from the group residential housing census and not replaced.

Sec. 55. Minnesota Statutes 1992, section 256I.05, subdivision 1, is amended to read:

Subdivision 1. [~~MONTHLY~~ *MAXIMUM* RATES.] Monthly ~~payments for~~ *room and board* rates negotiated by a county agency~~, or set by the department under rules developed pursuant to subdivision 6, on behalf of~~ *for* a recipient living in a group ~~residence~~ *residential housing* must ~~be paid at the rates in effect on June 30, 1991,~~ not ~~to~~ exceed ~~$966.37 for~~ a ~~group residence that entered into an initial group residential housing agreement with a county agency before June 1, 1989~~ *the MSA equivalent rate specified under section 256I.03, subdivision 5, with the exception that a county agency may negotiate a room and board rate that exceeds the MSA equivalent rate by up to $426.37 for recipients of waiver services under title XIX of the Social Security Act. This exception is subject to the following conditions:*

(a) that the secretary of health and human services has not approved a state request to include room and board costs which exceed the MSA equivalent rate in an individual's set of waiver services under title XIX of the Social Security Act; or

(b) that the secretary of health and human services has approved the inclusion of room and board costs which exceed the MSA equivalent rate, but in an amount that is insufficient to cover costs which are included in a group residential housing agreement in effect on June 30, 1994, and the amount of the rate that is above the MSA equivalent rate has been approved by the commissioner. The county agency may at any time negotiate a lower ~~payment~~ *room and board* rate than the rate that would otherwise be paid under this subdivision.

Sec. 56. Minnesota Statutes 1992, section 256I.05, subdivision 1a, is amended to read:

Subd. 1a. [~~LOWER MAXIMUM~~ *SUPPLEMENTARY* RATES.] ~~(a) The maximum monthly rate for a general assistance or Minnesota supplemental aid group residence that enters into an initial group residential housing agreement with a county agency on or after June 1, 1989, may not exceed 90 percent of the maximum rate established under subdivision 1. This is effective until June 30, 1993, or until the statewide system authorized under subdivision 6 is established, whichever occurs first.~~

~~(b) The maximum monthly rate for a general assistance or Minnesota supplemental aid group residence that is neither licensed by nor registered with the Minnesota department of health, or licensed by the department of human services, to provide programs or services in addition to room and board is an amount equal to the total of:~~

~~(1) the combined maximum shelter and basic needs standards for Minnesota supplemental aid recipients living alone specified in section 256D.44, subdivisions 2, paragraph (a), and 3, paragraph (a); plus~~

~~(2) for persons who are not eligible to receive food stamps due to living arrangements, the maximum allotment authorized by the federal food stamp program for a single individual which is in effect on the first day of July each year; less~~

~~(3) the personal needs allowance authorized for medical assistance recipients under section 256B.35.~~ *In addition to the room and board rate specified in subdivision 1, the county agency may negotiate a payment not to exceed $426.37 for other services necessary to provide room and board provided by the group residence if the residence is licensed by or registered by the department of health, or licensed by the department of human services to provide services in addition to room and board, and if the recipient of services is not also concurrently receiving services under a home- and community-based waiver under title XIX of the Social Security Act or under Minnesota Rules, parts 9535.2000 to 9535.3000. The registration and licensure requirement does not apply to establishments which are exempt from state licensure because they are located on Indian reservations and for which the tribe has prescribed health and safety requirements. Service payments under this section may be prohibited under rules to prevent the supplanting of federal funds with state funds. The commissioner shall pursue the feasibility of obtaining the approval of the secretary of health and human services to provide home and community-based waiver services under title XIX of the Social Security Act for residents who are not eligible for an existing home and community-based waiver due to a primary diagnosis of mental illness or chemical dependency, and shall apply for a waiver if it is determined to be cost effective.*

Sec. 57. Minnesota Statutes 1992, section 256I.05, is amended by adding a subdivision 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:*

(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) A county agency may increase the overall rates for Minnesota supplemental assistance and general assistance recipients residing in uncertified boarding care homes by 15 percent, capped by a figure equivalent to 65 percent of the medical assistance reimbursement for the nursing home resident class A, as established under Minnesota Rules, parts 9549.0052 and 9549.0058.

Sec. 58. Minnesota Statutes 1992, section 256I.05, subdivision 8, is amended to read:

Subd. 8. [STATE PARTICIPATION.] For a resident of a group residence who is eligible ~~for general assistance~~ under ~~sections 256D.01 to 256D.21~~ *section 256I.04, subdivision 1, paragraph (b)*, state participation in the group residential housing ~~rate~~ *payment* is determined according to section 256D.03, subdivision 2. For a resident of a group residence who is eligible under ~~sections 256D.33 to 256D.54~~ *section 256I.04, subdivision 1, paragraph (a)*, state participation in the group residential housing rate is determined according to section 256D.36.

Sec. 59. Minnesota Statutes 1992, section 256I.06, is amended to read:

256I.06 [PAYMENT METHODS.]

~~When a group residential housing rate is used to pay the room and board costs of a person eligible under sections 256D.01 to 256D.21, the monthly payment may~~ *Subdivision 1.* [MONTHLY PAYMENTS.] *Monthly payments made on an individual's behalf for group residential housing must* be issued as a voucher or vendor payment. ~~When a group residential housing rate is used to pay the room and board costs of a person eligible under sections 256D.33 to 256D.54, payments must be made to the recipient. If a recipient is not able to manage the recipient's finances, a representative payee must be appointed.~~

Subd. 2. [TIME OF PAYMENT.] *A county agency may make payments to a group residence in advance for an individual whose stay in the group residence is expected to last beyond the calendar month for which the payment is made and who does not expect to receive countable earned income during the month for which the payment is made. Group residential housing*

payments made by a county agency on behalf of an individual who is not expected to remain in the group residence beyond the month for which payment is made must be made subsequent to the individual's departure from the group residence. Group residential housing payments made by a county agency on behalf of an individual with earned income must be made subsequent to receipt of a monthly household report form.

Subd. 3. [FILING OF APPLICATION.] *The county agency must immediately provide an application form to any person requesting group residential housing. Application for group residential housing must be in writing on a form prescribed by the commissioner. The county agency must determine an applicant's eligibility for group residential housing as soon as the required verifications are received by the county agency and within 30 days after a signed application is received by the county agency for the aged or blind or within 60 days for the disabled.*

Subd. 3a. [VERIFICATION.] *The county agency must request, and applicants and recipients must provide and verify, all information necessary to determine initial and continuing eligibility and group residential housing payment amounts. If necessary, the county agency shall assist the applicant or recipient in obtaining verifications. If the applicant or recipient refuses or fails without good cause to provide the information or verification, the county agency shall deny or terminate eligibility for group residential housing payments.*

Subd. 3b. [REDETERMINATION OF ELIGIBILITY.] *The eligibility of each recipient must be redetermined at least once every 12 months.*

Subd. 3c. [REPORTS.] *Recipients must report changes in circumstances that affect eligibility or group residential housing payment amounts within ten days of the change. Recipients with earned income must complete a monthly household report form. If the report form is not received before the end of the month in which it is due, the county agency must terminate eligibility for group residential housing payments. The termination shall be effective on the first day of the month following the month in which the report was due. If a complete report is received within the month eligibility was terminated, the individual is considered to have continued an application for group residential housing payment effective the first day of the month the eligibility was terminated.*

Subd. 3d. [DETERMINATION OF RATES.] *The county in which a group residence is located will determine the amount of group residential housing rate to be paid on behalf of an individual in the group residence regardless of the individual's county of financial responsibility.*

Subd. 3e. [AMOUNT OF GROUP RESIDENTIAL HOUSING PAYMENT.] *The amount of a group residential housing payment to be made on behalf of an eligible individual is determined by subtracting the individual's countable income under section 256I.04, subdivision 1, for a whole calendar month from the group residential housing charge for that same month. The group residential housing charge is determined by multiplying the group residential housing rate times the period of time the individual was a resident or temporarily absent under section 256I.05, subdivision 3a.*

Sec. 60. Minnesota Statutes 1992, section 257.3573, is amended by adding a subdivision to read:

Subd. 3. [REVENUE ENHANCEMENT.] *The commissioner shall submit claims for federal reimbursement earned through the activities and services supported through Indian child welfare grants. The commissioner may set aside a portion of the federal funds earned under this subdivision to establish and support a new Indian child welfare position in the department of human services to provide program development. The commissioner shall use any federal revenue not set aside to expand services under section 257.3571. The federal revenue earned under this subdivision is available for these purposes until the funds are expended.*

Sec. 61. Minnesota Statutes 1992, section 257.54, is amended to read:

257.54 [HOW PARENT AND CHILD RELATIONSHIP ESTABLISHED.]

The parent and child relationship between a child and

(a) the biological mother may be established by proof of her having given birth to the child, or under sections 257.51 to 257.74 *or section 257.75*;

(b) the biological father may be established under sections 257.51 to 257.74 *or section 257.75*; or

(c) an adoptive parent may be established by proof of adoption.

Sec. 62. Minnesota Statutes 1992, section 257.541, is amended to read:

257.541 [CUSTODY AND VISITATION OF CHILDREN BORN OUTSIDE OF MARRIAGE.]

Subdivision 1. [MOTHER'S RIGHT TO CUSTODY.] The biological mother of a child born to a mother who was not married to the child's father neither when the child was born nor when the child was conceived has sole custody of the child until paternity has been established *under sections 257.51 to 257.74, or until custody is determined in a separate proceeding under section 518.156.*

Subd. 2. [FATHER'S RIGHT TO VISITATION *AND CUSTODY.*] (a) If paternity has been acknowledged under section 257.34 and paternity has been established under sections 257.51 to 257.74, the father's rights of visitation or custody are determined under sections 518.17 and 518.175.

(b) If paternity has not been acknowledged under section 257.34 and paternity has been established under sections 257.51 to 257.74, the biological father may petition for rights of visitation or custody in the paternity proceeding or in a separate proceeding under section 518.156.

Subd. 3. [FATHER'S RIGHT TO VISITATION AND CUSTODY; RECOGNITION OF PATERNITY.] *If paternity has been recognized under section 257.75, the father may petition for rights of visitation or custody in an independent action under section 518.156. The proceeding must be treated as an initial determination of custody under section 518.17. The provisions of chapter 518 apply with respect to the granting of custody and visitation. These proceedings may not be combined with any proceeding under chapter 518B.*

Sec. 63. Minnesota Statutes 1992, section 257.55, subdivision 1, is amended to read:

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

(a) He and the child's biological mother are or have been married to each other and the child is born during the marriage, or within 280 days after the marriage is terminated by death, annulment, declaration of invalidity, dissolution, or divorce, or after a decree of legal separation is entered by a court;

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 64. Minnesota Statutes 1992, section 257.57, subdivision 2, is amended to read:

Subd. 2. The child, the mother, or personal representative of the child, the public authority chargeable by law with the support of the child, the personal representative or a parent of the mother if the mother has died or is a minor, a man alleged or alleging himself to be the father, or the personal representative or a parent of the alleged father if the alleged father has died or is a minor may bring an action:

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

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

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

Sec. 65. Minnesota Statutes 1992, section 257.73, subdivision 1, is amended to read:

Subdivision 1. Upon compliance with the provisions of section 257.55, subdivision 1, ~~clause~~ *paragraph* (e), *section 257.75,* or upon order of a court of this state or upon request of a court of another state, the local registrar of vital statistics shall prepare a new certificate of birth consistent with the acknowledgment or the findings of the court and shall substitute the new certificate for the original certificate of birth.

Sec. 66. Minnesota Statutes 1992, section 257.74, subdivision 1, is amended to read:

Subdivision 1. If a mother relinquishes or proposes to relinquish for adoption a child who has

(a) a presumed father under section 257.55, subdivision 1,

(b) a father whose relationship to the child has been determined by a court *or established under section 257.75,* or

(c) a father as to whom the child is a legitimate child under prior law of this state or under the law of another jurisdiction, the father shall be given notice of the adoption proceeding as provided in section 259.26.

Sec. 67. [257.75] [RECOGNITION OF PARENTAGE.]

Subdivision 1. [RECOGNITION BY PARENTS.] *The mother and father of a child born to a mother who was not married to the child's father nor to any other man when the child was conceived nor when the child was born may, in a writing signed by both of them before a notary public and filed with the state registrar of vital statistics, state and acknowledge under oath that they are the biological parents of the child and wish to be recognized as the biological parents. The recognition must be in the form prepared by the commissioner of human services under subdivision 5.*

Subd. 2. [REVOCATION OF RECOGNITION.] *A recognition may be revoked in a writing signed by the mother or father before a notary public and filed with the state registrar of vital statistics within 30 days after the recognition is executed. Upon receipt of a revocation of the recognition of parentage, the state registrar of vital statistics shall forward a copy of the revocation to the nonrevoking parent.*

Subd. 3. [EFFECT OF RECOGNITION.] *Subject to subdivision 2 and section 257.55, subdivision 1, paragraph (g) or (h), the recognition has the force and effect of a judgment or order determining the existence of the parent and child relationship under section 257.66. If the conditions in section 257.55, subdivision 1, paragraph (g) or (h), exist, the recognition creates only a presumption of paternity for purposes of sections 257.51 to 257.74. Until an order is entered granting custody to another, the mother has sole custody. The recognition is:*

(1) a basis for bringing an action to award custody or visitation rights to either parent, establishing a child support obligation, ordering a contribution by a parent under section 256.87, or ordering a contribution to the reasonable expenses of the mother's pregnancy and confinement, as provided under section 257.66, subdivision 3;

(2) determinative for all other purposes related to the existence of the parent and child relationship; and

(3) entitled to full faith and credit in other jurisdictions.

Subd. 4. [ACTION TO VACATE RECOGNITION.] *An action to vacate a recognition of paternity may be brought by the mother, father, or child. A mother or father must bring the action within one year of the execution of the recognition or within six months after discovery of evidence in support of the action, whichever is later. A child must bring an action to vacate within six months of discovery of evidence in support of the action or within one year of reaching the age of majority, whichever is later. If the court finds a prima facie basis for vacating the recognition, the court shall order the child, mother, and father to submit to blood tests. If the court issues an order for the taking of blood tests, the court shall require the party seeking to vacate the recognition to make advance payment for the costs of the blood tests. If the party fails to pay for the costs of the blood tests, the court shall dismiss the action to vacate with prejudice. The court may also order the party seeking to vacate the recognition to pay the other party's reasonable attorney fees, costs, and disbursements. If the results of the blood tests establish that the man who executed the recognition is not the father, the court shall vacate the recognition. The court shall terminate the obligation of a party to pay ongoing child support based on the recognition. A modification of child support based on a recognition may be made retroactive with respect to any period during which the moving party has pending a motion to vacate the recognition but only from the date of service of notice of the motion on the responding party.*

Subd. 5. [RECOGNITION FORM.] *The commissioner of human services shall prepare a form for the recognition of parentage under this section. In preparing the form, the commissioner shall consult with the individuals specified in subdivision 6. The recognition form must be drafted so that the force and effect of the recognition and the benefits and responsibilities of establishing paternity are clear and understandable. The form must include a notice regarding the finality of a recognition and the revocation procedure under subdivision 2. The form must include a provision for each parent to*

verify that the parent has read or viewed the educational materials prepared by the commissioner of human services describing the recognition of paternity. Each parent must receive a copy of the recognition.

Subd. 6. [PATERNITY EDUCATIONAL MATERIALS.] *The commissioner of human services shall prepare educational materials for new and prospective parents that describe the benefits and effects of establishing paternity. The materials must include a description and comparison of the procedures for establishment of paternity through a recognition of parentage under this section and an adjudication of paternity under sections 257.51 to 257.74. The commissioner shall consider the use of innovative audio or visual approaches to the presentation of the materials to facilitate understanding and presentation. In preparing the materials, the commissioner shall consult with child advocates and support workers, battered women's advocates, social service providers, educators, attorneys, hospital representatives, and people who work with parents in making decisions related to paternity. The commissioner shall consult with representatives of communities of color. On and after July 1, 1994, the commissioner shall make the materials available without cost to hospitals, requesting agencies, and other persons for distribution to new parents.*

Subd. 7. [HOSPITAL DISTRIBUTION OF EDUCATIONAL MATERIALS; RECOGNITION FORM.] *Hospitals that provide obstetric services shall distribute the educational materials and recognition of parentage forms prepared by the commissioner of human services to new parents and shall assist parents in understanding the recognition of parentage form. On and after July 1, 1994, hospitals may not distribute the declaration of parentage forms.*

Subd. 8. [NOTICE.] *If the state registrar of vital statistics receives more than one recognition of parentage for the same child, the registrar shall notify both signatories on each recognition that the recognition is no longer final and that each man has only a presumption of paternity under section 257.55, subdivision 1.*

Sec. 68. Minnesota Statutes 1992, section 393.07, subdivision 10, is amended to read:

Subd. 10. [FEDERAL FOOD STAMP PROGRAM.] (a) The county welfare board shall establish and administer the food stamp program pursuant to rules of the commissioner of human services, the supervision of the commissioner as specified in section 256.01, and all federal laws and regulations. The commissioner of human services shall monitor food stamp program delivery on an ongoing basis to ensure that each county complies with federal laws and regulations. Program requirements to be monitored include, but are not limited to, number of applications, number of approvals, number of cases pending, length of time required to process each application and deliver benefits, number of applicants eligible for expedited issuance, length of time required to process and deliver expedited issuance, number of terminations and reasons for terminations, client profiles by age, household composition and income level and sources, and the use of phone certification and home visits. The commissioner shall determine the county-by-county and statewide participation rate.

(b) On July 1 of each year, the commissioner of human services shall determine a statewide and county-by-county food stamp program participation rate. The commissioner may designate a different agency to administer

the food stamp program in a county if the agency administering the program fails to increase the food stamp program participation rate among families or eligible individuals, or comply with all federal laws and regulations governing the food stamp program. The commissioner shall review agency performance annually to determine compliance with this paragraph.

(c) A person who commits any of the following acts has violated section 256.98 *or 609.821, or both,* and is subject to both the criminal and civil penalties provided under ~~that section~~ *those sections*:

(1) Obtains or attempts to obtain, or aids or abets any person to obtain by means of a willfully false statement or representation, or intentional concealment of a material fact, food stamps to which the person is not entitled or in an amount greater than that to which that person is entitled; or

(2) Presents or causes to be presented, coupons for payment or redemption knowing them to have been received, transferred or used in a manner contrary to existing state or federal law; ~~or~~

(3) Willfully uses, *possesses,* or transfers food stamp coupons or authorization to purchase cards in any manner contrary to existing state or federal law, *rules, or regulations; or*

(4) Buys or sells food stamp coupons, authorization to purchase cards or other assistance transaction devices for cash or consideration other than eligible food.

(d) A peace officer or welfare fraud investigator may confiscate food stamps, authorization to purchase cards, or other assistance transaction devices found in the possession of any person who is neither a recipient of the food stamp program nor otherwise authorized to possess and use such materials. Confiscated property shall be disposed of as the commissioner may direct and consistent with state and federal food stamp law. The confiscated property must be retained for a period of not less than 30 days to allow any affected person to appeal the confiscation under section 256.045.

Sec. 69. Minnesota Statutes 1992, section 518.156, subdivision 1, is amended to read:

Subdivision 1. In a court of this state which has jurisdiction to decide child custody matters, a child custody proceeding is commenced:

(a) by a parent

(1) by filing a petition for dissolution or legal separation; or

(2) where a decree of dissolution or legal separation has been entered or where none is sought, *or when paternity has been recognized under section 257.75,* by filing a petition or motion seeking custody or visitation of the child in the county where the child is permanently resident or where the child is found or where an earlier order for custody of the child has been entered; or

(b) by a person other than a parent, where a decree of dissolution or legal separation has been entered or where none is sought by filing a petition or motion seeking custody or visitation of the child in the county where the child

is permanently resident or where the child is found or where an earlier order for custody of the child has been entered. A person seeking visitation pursuant to this paragraph must qualify under one of the provisions of section 257.022.

Sec. 70. Minnesota Statutes 1992, section 518.551, subdivision 5, is amended to read:

Subd. 5. [NOTICE TO PUBLIC AUTHORITY; GUIDELINES.] (a) The petitioner shall notify the public authority of all proceedings for dissolution, legal separation, determination of parentage or for the custody of a child, if either party is receiving aid to families with dependent children or applies for it subsequent to the commencement of the proceeding. After receipt of the notice, the court shall set child support as provided in this subdivision. The court may order either or both parents owing a duty of support to a child of the marriage to pay an amount reasonable or necessary for the child's support, without regard to marital misconduct. The court shall approve a child support stipulation of the parties if each party is represented by independent counsel, unless the stipulation does not meet the conditions of paragraph (h). In other cases the court shall determine and order child support in a specific dollar amount in accordance with the guidelines and the other factors set forth in paragraph (b) and any departure therefrom. The court may also order the obligor to pay child support in the form of a percentage share of the obligor's net bonuses, commissions, or other forms of compensation, in addition to, or if the obligor receives no base pay, in lieu of, an order for a specific dollar amount.

The court shall derive a specific dollar amount by multiplying the obligor's net income by the percentage indicated by the following guidelines:

Net Income Per Month of Obligor	Number of Children						
	1	2	3	4	5	6	7 or more
$400 and Below	Order based on the ability of the obligor to provide support at these income levels, or at higher levels, if the obligor has the earning ability.						
$401 – 500	14%	17%	20%	22%	24%	26%	28%
$501 – 550	15%	18%	21%	24%	26%	28%	30%
$551 – 600	16%	19%	22%	25%	28%	30%	32%
$601 – 650	17%	21%	24%	27%	29%	32%	34%
$651 – 700	18%	22%	25%	28%	31%	34%	36%
$701 – 750	19%	23%	27%	30%	33%	36%	38%
$751 – 800	20%	24%	28%	31%	35%	38%	40%
$801 – 850	21%	25%	29%	33%	36%	40%	42%
$851 – 900	22%	27%	31%	34%	38%	41%	44%
$901 – 950	23%	28%	32%	36%	40%	43%	46%
$951 – 1000	24%	29%	34%	38%	41%	45%	48%
$1001- 4000	25%	30%	35%	39%	43%	47%	50%

Guidelines for support for an obligor with a monthly income of $4,001 or more shall be the same dollar amounts as provided for in the guidelines for an obligor with a monthly income of $4,000.

Net Income defined as:

Total monthly income less	*(i) Federal Income Tax *(ii) State Income Tax (iii) Social Security Deductions (iv) Reasonable Pension Deductions
*Standard Deductions apply- use of tax tables recommended	(v) Union Dues (vi) Cost of Dependent Health Insurance Coverage (vii) Cost of Individual or Group Health/Hospitalization Coverage or an Amount for Actual Medical Expenses (viii) A Child Support or Maintenance Order that is Currently Being Paid.

"Net income" does not include:

(1) the income of the obligor's spouse, but does include in-kind payments received by the obligor in the course of employment, self-employment, or operation of a business if the payments reduce the obligor's living expenses; or

(2) compensation received by a party for employment in excess of a 40-hour work week, provided that:

(i) support is nonetheless ordered in an amount at least equal to the guidelines amount based on income not excluded under this clause; and

(ii) the party demonstrates, and the court finds, that:

(A) the excess employment began after the filing of the petition for dissolution;

(B) the excess employment reflects an increase in the work schedule or hours worked over that of the two years immediately preceding the filing of the petition;

(C) the excess employment is voluntary and not a condition of employment;

(D) the excess employment is in the nature of additional, part-time or overtime employment compensable by the hour or fraction of an hour; and

(E) the party's compensation structure has not been changed for the purpose of affecting a support or maintenance obligation.

(b) In addition to the child support guidelines, the court shall take into consideration the following factors in setting or modifying child support:

(1) all earnings, income, and resources of the parents, including real and personal property, but excluding income from excess employment of the obligor or obligee that meets the criteria of paragraph (a), clause (2)(ii);

(2) the financial needs and resources, physical and emotional condition, and educational needs of the child or children to be supported;

(3) the standards of living the child would have enjoyed had the marriage not been dissolved, but recognizing that the parents now have separate households;

(4) the amount of the aid to families with dependent children grant for the child or children;

(5) which parent receives the income taxation dependency exemption and what financial benefit the parent receives from it; ~~and~~

(6) the parents' debts as provided in paragraph (c)*; and*

(7) the obligor's receipt of assistance under sections 256.72 to 256.87 or 256B.01 to 256B.40.

(c) In establishing or modifying a support obligation, the court may consider debts owed to private creditors, but only if:

(1) the right to support has not been assigned under section 256.74;

(2) the court determines that the debt was reasonably incurred for necessary support of the child or parent or for the necessary generation of income. If the debt was incurred for the necessary generation of income, the court shall consider only the amount of debt that is essential to the continuing generation of income; and

(3) the party requesting a departure produces a sworn schedule of the debts, with supporting documentation, showing goods or services purchased, the recipient of them, the amount of the original debt, the outstanding balance, the monthly payment, and the number of months until the debt will be fully paid.

(d) Any schedule prepared under paragraph (c), clause (3), shall contain a statement that the debt will be fully paid after the number of months shown in the schedule, barring emergencies beyond the party's control.

(e) Any further departure below the guidelines that is based on a consideration of debts owed to private creditors shall not exceed 18 months in duration, after which the support shall increase automatically to the level ordered by the court. Nothing in this section shall be construed to prohibit one or more step increases in support to reflect debt retirement during the 18-month period.

(f) Where payment of debt is ordered pursuant to this section, the payment shall be ordered to be in the nature of child support.

(g) Nothing shall preclude the court from receiving evidence on the above factors to determine if the guidelines should be exceeded or modified in a particular case.

(h) The guidelines in this subdivision are a rebuttable presumption and shall be used in all cases when establishing or modifying child support. If the court does not deviate from the guidelines, the court shall make written findings concerning the amount of the obligor's income used as the basis for the guidelines calculation and any other significant evidentiary factors affecting the determination of child support. If the court deviates from the guidelines, the court shall make written findings giving the reasons for the deviation and shall specifically address the criteria in paragraph (b) and how the deviation serves the best interest of the child. The provisions of this paragraph apply

whether or not the parties are each represented by independent counsel and have entered into a written agreement. The court shall review stipulations presented to it for conformity to the guidelines and the court is not required to conduct a hearing, but the parties shall provide the documentation of earnings required under subdivision 5b.

Sec. 71. Minnesota Statutes 1992, section 518.64, subdivision 2, is amended to read:

Subd. 2. [MODIFICATION.] (a) The terms of an order respecting maintenance or support may be modified upon a showing of one or more of the following: (1) substantially increased or decreased earnings of a party; (2) substantially increased or decreased need of a party or the child or children that are the subject of these proceedings; (3) receipt of assistance under sections 256.72 to 256.87 *or 256B.01 to 256B.40*; or (4) a change in the cost of living for either party as measured by the federal bureau of statistics, any of which makes the terms unreasonable and unfair.

The terms of a current support order shall be rebuttably presumed to be unreasonable and unfair if the application of the child support guidelines in section 518.551, subdivision 5, to the current circumstances of the parties results in a calculated court order that is at least 20 percent and at least $50 per month higher or lower than the current support order.

(b) On a motion for modification of maintenance, including a motion for the extension of the duration of a maintenance award, the court shall apply, in addition to all other relevant factors, the factors for an award of maintenance under section 518.552 that exist at the time of the motion. On a motion for modification of support, the court:

(1) shall apply section 518.551, subdivision 5, and shall not consider the financial circumstances of each party's spouse, if any; and

(2) shall not consider compensation received by a party for employment in excess of a 40-hour work week, provided that the party demonstrates, and the court finds, that:

(i) the excess employment began after entry of the existing support order;

(ii) the excess employment is voluntary and not a condition of employment;

(iii) the excess employment is in the nature of additional, part-time employment, or overtime employment compensable by the hour or fractions of an hour;

(iv) the party's compensation structure has not been changed for the purpose of affecting a support or maintenance obligation;

(v) in the case of an obligor, current child support payments are at least equal to the guidelines amount based on income not excluded under this clause; and

(vi) in the case of an obligor who is in arrears in child support payments to the obligee, any net income from excess employment must be used to pay the arrearages until the arrearages are paid in full.

(c) A modification of support or maintenance may be made retroactive only with respect to any period during which the petitioning party has pending a motion for modification but only from the date of service of notice of the

motion on the responding party and on the public authority if public assistance is being furnished or the county attorney is the attorney of record. However, modification may be applied to an earlier period if the court makes express findings that the party seeking modification was precluded from serving a motion by reason of a significant physical or mental disability, a material misrepresentation of another party, or fraud upon the court and that the party seeking modification, when no longer precluded, promptly served a motion.

(d) Except for an award of the right of occupancy of the homestead, provided in section 518.63, all divisions of real and personal property provided by section 518.58 shall be final, and may be revoked or modified only where the court finds the existence of conditions that justify reopening a judgment under the laws of this state, including motions under section 518.145, subdivision 2. The court may impose a lien or charge on the divided property at any time while the property, or subsequently acquired property, is owned by the parties or either of them, for the payment of maintenance or support money, or may sequester the property as is provided by section 518.24.

(e) The court need not hold an evidentiary hearing on a motion for modification of maintenance or support.

(f) Section 518.14 shall govern the award of attorney fees for motions brought under this subdivision.

Sec. 72. Minnesota Statutes 1992, section 609.821, subdivision 1, is amended to read:

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

(a) "Financial transaction card" means any instrument or device, whether known as a credit card, credit plate, charge plate, courtesy card, bank services card, banking card, check guarantee card, debit card, *electronic benefit system (EBS) card, electronic benefit transfer (EBT) card, assistance transaction card,* or by any other name, issued with or without fee by an issuer for the use of the cardholder in obtaining credit, money, goods, services, *public assistance benefits,* or anything else of value, and includes the account or identification number or symbol of a financial transaction card.

(b) "Cardholder" means a person in whose name a card is issued.

(c) "Issuer" means a person ~~or~~, firm, *or governmental agency,* or a duly authorized agent *or designee*, that issues a financial transaction card.

(d) "Property" includes money, goods, services, *public assistance benefit,* or anything else of value.

(e) "Public assistance benefit" means any money, goods or services, or anything else of value, issued under chapters 256, 256B, 256D, or section 393.07, subdivision 10.

Sec. 73. Minnesota Statutes 1992, section 609.821, subdivision 2, is amended to read:

Subd. 2. [VIOLATIONS; PENALTIES.] A person who does any of the following commits financial transaction card fraud:

(1) without the consent of the cardholder, and knowing that the cardholder has not given consent, uses or attempts to use a card to obtain the property of another, *or a public assistance benefit issued for the use of another*;

(2) uses or attempts to use a card knowing it to be forged, false, fictitious, or obtained in violation of clause (6);

(3) sells or transfers a card knowing that the cardholder and issuer have not authorized the person to whom the card is sold or transferred to use the card, or that the card is forged, false, fictitious, or was obtained in violation of clause (6);

(4) without a legitimate business purpose, and without the consent of the cardholders, receives or possesses, with intent to use, or with intent to sell or transfer in violation of clause (3), two or more cards issued in the name of another, or two or more cards knowing the cards to be forged, false, fictitious, or obtained in violation of clause (6);

(5) being authorized by an issuer to furnish money, goods, services, or anything else of value, knowingly and with an intent to defraud the issuer or the cardholder:

(i) furnishes money, goods, services, or anything else of value upon presentation of a financial transaction card knowing it to be forged, expired, or revoked, or knowing that it is presented by a person without authority to use the card; or

(ii) represents in writing to the issuer that the person has furnished money, goods, services, or anything else of value which has not in fact been furnished;

(6) upon applying for a financial transaction card to an issuer, *or for a public assistance benefit which is distributed by means of a financial transaction card*:

(i) knowingly gives a false name or occupation; ~~or~~

(ii) knowingly and substantially overvalues assets or substantially undervalues indebtedness for the purpose of inducing the issuer to issue a financial transaction card; *or*

(iii) knowingly makes a false statement or representation for the purpose of inducing an issuer to issue a financial transaction card used to obtain a public assistance benefit;

(7) with intent to defraud, falsely notifies the issuer or any other person of a theft, loss, disappearance, or nonreceipt of a financial transaction card; or

(8) without the consent of the cardholder and knowing that the cardholder has not given consent, falsely alters, makes, or signs any written document pertaining to a card transaction to obtain or attempt to obtain the property of another.

Sec. 74. Minnesota Statutes 1992, section 626.559, is amended by adding a subdivision to read:

Subd. 5. [TRAINING REVENUE.] *The commissioner of human services shall submit claims for federal reimbursement earned through the activities and services supported through department of human services child protection or child welfare training funds. Federal revenue earned must be used to*

improve and expand training services by the department. The department expenditures eligible for federal reimbursement under this section must not be made from federal funds or funds used to match other federal funds. The federal revenue earned under this subdivision is available for these purposes until the funds are expended.

Sec. 75. [WORK EXPERIENCE PROGRAM.]

The commissioner of human services shall coordinate efforts with counties to develop recommendations for the 1994 legislature to revise the work experience component of the work readiness program so it more closely parallels the structure of an actual job, including an hourly wage and a pay check and report to the legislature by January 1, 1994.

Sec. 76. [REPEALER.]

(a) Minnesota Statutes 1992, sections 256.985; 256I.03, subdivision 4; 256I.05, subdivisions 4 and 9; and 256I.051 are repealed.

(b) Minnesota Statutes 1992, section 256I.05, subdivision 10, is repealed.

Sec. 77. [EFFECTIVE DATE.]

Sections 72 and 73 are effective for crimes committed on or after July 1, 1993. Section 7 is effective October 1, 1993.

Sections 8 to 18, 23, 24, 72, and 73 are effective October 1, 1993.

Sections 1 and 61 to 67 and 69 are effective January 1, 1994, except that section 67, subdivisions 5 to 7, are effective the day following final enactment.

Implementation of section 45 is contingent on approval by the secretary of health and human services of the definition and procedure contained in that section. Sections 2, 3, 28, and 40 to 44, and 46 to 59 are effective July 1, 1994, contingent upon federal recognition that group residential housing payments qualify as optional state supplement payments to the SSI program under title XVI of the Social Security Act and confer categorical eligibility for medical assistance under the Minnesota state plan. Sections 35 to 37 are effective January 1, 1994. Upon federal approval of payment under the home- and community-based waiver provisions for room and board costs in addition to the MSA equivalent rate, the commissioner shall transfer anticipated group residential housing expenditures to the medical assistance account to meet the nonfederal share requirement of funding these additional costs as home- and community-based services. Any transfer of group residential housing funds to the medical assistance account shall correspond to the increase in the waiver rates resulting from medical assistance payment for unusual room and board costs in excess of the MSA equivalent rate.

ARTICLE 8

COMMUNITY MENTAL HEALTH AND

REGIONAL TREATMENT CENTERS ADMINISTRATION

Section 1. [245.037] [LEASES FOR REGIONAL TREATMENT CENTER AND STATE NURSING HOME PROPERTY.]

Notwithstanding any law to the contrary, money collected as rent under section 16B.24, subdivision 5, for state property at any of the regional treatment centers or state nursing home facilities administered by the

commissioner of human services is dedicated to the regional treatment center or state nursing home from which it is generated. Any balance remaining at the end of the fiscal year shall not cancel and is available until expended.

Sec. 2. Minnesota Statutes 1992, section 245.464, subdivision 1, is amended to read:

Subdivision 1. [COORDINATION.] The commissioner shall supervise the development and coordination of locally available adult mental health services by the county boards in a manner consistent with sections 245.461 to 245.486. The commissioner shall coordinate locally available services with those services available from the regional treatment center serving the area *including state-operated services offered at sites outside of the regional treatment centers*. The commissioner shall review the adult mental health component of the community social services plan developed by county boards as specified in section 245.463 and provide technical assistance to county boards in developing and maintaining locally available mental health services. The commissioner shall monitor the county board's progress in developing its full system capacity and quality through ongoing review of the county board's adult mental health component of the community social services plan and other information as required by sections 245.461 to 245.486.

Sec. 3. Minnesota Statutes 1992, section 245.466, subdivision 1, is amended to read:

Subdivision 1. [DEVELOPMENT OF SERVICES.] The county board in each county is responsible for using all available resources to develop and coordinate a system of locally available and affordable adult mental health services. The county board may provide some or all of the mental health services and activities specified in subdivision 2 directly through a county agency or under contracts with other individuals or agencies. A county or counties may enter into an agreement with a regional treatment center under section 246.57 *or with any state facility or program as defined in section 246.50, subdivision 3,* to enable the county or counties to provide the treatment services in subdivision 2. Services provided through an agreement between a county and a regional treatment center must meet the same requirements as services from other service providers. County boards shall demonstrate their continuous progress toward full implementation of sections 245.461 to 245.486 during the period July 1, 1987, to January 1, 1990. County boards must develop fully each of the treatment services and management activities prescribed by sections 245.461 to 245.486 by January 1, 1990, according to the priorities established in section 245.464 and the adult mental health component of the community social services plan approved by the commissioner under section 245.478.

Sec. 4. Minnesota Statutes 1992, section 245.474, is amended to read:

245.474 [REGIONAL TREATMENT CENTER INPATIENT SERVICES.]

Subdivision 1. [AVAILABILITY OF REGIONAL TREATMENT CENTER INPATIENT SERVICES.] By July 1, 1987, the commissioner shall make sufficient regional treatment center inpatient services available to adults with mental illness throughout the state who need this level of care. *Inpatient services may be provided either on the regional treatment center campus or at any state facility or program as defined in section 246.50, subdivision 3.* Services must be as close to the patient's county of residence as possible. Regional treatment centers are responsible to:

(1) provide acute care inpatient hospitalization;

(2) stabilize the medical and mental health condition of the adult requiring the admission;

(3) improve functioning to the point where discharge to community-based mental health services is possible;

(4) strengthen family and community support; and

(5) facilitate appropriate discharge and referrals for follow-up mental health care in the community.

Subd. 2. [QUALITY OF SERVICE.] The commissioner shall biennially determine the needs of all adults with mental illness who are served by regional treatment centers *or at any state facility or program as defined in section 246.50, subdivision 3,* by administering a client-based evaluation system. The client-based evaluation system must include at least the following independent measurements: behavioral development assessment; habilitation program assessment; medical needs assessment; maladaptive behavioral assessment; and vocational behavior assessment. The commissioner shall propose staff ratios to the legislature for the mental health and support units in regional treatment centers as indicated by the results of the client-based evaluation system and the types of state-operated services needed. The proposed staffing ratios shall include professional, nursing, direct care, medical, clerical, and support staff based on the client-based evaluation system. The commissioner shall recompute staffing ratios and recommendations on a biennial basis.

Subd. 3. [TRANSITION TO COMMUNITY.] Regional treatment centers must plan for and assist clients in making a transition from regional treatment centers *and other inpatient facilities or programs, as defined in section 246.50, subdivision 3,* to other community-based services. In coordination with the client's case manager, if any, regional treatment centers must also arrange for appropriate follow-up care in the community during the transition period. Before a client is discharged, the regional treatment center must notify the client's case manager, so that the case manager can monitor and coordinate the transition and arrangements for the client's appropriate follow-up care in the community.

Sec. 5. Minnesota Statutes 1992, section 245.4873, subdivision 2, is amended to read:

Subd. 2. [STATE LEVEL; COORDINATION.] *The state coordinating council consists of* the commissioners or designees of commissioners of the departments of human services, health, education, ~~state planning, and~~ corrections, ~~and~~ a representative of the Minnesota district judges association juvenile committee, in conjunction with the commissioner of commerce or a designee of the commissioner, *and the director or a designee of the director of the office of strategic and long range planning. The members of the council shall annually alternate chairing the council beginning with the commissioner of human services and proceeding in the order as listed in this subdivision. The council* shall meet at least quarterly to:

(1) educate each agency about the policies, procedures, funding, and services for children with emotional disturbances of all agencies represented;

(2) develop mechanisms for interagency coordination on behalf of children with emotional disturbances;

(3) identify barriers including policies and procedures within all agencies represented that interfere with delivery of mental health services for children;

(4) recommend policy and procedural changes needed to improve development and delivery of mental health services for children in the agency or agencies they represent;

(5) identify mechanisms for better use of federal and state funding in the delivery of mental health services for children; and

(6) ~~until February 15, 1992, prepare an annual report on the policy and procedural changes needed to implement a coordinated, effective, and cost-efficient children's mental health delivery system.~~

~~This report shall be submitted to the legislature and the state mental health advisory council annually as part of the report required under section 245.487, subdivision 4. The report shall include information from each department represented on:~~

~~(1) the number of children in each department's system who require mental health services;~~

~~(2) the number of children in each system who receive mental health services;~~

~~(3) how mental health services for children are funded within each system;~~

~~(4) how mental health services for children could be coordinated to provide more effectively appropriate mental health services for children; and~~

~~(5) recommendations for the provision of early screening and identification of mental illness in each system~~ *perform the duties required under sections 245.494 to 245.496.*

Sec. 6. [245.491] [CITATION; DECLARATION OF PURPOSE.]

Subdivision 1. [CITATION.] *Sections 245.491 to 245.496 may be cited as "the children's mental health integrated fund."*

Subd. 2. [PURPOSE.] *The legislature finds that children with emotional or behavioral disturbances or who are at risk of suffering such disturbances often require services from multiple service systems including mental health, social services, education, corrections, juvenile court, health, and jobs and training. In order to better meet the needs of these children, it is the intent of the legislature to establish an integrated children's mental health service system that:*

(1) allows local service decision makers to draw funding from a single local source so that funds follow clients and eliminates the need to match clients, funds, services, and provider eligibilities;

(2) creates a local pool of state, local, and private funds to procure a greater medical assistance federal financial participation;

(3) improves the efficiency of use of existing resources;

(4) minimizes or eliminates the incentives for cost and risk shifting; and

(5) increases the incentives for earlier identification and intervention.

The children's mental health integrated fund established under sections 245.491 to 245.496 must be used to develop and support this integrated mental health service system. In developing this integrated service system, it is not the intent of the legislature to limit any rights available to children and their families through existing federal and state laws.

Sec. 7. [245.492] [DEFINITIONS.]

Subdivision 1. [DEFINITIONS.] *The definitions in this section apply to sections 245.491 to 245.496.*

Subd. 2. [BASE LEVEL FUNDING.] *"Base level funding" means funding received from state, federal, or local sources and expended across the local system of care in fiscal year 1993 for children's mental health services or for special education services for children with emotional or behavioral disturbances. In subsequent years, base level funding may be adjusted to reflect decreases in the numbers of children in the target population.*

Subd. 3. [CHILDREN WITH EMOTIONAL OR BEHAVIORAL DISTURBANCES.] *"Children with emotional or behavioral disturbances" includes children with emotional disturbances as defined in section 245.4871, subdivision 15, and children with emotional or behavioral disorders as defined in Minnesota Rules, part 3525.1329, subpart 1.*

Subd. 4. [FAMILY.] *"Family" has the definition provided in section 245.4871, subdivision 16.*

Subd. 4a. [FAMILY COMMUNITY SUPPORT SERVICES.] *"Family community support services" has the definition provided in section 245.4871, subdivision 17.*

Subd. 5. [INITIAL TARGET POPULATION.] *"Initial target population" means a population of children that the local children's mental health collaborative agrees to serve in the start-up phase and who meet the criteria for the target population. The initial target population may be less than the target population.*

Subd. 6. [INTEGRATED FUND.] *"Integrated fund" is a pool of both public and private local, state, and federal resources, consolidated at the local level, to accomplish locally agreed upon service goals for the target population. The fund is used to help the local children's mental health collaborative to serve the mental health needs of children in the target population by allowing the local children's mental health collaboratives to develop and implement an integrated service system.*

Subd. 7. [INTEGRATED SERVICE SYSTEM.] *"Integrated service system" means a coordinated set of procedures established by the local children's mental health collaborative for coordinating services and actions across categorical systems and agencies that results in:*

(1) integrated funding;

(2) outreach, early identification, and intervention across systems;

(3) strong collaboration between parents and professionals in identifying children in the target population, facilitating access to the integrated system, and coordinating care and services for these children;

(4) a coordinated assessment process across systems that determines which children need multiagency care coordination and wraparound services;

(5) multiagency plan of care; and

(6) wraparound services.

Services provided by the integrated service system must meet the requirements set out in sections 245.487 to 245.4887. Children served by the integrated service system must be economically and culturally representative of children in the service delivery area.

Subd. 8. [INTEGRATED FUND TASK FORCE.] *"The integrated fund task force" means the statewide task force established in Laws 1991, chapter 292, article 6, section 57.*

Subd. 9. [INTERAGENCY EARLY INTERVENTION COMMITTEE.] *"Interagency early intervention committee" refers to the committee established under section 120.17, subdivision 12.*

Subd. 10. [LOCAL CHILDREN'S ADVISORY COUNCIL.] *"Local children's advisory council" refers to the council established under section 245.4875, subdivision 5.*

Subd. 11. [LOCAL CHILDREN'S MENTAL HEALTH COLLABORATIVE.] *"Local children's mental health collaborative" means an entity formed by the contractual agreement of representatives of the local system of care including mental health services, social services, correctional services, education services, health services, and vocational services for the purpose of developing and governing an integrated service system. A local coordinating council or an interagency early intervention committee may serve as a local children's mental health collaborative if its representatives are capable of carrying out the duties of the local children's mental health collaborative set out in sections 245.491 to 245.496. Where a local coordinating council is not the local children's mental health collaborative, the local children's mental health collaborative must work closely with the local coordinating council in designing the integrated service system.*

Subd. 12. [LOCAL COORDINATING COUNCIL.] *"Local coordinating council" refers to the council established under section 245.4875, subdivision 6.*

Subd. 13. [LOCAL SYSTEM OF CARE.] *"Local system of care" has the definition provided in section 245.4871, subdivision 24.*

Subd. 14. [MENTAL HEALTH SERVICES.] *"Mental health services" has the definition provided in section 245.4871, subdivision 28.*

Subd. 15. [MULTIAGENCY PLAN OF CARE.] *"Multiagency plan of care" means a written plan of intervention and integrated services developed by a multiagency team in conjunction with the child and family based on their unique strengths and needs as determined by a multiagency assessment. The plan must outline measurable client outcomes and specific services needed to attain these outcomes, the agencies responsible for providing the specified services, funding responsibilities, timelines, the judicial or administrative procedures needed to implement the plan of care, the agencies responsible for initiating these procedures, and designate one person with lead responsibility for overseeing implementation of the plan.*

Subd. 16. [RESPITE CARE.] *"Respite care" is planned routine care to support the continued residence of a child with emotional or behavioral disturbance with the child's family or long-term primary caretaker.*

Subd. 17. [SERVICE DELIVERY AREA.] *"Service delivery area" means the geographic area to be served by the local children's mental health collaborative and must include at a minimum a part of a county and school district or a special education cooperative.*

Subd. 18. [START-UP FUNDS.] *"Start-up funds" means the funds available to assist a local children's mental health collaborative in planning and developing the integrated service system for children in the target population and in setting up a local integrated fund.*

Subd. 19. [STATE COORDINATING COUNCIL.] *"State coordinating council" means the council established under section 245.4873, subdivision 2.*

Subd. 20. [TARGET POPULATION.] *"Target population" means children up to age 18 with an emotional or behavioral disturbance or who are at risk of suffering an emotional or behavioral disturbance as evidenced by a behavior or condition that affects the child's ability to function in a primary aspect of daily living including personal relations, living arrangements, work, school, and recreation and a child who can benefit from:*

(1) multiagency service coordination and wraparound services; or

(2) informal coordination of traditional mental health services provided on a temporary basis.

Children between the ages of 18 and 21 who meet this criteria may be included in the target population at the option of the local children's mental health collaborative.

Subd. 20a. [THERAPEUTIC SUPPORT OF FOSTER CARE.] *"Therapeutic support of foster care" has the definition provided in section 245.4871, subdivision 34.*

Subd. 21. [WRAPAROUND SERVICES.] *"Wraparound services" are alternative, flexible, coordinated, and highly individualized services that are based on a multiagency plan of care. These services are designed to build on the strengths and respond to the needs identified in the child's multiagency assessment and to improve the child's ability to function in the home, school, and community. Wraparound services may include, but are not limited to, respite services, services that assist the child or family in enrolling in or participating in recreational activities, assistance in purchasing otherwise unavailable items or services important to maintain a specific child in the family, and services that assist the child to participate in more traditional services and programs.*

Sec. 8. [245.493] [LOCAL LEVEL COORDINATION.]

Subdivision 1. [REQUIREMENTS TO QUALIFY AS A LOCAL CHILDREN'S MENTAL HEALTH COLLABORATIVE.] *In order to qualify as a local children's mental health collaborative and be eligible to receive start-up funds, the representatives of the local system of care, or at a minimum one county, one school district or special education cooperative, and one mental health entity must agree to the following:*

(1) to establish a local children's mental health collaborative and develop an integrated service system;

(2) to meet the duties described in subdivision 2; and

(3) to commit resources to providing services through the local children's mental health collaborative.

Subd. 2. [GENERAL DUTIES OF THE LOCAL CHILDREN'S MENTAL HEALTH COLLABORATIVES.] *Each local children's mental health collaborative must:*

(1) identify a service delivery area and an initial target population within that service delivery area. The initial target population must be economically and culturally representative of children in the service delivery area to be served by the local children's mental health collaborative. The size of the initial target population must also be economically viable for the service delivery area;

(2) develop and communicate to agencies in the local system of care eligibility criteria for services received through the local children's mental health collaborative and a process for determining eligibility. The process shall place strong emphasis on outreach to families, respecting the family role in identifying children in need, and valuing families as partners;

(3) seek to maximize federal revenues available to serve children in the target population by designating local expenditures for mental health services that can be matched with federal dollars and by designing services to meet the requirements for state and federal reimbursement;

(4) in consultation with the local children's advisory council and the local coordinating council, if it is not the local children's mental health collaborative, design, develop, and ensure implementation of an integrated service system and develop interagency agreements necessary to implement the system;

(5) expand membership to include representatives of other services in the local system of care;

(6) develop mechanisms for integrating funds to either expand the initial target population or expand services to the target population;

(7) create or designate a management structure for fiscal and clinical responsibility, data collection, outcome evaluation, and information flow;

(8) develop mechanisms for quality assurance, outcome management, and appeals;

(9) involve the family, and where appropriate the individual child, in developing multiagency service plans to the extent required in sections 120.17, subdivision 3a; 245.4871, subdivision 21; 245.4881, subdivision 4; 253B.03, subdivision 7; 257.071, subdivision 1; and 260.191, subdivision 1e;

(10) meet all standards and provide all mental health services as required in sections 245.487 to 245.4888 and ensure that the services provided are culturally appropriate;

(11) spend funds generated by the local children's mental health collaborative as required in sections 245.491 to 245.496;

(12) maintain base level funding for services for children with emotional or behavioral disturbances;

(13) explore methods and recommend changes needed at the state level to reduce duplication and promote coordination of services including the use of uniform forms for reporting, billing, and planning of services;

(14) provide documentation and meet reporting requirements requested by the state coordinating council and state agencies;

(15) negotiate contracts with state agencies and other funding sources for receipt of funds to further the goals of the local children's mental health collaborative;

(16) in designing and implementing the integrated service system, encourage public-private partnerships to increase efficiency, reduce redundancy, and promote quality of care; and

(17) if the county participant of the local children's mental health collaborative is also a provider of child welfare targeted case management as authorized by the 1993 legislature, then federal reimbursement received by the county for child welfare targeted case management provided to the target population must be directed to the integrated fund.

Sec. 9. [245.4932] [PROVIDER RESPONSIBILITIES; PAYMENTS; REVENUE ENHANCEMENT.]

Subdivision 1. [PROVIDER RESPONSIBILITIES.] *The children's mental health collaborative shall have the following authority and responsibilities regarding federal revenue enhancement:*

(1) the collaborative shall designate a lead county or other qualified entity as the fiscal agency for reporting, claiming, and receiving payments;

(2) the collaborative may enter into subcontracts with other counties, school districts, special education cooperatives, municipalities, and other public and nonprofit entities for purposes of identifying and claiming eligible expenditures to enhance federal reimbursement;

(3) the collaborative must continue the base level of expenditures for services for children with emotional or behavioral disturbances and their families from any state, county, federal or other public or private funding source which, in the absence of the new federal reimbursement earned under this subdivision, would have been available for those services. The base year for purposes of this subdivision shall be the accounting period closest to state fiscal year 1993;

(4) the collaborative must develop and maintain an accounting and financial management system adequate to support all claims for federal reimbursement, including a clear audit trail and any provisions specified in the contract;

(5) notwithstanding section 256B.19, subdivision 1, when a local children's mental health collaborative seeks reimbursement under section 256B.0625, subdivisions 32, 33, and 34, for family community support services, therapeutic support of foster care, and wraparound services and other services not eligible as of January 1, 1993, for reimbursement under medical assistance, the nonfederal share of costs shall be provided by the collaborative or by the

service provider from sources other than federal funds or funds used to match other federal funds;

(6) the commissioner shall recover from the collaborative any federal fiscal disallowances or sanctions for audit exceptions directly attributable to the collaborative's actions or the proportional share if federal fiscal disallowances or sanctions are based on a statewide random sample;

(7) provider expenditures eligible for federal reimbursement under sections 245.493 to 245.496 must not be made from federal funds, and or funds used to match other federal funds; and

(8) the commissioner may suspend, reduce, or terminate the federal reimbursement to a provider that does not meet the requirements of sections 245.493 to 245.496.

Subd. 2. [PAYMENTS.] *Notwithstanding section 256.025, subdivision 2, payments under sections 245.493 to 245.496 to providers for family community services, therapeutic support of foster care, wraparound service expenditures, and expenditures for other services not eligible for reimbursement under medical assistance shall only be made of federal earnings from services provided under sections 245.493 to 245.496.*

Subd. 3. [CENTRALIZED DISBURSEMENT OF MEDICAL ASSISTANCE PAYMENTS.] *Notwithstanding section 256B.041, county payments for the cost of family community services, therapeutic support of foster care, wraparound services, and other services not eligible on January 1, 1993, for reimbursement under medical assistance shall not be made to the state treasurer. For the purposes of family community services, therapeutic support of foster care, and wraparound services under sections 245.493 to 245.496, the centralized disbursement of payments to providers under section 256B.041 consists only of federal earnings from services provided under sections 245.493 to 245.496.*

Sec. 10. [245.494] [STATE LEVEL COORDINATION.]

Subdivision 1. [STATE COORDINATING COUNCIL.] *The state coordinating council, in consultation with the integrated fund task force, shall:*

(1) assist local children's mental health collaboratives in meeting the requirements of sections 245.491 to 245.496, by seeking consultation and technical assistance from national experts and coordinating presentations and assistance from these experts to local children's mental health collaboratives;

(2) assist local children's mental health collaboratives in identifying an economically viable initial target population;

(3) develop methods to reduce duplication and promote coordinated services including uniform forms for reporting, billing, and planning of services;

(4) by September 1, 1994, develop a model multiagency plan of care that can be used by local children's mental health collaboratives in place of an individual education plan, individual family community support plan, individual family support plan, and an individual treatment plan;

(5) assist in the implementation and operation of local children's mental health collaboratives by facilitating the integration of funds, coordination of

services, and measurement of results, and by providing other assistance as needed;

(6) by September 1, 1993, develop a procedure for awarding start-up funds. Development of this procedure shall be exempt from chapter 14;

(7) develop procedures and provide technical assistance to allow local children's mental health collaboratives to integrate resources for children's mental health services with other resources available to serve children in the target population in order to maximize federal participation and improve efficiency of funding;

(8) ensure that local children's mental health collaboratives and the services received through these collaboratives meet the requirements set out in sections 245.491 to 245.496;

(9) identify base level funding from state and federal sources across systems and work with local children's mental health collaboratives to determine local base level funding;

(10) develop mechanisms to ensure that start-up funds and any additional federal funds generated by local children's mental health collaboratives are spent as required in sections 245.491 to 245.496;

(11) explore ways to access additional federal funds and enhance revenues available to address the needs of the target population;

(12) develop a mechanism for identifying the state share of funding for services to children in the target population and for making these funds available on a per capita basis for services provided through the local children's mental health collaborative to children in the target population. Each year beginning January 1, 1994, forecast the growth in the state share and increase funding for local children's mental health collaboratives accordingly;

(13) identify data to be collected and outcome measures to be reported by local children's mental health collaboratives;

(14) identify barriers to integrated service systems that arise from data practices and make recommendations including legislative changes needed in the data privacy act to address these barriers;

(15) annually review the expenditures of local children's mental health collaboratives to ensure that funding for services provided to the target population continues from sources other than the federal funds earned under sections 245.491 to 245.496 and that federal funds earned are spent consistent with sections 245.491 to 245.496; and

(16) provide the integrated fund task force with information requested.

Subd. 2. [STATE COORDINATING COUNCIL REPORT.] *Each year, beginning February 1, 1995, the state coordinating council must submit a report to the legislature on the status of the local children's mental health collaboratives. The report must include the number of local children's mental health collaboratives, the amount and type of resources committed to local children's mental health collaboratives, the additional federal revenue received as a result of local children's mental health collaboratives, the services provided, the number of children served, outcome indicators, the identification of barriers to additional collaboratives and funding integration, and*

recommendations for further improving service coordination and funding integration.

Subd. 3. [DUTIES OF THE COMMISSIONER OF HUMAN SERVICES.] *The commissioner of human services, in consultation with the integrated fund task force, shall:*

(1) separate all medical assistance, general assistance medical care, and MinnesotaCare resources devoted to mental health services including inpatient, outpatient, medication management, services under the rehabilitation option, and related physician services from the total health capitation under section 256B.69 and develop a separate contract for managing these mental health benefits that will require all contractors to:

(i) provide mental health services eligible for medical assistance reimbursement;

(ii) meet performance standards established by the commissioner of human services including providing services consistent with the requirements and standards set out in sections 245.487 to 245.4888 and 245.491 to 245.496;

(iii) provide the commissioner of human services with data consistent with that collected under sections 245.487 to 245.4888; and

(iv) in service delivery areas where there is a local children's mental health collaborative for the target population defined by local children's mental health collaborative:

(A) participate in the local children's mental health collaborative;

(B) commit resources to local children's mental health collaboratives that are actuarially equivalent to resources received for the target population being served by local children's mental health collaboratives; and

(C) meet the requirements and the performance standards developed for local children's mental health collaboratives;

(2) develop a mechanism for integrating medical assistance resources for mental health service with resources for general assistance medical care, MinnesotaCare, and any other state and local resources available for services for children in the target population and develop a procedure for making these resources available for use by a local children's mental health collaborative;

(3) gather data needed to manage mental health care including evaluation data and data necessary to establish a separate capitation rate for children's mental health services if that option is selected;

(4) by January 1, 1994, develop a model contract for providers of mental health managed care that meets the requirements set out in sections 245.491 to 245.496 and 256B.69, and utilize this contract for all subsequent awards, and before January 1, 1995, the commissioner of human services shall not enter into or extend any contract under section 256B.69 that would impede the implementation of sections 245.491 to 245.496;

(5) by January 1, 1994, develop revenue enhancement or rebate mechanisms and procedures to certify expenditures made through local children's mental health collaboratives for mental health services that may be eligible for federal financial participation under medical assistance and other federal programs;

(6) provide technical assistance, including expenses for administration, to help local children's mental health collaboratives certify local expenditures for federal financial participation;

(7) assist local children's mental health collaboratives in identifying an economically viable initial target population;

(8) seek all necessary federal waivers or approvals and recommend necessary legislation to enhance federal revenue, provide clinical and management flexibility, and otherwise meet the goals of local children's mental health collaboratives and request necessary state plan amendments to maximize the availability of medical assistance for activities undertaken by the local children's mental health collaborative;

(9) take all steps necessary to secure medical assistance reimbursement under the rehabilitation option for family community support services and therapeutic support of foster care and for residential treatment and wrap-around services when these services are provided through a local children's mental health collaborative; and

(10) provide a mechanism to identify separately the reimbursement to a county for child welfare targeted case management provided to the target population for purposes of subsequent transfer by the county to the integrated fund.

Subd. 4. [RULEMAKING.] *The commissioners of human services, health, corrections, and the state board of education shall adopt or amend rules as necessary to implement sections 245.491 to 245.496.*

Subd. 5. [REPORT.] *By January 15, 1994, the commissioner shall report to the legislature the extent to which claims for federal reimbursement for case management as set out in Minnesota Rules, parts 9520.0900 to 9520.0926 and 9505.0322 as they pertain to mental health case management are consistent with the number of children eligible to receive this service. The report shall also identify how the commissioner intends to increase the numbers of eligible children receiving this service, including recommendations for modifying rules or statutes to improve access to this service and to reduce barriers to its provision.*

In developing these recommendations, the commissioner shall:

(1) review experience and consider alternatives to the reporting and claiming requirements, such as the rate of reimbursement, the claiming unit of time, and documenting and reporting procedures set out in Minnesota Rules, parts 9520.0900 to 9520.0926 and 9505.0322 as they pertain to mental health case management;

(2) consider experience gained from implementation of child welfare targeted case management;

(3) determine how to adjust the reimbursement rate to reflect reductions in caseload size;

(4) determine how to ensure that provision of targeted child welfare case management does not preclude an eligible child's right, or limit access, to case management services for children with severe emotional disturbance as set out in Minnesota Rules, parts 9520.0900 to 9520.0926 and 9505.0322 as they pertain to mental health case management;

(5) determine how to include cost and time data collection for contracted providers for rate setting, claims, and reimbursement purposes;

(6) evaluate the need for cost control measures where there is no county share; and

(7) determine how multiagency teams may share the reimbursement.

The commissioner shall conduct a study of the cost of county staff providing case management services under Minnesota Rules, parts 9520.0900 to 9520.0926 and 9505.0322 as they pertain to mental health case management. If the average cost of providing case management services to children with severe emotional disturbance is determined by the commissioner to be greater than the average cost of providing child welfare targeted case management, the commissioner shall insure that a higher reimbursement rate is provided for case management services under Minnesota Rules, parts 9520.0900 to 9520.0926 and 9505.0322 to children with severe emotional disturbance. The total medical assistance funds expended for this service in the biennium ending in state fiscal year 1995 shall not exceed the amount projected in the state Medicaid forecast for case management for children with serious emotional disturbances.

Sec. 11. [245.495] [ADDITIONAL FEDERAL REVENUES.]

(a) Each local children's mental health collaborative shall report expenditures eligible for federal reimbursement in a manner prescribed by the commissioner of human services under section 256.01, subdivision 2, clause (17). The commissioner of human services shall pay all funds earned by each local children's mental health collaborative to the collaborative. Each local children's mental health collaborative must use these funds to expand the initial target population or to develop or provide mental health services through the local integrated service system to children in the target population. Funds may not be used to supplant funding for services to children in the target population.

For purposes of this section, "mental health services" are community-based, nonresidential services, which may include respite care, that are identified in the child's multiagency plan of care.

(b) The commissioner may set aside a portion of the federal funds earned under this section to repay the special revenue maximization account under section 256.01, subdivision 2, clause (15). The set-aside must not exceed five percent of the federal reimbursement earned by collaboratives and repayment is limited to:

(1) the costs of developing and implementing sections 245.491 to 245.496, including the costs of technical assistance from the departments of human services, education, health, and corrections to implement the children's mental health integrated fund;

(2) programming the information systems; and

(3) any lost federal revenue for the central office claim directly caused by the implementation of these sections.

(c) Any unexpected funds from the set-aside described in paragraph (b) shall be distributed to counties according to section 245.495, subdivision 2.

Sec. 12. [245.496] [IMPLEMENTATION.]

Subdivision 1. [APPLICATIONS FOR START-UP FUNDS FOR LOCAL CHILDREN'S MENTAL HEALTH COLLABORATIVES.] *By September 1, 1993, the commissioner of human services shall publish the procedures for awarding start-up funds. Applications for local children's mental health collaboratives shall be obtained through the commissioner of human services and submitted to the state coordinating council. The application must state the amount of start-up funds requested by the local children's mental health collaborative and how the local children's mental health collaborative intends on using these funds.*

Subd. 2. [DISTRIBUTION OF START-UP FUNDS.] *By January 1, 1994, the state coordinating council must ensure distribution of start-up funds to local children's mental health collaboratives that meet the requirements established in section 245.493 and whose applications have been approved by the council. If the number of applications received exceed the number of local children's mental health collaboratives that can be funded, the funds must be geographically distributed across the state and balanced between the seven county metro area and the rest of the state. Preference must be given to collaboratives that include the juvenile court and correctional systems, multiple school districts, or other multiple government entities from the local system of care. In rural areas, preference must also be given to local children's mental health collaboratives that include multiple counties. Initially, no more than one collaborative per county may qualify for start-up funds.*

Subd. 3. [SUBMISSION AND APPROVAL OF LOCAL COLLABORATIVE PROPOSALS FOR INTEGRATED SYSTEMS.] *By December 31, 1994, a local children's mental health collaborative that received start-up funds must submit to the state coordinating council its proposal for creating and funding an integrated service system for children in the target population. Within 60 days of receiving the local collaborative proposal the state coordinating council must review the proposal and notify the local children's mental health collaborative as to whether or not the proposal has been approved. If the proposal is not approved, the state coordinating council must indicate changes needed to receive approval.*

Sec. 13. Minnesota Statutes 1992, section 245.652, subdivision 1, is amended to read:

Subdivision 1. [PURPOSE.] The regional treatment centers shall provide services designed to end a person's reliance on chemical use or a person's chemical abuse and increase effective and chemical-free functioning. Clinically effective programs must be provided in accordance with section 246.64. *Services may be offered on the regional center campus or at sites elsewhere in the catchment area served by the regional treatment center.*

Sec. 14. Minnesota Statutes 1992, section 245.652, subdivision 4, is amended to read:

Subd. 4. [SYSTEM LOCATIONS.] Programs shall be located in Anoka, Brainerd, Fergus Falls, ~~Moose Lake,~~ St. Peter, and Willmar *and may be offered at other selected sites.*

Sec. 15. [246.0136] [PLANNING FOR TRANSITION OF REGIONAL SERVICES IN NORTHEASTERN MINNESOTA.]

Transition planning for the care of persons who are mentally ill, developmentally disabled, chemically dependent, or traumatic brain injured, and who will no longer be served by the Moose Lake regional treatment center campus must be carried out as follows. The commissioner of human services shall convene a negotiation team to include representatives of the following groups: social service agencies in the counties presently served by the Moose Lake regional treatment center, patient advocates, families, the department of human services, the department of corrections, and employee bargaining units. The negotiation team shall develop a negotiated transition plan for patients at the Moose Lake regional treatment center who are mentally ill, developmentally disabled, chemically dependent, or traumatic brain injured, and who will be relocated during the biennium ending June 30, 1995. The commissioner shall present the plan to the legislature by January 15, 1994. The negotiation plan shall include a resident relocation plan which shall involve recommendations (1) for placement of clients at both public and private programs, including placement at other regional treatment centers; and (2) for funding the placements. The plan shall include recommendations for the location, size and patient mix for services and facilities that would be needed. The plan shall include recommendations for relocation of developmentally disabled clients to state-operated and private community facilities and chemically dependent clients to state-operated programs during the state fiscal year ending June 30, 1994, to enable the department of corrections to begin developing corrections beds at Moose Lake. Recommendations for relocation and for new treatment opportunities for persons who are mentally ill shall be developed during the state fiscal year 1994 to allow for a transition by the department of corrections in a coordinated manner. Mentally ill and geriatric residents may not be moved from the Moose Lake regional treatment center until a negotiated transition plan by the negotiation team for their placement is completed. The purpose of the negotiated transition plan is to ensure that quality direct care from private and state-operated services continues to be available for clients in northeastern Minnesota, in programs and facilities close to their homes.

Sec. 16. [246.0137] [PLANNING FOR TRANSITION OF REGIONAL SERVICES IN SOUTHEASTERN MINNESOTA.]

Transition planning for the care of persons who are developmentally disabled and who will no longer be served by the Faribault regional treatment center campus must be carried out as follows. The commissioner of human services shall convene a negotiation team to include representatives of the following groups: social service agencies in the counties presently served by the Faribault regional treatment center, patient advocates, families, the department of human services, the department of corrections, and employee bargaining units. The negotiation team shall develop a negotiated transition plan for persons at the Faribault regional treatment center who are developmentally disabled who will be relocated. The commissioner shall present the plan to the legislature by January 15, 1995. The negotiation plan must include a resident relocation plan which includes recommendations for placement of clients at both public and private programs, including placement at other regional treatment centers, and for funding the placements. The plan must include recommendations for the location, size and patient mix of services and facilities needed. The plan must include recommendations for relocation of developmentally disabled clients to state-operated and private community facilities. Residents may not be moved from the Faribault regional treatment center until a negotiated transition plan by the negotiation team for their

placement is completed. The purpose of the negotiated transition plan is to ensure that quality direct care from private and state-operated services continues to be available for clients in southeastern Minnesota in programs and facilities close to their homes.

Sec. 17. Minnesota Statutes 1992, section 246.02, subdivision 2, is amended to read:

Subd. 2. The commissioner of human services shall act with the advice of the medical policy directional committee on mental health in the appointment and removal of the chief executive officers of the following institutions: Anoka-Metro Regional Treatment Center, Ah-Gwah-Ching Center, Fergus Falls Regional Treatment Center, ~~Moose Lake Regional Treatment Center, Oak Terrace Nursing Home, Rochester State Hospital,~~ St. Peter Regional Treatment Center *and Minnesota Security Hospital*, Willmar Regional Treatment Center, Faribault Regional Center, Cambridge Regional Human Services Center, ~~and~~ Brainerd Regional Human Services Center, *and until June 30, 1995, Moose Lake Regional Treatment Center, and after June 30, 1995, Minnesota Psychopathic Personality Treatment Center.*

Sec. 18. Minnesota Statutes 1992, section 246.151, subdivision 1, is amended to read:

Subdivision 1. [COMPENSATION.] Notwithstanding any law to the contrary, the commissioners of human services and veterans affairs are authorized to provide for the payment to patients or residents of state institutions under their management and control of such pecuniary compensation as ~~they may deem proper,~~ *required by the United States Department of Labor. Payment of subminimum wages shall meet all requirements of United States Department of Labor Regulations, Code of Federal Regulations, title 29, part 525.* The amount of compensation ~~to depend~~ *depends* upon the quality and character of the work performed as determined by the commissioner and the chief executive officer~~, but in no case less than 25 percent of the minimum wage established~~ pursuant to section 177.24.

Sec. 19. [246B.01] [MINNESOTA PSYCHOPATHIC PERSONALITY TREATMENT CENTER; DEFINITIONS.]

Subdivision 1. [APPLICABILITY.] *The definitions in this section apply to this chapter.*

Subd. 2. [COMMISSIONER.] *"Commissioner" means the commissioner of human services or the commissioner's designee.*

Subd. 3. [PSYCHOPATHIC PERSONALITY.] *"Psychopathic personality" has the meaning given in section 526.09.*

Sec. 20. [246B.02] [ESTABLISHMENT OF MINNESOTA PSYCHOPATHIC PERSONALITY TREATMENT CENTER.]

The commissioner of human services shall establish and maintain a secure facility located in Moose Lake. The facility shall be known as the Minnesota Psychopathic Personality Treatment Center. The facility shall provide care and treatment to persons committed by the courts as psychopathic personalities, or persons admitted there with the consent of the commissioner of human services.

Sec. 21. [246B.03] [LICENSURE.]

The commissioner of human services shall apply to the commissioner of health to license the Minnesota Psychopathic Personality Treatment Center as a supervised living facility with applicable program licensing standards.

Sec. 22. [246B.04] [RULES; EVALUATION.]

The commissioner of human services shall adopt rules to govern the operation, maintenance, and licensure of the program established at the Minnesota Psychopathic Personality Treatment Center for persons committed as a psychopathic personality. The commissioner shall establish an evaluation process to measure outcomes and behavioral changes as a result of treatment compared with incarceration without treatment, to determine the value, if any, of treatment in protecting the public.

Sec. 23. Minnesota Statutes 1992, section 252.025, subdivision 4, is amended to read:

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

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

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

(2) by July 1, 1999, continued regional treatment center capacity to serve 254 persons with developmental disabilities as follows: at Brainerd, 57 persons; at Cambridge, 12 persons; at Faribault, 80 persons; at Fergus Falls, 35 persons; ~~at Moose Lake, 12 persons;~~ at St. Peter, 30 persons; at Willmar, 12 persons, and up to 16 crisis beds in the Twin Cities metropolitan area. In addition, the plan shall provide for the capacity to provide residential services to 570 persons with developmental disabilities in 95 state-operated, community-based residential programs.

The commissioner is subject to a mandamus action under chapter 586 for any failure to comply with the provisions of this subdivision.

Sec. 24. Minnesota Statutes 1992, section 252.025, is amended by adding a subdivision to read:

Subd. 5. [SERVICES FOR DEVELOPMENTALLY DISABLED PERSONS: MOOSE LAKE REGIONAL TREATMENT CENTER CATCHMENT AREA.] *Notwithstanding subdivision 4, the commissioner shall develop eight four-bed waivered, state-operated community service sites in the Moose Lake regional treatment center catchment area for persons with developmental disabilities. These services must be established by June 30, 1994, to serve persons relocated from the Moose Lake regional treatment center.*

These services shall be in addition to any state-operated community services and day treatment centers in operation in the Moose Lake catchment area during state fiscal year 1993.

Sec. 25. Minnesota Statutes 1992, section 252.025, is amended by adding a subdivision to read:

Subd. 6. [DEVELOPMENT OF STATE-OPERATED SERVICES.] *Notwithstanding subdivision 4, during the biennium ending June 30, 1995, the commissioner shall establish the following state-operated community-based services under the federal home- and community-based services waiver to serve 132 persons with developmental disabilities:*

(1) by June 30, 1994, state-operated, community-based services located anywhere in the state for 16 persons leaving regional treatment centers as a result of downsizing;

(2) by June 30, 1994, state-operated, community-based services located at Faribault for 72 persons leaving the Faribault regional treatment center;

(3) by June 30, 1995, state-operated, community-based services located anywhere in the state for eight persons leaving regional treatment centers as a result of downsizing; and

(4) by June 30, 1995, state-operated, community-based services located at Cambridge for 36 persons leaving the Cambridge regional treatment center.

Sec. 26. Minnesota Statutes 1992, section 252.50, is amended by adding a subdivision to read:

Subd. 2a. [USE OF ENHANCED WAIVERED SERVICES FUNDS.] *The commissioner may, within the limits of appropriations made available for this purpose, use enhanced waivered services funds under the home- and community-based waiver for persons with mental retardation or related conditions to move to state-operated community programs and to private facilities.*

Sec. 27. Minnesota Statutes 1992, section 253.015, subdivision 1, is amended to read:

Subdivision 1. [STATE HOSPITALS FOR PERSONS WITH MENTAL ILLNESS.] The state hospitals located at Anoka, Brainerd, Fergus Falls, ~~Moose Lake,~~ St. Peter, ~~and~~ Willmar, *and Moose Lake until June 30, 1995,* shall constitute the state hospitals for persons with mental illness, and shall be maintained under the general management of the commissioner of human services. The commissioner of human services shall determine to what state hospital persons with mental illness shall be committed from each county and notify the probate judge thereof, and of changes made from time to time. The

chief executive officer of each hospital for persons with mental illness shall be known as the chief executive officer.

Sec. 28. Minnesota Statutes 1992, section 253.015, is amended by adding a subdivision to read:

Subd. 3. [SERVICES FOR PERSONS WITH MENTAL ILLNESS FROM MOOSE LAKE REGIONAL TREATMENT CENTER.] *(a) The negotiated transition plan for relocating patients with mental illness from the Moose Lake regional treatment center, must promote a mix of state-operated and private services to include the following:*

(1) inpatient psychiatric services for adult patients who are acutely ill, particularly those under judicial commitment;

(2) inpatient psychiatric services for psychogeriatric patients; and

(3) community residences designed to serve mentally ill persons. Each of these community residences should have a four-bed crisis unit attached, so as to serve homeless clients or clients in need of respite care.

State-operated services may be developed through lease or purchase or construction of needed beds or facilities.

(b) By July 1, 1994, the commissioner shall establish 70 beds at Brainerd regional human services center to serve persons with mental illness being relocated from the Moose Lake regional treatment center.

Sec. 29. Minnesota Statutes 1992, section 253.015, is amended by adding a subdivision to read:

Subd. 4. [SERVICES FOR PERSONS WITH TRAUMATIC BRAIN INJURY.] *During the biennium ending June 30, 1995, the commissioner shall develop the following services in the Moose Lake regional treatment catchment area for persons with traumatic brain injury to serve patients relocated from the Moose Lake regional treatment center:*

(1) a 16-bed inpatient neuro-rehabilitation unit developed at another regional treatment center or alternative site utilizing the special hospital beds currently located in the state regional treatment center system; and

(2) eight community-based, state-operated beds funded by the traumatic brain injury waiver.

Sec. 30. Minnesota Statutes 1992, section 253.202, is amended to read:

253.202 [MANAGEMENT.]

Notwithstanding the provisions of section 253.201, or any other law to the contrary, the Minnesota Security Hospital shall be under the administrative management of a hospital administrator, to be appointed by the commissioner of human services, who shall be a graduate of an accredited college giving a course leading to a degree in hospital administration, and the commissioner of human services, by rule, shall designate such colleges which in the commissioner's opinion give an accredited course in hospital administration. ~~The administrative management of the Minnesota Security Hospital shall not continue under the management of the superintendent of the St. Peter regional treatment center.~~ In addition to a hospital administrator, the commissioner of human services may appoint a licensed doctor of medicine as chief of the

medical staff and the doctor shall be in charge of all medical care, treatment, rehabilitation, and research. This section is effective on July 1, 1963.

Sec. 31. Minnesota Statutes 1992, section 254.04, is amended to read:

254.04 [TREATMENT OF ~~INEBRIATES~~ *CHEMICALLY DEPENDENT PERSONS.*]

The commissioner of human services is hereby authorized to continue the treatment of ~~inebriates~~ *chemically dependent persons* at ~~the state hospital farm for inebriates~~ *Ah-Gwah-Ching and at the regional treatment centers* located at *Anoka, Brainerd, Fergus Falls, Moose Lake, St. Peter, and* Willmar ~~as now provided by law, and in addition thereto the commissioner is authorized to provide for the treatment of inebriates at the Moose Lake regional treatment center, but no inebriate shall be committed for treatment to either facility except as may be authorized and permitted by the commissioner of human services~~. *During the year ending June 30, 1994, the commissioner shall relocate, in the catchment area served by the Moose Lake regional treatment center, two state-operated off-campus programs designed to serve patients who are relocated from the Moose Lake regional treatment center. One program shall be a 35-bed program for women who are chemically dependent; the other shall be a 25-bed program for men who are chemically dependent. The facility space housing the Liberalis chemical dependency program (building C-35) and the men's chemical dependency program (4th floor main) may not be vacated until suitable off campus space for the women's chemical dependency program of 35 beds and the men's chemical dependency program of 25 beds is located and clients and staff are relocated.*

Sec. 32. Minnesota Statutes 1992, section 254.05, is amended to read:

254.05 [DESIGNATION OF STATE HOSPITALS.]

The state hospital ~~for the insane~~ located at Anoka shall hereafter be known and designated as the Anoka-metro regional treatment center; ~~the state hospital for the insane located at Hastings shall hereafter be known and designated as the Hastings state hospital;~~ the state hospital ~~for the insane and the hospital farm for inebriates~~ located at Willmar shall hereafter be known and designated as the Willmar regional treatment center; *until June 30, 1995,* the state hospital ~~for the insane~~ located at Moose Lake shall ~~hereafter~~ be known and designated as the Moose Lake regional treatment center; *after June 30, 1995, the newly established state facility at Moose Lake shall be known and designated as the Minnesota psychopathic personality treatment center;* the state hospital ~~for the insane~~ located at Fergus Falls shall hereafter be known and designated as the Fergus Falls regional treatment center; ~~the state hospital for the insane located at Rochester shall hereafter be known and designated as the Rochester state hospital;~~ and the state hospital ~~for the insane~~ located at St. Peter shall hereafter be known and designated as the St. Peter regional treatment center. Each of the foregoing state hospitals shall also be known by the name of regional center at the discretion of the commissioner of human services. The terms "human services" or "treatment" may be included in the designation.

Sec. 33. Minnesota Statutes 1992, section 256B.0625, is amended by adding a subdivision to read:

Subd. 32. [FAMILY COMMUNITY SUPPORT SERVICES.] *Medical assistance covers family community support services as defined in section*

245.4871, subdivision 17, that are provided through a local mental health collaborative, as defined in section 245.492, subdivision 11.

Sec. 34. Minnesota Statutes 1992, section 256B.0625, is amended by adding a subdivision to read:

Subd. 33. [THERAPEUTIC SUPPORT OF FOSTER CARE.] *Medical assistance covers therapeutic support of foster care as defined in section 245.4871, subdivision 34, that are provided through a local mental health collaborative, as defined in section 245.492, subdivision 11.*

Sec. 35. Minnesota Statutes 1992, section 256B.0625, is amended by adding a subdivision to read:

Subd. 34. [WRAPAROUND SERVICES.] *Medical assistance covers wraparound services as defined in section 245.492, subdivision 21, that are provided through a local children's mental health collaborative, as defined in section 245.492, subdivision 11.*

Sec. 36. Laws 1991, chapter 292, article 6, section 57, subdivision 1, is amended to read:

Subdivision 1. [STATEWIDE TASK FORCE.] The commissioner of human services shall convene a task force to study the feasibility of establishing an integrated children's mental health fund. The task force shall consist of mental health professionals, county social services personnel, service providers, advocates, and parents of children who have experienced episodes of emotional disturbance. The task force shall also include representatives of the children's mental health subcommittee of the state advisory council and local coordinating councils established under Minnesota Statutes, sections 245.487 to 245.4887. The task force shall include the commissioners of education, health, and human services; two members of the senate; and two members of the house of representatives. The task force shall examine all possible county, state, and federal sources of funds for children's mental health with a view to designing an integrated children's mental health fund, improving methods of coordinating and maximizing all funding sources, and increasing federal funding. Programs to be examined shall include, but not be limited to, the following: medical assistance, title IV-E of the social security act, title XX social service programs, chemical dependency programs, education and special education programs, and, for children with a dual diagnosis, programs for the developmentally disabled. The task force may consult with experts in the field, as necessary. ~~The task force shall make a preliminary report and recommendations on local coordination of funding sources by January 1, 1992, to facilitate the development of local protocols and procedures under subdivision 2. The task force shall submit a final report to the legislature by January 1, 1993, with its findings and recommendations.~~ *By January 1, 1994, the task force shall provide a report to the legislature with recommendations of the task force for promoting integrated funding and services for children's mental health. The report must include the following recommendations: (1) how to phase in all delivery systems, including the juvenile court and correctional systems; (2) how to expand the initial target population so that the state eventually has a statewide integrated children's mental health service system that integrates funding regardless of source for children with emotional or behavioral disturbances or those at risk of suffering such disturbances; (3) possible outcome measures of the local children's mental health collaboratives; and (4) for any necessary legislative changes in the data practices act. The task force shall continue through June 30, 1995, and shall advise and*

assist the state coordinating council and local children's mental health collaboratives as required in sections 245.491 to 245.496.

Sec. 37. Laws 1991, chapter 292, article 6, section 57, subdivision 3, is amended to read:

Subd. 3. [~~FINAL~~ REPORT.] By February 15, 1993, the commissioner of human services shall provide a report to the legislature that describes the reports and recommendations of the statewide task force under subdivision 1 and of the local coordinating councils under subdivision 2, and provides the commissioner's recommendations for legislation or other needed changes.

Sec. 38. [MENTAL HEALTH SERVICES DELIVERY SYSTEM PILOT PROJECT IN DAKOTA COUNTY.]

Subdivision 1. [AUTHORIZATION FOR CONTINUATION OF PILOT PROJECT.] *(a) The previously authorized mental health services delivery system pilot project in Dakota county shall be continued for a two-year period, commencing on July 1, 1993, and ending on June 30, 1995.*

(b) Dakota county shall receive a grant from the department of human services to pay related expenses associated with the pilot project during fiscal years 1994 and 1995.

Subd. 2. [AUTHORIZATION FOR INTEGRATED FUNDING OF STATE-SUPPORTED MENTAL HEALTH SERVICES.] *(a) The commissioner of human services shall establish an adult mental health services integrated fund for Dakota county to permit flexibility in expenditures based on local needs with local control.*

(b) The revenues and expenditures included in the integrated fund shall be as follows:

(1) residential services funds administered under Rule 12, in an amount to be determined by mutual agreement between Dakota county and the commissioner of human services after an examination of the county's historical utilization of Rule 36 facilities located both within and outside of the county;

(2) community support services funds administered under Rule 78 (old Rule 14);

(3) Anoka alternatives grant funds;

(4) housing support services grant funds;

(5) OBRA grant funds; and

(6) crisis foster homes grant funds.

(c) As part of the pilot project, Dakota county may study the feasibility of adding medical assistance, general assistance, general assistance medical care, and Minnesota supplemental aid to the integrated fund. The commissioner of human services, with the express consent of the Dakota county board of commissioners, may add medical assistance, general assistance, general assistance medical care, and Minnesota supplemental aid to the integrated fund.

(d) Dakota county must provide the commissioner of human services with timely and pertinent information about the county's adult mental health service delivery system through the following methods:

(1) submission of community social services act plans and plan amendments;

(2) submission of social service expenditure and grant reconciliation reports, based on a coding format to be determined by mutual agreement between the county and the commissioner;

(3) compliance with the community mental health reporting system and with other state reporting systems necessary for the production of comprehensive statewide information;

(4) submission of the data on clients, services, costs, providers, human resources, and outcomes that the state needs in order to compile information on a statewide basis; and

(5) participation in semiannual meetings convened by the commissioner for the purpose of reviewing Dakota county's adult mental health program and assessing the impact of integrated funding.

(e) The commissioner of human services shall waive or modify any administrative rules, regulations, or guidelines which are incompatible with the implementation of the integrated fund.

(f) The integrated fund shall be subject to the following conditions and understandings.

(1) Dakota county may apply for any new or expanded mental health service funds which may become available in the future, on an equal basis with other counties.

(2) The integrated fund shall be adjusted at least biennially to reflect any increase in the population of Dakota county, using a method to be determined by mutual agreement between the county and the commissioner of human services.

(3) If the level of state funding for mental health services in other counties is adjusted upward or downward, an adjustment at the equivalent rate shall be made to Dakota county's integrated fund, to the extent that the adjustment made elsewhere applies to the revenue and expenditure categories included in the integrated fund.

(4) Payments to Dakota county for the integrated fund shall be made in 12 equal installments per year at the beginning of each month, or by another method to be determined by mutual agreement between the county and the commissioner of human services.

(5) The commissioner of human services shall exempt Dakota county from fiscal and other sanctions for noncompliance with any requirements in state rules, regulations, or guidelines which are incompatible with the implementation of the integrated fund.

(6) The integrated fund may be discontinued for any reason by the Dakota county board of commissioners or the commissioner of human services, after 90 days' written notice to the other party.

(7) If the integrated fund is discontinued, any expenses incurred by Dakota county in order to resume full compliance with state rules, regulations, and guidelines, shall be covered by the state, to the extent allowed by rules and appropriation funding.

(8) The integrated fund shall be established on July 1, 1993, or later by mutual agreement between the county and the commissioner of human services.

(9) If any of the revenues included in the integrated fund are federal in origin, any federal requirements for the use and reporting of those funds shall remain in force, unless such requirements are waived or modified by the appropriate federal agency.

Sec. 39. [PSYCHOPATHIC PERSONALITY STUDY.]

The commissioner of administration shall perform a study of legal and treatment issues related to psychopathic personality and shall submit a report to the legislature by January 15, 1994. The study shall include:

(1) the legal definitions of psychopathic personality in statute and case law in other jurisdictions and a description of the facts relied on by Minnesota courts during the previous 12 months in determining that the definition in Minnesota Statutes, section 526.09, has been met;

(2) the extent to which other jurisdictions use the corrections systems or the mental health systems to confine persons exhibiting the conduct defined;

(3) the extent to which other jurisdictions provide treatment to individuals confined in either the mental health or corrections system and the results of any evaluations of the relative effectiveness of such treatment;

(4) an assessment of the cost to the state of Minnesota of confinement in both the mental health and corrections systems;

(5) a review of case law relating to the constitutional duties of the state with respect to a person defined as a psychopathic personality, and an analysis of the impact on the rights of persons currently confined under Minnesota law if the law is changed; and

(6) a recommendation, based on the results of the study, as to the appropriateness of each system of confinement and the provision of treatment.

Sec. 40. [EFFECTIVE DATE.]

Sections 33, 34, and 35 are effective January 1, 1994.

ARTICLE 9

FAMILY SERVICES COLLABORATIVE

Section 1. [256F.10] [FAMILY SERVICES COLLABORATIVE.]

Subdivision 1. [FEDERAL REVENUE ENHANCEMENT.] *(a)* [DUTIES OF THE COMMISSIONER OF HUMAN SERVICES.] *The commissioner of human services may enter into an agreement with one or more family services collaboratives to enhance federal reimbursement under Title IV-E of the Social Security Act and federal administrative reimbursement under Title XIX of the Social Security Act. The commissioner shall have the following authority and responsibilities regarding family services collaboratives:*

(1) the commissioner shall submit amendments to state plans and seek waivers as necessary to implement the provisions of this section;

(2) the commissioner shall pay the federal reimbursement earned under this subdivision to each collaborative based on their earnings. Notwithstanding section 256.025, subdivision 2, payments to collaboratives for expenditures under this subdivision will only be made of federal earnings from services provided by the collaborative;

(3) the commissioner shall review expenditures of family services collaboratives using reports specified in the agreement with the collaborative to ensure that the base level of expenditures is continued and new federal reimbursement is used to expand education, social, health, or health-related services to young children and their families;

(4) the commissioner may reduce, suspend, or eliminate a family services collaborative's obligations to continue the base level of expenditures or expansion of services if the commissioner determines that one or more of the following conditions apply:

(i) imposition of levy limits that significantly reduce available funds for social, health, or health-related services to families and children;

(ii) reduction in the net tax capacity of the taxable property eligible to be taxed by the lead county or subcontractor that significantly reduces available funds for education, social, health, or health-related services to families and children;

(iii) reduction in the number of children under age 19 in the county, collaborative service delivery area, subcontractor's district, or catchment area when compared to the number in the base year using the most recent data provided by the state demographer's office; or

(iv) termination of the federal revenue earned under the family services collaborative agreement;

(5) the commissioner shall not use the federal reimbursement earned under this subdivision in determining the allocation or distribution of other funds to counties or collaboratives;

(6) the commissioner may suspend, reduce, or terminate the federal reimbursement to a provider that does not meet the reporting or other requirements of this subdivision;

(7) the commissioner shall recover from the family services collaborative any federal fiscal disallowances or sanctions for audit exceptions directly attributable to the family services collaborative's actions in the integrated fund, or the proportional share if federal fiscal disallowances or sanctions are based on a statewide random sample; and

(8) the commissioner shall establish criteria for the family services collaborative for the accounting and financial management system that will support claims for federal reimbursement.

(b) [FAMILY SERVICES COLLABORATIVE RESPONSIBILITIES.] *The family services collaborative shall have the following authority and responsibilities regarding federal revenue enhancement:*

(1) the family services collaborative shall be the party with which the commissioner contracts. A lead county shall be designated as the fiscal agency for reporting, claiming, and receiving payments;

(2) the family services collaboratives may enter into subcontracts with other counties, school districts, special education cooperatives, municipalities, and other public and nonprofit entities for purposes of identifying and claiming eligible expenditures to enhance federal reimbursement, or to expand education, social, health, or health-related services to families and children;

(3) the family services collaborative must continue the base level of expenditures for education, social, health, or health-related services to families and children from any state, county, federal, or other public or private funding source which, in the absence of the new federal reimbursement earned under this subdivision, would have been available for those services, except as provided in subdivision 1, clause (4). The base year for purposes of this subdivision shall be the four-quarter calendar year ending at least two calendar quarters before the first calendar quarter in which the new federal reimbursement is earned;

(4) the family services collaborative must use all new federal reimbursement resulting from federal revenue enhancement to expand expenditures for education, social, health, or health-related services to families and children beyond the base level, except as provided in subdivision 1, clause (4);

(5) the family services collaborative must ensure that expenditures submitted for federal reimbursement are not made from federal funds or funds used to match other federal funds. Notwithstanding section 256B.19, subdivision 1, for the purposes of family services collaborative expenditures under agreement with the department, the nonfederal share of costs shall be provided by the family services collaborative from sources other than federal funds or funds used to match other federal funds;

(6) the family services collaborative must develop and maintain an accounting and financial management system adequate to support all claims for federal reimbursement, including a clear audit trail and any provisions specified in the agreement; and

(7) the family services collaborative shall submit an annual report to the commissioner as specified in the agreement.

Subd. 2. [AGREEMENTS WITH FAMILY SERVICES COLLABORATIVES.] *At a minimum, the agreement between the commissioner and the family services collaborative shall include the following provisions:*

(1) specific documentation of the expenditures eligible for federal reimbursement;

(2) the process for developing and submitting claims to the commissioner;

(3) specific identification of the education, social, health, or health-related services to families and children which are to be expanded with the federal reimbursement;

(4) reporting and review procedures ensuring that the family services collaborative must continue the base level of expenditures for the education, social, health, or health-related services for families and children as specified in subdivision 2, clause (3);

(5) reporting and review procedures to ensure that federal revenue earned under this section is spent specifically to expand education, social, health, or health-related services for families and children as specified in subdivision 2, clause (4);

(6) the period of time, not to exceed three years, governing the terms of the agreement and provisions for amendments to, and renewal of the agreement; and

(7) an annual report prepared by the family services collaborative.

Subd 3. [REQUEST FOR WAIVER OF RULES.] *(a) A family services collaborative, or any other local collaborative entity, including those in Becker, Cass, and Ramsey counties, is encouraged to seek a waiver from any state or federal rule that impedes the implementation or effectiveness of the services provided by the collaborative. If the board or commissioner who adopted the state rule from which a waiver is requested approves a request for a waiver, it shall notify the family services collaborative and the interagency family services team of the approval. If the request for a waiver is denied, the board or commissioner who adopted the rule shall notify the family services collaborative, the interagency family services team, and the appropriate policy committees of the legislature of the reason for denying the waiver.*

(b) A family services collaborative seeking a waiver from a federal rule shall submit a request, in writing, to the appropriate policy committees of the legislature. If the legislative committees approve the request, they shall direct the appropriate state agency to make a reasonable effort to negotiate a waiver of the federal rule. If the legislative committees deny the request for a waiver, they shall jointly notify the family services collaborative of the reason for denying the waiver."

Delete the title and insert:

"A bill for an act relating to health care and family services; the organization and operation of state government; appropriating money for human services, health, and other purposes with certain conditions; establishing and modifying certain programs; providing penalties; appropriating money; amending Minnesota Statutes 1992, sections 62A.045; 144.122; 144.123, subdivision 1; 144.215, subdivision 3; 144.226, subdivision 2; 144.3831, subdivision 2; 144.802, subdivision 1; 144.98, subdivision 5; 144A.071; 144A.073, subdivisions 2, 3, and by adding a subdivision; 147.01, subdivision 6; 147.02, subdivision 1; 148C.01, subdivisions 3 and 6; 148C.02; 148C.03, subdivisions 1, 2, and 3; 148C.04, subdivisions 2, 3, and 4; 148C.05, subdivision 2; 148C.06; 148C.11, subdivision 3, and by adding a subdivision; 149.04; 157.045; 198.34; 214.04, subdivision 1; 214.06, subdivision 1, and by adding a subdivision; 245.464, subdivision 1; 245.466, subdivision 1; 245.474; 245.4873, subdivision 2; 245.652, subdivisions 1 and 4; 246.02, subdivision 2; 246.151, subdivision 1; 246.18, subdivision 4; 252.025, subdivision 4, and by adding subdivisions; 252.275, subdivision 8; 252.50, by adding a subdivision; 253.015, subdivision 1, and by adding subdivisions; 253.202; 254.04; 254.05; 254A.17, subdivision 3; 256.015, subdivision 4; 256.025, subdivisions 1, 2, 3, and 4; 256.73, subdivisions 2, 3a, 5, and 8; 256.736, subdivisions 10, 10a, 14, 16, and by adding a subdivision; 256.737, subdivisions 1, 1a, 2, and by adding subdivisions; 256.74, subdivision 1; 256.78; 256.9657, subdivisions 1, 2, 3, 4, 7, and by adding subdivisions; 256.9685, subdivision 1; 256.969, subdivisions 1, 8, 9, as amended, and 22, as amended; 256.9695, subdivision 3; 256.983, subdivision 3; 256B.042, subdivision 4; 256B.055, subdivision 1; 256B.056, subdivisions 1a and 2; 256B.0575; 256B.059, subdivisions 3 and 5; 256B.0595, subdivisions 1, 2, 3, and 4; 256B.0625, subdivisions 13, 13a, 15, 17, 25, 28, 29, and by adding subdivisions; 256B.0913, subdivision 5;

256B.0915, subdivision 3; 256B.15, subdivisions 1 and 2; 256B.19, subdivision 1b, and by adding subdivisions; 256B.37, subdivisions 3, 5, and by adding a subdivision; 256B.421, subdivision 14; 256B.431, subdivisions 2b, 2o, 13, 14, 15, 21, and by adding subdivisions; 256B.432, by adding a subdivision; 256B.48, subdivision 1; 256B.50, subdivision 1b, and by adding subdivisions; 256B.501, subdivisions 1, 3g, 3i, and by adding a subdivision; 256D.03, subdivisions 3, 4, and 8; 256D.05, by adding a subdivision; 256D.051, subdivisions 1, 1a, 2, 3, and 6; 256D.35, subdivision 3a; 256D.44, subdivisions 2 and 3; 256F.06, subdivision 2; 256I.01; 256I.02; 256I.03, subdivisions 2, 3, and by adding subdivisions; 256I.04, subdivisions 1, 2, 3, and by adding subdivisions; 256I.05, subdivisions 1, 1a, 8, and by adding a subdivision; 256I.06; 257.3573, by adding a subdivision; 257.54; 257.541; 257.55, subdivision 1; 257.57, subdivision 2; 257.73, subdivision 1; 257.74, subdivision 1; 259.431, subdivision 5; 273.1392; 273.1398, subdivision 5b; 275.07, subdivision 3; 326.44; 326.75, subdivision 4; 388.23, subdivision 1; 393.07, subdivisions 3 and 10; 518.156, subdivision 1; 518.551, subdivision 5; 518.64, subdivision 2; 609.821, subdivisions 1 and 2; 626.559, by adding a subdivision; Laws 1991, chapter 292, article 6, section 57, subdivisions 1 and 3; and Laws 1992, chapter 513, article 7, section 131; proposing coding for new law in Minnesota Statutes, chapters 136A; 245; 246; 256; 256B; 256E; 256F; 257; and 514; proposing coding for new law as Minnesota Statutes, chapters 246B; and 252B; repealing Minnesota Statutes 1992, sections 144A.071, subdivisions 4 and 5; 148B.72; 256.985; 256I.03, subdivision 4; 256I.05, subdivisions 4, 9, and 10; 256I.051; 273.1398, subdivisions 5a and 5c."

And when so amended the bill do pass and be re-referred to the Committee on Health Care. Amendments adopted. Report adopted.

SECOND READING OF SENATE BILLS

S.F. Nos. 1570, 848, 674 and 741 were read the second time.

SECOND READING OF HOUSE BILLS

H.F. Nos. 836, 889, 454 and 732 were read the second time.

MEMBERS EXCUSED

Mr. Moe, R.D. was excused from the Session of today from 11:00 a.m. to 2:30 p.m. Mmes. Benson, J.E.; Pariseau and Ms. Olson were excused from the Session of today from 1:15 to 2:30 p.m. Mr. Stevens was excused from the Session of today from 1:00 to 1:40 p.m.

ADJOURNMENT

Mr. Moe, R.D. moved that the Senate do now adjourn until 8:30 a.m., Wednesday, April 21, 1993. The motion prevailed.

Patrick E. Flahaven, Secretary of the Senate