

STATE OF MINNESOTA

Journal of the Senate

SEVENTY-NINTH LEGISLATURE

ONE HUNDRED FOURTH DAY

St. Paul, Minnesota, Friday, March 22, 1996

The Senate met at 9:00 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 Senator Pat Piper.

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

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

The President declared a quorum present.

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

EXECUTIVE AND OFFICIAL COMMUNICATIONS

The following communication was received.

March 21, 1996

The Honorable Allan H. Spear
President of the Senate

Dear President Spear:

I have vetoed and am returning Chapter 350, Senate File 2418, a bill that unreasonably and substantially expands the scope and power of the Legislative Auditor's office.

This is an unjustifiable attempt to inflate the Legislative Auditor's power through a piece of legislation that was sold as a technical housekeeping bill. This is a deliberate attempt to shift power and responsibilities away from the judicial and executive branches to the legislature while passing it off as noncontroversial.

This would-be-expansion of the reach of the Legislative Auditor's office is both unwarranted and unwise. The Legislative Auditor's office operates under the directives of legislative leaders. Currently, the Legislative Audit Commission consists of nine DFL legislators and six IR legislators. In spite of this partisan imbalance, the legislature expects me to support a bill that attempts to give the Legislative Auditor new power to conduct program evaluations of the courts, constitutional officers and the University of Minnesota.

A programmatic audit is far different than doing a financial audit, a power the Legislative Auditor currently has.

The proposed specific authority to do programmatic evaluation would allow an unelected legislative employee to intervene in and interfere with the legitimate policies and programs of elected constitutional officers.

This is a dangerous threat to the distribution of powers outlined in Article III of our Minnesota Constitution. It would also allow the legislature to sidestep the Constitutional provision in Article V, Section 4, that requires that the duties of the executive officers be prescribed by law.

Chapter 350 also unreasonably extends the power of the Legislative Auditor over individuals and private businesses. The loose language in this bill would allow an audit of the financial records of any corporation or organization that is merely related to the receipt of funds subject to audit by the Legislative Auditor. Under this language, a small business owner who deals with another organization that received public dollars would be subject to audit by the Legislative Auditor. This unacceptably vague language contains a great potential for abuse.

Finally, I find it surprising that the legislature would try to enact such loose and expansive language designed to give itself greater power while refusing the reforms that I submitted for consideration, namely: that the Legislative Audit Commission reflect equal political balance and that the legislature and the Legislative Auditor be audited annually by the office of State Auditor.

Warmest regards,
Arne H. Carlson, Governor

Mr. Moe, R.D. moved that S.F. No. 2418 and the veto message thereon be laid on the table. The motion prevailed.

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce that the House has acceded to the request of the Senate for the appointment of a Conference Committee, consisting of 3 members of the House, on the amendments adopted by the House to the following Senate File:

S.F. No. 1915: A bill for an act relating to commerce; changing the enforcement authority to the commissioner; providing continuing education and reporting requirements for certain licenses; regulating inspections of cosmetology salons and schools; regulating disclosures of information and data; regulating securities registrations and exemptions; regulating franchise registrations and definitions; modifying the definition of an aggrieved person for purposes of the real estate recovery fund; regulating cancellations of membership camping contracts; modifying the bond or insurance requirements for abstractors; regulating residential building contractors; regulating unclaimed properties and notaries public; requiring a study; removing a certain licensing exception; repealing an obsolete provision; regulating the repair of certain consumer goods; modifying agency disclosure requirements in real estate transactions; modifying licensing requirements; amending Minnesota Statutes 1994, sections 45.011, subdivision 1; 45.027, subdivision 7, and by adding subdivisions; 53A.081, subdivision 1; 60K.19, subdivisions 7, 8, and 10; 80A.05, subdivision 1; 80A.06, subdivision 3; 80A.09, by adding a subdivision; 80A.10, subdivision 4; 80A.11, by adding a subdivision; 80A.14, by adding subdivisions; 80A.15, subdivisions 2 and 3; 80C.01, by adding a subdivision; 80C.05, by adding a subdivision; 82.19,

subdivision 5; 82.195, subdivision 2; 82.196, subdivisions 1 and 2; 82.197, subdivisions 1, 2, 3, and 4; 82.22, subdivision 13; 82A.11, by adding a subdivision; 82B.19, by adding a subdivision; 155A.08, subdivision 3; 155A.09, subdivision 7; 155A.095; 325F.56, subdivision 2; 326.37, by adding a subdivision; 326.87, by adding a subdivision; 326.91, by adding subdivisions; 326.991; 332.34; 345.41; 345.42; 345.43, by adding a subdivision; 345.515; 359.01, subdivisions 1 and 2; 359.02; and 359.061; Minnesota Statutes 1995 Supplement, sections 16A.6701, subdivision 1; 80A.15, subdivision 1; 82.20, subdivision 15; 82.34, subdivision 7; 83.26, subdivision 2; and 386.66; proposing coding for new law in Minnesota Statutes, chapters 45; and 332; repealing Minnesota Statutes 1994, sections 80A.14, subdivision 8; 326.95, subdivision 4; 326.97, subdivision 3; 326.99; and 345.43, subdivisions 1 and 2; Laws 1994, chapter 447, section 2.

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

Entenza, Leighton and Abrams.

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

Edward A. Burdick, Chief Clerk, House of Representatives

Returned March 21, 1996

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on Senate File No. 1996, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 1996: A bill for an act relating to family law; requiring specificity in visitation orders; modifying provisions for visitation expeditors; providing for the establishment of mandatory visitation dispute resolution programs; imposing penalties; amending Minnesota Statutes 1994, sections 518.175, subdivision 1; and 518.1751.

Senate File No. 1996 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned March 21, 1996

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on Senate File No. 2857, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 2857: A bill for an act relating to the organization and operation of state government; appropriating money for the general administrative expenses of state government; amending Minnesota Statutes 1994, sections 8.15, by adding a subdivision; 16D.02, subdivision 2; 16D.03, subdivisions 2 and 3; 16D.04, subdivision 2; 16D.09; 69.021, subdivision 4, and by adding subdivisions; 69.031, subdivisions 1 and 5; 144C.03, subdivision 2; 363.071, subdivision 7; and 423A.02, by adding a subdivision; Minnesota Statutes 1995 Supplement, sections 16D.02, subdivision 8; 16D.04, subdivision 1; 16D.06, subdivision 2; 16D.08, subdivision 2; 16D.11, subdivisions 1 and 7; and 16D.12; proposing coding for new law in Minnesota Statutes, chapter 16A; repealing Minnesota Statutes 1995 Supplement, section 353.65, subdivision 7.

Senate File No. 2857 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned March 21, 1996

Mr. President:

I have the honor to announce that the House has acceded to the request of the Senate for the appointment of a Conference Committee, consisting of 3 members of the House, on the amendments adopted by the House to the following Senate File:

S.F. No. 2457: A bill for an act relating to public employees; regulating the salaries of certain higher education officers; prescribing the form and use of uniform collective bargaining settlement forms; allowing certain students to work for department of transportation for 48 months; ratifying certain labor agreements and compensation plans; appropriating money; amending Minnesota Statutes 1994, sections 3.855, subdivision 4; 43A.08, subdivision 4; 43A.17, subdivision 1; 179A.03, subdivision 4; and 179A.07, by adding a subdivision; Minnesota Statutes 1995 Supplement, sections 15A.081, subdivision 7b; 43A.18, subdivision 2; and 179A.04, subdivision 3.

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

Solberg, Murphy and Mares.

Senate File No. 2457 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned March 21, 1996

Mr. President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 66:

H.F. No. 66: A bill for an act relating to occupations and professions; establishing the board of licensed professional counseling; requiring professional counselors to be licensed; requiring certain actions against occupational therapists to be commenced within two years; providing certain exceptions from X-ray operation examination requirements; requiring rulemaking; providing penalties; appropriating money; amending Minnesota Statutes 1994, sections 148A.01, subdivision 5; 541.07; and 609.341, subdivision 17; Minnesota Statutes 1995 Supplement, sections 116J.70, subdivision 2a; 144.121, subdivision 5; 148B.60, subdivision 3; 214.01, subdivision 2; and 214.04, subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 148B.

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

Cooper, Greenfield and Onnen have been appointed as such committee on the part of the House.

House File No. 66 is herewith transmitted to the Senate with the request that the Senate appoint a like committee.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted March 21, 1996

Mr. Solon moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 66, and that a Conference Committee of 3 members be appointed by the Subcommittee on Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 2298, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 2298 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted March 21, 1996

CONFERENCE COMMITTEE REPORT ON H.F. NO. 2298

A bill for an act relating to government efficiency; extending the effective period of certain exemptions granted by the board of government innovation and cooperation; granting independent school district No. 2134, United South Central, a waiver from a law related to elections; amending Minnesota Statutes 1995 Supplement, section 465.797, subdivision 5.

March 19, 1996

The Honorable Irv Anderson
Speaker of the House of Representatives

The Honorable Allan H. Spear
President of the Senate

We, the undersigned conferees for H.F. No. 2298, report that we have agreed upon the items in dispute and recommend as follows:

That the House concur in the Senate amendments.

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

House Conferees: (Signed) Sharon Marko, Richard H. Jefferson, Ron Abrams

Senate Conferees: (Signed) Tracy L. Beckman, Jim Vickerman, John Marty

Mr. Beckman moved that the foregoing recommendations and Conference Committee Report on H.F. No. 2298 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 2298 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 62 and nays 0, as follows:

Those who voted in the affirmative were:

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

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

REPORTS OF COMMITTEES

Mr. Moe, R.D. moved that the Committee Reports at the Desk be now adopted. The motion prevailed.

Mr. Moe, R.D. from the Committee on Rules and Administration, to which was referred

H.F. No. 1648 for comparison with companion Senate File, reports the following House File was found not identical with companion Senate File as follows:

GENERAL ORDERS**CONSENT CALENDAR****CALENDAR**

H.F. No.	S.F. No.	H.F. No.	S.F. No.	H.F. No.	S.F. No.
1648	1500				

Pursuant to Rule 49, the Committee on Rules and Administration recommends that H.F. No. 1648 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 1648 and insert the language after the enacting clause of S.F. No. 1500, the first engrossment; further, delete the title of H.F. No. 1648 and insert the title of S.F. No. 1500, the first engrossment.

And when so amended H.F. No. 1648 will be identical to S.F. No. 1500, and further recommends that H.F. No. 1648 be given its second reading and substituted for S.F. No. 1500, and that the Senate File be indefinitely postponed.

Pursuant to Rule 49, this report was prepared and submitted by the Secretary of the Senate on behalf of the Committee on Rules and Administration. Amendments adopted. Report adopted.

Mr. Moe, R.D. from the Committee on Rules and Administration, to which was referred

H.F. No. 2704 for comparison with companion Senate File, reports the following House File was found not identical with companion Senate File as follows:

GENERAL ORDERS**CONSENT CALENDAR****CALENDAR**

H.F. No.	S.F. No.	H.F. No.	S.F. No.	H.F. No.	S.F. No.
2704	2169				

Pursuant to Rule 49, the Committee on Rules and Administration recommends that H.F. No. 2704 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 2704 and insert the language after the enacting clause of S.F. No. 2169, the third engrossment; further, delete the title of H.F. No. 2704 and insert the title of S.F. No. 2169, the third engrossment.

And when so amended H.F. No. 2704 will be identical to S.F. No. 2169, and further recommends that H.F. No. 2704 be given its second reading and substituted for S.F. No. 2169, and that the Senate File be indefinitely postponed.

Pursuant to Rule 49, this report was prepared and submitted by the Secretary of the Senate on behalf of the Committee on Rules and Administration. Amendments adopted. Report adopted.

SECOND READING OF HOUSE BILLS

H.F. Nos. 1648 and 2704 were read the second time.

MOTIONS AND RESOLUTIONS

Mrs. Fischbach introduced--

Senate Resolution No. 117: A Senate resolution congratulating Rice, Minnesota, on being named a Minnesota Star City.

Referred to the Committee on Rules and Administration.

Ms. Krentz introduced--

Senate Resolution No. 118: A Senate resolution congratulating Opal Petersen on her retirement as Business Manager and Coordinator of the Forest Lake Seniors Community Center.

Referred to the Committee on Rules and Administration.

Mses. Reichgott Junge and Robertson introduced--

Senate Resolution No. 119: A Senate resolution congratulating Zachary Lane School for being selected as a Minnesota School of Excellence.

Referred to the Committee on Rules and Administration.

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

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 2818, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 2818 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted March 21, 1996

CONFERENCE COMMITTEE REPORT ON H.F. NO. 2818

A bill for an act relating to human services; changing provisions relating to certain public assistance programs; providing changes to long-term care; adding provisions to health care and health plan regulations; adding provisions for dental services, senior nutrition programs, and kinship caregiver support programs; authorizing studies and reports; appropriating money; amending Minnesota Statutes 1994, sections 62D.04, subdivision 5; 62N.10, subdivision 4; 62Q.075, subdivision 2; 144.0722, by adding a subdivision; 144.551, subdivision 1; 144.71, subdivisions 1 and 2; 144.72, subdivisions 1 and 2; 144.73, subdivision 1; 144.74; 144A.04, by adding a subdivision; 145.61, subdivision 5; 148.235, by adding a subdivision; 148C.01, by adding a subdivision; 148C.09, by adding a subdivision; 157.20, by adding a subdivision; 245.462, subdivision 4; 245.4871, subdivision 4; 245.94, subdivisions 2a and 3; 245.95, subdivision 2; 245.97, subdivision 6; 246.57, by adding a subdivision; 253B.11, subdivision 2; 256.482, by adding a subdivision; 256.73, subdivision 1, and by adding a subdivision; 256B.03, by adding a subdivision; 256B.056, subdivisions 1 and 1a; 256B.058, subdivision 2; 256B.0627, subdivisions 1, as amended, 4, as amended, 5, as amended, and by adding a subdivision; 256B.0913, subdivision 7, and by adding subdivisions; 256B.0915, subdivision 1b, and by adding subdivisions; 256B.15, by adding subdivisions; 256B.35, subdivision 1; 256B.37, subdivision 5; 256B.49, by adding a subdivision; 256B.501, by adding subdivisions; 256B.69, by adding a subdivision; 256D.16; 256I.04, subdivision 1; 256I.05, subdivision 1c, and by adding a subdivision; and 327.14, subdivision 8; Minnesota Statutes 1995 Supplement, sections 62Q.19, subdivisions 1 and 5; 62R.17; 144.122; 144.9503, subdivisions 6, 8, and 9; 144.9504, subdivisions 2, 7, and 8; 144.9505, subdivision 4; 144A.071, subdivision 3; 148C.01, subdivisions 12 and 13; 148C.02, subdivisions 1 and 2; 148C.03, subdivision 1; 148C.04, subdivisions 3, 4, and by adding a subdivision; 148C.05, subdivision 1; 148C.06; 148C.11, subdivisions 1 and 3; 157.011, subdivision 1; 157.15, subdivisions 4, 5, 6, 9, 12, 13, and 14, and by adding subdivisions; 157.16; 157.17, subdivision 2; 157.20, subdivision 1; 157.21; 252.27, subdivision 2a; 256.045, subdivision 3; 256.969, subdivisions 1, 2b, and 10; 256B.0575; 256B.0625, subdivisions 17, 19a, and 30; 256B.0628, subdivision 2; 256B.0913, subdivisions 5 and 15a; 256B.0915, subdivisions 3 and 3a; 256B.093, subdivision 3; 256B.15, subdivision 5; 256B.431, subdivision 25; 256B.432,

subdivision 2; 256B.434, subdivision 10; 256B.49, subdivisions 6 and 7; 256B.501, subdivisions 5b and 5c; 256B.69, subdivisions 3a, 4, 5b, 6, and 21; 256D.02, subdivision 12a; 256D.03, subdivision 4; and 256I.04, subdivisions 2b and 3; Laws 1995, chapter 207, articles 1, section 2, subdivision 4; and 8, section 42, subdivision 5; proposing coding for new law in Minnesota Statutes, chapters 62J; 144; 145; 157; 252; 256; 256B; and 256E; proposing coding for new law as Minnesota Statutes, chapter 252B; repealing Minnesota Statutes 1994, sections 144.691, subdivision 4; 146.14; 146.20; Minnesota Statutes 1995 Supplement, sections 157.03; 157.15, subdivision 2; 157.18; 157.19; and 256B.69, subdivision 4a; Minnesota Rules, part 9505.5230.

March 20, 1996

The Honorable Irv Anderson
Speaker of the House of Representatives

The Honorable Allan H. Spear
President of the Senate

We, the undersigned conferees for H.F. No. 2818, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendments and that H.F. No. 2818 be further amended as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1

APPROPRIATIONS

Section 1. [HEALTH AND HUMAN SERVICES APPROPRIATIONS.]

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

SUMMARY BY FUND

	1996	1997	BIENNIAL TOTAL
General	\$ (121,000,000)	\$ (56,710,000)	\$(177,710,000)
State Government			
Special Revenue	50,000	300,000	350,000
TOTAL	\$ (120,950,000)	\$ (56,410,000)	\$(177,360,000)

APPROPRIATIONS

Available for the Year
Ending June 30
1996 1997

Sec. 2. COMMISSIONER OF HUMAN SERVICES

Subdivision 1. Total Appropriation	(121,000,000)	(59,190,000)
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This reduction is taken from the appropriation in
Laws 1995, chapter 207, article 1, section 2.

The amounts that are added to or reduced from

the appropriation for each program are specified in the following subdivisions.

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

Subd. 2. Life Skills
Self-Sufficiency

(3,462,000)	90,000
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The amounts that may be spent from this appropriation for each purpose are as follows:

(a) Chemical Dependency
Consolidated Treatment

(3,462,000)	(1,346,000)
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(b) Deaf and Hard-of-Hearing
Services Grants

-0-	100,000
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(c) Community Social Services Grants

-0-	36,000
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(d) Aging Grants

-0-	1,050,000
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(e) Administration and Other Grants

-0-	250,000
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[DEAF AND HARD-OF-HEARING PROGRAMS.] Of this appropriation, \$100,000 in fiscal year 1997 is for a grant to a nonprofit agency that is currently serving deaf and hard-of-hearing adults with mental illness through residential programs and supported housing outreach activities. The grant must be used to expand the services provided by the nonprofit agency to include community support services for deaf and hard-of-hearing adults with mental illness. This appropriation shall not become part of the base for the 1998-1999 biennial budget.

[ADULT DAY CARE.] Of this appropriation,

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

[SENIOR PROGRAMS.] For fiscal year 1997, of this appropriation, \$150,000 is for volunteer programs for retired senior citizens established under Minnesota Statutes, section 256.9753, \$150,000 is for the foster grandparent program established under Minnesota Statutes, section 256.976, and \$150,000 is for the senior companion program established under Minnesota Statutes, section 256.977.

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

Subd. 3. Children's Program

-0-

2,400,000

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

(a) Subsidized Adoption Grants

-0-

1,500,000

(b) Other Families With Children
Services Administration

-0-	900,000
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[SOCIAL SERVICES INFORMATION SYSTEM.] Of this appropriation, \$850,000 in fiscal year 1997 is for the social services information system. This appropriation shall not become part of the base for the 1998-1999 biennial budget.

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

Subd. 4. Economic Self-Sufficiency

General

(13,668,000)	(14,350,000)
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The amounts that may be spent from this appropriation for each purpose are as follows:

(a) AFDC Grants

(13,196,000)	(16,000,000)
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(b) General Assistance Grants

878,000	2,593,000
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(c) Minnesota Supplemental Aid

(262,000)	(328,000)
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(d) Minnesota Family Investment Plan (MFIP) Grants

-0-	64,000
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(e) Child Care Fund Entitlement Grants

(1,258,000)	(1,321,000)
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(f) Administration and Other Grants

170,000	642,000
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[RESIDENCY	REQUIREMENT
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ADMINISTRATIVE COSTS.] (a) Of this appropriation, \$225,000 in fiscal year 1997 is to reimburse the counties for the verified administrative costs of implementing the 30-day residency requirement in the general assistance and general assistance medical care programs.

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

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

Subd. 5. Health Care

General

(103,430,000)	(47,247,000)
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The amounts that may be spent from this appropriation for each purpose are as follows:

(a) Group Residential Housing Grants

(4,562,000)	(3,874,000)
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(b) MA Long-Term Care Facilities

(24,640,000)	(3,231,000)
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(c) MA Long-Term Care Waivers and Home Care

(5,945,000)	2,422,000
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(d) MA Managed Care and Fee-for-Service

(3,386,000)	(2,732,000)
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(e) General Assistance Medical Care

(65,367,000)	(47,276,000)
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(f) Administration and Other Grants

470,000

982,000

[NEW ICF/MR.] A newly constructed or newly established intermediate care facility for persons with mental retardation that is developed and financed during fiscal year 1997 shall not be subject to the equity requirements in Minnesota Statutes, section 256B.501, subdivision 11, paragraph (d), or Minnesota Rules, part 9553.0060, subpart 3, item F, provided that the provider's interest rate does not exceed the interest rate available through state agency tax exempt financing.

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

[ICF/MR RATE EXEMPTION.] If the commissioner of human services is unable to complete the rulemaking revisions to the ICF/MR reimbursement rule by September 30, 1996, for the rate year beginning October 1, 1996, the commissioner shall exempt ICF/MR facilities from reductions to the payment rates under Minnesota Statutes, section 256B.501, subdivision 5b, paragraph (d), clause (6), if the facility: (1) has had a settle-up payment rate established in the reporting year preceding the rate year for the one-time rate adjustment; (2) is a newly established facility; (3) is an A to B conversion under the reimbursement rule; (4) has a payment rate subject to a community conversion project under Minnesota Statutes, section 252.292; (5) has a payment rate established under Minnesota Statutes, section 245A.12 or 245A.13; or (6) is a facility created by the relocation of more than 25 percent of the capacity of a related facility during the reporting year.

[COUNTY WAIVERED SERVICES RESERVE.] Notwithstanding the provisions of

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

[PREADMISSION SCREENING TRANSFER.] Effective the day following final enactment, up to \$40,000 of the appropriation for preadmission screening and alternative care for fiscal year 1996 may be transferred to the health care administration account to pay the state's share of county claims for conducting nursing home assessments for persons with mental illness or mental retardation as required by Public Law Number 100-203.

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

[DEMONSTRATION PROJECTS.] Of this appropriation, \$342,000 in fiscal year 1997 is for actuarial studies of mental health services covered by state prepaid health plans and for evaluations of county joint purchaser demonstration projects and of developmental disabilities pilot projects authorized under Laws 1995, chapter 207, article 8, section 42.

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

[ICF/MR ALTERNATIVE RATE STRUCTURE.] The commissioner, in conjunction with ICF/MR service providers,

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

[NURSING FACILITY RECEIVERSHIP COSTS.] Notwithstanding the provisions of Minnesota Statutes, section 256B.495, for a nursing facility where the closure of the facility after resident relocation and the loss of the nursing home beds will significantly decrease the regional average number of long-term care beds per thousand elderly over 65 in the year 2000 to within 11 beds of the hardship standard as referenced in the study. The 1993 Distribution of Nursing Home Beds in Minnesota, prepared by the Interagency Long-Term Care Planning committee in March 1994, the commissioner of human services shall extend the period to recover receivership costs incurred during a department of health receivership of a nursing home that began on September 15, 1995, over a period of not more than 12 months, ending June 30, 1997. The extension of time for recovery is contingent on the following considerations:

- (1) the purchaser of the facility has demonstrated to the satisfaction of the commissioners of health and human services that the facility will be operated in accordance with the reimbursement system. The purchaser must provide documentation to verify access to funds to purchase the facility, access to appropriate lines of credit to cover anticipated and unanticipated operating costs, cash flow projections which provide a realistic estimate of expenses and income, and other financial information that might be required by the commissioners to determine whether a license should be granted;
- (2) the cost of continued operation under the receivership while residents are relocated has been estimated to equal or exceed \$500,000;
- (3) the purchaser has demonstrated that the purchase of the facility and the ongoing

operation of the facility will not occur without the decision to forego the recovery of the receivership funds, that the former owner of the facility does not financially benefit by the sale of the facility, and that the entities with financial interests in the nursing home land and building have taken substantial losses; and

(4) the closure of the facility will require the relocation of a majority of residents to facilities in different counties.

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

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

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

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

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

General

(440,000)	(83,000)
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The amounts that are reduced from this appropriation for each purpose are as follows:

(a) Mental Health Grants - Children

(400,000)	277,000
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(b) Mental Health Grants - Adults

(40,000)	(360,000)
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[CRISIS SERVICES.] Crisis services for developmentally disabled persons in each regional center catchment area, including crisis beds and mobile intervention teams, shall be at Brainerd, Cambridge, Fergus Falls, St. Peter, and Willmar regional centers in accordance with the agreement reached in 1989, and codified in Minnesota Statutes, section 252.025. The program design must be negotiated and agreed to by the affected exclusive representatives. The parties also must meet and discuss ways to provide the highest quality services, while maintaining or increasing cost effectiveness.

[COMPULSIVE GAMBLING.] For the fiscal year beginning July 1, 1996, the state lottery board shall deposit \$800,000 in the general fund for use by the commissioner of human services to pay for compulsive gambling services as follows: \$500,000 is allocated for treatment of compulsive gamblers; \$150,000 is allocated for the compulsive gambling treatment pilot project for treating individual compulsive gamblers; and \$150,000 is allocated for education and prevention efforts, of which \$50,000 is for a grant to a compulsive gambling council located in St. Louis county for the extension of the information gathering and dissemination network and the establishment of training scholarships. The amount deposited by the board shall be deducted from the lottery prize fund established under Minnesota Statutes, section 349A.10, subdivision 2. The amount deposited is appropriated to the commissioner of human services for this purpose. None of the amount

appropriated for compulsive gambling services under this section may be used to pay administrative costs of the department of human services.

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

[RTC DENTAL SERVICES REPORT.] The commissioner shall report to the chairs of the house health and human services committee and the senate health care committee by November 1, 1996, on the implementation of Minnesota Statutes, section 246.57, subdivision 6.

Sec. 3. COMMISSIONER OF HEALTH

Subdivision 1. Total

Appropriation	-0-	2,480,000
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Summary by Fund

General	-0-	2,280,000
State Government		
Special Revenue	-0-	200,000

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

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

Subd. 2. Health Systems and

Special Populations	-0-	2,185,000
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Summary by Fund

General	-0-	1,985,000
State Government		
Special Revenue	-0-	200,000

[CORE PUBLIC HEALTH FUNCTIONS.] Of this appropriation, \$1,500,000 in fiscal year 1997 is for core public health functions. Of this amount, up to five percent is available to the commissioner for administrative and technical support of community health boards. Funds distributed shall not be used to displace current appropriations or to provide individual personal health care services which compete with or

duplicate services otherwise available through the prepaid medical assistance program. These funds shall be distributed on a pro rata basis according to the existing community health services subsidy formula to those community health service areas which are participating in the state's prepaid medical assistance program. This appropriation shall not become part of the base for the 1998-1999 biennial budget.

[TECHNICAL ASSISTANCE.] Of this appropriation, \$200,000 is for the purpose of providing technical assistance to counties interested in developing a joint purchaser demonstration project. The commissioner of health shall contract with consultants selected by the association of Minnesota counties in consultation with the advisory committee established under Minnesota Statutes, section 256B.78, subdivision 9, to provide this technical assistance.

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

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

[MEDICARE INITIAL SURVEYS.] (a) \$200,000 is appropriated to the commissioner from the general fund for the fiscal year ending June 30, 1997, to support initial surveys of Medicare providers. This appropriation shall be available until the federal law prohibiting the collection of fees for Medicare initial surveys is repealed.

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

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

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

Subd. 3. Health Protection

-0-

295,000

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

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

[REPORT ON INSPECTION FEES.] The commissioner may spend up to \$20,000 of the money appropriated for the fiscal year ending June 30, 1997, to develop recommendations for options to reduce inspection fees for establishments licensed under Minnesota Statutes, chapter 157, which are operating in the category of small establishment with full menu selection, and which have ten or fewer employees. The recommendations must not include the option of a general fund

appropriation as a way to reduce inspection fees. The commissioner must report the recommendations to the legislature by October 1, 1996.

Sec. 4. VETERANS NURSING
HOMES BOARD

-0-

125,000

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

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

Sec. 5. HEALTH-RELATED BOARDS

Subdivision 1. Total
Appropriation

50,000

175,000

Summary by Fund

General

-0-

75,000

State Government

Special Revenue

50,000

100,000

Subd. 2. Emergency Medical Services
Regulatory Board

General Fund

-0-

75,000

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

Subd. 3. Board of Medical
Practice

State Government Special
Fund

50,000

100,000

[MEDICAL PRACTICE BOARD.] \$50,000 in fiscal year 1996 and \$100,000 in fiscal year 1997 is appropriated from the state government special revenue fund to the board of medical practice for the health professionals services program, and is added to the appropriation in Laws 1995, chapter 207, article 1, section 5, subdivision 6.

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

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

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

Sec. 6. [CARRYOVER LIMITATION.]

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

Sec. 7. [SUNSET OF UNCODIFIED LANGUAGE.]

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

ARTICLE 2

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) The household size to be used in determining the amount of contribution under paragraph

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

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

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

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

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

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

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

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

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

(2) the insurer denied insurance,

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

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

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

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

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

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

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

Subd. 9. [DISPROPORTIONATE NUMBERS OF LOW-INCOME PATIENTS SERVED.] (a) For admissions occurring on or after October 1, 1992, through December 31, 1992, the medical assistance disproportionate population adjustment shall comply with federal law and shall be paid to a hospital, excluding regional treatment centers and facilities of the federal Indian Health Service, with a medical assistance inpatient utilization rate in excess of the arithmetic mean. The adjustment must be determined as follows:

(1) for a hospital with a medical assistance inpatient utilization rate above the arithmetic mean for all hospitals excluding regional treatment centers and facilities of the federal Indian Health Service but less than or equal to one standard deviation above the mean, the adjustment must be determined by multiplying the total of the operating and property payment rates by the difference between the hospital's actual medical assistance inpatient utilization rate and the arithmetic mean for all hospitals excluding regional treatment centers and facilities of the federal Indian Health Service; and

(2) for a hospital with a medical assistance inpatient utilization rate above one standard deviation above the mean, the adjustment must be determined by multiplying the adjustment that would be determined under clause (1) for that hospital by 1.1. If federal matching funds are not available for all adjustments under this subdivision, the commissioner shall reduce payments on a pro rata basis so that all adjustments qualify for federal match. The commissioner may establish a separate disproportionate population operating payment rate adjustment under the general assistance medical care program. For purposes of this subdivision medical assistance does not include general assistance medical care. The commissioner shall report annually on the number of hospitals likely to receive the adjustment authorized by this paragraph. The commissioner shall specifically report on the adjustments received by public hospitals and public hospital corporations located in cities of the first class.

(b) For admissions occurring on or after July 1, 1993, the medical assistance disproportionate population adjustment shall comply with federal law and shall be paid to a hospital, excluding regional treatment centers and facilities of the federal Indian Health Service, with a medical assistance inpatient utilization rate in excess of the arithmetic mean. The adjustment must be determined as follows:

(1) for a hospital with a medical assistance inpatient utilization rate above the arithmetic mean for all hospitals excluding regional treatment centers and facilities of the federal Indian Health Service but less than or equal to one standard deviation above the mean, the adjustment must be determined by multiplying the total of the operating and property payment rates by the difference between the hospital's actual medical assistance inpatient utilization rate and the arithmetic mean for all hospitals excluding regional treatment centers and facilities of the federal Indian Health Service;

(2) for a hospital with a medical assistance inpatient utilization rate above one standard deviation above the mean, the adjustment must be determined by multiplying the adjustment that would be determined under clause (1) for that hospital by 1.1. The commissioner may establish a separate disproportionate population operating payment rate adjustment under the general assistance medical care program. For purposes of this subdivision, medical assistance does not include general assistance medical care. The commissioner shall report annually on the number of hospitals likely to receive the adjustment authorized by this paragraph. The commissioner shall specifically report on the adjustments received by public hospitals and public hospital corporations located in cities of the first class; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) for a child who requires a level of care provided in an ICF/MR, the cost of care for the child in an institution shall be determined using the average payment rate established for the regional treatment centers that are certified as ICFs/MR;

(ii) for a child who requires a level of care provided in an inpatient hospital setting according to paragraph (b), cost-effectiveness shall be determined according to Minnesota Rules, part 9505.3520, items F and G; and

(iii) for a child who requires a level of care provided in a nursing facility according to paragraph (c) or (e), cost-effectiveness shall be determined according to Minnesota Rules, part 9505.3040, except that the nursing facility average rate shall be adjusted to reflect rates which would be paid for children under age 16. The commissioner may authorize an amount up to the amount medical assistance would pay for a child referred to the commissioner by the preadmission screening team under section 256B.0911.

(g) Children eligible for medical assistance services under section 256B.055, subdivision 12, as of June 30, 1995, must be screened according to the criteria in this subdivision prior to January 1, 1996. Children found to be ineligible may not be removed from the program until January 1, 1996.

Sec. 8. Minnesota Statutes 1994, section 256B.056, subdivision 1, is amended to read:

Subdivision 1. [RESIDENCY.] To be eligible for medical assistance, a person must reside have resided in Minnesota for at least 30 days, or, if absent from the state, be deemed to be a resident of Minnesota in accordance with the rules of the state agency.

A person who has resided in the state for less than 30 days is considered to be a Minnesota resident if the person:

- (1) was born in the state;
- (2) has in the past resided in the state for at least 365 consecutive days;
- (3) has come to the state to join a close relative, which, for purposes of this subdivision means a parent, grandparent, brother, sister, spouse, or child; or
- (4) has come to this state to accept a bona fide offer of employment for which the person is eligible.

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

Sec. 9. Minnesota Statutes 1994, section 256B.056, subdivision 1a, is amended to read:

Subd. 1a. [INCOME AND ASSETS GENERALLY.] Unless specifically required by state law or rule or federal law or regulation, the methodologies used in counting income and assets to determine eligibility for medical assistance for persons whose eligibility category is based on blindness, disability, or age of 65 or more years, the methodologies for the supplemental security income program shall be used, except that payments made pursuant to a court order for the support of children shall be excluded from income in an amount not to exceed the difference between the applicable income standard used in the state's medical assistance program for aged, blind, and disabled persons and the applicable income standard used in the state's medical assistance program for families with children. Exclusion of court-ordered child support payments is subject to the condition that if there has been a change in the financial circumstances of the person with the legal obligation to pay support since the support order was entered, the person with the legal obligation to pay support has petitioned for modification of the support order. For families and children, which includes all other eligibility categories, the methodologies for the aid to families with dependent children program under section 256.73 shall be used. Effective upon federal approval, in-kind contributions to, and payments made on behalf of, a recipient, by an obligor, in satisfaction of or in addition to a temporary or permanent order for child support or maintenance, shall be considered income to the recipient. For these purposes, a "methodology" does not include an asset or income standard, or accounting method, or method of determining effective dates.

Sec. 10. Minnesota Statutes 1995 Supplement, section 256B.0575, is amended to read:
256B.0575 [AVAILABILITY OF INCOME FOR INSTITUTIONALIZED PERSONS.]

When an institutionalized person is determined eligible for medical assistance, the income that exceeds the deductions in paragraphs (a) and (b) must be applied to the cost of institutional care.

(a) The following amounts must be deducted from the institutionalized person's income in the following order:

(1) the personal needs allowance under section 256B.35 or, for a veteran who does not have a spouse or child, or a surviving spouse of a veteran having no child, the amount of an improved pension received from the veteran's administration not exceeding \$90 per month;

(2) the personal allowance for disabled individuals under section 256B.36;

(3) if the institutionalized person has a legally appointed guardian or conservator, five percent of the recipient's gross monthly income up to \$100 as reimbursement for guardianship or conservatorship services;

(4) a monthly income allowance determined under section 256B.058, subdivision 2, but only to the extent income of the institutionalized spouse is made available to the community spouse;

(5) a monthly allowance for children under age 18 which, together with the net income of the children, would provide income equal to the medical assistance standard for families and children according to section 256B.056, subdivision 4, for a family size that includes only the minor children. This deduction applies only if the children do not live with the community spouse and only to the extent that the deduction is not included in the personal needs allowance under section 256B.35, subdivision 1, as child support garnished under a court order;

(6) a monthly family allowance for other family members, equal to one-third of the difference between 122 percent of the federal poverty guidelines and the monthly income for that family member;

(7) reparations payments made by the Federal Republic of Germany and reparations payments made by the Netherlands for victims of Nazi persecution between 1940 and 1945; and

(8) amounts for reasonable expenses incurred for necessary medical or remedial care for the institutionalized spouse that are not medical assistance covered expenses and that are not subject to payment by a third party.

For purposes of clause (6), "other family member" means a person who resides with the community spouse and who is a minor or dependent child, dependent parent, or dependent sibling of either spouse. "Dependent" means a person who could be claimed as a dependent for federal income tax purposes under the Internal Revenue Code.

(b) Income shall be allocated to an institutionalized person for a period of up to three calendar months, in an amount equal to the medical assistance standard for a family size of one if:

(1) a physician certifies that the person is expected to reside in the long-term care facility for three calendar months or less;

(2) if the person has expenses of maintaining a residence in the community; and

(3) if one of the following circumstances apply:

(i) the person was not living together with a spouse or a family member as defined in paragraph (a) when the person entered a long-term care facility; or

(ii) the person and the person's spouse become institutionalized on the same date, in which case the allocation shall be applied to the income of one of the spouses.

For purposes of this paragraph, a person is determined to be residing in a licensed nursing home,

regional treatment center, or medical institution if the person is expected to remain for a period of one full calendar month or more.

Sec. 11. Minnesota Statutes 1995 Supplement, section 256B.0595, subdivision 1, is amended to read:

Subdivision 1. [PROHIBITED TRANSFERS.] (a) For transfers of assets made on or before August 10, 1993, if a person or the person's spouse has given away, sold, or disposed of, for less than fair market value, any asset or interest therein, except assets other than the homestead that are excluded under the supplemental security program, within 30 months before or any time after the date of institutionalization if the person has been determined eligible for medical assistance, or within 30 months before or any time after the date of the first approved application for medical assistance if the person has not yet been determined eligible for medical assistance, the person is ineligible for long-term care services for the period of time determined under subdivision 2.

(b) Effective for transfers made after August 10, 1993, a person, a person's spouse, or any person, court, or administrative body with legal authority to act in place of, on behalf of, at the direction of, or upon the request of the person or person's spouse, may not give away, sell, or dispose of, for less than fair market value, any asset or interest therein, except assets other than the homestead that are excluded under the supplemental security income program, for the purpose of establishing or maintaining medical assistance eligibility. For purposes of determining eligibility for long-term care services, any transfer of such assets within 36 months before or any time after an institutionalized person applies for medical assistance, or 36 months before or any time after a medical assistance recipient becomes institutionalized, for less than fair market value may be considered. Any such transfer is presumed to have been made for the purpose of establishing or maintaining medical assistance eligibility and the person is ineligible for long-term care services for the period of time determined under subdivision 2, unless the person furnishes convincing evidence to establish that the transaction was exclusively for another purpose, or unless the transfer is permitted under subdivision 3 or 4. Notwithstanding the provisions of this paragraph, in the case of payments from a trust or portions of a trust that are considered transfers of assets under federal law, any transfers made within 60 months before or any time after an institutionalized person applies for medical assistance and within 60 months before or any time after a medical assistance recipient becomes institutionalized, may be considered.

(c) This section applies to transfers, for less than fair market value, of income or assets, including assets that are considered income in the month received, such as inheritances, court settlements, and retroactive benefit payments or income to which the person or the person's spouse is entitled but does not receive due to action by the person, the person's spouse, or any person, court, or administrative body with legal authority to act in place of, on behalf of, at the direction of, or upon the request of the person or the person's spouse.

(d) This section applies to payments for care or personal services provided by a relative, unless the compensation was stipulated in a notarized, written agreement which was in existence when the service was performed, the care or services directly benefited the person, and the payments made represented reasonable compensation for the care or services provided. A notarized written agreement is not required if payment for the services was made within 60 days after the service was provided.

(e) This section applies to the portion of any asset or interest that a person, a person's spouse, or any person, court, or administrative body with legal authority to act in place of, on behalf of, at the direction of, or upon the request of the person or the person's spouse, transfers to any trust, annuity, or other instrument, that exceeds the value of the benefit likely to be returned to the person or spouse while alive, based on estimated life expectancy using the life expectancy tables employed by the supplemental security income program to determine the value of an agreement for services for life. The commissioner may adopt rules reducing life expectancies based on the need for long-term care.

(f) For purposes of this section, long-term care services include services in a nursing facility, services that are eligible for payment according to section 256B.0625, subdivision 2, because they are provided in a swing bed, intermediate care facility for persons with mental retardation, and

home and community-based services provided pursuant to sections 256B.0915, 256B.092, and 256B.49. For purposes of this subdivision and subdivisions 2, 3, and 4, "institutionalized person" includes a person who is an inpatient in a nursing facility or in a swing bed, or intermediate care facility for persons with mental retardation or who is receiving home and community-based services under sections 256B.0915, 256B.092, and 256B.49.

(g) Effective for transfers made on or after July 1, 1995, or upon federal approval, whichever is later, a person, a person's spouse, or any person, court, or administrative body with legal authority to act in place of, on behalf of, at the direction of, or upon the request of the person or person's spouse, may not give away, sell, or dispose of, for less than fair market value, any asset or interest therein, for the purpose of establishing or maintaining medical assistance eligibility. For purposes of determining eligibility for long-term care services, any transfer of such assets within 60 months before, or any time after, an institutionalized person applies for medical assistance, or 60 months before, or any time after, a medical assistance recipient becomes institutionalized, for less than fair market value may be considered. Any such transfer is presumed to have been made for the purpose of establishing or maintaining medical assistance eligibility and the person is ineligible for long-term care services for the period of time determined under subdivision 2, unless the person furnishes convincing evidence to establish that the transaction was exclusively for another purpose, or unless the transfer is permitted under subdivision 3 or 4.

Sec. 12. Minnesota Statutes 1994, section 256B.0595, is amended by adding a subdivision to read:

Subd. 1a. [PROHIBITED TRANSFERS.] (a) Notwithstanding any contrary provisions of this section, this subdivision applies to transfers involving recipients of medical assistance that are made on or after its effective date and to all transfers involving persons who apply for medical assistance on or after its effective date if the transfer occurred within 72 months before the person applies for medical assistance, except that this subdivision does not apply to transfers made prior to March 1, 1996. A person, a person's spouse, or any person, court, or administrative body with legal authority to act in place of, on behalf of, at the direction of, or upon the request of the person or the person's spouse, may not give away, sell, dispose of, or reduce ownership or control of any income, asset, or interest therein for less than fair market value for the purpose of establishing or maintaining medical assistance eligibility for the person. For purposes of determining eligibility for medical assistance services, any transfer of such income or assets for less than fair market value within 72 months before or any time after a person applies for medical assistance may be considered. Any such transfer is presumed to have been made for the purpose of establishing or maintaining medical assistance eligibility, and the person is ineligible for medical assistance services for the period of time determined under subdivision 2a, unless the person furnishes convincing evidence to establish that the transaction was exclusively for another purpose, or unless the transfer is permitted under subdivision 3a or 4a.

(b) This section applies to transfers of income or assets for less than fair market value, including assets that are considered income in the month received, such as inheritances, court settlements, and retroactive benefit payments or income to which the person or the person's spouse is entitled but does not receive due to action by the person, the person's spouse, or any person, court, or administrative body with legal authority to act in place of, on behalf of, at the direction of, or upon the request of the person or the person's spouse.

(c) This section applies to payments for care or personal services provided by a relative, unless the compensation was stipulated in a notarized, written agreement which was in existence when the service was performed, the care or services directly benefited the person, and the payments made represented reasonable compensation for the care or services provided. A notarized written agreement is not required if payment for the services was made within 60 days after the service was provided.

(d) This section applies to the portion of any income, asset, or interest therein that a person, a person's spouse, or any person, court, or administrative body with legal authority to act in place of, on behalf of, at the direction of, or upon the request of the person or the person's spouse, transfers to any annuity that exceeds the value of the benefit likely to be returned to the person or spouse while alive, based on estimated life expectancy of adults entering long-term care. The commissioner shall adopt rules establishing life expectancies of adults entering long-term care.

Sec. 13. Minnesota Statutes 1995 Supplement, section 256B.0595, subdivision 2, is amended to read:

Subd. 2. [PERIOD OF INELIGIBILITY.] (a) For any uncompensated transfer occurring on or before August 10, 1993, the number of months of ineligibility for long-term care services shall be the lesser of 30 months, or the uncompensated transfer amount divided by the average medical assistance rate for nursing facility services in the state in effect on the date of application. The amount used to calculate the average medical assistance payment rate shall be adjusted each July 1 to reflect payment rates for the previous calendar year. The period of ineligibility begins with the month in which the assets were transferred. If the transfer was not reported to the local agency at the time of application, and the applicant received long-term care services during what would have been the period of ineligibility if the transfer had been reported, a cause of action exists against the transferee for the cost of long-term care services provided during the period of ineligibility, or for the uncompensated amount of the transfer, whichever is less. The action may be brought by the state or the local agency responsible for providing medical assistance under chapter 256G. The uncompensated transfer amount is the fair market value of the asset at the time it was given away, sold, or disposed of, less the amount of compensation received.

(b) For uncompensated transfers made after August 10, 1993, the number of months of ineligibility for long-term care services shall be the total uncompensated value of the resources transferred divided by the average medical assistance rate for nursing facility services in the state in effect on the date of application. The amount used to calculate the average medical assistance payment rate shall be adjusted each July 1 to reflect payment rates for the previous calendar year. The period of ineligibility begins with the month in which the assets were transferred except that if one or more uncompensated transfers are made during a period of ineligibility, the total assets transferred during the ineligibility period shall be combined and a penalty period calculated to begin in the month the first uncompensated transfer was made. If the transfer was not reported to the local agency at the time of application, and the applicant received medical assistance services during what would have been the period of ineligibility if the transfer had been reported, a cause of action exists against the transferee for the cost of medical assistance services provided during the period of ineligibility, or for the uncompensated amount of the transfer, whichever is less. The action may be brought by the state or the local agency responsible for providing medical assistance under chapter 256G. The uncompensated transfer amount is the fair market value of the asset at the time it was given away, sold, or disposed of, less the amount of compensation received.

(c) If a calculation of a penalty period results in a partial month, payments for long-term care services shall be reduced in an amount equal to the fraction, except that in calculating the value of uncompensated transfers, if the total value of all uncompensated transfers made in a month not included in an existing penalty period does not exceed \$1,000 \$500, then such transfers shall be disregarded for each month prior to the month of application for or during receipt of medical assistance.

Sec. 14. Minnesota Statutes 1994, section 256B.0595, is amended by adding a subdivision to read:

Subd. 2a. [PERIOD OF INELIGIBILITY.] (a) Notwithstanding any contrary provisions of this section, this subdivision applies to transfers involving recipients of medical assistance that are made on or after its effective date and to all transfers involving persons who apply for medical assistance on or after its effective date, regardless of when the transfer occurred, except that this subdivision does not apply to transfers made prior to March 1, 1996. For any uncompensated transfer occurring within 72 months prior to the date of application, at any time after application, or while eligible, the number of months of cumulative ineligibility for medical assistance services shall be the total uncompensated value of the assets and income transferred divided by the statewide average per person nursing facility payment made by the state in effect on the date of application. The amount used to calculate the average per person payment shall be adjusted each July 1 to reflect average payments for the previous calendar year. For applicants, the period of ineligibility begins with the month in which the person applied for medical assistance and satisfied all other requirements for eligibility, or the month the local agency becomes aware of the transfer, if later. For recipients, the period of ineligibility begins in the month the agency becomes aware of

the transfer, except that penalty periods for transfers made during a period of ineligibility as determined under this section shall begin in the month following the existing period of ineligibility. If the transfer was not reported to the local agency at the time of application, and the applicant received medical assistance services during what would have been the period of ineligibility if the transfer had been reported, a cause of action exists against the transferee for the cost of medical assistance services provided during the period of ineligibility, or for the uncompensated amount of the transfer that was not recovered from the transferor through the implementation of a penalty period under this subdivision, whichever is less. The action may be brought by the state or the local agency responsible for providing medical assistance under chapter 256G. The total uncompensated value is the fair market value of the income or asset at the time it was given away, sold, or disposed of, less the amount of compensation received. No cause of action exists for a transfer, unless: (1) the transferee knew or should have known that the transfer was being made by a person who was a resident of a long-term care facility or was receiving that level of care in the community at the time of the transfer; (2) the transferee knew or should have known that the transfer was being made to assist the person to qualify for or retain medical assistance eligibility; or (3) the transferee actively solicited the transfer with intent to assist the person to qualify for or retain eligibility for medical assistance.

(b) If a calculation of a penalty period results in a partial month, payments for medical assistance services shall be reduced in an amount equal to the fraction, except that in calculating the value of uncompensated transfers, if the total value of all uncompensated transfers made in a month not included in an existing penalty period does not exceed \$500, then such transfers shall be disregarded for each month prior to the month of application for or during receipt of medical assistance.

Sec. 15. Minnesota Statutes 1995 Supplement, section 256B.0595, subdivision 3, is amended to read:

Subd. 3. [HOMESTEAD EXCEPTION TO TRANSFER PROHIBITION.] (a) An institutionalized person is not ineligible for long-term care services due to a transfer of assets for less than fair market value if the asset transferred was a homestead and:

(1) title to the homestead was transferred to the individual's

(i) spouse;

(ii) child who is under age 21;

(iii) blind or permanently and totally disabled child as defined in the supplemental security income program;

(iv) sibling who has equity interest in the home and who was residing in the home for a period of at least one year immediately before the date of the individual's admission to the facility; or

(v) son or daughter who was residing in the individual's home for a period of at least two years immediately before the date of the individual's admission to the facility, and who provided care to the individual that, as certified by the individual's attending physician, permitted the individual to reside at home rather than in an institution or facility;

(2) a satisfactory showing is made that the individual intended to dispose of the homestead at fair market value or for other valuable consideration; or

(3) the local agency grants a waiver of the excess resources created by the uncompensated transfer a penalty resulting from a transfer for less than fair market value because denial of eligibility would cause undue hardship for the individual, based on imminent threat to the individual's health and well-being. Whenever an applicant or recipient is denied eligibility because of a transfer for less than fair market value, the local agency shall notify the applicant or recipient that they may request a waiver of the penalty if the denial of eligibility will cause undue hardship. In evaluating a waiver, the local agency shall take into account whether the individual was the victim of financial exploitation, whether the individual has made reasonable efforts to recover the transferred property or resource, and other factors relevant to a determination of

hardship. If the local agency does not approve a hardship waiver, the local agency shall issue a written notice to the individual stating the reasons for the denial and the process for appealing the local agency's decision.

(b) When a waiver is granted under paragraph (a), clause (3), a cause of action exists against the person to whom the homestead was transferred for that portion of long-term care services granted within:

(1) 30 months of a transfer made on or before August 10, 1993;

(2) 60 months if the homestead was transferred after August 10, 1993, to a trust or portion of a trust that is considered a transfer of assets under federal law; or

(3) 36 months if transferred in any other manner after August 10, 1993,

or the amount of the uncompensated transfer, whichever is less, together with the costs incurred due to the action. The action ~~may~~ shall be brought by the state ~~or unless the state delegates this responsibility to~~ the local agency responsible for providing medical assistance under chapter 256G.

Sec. 16. Minnesota Statutes 1994, section 256B.0595, is amended by adding a subdivision to read:

Subd. 3a. [HOMESTEAD EXCEPTION TO TRANSFER PROHIBITION.] (a) This subdivision applies to transfers involving recipients of medical assistance that are made on or after its effective date and to all transfers involving persons who apply for medical assistance on or after its effective date, regardless of when the transfer occurred, except that this subdivision does not apply to transfers made prior to March 1, 1996. A person is not ineligible for medical assistance services due to a transfer of assets for less than fair market value as described in subdivision 1a if the asset transferred was a homestead and:

(1) title to the homestead was transferred to the individual's relatives who are residing in the homestead and are the individual's

(i) spouse;

(ii) child who is under age 21;

(iii) blind or permanently and totally disabled child as defined in the supplemental security income program;

(iv) sibling who has equity interest in the home and who was residing in the home for a period of at least one year immediately before the date of the individual's admission to the facility; or

(v) son or daughter who was residing in the individual's home for a period of at least two years immediately before the date of the individual's admission to the facility, and who provided care to the individual that, as certified by the individual's attending physician, permitted the individual to reside at home rather than in an institution or facility;

(2) a satisfactory showing is made that the individual intended to dispose of the homestead at fair market value or for other valuable consideration; or

(3) the local agency grants a waiver of a penalty resulting from a transfer for less than fair market value because denial of eligibility would cause undue hardship for the individual and there exists an imminent threat to the individual's health and well-being. Whenever an applicant or recipient is denied eligibility because of a transfer for less than fair market value, the local agency shall notify the applicant or recipient that they may request a waiver of the penalty if the denial of eligibility will cause undue hardship. In evaluating a waiver, the local agency shall take into account whether the individual was the victim of financial exploitation, whether the individual has made reasonable efforts to recover the transferred property or resource, and other factors relevant to a determination of hardship. If the local agency does not approve a hardship waiver, the local agency shall issue a written notice to the individual stating the reasons for the denial and the process for appealing the local agency's decision.

(b) When a waiver is granted under paragraph (a), clause (3), a cause of action exists against the person to whom the homestead was transferred for that portion of medical assistance services granted within 72 months of the date the transferor applied for medical assistance and satisfied all other requirements for eligibility, or the amount of the uncompensated transfer, whichever is less, together with the costs incurred due to the action. The action shall be brought by the state unless the state delegates this responsibility to the local agency responsible for providing medical assistance under chapter 256G.

Sec. 17. Minnesota Statutes 1995 Supplement, section 256B.0595, subdivision 4, is amended to read:

Subd. 4. [OTHER EXCEPTIONS TO TRANSFER PROHIBITION.] An institutionalized person who has made, or whose spouse has made a transfer prohibited by subdivision 1, is not ineligible for long-term care services if one of the following conditions applies:

(1) the assets were transferred to the individual's spouse or to another for the sole benefit of the spouse; or

(2) the institutionalized spouse, prior to being institutionalized, transferred assets to a spouse, provided that the spouse to whom the assets were transferred does not then transfer those assets to another person for less than fair market value. (At the time when one spouse is institutionalized, assets must be allocated between the spouses as provided under section 256B.059); or

(3) the assets were transferred to the individual's child who is blind or permanently and totally disabled as determined in the supplemental security income program; or

(4) a satisfactory showing is made that the individual intended to dispose of the assets either at fair market value or for other valuable consideration; or

(5) the local agency determines that denial of eligibility for long-term care services would work an undue hardship and grants a waiver of excess assets a penalty resulting from a transfer for less than fair market value based on an imminent threat to the individual's health and well-being. Whenever an applicant or recipient is denied eligibility because of a transfer for less than fair market value, the local agency shall notify the applicant or recipient that they may request a waiver of the penalty if the denial of eligibility will cause undue hardship. In evaluating a waiver, the local agency shall take into account whether the individual was the victim of financial exploitation, whether the individual has made reasonable efforts to recover the transferred property or resource, and other factors relevant to a determination of hardship. If the local agency does not approve a hardship waiver, the local agency shall issue a written notice to the individual stating the reasons for the denial and the process for appealing the local agency's decision. When a waiver is granted, a cause of action exists against the person to whom the assets were transferred for that portion of long-term care services granted within:

(i) 30 months of a transfer made on or before August 10, 1993;

(ii) 60 months of a transfer if the assets were transferred after August 30, 1993, to a trust or portion of a trust that is considered a transfer of assets under federal law; or

(iii) 36 months of a transfer if transferred in any other manner after August 10, 1993, or the amount of the uncompensated transfer, whichever is less, together with the costs incurred due to the action. The action may shall be brought by the state or unless the state delegates this responsibility to the local agency responsible for providing medical assistance under this chapter; or

(6) for transfers occurring after August 10, 1993, the assets were transferred by the person or person's spouse: (i) into a trust established solely for the benefit of a son or daughter of any age who is blind or disabled as defined by the Supplemental Security Income program; or (ii) into a trust established solely for the benefit of an individual who is under 65 years of age who is disabled as defined by the Supplemental Security Income program.

Sec. 18. Minnesota Statutes 1994, section 256B.0595, is amended by adding a subdivision to read:

Subd. 4a. [OTHER EXCEPTIONS TO TRANSFER PROHIBITION.] This subdivision applies to transfers involving recipients of medical assistance that are made on or after its effective date and to all transfers involving persons who apply for medical assistance on or after its effective date, regardless of when the transfer occurred, except that this subdivision does not apply to transfers made prior to March 1, 1996. A person or a person's spouse who has made a transfer prohibited by subdivision 1a is not ineligible for medical assistance services if one of the following conditions applies:

(1) the assets or income were transferred to the individual's spouse or to another for the sole benefit of the spouse, except that after eligibility is established, transfers to a spouse are permitted only to comply with the provisions of section 256B.059; or

(2) the institutionalized spouse, prior to being institutionalized, transferred assets or income to a spouse, provided that the spouse to whom the assets or income were transferred does not then transfer those assets or income to another person for less than fair market value. (At the time when one spouse is institutionalized, assets must be allocated between the spouses as provided under section 256B.059); or

(3) the assets or income were transferred to a trust for the sole benefit of the individual's child who is blind or permanently and totally disabled as determined in the supplemental security income program and the trust reverts to the state upon the disabled child's death to the extent medical assistance has paid for services for the child. This paragraph applies to a trust established after the commissioner publishes a notice in the State Register that the commissioner has been authorized to implement this paragraph due to a change in federal law or the approval of a federal waiver; or

(4) a satisfactory showing is made that the individual intended to dispose of the assets or income either at fair market value or for other valuable consideration; or

(5) the local agency determines that denial of eligibility for medical assistance services would work an undue hardship and grants a waiver of a penalty resulting from a transfer for less than fair market value because there exists an imminent threat to the individual's health and well-being. Whenever an applicant or recipient is denied eligibility because of a transfer for less than fair market value, the local agency shall notify the applicant or recipient that they may request a waiver of the penalty if the denial of eligibility will cause undue hardship. In evaluating a waiver, the local agency shall take into account whether the individual was the victim of financial exploitation, whether the individual has made reasonable efforts to recover the transferred property or resource, and other factors relevant to a determination of hardship. If the local agency does not approve a hardship waiver, the local agency shall issue a written notice to the individual stating the reasons for the denial and the process for appealing the local agency's decision. When a waiver is granted, a cause of action exists against the person to whom the assets were transferred for that portion of medical assistance services granted within 72 months of the date the transferor applied for medical assistance and satisfied all other requirements for eligibility,

or the amount of the uncompensated transfer, whichever is less, together with the costs incurred due to the action. The action shall be brought by the state unless the state delegates this responsibility to the local agency responsible for providing medical assistance under this chapter.

Sec. 19. Minnesota Statutes 1994, section 256B.0595, is amended by adding a subdivision to read:

Subd. 8. [NOTICE OF RIGHTS.] If a period of ineligibility is imposed under subdivision 2 or 2a, the local agency shall inform the applicant or recipient subject to the penalty of the person's rights under section 325F.71, subdivision 2.

Sec. 20. Minnesota Statutes 1995 Supplement, section 256B.0625, subdivision 19a, is amended to read:

Subd. 19a. [PERSONAL CARE SERVICES.] Medical assistance covers personal care services in a recipient's home. To qualify for personal care services, recipients or responsible parties must be able to identify their the recipient's needs, direct and evaluate task accomplishment, and assure

their provide for health and safety. Approved hours may be used outside the home when normal life activities take them outside the home and when, without the provision of personal care, their health and safety would be jeopardized. Total hours for services, whether actually performed inside or outside the recipient's home, cannot exceed that which is otherwise allowed for personal care services in an in-home setting according to section 256B.0627. Medical assistance does not cover personal care services for residents of a hospital, nursing facility, intermediate care facility, health care facility licensed by the commissioner of health, or unless a resident who is otherwise eligible is on leave from the facility and the facility either pays for the personal care services or forgoes the facility per diem for the leave days that personal care services are used. All personal care services must be provided according to section 256B.0627. Personal care services may not be reimbursed if the personal care assistant is the spouse or legal guardian of the recipient or the parent of a recipient under age 18, or the responsible party or the foster care provider of a recipient who cannot direct the recipient's own care unless, in the case of a foster care provider, a county or state case manager visits the recipient as needed, but not less than every six months, to monitor the health and safety of the recipient and to ensure the goals of the care plan are met. Parents of adult recipients, adult children of the recipient or adult siblings of the recipient may be reimbursed for personal care services if they are not the recipient's legal guardian and are granted a waiver under section 256B.0627.

Sec. 21. Minnesota Statutes 1995 Supplement, section 256B.0628, subdivision 2, is amended to read:

Subd. 2. [DUTIES.] (a) The commissioner may contract with or employ qualified registered nurses and necessary support staff, or contract with qualified agencies, to provide home care prior authorization and review services for medical assistance recipients who are receiving home care services.

(b) Reimbursement for the prior authorization function shall be made through the medical assistance administrative authority. The state shall pay the nonfederal share. The functions will be to:

(1) assess the recipient's individual need for services required to be cared for safely in the community;

(2) ensure that a service plan that meets the recipient's needs is developed by the appropriate agency or individual;

(3) ensure cost-effectiveness of medical assistance home care services;

(4) recommend the approval or denial of the use of medical assistance funds to pay for home care services;

(5) reassess the recipient's need for and level of home care services at a frequency determined by the commissioner; and

(6) conduct on-site assessments when determined necessary by the commissioner and recommend changes to care plans that will provide more efficient and appropriate home care.

(c) In addition, the commissioner or the commissioner's designee may:

(1) review service plans and reimbursement data for utilization of services that exceed community-based standards for home care, inappropriate home care services, medical necessity, home care services that do not meet quality of care standards, or unauthorized services and make appropriate referrals within the department or to other appropriate entities based on the findings;

(2) assist the recipient in obtaining services necessary to allow the recipient to remain safely in or return to the community;

(3) coordinate home care services with other medical assistance services under section 256B.0625;

(4) assist the recipient with problems related to the provision of home care services; and

(5) assure the quality of home care services; and

(6) assure that all liable third-party payers including Medicare have been used prior to medical assistance for home care services, including but not limited to, home health agency, elected hospice benefit, waived services, alternative care program services, and personal care services.

(d) For the purposes of this section, "home care services" means medical assistance services defined under section 256B.0625, subdivisions 6a, 7, and 19a.

Sec. 22. [256B.07] [MEDICARE MAXIMIZATION PROGRAM.]

Subdivision 1. [DEFINITION.] (a) "Dual entitlees" means recipients eligible for either the medical assistance program or the alternative care program who are also eligible for the federal Medicare program.

(b) For purposes of this section "home care services" means home health agency services, private duty nursing services, personal care assistant services, waived services, alternative care program services, hospice services, rehabilitation therapy services, and medical supplies and equipment.

Subd. 2. [TECHNICAL ASSISTANCE TO PROVIDERS.] (a) The commissioner shall establish a technical assistance program to require providers of services and equipment under this section to maximize collections from the federal Medicare program. The technical assistance may include the provision of materials to help providers determine those services and equipment likely to be reimbursed by Medicare. The technical assistance may also include the provision of computer software to providers to assist in this process. The commissioner may expand the technical assistance program to include providers of other services under this chapter.

(b) Any provider of home care services enrolled in the medical assistance program, or county public health nursing agency responsible for personal care assessments, or county case managers for alternative care or medical assistance waiver programs, is required to use the method developed and supplied by the department of human services for determining Medicare coverage for home care equipment and services provided to dual entitlees to ensure appropriate billing of Medicare. The method will be developed in two phases; the first phase is a manual system effective July 1, 1996, and the second phase will automate the manual procedure by expanding the current Medicaid Management Information System (MMIS) effective January 1, 1997. Both methods will determine Medicare coverage for the dates of service, Medicare coverage for home care services, and create an audit trail including reports. Both methods will be linked to prior authorization, therefore, either method must be used before home care services are authorized and when there is a change of condition affecting medical assistance authorization. The department will conduct periodic reviews of participant performance with the method and upon demonstrating appropriate referral and billing of Medicare, participants may be determined exempt from regular performance audits.

Subd. 3. [REFERRALS TO MEDICARE CERTIFIED PROVIDERS REQUIRED.] Non-Medicare certified and nonparticipating Medicare certified home care service providers must refer dual eligible recipients to Medicare certified providers when Medicare is determined to be the appropriate payer for supplies and equipment or services. Non-Medicare certified and nonparticipating Medicare certified home care service providers will be terminated from participation in the medical assistance program for failure to make such referrals.

Subd. 4. [MEDICARE CERTIFICATION REQUIREMENT.] Medicare certification is required of all medical assistance enrolled home care service providers as defined in subdivision 1 within one year of the date the Minnesota department of health gives notice to the department that initial Medicare surveys will resume.

Subd. 5. [ADVISORY COMMITTEE.] The commissioner shall establish an advisory committee comprised of home care services recipients, providers, county public health nurses, home care and county nursing associations, and department of human services staff to make recommendations to the Medicare maximization program. The recommendations shall include: nursing practice issues as they relate to home care services funded by Medicare and medical

assistance; and streamlining assessment, prior authorization, and up-front payer determination processes to achieve administrative efficiencies.

Sec. 23. Minnesota Statutes 1995 Supplement, section 256B.0913, subdivision 15a, is amended to read:

Subd. 15a. [REIMBURSEMENT RATE; ANOKA COUNTY.] Notwithstanding subdivision 14, paragraph (e), or any other law to the contrary, for services rendered on or after effective January 1, 1996, Anoka county may pay vendors, and the commissioner shall reimburse the county, for actual costs up to a limit which is the maximum rate in effect on December 31, 1995, plus half the difference between that rate and the maximum allowed state county's maximum allowed rate for home health aide services per 15-minute unit is \$4.39, and its maximum allowed rate for homemaker services per 15-minute unit is \$2.90. Any adjustments in fiscal year 1997 to the maximum allowed rates for home health aide or homemaker services for Anoka county shall be calculated from the maximum rate in effect on January 1, 1996.

Sec. 24. Minnesota Statutes 1994, section 256B.0913, is amended by adding a subdivision to read:

Subd. 15b. [REIMBURSEMENT RATE; AITKIN COUNTY.] Notwithstanding subdivision 14, paragraph (e), effective April 1, 1996, Aitkin county's maximum allowed rate for in-home respite care services is \$6.62 per 30-minute unit. Any adjustments in fiscal year 1997 to the maximum allowed rate for in-home respite care services for Aitkin county shall be calculated from the maximum rate in effect on April 1, 1996.

Sec. 25. Minnesota Statutes 1994, section 256B.0913, is amended by adding a subdivision to read:

Subd. 15c. [REIMBURSEMENT RATE; POLK AND PENNINGTON COUNTIES.] Notwithstanding subdivision 14, paragraph (e), effective July 1, 1996, Polk and Pennington counties' maximum allowed rate for homemaker services is \$6.18 per 30-minute unit. Any adjustments in fiscal year 1997 to the maximum allowed rate for homemaker services for Polk and Pennington counties shall be calculated from the maximum rate in effect on July 1, 1996.

Sec. 26. Minnesota Statutes 1995 Supplement, section 256B.0915, subdivision 3a, is amended to read:

Subd. 3a. [REIMBURSEMENT RATE; ANOKA COUNTY.] Notwithstanding subdivision 3, paragraph (h), or any other law to the contrary, for services rendered on or after effective January 1, 1996, Anoka county may pay vendors, and the commissioner shall reimburse the county, for actual costs up to a limit which is the maximum rate in effect on December 31, 1995, plus half the difference between that rate and the maximum allowed state county's maximum allowed rate for home health aide services per 15-minute unit is \$4.43, and its maximum allowed rate for homemaker services per 15-minute unit is \$2.93. Any adjustments in fiscal year 1997 to the maximum allowed rates for home health aide or homemaker services for Anoka county shall be calculated from the maximum rate in effect on January 1, 1996.

Sec. 27. Minnesota Statutes 1994, section 256B.0915, is amended by adding a subdivision to read:

Subd. 3b. [REIMBURSEMENT RATE; AITKIN COUNTY.] Notwithstanding subdivision 3, paragraph (h), effective April 1, 1996, Aitkin county's maximum allowed rate for in-home respite care services is \$6.67 per 30-minute unit. Any adjustments in fiscal year 1997 to the maximum allowed rate for in-home respite care services for Aitkin county shall be calculated from the maximum rate in effect on April 1, 1996.

Sec. 28. Minnesota Statutes 1994, section 256B.0915, is amended by adding a subdivision to read:

Subd. 3c. [REIMBURSEMENT RATE; POLK AND PENNINGTON COUNTIES.] Notwithstanding subdivision 3, paragraph (h), effective July 1, 1996, Polk and Pennington

counties' maximum allowed rate for homemaker services is \$6.25 per 30-minute unit. Any adjustments in fiscal year 1997 to the maximum allowed rate for homemaker services for Polk and Pennington counties shall be calculated from the maximum rate in effect on July 1, 1996.

Sec. 29. Minnesota Statutes 1994, section 256B.15, is amended by adding a subdivision to read:

Subd. 1b. [CLAIMS ON THE ESTATE OF A PREDECEASED SPOUSE.] Upon the death of a spouse who did not receive medical assistance and who predeceases a spouse who did or does receive medical assistance, a claim for the total amount paid for medical assistance rendered for the surviving spouse through the date the deceased spouse died shall be filed against the deceased spouse's estate in the court having jurisdiction to probate the estate. The claim shall be filed if medical assistance was rendered for the surviving spouse under any one of the circumstances in subdivision 1a, paragraphs (a), (b), or (c). Claims under this subdivision shall have the same priority for purposes of section 524.3-805, and the same exceptions with respect to statutes of limitations as claims under subdivision 1a.

Sec. 30. Minnesota Statutes 1994, section 256B.15, is amended by adding a subdivision to read:

Subd. 2a. [LIMITATIONS ON CLAIMS ON THE ESTATE OF A PREDECEASED SPOUSE.] A claim under subdivision 1b shall include only the total amount of medical assistance rendered after age 55 or during a period of institutionalization described in subdivision 1a, clause (b), and the total amount of general assistance medical care rendered, and shall not include interest. Claims that have been allowed but not paid shall bear interest according to section 524.3-806, paragraph (d). A claim against the estate of a spouse who did not receive medical assistance who predeceases the spouse who did receive medical assistance, for medical assistance rendered for the spouse, is limited to the value of the assets of the estate that were marital property or jointly owned property at any time during the marriage.

Sec. 31. Minnesota Statutes 1994, section 256B.35, subdivision 1, is amended to read:

Subdivision 1. [PERSONAL NEEDS ALLOWANCE.] (a) Notwithstanding any law to the contrary, welfare allowances for clothing and personal needs for individuals receiving medical assistance while residing in any skilled nursing home, intermediate care facility, or medical institution including recipients of supplemental security income, in this state shall not be less than \$45 per month from all sources. When benefit amounts for social security or supplemental security income recipients are increased pursuant to United States Code, title 42, sections 415(i) and 1382f, the commissioner shall, effective in the month in which the increase takes effect, increase by the same percentage to the nearest whole dollar the clothing and personal needs allowance for individuals receiving medical assistance while residing in any skilled nursing home, medical institution, or intermediate care facility. The commissioner shall provide timely notice to local agencies, providers, and recipients of increases under this provision.

(b) The personal needs allowance may be paid as part of the Minnesota supplemental aid program, notwithstanding the provisions of section 256D.37, subdivision 2, and payments to recipients of Minnesota supplemental aid may be made once each three months covering liabilities that accrued during the preceding three months.

(c) The personal needs allowance shall be increased to include income garnished for child support under a court order, up to a maximum of \$250 per month but only to the extent that the amount garnished is not deducted as a monthly allowance for children under section 256B.0575, paragraph (a), clause (5).

Sec. 32. Minnesota Statutes 1994, section 256B.37, subdivision 5, is amended to read:

Subd. 5. [PRIVATE BENEFITS TO BE USED FIRST.] Private accident and health care coverage including Medicare for medical services is primary coverage and must be exhausted before medical assistance is paid for medical services including home health care, personal care assistant services, hospice, or services covered under a Health Care Financing Administration (HCFA) waiver. When a person who is otherwise eligible for medical assistance has private accident or health care coverage, including Medicare or a prepaid health plan, the private health care benefits available to the person must be used first and to the fullest extent.

Sec. 33. Minnesota Statutes 1995 Supplement, section 256B.69, subdivision 3a, is amended to read:

Subd. 3a. [COUNTY AUTHORITY.] (a) The commissioner, when implementing the general assistance medical care, or medical assistance prepayment program within a county, must include the county board in the process of development, approval, and issuance of the request for proposals to provide services to eligible individuals within the proposed county. County boards must be given reasonable opportunity to make recommendations regarding the development, issuance, review of responses, and changes needed in the request for proposals. The commissioner must provide county boards the opportunity to review each proposal based on the identification of community needs under chapters 145A and 256E and county advocacy activities. If a county board finds that a proposal does not address certain community needs, the county board and commissioner shall continue efforts for improving the proposal and network prior to the approval of the contract. The county board shall make recommendations regarding the approval of local networks and their operations to ensure adequate availability and access to covered services. The provider or health plan must respond directly to county advocates and the state prepaid medical assistance ombudsperson regarding service delivery and must be accountable to the state regarding contracts with medical assistance and general assistance medical care funds. The county board may recommend a maximum number of participating health plans after considering the size of the enrolling population; ensuring adequate access and capacity; considering the client and county administrative complexity; and considering the need to promote the viability of locally developed health plans. The commissioner shall actively seek to develop a mutually agreeable timetable prior to the development of the request for proposal, there shall be established a mutually agreed upon timetable. This process shall in no way delay the department's ability to secure and finalize contracts for the medical assistance or general assistance medical care prepayment program.

(b) The prepaid MinnesotaCare program may be implemented or expanded by the commissioner without regard to whether or not a county establishes a joint purchaser demonstration project under section 256B.78. In a county that establishes a joint purchaser demonstration project, MinnesotaCare enrollees must be offered the option to enroll under the demonstration project once enrollment in the project begins.

(c) The commissioner shall seek a federal waiver to allow a fee-for-service plan option to MinnesotaCare enrollees. The commissioner shall develop an increase of the premium fees required under section 256.9356 up to 20 percent of the premium fees for the enrollees who elect the fee-for-service option. Prior to implementation, the commissioner shall submit this fee schedule to the chair and ranking minority member of the senate health care committee, the senate health care and family services funding division, the house of representatives health and human services committee, and the house of representatives health and human services finance division.

Sec. 34. Minnesota Statutes 1995 Supplement, section 256B.69, subdivision 4, is amended to read:

Subd. 4. [LIMITATION OF CHOICE.] The commissioner shall develop criteria to determine when limitation of choice may be implemented in the experimental counties. The criteria shall ensure that all eligible individuals in the county have continuing access to the full range of medical assistance services as specified in subdivision 6. The commissioner shall exempt the following persons from participation in the project, in addition to those who do not meet the criteria for limitation of choice: (1) persons eligible for medical assistance according to section 256B.055, subdivision 1; (2) persons eligible for medical assistance due to blindness or disability as determined by the social security administration or the state medical review team, unless: (i) they are 65 years of age or older, or (ii) they are eligible for medical assistance according to section 256B.055, subdivision 12, or (iii) unless they reside in Itasca county or they reside in a county in which the commissioner conducts a pilot project under a waiver granted pursuant to section 1115 of the Social Security Act; (3) recipients who currently have private coverage through a health maintenance organization; (4) recipients who are eligible for medical assistance by spending down excess income for medical expenses other than the nursing facility per diem expense; and (5) recipients who receive benefits under the Refugee Assistance Program, established under United States Code, title 8, section 1522(e); (6) children who are both determined to be severely emotionally disturbed and receiving case management services according to section 256B.0625,

subdivision 20; and (7) adults who are both determined to be seriously and persistently mentally ill and received case management services according to section 256B.0625, subdivision 20. Children under age 21 who are in foster placement may enroll in the project on an elective basis. Individuals excluded under clauses (6) and (7) may choose to enroll on an elective basis. The commissioner may allow persons with a one-month spenddown who are otherwise eligible to enroll to voluntarily enroll or remain enrolled, if they elect to prepay their monthly spenddown to the state. Beginning on or after July 1, 1997, the commissioner may require those individuals to enroll in the prepaid medical assistance program who otherwise would have been excluded under clauses (1) and (3) and under Minnesota Rules, part 9500.1452, subpart 2, items H, K, and L. Before limitation of choice is implemented, eligible individuals shall be notified and after notification, shall be allowed to choose only among demonstration providers. The commissioner may assign an individual with private coverage through a health maintenance organization, to the same health maintenance organization for medical assistance coverage, if the health maintenance organization is under contract for medical assistance in the individual's county of residence. After initially choosing a provider, the recipient is allowed to change that choice only at specified times as allowed by the commissioner. If a demonstration provider ends participation in the project for any reason, a recipient enrolled with that provider must select a new provider but may change providers without cause once more within the first 60 days after enrollment with the second provider.

Sec. 35. Minnesota Statutes 1995 Supplement, section 256B.69, subdivision 5b, is amended to read:

Subd. 5b. [PROSPECTIVE REIMBURSEMENT RATES.] For prepaid medical assistance and general assistance medical care program contract rates set by the commissioner under subdivision 5 and effective on or after January 1, 1996 1997, through December 31, 1996 1998, capitation rates for nonmetropolitan counties shall on a weighted average be no less than 85 percent of the capitation rates for metropolitan counties, excluding Hennepin county.

Sec. 36. Minnesota Statutes 1995 Supplement, section 256B.69, subdivision 21, is amended to read:

Subd. 21. [PREPAYMENT COORDINATOR.] The local agency county board shall designate a prepayment coordinator to assist the state agency in implementing this section and section 256D.03, subdivision 4. Assistance must include educating recipients about available health care options, enrolling recipients under subdivision 5, providing necessary eligibility and enrollment information to health plans and the state agency, and coordinating complaints and appeals with the ombudsman established in subdivision 18.

Sec. 37. Minnesota Statutes 1994, section 256B.69, is amended by adding a subdivision to read:

Subd. 24. [SOCIAL SERVICE AND PUBLIC HEALTH COSTS.] The commissioner shall report on recommendations to the legislature by January 15, 1997, identifying county social services and public health administrative costs for each target population that should be excluded from the overall capitation rate.

Sec. 38. [256B.78] [JOINT PURCHASER DEMONSTRATION PROJECTS.]

Subdivision 1. [OBJECTIVES.] The objectives of the demonstration project are to promote the development of local provider networks and retain the availability and accountability of local service providers; further define the county and state roles, authorities, and functions related to publicly reimbursed and publicly provided health and social services, including services funded by county property tax revenues; promote better coordination of services for all enrollees and target populations; further define an outcome-based system, including definitions of outcomes and processes for collecting, publicizing, and utilizing outcome data; facilitate appropriate competition, consumer choice, and entry of providers into the marketplace while defining appropriate publicly operated safety net services; identify mechanisms to ensure short-term and long-term control of costs and avoidance of cost shifting; define adequate financing within a capitated allocation; develop risk management and risk adjustment strategies, which may include stop-loss protection, reinsurance, and retrospective risk adjustment; and define state-county shares of the cost savings achieved for a return on the public investment.

Subd. 2. [AUTHORIZATION.] (a) Subject to federal waiver approval, a county or group of counties may establish a county-based joint purchaser demonstration project, for services provided to eligible individuals under medical assistance, except medical assistance recipients who are age 65 or older who reside in the Twin Cities seven-county metropolitan area, general assistance medical care, MinnesotaCare, state health and social service grants, and county-funded programs for these or other participants. The county must purchase or arrange for the purchase of all covered services for the targeted populations served under the demonstration project.

(b) As part of a project, the county may explore the option of direct contracting with local providers, provider networks, or public providers. If a county or group of counties implements direct contracting, the county or counties shall be considered a health plan company for purposes of Minnesota Statutes, section 62Q.19, and must meet the requirements of Minnesota Statutes, section 62Q.19. At the option of the county board, the project may include county employees or employees of other units of local government. Groups of counties participating in a joint purchaser demonstration project must execute a joint powers agreement in accordance with Minnesota Statutes, section 471.59, for purposes of the demonstration project.

Subd. 3. [LONG-TERM CARE OPTIONS PROJECT EXCEPTION.] Medical assistance recipients who are age 65 or older who reside in the seven-county metropolitan area shall not be included in a joint purchaser demonstration project. Medical assistance recipients who are age 65 or older who reside outside the seven-county metropolitan area may be included in a joint purchaser demonstration project. A county board or group of county boards, other than the seven metropolitan counties, that notifies the commissioner of intent to participate in a demonstration project, in accordance with subdivision 8, must include notice of their intent and preference for participation in the long-term care options project. Counties participating in the long-term care options project must meet all requirements of the federal waivers governing the long-term care options project demonstration.

Subd. 4. [PROJECT SCOPE.] (a) A county or group of counties may establish a demonstration project or projects to purchase all covered services to the categorically and medically needy families with children and adults without children.

(b) A county or group of counties may establish a separate demonstration project or projects to purchase or coordinate covered services for disabled individuals, including those with mental illness, chemical dependency, developmental disabilities and physical disabilities, and for persons who are seriously and persistently mentally ill or severely emotionally disturbed who have county case managers, or any combination thereof, or, if the county is located outside the Twin Cities seven-county metropolitan area, services to the elderly. The demonstration projects for persons with mental health, chemical dependency, developmental disabilities, and physical disabilities are limited, in total, to serving no more than ten counties in which all of these population groups are included, and no more than ten additional counties in which not all of these population groups are included. If the county establishes a demonstration project to purchase mental health services and the county is participating in a mental health collaborative under Minnesota Statutes, sections 245.491 to 245.496, families must have the opportunity to be enrolled in one network. For residential services, day training and habilitation services, and other covered nonmedical services for persons with developmental disabilities, local providers must be offered the opportunity to contract with a county or counties if the local provider agrees to the terms of the contract offered other providers or networks.

(c) In counties where any specialized services are provided by one network and other health care services are provided by a different network, the demonstration project contract must require a binding agreement between the two provider networks to share patient records and coordinate patient care. The enrollee must agree to these requirements as a condition of enrollment under the demonstration project.

Subd. 5. [SERVICE REQUIREMENTS.] A demonstration project is subject to the current eligibility, benefits, enrollee protection, and appeal process requirements under the medical assistance, general assistance medical care, and MinnesotaCare programs. The project must institute recipient grievance procedures utilizing applicable requirements of Minnesota Statutes, section 256B.69.

Subd. 6. [CONSUMER CHOICE.] (a) In counties where enrollment under state prepayment programs has begun as of March 1, 1996, and a county demonstration project has subsequently been established, the recipients must continue to be offered the choice of enrolling in a health plan under contract with the state through state prepayment programs in addition to any enrollment options established under a county demonstration project. This offer must be made for a period of two years after the county has begun enrollment in the demonstration project to the recipients enrolled in a state prepayment program before the date enrollment begins under the demonstration project. After this period, the county must contract with all service delivery networks that satisfy the requirements of the request for proposals on a nondiscriminatory basis.

(b) In order to maintain an opportunity for choice, a county or counties must contract with two or more service delivery networks, unless there are less than two health maintenance organizations, integrated service networks, community integrated service networks, or health provider cooperatives, as defined in Minnesota Statutes, section 62R.04, willing to provide services in the county or counties. If only one network is providing services within the county or counties, the project must demonstrate that enrollees have a choice of providers within the existing network.

Subd. 7. [PROJECT DESIGN AND IMPLEMENTATION.] (a) The demonstration project must ensure that consumer representatives and providers are involved in the planning process for the design of the demonstration projects. A participating county or group of counties shall issue a request for proposals to provide services to eligible individuals residing within the participating county or counties. The participating county board shall review the proposals and shall approve all contracts. Individual county staff who are employed by a publicly owned health plan that intends to respond to a request for proposal are prohibited from reviewing, critiquing, or approving any proposals submitted in this subdivision. Before a participating county can enter into a contract with a service delivery network, the commissioner of human services must review the contract and determine whether the contracting network offers adequate services to recipients. If the commissioner determines that the contract does not provide adequate services, the commissioner and county board shall continue negotiations with the network to ensure the provision of all necessary services.

Subd. 8. [NOTICE OF INTENT; PROJECT PROPOSALS.] (a) In counties where the state has entered into a managed care contract, a county board or a group of county boards shall notify the commissioner of their intent to participate in a joint purchaser demonstration project no later than October 1, 1996. In counties where the prepayment program is not currently being implemented, a county board or group of county boards shall notify the commissioner of their intent to participate in a joint purchaser demonstration project by October 1, 1996.

(b) For any geographic area in which enrollment in the prepaid medical assistance or prepaid general assistance medical care program has not begun by March 1, 1996, the commissioner shall not expand the prepaid medical assistance or the prepaid general assistance medical care program to that area prior to October 1, 1996, unless the county board requests earlier implementation.

(c) For any geographic area, and for any population for which the state has not received a notice of intent by October 1, 1996, nothing shall prohibit the implementation of the prepaid medical assistance or prepaid general assistance medical care programs in accordance with Minnesota Statutes, section 256B.69. For any geographic area, and for any population for which the commissioner has received a notice of intent by October 1, 1996, the commissioner shall be prohibited from implementing the prepaid medical assistance or prepaid general assistance medical care programs.

(d) By July 1, 1997, each county board that has submitted a notice of intent in accordance with this subdivision shall submit a final proposal that demonstrates the ability to provide services by January 1, 1998, in accordance with this section. For any geographic area and for any population for which the state has not received a final proposal satisfying the requirements of this section by July 1, 1997, nothing shall prohibit the implementation of the prepaid medical assistance or prepaid general assistance medical care programs in accordance with Minnesota Statutes, section 256B.69. For any geographic area and for any population for which the state has received a final proposal by July 1, 1997, the commissioner shall be prohibited from implementing the prepaid

medical assistance and prepaid general assistance medical care programs. The commissioner must accept or reject final proposals on or before September 1, 1997. The commissioner must authorize any proposal that complies with the requirements of this section and satisfies the criteria listed in subdivision 15. The commissioner must negotiate the contract for the joint purchaser demonstration project with the appropriate county or counties by October 1, 1997, for enrollment effective by January 1, 1998.

(e) In counties in which the prepaid medical assistance or prepaid general assistance medical care programs are not currently operating, and enrollment in a county demonstration project does not begin by January 1, 1998, nothing shall prohibit the implementation of the prepaid medical assistance or prepaid general assistance medical care programs after January 1, 1998.

(f) In counties in which enrollment under a county demonstration project has begun by January 1, 1998, beginning January 1, 2000, the county must contract with all service delivery networks that satisfy the requirements of the request for proposals on a nondiscriminatory basis.

Subd. 9. [PROJECT REPORTING AND EVALUATION.] (a) County-based purchasing demonstration projects shall report to the legislature by January 15, 1997, with recommendations for reserve requirements for local provider networks; county reporting, including data required to assess client needs, satisfaction, outcomes, and quality of care, cost, and utilization of services for purposes of project evaluation; state and county functions and financing, including funding recommendations for county eligibility determinations, enrollment, advocacy, and public health and social services functions; risk management and risk adjustment strategies; purchasing arrangements and development of geographic service areas; future methods of contracting for health care services for MinnesotaCare enrollees; and other recommendations related to project objectives. The data must be collected separately for different disability categories and major disability diagnosis, in a manner that allows comparisons on costs, quality, and utilization across these disability categories and diagnosis. Interim reports by the county-based projects shall be presented to the legislative commission on health care access.

(b) The commissioner of human services shall contract for an independent evaluation of the demonstration projects and submit the results of the evaluation in a report to the legislature no later than January 15, 1999. The evaluation must determine the impact of each joint purchasing demonstration project on quality of care, costs, and access to services. Each evaluation must also compare demonstration project outcomes to outcomes under the prepaid medical assistance program.

(c) The commissioner of human services and representatives of the counties participating in the demonstration project shall address the issue of risk and shall consider options for state/county risk management and risk adjustment strategies that are possible within the limits of the federal regulations or current waivers. The commissioner shall report to the legislature by January 15, 1997, with recommendations on how to address state/county risk management and risk adjustment strategies.

(d) The commissioner of health shall provide technical assistance to counties interested in developing a joint purchaser demonstration project.

(e) The Minnesota counties research foundation shall establish a statewide advisory committee to provide assistance in the development, implementation, and monitoring of the demonstration projects. The advisory committee shall include representatives from various disability populations, families with children, adults without children, advocacy organizations, providers of services and counties, as well as, representatives of the ombudsman for mental health and mental retardation and ombudsman for managed care authorized under Minnesota Statutes, section 256B.69, and the ombudsman for long-term care. The Minnesota counties research foundation shall report to the legislative commission on health care access and to the legislature by January 15, 1997, on the development and implementation of the joint purchaser demonstration projects.

Subd. 10. [PAYMENT RATES.] The commissioner shall determine rates to be paid by the state to county joint purchaser demonstration projects according to categories in paragraphs (a) to (c).

(a) For families and children and adults without children, and medical assistance recipients over age 65, the total payment shall be determined according to the department's methodology for determining prepaid medical assistance demonstration rates for families and children. The commissioner shall develop per member, per month, payment rates for each project year, in consultation with an independent actuary, to ensure that the cost of services under these demonstration projects does not exceed the prepaid medical assistance, prepaid general assistance medical care, and prepaid MinnesotaCare program rates.

(b) The payment rate for persons dually eligible for Medicare and medical assistance shall be determined according to the methodology of the long-term care options project.

(c) The payment rate for projects involving medical assistance, general assistance medical care, and MinnesotaCare program recipients who are disabled or who have severe emotional disturbance or serious and persistent mental illness, or any combination thereof, shall be developed in consultation with an independent actuary to ensure that the costs to the state do not exceed 95 percent of the estimated cost for medical assistance and general assistance medical care services for the covered population under the fee-for-service system. Payments to counties shall be made in accordance with Minnesota Statutes, section 256B.69. This payment is in addition to the state administrative allocation to participating counties for eligibility enrollment and advocacy functions. Prepaid medical assistance program administrative funds shall not be used for county demonstration administrative functions.

Subd. 11. [ASSURANCES.] If the county chooses to establish a demonstration project serving more than one category of disabled persons, the entity must provide assurances to the commissioner that the established payment rates for each category of disabled persons are only used to meet the needs of recipients within that category of persons.

Subd. 12. [FEDERAL WAIVER.] The commissioner of human services shall apply by September 15, 1996, for any new federal waivers required to implement this section. The commissioner shall confer with the chairs of the senate health care committee and health care and family services finance division, house of representatives health and human services committee and health and human services finance division, and one minority member from the house of representatives and senate appointed by the minority leaders of the house and senate, and a representative of county commissioners appointed by the association of Minnesota counties regarding the waiver application and in waiver negotiations. No payments shall be made to any county under this section, and no recipient shall be disenrolled from the prepaid medical assistance or general assistance medical care program under this section without prior federal approval.

Subd. 13. [CONSUMER RIGHTS AND PROTECTIONS.] All services provided in the demonstration projects shall be provided according to current eligibility and services laws and rules, including consumer due process procedures and appeal rights within the medical assistance program. For persons with developmental disabilities, the commissioner shall ensure that the rights and protections afforded under existing rules and statutes are not abridged. The commissioner shall not waive the rights or procedural protections under Minnesota Statutes, sections 245.825; 245.91 to 245.97; 252.41, subdivision 9; 256.045; 256B.092; 626.556; and 626.557, including the county agency's responsibility to arrange for appropriate services and procedures for the monitoring of psychotropic medications.

Subd. 14. [ACTUARIAL STUDY; COST-SHARING STUDY.] (a) The commissioner of human services shall contract with an independent actuary to prepare an analysis of the amount of funding for mental health services.

(b) The commissioner of human services and county representatives shall study the extent of cost shifting from federal and state Medicaid funding to county property taxes due to managed care. The commissioner shall report findings to the legislature by January 15, 1997.

Subd. 15. [STANDARDS AND CRITERIA.] Any demonstration project must demonstrate the ability to:

(1) purchase all covered services for included populations for a fixed amount that does not exceed the estimated cost to the state that would have occurred under the prepaid medical assistance, prepaid general assistance medical care, and prepaid MinnesotaCare programs;

(2) ensure that covered services are accessible to all enrollees and that enrollees have a choice of providers whenever possible;

(3) issue payments to participating vendors or networks in a timely manner;

(4) establish a process to ensure and improve the quality of the care received;

(5) provide appropriate quality and other required data in a format required by the state that will allow comparisons between plans and providers; and

(6) provide an advocacy and enrollee protection and complaints and appeals system that is independent from care providers or other risk bearers and complies with Minnesota Statutes, section 256B.69.

Sec. 39. Minnesota Statutes 1995 Supplement, section 256D.02, subdivision 12a, is amended to read:

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

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

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

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

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

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

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

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

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

Sec. 40. Minnesota Statutes 1995 Supplement, section 256D.045, is amended to read:

256D.045 [SOCIAL SECURITY NUMBER REQUIRED.]

To be eligible for general assistance under sections 256D.01 to 256D.21, an individual must

provide the individual's social security number to the county agency or submit proof that an application has been made. The provisions of this section do not apply to the determination of eligibility for emergency general assistance under section 256D.06, subdivision 2. This provision applies to eligible children under the age of 18 effective July 1, 1997.

Sec. 41. Minnesota Statutes 1994, section 256G.01, subdivision 3, is amended to read:

Subd. 3. [PROGRAM COVERAGE.] This chapter applies to all social service programs administered by the commissioner in which residence is the determining factor in establishing financial responsibility. These include, but are not limited to: aid to families with dependent children; medical assistance; general assistance; work readiness; general assistance medical care; Minnesota supplemental aid; commitment proceedings, including voluntary admissions; emergency holds; poor relief funded wholly through local agencies; and social services, including title XX, IV-E and other components of the community social services act, sections 256E.01 to 256E.12; social services programs funded wholly through the resources of county agencies; social services provided under the Minnesota Indian family preservation act, sections 257.35 to 257.356; costs for delinquency confinement under section 393.07, subdivision 2; service responsibility for these programs; and group residential housing.

Sec. 42. Minnesota Statutes 1994, section 256G.01, is amended by adding a subdivision to read:

Subd. 4. [ADDITIONAL COVERAGE.] The provisions in sections 256G.02, subdivision 4, paragraphs (a) to (d); 256G.02, subdivisions 5 to 8; 256G.03; 256G.04; 256G.05; and 256G.07, subdivisions 1 to 3, apply to the following programs: aid to families with dependent children; medical assistance; general assistance; family general assistance; general assistance medical care; and Minnesota supplemental aid.

Sec. 43. Minnesota Statutes 1994, section 256G.01, is amended by adding a subdivision to read:

Subd. 5. [SCOPE AND EFFECT.] Unless stated otherwise, the provisions of this chapter also apply to disputes involving financial responsibility for social services when another definition of the county of financial responsibility has been created in Minnesota Statutes.

Sec. 44. Minnesota Statutes 1994, section 256G.02, subdivision 4, is amended to read:

Subd. 4. [COUNTY OF FINANCIAL RESPONSIBILITY.] (a) "County of financial responsibility" has the meanings in paragraphs (b) to (h).

(b) For an applicant who resides in the state and is not in a facility described in subdivision 6, it means the county in which the applicant resides at the time of application.

(c) For an applicant who resides in a facility described in subdivision 6, it means the county in which the applicant last resided in nonexcluded status immediately before entering the facility.

(d) For an applicant who has not resided in this state for any time other than the excluded time, and subject to the limitations in section 256G.03, subdivision 2, it means the county in which the applicant resides at the time of making application.

(e) ~~For medical assistance purposes only, and for an infant who has resided only in an excluded time facility, it means the county that would have been responsible for the infant if eligibility had been established, based on that of the birth mother, at the time of application.~~

(f) ~~Notwithstanding paragraphs (b) to (d), the county of financial responsibility for medical assistance recipients is the county from which a recipient is receiving a maintenance grant or money payment under the program of aid to families with dependent children or Minnesota supplemental aid.~~

(g) ~~Notwithstanding paragraphs (b) to (f), the county of financial responsibility for social services for a person receiving aid to families with dependent children, general assistance, general assistance medical care, medical assistance, or Minnesota supplemental aid is the county from~~

~~which that person is receiving the aid or assistance. If more than one named program is open concurrently~~ For an individual already having a social service case open in one county, financial responsibility for any additional social services attaches to the program case that has the earliest date of application and has been open without interruption.

~~(h)~~ (f) Notwithstanding paragraphs (b) to (g) (e), the county of financial responsibility for semi-independent living services provided under section 252.275, and Minnesota Rules, parts 9525.0500 to 9525.0660, is the county of residence in nonexcluded status immediately before the placement into or request for those services.

Sec. 45. Minnesota Statutes 1994, section 256G.02, subdivision 6, is amended to read:

Subd. 6. [EXCLUDED TIME.] "Excluded time" means:

(a) any period an applicant spends in a hospital, sanitarium, nursing home, shelter other than an emergency shelter, halfway house, foster home, semi-independent living domicile or services program, residential facility offering care, board and lodging facility or other institution for the hospitalization or care of human beings, as defined in section 144.50, 144A.01, or 245A.02, subdivision 14; ~~or in a maternity home, battered women's shelter, or correctional facility.~~ "Excluded time" also means that time during which an applicant participates in a rehabilitation facility as defined in section 268A.01, or is receiving personal care assistant services pursuant to section 256B.0625, subdivision 19.; or any facility based on an emergency hold under sections 253B.05, subdivisions 1 and 2, and 253B.07, subdivision 6;

(b) any period an applicant spends on a placement basis in a training and habilitation program, including a rehabilitation facility or work or employment program as defined in section 268A.01; or receiving personal care assistant services pursuant to section 256B.0627, subdivision 4; semi-independent living services provided under section 252.275, and Minnesota Rules, parts 9525.0500 to 9525.0660; day training and habilitation programs, and community-based services and assisted living services; and

(c) any placement for a person with an indeterminate commitment, including independent living.

Sec. 46. Minnesota Statutes 1994, section 256G.03, is amended to read:

256G.03 [ESTABLISHING RESIDENCE.]

Subdivision 1. [STATE RESIDENCE.] For purposes of this chapter, a resident of any Minnesota county is considered a state resident. ~~For purposes of eligibility for general assistance or work readiness, residency must be substantiated according to section 256D.02, subdivision 12a.~~

Subd. 2. [NO DURATIONAL TEST.] Except as otherwise provided in sections 256.73, subdivisions 1 and 1a; 256B.056, subdivision 1; and 256D.02, subdivision 12a, for purposes of this chapter, no waiting period is required before securing county or state residence. A person cannot, however, gain residence while physically present in an excluded time facility unless otherwise specified in this chapter or in a federal regulation controlling a federally funded human service program.

Subd. 3. [USE OF CODE OF FEDERAL REGULATIONS.] In the event that federal legislation eliminates the federal regulatory basis for medical assistance, the state shall continue to determine eligibility for Minnesota's medical assistance program using the provisions of Code of Federal Regulations, title 42, as construed on the day prior to their federal repeal, except as expressly superseded in chapter 256B, or as superseded by federal law, or as modified by state rule or by regulatory waiver granted to the state.

Sec. 47. Minnesota Statutes 1994, section 256G.06, is amended to read:

256G.06 [DETOXIFICATION SERVICES.]

The county of financial responsibility for detoxification services is the county where the client is physically present when the need for services is identified. If that need is identified while the

client is a resident of a chemical dependency facility, the provisions of section 256G.02, subdivision 4, paragraphs (b), (c), and (e) (d), apply.

Sec. 48. Minnesota Statutes 1994, section 256G.07, subdivision 1, is amended to read:

Subdivision 1. [EFFECT OF MOVING.] Except as provided in subdivision 4, a person who has applied for and is receiving services or assistance under a program governed by this chapter, in any county in this state, and who moves to another county in this state, is entitled to continue to receive that assistance service from the county from which that person has moved until that person has resided in nonexcluded status for two full calendar months in the county to which that person has moved. For purposes of general assistance and general assistance medical care, this time period is, however, one full calendar month.

Sec. 49. Minnesota Statutes 1994, section 256G.07, subdivision 2, is amended to read:

Subd. 2. [TRANSFER OF RECORDS.] Before the person has resided in nonexcluded status for two calendar months or one calendar month in the case of general assistance and general assistance medical care, in the county to which that person has moved, the local agency of the county from which the person has moved shall complete an eligibility review and transfer all necessary records relating to that person to the local agency of the county to which the person has moved.

Sec. 50. Minnesota Statutes 1994, section 256G.08, subdivision 1, is amended to read:

Subdivision 1. [COMMITMENTS COMMITMENT ACT PROCEEDINGS.] In cases of voluntary admission or commitment to state or other institutions, the committing county shall initially pay for all costs. This includes the expenses of the taking into custody, confinement, emergency holds under sections 253B.05, subdivisions 1 and 2, and 253B.07, examination, commitment, conveyance to the place of detention, and rehearing.

Sec. 51. Minnesota Statutes 1994, section 256G.09, subdivision 2, is amended to read:

Subd. 2. [FINANCIAL DISPUTES.] (a) If the county receiving the transmittal does not believe it is financially responsible, it should provide to the department and the initially responsible county a statement of all facts and documents necessary for the department to make the requested determination of financial responsibility. The submission must clearly state the program area in dispute and must state the specific basis upon which the submitting county is denying financial responsibility.

(b) The initially responsible county then has 15 calendar days to submit its position and any supporting evidence to the department. The absence of a submission by the initially responsible county does not limit the right of the department to issue a binding opinion based on the evidence actually submitted.

(c) A case must not be submitted until the local agency taking the application or making the commitment has made an initial determination about eligibility and financial responsibility, and services or assistance has have been initiated. This paragraph does not prohibit the submission of closed cases that otherwise meet the applicable statute of limitations.

Sec. 52. Minnesota Statutes 1994, section 256G.10, is amended to read:

256G.10 [DERIVATIVE SETTLEMENT ~~ELIMINATED~~.]

Except as described in section 256G.02, subdivision 4, paragraph (e), residence under this chapter must be determined independently for each applicant. The residence of the parent of a minor child, with whom that child last lived in a nonexcluded time setting, or guardian does not of a ward shall determine the residence of the child or ward for all social services governed by this chapter.

For purposes of this chapter, a minor child is defined as being under 18 years of age unless otherwise specified in a program administered by the commissioner.

Physical or legal custody has no bearing on residence determinations. This section does not, however, apply to situations involving another state or, limit the application of an interstate compact, or apply to situations involving state wards where the commissioner is defined by law as the guardian.

Sec. 53. Minnesota Statutes 1994, section 256I.05, is amended by adding a subdivision to read:

Subd. 7c. [DEMONSTRATION PROJECT.] The commissioner is authorized to pursue a demonstration project under federal food stamp regulation for the purpose of gaining federal reimbursement of food and nutritional costs currently paid by the state group residential housing program.

Sec. 54. Minnesota Statutes 1994, section 325F.71, subdivision 2, is amended to read:

Subd. 2. [SUPPLEMENTAL CIVIL PENALTY.] (a) In addition to any liability for a civil penalty pursuant to Minnesota Statutes, sections 325D.43 to 325D.48, regarding deceptive trade practices; 325F.67, regarding false advertising; and 325F.68 to 325F.70, regarding consumer fraud; a person who engages in any conduct prohibited by those statutes, and whose conduct is perpetrated against one or more senior citizens or handicapped persons, is liable for an additional civil penalty not to exceed \$10,000 for each violation, if one or more of the factors in paragraph (b) are present.

(b) In determining whether to impose a civil penalty pursuant to paragraph (a), and the amount of the penalty, the court shall consider, in addition to other appropriate factors, the extent to which one or more of the following factors are present:

(1) whether the defendant knew or should have known that the defendant's conduct was directed to one or more senior citizens or handicapped persons;

(2) whether the defendant's conduct caused senior citizens or handicapped persons to suffer: loss or encumbrance of a primary residence, principal employment, or source of income; substantial loss of property set aside for retirement or for personal or family care and maintenance; substantial loss of payments received under a pension or retirement plan or a government benefits program; or assets essential to the health or welfare of the senior citizen or handicapped person;

(3) whether one or more senior citizens or handicapped persons are more vulnerable to the defendant's conduct than other members of the public because of age, poor health or infirmity, impaired understanding, restricted mobility, or disability, and actually suffered physical, emotional, or economic damage resulting from the defendant's conduct; or

(4) whether the defendant's conduct caused senior citizens or handicapped persons to make an uncompensated asset transfer that resulted in the person being found ineligible for medical assistance.

Sec. 55. Minnesota Statutes 1994, section 524.2-403, is amended to read:

524.2-403 [EXEMPT PROPERTY.]

(a) If there is a surviving spouse, then, in addition to the homestead and family allowance, the surviving spouse is entitled from the estate to:

(1) property not exceeding \$10,000 in value in excess of any security interests therein, in household furniture, furnishings, appliances, and personal effects, subject to an award of sentimental value property under section 525.152; and

(2) one automobile, if any, without regard to value.

(b) If there is no surviving spouse, the decedent's children are entitled jointly to the same property as provided in paragraph (a).

(c) If encumbered chattels are selected and the value in excess of security interests, plus that of other exempt property, is less than \$10,000, or if there is not \$10,000 worth of exempt property in

the estate, the surviving spouse or children are entitled to other personal property of the estate, if any, to the extent necessary to make up the \$10,000 value.

(d) Rights to exempt property and assets needed to make up a deficiency of exempt property have priority over all claims against the estate, but the right to any assets to make up a deficiency of exempt property abates as necessary to permit earlier payment of the family allowance.

(e) The rights granted by this section are in addition to any benefit or share passing to the surviving spouse or children by the decedent's will, unless otherwise provided by intestate succession or by way of elective share.

(f) A claim under section 246.53, 261.04, 256B.15, or 256D.16 takes precedence over any rights granted to a decedent's adult children under this section.

Sec. 56. Minnesota Statutes 1994, section 524.3-801, is amended to read:

524.3-801 [NOTICE TO CREDITORS.]

(a) Unless notice has already been given under this section, upon appointment of a general personal representative in informal proceedings or upon the filing of a petition for formal appointment of a general personal representative, notice thereof, in the form prescribed by court rule, shall be given under the direction of the court administrator by publication once a week for two successive weeks in a legal newspaper in the county wherein the proceedings are pending giving the name and address of the general personal representative and notifying creditors of the estate to present their claims within four months after the date of the court administrator's notice which is subsequently published or be forever barred, unless they are entitled to further service of notice under paragraph (b) or (c).

(b)(1) Within three months after: (i) the date of the first publication of the notice; or (ii) June 16, 1989, whichever is later, the personal representative may determine, in the personal representative's discretion, that it is or is not advisable to conduct a reasonably diligent search for creditors of the decedent who are either not known or not identified. If the personal representative determines that a reasonably diligent search is advisable, the personal representative shall conduct the search.

(2) If the notice is first published after June 16, 1989, the personal representative shall, within three months after the date of the first publication of the notice, serve a copy of the notice upon each then known and identified creditor in the manner provided in paragraph (c). If the decedent or a predeceased spouse of the decedent received assistance for which a claim could be filed under section 246.53, 256B.15, 256D.16, or 261.04, the personal representative shall serve a copy of the notice on the commissioner of human services in the manner provided in paragraph (c) on or before the date of the first publication of the notice. The copy of the notice served on the commissioner of human services shall include the full name, date of birth, and social security number of the decedent or the predeceased spouse who received assistance for which a claim could be filed under any of the sections listed in this paragraph. Notwithstanding any will or other instrument or law to the contrary, except as allowed in this paragraph no property subject to administration by the estate may be distributed by the estate or the personal representative until 70 days after the date the notice is served upon the commissioner, as provided in paragraph (c) unless the local agency consents. An affidavit of service shall be prima facie evidence of service and, if it contains a legal description of the affected real property, may be filed or recorded in the office of the county recorder or registrar of titles to establish compliance with the notice requirement established in this paragraph. This restriction on distribution does not apply to the personal representative's sale of real or personal property while the estate is open but does apply to the net proceeds the estate receives from the sale. If notice was first published under the applicable provisions of law under the direction of the court administrator before June 16, 1989, and if a personal representative is empowered to act at any time after June 16, 1989, the personal representative shall, within three months after June 16, 1989, serve upon the then known and identified creditors in the manner provided in paragraph (c) a copy of the notice as published, together with a supplementary notice requiring each of the creditors to present any claim within one month after the date of the service of the notice or be forever barred.

(3) Under this section, a creditor is "known" if: (i) the personal representative knows that the creditor has asserted a claim that arose during the decedent's life against either the decedent or the decedent's estate; or (ii) the creditor has asserted a claim that arose during the decedent's life and the fact is clearly disclosed in accessible financial records known and available to the personal representative. Under this section, a creditor is "identified" if the personal representative's knowledge of the name and address of the creditor will permit service of notice to be made under paragraph (c).

(c) The personal representative shall serve a copy of any notice and any supplementary notice required by paragraph (b), clause (1) or (2), upon each creditor of the decedent who is then known to the personal representative and identified, except a creditor whose claim has either been presented to the personal representative or paid, either by delivery of a copy of the required notice to the creditor, or by mailing a copy of the notice to the creditor by certified, registered, or ordinary first class mail addressed to the creditor at the creditor's office or place of residence.

Sec. 57. [INDIVIDUAL COMPULSIVE GAMBLING TREATMENT PILOT PROJECT.]

Subdivision 1. [ESTABLISHMENT.] The commissioner of human services shall establish a pilot project in the southeast area of the state to provide compulsive gambling treatment services to individuals seeking treatment. The pilot project shall directly reimburse qualified providers for treatment to individuals on a case-by-case basis. The pilot project shall seek to utilize existing qualified providers and shall provide treatment reimbursement to the maximum number of persons who qualify for treatment.

Subd. 2. [PLAN.] The commissioner shall submit to the legislature by December 15, 1996, a plan for expansion of the treatment pilot project to all areas of the state. The plan shall include the necessary legislative changes needed to move from a treatment center model to a provider reimbursement model.

Sec. 58. [REPORT ON COMPENSATING CLIENTS ON PUBLIC HEALTH CARE PROGRAMS.]

The commissioner of human services shall study and report to the legislature by January 15, 1997, the advisability and feasibility of compensating clients on the public health care programs if a client has successfully reversed a private insurer's denial of health insurance. The report shall also include recommendations on reducing the parental fees under Minnesota Statutes, section 252.27, subdivision 2a, if a parent has successfully reversed a private insurer's denial of insurance. The commissioner shall ask clients, advocates, other interested persons, and the parental fee advisory committee to assist with the study.

Sec. 59. [WAIVER AUTHORITY.]

The commissioner of human services shall seek federal waivers as necessary to implement section 8.

Sec. 60. [SEVERABILITY.]

If any provision of sections 8 and 39 are found to be unconstitutional or void by a court of competent jurisdiction, all remaining provisions of the law shall remain valid and shall be given full effect.

Sec. 61. [AUGMENTATIVE COMMUNICATION DEVICES.]

Augmentative communication devices that are prior authorized through pass through vendors during the period July 1, 1995, to December 31, 1996, and have not been delivered shall be paid under the medical assistance program at the actual price charged the pass through vendor for the device as limited to the suggested retail price on March 1, 1996. For retroactive periods in which a state plan had not been submitted to reflect this payment, the state shall not seek a federal share. The governor's advisory council on technology for people with disabilities, in consultation with the commissioner of human services, shall study alternatives to this payment approach and make recommendations to the legislature by December 31, 1996, related to effective methods of cost control and the following:

(1) comparative payment equity between augmentative communication device vendors and other provider groups that provide equipment to medical assistance recipients;

(2) methods, including competitive bidding, that create incentives for dealers and manufacturers to provide augmentative communication devices at a price that is discounted from retail;

(3) substitution between augmentative communication devices and alternative methods of access by recipients to augmentative communication devices; and

(4) payment equity between pass through vendors and distributors of augmentative communication devices.

Sec. 62. [REPEALER.]

Minnesota Statutes 1995 Supplement, sections 256B.15, subdivision 5; 256G.05, subdivision 1; and 256G.07, subdivision 3a, are repealed.

Sec. 63. [EFFECTIVE DATE; APPLICATION.]

(a) Sections 12, 14, 16, 18, 29, 30, and the portion of section 62 that repeals section 256B.15, subdivision 5, are effective the day following final enactment to the extent permitted by federal law. If any provisions of these sections are prohibited by federal law, the provisions shall become effective when federal law is changed to permit their application or a waiver is received. The commissioner of human services shall notify the revisor of statutes when federal law is enacted or a waiver is received and publish a notice in the State Register. The commissioner must include the notice in the first State Register published after the effective date of the federal changes.

(b) If, by July 1, 1996, any provisions of the sections mentioned in paragraph (a) are not effective because of prohibitions in federal law, the commissioner shall apply to the federal government for a waiver of those prohibitions, and those provisions shall become effective upon receipt of a federal waiver, notification to the revisor of statutes, and publication of a notice in the State Register to that effect. If the commissioner applies for a waiver of the lookback period, the commissioner shall seek the longest lookback period the health care financing administration will approve, not to exceed 72 months.

(c) Section 55 applies to estates of decedents dying on or after its effective date. Section 56 applies to estates where the notice under Minnesota Statutes, section 524.3-801, paragraph (a), was first published on or after its effective date. Section 56 does not affect any right or duty to provide notice to known creditors, including a local agency, before its effective date.

(d) Sections 7, 13, 15, 17, 33, 34, 35, 38, and 61 are effective the day following final enactment.

(e) Section 11 is effective retroactive to October 1, 1993.

(f) Sections 8, 22, subdivision 3, and 34 are effective upon federal approval.

(g) Sections 10 and 31 are effective upon receipt of federal approval, retroactive to January 1, 1996.

ARTICLE 3 LONG-TERM CARE

Section 1. Minnesota Statutes 1995 Supplement, section 144A.071, subdivision 3, is amended to read:

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

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

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

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

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

(e) to certify four existing beds in a facility in Winona with 139 beds, of which 129 beds are certified.

Sec. 2. Minnesota Statutes 1995 Supplement, section 144A.071, subdivision 4a, is amended to read:

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

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

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

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

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

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

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

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

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

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

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

(c) to license or certify beds in a project recommended for approval under section 144A.073;

(d) to license or certify beds that are moved from an existing state nursing home to a different state facility, provided there is no net increase in the number of state nursing home beds;

(e) to certify and license as nursing home beds boarding care beds in a certified boarding care facility if the beds meet the standards for nursing home licensure, or in a facility that was granted an exception to the moratorium under section 144A.073, and if the cost of any remodeling of the facility does not exceed 25 percent of the appraised value of the facility or \$500,000, whichever is less. If boarding care beds are licensed as nursing home beds, the number of boarding care beds in the facility must not increase beyond the number remaining at the time of the upgrade in licensure. The provisions contained in section 144A.073 regarding the upgrading of the facilities do not apply to facilities that satisfy these requirements;

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

(g) to license and certify nursing home beds to replace currently licensed and certified boarding care beds which may be located either in a remodeled or renovated boarding care or nursing home facility or in a remodeled, renovated, newly constructed, or replacement nursing home facility within the identifiable complex of health care facilities in which the currently licensed boarding care beds are presently located, provided that the number of boarding care beds in the facility or complex are decreased by the number to be licensed as nursing home beds and further provided that, if the total costs of new construction, replacement, remodeling, or renovation exceed ten percent of the appraised value of the facility or \$200,000, whichever is less, the facility makes a written commitment to the commissioner of human services that it will not seek to receive an increase in its property-related payment rate by reason of the new construction, replacement, remodeling, or renovation. The provisions contained in section 144A.073 regarding the upgrading of facilities do not apply to facilities that satisfy these requirements;

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

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

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

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

(l) to license or certify beds in renovation, replacement, or upgrading projects as defined in section 144A.073, subdivision 1, so long as the cumulative total costs of the facility's remodeling projects do not exceed 25 percent of the appraised value of the facility or \$500,000, whichever is less;

(m) to license and certify beds that are moved from one location to another for the purposes of converting up to five four-bed wards to single or double occupancy rooms in a nursing home that, as of January 1, 1993, was county-owned and had a licensed capacity of 115 beds;

(n) to allow a facility that on April 16, 1993, was a 106-bed licensed and certified nursing facility located in Minneapolis to layaway all of its licensed and certified nursing home beds. These beds may be relicensed and recertified in a newly-constructed teaching nursing home facility affiliated with a teaching hospital upon approval by the legislature. The proposal must be developed in consultation with the interagency committee on long-term care planning. The beds on layaway status shall have the same status as voluntarily delicensed and decertified beds, except that beds on layaway status remain subject to the surcharge in section 256.9657. This layaway provision expires July 1, 1997;

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

(p) to allow a facility that on April 16, 1993, was a 368-bed licensed and certified nursing facility located in Minneapolis to layaway, upon 30 days prior written notice to the commissioner, up to 30 of the facility's licensed and certified beds by converting three-bed wards to single or double occupancy. Beds on layaway status shall have the same status as voluntarily delicensed and decertified beds except that beds on layaway status remain subject to the surcharge in section 256.9657, remain subject to the license application and renewal fees under section 144A.07 and shall be subject to a \$100 per bed reactivation fee. In addition, at any time within three years of the effective date of the layaway, the beds on layaway status may be:

(1) relicensed and recertified upon relocation and reactivation of some or all of the beds to an existing licensed and certified facility or facilities located in Pine River, Brainerd, or International Falls; provided that the total project construction costs related to the relocation of beds from layaway status for any facility receiving relocated beds may not exceed the dollar threshold provided in subdivision 2 unless the construction project has been approved through the moratorium exception process under section 144A.073;

(2) relicensed and recertified, upon reactivation of some or all of the beds within the facility which placed the beds in layaway status, if the commissioner has determined a need for the reactivation of the beds on layaway status.

The property-related payment rate of a facility placing beds on layaway status must be adjusted by the incremental change in its rental per diem after recalculating the rental per diem as provided in section 256B.431, subdivision 3a, paragraph (d). The property-related payment rate for a facility relicensing and recertifying beds from layaway status must be adjusted by the incremental change in its rental per diem after recalculating its rental per diem using the number of beds after the relicensing to establish the facility's capacity day divisor, which shall be effective the first day of the month following the month in which the relicensing and recertification became effective. Any beds remaining on layaway status more than three years after the date the layaway status became effective must be removed from layaway status and immediately delicensed and decertified;

(q) to license and certify beds in a renovation and remodeling project to convert 13 three-bed wards into 13 two-bed rooms and 13 single-bed rooms, expand space, and add improvements in a nursing home that, as of January 1, 1994, met the following conditions: the nursing home was located in Ramsey county; was not owned by a hospital corporation; had a licensed capacity of 64 beds; and had been ranked among the top 15 applicants by the 1993 moratorium exceptions advisory review panel. The total project construction cost estimate for this project must not exceed the cost estimate submitted in connection with the 1993 moratorium exception process;

(r) to license and certify beds in a renovation and remodeling project to convert 12 four-bed wards into 24 two-bed rooms, expand space, and add improvements in a nursing home that, as of January 1, 1994, met the following conditions: the nursing home was located in Ramsey county; had a licensed capacity of 154 beds; and had been ranked among the top 15 applicants by the 1993 moratorium exceptions advisory review panel. The total project construction cost estimate for this project must not exceed the cost estimate submitted in connection with the 1993 moratorium exception process;

(s) to license and certify up to 117 beds that are relocated from a licensed and certified 138-bed nursing facility located in St. Paul to a hospital with 130 licensed hospital beds located in South St. Paul, provided that the nursing facility and hospital are owned by the same or a related organization and that prior to the date the relocation is completed the hospital ceases operation of its inpatient hospital services at that hospital. After relocation, the nursing facility's status under section 256B.431, subdivision 2j, shall be the same as it was prior to relocation. The nursing facility's property-related payment rate resulting from the project authorized in this paragraph shall become effective no earlier than April 1, 1996. For purposes of calculating the incremental change in the facility's rental per diem resulting from this project, the allowable appraised value of the nursing facility portion of the existing health care facility physical plant prior to the renovation and relocation may not exceed \$2,490,000;

(t) to license and certify two beds in a facility to replace beds that were voluntarily delicensed and decertified on June 28, 1991;

(u) to allow 16 licensed and certified beds located on July 1, 1994, in a 142-bed nursing home and 21-bed boarding care home facility in Minneapolis, notwithstanding the licensure and certification after July 1, 1995, of the Minneapolis facility as a 147-bed nursing home facility after completion of a construction project approved in 1993 under section 144A.073, to be laid away upon 30 days' prior written notice to the commissioner. Beds on layaway status shall have the same status as voluntarily delicensed or decertified beds except that they shall remain subject to the surcharge in section 256.9657. The 16 beds on layaway status may be relicensed as nursing home beds and recertified at any time within five years of the effective date of the layaway upon relocation of some or all of the beds to a licensed and certified facility located in Watertown, provided that the total project construction costs related to the relocation of beds from layaway status for the Watertown facility may not exceed the dollar threshold provided in subdivision 2 unless the construction project has been approved through the moratorium exception process under section 144A.073.

The property-related payment rate of the facility placing beds on layaway status must be adjusted by the incremental change in its rental per diem after recalculating the rental per diem as provided in section 256B.431, subdivision 3a, paragraph (d). The property-related payment rate for the facility relicensing and recertifying beds from layaway status must be adjusted by the incremental change in its rental per diem after recalculating its rental per diem using the number of beds after the relicensing to establish the facility's capacity day divisor, which shall be effective the first day of the month following the month in which the relicensing and recertification became effective. Any beds remaining on layaway status more than five years after the date the layaway status became effective must be removed from layaway status and immediately delicensed and decertified; or

(v) to license and certify beds that are moved within an existing area of a facility or to a newly-constructed addition which is built for the purpose of eliminating three- and four-bed rooms and adding space for dining, lounge areas, bathing rooms, and ancillary service areas in a nursing home that, as of January 1, 1995, was located in Fridley and had a licensed capacity of 129 beds;
or

(w) to relocate 36 beds in Crow Wing county and four beds from Hennepin county to a 160-bed facility in Crow Wing county, provided all the affected beds are under common ownership.

Sec. 3. Minnesota Statutes 1995 Supplement, section 256B.431, subdivision 25, is amended to read:

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

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

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

(1) For the rate year beginning July 1, 1995, the commissioner shall group nursing facilities into two groups, freestanding and nonfreestanding, within each geographic group, using their operating cost per diem for the case mix A classification. A nonfreestanding nursing facility is a nursing facility whose other operating cost per diem is subject to the hospital attached, short length of stay, or the rule 80 limits. All other nursing facilities shall be considered freestanding nursing facilities. The commissioner shall then array all nursing facilities in each grouping by their allowable case mix A operating cost per diem. In calculating a nursing facility's operating cost per diem for this purpose, the commissioner shall exclude the raw food cost per diem related to providing special diets that are based on religious beliefs, as determined in subdivision 2b, paragraph (h). For those nursing facilities in each grouping whose case mix A operating cost per diem:

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

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

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

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

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

(c) For rate years beginning on July 1, 1995, the commissioner shall limit the allowable operating cost per diems for high cost nursing facilities. After application of the limits in paragraph (b) to each nursing facility's operating cost per diems, the commissioner shall group nursing facilities into two groups, freestanding or nonfreestanding, within each geographic group. A nonfreestanding nursing facility is a nursing facility whose other operating cost per diems are subject to hospital attached, short length of stay, or rule 80 limits. All other nursing facilities shall be considered freestanding nursing facilities. The commissioner shall then array all nursing facilities within each grouping by their allowable case mix A operating cost per diems. In calculating a nursing facility's operating cost per diem for this purpose, the commissioner shall exclude the raw food cost per diem related to providing special diets that are based on religious beliefs, as determined in subdivision 2b, paragraph (h). For those nursing facilities in each grouping whose case mix A operating cost per diem exceeds 1.0 standard deviation above the median, the commissioner shall reduce their allowable operating cost per diems by two percent. For those nursing facilities in each grouping whose case mix A operating cost per diem exceeds 0.5 standard deviation above the median but is less than or equal to 1.0 standard deviation above the median, the commissioner shall reduce their allowable operating cost per diems by one percent.

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

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

- (1) subtracting the allowable difference from \$4.50 and dividing the result by \$4.50;
- (2) multiplying 0.20 by the ratio resulting from clause (1), and then;
- (3) adding 0.50 to the result from clause (2); and
- (4) multiplying the result from clause (3) times the allowable difference.

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

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

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

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

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

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

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

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

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

Sec. 4. Minnesota Statutes 1995 Supplement, section 256B.501, subdivision 5b, is amended to read:

Subd. 5b. [ICF/MR OPERATING COST LIMITATION AFTER SEPTEMBER 30, 1995.] (a) ~~For the rate years year beginning on October 1, 1995, and October 1, 1996 and for rate years beginning on or after October 1, 1997,~~ the commissioner shall limit the allowable operating cost per diems, as determined under this subdivision and the reimbursement rules, for high cost ICF's/MR. Prior to indexing each facility's operating cost per diems for inflation, the commissioner shall group the facilities into eight groups. The commissioner shall then array all facilities within each grouping by their general operating cost per service unit per diems.

(b) The commissioner shall annually review and adjust the general operating costs incurred by the facility during the reporting year preceding the rate year to determine the facility's allowable historical general operating costs. For this purpose, the term general operating costs means the facility's allowable operating costs included in the program, maintenance, and administrative operating costs categories, as well as the facility's related payroll taxes and fringe benefits, real estate insurance, and professional liability insurance. A facility's total operating cost payment rate shall be limited according to paragraphs (c) and (d) as follows:

(c) A facility's total operating cost payment rate shall be equal to its allowable historical operating cost per diems for program, maintenance, and administrative cost categories multiplied by the forecasted inflation index in subdivision 3c, clause (1), subject to the limitations in paragraph (d).

(d) For the rate years beginning on or after October 1, 1995, the commissioner shall establish maximum overall general operating cost per service unit limits for facilities according to clauses (1) to (8). Each facility's allowable historical general operating costs and client assessment

information obtained from client assessments completed under subdivision 3g for the reporting year ending December 31, 1994 (the base year), shall be used for establishing the overall limits. If a facility's proportion of temporary care resident days to total resident days exceeds 80 percent, the commissioner must exempt that facility from the overall general operating cost per service unit limits in clauses (1) to (8). For this purpose, "temporary care" means care provided by a facility to a client for less than 30 consecutive resident days.

(1) The commissioner shall determine each facility's weighted service units for the reporting year by multiplying its resident days in each client classification level as established in subdivision 3g, paragraph (d), by the corresponding weights for that classification level, as established in subdivision 3g, paragraph (i), and summing the results. For the reporting year ending December 31, 1994, the commissioner shall use the service unit score computed from the client classifications determined by the Minnesota department of health's annual review, including those of clients admitted during that year.

(2) The facility's service unit score is equal to its weighted service units as computed in clause (1), divided by the facility's total resident days excluding temporary care resident days, for the reporting year.

(3) For each facility, the commissioner shall determine the facility's cost per service unit by dividing its allowable historical general operating costs for the reporting year by the facility's service unit score in clause (2) multiplied by its total resident days, or 85 percent of the facility's capacity days times its service unit score in clause (2), if the facility's occupancy is less than 85 percent of licensed capacity. If a facility reports temporary care resident days, the temporary care resident days shall be multiplied by the service unit score in clause (2), and the resulting weighted resident days shall be added to the facility's weighted service units in clause (1) prior to computing the facility's cost per service unit under this clause.

(4) The commissioner shall group facilities based on class A or class B licensure designation, number of licensed beds, and geographic location. For purposes of this grouping, facilities with six beds or less shall be designated as small facilities and facilities with more than six beds shall be designated as large facilities. If a facility has both class A and class B licensed beds, the facility shall be considered a class A facility for this purpose if the number of class A beds is more than half its total number of ICF/MR beds; otherwise the facility shall be considered a class B facility. The metropolitan geographic designation shall include Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington counties. All other Minnesota counties shall be designated as the nonmetropolitan geographic group. These characteristics result in the following eight groupings:

- (i) small class A metropolitan;
- (ii) large class A metropolitan;
- (iii) small class B metropolitan;
- (iv) large class B metropolitan;
- (v) small class A nonmetropolitan;
- (vi) large class A nonmetropolitan;
- (vii) small class B nonmetropolitan; and
- (viii) large class B nonmetropolitan.

(5) The commissioner shall array facilities within each grouping in clause (4) by each facility's cost per service unit as determined in clause (3).

(6) In each array established under clause (5), facilities with a cost per service unit at or above the median shall be limited to the lesser of: (i) the current reporting year's cost per service unit; or (ii) the prior reporting year's allowable historical general operating cost per service unit plus the inflation factor as established in subdivision 3c, clause (2), increased by three percentage points.

(7) The overall operating cost per service unit limit for each group shall be established as follows:

(i) each array established under clause (5) shall be arrayed again after the application of clause (6);

(ii) in each array established in clause (5), two general operating cost limits shall be determined. The first cost per service unit limit shall be established at 0.5 and less than or equal to 1.0 standard deviation above the median of that array. The second cost per service unit limit shall be established at 1.0 standard deviation above the median of the array; and

(iii) the overall operating cost per service unit limits shall be indexed for inflation annually beginning with the reporting year ending December 31, 1995, using the forecasted inflation index in subdivision 3c, clause (2).

(8) Annually, facilities shall be arrayed using the method described in clauses (5) and (7). Each facility with a cost per service unit at or above its group's first cost per service unit limit, but less than the second cost per service unit limit for that group, shall be limited to 98 percent of its total operating cost per diems then add the forecasted inflation index in subdivision 3c, clause (1). Each facility with a cost per service unit at or above the second cost per service unit limit will be limited to 97 percent of its total operating cost per diems, then add the forecasted inflation index in subdivision 3c, clause (1). Facilities that have undergone a class A to class B conversion since January 1, 1990, are exempt from the limitations in this clause for six years after the completion of the conversion process.

(9) The commissioner may rebase these overall limits, using the method described in this subdivision but no more frequently than once every three years.

(e) For rate years beginning on or after October 1, 1995, the facility's efficiency incentive shall be determined as provided in the reimbursement rule.

(f) The total operating cost payment rate shall be the sum of paragraphs (c) and (e).

(g) For the rate year beginning on October 1, 1996, the commissioner shall exempt a facility from the reductions in this subdivision if the facility is involved in a bed relocation project where more than 25 percent of the facility's beds are transferred to another facility, the relocated beds are six or fewer, there is no change in the total number of ICF/MR beds for the parent organization of the facility, and the relocation is not part of an interim or settle-up rate.

Sec. 5. Minnesota Statutes 1995 Supplement, section 256B.501, subdivision 5c, is amended to read:

Subd. 5c. [OPERATING COSTS AFTER SEPTEMBER 30, ~~1997~~ 1999.] (a) In general, the commissioner shall establish maximum standard rates for the prospective reimbursement of facility costs. The maximum standard rates must take into account the level of reimbursement which is adequate to cover the base-level costs of economically operated facilities. In determining the base-level costs, the commissioner shall consider geographic location, types of facilities (class A or class B), minimum staffing standards, resident assessment under subdivision 3g, and other factors as determined by the commissioner.

(b) The commissioner shall may also develop additional incentive-based payments which, if achieved for specified outcomes, will be added to the maximum standard rates. The specified outcomes must be measurable and shall be based on criteria to be developed by the commissioner during fiscal year 1996. The commissioner may establish various levels of achievement within an outcome. Once the outcomes are established, the commissioner shall assign various levels of payment associated with achieving the outcome. In establishing the specified outcomes and the related criteria, the commissioner shall consider the following state policy objectives:

(1) resident transitioned into cost-effective community alternatives;

(2) the results of a uniform consumer satisfaction survey;

(3) the achievement of no major licensure or certification deficiencies; or

(4) any other outcomes the commissioner finds desirable. The commissioner may also consider the findings of projects examining services to persons with developmental disabilities, including outcome-based quality assurance methods, and the inclusion of persons with developmental disabilities in managed care alternative service delivery models.

(c) In developing the maximum standard rates and the incentive-based payments, desirable outcomes, and related criteria, the commissioner, in collaboration with the commissioner of health, shall form an advisory committee. The membership of the advisory committee shall include representation from the consumers advocacy groups (3), ~~the two facility trade associations (3 each), counties (3), commissioner of finance (1), the legislature (2 each from both the house and senate), and others the commissioners find appropriate.~~

(d) Beginning July 1, ~~1996~~ 1998, the commissioner shall collect the data from the facilities, the department of health, or others as necessary to determine the extent to which a facility has met any of the outcomes and related criteria. Payment rates under this subdivision shall be effective October 1, ~~1997~~ 1999.

(e) The commissioner shall report to the legislature on the progress of the advisory committee by January 31, ~~1996~~, any necessary changes to the reimbursement methodology proposed under this subdivision 1998. By January 15, ~~1997~~ 1999, the commissioner shall recommend to the legislature legislation which will implement this reimbursement methodology for rate years beginning on or after the proposed effective date of October 1, ~~1997~~ 1999.

Sec. 6. Minnesota Statutes 1994, section 256B.501, is amended by adding a subdivision to read:

Subd. 5d. [ADJUSTMENT FOR OUTREACH CRISIS SERVICES.] An ICF/MR with crisis services developed under the authority of Laws 1992, chapter 513, article 9, section 40, shall have its operating cost per diem calculated according to paragraphs (a) and (b).

(a) Effective for services rendered from April 1, 1996, to September 30, 1996, and for rate years beginning on or after October 1, 1996, the maintenance limitation in Minnesota Rules, part 9553.0050, subpart 1, item A, subitem (2), shall be calculated to reflect capacity as of October 1, 1992. The maintenance limit shall be the per diem limitation otherwise in effect adjusted by the ratio of licensed capacity days as of October 1, 1992, divided by resident days in the reporting year ending December 31, 1993.

(b) Effective for rate years beginning on or after October 1, 1996, the operating cost per service unit, for purposes of the cost per service unit limit in section 256B.501, subdivision 5b, paragraph (d), clauses (7) and (8), shall be calculated after excluding the costs directly identified to the provision of outreach crisis services and a four-bed crisis unit.

(c) The efficiency incentive paid to an ICF/MR shall not be increased as a result of this subdivision.

Sec. 7. Minnesota Statutes 1994, section 256B.501, is amended by adding a subdivision to read:

Subd. 5e. [RATE ADJUSTMENT FOR CARE PROVIDED TO A MEDICALLY FRAGILE INDIVIDUAL.] Beginning July 1, 1996, the commissioner shall increase reimbursement rates for a facility located in Chisholm and licensed as an intermediate care facility for persons with mental retardation and related conditions since 1972, to cover the cost to the facility for providing 24-hour licensed practical nurse care to a medically fragile individual admitted on March 8, 1996. The commissioner shall include in this higher rate a temporary adjustment to reimburse the facility for costs incurred between March 8, 1996, and June 30, 1996. Once this resident is discharged, the commissioner shall reduce the facility's payment rate by the amount of the cost of the 24-hour licensed practical nurse care.

Sec. 8. Minnesota Statutes 1994, section 256I.05, subdivision 1c, is amended to read:

Subd. 1c. [RATE INCREASES.] A county agency may not increase the rates negotiated for group residential housing above those in effect on June 30, 1993, except: as provided in paragraphs (a) to (g).

(a) A county may increase the rates for group residential housing settings to the MSA equivalent rate for those settings whose current rate is below the MSA equivalent rate.

(b) A county agency may increase the rates for residents in adult foster care whose difficulty of care has increased. The total group residential housing rate for these residents must not exceed the maximum rate specified in subdivisions 1 and 1a. County agencies must not include nor increase group residential housing difficulty of care rates for adults in foster care whose difficulty of care is eligible for funding by home and community-based waiver programs under title XIX of the Social Security Act.

(c) The room and board rates will be increased each year when the MSA equivalent rate is adjusted for SSI cost-of-living increases by the amount of the annual SSI increase, less the amount of the increase in the medical assistance personal needs allowance under section 256B.35.

(d) When a group residential housing rate is used to pay for an individual's room and board, or other costs necessary to provide room and board, the rate payable to the residence must continue for up to 18 calendar days per incident that the person is temporarily absent from the residence, not to exceed 60 days in a calendar year, if the absence or absences have received the prior approval of the county agency's social service staff. Prior approval is not required for emergency absences due to crisis, illness, or injury.

(e) For facilities meeting substantial change criteria within the prior year. Substantial change criteria exists if the group residential housing establishment experiences a 25 percent increase or decrease in the total number of its beds, if the net cost of capital additions or improvements is in excess of 15 percent of the current market value of the residence, or if the residence physically moves, or changes its licensure, and incurs a resulting increase in operation and property costs.

(f) Until June 30, 1994, a county agency may increase by up to five percent the total rate paid for recipients of assistance under sections 256D.01 to 256D.21 or 256D.33 to 256D.54 who reside in residences that are licensed by the commissioner of health as a boarding care home, but are not certified for the purposes of the medical assistance program. However, an increase under this clause must not exceed an amount equivalent to 65 percent of the 1991 medical assistance reimbursement rate for nursing home resident class A, in the geographic grouping in which the facility is located, as established under Minnesota Rules, parts 9549.0050 to 9549.0058.

(g) For the rate year beginning July 1, 1996, a county agency may increase the total rate paid for recipients of assistance under sections 256D.01 to 256D.21 or 256D.33 to 256D.54 who reside in a residence that meets the following criteria:

- (1) it is licensed by the commissioner of health as a boarding care home;
- (2) it is not certified for the purposes of the medical assistance program;
- (3) at least 50 percent of its residents have a primary diagnosis of mental illness;
- (4) it has at least 17 beds; and
- (5) it provides medication administration to residents.

The rate following an increase under this paragraph must not exceed an amount equivalent to the average 1995 medical assistance payment for nursing home resident class A under the age of 65, in the geographic grouping in which the facility is located, as established under Minnesota Rules, parts 9549.0010 to 9549.0080.

Sec. 9. [VENDOR RATE ADJUSTMENT.]

Notwithstanding the requirements of Minnesota Statutes, section 252.46, subdivisions 3 and 6, the commissioner of human services shall, at the request of the responsible board of county commissioners and subject to conditions the commissioner finds appropriate consistent with the service principles in Minnesota Statutes, section 252.42, grant a variance to the payment rate for vendors defined in Minnesota Statutes, section 252.41, subdivision 9, and located in Hennepin county that serve persons with very severe self-injurious or assaultive behavior, as those terms are used in Minnesota Statutes, section 252.46, subdivision 4, paragraph (b). The adjusted rate shall:

- (1) be limited to provisions of services to no more than 42 such persons;
- (2) not exceed 200 percent of the statewide average rate as calculated in accordance with Minnesota Statutes, section 252.46, subdivision 4, paragraph (b);
- (3) become effective July 1, 1996; and
- (4) be used as the basis for calculating the rate maximum for that vendor for calendar year 1997 in accordance with the requirements of Minnesota Statutes, section 252.46, subdivision 3.

Sec. 10. [DOWNSIZING PILOT PROJECT.]

(a) The commissioner of human services shall establish a pilot project in Pennington county to downsize to 11 beds an existing 15-bed intermediate care facility for persons with mental retardation or related conditions, and develop a four-bed supportive living service facility utilizing the conversion of ICF/MR slots to medical assistance waiver conversion slots for the displaced residents. The project must be approved by the commissioner under Minnesota Statutes, section 252.28, and must include criteria for determining how individuals are selected for alternative services and the use of a request for proposal process in selecting the vendors for alternative services. The project must include:

- (1) alternative services for the residents being relocated;
- (2) timelines for resident relocation and decertification of beds; and
- (3) adjustment of the facility's operating cost rate under Minnesota Rules, part 9553.0075, as necessary to implement the project.

(b) The facility's aggregate investment-per-bed limit in effect before downsizing must be the facility's investment-per-bed limit after downsizing. The facility's total revenues after downsizing must not increase as a result of the downsizing project. The facility's total revenues before downsizing are determined by multiplying the payment rate in effect the day before the downsizing is effective by the number of resident days for the reporting year preceding the downsizing project. For the purpose of this project, the average medical assistance rate for home and community-based services must not exceed the rate made available under Laws 1995, chapter 207, article 8, section 34.

Sec. 11. [NURSING FACILITY REIMBURSEMENT FOR FISCAL YEAR 1997.]

(a) Notwithstanding any contrary provisions of Minnesota Statutes, section 256B.431, subdivision 25, the provisions of this section shall apply for the rate year beginning July 1, 1996.

(b) The commissioner of human services shall group nursing facilities into two groups, freestanding and nonfreestanding, within each geographic group, using their operating cost per diem for the case mix A classification. A nonfreestanding nursing facility is a nursing facility whose other operating cost per diem is subject to the hospital attached, short length stay, or the rule 80 limits. All other nursing facilities shall be considered freestanding nursing facilities. The commissioner shall then array all nursing facilities in each grouping by their allowable case mix A operating cost per diem. In calculating a nursing facility's operating cost per diem for this purpose, the commissioner shall exclude the raw food cost per diem related to providing special diets that are based on religious beliefs, as determined in Minnesota Statutes, section 256B.431, subdivision 2b, paragraph (h). For those nursing facilities in each grouping whose case mix A operating cost per diem:

- (1) is at or above the median plus 1.0 standard deviation of the array, the commissioner shall limit the nursing facility's allowable operating cost per diem for each case mix category to the lesser of the prior reporting year's allowable operating cost per diems plus the inflation factor as established in paragraph (d), or the current reporting year's corresponding allowable operating cost per diem;
- (2) is between .5 standard deviation and 1.0 standard deviation above the median of the array, the commissioner shall limit the nursing facility's allowable operating cost per diem for each case

mix category to the lesser of the prior reporting year's allowable operating cost per diems plus the inflation factor as established in paragraph (d), increase by one percentage point, or the current reporting year's corresponding allowable operating cost per diem; or

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

(c) For the rate year beginning July 1, 1996, the provisions of Minnesota Statutes, section 256B.431, subdivision 25, paragraph (d), shall not apply.

(d) For the rate year beginning July 1, 1996, the forecasted index for operating cost limits referred to in Minnesota Statutes, section 256B.431, subdivision 21, paragraph (b), shall be based on the change in the nursing home market basket as forecasted by Data Resources Inc., for the 12-month period between the midpoints of the two reporting years preceding the rate year.

(e) For the rate year beginning July 1, 1996, the operating cost limits established in Minnesota Statutes, section 256B.431, subdivisions 2b, 2i, and 3c, and any previously effective corresponding limits in law or rule shall not apply, except that these cost limits shall still be calculated for purposes of determining efficiency incentive per diems.

(f) For the rate year beginning July 1, 1996, the commissioner shall exempt all rule 80 facilities from any limits described in Minnesota Statutes, section 256B.431, subdivision 25, paragraph (b), clause (2), that affect care-related operating per diems. For the rate year beginning July 1, 1996, the operating cost per diem referred to in paragraph (b), clause (2), is the sum of the care-related and other operating cost per diems for a given case mix class.

(g) Any reductions to the combined operating per diem shall be divided proportionately between the care-related and other operating per diems.

(h) Notwithstanding paragraphs (a) to (f), the commissioner must also compute nursing facility payment rates based on the laws in effect on March 1, 1996, and use the resulting allowable care-related and other operating cost per diems as the basis for the spend-up limits for the rate year beginning July 1, 1997.

Sec. 12. [ICF/MR REIMBURSEMENT OCTOBER 1, 1996, TO OCTOBER 1, 1997.]

(a) Notwithstanding any contrary provisions of Minnesota Statutes, section 256B.501, for the rate year beginning October 1, 1996, the commissioner of human services shall, for purposes of the spend-up limit, array facilities within each grouping in Minnesota Statutes, section 256B.501, subdivision 5b, paragraph (d), clause (4), by each facility's cost per resident day. A facility's cost per resident day shall be determined by dividing its allowable historical general operating cost for the reporting year by the facility's resident days for that reporting year. Facilities with a cost per resident day at or above the median shall be limited to the lesser of: (1) the current reporting year's cost per resident day; or (2) the prior reporting year's cost per resident day plus the inflation factor as established in Minnesota Statutes, section 256B.501, subdivision 3c, clause (2), increased by three percentage points. However, in no case shall the amount of this reduction exceed: three percent for a facility with a licensed capacity greater than 16 beds; two percent for a facility with a licensed capacity of nine to 16 beds; and one percent for a facility with a licensed capacity of eight or fewer beds.

(b) The commissioner must not apply the limits in Minnesota Statutes, section 256B.501, subdivision 5b, paragraph (d), clause (8), for the rate year beginning October 1, 1996.

(c) Notwithstanding paragraphs (a) and (b), the commissioner must also compute facility payment rates based on the laws in effect on March 1, 1996, and use the resulting allowable operating cost per diems as the basis for the spend-up limits for the rate year beginning October 1, 1997.

HEALTH DEPARTMENT AND
HEALTH PLAN REGULATIONS

Section 1. [62J.69] [MEDICAL EDUCATION AND RESEARCH TRUST FUND.]

Subdivision 1. [DEFINITIONS.] For purposes of this section, the following definitions apply:

(a) "Medical education" means the accredited clinical training of physicians (medical students and residents), dentists, advanced practice nurses (clinical nurse specialist, certified registered nurse anesthetists, nurse practitioners, and certified nurse midwives), and physician assistants.

(b) "Clinical training" means accredited training that occurs in both inpatient and ambulatory care settings.

(c) "Trainee" means students involved in an accredited clinical training program for medical education as defined in paragraph (a).

(d) "Health care research" means approved clinical, outcomes, and health services investigations that are funded by patient out-of-pocket expenses or a third-party payer.

(e) "Commissioner" means the commissioner of health.

(f) "Teaching institutions" means any hospital, medical center, clinic, or other organization that currently sponsors or conducts accredited medical education programs or clinical research in Minnesota.

Subd. 2. [ALLOCATION AND FUNDING FOR MEDICAL EDUCATION AND RESEARCH.] (a) The commissioner may establish a trust fund for the purposes of funding medical education and research activities in the state of Minnesota.

(b) By January 1, 1997, the commissioner may appoint an advisory committee to provide advice and oversight on the distribution of funds from the medical education and research trust fund. If a committee is appointed, the commissioner shall: (1) consider the interest of all stakeholders when selecting committee members; (2) select members that represent both urban and rural interest; and (3) select members that include ambulatory care as well as inpatient perspectives. The commissioner shall appoint to the advisory committee representatives of the following groups: medical researchers, public and private academic medical centers, managed care organizations, Blue Cross and Blue Shield of Minnesota, commercial carriers, Minnesota Medical Association, Minnesota Nurses Association, medical product manufacturers, employers, and other relevant stakeholders, including consumers. The advisory committee is governed by Minnesota Statutes, section 15.059, for membership terms and removal of members and will sunset on June 30, 1999.

(c) Eligible applicants for funds are accredited medical education teaching institutions, consortia, and programs. Applications must be received by September 30 of each year for distribution by January 1 of the following year. An application for funds must include the following:

(1) the official name and address of the institution, facility, or program that is applying for funding;

(2) the name, title, and business address of those persons responsible for administering the funds;

(3) the total number, type, and specialty orientation of eligible trainees in each accredited medical education program applying for funds;

(4) audited clinical training costs per trainee for each medical education program;

(5) a description of current sources of funding for medical education costs including a description and dollar amount of all state and federal financial support;

(6) other revenue received for the purposes of clinical training;

(7) a statement identifying unfunded costs; and

(8) other supporting information the commissioner, with advice from the advisory committee, determines is necessary for the equitable distribution of funds.

(d) The commissioner shall distribute medical education funds to all qualifying applicants based on the following basic criteria: (1) total medical education funds available; (2) total trainees in each eligible education program; and (3) the statewide average cost per trainee, by type of trainee, in each medical education program. Funds distributed shall not be used to displace current funding appropriations from federal or state sources.

(e) Medical education programs receiving funds from the trust fund must submit annual cost and program reports based on criteria established by the commissioner. The reports must include:

(1) the total number of eligible trainees in the program;

(2) the type of programs and residencies funded;

(3) the average cost per trainee and a detailed breakdown of the components of those costs;

(4) other state or federal appropriations received for the purposes of clinical training;

(5) other revenue received for the purposes of clinical training; and

(6) other information the commissioner, with advice from the advisory committee, deems appropriate to evaluate the effectiveness of the use of funds for clinical training.

The commissioner, with advice from the advisory committee, will provide an annual summary report to the legislature on program implementation due February 15 of each year.

(f) The commissioner is authorized to distribute funds made available through:

(1) voluntary contributions by employers or other entities;

(2) allocations for the department of human services to support medical education and research; and

(3) other sources as identified and deemed appropriate by the legislature for inclusion in the trust fund.

(g) The advisory committee shall continue to study and make recommendations on:

(1) the funding of medical research consistent with work currently mandated by the legislature and under way at the department of health; and

(2) the costs and benefits associated with medical education and research.

Sec. 2. Minnesota Statutes 1995 Supplement, section 62Q.03, subdivision 8, is amended to read:

Subd. 8. [GOVERNANCE.] ~~(a) The association shall be governed by an interim 19-member board as follows: one provider member appointed by the Minnesota Hospital Association; one provider member appointed by the Minnesota Medical Association; one provider member appointed by the governor; three members appointed by the Minnesota Council of HMOs to include an HMO with at least 50 percent of total membership enrolled through a public program; three members appointed by Blue Cross and Blue Shield of Minnesota, to include a member from a Blue Cross and Blue Shield of Minnesota affiliated health plan with fewer than 50,000 enrollees and located outside the Minneapolis-St. Paul metropolitan area; two members appointed by the Insurance Federation of Minnesota; one member appointed by the Minnesota Association of Counties; and three public members appointed by the governor, to include at least one representative of a public program. The commissioners of health, commerce, human services, and employee relations shall be nonvoting ex-officio members.~~

- ~~(b) The board may elect officers and establish committees as necessary.~~
- ~~(c) A majority of the members of the board constitutes a quorum for the transaction of business.~~
- ~~(d) Approval by a majority of the board members present is required for any action of the board.~~
- ~~(e) Interim board members shall be appointed by July 1, 1994, and shall serve until a new board is elected according to the plan of operation developed by the association.~~
- ~~(f) A member may designate a representative to act as a member of the interim board in the member's absence according to the plan of operation as established in subdivision 8a of this section.~~

Sec. 3. Minnesota Statutes 1994, section 62Q.075, subdivision 2, is amended to read:

Subd. 2. [REQUIREMENT.] Beginning July 1, 1995 ~~October 31, 1997~~, all managed care organizations shall ~~annually~~ file biennially with the action plans required under section 62Q.07 a plan describing the actions the managed care organization has taken and those it intends to take to contribute to achieving public health goals for each service area in which an enrollee of the managed care organization resides. This plan must be jointly developed in collaboration with the local public health units, appropriate regional coordinating boards, and other community organizations providing health services within the same service area as the managed care organization. Local government units with responsibilities and authority defined under chapters 145A and 256E may designate individuals to participate in the collaborative planning with the managed care organization to provide expertise and represent community needs and goals as identified under chapters 145A and 256E.

Sec. 4. Minnesota Statutes 1995 Supplement, section 62R.17, is amended to read:

62R.17 [PROVIDER COOPERATIVE DEMONSTRATION.]

(a) A health provider cooperative incorporated and having adopted bylaws before May 1, 1995, that has members who provide services in Sibley, Nicollet, Blue Earth, Brown, Watonwan, Martin, Faribault, Waseca, and LeSueur counties, may contract with a qualified employer or self-insured employer plan to provide health care services in accordance with sections 62R.17 to 62R.26.

(b) A health provider cooperative incorporated and having adopted bylaws before July 1, 1995, that has members who provide services in Big Stone, Chippewa, Cottonwood, Jackson, Kandiyohi, Lac Qui Parle, Lincoln, Lyon, McLeod, Meeker, Murray, Nobles, Pipestone, Redwood, Renville, Rock, Swift, and Yellow Medicine counties, may contract with a qualified employer or self-insured employer plan to provide health care services in accordance with sections 62R.17 to 62R.26.

(c) A health provider cooperative incorporated and having adopted bylaws before March 1, 1995, that has members who provide services in Big Stone, Chippewa, Cottonwood, Jackson, Kandiyohi, Lac Qui Parle, Lincoln, Lyon, Murray, Nobles, Pipestone, Redwood, Renville, Rock, Swift, and Yellow Medicine counties, may contract with a qualified employer or self-insured employer plan to provide health care services in accordance with sections 62R.17 to 62R.26.

(d) The health provider cooperative, the qualified employer, or the self-insured employer plan shall not, solely on account of that contract, be subject to any provision of Minnesota Statutes relating to health carriers except as provided in section 62R.21. The grant of contracting power under this section shall not be interpreted to permit or prohibit any other lawful arrangement between a health care provider and a self-insured employee welfare benefit plan or its sponsor.

Sec. 5. Minnesota Statutes 1995 Supplement, section 144.122, is amended to read:

144.122 [LICENSE AND PERMIT FEES.]

(a) The state commissioner of health, by rule, may prescribe reasonable procedures and fees for

filing with the commissioner as prescribed by statute and for the issuance of original and renewal permits, licenses, registrations, and certifications issued under authority of the commissioner. The expiration dates of the various licenses, permits, registrations, and certifications as prescribed by the rules shall be plainly marked thereon. Fees may include application and examination fees and a penalty fee for renewal applications submitted after the expiration date of the previously issued permit, license, registration, and certification. The commissioner may also prescribe, by rule, reduced fees for permits, licenses, registrations, and certifications when the application therefor is submitted during the last three months of the permit, license, registration, or certification period. Fees proposed to be prescribed in the rules shall be first approved by the department of finance. All fees proposed to be prescribed in rules shall be reasonable. The fees shall be in an amount so that the total fees collected by the commissioner will, where practical, approximate the cost to the commissioner in administering the program. All fees collected shall be deposited in the state treasury and credited to the state government special revenue fund unless otherwise specifically appropriated by law for specific purposes.

(b) The commissioner may charge a fee for voluntary certification of medical laboratories and environmental laboratories, and for environmental and medical laboratory services provided by the department, without complying with paragraph (a) or chapter 14. Fees charged for environment and medical laboratory services provided by the department must be approximately equal to the costs of providing the services.

(c) The commissioner may develop a schedule of fees for diagnostic evaluations conducted at clinics held by the services for children with handicaps program. All receipts generated by the program are annually appropriated to the commissioner for use in the maternal and child health program.

(d) The commissioner, for fiscal years 1996 and beyond, shall set license fees for hospitals and nursing homes that are not boarding care homes at the following levels:

Joint Commission on Accreditation of Healthcare

Organizations (JCAHO hospitals)	\$1,017
Non-JCAHO hospitals	\$762 plus \$34 per bed
Nursing home	\$78 plus \$19 per bed

For fiscal years 1996 and beyond, the commissioner shall set license fees for outpatient surgical centers, boarding care homes, and supervised living facilities at the following levels:

Outpatient surgical centers	\$517
Boarding care homes	\$78 plus \$19 per bed
Supervised living facilities	\$78 plus \$19 per bed.

(e) Unless prohibited by federal law, the commissioner of health shall charge applicants the following fees to cover the cost of any initial certification surveys required to determine a provider's eligibility to participate in the Medicare or Medicaid program:

<u>Prospective payment surveys for hospitals</u>	<u>\$ 900</u>
<u>Swing bed surveys for nursing homes</u>	<u>\$1200</u>
<u>Psychiatric hospitals</u>	<u>\$1400</u>
<u>Rural health facilities</u>	<u>\$1100</u>
<u>Portable X-ray providers</u>	<u>\$ 500</u>
<u>Home health agencies</u>	<u>\$1800</u>
<u>Outpatient therapy agencies</u>	<u>\$ 800</u>
<u>End stage renal dialysis providers</u>	<u>\$2100</u>
<u>Independent therapists</u>	<u>\$ 800</u>
<u>Comprehensive rehabilitation outpatient facilities</u>	<u>\$1200</u>
<u>Hospice providers</u>	<u>\$1700</u>

<u>Ambulatory surgical providers</u>	<u>\$1800</u>
<u>Hospitals</u>	<u>\$4200</u>
<u>Other provider categories or additional resurveys required to complete initial certification</u>	<u>Actual surveyor costs: average surveyor cost x number of hours for the survey process.</u>

These fees shall be submitted at the time of the application for federal certification and shall not be refunded. All fees collected after the date that the imposition of fees is not prohibited by federal law shall be deposited in the state treasury and credited to the state government special revenue fund.

Sec. 6. [144.2215] [BIRTH DEFECTS REGISTRY SYSTEM.]

The commissioner of health shall develop a statewide birth defects registry system to provide for the collection, analysis, and dissemination of birth defects information. The commissioner shall consult with representatives and experts in epidemiology, medicine, insurance, health maintenance organizations, genetics, consumers, and voluntary organizations in developing the system and may phase in the implementation of the system.

Sec. 7. Minnesota Statutes 1994, section 144.572, is amended to read:

144.572 [INSTITUTIONS EXCEPTED.]

No rule nor requirement shall be made, nor standard established under sections 144.50 to 144.56 for any sanitarium, conducted in accordance with the practice and principles of the body known as the Church of Christ, Scientist by and for the adherents of any recognized church or religious denomination for the purpose of providing care and treatment for those who select and depend upon spiritual means through prayer alone, in lieu of medical care, for healing, except as to the sanitary and safe condition of the premises, cleanliness of operation, and its physical equipment.

Sec. 8. Minnesota Statutes 1994, section 144.71, subdivision 1, is amended to read:

Subdivision 1. [HEALTH AND SAFETY.] The purpose of sections 144.71 to 144.74 is to protect the health and safety of children persons in attendance at children's youth camps.

Sec. 9. Minnesota Statutes 1994, section 144.71, subdivision 2, is amended to read:

Subd. 2. [DEFINITION.] For the purpose of such sections a children's youth camp is defined as a parcel or parcels of land with permanent buildings, tents or other structures together with appurtenances thereon, established or maintained as living quarters where both food and beverage service and lodging or the facilities therefor are provided for ten or more people, operated continuously for a period of five days or more each year for educational, recreational or vacation purposes, and the use of the camp is offered to minors free of charge or for payment of a fee.

Sec. 10. Minnesota Statutes 1994, section 144.72, subdivision 1, is amended to read:

Subdivision 1. [PERMITS.] The state commissioner of health is authorized to issue permits for the operation of such children's youth camps and such camps which are required to obtain such the permits.

Sec. 11. Minnesota Statutes 1994, section 144.72, subdivision 2, is amended to read:

Subd. 2. [APPLICATION.] On or before June first annually, every person, partnership, limited liability company or corporation, operating or seeking to operate a children's youth camp, shall make application in writing to the commissioner for a permit to conduct a children's youth camp. Such application shall be in such form and shall contain such information as the commissioner may find necessary to determine that the children's youth camp will be operated and maintained in such a manner as to protect and preserve the health and safety of the persons using the camp. Where a person, partnership, limited liability company or corporation operates or is seeking to operate more than one children's youth camp, a separate application shall be made for each camp.

Sec. 12. Minnesota Statutes 1994, section 144.73, subdivision 1, is amended to read:

Subdivision 1. [INSPECTION OF CAMPS.] It shall be the duty of the state commissioner of health to make an annual inspection of each children's youth camp, and where, upon inspection it is found that there is a failure to protect the health and safety of the persons using the camp, or a failure to comply with the camp rules prescribed by the commissioner, the commissioner shall give notice to the camp operator of such failure, which notice shall set forth the reason or reasons for such failure.

Sec. 13. Minnesota Statutes 1994, section 144.74, is amended to read:

144.74 [RULES, STANDARDS.]

The state commissioner of health is authorized to adopt and enforce such reasonable rules and standards as the commissioner determines necessary to protect the health and safety of children persons in attendance at children's youth camps. Such rules and standards may include reasonable restrictions and limitations on the following:

(1) Camp sites and buildings, including location, layout, lighting, ventilation, heating, plumbing, drainage and sleeping quarters;

(2) Sanitary facilities, including water supply, toilet and shower facilities, sewage and excreta disposal, waste and garbage disposal, and the control of insects and rodents, and

(3) Food service, including storage, refrigeration, sanitary preparation and handling of food, the cleanliness of kitchens and the proper functioning of equipment.

Sec. 14. Minnesota Statutes 1995 Supplement, section 144.9503, subdivision 6, is amended to read:

Subd. 6. [VOLUNTARY LEAD HAZARD REDUCTION.] The commissioner shall monitor the lead hazard reduction methods adopted under section 144.9508 in cases of voluntary lead hazard reduction. All contractors hired to do voluntary lead hazard reduction must be licensed lead contractors. If a property owner does not use a lead contractor for voluntary lead hazard reduction, the property owner shall provide the commissioner with a plan for lead hazard reduction at least ten working days before beginning the lead hazard reduction. The plan must include the details required in section 144.9505, and notice as to when lead hazard reduction activities will begin. Within the limits of appropriations, the commissioner shall review plans and shall approve or disapprove them as to compliance with the requirements in section 144.9505. No penalty shall be assessed against a property owner for discontinuing voluntary lead hazard reduction before completion of the plan, provided that the property owner discontinues the plan in a manner that leaves the property in a condition no more hazardous than its condition before the plan implementation.

Sec. 15. Minnesota Statutes 1995 Supplement, section 144.9503, subdivision 8, is amended to read:

Subd. 8. [CERTIFICATION FOR LEAD-SAFE HOUSING.] The commissioner shall propose to the legislature a program to certify residences as lead safe by February 15, 1996 1997.

Sec. 16. Minnesota Statutes 1995 Supplement, section 144.9503, subdivision 9, is amended to read:

Subd. 9. [LANDLORD TENANT STUDY.] Within the limits of appropriations, the commissioner of health shall ~~conduct or contract for a study of the legal responsibilities of tenants and landlords in the prevention of lead hazards, and shall report the findings to the legislature, along with recommendations as to any changes needed to clarify or modify current law by January 15, 1996.~~ In conducting the study, the commissioner shall convene any public meetings necessary to hear the testimony and recommendations of interested parties, and shall invite and consider written public comments.

Sec. 17. Minnesota Statutes 1995 Supplement, section 144.9504, subdivision 2, is amended to read:

Subd. 2. [LEAD INSPECTION.] (a) An inspecting agency shall conduct a lead inspection of a residence according to the venous blood lead level and time frame set forth in clauses (1) to (4) for purposes of secondary prevention:

(1) within 48 hours of a child or pregnant female in the residence being identified to the agency as having a venous blood lead level equal to or greater than 70 micrograms of lead per deciliter of whole blood;

(2) within five working days of a child or pregnant female in the residence being identified to the agency as having a venous blood lead level equal to or greater than 45 micrograms of lead per deciliter of whole blood;

(3) within ten working days of a child or pregnant female in the residence being identified to the agency as having a venous blood lead level equal to or greater than 20 micrograms of lead per deciliter of whole blood; or

(4) within ten working days of a child or pregnant female in the residence being identified to the agency as having a venous blood lead level that persists in the range of 15 to 19 micrograms of lead per deciliter of whole blood for 90 days after initial identification.

(b) Within the limits of available state and federal appropriations, an inspecting agency may also conduct a lead inspection for children with any elevated blood lead level.

(c) In a building with two or more dwelling units, an inspecting agency shall inspect the individual unit in which the conditions of this section are met and shall also inspect all common areas. If a child visits one or more other sites such as another residence, or a residential or commercial child care facility, playground, or school, the inspecting agency shall also inspect the other sites. The inspecting agency shall have one additional day added to the time frame set forth in this subdivision to complete the lead inspection for each additional site.

(d) Within the limits of appropriations, the inspecting agency shall identify the known addresses for the previous 12 months of the child or pregnant female with elevated blood lead levels; notify the property owners, landlords, and tenants at those addresses that an elevated blood lead level was found in a person who resided at the property; and give them a copy of the lead inspection guide. This information shall be classified as private data on individuals as defined under section 13.02, subdivision 12.

(e) The inspecting agency shall conduct the lead inspection according to rules adopted by the commissioner under section 144.9508. An inspecting agency shall have lead inspections performed by lead inspectors licensed by the commissioner according to rules adopted under section 144.9508. If a property owner refuses to allow an inspection, the inspecting agency shall begin legal proceedings to gain entry to the property and the time frame for conducting a lead inspection set forth in this subdivision no longer applies. An inspector or inspecting agency may observe the performance of lead hazard reduction in progress and shall enforce the provisions of this section under section 144.9509. Deteriorated painted surfaces, bare soil, dust, and drinking water must be tested with appropriate analytical equipment to determine the lead content, except that deteriorated painted surfaces or bare soil need not be tested if the property owner agrees to engage in lead hazard reduction on those surfaces.

(f) A lead inspector shall notify the commissioner and the board of health of all violations of lead standards under section 144.9508, that are identified in a lead inspection conducted under this section.

(g) Each inspecting agency shall establish an administrative appeal procedure which allows a property owner to contest the nature and conditions of any lead order issued by the inspecting agency. Inspecting agencies must consider appeals that propose lower cost methods that make the residence lead safe.

(h) Sections 144.9501 to 144.9509 neither authorize nor prohibit an inspecting agency from charging a property owner for the cost of a lead inspection.

Sec. 18. Minnesota Statutes 1995 Supplement, section 144.9504, subdivision 7, is amended to read:

Subd. 7. [RELOCATION OF RESIDENTS.] (a) ~~An~~ Within the limits of appropriations, the inspecting agency shall ensure that residents are relocated from rooms or dwellings during a lead hazard reduction process that generates leaded dust, such as removal or disruption of lead-based paint or plaster that contains lead. Residents shall not remain in rooms or dwellings where the lead hazard reduction process is occurring. An inspecting agency is not required to pay for relocation unless state or federal funding is available for this purpose. The inspecting agency shall make an effort to assist the resident in locating resources that will provide assistance with relocation costs. Residents shall be allowed to return to the residence or dwelling after completion of the lead hazard reduction process. An inspecting agency shall use grant funds under section 144.9507 if available, in cooperation with local housing agencies, to pay for moving costs and rent for a temporary residence for any low-income resident temporarily relocated during lead hazard reduction. For purposes of this section, "low-income resident" means any resident whose gross household income is at or below 185 percent of federal poverty level.

(b) A resident of rental property who is notified by an inspecting agency to vacate the premises during lead hazard reduction, notwithstanding any rental agreement or lease provisions:

(1) shall not be required to pay rent due the landlord for the period of time the tenant vacates the premises due to lead hazard reduction;

(2) may elect to immediately terminate the tenancy effective on the date the tenant vacates the premises due to lead hazard reduction; and

(3) shall not, if the tenancy is terminated, be liable for any further rent or other charges due under the terms of the tenancy.

(c) A landlord of rental property whose tenants vacate the premises during lead hazard reduction shall:

(1) allow a tenant to return to the dwelling unit after lead hazard reduction and clearance inspection, required under this section, is completed, unless the tenant has elected to terminate the tenancy as provided for in paragraph (b); and

(2) return any security deposit due under section 504.20 within five days of the date the tenant vacates the unit, to any tenant who terminates tenancy as provided for in paragraph (b).

Sec. 19. Minnesota Statutes 1995 Supplement, section 144.9504, subdivision 8, is amended to read:

Subd. 8. [PROPERTY OWNER RESPONSIBILITY.] Property owners shall comply with lead orders issued under this section within 60 days or be subject to enforcement actions as provided under section 144.9509. For orders or portions of orders concerning external lead hazards, property owners shall comply within 60 days, or as soon thereafter as weather permits. If the property owner does not use a lead contractor for compliance with the lead orders, the property owner shall submit a plan for approval by to the inspecting agency within 30 days after receiving the orders. The plan must include the details required in section 144.9505 as to how the property owner intends to comply with the lead orders and notice as to when lead hazard reduction activities will begin. Within the limits of appropriations, the commissioner shall review plans and shall approve or disapprove them as to compliance with the requirements in section 144.9505, subdivision 5.

Sec. 20. Minnesota Statutes 1995 Supplement, section 144.9505, subdivision 4, is amended to read:

Subd. 4. [NOTICE OF LEAD ABATEMENT OR LEAD HAZARD REDUCTION WORK.] (a) At least five working days before starting work at each lead abatement or lead hazard reduction worksite, the person performing the lead abatement or lead hazard reduction work shall give written notice and an approved work plan as required in this section to the commissioner and the

appropriate board of health. Within the limits of appropriations, the commissioner shall review plans and shall approve or disapprove them as to compliance with the requirements in section 144.9505, subdivision 5.

(b) This provision does not apply to swab team workers performing work under an order of an inspecting agency.

Sec. 21. Minnesota Statutes 1994, section 144A.04, is amended by adding a subdivision to read:

Subd. 7a. [DIRECTOR OF NURSING SERVICES.] Except as otherwise provided by this subdivision, a nursing home must have a full-time director of nursing services who is assigned full time to the nursing services of the nursing home. For purposes of this requirement, "full time" means working at least 35 hours per week. The director of nursing services of a nursing home may also serve as the director of nursing services of a physically attached hospital if:

(1) the hospital has an average daily census of ten patients or less in the most recent reporting year for which data is available;

(2) the total combined beds of the hospital and nursing home do not exceed 100; and

(3) the management of the two facilities is under the control and direction of the same governing body.

Sec. 22. Minnesota Statutes 1994, section 144A.09, subdivision 1, is amended to read:

Subdivision 1. [~~CHURCH OF CHRIST, SCIENTIST SPIRITUAL MEANS FOR HEALING.~~] No rule established under sections 144A.01 to 144A.16 other than a rule relating to sanitation and safety of premises, to cleanliness of operation or to physical equipment, shall apply to a nursing home conducted in accordance with the teachings of the body known as the Church of Christ, Scientist by and for the adherents of any recognized church or religious denomination for the purpose of providing care and treatment for those who select and depend upon spiritual means through prayer alone, in lieu of medical care, for healing.

Sec. 23. Minnesota Statutes 1994, section 144A.20, subdivision 2, is amended to read:

Subd. 2. [EXCEPTION.] Notwithstanding any law to the contrary, no person desiring to be licensed to administer a nursing home operated exclusively in accordance with the teachings of the body known as the Church of Christ, Scientist by and for the adherents of any recognized church or religious denomination for the purpose of providing care and treatment for those who select and depend upon spiritual means through prayer alone, in lieu of medical care, for healing, shall be required to demonstrate proficiency in any medical technique or meet any medical educational qualification or medical standard which is not in accord with the type of remedial care and treatment provided in a nursing home operated exclusively in accordance with the teachings of that body.

Sec. 24. Minnesota Statutes 1994, section 145.61, subdivision 5, is amended to read:

Subd. 5. "Review organization" means a nonprofit organization acting according to clause (k) or a committee whose membership is limited to professionals, administrative staff, and consumer directors, except where otherwise provided for by state or federal law, and which is established by one or more of the following: a hospital, a clinic, a nursing home, one or more state or local associations of professionals, an organization of professionals from a particular area or medical institution, a health maintenance organization as defined in chapter 62D, a nonprofit health service plan corporation as defined in chapter 62C, a preferred provider organization, a professional standards review organization established pursuant to United States Code, title 42, section 1320c-1 et seq., a medical review agent established to meet the requirements of section 256B.04, subdivision 15, or 256D.03, subdivision 7, paragraph (b), the department of human services, a health provider cooperative operating under sections 62R.17 to 62R.26, or a corporation organized under chapter 317A that owns, operates, or is established by one or more of the above referenced entities, to gather and review information relating to the care and treatment of patients for the purposes of:

(a) evaluating and improving the quality of health care rendered in the area or medical institution or by the entity or organization that established the review organization;

(b) reducing morbidity or mortality;

(c) obtaining and disseminating statistics and information relative to the treatment and prevention of diseases, illness and injuries;

(d) developing and publishing guidelines showing the norms of health care in the area or medical institution or in the entity or organization that established the review organization;

(e) developing and publishing guidelines designed to keep within reasonable bounds the cost of health care;

(f) reviewing the quality or cost of health care services provided to enrollees of health maintenance organizations, health service plans, preferred provider organizations, and insurance companies;

(g) acting as a professional standards review organization pursuant to United States Code, title 42, section 1320c-1 et seq.;

(h) determining whether a professional shall be granted staff privileges in a medical institution, membership in a state or local association of professionals, or participating status in a nonprofit health service plan corporation, health maintenance organization, preferred provider organization, or insurance company, or whether a professional's staff privileges, membership, or participation status should be limited, suspended or revoked;

(i) reviewing, ruling on, or advising on controversies, disputes or questions between:

(1) health insurance carriers, nonprofit health service plan corporations, health maintenance organizations, self-insurers and their insureds, subscribers, enrollees, or other covered persons;

(2) professional licensing boards and health providers licensed by them;

(3) professionals and their patients concerning diagnosis, treatment or care, or the charges or fees therefor;

(4) professionals and health insurance carriers, nonprofit health service plan corporations, health maintenance organizations, or self-insurers concerning a charge or fee for health care services provided to an insured, subscriber, enrollee, or other covered person;

(5) professionals or their patients and the federal, state, or local government, or agencies thereof;

(j) providing underwriting assistance in connection with professional liability insurance coverage applied for or obtained by dentists, or providing assistance to underwriters in evaluating claims against dentists;

(k) acting as a medical review agent under section 256B.04, subdivision 15, or 256D.03, subdivision 7, paragraph (b);

(l) providing recommendations on the medical necessity of a health service, or the relevant prevailing community standard for a health service;

(m) reviewing a provider's professional practice as requested by the data analysis unit under section 62J.32;

(n) providing quality assurance as required by United States Code, title 42, sections 1396r(b)(1)(b) and 1395i-3(b)(1)(b) of the Social Security Act;

(o) providing information to group purchasers of health care services when that information was originally generated within the review organization for a purpose specified by this subdivision; or

(p) providing information to other, affiliated or nonaffiliated review organizations, when that information was originally generated within the review organization for a purpose specified by this subdivision, and as long as that information will further the purposes of a review organization as specified by this subdivision.

Sec. 25. [145.951] [CHILDREN HELPED IN LONG-TERM DEVELOPMENT; IMPLEMENTATION PLAN.]

The commissioner of health, in consultation with the commissioners of children, families, and learning; corrections; public safety; and human services, and with the directors of the office of strategic and long-range planning, the council on disability, and the councils and commission under Minnesota Statutes, sections 3.922 to 3.9226, may develop an implementation plan for the establishment of a statewide program to assist families in developing the full potential of their children. The program must be designed to strengthen the family, to reduce the risk of abuse to children, and to promote the long-term development of children in their home environments. The program must also be designed to use volunteers to provide support to parents, and to link parents with existing public health, education, and social services as appropriate.

Sec. 26. [145.952] [DEFINITIONS.]

Subdivision 1. [SCOPE.] The definitions in this section apply to sections 145.951 to 145.957.

Subd. 2. [ABUSE.] "Abuse" means physical abuse, sexual abuse, neglect, mental injury, and threatened injury, as those terms are defined in section 626.556, subdivision 2.

Subd. 3. [CHILD PROGRAM OR PROGRAM.] "CHILD program" or "program" means the children helped in long-term development program that the commissioner shall plan to be implemented under sections 145.951 to 145.957.

Subd. 4. [COMMISSIONER.] "Commissioner" means the commissioner of health or the commissioner's designee.

Subd. 5. [LOCAL ORGANIZATION.] "Local organization" means an organization that contracts with the commissioner under section 145.953, subdivision 1, to administer the CHILD program on a local level.

Sec. 27. [145.953] [PROGRAM STRUCTURE.]

Subdivision 1. [LOCAL ADMINISTRATION OF PROGRAM.] The implementation plan must require the commissioner to contract with appropriate private nonprofit and governmental organizations to administer the CHILD program on a local level. The local organization, in collaboration and coordination with the department of health, shall be responsible for recruiting, screening training, and overseeing volunteers for the program.

Subd. 2. [VOLUNTEER COMPONENT.] The implementation plan must provide that a volunteer will be matched with a family to provide ongoing support in parenting. The volunteer shall provide the family with information on the CHILD program and other social services available. Through home visits and frequent contact, the volunteer shall provide support and guidance on raising the child and coping with stresses that may increase the risk of abuse. The volunteer shall also assist the family in obtaining other needed services from existing social services programs.

Sec. 28. [145.954] [STANDARDS FOR PROGRAM.]

In planning for the implementation of the program, the commissioner shall:

(1) establish mechanisms to encourage families to participate in the CHILD program;

(2) establish mechanisms to identify families who may wish to participate in the CHILD program and to match volunteers with these families either before or as soon as possible after a child is born;

(3) ensure that local organizations coordinate with services already provided by the departments of health, human services, and children, families, and learning to ensure that participating families receive a continuum of care;

(4) coordinate with local social services agencies, local health boards, and community health boards;

(5) ensure that services provided through the program are community-based and that the special needs of minority communities are addressed;

(6) develop and implement appropriate systems to gather data on participating families and to monitor and evaluate their progress; and

(7) evaluate the program's effectiveness.

Sec. 29. [145.955] [DUTIES OF LOCAL ORGANIZATION.]

The implementation plan shall require the local organizations to:

(1) recruit and train volunteers to serve families under the program, according to section 145.956;

(2) provide ongoing supervision and consultation to volunteers; and

(3) develop resource and referral booklets that volunteers can distribute to families served by the program. The booklets shall contain comprehensive information on the spectrum of services available to assist the family and to reduce the risk of abuse.

Sec. 30. [145.956] [TRAINING AND RECRUITMENT OF VOLUNTEERS.]

Subdivision 1. [TRAINING REQUIREMENTS.] (a) The implementation plan shall require the local organization to carefully screen and train volunteers to provide program services. Training must prepare volunteers to:

(1) identify signs of abuse or other indications that a child may be at risk of abuse;

(2) help families develop communications skills;

(3) teach and reinforce healthy discipline techniques;

(4) provide other support a family needs to cope with stresses that increase the risk of abuse; and

(5) refer the family to other appropriate public health, education, and social services.

(b) The implementation plan shall also include procedures whereby the local agency will provide ongoing support, supervision, and training for all volunteers. Training must be culturally appropriate and community-based, and must incorporate input from parents who will be using the program's services.

Subd. 2. [RECRUITMENT OF VOLUNTEERS.] The implementation plan must require that the local organization recruit minority volunteers to serve communities of color.

Sec. 31. [145.957] [ELIGIBILITY.]

The implementation plan must ensure that all residents of Minnesota are eligible for services under the program. The plan must make services available on a sliding fee basis. The commissioner shall develop a sliding fee scale for the program.

Sec. 32. Minnesota Statutes 1995 Supplement, section 148C.01, subdivision 12, is amended to read:

Subd. 12. [SUPERVISED ALCOHOL AND DRUG COUNSELING EXPERIENCE.] Except during the transition period, "supervised alcohol and drug counseling experience" means practical

experience gained by a student, volunteer, or intern, and supervised by a person either licensed under this chapter or exempt under its provisions; either before, during, or after the student completes a program from an accredited school or ~~education~~ educational program of alcohol and drug counseling.

Sec. 33. Minnesota Statutes 1995 Supplement, section 148C.01, subdivision 13, is amended to read:

Subd. 13. [ALCOHOL AND DRUG COUNSELING PRACTICUM.] "Alcohol and drug counseling practicum" means formal experience gained by a student and supervised by a person either licensed under this chapter or exempt under its provisions, in an accredited school or educational program of alcohol and drug counseling as part of the education requirements of this chapter.

Sec. 34. Minnesota Statutes 1994, section 148C.01, is amended by adding a subdivision to read:

Subd. 17. [ALCOHOL AND DRUG COUNSELOR INTERNSHIP.] "Alcohol and drug counselor internship" means supervised, practical, on-the-job training as an intern, volunteer, or employee in alcohol and drug counseling.

Sec. 35. Minnesota Statutes 1995 Supplement, section 148C.02, subdivision 1, is amended to read:

Subdivision 1. [MEMBERSHIP.] The alcohol and drug counselors licensing advisory council consists of 13 members. The commissioner shall appoint:

(1) except for those members initially appointed, seven members who must be licensed alcohol and drug ~~dependency~~ counselors;

(2) three members who must be public members as defined by section 214.02;

(3) one member who must be a director or coordinator of an accredited alcohol and drug dependency training program; and

(4) one member who must be a former consumer of alcohol and drug dependency counseling service and who must have received the service more than three years before the person's appointment.

The American Indian advisory committee to the department of human services chemical dependency office shall appoint the remaining member.

Sec. 36. Minnesota Statutes 1995 Supplement, section 148C.02, subdivision 2, is amended to read:

Subd. 2. [DUTIES.] (a) The advisory council shall:

(1) provide advice and recommendations to the commissioner on the development of rules for the licensure of alcohol and drug counselors;

(2) provide advice and recommendations to the commissioner on the development of standards and procedures for the competency testing, licensing, and review of alcohol and drug counselors' professional conduct;

(3) provide advice and recommendations to the commissioner in disciplinary cases in the areas of counselor competency issues, counselor practice issues, and counselor impairment issues.

~~(b) The advisory council shall form an education committee, including a chair, and shall advise the commissioner on the administration of education requirements in section 148C.05, subdivision 2.~~

Sec. 37. Minnesota Statutes 1995 Supplement, section 148C.03, subdivision 1, is amended to read:

Subdivision 1. [GENERAL.] The commissioner shall, after consultation with the advisory council or a subcommittee or the special licensing criteria committee established under section 148C.11, subdivision 3, paragraph (b):

(a) adopt and enforce rules for licensure of alcohol and drug counselors, including establishing standards and methods of determining whether applicants and licensees are qualified under section 148C.04. The rules must provide for examinations and establish standards for the regulation of professional conduct. The rules must be designed to protect the public;

(b) hold or contract for the administration of examinations at least twice a year to assess applicants' knowledge and skills. The examinations must be written and oral and may be administered by the commissioner or by a private organization under contract with the commissioner to administer the licensing examinations. Examinations must minimize cultural bias and must be balanced in various theories relative to practice of alcohol and drug counseling;

(c) issue licenses to individuals qualified under sections 148C.01 to 148C.11;

(d) issue copies of the rules for licensure to all applicants;

(e) adopt rules to establish and implement procedures, including a standard disciplinary process and rules of professional conduct;

(f) carry out disciplinary actions against licensees;

(g) establish, with the advice and recommendations of the advisory council, written internal operating procedures for receiving and investigating complaints and for taking disciplinary actions as appropriate. Establishment of the operating procedures are not subject to rulemaking procedures under chapter 14;

(h) educate the public about the existence and content of the rules for ~~chemical dependency~~ alcohol and drug counselor licensing to enable consumers to file complaints against licensees who may have violated the rules;

(i) evaluate the rules in order to refine and improve the methods used to enforce the commissioner's standards;

(j) set, collect, and adjust license fees for alcohol and drug counselors so that the total fees collected will as closely as possible equal anticipated expenditures during the biennium, as provided in section 16A.1285; fees for initial and renewal application and examinations; late fees for counselors who submit license renewal applications after the renewal deadline; and a surcharge fee. The surcharge fee must include an amount necessary to recover, over a five-year period, the commissioner's direct expenditures for the adoption of the rules providing for the licensure of alcohol and drug counselors. All fees received shall be deposited in the state treasury and credited to the special revenue fund; and

(k) prepare reports on activities related to the licensure of alcohol and drug counselors according to this subdivision by October 1 of each even-numbered year. Copies of the reports shall be delivered to the legislature in accordance with section 3.195 and to the governor. The reports shall contain the following information on the commissioner's activities relating to the licensure of ~~chemical dependency~~ alcohol and drug counselors, for the two-year period ending the previous June 30:

(1) a general statement of the activities;

(2) the number of staff hours spent on the activities;

(3) the receipts and disbursements of funds;

(4) the names of advisory council members and their addresses, occupations, and dates of appointment and reappointment;

(5) the names and job classifications of employees;

(6) a brief summary of rules proposed or adopted during the reporting period with appropriate citations to the State Register and published rules;

(7) the number of persons having each type of license issued by the commissioner as of June 30 in the year of the report;

(8) the locations and dates of the administration of examinations by the commissioner;

(9) the number of persons examined by the commissioner with the persons subdivided into groups showing age categories, sex, and states of residency;

(10) the number of persons licensed by the commissioner after taking the examinations referred to in clause (8) with the persons subdivided by age categories, sex, and states of residency;

(11) the number of persons not licensed by the commissioner after taking the examinations referred to in clause (8) with the persons subdivided by age categories, sex, and states of residency;

(12) the number of persons not taking the examinations referred to in clause (8) who were licensed by the commissioner or who were denied licensing, the reasons for the licensing or denial, and the persons subdivided by age categories, sex, and states of residency;

(13) the number of persons previously licensed by the commissioner whose licenses were revoked, suspended, or otherwise altered in status with brief statements of the reasons for the revocation, suspension, or alteration;

(14) the number of written and oral complaints and other communications received by the commissioner which allege or imply a violation of a statute or rule which the commissioner is empowered to enforce;

(15) a summary, by specific category, of the substance of the complaints and communications referred to in clause (14) and, for each specific category, the responses or dispositions; and

(16) any other objective information which the commissioner believes will be useful in reviewing the commissioner's activities.

Sec. 38. Minnesota Statutes 1995 Supplement, section 148C.04, subdivision 3, is amended to read:

Subd. 3. ~~[LICENSING REQUIREMENTS FOR ALCOHOL AND DRUG COUNSELORS; EVIDENCE FOR THE FIRST FIVE YEARS.]~~ (a) For five years after the effective date of the rules authorized in section 148C.03, the applicant, unless qualified for initial licensure under this subdivision under section 148C.06 during the two-year period authorized therein, under section 148C.07, or under subdivision 4, must furnish evidence satisfactory to the commissioner that the applicant has met all the requirements in clauses (1) to (3). The applicant must have:

(1) ~~Except as provided in subdivision 4, the applicant must have received an associate degree including 270 clock hours of alcohol and drug counseling education from an accredited school or educational program and 880 clock hours of chemical dependency~~ alcohol and drug counseling practicum;

(2) ~~The applicant must have~~ completed a written case presentation and satisfactorily passed an oral examination that demonstrates competence in the core functions; and

(3) ~~The applicant must have~~ satisfactorily passed a written examination as established by the commissioner.

~~(b) Unless the applicant qualifies for licensure under this subdivision, an applicant must furnish evidence satisfactory to the commissioner that the applicant has met the requirements of paragraph (a), clauses (1) to (3).~~

~~Beginning two years after the effective date of the rules authorized in section 148C.03, subdivision 1, no person may be licensed without meeting the requirements in section 148C.04,~~

~~subdivision 4, paragraph (a), clauses (2) and (3), or the special licensing criteria established pursuant to section 148C.11, subdivision 4.~~

Sec. 39. Minnesota Statutes 1995 Supplement, section 148C.04, subdivision 4, is amended to read:

Subd. 4. ~~[ADDITIONAL LICENSING REQUIREMENTS AFTER FIVE YEARS.]~~ Beginning five years after the effective date of the rules authorized in section 148C.03, subdivision 1, an applicant for licensure must have received submit evidence to the commissioner that the applicant has met one of the following requirements:

(1) The applicant must have:

(i) received a bachelor's degree from an accredited school or educational program, and must have completed including 480 clock hours of alcohol and drug counseling education from an accredited school or educational program and 880 clock hours of alcohol and drug counseling practicum,

(ii) completed a written case presentation and satisfactorily passed an oral examination that demonstrates competence in the core functions, and

(iii) satisfactorily passed a written examination as established by the commissioner; or

(2) The applicant must meet the requirements of section 148C.07.

Sec. 40. Minnesota Statutes 1995 Supplement, section 148C.04, is amended by adding a subdivision to read:

Subd. 5. [ADDITIONAL LICENSING REQUIREMENTS.] Applicants must also meet the special licensing requirements in section 148C.11, subdivision 4, and in the rules authorized in section 148C.03, subdivision 1, when applicable.

Sec. 41. Minnesota Statutes 1995 Supplement, section 148C.05, subdivision 1, is amended to read:

Subdivision 1. [RENEWAL REQUIREMENTS.] To renew a license, an applicant must:

(1) annually complete a renewal application every two years on a form provided by the commissioner and submit the annual biennial renewal fee by the deadline; and

(2) submit additional information if requested by the commissioner to clarify information presented in the renewal application. This information must be submitted within 30 days of the commissioner's request.

Sec. 42. Minnesota Statutes 1995 Supplement, section 148C.06, is amended to read:

148C.06 [TRANSITION PERIOD.]

For two years from the effective date of the rules authorized in section 148C.03, subdivision 1, the commissioner shall issue a license to an applicant if the applicant meets one of the following qualifications:

(a) is credentialed as a certified chemical dependency counselor (CCDC) or certified chemical dependency counselor reciprocal (CCDCR) by the Institute for Chemical Dependency Professionals of Minnesota, Inc.;

(b) has 6,000 hours of supervised alcohol and drug counselor experience as defined by the core functions, 270 clock hours of alcohol and drug training with a minimum of 60 hours of this training occurring within the past five years, 300 hours of alcohol and drug practicum counselor internship, and has successfully completed the requirements in section 148C.04, subdivision 3, paragraph (a), clauses (2) and (3);

(c) has 10,000 hours of supervised alcohol and drug counselor experience as defined by the

core functions, 270 clock hours of alcohol and drug training with a minimum of 60 hours of this training occurring within the past five years, and has successfully completed the requirements in section 148C.04, subdivision 3, paragraph (a), clause (2) or (3), or is credentialed as a certified chemical dependency practitioner (CCDP) by the Institute for Chemical Dependency Professionals of Minnesota, Inc.;

(d) has 14,000 hours of supervised alcohol and drug counselor experience as defined by the core functions and 270 clock hours of alcohol and drug training with a minimum of 60 hours of this training occurring within the past five years; or

(e) has met the special licensing criteria established pursuant to section 148C.11.

Sec. 43. Minnesota Statutes 1994, section 148C.09, is amended by adding a subdivision to read:

Subd. 1a. [BACKGROUND INVESTIGATION.] The applicant must sign a release authorizing the commissioner to obtain information from the bureau of criminal apprehension, the Federal Bureau of Investigation, the office of mental health practice, the department of human services, the office of health facilities complaints, and other agencies specified in the rules. After the commissioner has given written notice to an individual who is the subject of a background investigation, the agencies shall assist the commissioner with the investigation by giving the commissioner criminal conviction data, reports about abuse or neglect of clients, and other information specified in the rules.

Sec. 44. Minnesota Statutes 1995 Supplement, section 148C.11, subdivision 1, is amended to read:

Subdivision 1. [OTHER PROFESSIONALS.] Nothing in sections 148C.01 to 148C.10 shall prevent members of other professions or occupations from performing functions for which they are qualified or licensed. This exception includes, but is not limited to, licensed physicians, registered nurses, licensed practical nurses, licensed psychological practitioners, members of the clergy, American Indian medicine men and women, licensed attorneys, probation officers, licensed marriage and family therapists, licensed social workers, licensed professional counselors, school counselors employed by a school district while acting within the scope of their employment as a school counselor, and registered occupational therapists or certified occupational therapist therapy assistants. These persons must not, however, use a title incorporating the words "alcohol and drug counselor" or "licensed alcohol and drug counselor" or otherwise hold themselves out to the public by any title or description stating or implying that they are licensed to engage in the practice of alcohol and drug counseling.

Sec. 45. Minnesota Statutes 1995 Supplement, section 148C.11, subdivision 3, is amended to read:

Subd. 3. [FEDERALLY RECOGNIZED TRIBES.] (a) Alcohol and drug counselors licensed to practice alcohol and drug counseling according to standards established by federally recognized tribes, while practicing under tribal jurisdiction, are exempt from the requirements of this chapter. In practicing alcohol and drug counseling under tribal jurisdiction, individuals licensed under that authority shall be afforded the same rights, responsibilities, and recognition as persons licensed pursuant to this chapter.

(b) The commissioner shall develop special licensing criteria for issuance of a license to alcohol and drug counselors who: (1) are members of ethnic minority groups; or (2) are employed by private, nonprofit agencies, including agencies operated by private, nonprofit hospitals, whose primary agency service focus addresses ethnic minority populations. These licensing criteria may differ from the licensing criteria specified in section 148C.04. To develop these criteria, the commissioner shall establish a committee comprised of but not limited to representatives from the council on hearing impaired, the council on affairs of Spanish-speaking people, the council on Asian-Pacific Minnesotans, the council on Black Minnesotans, and the Indian affairs council.

Sec. 46. Minnesota Statutes 1995 Supplement, section 157.011, subdivision 1, is amended to read:

Subdivision 1. [ESTABLISHMENTS.] The commissioner shall adopt rules establishing standards for food, and beverage service establishments, and hotels, motels, lodging establishments, and resorts.

Sec. 47. Minnesota Statutes 1995 Supplement, section 157.15, subdivision 4, is amended to read:

Subd. 4. [BOARDING ESTABLISHMENT.] "Boarding establishment" means a ~~building, structure, enclosure, or any part thereof used as, maintained as, advertised as, or held out to be a~~ place food and beverage service establishment where food or nonalcoholic beverages, or both, are furnished to five or more regular boarders, whether with or without sleeping accommodations, for periods of one week or more.

Sec. 48. Minnesota Statutes 1995 Supplement, section 157.15, subdivision 5, is amended to read:

Subd. 5. [FOOD AND BEVERAGE SERVICE ESTABLISHMENT.] "Food and beverage service establishment" means a ~~restaurant, alcoholic beverage establishment, boarding establishment, mobile food unit, seasonal food stand, food cart, or special event food stand~~ building, structure, enclosure, or any part of a building, structure, or enclosure used as, maintained as, advertised as, or held out to be an operation that prepares, serves, or otherwise provides food or beverages, or both, for human consumption.

Sec. 49. Minnesota Statutes 1995 Supplement, section 157.15, subdivision 6, is amended to read:

Subd. 6. [FOOD CART.] "Food cart" means a food and beverage service establishment that is a nonmotorized vehicle limited to serving food that is not defined by rule as potentially hazardous food, except precooked frankfurters and other ready-to-eat link sausages self-propelled by the operator.

Sec. 50. Minnesota Statutes 1995 Supplement, section 157.15, subdivision 9, is amended to read:

Subd. 9. [MOBILE FOOD UNIT.] "Mobile food unit" means a food and beverage service establishment that is a vehicle mounted unit, either motorized or trailered, operating no more than 14 days annually at any one place or is operated in conjunction with a permanent business at the site of the permanent business by the same individual or company, and readily movable, without disassembling, for transport to another location and remaining for no more than 14 days, annually, at any one place.

Sec. 51. Minnesota Statutes 1995 Supplement, section 157.15, subdivision 12, is amended to read:

Subd. 12. [RESTAURANT.] "Restaurant" means a ~~building, structure, enclosure, or any part thereof used as, maintained as, advertised as, or held out to be a place where food or nonalcoholic beverages are served or prepared for service to the public~~ food and beverage service establishment, whether the establishment serves alcoholic or nonalcoholic beverages, which operates from a location for more than 14 days annually. Restaurant does not include a food cart or a mobile food unit.

Sec. 52. Minnesota Statutes 1995 Supplement, section 157.15, is amended by adding a subdivision to read:

Subd. 12a. [SEASONAL PERMANENT FOOD STAND.] "Seasonal permanent food stand" means a food and beverage service establishment which is a permanent food service stand or building, but which operates no more than 14 days annually.

Sec. 53. Minnesota Statutes 1995 Supplement, section 157.15, subdivision 13, is amended to read:

Subd. 13. [SEASONAL TEMPORARY FOOD STAND.] "Seasonal temporary food stand"

means a food and beverage service establishment that is a food stand ~~that~~ which is disassembled and moved from location to location, ~~remaining but which operates no more than 14 days, annually, at any one place; or a permanent food service stand or building that operates no more than 14 days annually~~ location.

Sec. 54. Minnesota Statutes 1995 Supplement, section 157.15, subdivision 14, is amended to read:

Subd. 14. [SPECIAL EVENT FOOD STAND.] "Special event food stand" means a food and beverage service establishment which is used in conjunction with celebrations and special events, used not more than twice annually, and remaining and which operates once or twice annually for no more than three consecutive seven total days at any one location.

Sec. 55. Minnesota Statutes 1995 Supplement, section 157.15, is amended by adding a subdivision to read:

Subd. 15. [SPECIAL EVENT FOOD STAND-LIMITED.] "Special event food stand-limited" means a fee category where food is served at special events that is prepared at another licensed location and is only held and served with no additional preparation at the serving site of the special event, and which operates once or twice annually for no more than seven total days.

Sec. 56. Minnesota Statutes 1995 Supplement, section 157.16, is amended to read:

157.16 [LICENSES REQUIRED; FEES.]

Subdivision 1. [LICENSE REQUIRED ANNUALLY.] A license is required annually for every person, firm, or corporation engaged in the business of conducting a food and beverage service establishment hotel, motel, restaurant, alcoholic beverage establishment, boarding establishment, lodging establishment, or resort, mobile food unit, seasonal food stand, food cart, or special event food stand or who thereafter engages in conducting any such business. Any person wishing to operate a place of business licensed in this section shall first make application, pay the required fee specified in this section, and receive approval for operation, including plan review approval. Seasonal and temporary food stands and special event food stands are not required to submit plans. Application shall be made on forms provided by the commissioner and shall require the applicant to state the full name and address of the owner of the building, structure, or enclosure, the lessee and manager of the food and beverage service establishment, hotel, motel, restaurant, alcoholic beverage establishment, boarding establishment, lodging establishment, or resort, mobile food unit, seasonal food stand, food cart, or special event food stand; the name under which the business is to be conducted; and any other information as may be required by the commissioner to complete the application for license.

Subd. 2. [LICENSE RENEWAL.] Initial and renewal licenses for all food and beverage service establishments, hotels, motels, restaurants, ~~alcoholic beverage establishments, lodging establishments, boarding establishments, and resorts, mobile food units, seasonal food stands, and food carts~~ shall be issued for the calendar year for which application is made and shall expire on December 31 of such year. Any person who operates a place of business after the expiration date of a license or without having submitted an application and paid the fee shall be deemed to have violated the provisions of this chapter and shall be subject to enforcement action, as provided in the health enforcement consolidation act, sections 144.989 to 144.993. In addition, a penalty of \$25 shall be added to the total of the license fee for any food and beverage service establishment operating without a license as a mobile food unit, a seasonal temporary or seasonal permanent food stand, and food cart operating without a license or a special event food stand, and a penalty of \$50 shall be added to the total of the license fee for all other food, beverage, and restaurants, food carts, hotels, motels, lodging establishments, and resorts operating without a license.

Subd. 3. [ESTABLISHMENT FEES; DEFINITIONS.] ~~For the purposes of establishing food, beverage, and lodging establishment fees, the following definitions have the meanings given them.~~ (a) The following fees are required for food and beverage service establishments, hotels, motels, lodging establishments, and resorts licensed under this chapter. Food and beverage service establishments must pay the highest applicable fee under paragraph (e), clause (1), (2), (3), or (4), and establishments serving alcohol must pay the highest applicable fee under paragraph (e), clause (6) or (7).

(b) All food and beverage service establishments, except special event food stands, and all hotels, motels, lodging establishments, and resorts shall pay an annual base fee of \$100.

(c) A special event food stand shall pay a flat fee of \$60 annually. "Special event food stand" means a fee category where food is prepared or served in conjunction with celebrations, county fairs, or special events from a special event food stand as defined in section 157.15.

(d) A special event food stand-limited shall pay a flat fee of \$30.

(e) In addition to the base fee in paragraph (b), each food and beverage service establishment, other than a special event food stand, and each hotel, motel, lodging establishment, and resort shall pay an additional annual fee for each fee category as specified in this paragraph:

(1) Limited food menu selection, \$30.

(a) "Limited food menu selection" means a fee category that provides one or more of the following:

(1) (i) prepackaged food that receives heat treatment and is served in the package;

(2) (ii) frozen pizza that is heated and served;

(3) (iii) a continental breakfast such as rolls, coffee, juice, milk, and cold cereal;

(4) (iv) soft drinks, coffee, or nonalcoholic beverages; or

(5) does not prepare food on site, however serves food that was prepared elsewhere and provides (v) cleaning of for eating, drinking, or cooking utensils, when the only food served is prepared off site.

(2) Small menu selection with limited equipment, including boarding establishments, \$55.

(b) "Small menu selection with limited equipment" means a fee category that has no salad bar and provides meets one or more of the following:

(1) (i) possesses food service equipment that ~~is limited to~~ consists of no more than a deep fat fryer, a grill, two hot holding containers, and one or more microwave ovens;

~~(2) service of~~ (ii) serves dipped ice cream or soft serve frozen desserts;

~~(3) service of~~ (iii) serves breakfast in an owner-occupied bed and breakfast establishment; or

(4) (iv) is a boarding establishment.

(3) Small establishment with full menu selection, \$150.

(c) "Small establishment with full menu selection" means a fee category that provides meets one or more of the following:

(1) (i) possesses food service equipment that includes a range, oven, steam table, salad bar, or salad preparation area;

(2) (ii) possesses food service equipment that includes more than one deep fat fryer, one grill, or two hot holding containers; or

(3) (iii) is an establishment where food is prepared at one location and served at one or more separate locations.

(4) Large establishment with full menu selection, \$250.

(d) "Large establishment with full menu selection" means either:

(i) a fee category that (1) meets the criteria in paragraph (c), ~~clause (1) or (2)~~ clause (3), ~~subclause (i) or (ii)~~, for a small establishment with full menu selection and: (1), (2) seats more

than 175 people; (2), and (3) offers the full menu selection an average of five or more days a week during the weeks of operation; or means

(ii) a service fee category that (1) meets the criteria in paragraph (c), clause (3), subclause (iii), for a small establishment with full menu selection; and (3) (2) prepares and serves 500 or more meals per day.

(e) ~~"Temporary food service" means a fee category where food is prepared and served from a mobile food unit, seasonal food stand, or food cart.~~

(f) ~~"Alcohol service from bar" means a fee category where alcoholic mixed drinks are served, or where beer or wine are served from a bar.~~

(5) Other food and beverage service, including food carts, mobile food units, seasonal temporary food stands, and seasonal permanent food stands, \$30.

(6) Beer or wine table service, \$30.

(g) "Beer or wine table service" means a fee category where the only alcoholic beverage service is beer or wine, served to customers seated at tables.

(h) ~~"Individual water" means a fee category with a water supply other than a community public water supply as defined in Minnesota Rules, chapter 4720.~~

(i) ~~"Individual sewer" means a fee category with an individual sewage treatment system which uses subsurface treatment and disposal.~~

(7) Alcoholic beverage service, other than beer or wine table service, \$75.

"Alcohol service other than beer or wine table service" means a fee category where alcoholic mixed drinks are served or where beer or wine are served from a bar.

(8) Lodging per sleeping accommodation unit, \$4, including hotels, motels, lodging establishments, and resorts, up to a maximum of \$400.

(j) "Lodging per sleeping accommodation unit" means a fee category including the number of guest rooms, cottages, or other rental units of a hotel, motel, lodging establishment, or resort; or the number of beds in a dormitory.

(9) First public swimming pool, \$100; each additional public swimming pool, \$50.

(k) "Public swimming pool" means a fee category that has the meaning given in Minnesota Rules, part 4717.0250, subpart 8.

(10) First spa, \$50; each additional spa, \$25.

(l) "Spa pool" means a fee category that has the meaning given in Minnesota Rules, part 4717.0250, subpart 9.

(m) ~~"Special event food stand" means a fee category where food is prepared and served in conjunction with celebrations or special events, but not more than twice annually, and where the facility is used no more than three consecutive days per event.~~

(11) Private sewer or water, \$30.

"Individual private water" means a fee category with a water supply other than a community public water supply as defined in Minnesota Rules, chapter 4720. "Individual private sewer" means a fee category with an individual sewage treatment system which uses subsurface treatment and disposal.

(f) A fee is not required for a food and beverage service establishment operated by a school as defined in sections 120.05 and 120.101.

(g) A fee of \$150 for review of the construction plans must accompany the initial license application for food and beverage service establishments, hotels, motels, lodging establishments, or resorts.

(h) When existing food and beverage service establishments, hotels, motels, lodging establishments, or resorts are extensively remodeled, a fee of \$150 must be submitted with the remodeling plans.

(i) Seasonal temporary food stands, special event food stands, and special event food stands-limited are not required to submit construction or remodeling plans for review.

Subd. 4. [POSTING REQUIREMENTS.] Every food and beverage service establishment, hotel, motel, lodging establishment, or resort must have the license posted in a conspicuous place at the establishment.

Sec. 57. Minnesota Statutes 1995 Supplement, section 157.17, subdivision 2, is amended to read:

Subd. 2. [REGISTRATION.] At the time of licensure or license renewal, a board boarding and lodging establishment or a lodging establishment that provides supportive services or health supervision services must register be registered with the commissioner, and must register annually thereafter. The registration must include the name, address, and telephone number of the establishment, the name of the operator, the types of services that are being provided, a description of the residents being served, the type and qualifications of staff in the facility, and other information that is necessary to identify the needs of the residents and the types of services that are being provided. The commissioner shall develop and furnish to the boarding and lodging establishment or lodging establishment the necessary form for submitting the registration. The requirement for registration is effective until the rules required by sections 144B.01 to 144B.17 are effective.

Sec. 58. Minnesota Statutes 1995 Supplement, section 157.20, subdivision 1, is amended to read:

Subdivision 1. [INSPECTIONS.] It shall be the duty of the commissioner to inspect, or cause to be inspected, every food and beverage service establishment, hotel, motel, restaurant, alcoholic beverage establishment, boarding establishment, lodging establishment, or resort, mobile food unit, seasonal food stand, food cart, and special event food stand in this state. For the purpose of conducting inspections, the commissioner shall have the right to enter and have access thereto at any time during the conduct of business.

Sec. 59. Minnesota Statutes 1995 Supplement, section 157.20, is amended by adding a subdivision to read:

Subd. 2a. [RISK CATEGORIES.] (a) [HIGH-RISK ESTABLISHMENT.] "High-risk establishment" means any food and beverage service establishment, hotel, motel, lodging establishment, or resort that:

(1) serves potentially hazardous foods that require extensive processing on the premises, including manual handling, cooling, reheating, or holding for service;

(2) prepares foods several hours or days before service;

(3) serves menu items that epidemiologic experience has demonstrated to be common vehicles of food-borne illness;

(4) has a public swimming pool; or

(5) draws its drinking water from a surface water supply.

(b) [MEDIUM-RISK ESTABLISHMENT.] "Medium-risk establishment" means a food and beverage service establishment, hotel, motel, lodging establishment, or resort that:

(1) serves potentially hazardous foods but with minimal holding between preparation and service; or

(2) serves foods, such as pizza, that require extensive handling followed by heat treatment.

(c) [LOW-RISK ESTABLISHMENT.] "Low-risk establishment" means a food and beverage service establishment, hotel, motel, lodging establishment, or resort that is not a high-risk or medium-risk establishment.

(d) [RISK EXCEPTIONS.] Mobile food units, seasonal permanent and seasonal temporary food stands, food carts, and special event food stands are not inspected on an established schedule and therefore are not defined as high-risk, medium-risk, or low-risk establishments.

Sec. 60. Minnesota Statutes 1995 Supplement, section 157.21, is amended to read:

157.21 [INSPECTION RECORDS.]

The commissioner shall keep inspection records for all food and beverage service establishments, hotels, motels, restaurants, alcoholic beverage establishments, boarding establishments, lodging establishments, and resorts, mobile food units, seasonal food stands, food carts, and special event food stands, together with the name of the owner and operator.

Sec. 61. Minnesota Statutes 1994, section 327.14, subdivision 8, is amended to read:

Subd. 8. [RECREATIONAL CAMPING AREA.] "Recreational camping area" means any area, whether privately or publicly owned, used on a daily, nightly, weekly, or longer basis for the accommodation of five or more tents or recreational camping vehicles free of charge or for compensation. "Recreational camping area" excludes:

(1) children's camps;

(2) industrial camps;

(3) migrant labor camps, as defined in Minnesota Statutes and state commissioner of health rules;

(4) United States forest service camps;

(5) state forest service camps;

(6) state wildlife management areas or state-owned public access areas which are restricted in use to picnicking and boat landing; and

(7) temporary holding areas for self-contained recreational camping vehicles created by and adjacent to motor sports facilities, if the chief law enforcement officer of an affected jurisdiction determines that it is in the interest of public safety to provide a temporary holding area.

Sec. 62. [REPORT ON IMMUNIZATION LAW AND POLICY.]

By January 15, 1997, the commissioner of health shall report recommendations to the legislature and governor relating to Minnesota immunization law and policy regarding vaccine-preventable diseases for which immunization is not currently required by law, including, but not limited to, hepatitis A, hepatitis B, varicella, and other vaccine- preventable diseases identified by the commissioner.

Sec. 63. [REPORT ON THE BIRTH DEFECTS REGISTRY SYSTEM.]

The commissioner of health shall submit to the legislature a report by January 31, 1997, on the development of the birth defects registry system, including recommendations for additional statutory authority necessary to implement the system.

Sec. 64. [STUDY; PRICE CONTRACT FOR PRESCRIPTION DRUGS.]

The commissioners of health, human services, and administration shall develop a plan to provide prescription drugs at significantly discounted prices to individuals 65 years or older whose income is below 200 percent of the current federal poverty level. The commissioners shall submit a report detailing the plan by October 1, 1996, to the chairs of the house of representatives governmental operations committee, the house of representatives state government finance division, the house of representatives health and human services committee, the senate governmental operations and veterans committee, the state government division of the senate finance committee, the senate health care committee, and the senate health care and family services finance division.

Sec. 65. [MERC STUDY.]

The medical education and research cost advisory task force shall make recommendations to the commissioner of health and to the house health and human services committee and both finance divisions, and the senate health care committee and the senate health care and family services finance division by December 15, 1996, on potential sources of funding for medical education and research and on mechanisms for the distribution of such funding sources.

Sec. 66. [REPORT ON CHILD PROGRAM IMPLEMENTATION PLAN.]

By February 15, 1997, the commissioner of health shall present to the legislature an implementation plan for the establishment of a statewide CHILD program. The implementation plan must incorporate the requirements for program structure and standards, duties of participating local organizations, training and recruitment of volunteers, and eligibility, as provided in Minnesota Statutes, sections 145.953 to 145.957. The report shall include recommendations about which executive agency is the most appropriate one within which to house the CHILD program under Minnesota Statutes, sections 145.951 to 145.957.

Sec. 67. [STUDY; CORPORATE ADULT FOSTER CARE.]

The commissioner of human services shall conduct a study of the current adult foster care licensure requirements as they are applied to corporate adult foster care homes, and shall recommend any appropriate changes to these licensure requirements following the implementation of the housing with services contract act under Minnesota Statutes, chapter 144D. The commissioner shall submit a report with the results and recommendations of this study to the house health and human services committee, the house health and human services finance division, the senate health care committee, and the senate health care and family services finance division by January 15, 1997.

Sec. 68. [DAKOTA COUNTY ENHANCED AUTOMATION SYSTEM DEMONSTRATION PROJECT.]

Dakota county may implement a demonstration project to develop an enhanced automation system to educate public assistance recipients on their health care options. This project may include a system that combines interactive touch screen video, clinic maps, text and audio both in multiple languages to assist clients in selecting a managed health care provider. The automated system must be located in kiosks in the county. Dakota county shall report to the house health and human services committee, the house health and human services finance division, the senate health care committee, and the senate health care and family services finance division by January 1, 1998, on the results of the demonstration project. The report shall include, at a minimum, information about savings realized by the county from the demonstration project.

Sec. 69. [MIGRANT FARMWORKER DATA RESEARCH.]

(a) The commissioner of health shall collect, analyze, and report information on collaborative resources and nutrition available to and economic contributions to the state by migrant farmworkers in Minnesota in consultation with an advisory committee made up of representatives from migrant-serving agencies, county economic assistance program staff, and migrant farmworkers and family members.

(b) The advisory committee members should include representatives from:

- (1) Migrant Health;
- (2) Migrant Education;
- (3) Migrant Head Start;
- (4) Migrant Legal Services;
- (5) Midwest Farmworkers Employment and Training;
- (6) Women, Infants, and Children's Supplemental Feeding Program (WIC);
- (7) Tri-Valley Opportunity Council;
- (8) Minnesota Food Shelf Association;
- (9) at least two county economic assistance offices from counties with large migrant populations during the agricultural season;
- (10) the Spanish Speaking Affairs Council;
- (11) the Minnesota department of health; and
- (12) at least two migrant community members or advocates.

The advisory committee, in consultation with the department of health, shall develop the research, collection, and reporting requirements and ensure that the results are shared among all members of the advisory committee and all interested parties. The advisory committee and the department of health shall report the results of their research to the house health and human services finance division and the senate health care and family service finance division by January 15, 1997.

Sec. 70. [INSTRUCTION TO REVISOR.]

In each section of Minnesota Statutes referred to in column A, the revisor of statutes shall delete the reference in column B and insert the reference in column C. The references in column C may be changed by the revisor to the section of Minnesota Statutes in which the bill sections are compiled.

<u>Column A</u>	<u>Column B</u>	<u>Column C</u>
<u>28A.15, subdivision 5</u>	<u>157.03</u>	<u>157.16</u>
<u>157.15, subdivision 1</u>	<u>157.03</u>	<u>157.011</u>
<u>160.295, subdivision 3</u>	<u>157.03</u>	<u>157.16</u>
<u>256B.0913, subdivision 5</u>	<u>157.03</u>	<u>157.011</u>
<u>299F.46, subdivision 1</u>	<u>157.03</u>	<u>157.011</u>

Sec. 71. [REPEALER.]

Minnesota Statutes 1994, sections 144.691, subdivision 4; 146.14; and 146.20; Minnesota Statutes 1995 Supplement, sections 157.03; 157.15, subdivision 2; 157.18; and 157.19, are repealed.

Sec 72. [EFFECTIVE DATE.]

Sections 32 to 45, 64, and 68 are effective the day following final enactment.

ARTICLE 5

DEPARTMENT OF HUMAN SERVICES TECHNICAL AND
POLICY CHANGES

Section 1. Minnesota Statutes 1994, section 62D.04, subdivision 5, is amended to read:

Subd. 5. [PARTICIPATION; GOVERNMENT PROGRAMS.] Health maintenance

organizations shall, as a condition of receiving and retaining a certificate of authority, participate in the medical assistance, general assistance medical care, and MinnesotaCare programs. ~~The participation required from health maintenance organizations shall be pursuant to rules adopted under section 256B.0644~~ A health maintenance organization is required to submit proposals in good faith to serve individuals eligible for the above programs in a geographic region of the state if, at the time of publication of a request for proposal, the percentage of recipients in the public programs in the region who are enrolled in the health maintenance organization is less than the health maintenance organization's percentage of the total number of individuals enrolled in health maintenance organizations in the same region. Geographic regions shall be defined by the commissioner of human services in the request for proposals.

Sec. 2. Minnesota Statutes 1994, section 62N.10, subdivision 4, is amended to read:

Subd. 4. [PARTICIPATION; GOVERNMENT PROGRAMS.] Integrated service networks shall, as a condition of licensure, participate in the medical assistance, general assistance medical care, and MinnesotaCare programs. An integrated service network is required to submit proposals in good faith to serve persons who are eligible for the above programs if, at the time of publication of a request for proposal, the percentage of recipients in the public programs in the region who are enrolled in the integrated service network is less than the integrated service network's percentage of the total number of individuals enrolled in integrated service networks in the same region. Geographic regions shall be defined by the commissioner of human services in the request for proposals. The commissioner shall adopt rules specifying the participation required of the networks. The rules must be consistent with Minnesota Rules, parts 9505.5200 to 9505.5260, governing participation by health maintenance organizations in public health care programs.

Sec. 3. Minnesota Statutes 1994, section 144.0722, is amended by adding a subdivision to read:

Subd. 2a. [SEMIANNUAL ASSESSMENT BY NURSING FACILITIES.] Notwithstanding Minnesota Rules, part 9549.0059, subpart 2, item B, the individual dependencies items 21 to 24 and 28 are required to be completed in accordance with the Facility Manual for Completing Case Mix Requests for Classification, July 1987, issued by the Minnesota department of health.

Sec. 4. Minnesota Statutes 1994, section 245.462, subdivision 4, is amended to read:

Subd. 4. [CASE MANAGER.] "Case manager" means an individual employed by the county or other entity authorized by the county board to provide case management services specified in section 245.4711. A case manager must have a bachelor's degree in one of the behavioral sciences or related fields from an accredited college or university and have at least 2,000 hours of supervised experience in the delivery of services to adults with mental illness, must be skilled in the process of identifying and assessing a wide range of client needs, and must be knowledgeable about local community resources and how to use those resources for the benefit of the client. The case manager shall meet in person with a mental health professional at least once each month to obtain clinical supervision of the case manager's activities. Case managers with a bachelor's degree but without 2,000 hours of supervised experience in the delivery of services to adults with mental illness must complete 40 hours of training approved by the commissioner of human services in case management skills and in the characteristics and needs of adults with serious and persistent mental illness and must receive clinical supervision regarding individual service delivery from a mental health professional at least once each week until the requirement of 2,000 hours of supervised experience is met. Clinical supervision must be documented in the client record.

Until June 30, 1996 1999, a refugee who does not have the qualifications specified in this subdivision may provide case management services to adult refugees with serious and persistent mental illness who are members of the same ethnic group as the case manager if the person: (1) is actively pursuing credits toward the completion of a bachelor's degree in one of the behavioral sciences or a related field from an accredited college or university; (2) completes 40 hours of training as specified in this subdivision; and (3) receives clinical supervision at least once a week until the requirements of obtaining a bachelor's degree and 2,000 hours of supervised experience are met.

Sec. 5. Minnesota Statutes 1994, section 245.4871, subdivision 4, is amended to read:

Subd. 4. [CASE MANAGER.] (a) "Case manager" means an individual employed by the county or other entity authorized by the county board to provide case management services specified in subdivision 3 for the child with severe emotional disturbance and the child's family. A case manager must have experience and training in working with children.

(b) A case manager must:

(1) have at least a bachelor's degree in one of the behavioral sciences or a related field from an accredited college or university;

(2) have at least 2,000 hours of supervised experience in the delivery of mental health services to children;

(3) have experience and training in identifying and assessing a wide range of children's needs; and

(4) be knowledgeable about local community resources and how to use those resources for the benefit of children and their families.

(c) The case manager may be a member of any professional discipline that is part of the local system of care for children established by the county board.

(d) The case manager must meet in person with a mental health professional at least once each month to obtain clinical supervision.

(e) Case managers with a bachelor's degree but without 2,000 hours of supervised experience in the delivery of mental health services to children with emotional disturbance must:

(1) begin 40 hours of training approved by the commissioner of human services in case management skills and in the characteristics and needs of children with severe emotional disturbance before beginning to provide case management services; and

(2) receive clinical supervision regarding individual service delivery from a mental health professional at least once each week until the requirement of 2,000 hours of experience is met.

(f) Clinical supervision must be documented in the child's record. When the case manager is not a mental health professional, the county board must provide or contract for needed clinical supervision.

(g) The county board must ensure that the case manager has the freedom to access and coordinate the services within the local system of care that are needed by the child.

(h) Until June 30, 1996 1999, a refugee who does not have the qualifications specified in this subdivision may provide case management services to child refugees with severe emotional disturbance of the same ethnic group as the refugee if the person:

(1) is actively pursuing credits toward the completion of a bachelor's degree in one of the behavioral sciences or related fields at an accredited college or university;

(2) completes 40 hours of training as specified in this subdivision; and

(3) receives clinical supervision at least once a week until the requirements of obtaining a bachelor's degree and 2,000 hours of supervised experience are met.

Sec. 6. [252B.01] [RULE CONSOLIDATION.]

Subdivision 1. [STANDARDS.] For programs or services licensed pursuant to Minnesota Rules, parts 9525.0215 to 9525.0355; 9525.0500 to 9525.0660; 9525.1500 to 9525.1690; and 9525.2000 to 9525.2140, the following standards apply and supersede the requirements of the applicable rule parts for staff qualification, orientation, and training.

Subd. 2. [STAFF QUALIFICATIONS.] (a) The license holder must ensure that staff is competent through training, experience, and education to meet the consumer's needs as written in the individual service plan. The staff qualifications must be documented.

(b) Delivery and evaluation of services provided by the license holder to a consumer must be coordinated by a designated person. This designated person or coordinator must minimally have a four-year degree in a field related to service provision and one-year work experience with consumers with mental retardation or related conditions, a two-year degree in a field related to service provision, and two years work experience with consumers with mental retardation or related conditions, or a certificate of competence from an accredited post-secondary program in the area of developmental disabilities and two years work experience with consumers with mental retardation or related conditions. The coordinator must provide supervision, support, and evaluation of activities that include:

- (1) oversight of the license holder's responsibilities designated in the individual service plan;
- (2) instructions and assistance to staff implementing the individual service plan areas;
- (3) evaluation of the effectiveness of service delivery, methodologies, and progress on consumer outcomes based on the condition set for objective change; and
- (4) review of incident and emergency reports, identification of incident patterns, and implementation of corrective action as necessary to reduce occurrences.

(c) The coordinator is responsible for taking necessary actions to facilitate the accomplishment of the outcomes for each consumer as specified in the consumer's individual service plan.

(d) The license holder must provide for adequate supervision for direct care staff to ensure implementation of the individual service plan.

Subd. 3. [STAFF ORIENTATION.] (a) Within 60 days of hiring staff who provide direct service, the license holder must provide 30 hours of orientation. Direct care staff must complete 15 of the 30 hours before providing any direct service to a consumer without direct supervision. If the staff person has received orientation training from a license holder licensed under a program rule identified in this chapter, or provides semi-independent living services only, the 15-hour requirement may be reduced to eight hours. The total orientation of 30 hours may be reduced to 15 hours if the staff person has previously received orientation training from a license holder licensed by a program rule identified in this chapter.

(b) The 30 hours of orientation must combine supervised on-the-job training with coverage of the material in clauses (1) to (8);

(1) review of the consumer's complete individual service plan to achieve an understanding of the consumer as a unique individual;

(2) review and instructions regarding the license holder's policies and procedures including their location and access;

(3) emergency procedures;

(4) explanation of specific job functions including implementing objectives from the consumer's individual service plan;

(5) explanation of responsibilities related to sections 626.556 and 626.557, and Minnesota Rules, parts 9555.8000 to 9555.8500, including requirements of rules promulgated thereunder; sections 245A.01 to 245A.16, the human services licensing act; and Minnesota Rules, parts 9525.2700 to 9525.2810, governing use of aversive and deprivation procedures;

(6) medication administration as it applies to the individual consumer;

(7) consumer rights; and

(8) other topics necessary as determined by the consumer's individual service plan or other areas identified by the license holder.

(c) The license holder must document each employee's orientation received.

Subd. 4. [STAFF TRAINING.] (a) The license holder shall ensure that direct service staff annually complete hours of training equal to two percent of the number of hours the staff person worked or one percent for license holders under Minnesota Rules, parts 9525.0500 to 9525.0660. If direct service staff have received training from a license holder licensed under a program rule identified in this chapter, the training may also count toward training requirements for other services and of other license holders.

(b) The license holder must document the training completed by each employee.

(c) Training shall address the staff competencies necessary to address the consumer needs as identified in the consumer's individual service plan and ensure consumer health, safety, and protection of rights. Training may also include other areas identified by the license holder.

Sec. 7. [252B.02] [RESIDENTIAL BASED HABILITATION SERVICES.]

Residential service sites controlled by license holders licensed under Minnesota Rules, parts 9525.2000 to 9525.2140, for four or fewer adults are exempt from compliance with Minnesota Rules, parts 9555.5505; 9555.5515; 9555.5605; 9555.5705; 9555.6125, subparts 4 to 6; and 9555.6185. The provisions of this chapter do not apply to foster care homes that do not provide residential habilitation services funded under the home and community-based waiver programs defined in section 256B.092. The commissioner may approve alternative methods of providing overnight supervision using the process and criteria for granting a variance in section 245A.04, subdivision 9.

Sec. 8. Minnesota Statutes 1994, section 253B.11, subdivision 2, is amended to read:

Subd. 2. [FACILITIES.] Each county or a group of counties shall maintain or provide by contract a facility for confinement of persons held temporarily for observation, evaluation, diagnosis, treatment, and care. When the confinement is provided at a regional center, the commissioner shall charge the county of financial responsibility for the costs of confinement of persons hospitalized under section 253B.05, subdivisions 1 and 2, and section 253B.07, subdivision 6, except that the commissioner shall bill the responsible prepaid plan for medically necessary hospitalizations for individuals enrolled in a prepaid plan under contract to provide medical assistance, general assistance medical care, or MinnesotaCare services. If the prepaid plan determines under the terms of the medical assistance, general assistance medical care, or MinnesotaCare contract that a hospitalization was not medically necessary, the county is responsible. "County of financial responsibility" means the county in which the person resides at the time of confinement or, if the person has no residence in this state, the county which initiated the confinement. The charge shall be based on the commissioner's determination of the cost of care pursuant to section 246.50, subdivision 5. When there is a dispute as to which county is the county of financial responsibility, the county charged for the costs of confinement shall pay for them pending final determination of the dispute over financial responsibility. Disputes about the county of financial responsibility shall be submitted to the commissioner to be settled in the manner prescribed in section 256G.09.

Sec. 9. Minnesota Statutes 1995 Supplement, section 256.045, subdivision 3, is amended to read:

Subd. 3. [STATE AGENCY HEARINGS.] (a) State agency hearings are available for the following: (1) any person applying for, receiving or having received public assistance or a program of social services granted by the state agency or a county agency under sections 252.32, 256.031 to 256.036, and 256.72 to 256.879, chapters 256B, 256D, 256E, 261, or the federal Food Stamp Act whose application for assistance is denied, not acted upon with reasonable promptness, or whose assistance is suspended, reduced, terminated, or claimed to have been incorrectly paid; (2) any patient or relative aggrieved by an order of the commissioner under section 252.27; (3) a party aggrieved by a ruling of a prepaid health plan; or (4) an applicant aggrieved by an adverse decision to an application for a hardship waiver under section 256B.15; or (5) any individual or facility determined by a lead agency to have maltreated a vulnerable adult under section 626.557 after they have exercised their right to administrative reconsideration under section 626.557. Individuals and organizations specified in this section may contest the specified action, decision, or final disposition before the state agency by submitting a written request for a hearing to the

state agency within 30 days after receiving written notice of the action, decision, or final disposition, or within 90 days of such written notice if the applicant, recipient, patient, or relative shows good cause why the request was not submitted within the 30-day time limit.

The hearing for an individual or facility under clause (4) is the only administrative appeal to the final lead agency disposition specifically, including a challenge to the accuracy and completeness of data under section 13.04.

For purposes of this section, bargaining unit grievance procedures are not an administrative appeal.

(b) Except for a prepaid health plan, a vendor of medical care as defined in section 256B.02, subdivision 7, or a vendor under contract with a county agency to provide social services under section 256E.08, subdivision 4, is not a party and may not request a hearing under this section, except if assisting a recipient as provided in subdivision 4.

(c) An applicant or recipient is not entitled to receive social services beyond the services included in the amended community social services plan developed under section 256E.081, subdivision 3, if the county agency has met the requirements in section 256E.081.

Sec. 10. Minnesota Statutes 1994, section 256.9355, subdivision 3, is amended to read:

Subd. 3. [EFFECTIVE DATE OF COVERAGE.] The effective date of coverage is the first day of the month following the month in which eligibility is approved and the first premium payment has been received. The effective date of coverage for eligible newborns or eligible newly adoptive children added to a family receiving covered health services is the date of entry into the family. The effective date of coverage for other new recipients added to the family receiving covered health services is the first day of the month following the month in which eligibility is approved and the first premium payment has been received. The premium must be received eight working days prior to the end of the month for coverage to begin the following month. Benefits are not available until the day following discharge if an enrollee is hospitalized on the first day of coverage. Notwithstanding any other law to the contrary, benefits under sections 256.9351 to 256.9361 are secondary to a plan of insurance or benefit program under which an eligible person may have coverage and the commissioner shall use cost avoidance techniques to ensure coordination of any other health coverage for eligible persons. The commissioner shall identify eligible persons who may have coverage or benefits under other plans of insurance or who become eligible for medical assistance.

Sec. 11. Minnesota Statutes 1995 Supplement, section 256.969, subdivision 1, is amended to read:

Subdivision 1. [HOSPITAL COST INDEX.] (a) The hospital cost index shall be the change in the Consumer Price Index-All Items (United States city average) (CPI-U) forecasted by Data Resources, Inc. The commissioner shall use the indices as forecasted in the third quarter of the calendar year prior to the rate year. The hospital cost index may be used to adjust the base year operating payment rate through the rate year on an annually compounded basis.

(b) For fiscal years beginning on or after July 1, 1993, the commissioner of human services shall not provide automatic annual inflation adjustments for hospital payment rates under medical assistance, nor under general assistance medical care, except that the inflation adjustments under paragraph (a) for medical assistance, excluding general assistance medical care, shall apply ~~for the biennium ending June 30, 1997 through calendar year 1997.~~ The commissioner of finance shall include as a budget change request in each biennial detailed expenditure budget submitted to the legislature under section 16A.11 annual adjustments in hospital payment rates under medical assistance and general assistance medical care, based upon the hospital cost index.

Sec. 12. Minnesota Statutes 1995 Supplement, section 256.969, subdivision 2b, is amended to read:

Subd. 2b. [OPERATING PAYMENT RATES.] In determining operating payment rates for admissions occurring on or after the rate year beginning January 1, 1991, and every two years

after, or more frequently as determined by the commissioner, the commissioner shall obtain operating data from an updated base year and establish operating payment rates per admission for each hospital based on the cost-finding methods and allowable costs of the Medicare program in effect during the base year. Rates under the general assistance medical care program, medical assistance, and MinnesotaCare programs shall not be rebased to more current data on January 1, 1997. The base year operating payment rate per admission is standardized by the case mix index and adjusted by the hospital cost index, relative values, and disproportionate population adjustment. The cost and charge data used to establish operating rates shall only reflect inpatient services covered by medical assistance and shall not include property cost information and costs recognized in outlier payments.

Sec. 13. Minnesota Statutes 1995 Supplement, section 256.969, subdivision 10, is amended to read:

Subd. 10. [SEPARATE BILLING BY CERTIFIED REGISTERED NURSE ANESTHETISTS.] Hospitals may exclude certified registered nurse anesthetist costs from the operating payment rate as allowed by section 256B.0625, subdivision 11. To be eligible, a hospital must notify the commissioner in writing by October 1 of the year preceding the rate year of the request of even-numbered years to exclude certified registered nurse anesthetist costs. The hospital must agree that all hospital claims for the cost and charges of certified registered nurse anesthetist services will not be included as part of the rates for inpatient services provided during the rate year. In this case, the operating payment rate shall be adjusted to exclude the cost of certified registered nurse anesthetist services.

For admissions occurring on or after July 1, 1991, and until the expiration date of section 256.9695, subdivision 3, services of certified registered nurse anesthetists provided on an inpatient basis may be paid as allowed by section 256B.0625, subdivision 11, when the hospital's base year did not include the cost of these services. To be eligible, a hospital must notify the commissioner in writing by July 1, 1991, of the request and must comply with all other requirements of this subdivision.

Sec. 14. Minnesota Statutes 1994, section 256B.03, is amended by adding a subdivision to read:

Subd. 3. [AMERICAN INDIAN HEALTH FUNDING.] Notwithstanding subdivision 1 and sections 256B.0625 and 256D.03, paragraph (f), the commissioner may make payments to federally recognized Indian tribes with a reservation in the state to provide medical assistance to Indians, as defined under federal law, who reside on or near the reservation. The payments may be made in the form of a block grant or other payment mechanism determined in consultation with the tribe. Any alternative payment mechanism agreed upon by the tribes and the commissioner under this subdivision is not dependent upon county agreement but is intended to create a direct payment mechanism between the state and the tribe for the administration of the medical assistance program and for covered services.

For purposes of this subdivision, "Indian tribe" means a tribe, band, or nation, or other organized group or community of Indians that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians and for which a reservation exists as is consistent with Public Law Number 100-485, as amended.

Payments under this subdivision may not result in an increase in expenditures that would not otherwise occur in the medical assistance program under this chapter or the general assistance medical care program under chapter 256D.

Sec. 15. Minnesota Statutes 1995 Supplement, section 256B.0625, subdivision 17, is amended to read:

Subd. 17. [TRANSPORTATION COSTS.] (a) Medical assistance covers transportation costs incurred solely for obtaining emergency medical care or transportation costs incurred by nonambulatory persons in obtaining emergency or nonemergency medical care when paid directly to an ambulance company, common carrier, or other recognized providers of transportation services. For the purpose of this subdivision, a person who is incapable of transport by taxicab or bus shall be considered to be nonambulatory.

(b) Medical assistance covers special transportation, as defined in Minnesota Rules, part 9505.0315, subpart 1, item F, if the provider receives and maintains a current physician's order by the recipient's attending physician certifying that the recipient ~~is so mentally or physically impaired as to be unable to~~ has a physical or mental impairment that would prohibit the recipient from safely access accessing and use using a bus, taxi, other commercial transportation, or private automobile. Special transportation includes driver-assisted service to eligible individuals. Driver-assisted service includes passenger pickup at and return to the individual's residence or place of business, assistance with admittance of the individual to the medical facility, and assistance in passenger securement or in securing of wheelchairs or stretchers in the vehicle. The commissioner shall establish maximum medical assistance reimbursement rates for special transportation services for persons who need a wheelchair lift van or stretcher-equipped vehicle and for those who do not need a wheelchair lift van or stretcher-equipped vehicle. The average of these two rates must not exceed \$14 for the base rate and \$1.10 per mile. Special transportation provided to nonambulatory persons who do not need a wheelchair lift van or stretcher-equipped vehicle, may be reimbursed at a lower rate than special transportation provided to persons who need a wheelchair lift van or stretcher-equipped vehicle.

Sec. 16. Minnesota Statutes 1995 Supplement, section 256B.0625, subdivision 30, is amended to read:

Subd. 30. [OTHER CLINIC SERVICES.] (a) Medical assistance covers rural health clinic services, federally qualified health center services, nonprofit community health clinic services, public health clinic services, and the services of a clinic meeting the criteria established in rule by the commissioner. Rural health clinic services and federally qualified health center services mean services defined in United States Code, title 42, section 1396d(a)(2)(B) and (C). Payment for rural health clinic and federally qualified health center services shall be made according to applicable federal law and regulation.

(b) A federally qualified health center that is beginning initial operation shall submit an estimate of budgeted costs and visits for the initial reporting period in the form and detail required by the commissioner. A federally qualified health center that is already in operation shall submit an initial report using actual costs and visits for the initial reporting period. Within 90 days of the end of its reporting period, a federally qualified health center shall submit, in the form and detail required by the commissioner, a report of its operations, including allowable costs actually incurred for the period and the actual number of visits for services furnished during the period, and other information required by the commissioner. Federally qualified health centers that file Medicare cost reports shall provide the commissioner with a copy of the most recent Medicare cost report filed with the Medicare program intermediary for the reporting year which support the costs claimed on their cost report to the state.

(c) In order to continue cost-based payment under the medical assistance program according to paragraphs (a) and (b), a federally qualified health center or rural health clinic must apply for designation as an essential community provider within six months of final adoption of rules by the department of health according to section 62Q.19, subdivision 7. For those federally qualified health centers and rural health clinics that have applied for essential community provider status within the six-month time prescribed, medical assistance payments will continue to be made according to paragraphs (a) and (b) for the first three years of essential community provider status after application. For federally qualified health centers and rural health clinics that either do not apply within the time specified above, ~~that are denied essential community provider status by the department of health,~~ or who have had essential community provider status for three years, medical assistance payments for health services provided by these entities shall be according to the same rates and conditions applicable to the same service provided by health care providers that are not federally qualified health centers or rural health clinics. This paragraph takes effect only if the Minnesota health care reform waiver is approved by the federal government, and remains in effect for as long as the Minnesota health care reform waiver remains in effect. When the waiver expires, this paragraph expires, and the commissioner of human services shall publish a notice in the State Register and notify the revisor of statutes.

Sec. 17. Minnesota Statutes 1994, section 256B.0627, subdivision 1, as amended by Laws 1995, chapter 207, article 6, sections 52 and 125, subdivision 9, is amended to read:

Subdivision 1. [DEFINITION .] (a) "Assessment" means a review and evaluation of a recipient's need for home care services conducted in person. Assessments for private duty nursing shall be conducted by a private duty nurse. Assessments for home health agency services shall be conducted by a home health agency nurse. Assessments for personal care services shall be conducted by the county public health nurse or a certified public health nurse under contract with the county. An initial assessment for personal care services is conducted on individuals who are requesting personal care services or for those consumers who have never had a public health nurse assessment. The initial assessment must include: a face-to-face health status assessment and determination of baseline need, collection of initial case data, identification of appropriate services and service plan development, coordination of initial services, referrals and follow-up to appropriate payers and community resources, completion of required reports, obtaining service authorization, and consumer education. A reassessment visit for personal care services is conducted at least annually or when there is a significant change in consumer condition and need for services. The reassessment visit includes a review of initial baseline data, evaluation of service outcomes, redetermination of service need, modification of service plan and appropriate referrals, update of initial forms, obtaining service authorization, and on-going consumer education. Assessments for medical assistance home care services for mental retardation or related conditions and alternative care services for developmentally disabled home and community-based waived recipients may be conducted by the county public health nurse to ensure coordination and avoid duplication. Assessments must be completed on forms provided by the commissioner within 30 days of a request for home care services by a recipient or responsible party.

(b) "Care plan" means a written description of personal care assistant services developed by the agency nurse with the recipient or responsible party to be used by the personal care assistant with a copy provided to the recipient or responsible party.

(c) "Home care services" means a health service, determined by the commissioner as medically necessary, that is ordered by a physician and documented in a care service plan that is reviewed by the physician at least once every 60 days for the provision of home health services, or private duty nursing, or at least once every 365 days for personal care. Home care services are provided to the recipient at the recipient's residence that is a place other than a hospital or long-term care facility or as specified in section 256B.0625.

(d) "Medically necessary" has the meaning given in Minnesota Rules, parts 9505.0170 to 9505.0475.

(e) "Personal care assistant" means a person who: (1) is at least 18 years old, except for persons 16 to 18 years of age who participated in a related school-based job training program or have completed a certified home health aide competency evaluation; (2) is able to read, write, and speak English, or effectively communicate with sign language, as well as communicate with the recipient and personal care provider organization; (3) effective July 1, 1996, has completed one of the training requirements as specified in Minnesota Rules, part 9505.0335, subpart 3, items A to D; (4) has the ability to, and provides covered personal care services according to the recipient's care plan, responds appropriately to recipient needs, and reports changes in the recipient's condition to the supervising registered nurse; (5) is not a consumer of personal care services; and (6) is subject to criminal background checks. An individual who has ever been convicted of a crime specified in Minnesota Rules, part 4668.0020, subpart 14, or a comparable crime in another jurisdiction is disqualified from being a personal care assistant, unless the individual meets the rehabilitation criteria specified in Minnesota Rules, part 4668.0020, subpart 15.

(f) "Personal care provider organization" means an organization enrolled to provide personal care services under the medical assistance program that complies with the following: (1) owners who have a five percent interest or more, and managerial officials are subject to a criminal history check background study as provided in section 245A.04 at the time of application. This applies to currently enrolled personal care provider organizations and those agencies seeking enrollment as a personal care provider organization. An organization will be barred from enrollment if an owner or managerial official of the organization has ever been convicted of a crime specified in Minnesota Rules, part 4668.0020, subpart 14, or a comparable crime in another jurisdiction, unless the owner or managerial official meets the rehabilitation criteria specified in Minnesota Rules, part 4668.0020, subpart 15; (2) the organization must maintain a surety bond and liability insurance

throughout the duration of enrollment and provides proof thereof. The insurer must notify the department of human services of the cancellation or lapse of policy; and (3) the organization must maintain documentation of services as specified in Minnesota Rules, part 9505.2175, subpart 7, as well as evidence of compliance with personal care assistant training requirements.

(g) "Responsible party" means an individual residing with a recipient of personal care services who is capable of providing the supportive care necessary to assist the recipient to live in the community, is at least 18 years old, and is not a personal care assistant. Responsible parties who are parents of minors or guardians of minors or incapacitated persons may delegate the responsibility to another adult during a temporary absence of at least 24 hours but not more than six months. The person delegated as a responsible party must be able to meet the definition of responsible party, except that the delegated responsible party is required to reside with the recipient only while serving as the responsible party. Foster care license holders may be designated the responsible party for residents of the foster care home if case management is provided as required in section 256B.0625, subdivision 19a. For persons who, as of April 1, 1992, are sharing personal care services in order to obtain the availability of 24-hour coverage, an employee of the personal care provider organization may be designated as the responsible party if case management is provided as required in section 256B.0625, subdivision 19a.

(h) "Service plan" means a written description of the services needed based on the assessment developed by the nurse who conducts the assessment together with the recipient or responsible party. The service plan shall include a description of the covered home care services, frequency and duration of services, and expected outcomes and goals. The recipient and the provider chosen by the recipient or responsible party must be given a copy of the completed service plan within 30 calendar days of the request for home care services by the recipient or responsible party.

(i) "Skilled nurse visits" are provided in a recipient's residence under a plan of care or service plan that specifies a level of care which the nurse is qualified to provide. These services are:

(1) nursing services according to the written plan of care or service plan and accepted standards of medical and nursing practice in accordance with chapter 148;

(2) services which due to the recipient's medical condition may only be safely and effectively provided by a registered nurse or a licensed practical nurse;

(3) assessments performed only by a registered nurse; and

(4) teaching and training the recipient, the recipient's family, or other caregivers requiring the skills of a registered nurse or licensed practical nurse.

Sec. 18. Minnesota Statutes 1994, section 256B.0627, subdivision 4, as amended by Laws 1995, chapter 207, article 6, sections 54 and 125, subdivision 11, is amended to read:

Subd. 4. [PERSONAL CARE SERVICES.] (a) The personal care services that are eligible for payment are the following:

(1) bowel and bladder care;

(2) skin care to maintain the health of the skin;

(3) repetitive maintenance range of motion and, muscle strengthening exercises, and other tasks specific to maintaining a recipient's optimal level of function;

(4) respiratory assistance;

(5) transfers and ambulation;

(6) bathing, grooming, and hairwashing necessary for personal hygiene;

(7) turning and positioning;

(8) assistance with furnishing medication that is self-administered;

- (9) application and maintenance of prosthetics and orthotics;
- (10) cleaning medical equipment;
- (11) dressing or undressing;
- (12) assistance with eating and meal preparation and necessary grocery shopping;
- (13) accompanying a recipient to obtain medical diagnosis or treatment; and
- (14) assisting, monitoring, or prompting the recipient to complete the services in clauses (1) to (13);
- (15) redirection, monitoring, and observation that are medically necessary and an integral part of completing the personal cares described in clauses (1) to (14);
- (16) redirection and intervention for behavior, including observation and monitoring;
- (17) interventions for seizure disorders, including monitoring and observation if the recipient has had a seizure that requires intervention within the past three months; and
- (18) incidental household services that are an integral part of a personal care service described in clauses (1) to (13) (17).

For purposes of this subdivision, monitoring and observation means watching for outward visible signs that are likely to occur and for which there is a covered personal care service or an appropriate personal care intervention.

- (b) The personal care services that are not eligible for payment are the following:
 - (1) services not ordered by the physician;
 - (2) assessments by personal care provider organizations or by independently enrolled registered nurses;
 - (3) services that are not in the service plan;
 - (4) services provided by the recipient's spouse, legal guardian for an adult or child recipient, or parent of a recipient under age 18;
 - (5) services provided by a foster care provider of a recipient who cannot direct their own care, unless monitored by a county or state case manager under section 256B.0625, subdivision 19a;
 - (6) services provided by the residential or program license holder in a residence for more than four persons;
 - (6) (7) services that are the responsibility of a residential or program license holder under the terms of a service agreement and administrative rules;
 - (7) (8) sterile procedures;
 - (8) (9) injections of fluids into veins, muscles, or skin;
 - (9) (10) services provided by parents of adult recipients, adult children or adult siblings of the recipient, unless these relatives meet one of the following hardship criteria and the commissioner waives this requirement:
 - (i) the relative resigns from a part-time or full-time job to provide personal care for the recipient;
 - (ii) the relative goes from a full-time to a part-time job with less compensation to provide personal care for the recipient;
 - (iii) the relative takes a leave of absence without pay to provide personal care for the recipient;

- (iv) the relative incurs substantial expenses by providing personal care for the recipient; or
- (v) because of labor conditions or intermittent hours of care needed, the relative is needed in order to provide an adequate number of qualified personal care assistants to meet the medical needs of the recipient;
- (10) (11) homemaker services that are not an integral part of a personal care services;
- (11) (12) home maintenance, or chore services;
- (12) (13) services not specified under paragraph (a); and
- (13) (14) services not authorized by the commissioner or the commissioner's designee.

Sec. 19. Minnesota Statutes 1994, section 256B.0627, subdivision 5, as amended by Laws 1995, chapter 207, article 6, sections 55 and 125, subdivision 12, is amended to read:

Subd. 5. [LIMITATION ON PAYMENTS.] Medical assistance payments for home care services shall be limited according to this subdivision.

(a) [LIMITS ON SERVICES WITHOUT PRIOR AUTHORIZATION.] A recipient may receive the following ~~amounts of~~ home care services during a calendar year:

~~(1) a total of 40 home health aide visits or skilled nurse visits under section 256B.0625, subdivision 6a; and~~

~~(2) assessments and reassessments~~ (1) any initial assessment and; (2) up to two reassessments per year done to determine a recipient's need for personal care services.

(b) [PRIOR AUTHORIZATION; EXCEPTIONS.] All home care services above the limits in paragraph (a) must receive the commissioner's prior authorization, except when:

(1) the home care services were required to treat an emergency medical condition that if not immediately treated could cause a recipient serious physical or mental disability, continuation of severe pain, or death. The provider must request retroactive authorization no later than five working days after giving the initial service. The provider must be able to substantiate the emergency by documentation such as reports, notes, and admission or discharge histories;

(2) the home care services were provided on or after the date on which the recipient's eligibility began, but before the date on which the recipient was notified that the case was opened. Authorization will be considered if the request is submitted by the provider within 20 working days of the date the recipient was notified that the case was opened;

(3) a third-party payor for home care services has denied or adjusted a payment. Authorization requests must be submitted by the provider within 20 working days of the notice of denial or adjustment. A copy of the notice must be included with the request; ~~or~~

(4) the commissioner has determined that a county or state human services agency has made an error; or

(5) the professional nurse determines an immediate need for up to 40 skilled nursing or home health aide visits per calendar year and submits a request for authorization within 20 working days of the initial service date, and medical assistance is determined to be the appropriate payer.

(c) [RETROACTIVE AUTHORIZATION.] A request for retroactive authorization will be evaluated according to the same criteria applied to prior authorization requests.

(d) [ASSESSMENT AND SERVICE PLAN.] Assessments under section 256B.0627, subdivision 1, paragraph (a), shall be conducted initially, and at least annually thereafter, in person with the recipient and result in a completed service plan using forms specified by the commissioner. Within 30 days of recipient or responsible party request for home care services, the assessment, the service plan, and other information necessary to determine medical necessity such as diagnostic or testing information, social or medical histories, and hospital or facility discharge summaries shall be submitted to the commissioner. For personal care services:

(1) The amount and type of service authorized based upon the assessment and service plan will follow the recipient if the recipient chooses to change providers.

(2) If the recipient's medical need changes, the recipient's provider may assess the need for a change in service authorization and request the change from the county public health nurse. Within 30 days of the request, the public health nurse will determine whether to request the change in services based upon the provider assessment, or conduct a home visit to assess the need and determine whether the change is appropriate.

(3) To continue to receive personal care services when the recipient displays no significant change, the county public health nurse has the option to review with the commissioner, or the commissioner's designee, the service plan on record and receive authorization for up to an additional 12 months at a time for up to three years.

(e) [PRIOR AUTHORIZATION.] The commissioner, or the commissioner's designee, shall review the assessment, the service plan, and any additional information that is submitted. The commissioner shall, within 30 days after receiving a complete request, assessment, and service plan, authorize home care services as follows:

(1) [HOME HEALTH SERVICES.] All home health services provided by a licensed nurse or a home health aide ~~that exceed the limits established in paragraph (a)~~ must be prior authorized by the commissioner or the commissioner's designee. Prior authorization must be based on medical necessity and cost-effectiveness when compared with other care options. When home health services are used in combination with personal care and private duty nursing, the cost of all home care services shall be considered for cost-effectiveness. The commissioner shall limit nurse and home health aide visits to no more than one visit each per day.

(2) [PERSONAL CARE SERVICES.] (i) All personal care services and registered nurse supervision must be prior authorized by the commissioner or the commissioner's designee except for the assessments established in paragraph (a). The amount of personal care services authorized must be based on the recipient's home care rating. A child may not be found to be dependent in an activity of daily living if because of the child's age an adult would either perform the activity for the child or assist the child with the activity and the amount of assistance needed is similar to the assistance appropriate for a typical child of the same age. Based on medical necessity, the commissioner may authorize:

(A) up to ~~1.75~~ two times the average number of direct care hours provided in nursing facilities for the recipient's comparable case mix level; or

(B) up to ~~2.625~~ three times the average number of direct care hours provided in nursing facilities for recipients who have complex medical needs or are dependent in at least seven activities of daily living and need physical assistance with eating or have a neurological diagnosis but ~~in no case shall the dollar amount authorized exceed the statewide weighted average nursing facility payment rate for fiscal year 1995; or~~

(C) up to 60 percent of the average reimbursement rate, as of July 1, 1991, for care provided in a regional treatment center for recipients who have Level I behavior; plus any inflation adjustment as provided by the legislature for personal care service; or

(~~D~~) up to the amount the commissioner would pay, as of July 1, 1991, plus any inflation adjustment provided for home care services, for care provided in a regional treatment center for recipients referred to the commissioner by a regional treatment center preadmission evaluation team. For purposes of this clause, home care services means all services provided in the home or community that would be included in the payment to a regional treatment center; or

(~~D~~) (E) up to the amount medical assistance would reimburse for facility care for recipients referred to the commissioner by a preadmission screening team established under section 256B.0911 or 256B.092; and

(~~E~~) (F) a reasonable amount of time for the provision of nursing supervision of personal care services.

(ii) The number of direct care hours shall be determined according to the annual cost report submitted to the department by nursing facilities. The average number of direct care hours, ~~for the report year 1993, as established by July 11, 1994~~ May 1, 1992, shall be calculated and incorporated into the home care limits on July 1, 1996 1992. These limits shall be calculated to the nearest quarter hour.

(iii) The home care rating shall be determined by the commissioner or the commissioner's designee based on information submitted to the commissioner by the county public health nurse on forms specified by the commissioner. The home care rating shall be a combination of current assessment tools developed under sections 256B.0911 and 256B.501 with an addition for seizure activity that will assess the frequency and severity of seizure activity and with adjustments, additions, and clarifications that are necessary to reflect the needs and conditions of recipients who need home care including children and adults under 65 years of age. The commissioner shall establish these forms and protocols under this section and shall use an advisory group, including representatives of recipients, providers, and counties, for consultation in establishing and revising the forms and protocols.

(iv) A recipient shall qualify as having complex medical needs if the care required is difficult to perform and because of recipient's medical condition requires more time than community-based standards allow or requires more skill than would ordinarily be required and the recipient needs or has one or more of the following:

- (A) daily tube feedings;
- (B) daily parenteral therapy;
- (C) wound or decubiti care;
- (D) postural drainage, percussion, nebulizer treatments, suctioning, tracheotomy care, oxygen, mechanical ventilation;
- (E) catheterization;
- (F) ostomy care;
- (G) quadriplegia; or
- (H) other comparable medical conditions or treatments the commissioner determines would otherwise require institutional care.

(v) A recipient shall qualify as having Level I behavior if there is reasonable supporting evidence that the recipient exhibits, or that without supervision, observation, or redirection would exhibit, one or more of the following behaviors that cause, or have the potential to cause:

- (A) injury to his or her own body;
- (B) physical injury to other people; or
- (C) destruction of property.

(vi) Time authorized for personal care relating to Level I behavior in subclause (v), items (A) to (C), shall be based on the predictability, frequency, and amount of intervention required.

(vii) A recipient shall qualify as having Level II behavior if the recipient exhibits on a daily basis one or more of the following behaviors that interfere with the completion of personal care services under subdivision 4, paragraph (a):

- (A) unusual or repetitive habits;
- (B) withdrawn behavior; or
- (C) offensive behavior.

(viii) A recipient with a home care rating of Level II behavior in subclause (vii), items (A) to (C), shall be rated as comparable to a recipient with complex medical needs under subclause (iv). If a recipient has both complex medical needs and Level II behavior, the home care rating shall be the next complex category up to the maximum rating under subclause (i), item (B).

(3) [PRIVATE DUTY NURSING SERVICES.] All private duty nursing services shall be prior authorized by the commissioner or the commissioner's designee. Prior authorization for private duty nursing services shall be based on medical necessity and cost-effectiveness when compared with alternative care options. The commissioner may authorize medically necessary private duty nursing services in quarter-hour units when:

(i) the recipient requires more individual and continuous care than can be provided during a nurse visit; or

(ii) the cares are outside of the scope of services that can be provided by a home health aide or personal care assistant.

The commissioner may authorize:

(A) up to two times the average amount of direct care hours provided in nursing facilities statewide for case mix classification "K" as established by the annual cost report submitted to the department by nursing facilities in May 1992;

(B) private duty nursing in combination with other home care services up to the total cost allowed under clause (2);

(C) up to 16 hours per day if the recipient requires more nursing than the maximum number of direct care hours as established in item (A) and the recipient meets the hospital admission criteria established under Minnesota Rules, parts 9505.0500 to 9505.0540.

The commissioner may authorize up to 16 hours per day of medically necessary private duty nursing services or up to 24 hours per day of medically necessary private duty nursing services until such time as the commissioner is able to make a determination of eligibility for recipients who are cooperatively applying for home care services under the community alternative care program developed under section 256B.49, or until it is determined by the appropriate regulatory agency that a health benefit plan is or is not required to pay for appropriate medically necessary health care services. Recipients or their representatives must cooperatively assist the commissioner in obtaining this determination. Recipients who are eligible for the community alternative care program may not receive more hours of nursing under this section than would otherwise be authorized under section 256B.49.

(4) [VENTILATOR-DEPENDENT RECIPIENTS.] If the recipient is ventilator-dependent, the monthly medical assistance authorization for home care services shall not exceed what the commissioner would pay for care at the highest cost hospital designated as a long-term hospital under the Medicare program. For purposes of this clause, home care services means all services provided in the home that would be included in the payment for care at the long-term hospital. "Ventilator-dependent" means an individual who receives mechanical ventilation for life support at least six hours per day and is expected to be or has been dependent for at least 30 consecutive days.

(f) [PRIOR AUTHORIZATION; TIME LIMITS.] The commissioner or the commissioner's designee shall determine the time period for which a prior authorization shall be effective. If the recipient continues to require home care services beyond the duration of the prior authorization, the home care provider must request a new prior authorization. Under no circumstances, other than the exceptions in paragraph (b), shall a prior authorization be valid prior to the date the commissioner receives the request or for more than 12 months. A recipient who appeals a reduction in previously authorized home care services may continue previously authorized services, other than temporary services under paragraph (h), pending an appeal under section 256.045. The commissioner must provide a detailed explanation of why the authorized services are reduced in amount from those requested by the home care provider.

(g) [APPROVAL OF HOME CARE SERVICES.] The commissioner or the commissioner's designee shall determine the medical necessity of home care services, the level of caregiver according to subdivision 2, and the institutional comparison according to this subdivision, the cost-effectiveness of services, and the amount, scope, and duration of home care services reimbursable by medical assistance, based on the assessment, primary payer coverage determination information as required, the care service plan, the recipient's age, the cost of services, the recipient's medical condition, and diagnosis or disability. The commissioner may publish additional criteria for determining medical necessity according to section 256B.04.

(h) [PRIOR AUTHORIZATION REQUESTS; TEMPORARY SERVICES.] The agency nurse, the independently enrolled private duty nurse, or county public health nurse may request a temporary authorization for home care services by telephone. The commissioner may approve a temporary level of home care services based on the assessment, and service or care plan information, and primary payer coverage determination information as required. Authorization for a temporary level of home care services including nurse supervision is limited to the time specified by the commissioner, but shall not exceed 45 days, unless extended because the county public health nurse has not completed the required assessment and service plan, or the commissioner's determination has not been made. The level of services authorized under this provision shall have no bearing on a future prior authorization.

(i) [PRIOR AUTHORIZATION REQUIRED IN FOSTER CARE SETTING.] Home care services provided in an adult or child foster care setting must receive prior authorization by the department according to the limits established in paragraph (a).

The commissioner may not authorize:

(1) home care services that are the responsibility of the foster care provider under the terms of the foster care placement agreement and administrative rules. Requests for home care services for recipients residing in a foster care setting must include the foster care placement agreement and determination of difficulty of care;

(2) personal care services when the foster care license holder is also the personal care provider or personal care assistant unless the recipient can direct the recipient's own care, or case management is provided as required in section 256B.0625, subdivision 19a;

(3) personal care services when the responsible party is an employee of, or under contract with, or has any direct or indirect financial relationship with the personal care provider or personal care assistant, unless case management is provided as required in section 256B.0625, subdivision 19a;

(4) home care services when the number of foster care residents is greater than four unless the county responsible for the recipient's foster placement made the placement prior to April 1, 1992, requests that home care services be provided, and case management is provided as required in section 256B.0625, subdivision 19a; or

(3) (5) home care services when combined with foster care payments, other than room and board payments that exceed the total amount that public funds would pay for the recipient's care in a medical institution.

Sec. 20. Minnesota Statutes 1994, section 256B.0627, is amended by adding a subdivision to read:

Subd. 7. [NONCOVERED HOME CARE SERVICES.] The following home care services are not eligible for payment under medical assistance:

(1) skilled nurse visits for the sole purpose of supervision of the home health aide;

(2) a skilled nursing visit:

(i) only for the purpose of monitoring medication compliance with an established medication program for a recipient; or

(ii) to administer or assist with medication administration, including injections, prefilling

syringes for injections, or oral medication set-up of an adult recipient, when as determined and documented by the registered nurse, the need can be met by an available pharmacy or the recipient is physically and mentally able to self-administer or prefill a medication;

(3) home care services to a recipient who is eligible for covered services including hospice, if elected by the recipient, under the Medicare program or any other insurance held by the recipient;

(4) services to other members of the recipient's household;

(5) a visit made by a skilled nurse solely to train other home health agency workers;

(6) any home care service included in the daily rate of the community-based residential facility where the recipient is residing;

(7) nursing and rehabilitation therapy services that are reasonably accessible to a recipient outside their place of residence, excluding the assessment, counseling and education, and personal care;

(8) any home health agency service, excluding personal care assistant services and private duty nursing services, which are performed in a place other than the recipient's residence; and

(9) Medicare evaluation or administrative nursing visits on dual-eligible recipients that do not qualify for Medicare visit billing.

Sec. 21. Minnesota Statutes 1995 Supplement, section 256B.0913, subdivision 5, is amended to read:

Subd. 5. [SERVICES COVERED UNDER ALTERNATIVE CARE.] (a) Alternative care funding may be used for payment of costs of:

(1) adult foster care;

(2) adult day care;

(3) home health aide;

(4) homemaker services;

(5) personal care;

(6) case management;

(7) respite care;

(8) assisted living;

(9) residential care services;

(10) care-related supplies and equipment;

(11) meals delivered to the home;

(12) transportation;

(13) skilled nursing;

(14) chore services;

(15) companion services;

(16) nutrition services; and

(17) training for direct informal caregivers; and

(18) telemedicine devices to monitor recipients in their own homes as an alternative to hospital care, nursing home care, or home visits.

(b) The county agency must ensure that the funds are used only to supplement and not supplant services available through other public assistance or services programs.

(c) Unless specified in statute, the service standards for alternative care services shall be the same as the service standards defined in the elderly waiver. Persons or agencies must be employed by or under a contract with the county agency or the public health nursing agency of the local board of health in order to receive funding under the alternative care program.

(d) The adult foster care rate shall be considered a difficulty of care payment and shall not include room and board. The adult foster care daily rate shall be negotiated between the county agency and the foster care provider. The rate established under this section shall not exceed 75 percent of the state average monthly nursing home payment for the case mix classification to which the individual receiving foster care is assigned, and it must allow for other alternative care services to be authorized by the case manager.

(e) Personal care services may be provided by a personal care provider organization. A county agency may contract with a relative of the client to provide personal care services, but must ensure nursing supervision. Covered personal care services defined in section 256B.0627, subdivision 4, must meet applicable standards in Minnesota Rules, part 9505.0335.

(f) ~~Costs for supplies and equipment that exceed \$150 per item per month must have prior approval from the commissioner.~~ A county may use alternative care funds to purchase medical supplies and equipment without prior approval from the commissioner when: (1) there is no other funding source; (2) the supplies and equipment are specified in the individual's care plan as medically necessary to enable the individual to remain in the community according to the criteria in Minnesota Rules, part 9505.0210, item A; and (3) the supplies and equipment represent an effective and appropriate use of alternative care funds. A county may use alternative care funds to purchase supplies and equipment from a non-Medicaid certified vendor if the cost for the items is less than that of a Medicaid vendor. A county is not required to contract with a provider of supplies and equipment if the monthly cost of the supplies and equipment is less than \$250.

(g) For purposes of this section, residential care services are services which are provided to individuals living in residential care homes. Residential care homes are currently licensed as board and lodging establishments and are registered with the department of health as providing special services. Residential care services are defined as "supportive services" and "health-related services." "Supportive services" means the provision of up to 24-hour supervision and oversight. Supportive services includes: (1) transportation, when provided by the residential care center only; (2) socialization, when socialization is part of the plan of care, has specific goals and outcomes established, and is not diversional or recreational in nature; (3) assisting clients in setting up meetings and appointments; (4) assisting clients in setting up medical and social services; (5) providing assistance with personal laundry, such as carrying the client's laundry to the laundry room. Assistance with personal laundry does not include any laundry, such as bed linen, that is included in the room and board rate. Health-related services are limited to minimal assistance with dressing, grooming, and bathing and providing reminders to residents to take medications that are self-administered or providing storage for medications, if requested. Individuals receiving residential care services cannot receive both personal care services and residential care services.

(h) For the purposes of this section, "assisted living" refers to supportive services provided by a single vendor to clients who reside in the same apartment building of three or more units. Assisted living services are defined as up to 24-hour supervision, and oversight, supportive services as defined in clause (1), individualized home care aide tasks as defined in clause (2), and individualized home management tasks as defined in clause (3) provided to residents of a residential center living in their units or apartments with a full kitchen and bathroom. A full kitchen includes a stove, oven, refrigerator, food preparation counter space, and a kitchen utensil storage compartment. Assisted living services must be provided by the management of the residential center or by providers under contract with the management or with the county.

(1) Supportive services include:

(i) socialization, when socialization is part of the plan of care, has specific goals and outcomes established, and is not diversional or recreational in nature;

- (ii) assisting clients in setting up meetings and appointments; and
- (iii) providing transportation, when provided by the residential center only.

Individuals receiving assisted living services will not receive both assisted living services and homemaking or personal care services. Individualized means services are chosen and designed specifically for each resident's needs, rather than provided or offered to all residents regardless of their illnesses, disabilities, or physical conditions.

(2) Home care aide tasks means:

- (i) preparing modified diets, such as diabetic or low sodium diets;
- (ii) reminding residents to take regularly scheduled medications or to perform exercises;
- (iii) household chores in the presence of technically sophisticated medical equipment or episodes of acute illness or infectious disease;
- (iv) household chores when the resident's care requires the prevention of exposure to infectious disease or containment of infectious disease; and
- (v) assisting with dressing, oral hygiene, hair care, grooming, and bathing, if the resident is ambulatory, and if the resident has no serious acute illness or infectious disease. Oral hygiene means care of teeth, gums, and oral prosthetic devices.

(3) Home management tasks means:

- (i) housekeeping;
- (ii) laundry;
- (iii) preparation of regular snacks and meals; and
- (iv) shopping.

Assisted living services as defined in this section shall not be authorized in boarding and lodging establishments licensed according to sections 157.03 and 157.15 to 157.22.

(i) For the purposes of this section, reimbursement for assisted living services and residential care services shall be a monthly rate negotiated and authorized by the county agency. The rate shall not exceed the nonfederal share of the greater of either the statewide or any of the geographic groups' weighted average monthly medical assistance nursing facility payment rate of the case mix resident class to which the 180-day eligible client would be assigned under Minnesota Rules, parts 9549.0050 to 9549.0059. For alternative care assisted living projects established under Laws 1988, chapter 689, article 2, section 256, monthly rates may not exceed 65 percent of the greater of either statewide or any of the geographic groups' weighted average monthly medical assistance nursing facility payment rate of the case mix resident class to which the 180-day eligible client would be assigned under Minnesota Rules, parts 9549.0050 to 9549.0059. The rate may not cover rent and direct food costs.

(j) For purposes of this section, companion services are defined as nonmedical care, supervision and oversight, provided to a functionally impaired adult. Companions may assist the individual with such tasks as meal preparation, laundry and shopping, but do not perform these activities as discrete services. The provision of companion services does not entail hands-on medical care. Providers may also perform light housekeeping tasks which are incidental to the care and supervision of the recipient. This service must be approved by the case manager as part of the care plan. Companion services must be provided by individuals or nonprofit organizations who are under contract with the local agency to provide the service. Any person related to the waiver recipient by blood, marriage or adoption cannot be reimbursed under this service. Persons providing companion services will be monitored by the case manager.

(k) For purposes of this section, training for direct informal caregivers is defined as a classroom or home course of instruction which may include: transfer and lifting skills, nutrition, personal and

physical cares, home safety in a home environment, stress reduction and management, behavioral management, long-term care decision making, care coordination and family dynamics. The training is provided to an informal unpaid caregiver of a 180-day eligible client which enables the caregiver to deliver care in a home setting with high levels of quality. The training must be approved by the case manager as part of the individual care plan. Individuals, agencies, and educational facilities which provide caregiver training and education will be monitored by the case manager.

Sec. 22. Minnesota Statutes 1994, section 256B.0913, subdivision 7, is amended to read:

Subd. 7. [CASE MANAGEMENT.] The lead agency shall appoint a social worker from the county agency or a registered nurse from the county public health nursing service of the local board of health to be the case manager for any person receiving services funded by the alternative care program. The case manager must ensure the health and safety of the individual client and is responsible for the cost-effectiveness of the alternative care individual care plan. The county may allow a case manager to delegate certain aspects of the case management activity to another individual employed by the county provided there is oversight of the individual by the case manager. The case manager may not delegate those aspects which require professional judgment including assessments, reassessments, and care plan development.

Sec. 23. Minnesota Statutes 1994, section 256B.0915, subdivision 1b, is amended to read:

Subd. 1b. [PROVIDER QUALIFICATIONS AND STANDARDS.] The commissioner must enroll qualified providers of elderly case management services under the home and community-based waiver for the elderly under section 1915(c) of the Social Security Act. The enrollment process shall ensure the provider's ability to meet the qualification requirements and standards in this subdivision and other federal and state requirements of this service. An elderly case management provider is an enrolled medical assistance provider who is determined by the commissioner to have all of the following characteristics:

- (1) the legal authority for alternative care program administration under section 256B.0913;
- (2) the demonstrated capacity and experience to provide the components of case management to coordinate and link community resources needed by the eligible population;
- (3) administrative capacity and experience in serving the target population for whom it will provide services and in ensuring quality of services under state and federal requirements;
- (4) the legal authority to provide preadmission screening under section 256B.0911, subdivision 4;
- (5) a financial management system that provides accurate documentation of services and costs under state and federal requirements; ~~and~~
- (6) the capacity to document and maintain individual case records under state and federal requirements; and
- (7) the county may allow a case manager to delegate certain aspects of the case management activity to another individual employed by the county provided there is oversight of the individual by the case manager. The case manager may not delegate those aspects which require professional judgment including assessments, reassessments, and care plan development.

Sec. 24. Minnesota Statutes 1995 Supplement, section 256B.0915, subdivision 3, is amended to read:

Subd. 3. [LIMITS OF CASES, RATES, REIMBURSEMENT, AND FORECASTING.] (a) The number of medical assistance waiver recipients that a county may serve must be allocated according to the number of medical assistance waiver cases open on July 1 of each fiscal year. Additional recipients may be served with the approval of the commissioner.

(b) The monthly limit for the cost of waived services to an individual waiver client shall be the statewide average payment rate of the case mix resident class to which the waiver client would

be assigned under the medical assistance case mix reimbursement system. If medical supplies and equipment or adaptations are or will be purchased for an elderly waiver services recipient, the costs may be prorated on a monthly basis throughout the year in which they are purchased. If the monthly cost of a recipient's other waived services exceeds the monthly limit established in this paragraph, the annual cost of the waived services shall be determined. In this event, the annual cost of waived services shall not exceed 12 times the monthly limit calculated in this paragraph. The statewide average payment rate is calculated by determining the statewide average monthly nursing home rate, effective July 1 of the fiscal year in which the cost is incurred, less the statewide average monthly income of nursing home residents who are age 65 or older, and who are medical assistance recipients in the month of March of the previous state fiscal year. The annual cost divided by 12 of elderly or disabled waived services for a person who is a nursing facility resident at the time of requesting a determination of eligibility for elderly or disabled waived services shall not exceed the monthly payment for the resident class assigned under Minnesota Rules, parts 9549.0050 to 9549.0059, for that resident in the nursing facility where the resident currently resides. The following costs must be included in determining the total monthly costs for the waiver client:

- (1) cost of all waived services, including extended medical supplies and equipment; and
- (2) cost of skilled nursing, home health aide, and personal care services reimbursable by medical assistance.

(c) Medical assistance funding for skilled nursing services, private duty nursing, home health aide, and personal care services for waiver recipients must be approved by the case manager and included in the individual care plan.

~~(d) Expenditures for extended medical supplies and equipment that cost over \$150 per month~~ For both the elderly waiver and the nursing facility disabled waiver ~~must have the commissioner's prior approval~~ waivers, a county may purchase extended supplies and equipment without prior approval from the commissioner when there is no other funding source and the supplies and equipment are specified in the individual's care plan as medically necessary to enable the individual to remain in the community according to the criteria in Minnesota Rules, part 9505.0210, items A and B. A county is not required to contract with a provider of supplies and equipment if the monthly cost of the supplies and equipment is less than \$250.

(e) For the fiscal year beginning on July 1, 1993, and for subsequent fiscal years, the commissioner of human services shall not provide automatic annual inflation adjustments for home and community-based waived services. The commissioner of finance shall include as a budget change request in each biennial detailed expenditure budget submitted to the legislature under section 16A.11, annual adjustments in reimbursement rates for home and community-based waived services, based on the forecasted percentage change in the Home Health Agency Market Basket of Operating Costs, for the fiscal year beginning July 1, compared to the previous fiscal year, unless otherwise adjusted by statute. The Home Health Agency Market Basket of Operating Costs is published by Data Resources, Inc. The forecast to be used is the one published for the calendar quarter beginning January 1, six months prior to the beginning of the fiscal year for which rates are set. The adult foster care rate shall be considered a difficulty of care payment and shall not include room and board.

(f) The adult foster care daily rate for the elderly and disabled waivers shall be negotiated between the county agency and the foster care provider. The rate established under this section shall not exceed the state average monthly nursing home payment for the case mix classification to which the individual receiving foster care is assigned; the rate must allow for other waiver and medical assistance home care services to be authorized by the case manager.

(g) The assisted living and residential care service rates for elderly and community alternatives for disabled individuals (CADI) waivers shall be made to the vendor as a monthly rate negotiated with the county agency. The rate shall not exceed the nonfederal share of the greater of either the statewide or any of the geographic groups' weighted average monthly medical assistance nursing facility payment rate of the case mix resident class to which the elderly or disabled client would be assigned under Minnesota Rules, parts 9549.0050 to 9549.0059. For alternative care assisted

living projects established under Laws 1988, chapter 689, article 2, section 256, monthly rates may not exceed 65 percent of the greater of either the statewide or any of the geographic groups' weighted average monthly medical assistance nursing facility payment rate for the case mix resident class to which the elderly or disabled client would be assigned under Minnesota Rules, parts 9549.0050 to 9549.0059. The rate may not cover direct rent or food costs.

(h) The county shall negotiate individual rates with vendors and may be reimbursed for actual costs up to the greater of the county's current approved rate or 60 percent of the maximum rate in fiscal year 1994 and 65 percent of the maximum rate in fiscal year 1995 for each service within each program.

(i) On July 1, 1993, the commissioner shall increase the maximum rate for home-delivered meals to \$4.50 per meal.

(j) Reimbursement for the medical assistance recipients under the approved waiver shall be made from the medical assistance account through the invoice processing procedures of the department's Medicaid Management Information System (MMIS), only with the approval of the client's case manager. The budget for the state share of the Medicaid expenditures shall be forecasted with the medical assistance budget, and shall be consistent with the approved waiver.

(k) Beginning July 1, 1991, the state shall reimburse counties according to the payment schedule in section 256.025 for the county share of costs incurred under this subdivision on or after January 1, 1991, for individuals who are receiving medical assistance.

Sec. 25. Minnesota Statutes 1995 Supplement, section 256B.093, subdivision 3, is amended to read:

Subd. 3. [TRAUMATIC BRAIN INJURY PROGRAM DUTIES.] The department shall fund administrative case management under this subdivision using medical assistance administrative funds. The traumatic brain injury program duties include:

(1) recommending to the commissioner in consultation with the medical review agent according to Minnesota Rules, parts 9505.0500 to 9505.0540, the approval or denial of medical assistance funds to pay for out-of-state placements for traumatic brain injury services and in-state traumatic brain injury services provided by designated Medicare long-term care hospitals;

(2) coordinating the traumatic brain injury home and community-based waiver;

(3) approving traumatic brain injury waiver eligibility or care plans or both;

(4) providing ongoing technical assistance and consultation to county and facility case managers to facilitate care plan development for appropriate, accessible, and cost-effective medical assistance services;

(5) providing technical assistance to promote statewide development of appropriate, accessible, and cost-effective medical assistance services and related policy;

(6) providing training and outreach to facilitate access to appropriate home and community-based services to prevent institutionalization;

(7) facilitating appropriate admissions, continued stay review, discharges, and utilization review for neurobehavioral hospitals and other specialized institutions;

(8) providing technical assistance on the use of prior authorization of home care services and coordination of these services with other medical assistance services;

(9) developing a system for identification of nursing facility and hospital residents with traumatic brain injury to assist in long-term planning for medical assistance services. Factors will include, but are not limited to, number of individuals served, length of stay, services received, and barriers to community placement; and

(10) providing information, referral, and case consultation to access medical assistance services

for recipients without a county or facility case manager. Direct access to this assistance may be limited due to the structure of the program.

Sec. 26. Minnesota Statutes 1995 Supplement, section 256B.15, subdivision 5, is amended to read:

Subd. 5. [UNDUE HARDSHIP.] Any person entitled to notice in subdivision 1a has a right to apply for waiver of the claim based upon undue hardship. Any claim pursuant to this section may be fully or partially waived because of undue hardship. Undue hardship does not include action taken by the decedent which divested or diverted assets in order to avoid estate recovery. Any waiver of a claim must benefit the person claiming undue hardship. The commissioner shall have authority to hear claimant appeals, pursuant to section 256.045, when an application for a hardship waiver is denied in whole or part.

Sec. 27. Minnesota Statutes 1995 Supplement, section 256B.432, subdivision 2, is amended to read:

Subd. 2. [EFFECTIVE DATE.] For rate years beginning on or after July 1, 1990, the central, affiliated, or corporate office cost allocations in subdivisions 3 to 6 must be used when determining medical assistance rates under sections section 256B.431 and 256B.50.

Sec. 28. Minnesota Statutes 1995 Supplement, section 256B.434, subdivision 10, is amended to read:

Subd. 10. [EXEMPTIONS.] (a) To the extent permitted by federal law, (1) a facility that has entered into a contract under this section is not required to file a cost report, as defined in Minnesota Rules, part 9549.0020, subpart 13, for any year after the base year that is the basis for the calculation of the contract payment rate for the first rate year of the alternative payment demonstration project contract; and (2) a facility under contract is not subject to audits of historical costs or revenues, or paybacks or retroactive adjustments based on these costs or revenues, except audits, paybacks, or adjustments relating to the cost report that is the basis for calculation of the first rate year under the contract.

(b) A facility that is under contract with the commissioner under this section is not subject to the moratorium on licensure or certification of new nursing home beds in section 144A.071, unless the project results in a net increase in bed capacity or involves relocation of beds from one site to another. Contract payment rates must not be adjusted to reflect any additional costs that a nursing facility incurs as a result of a construction project undertaken under this paragraph. In addition, as a condition of entering into a contract under this section, a nursing facility must agree that any future medical assistance payments for nursing facility services will not reflect any additional costs attributable to the sale of a nursing facility under this section and to construction undertaken under this paragraph that otherwise would not be authorized under the moratorium in sections 144A.071 and section 144A.073. Nothing in this section prevents a nursing facility participating in the alternative payment demonstration project under this section from seeking approval of an exception to the moratorium through the process established in section 144A.071 144A.073, and if approved the facility's rates shall be adjusted to reflect the cost of the project.

(c) Notwithstanding section 256B.48, subdivision 6, paragraphs (c), (d), and (e), and pursuant to any terms and conditions contained in the facility's contract, a nursing facility that is under contract with the commissioner under this section is in compliance with section 256B.48, subdivision 6, paragraph (b), if the facility is Medicare certified.

(d) Notwithstanding paragraph (a), if by April 1, 1996, the health care financing administration has not approved a required waiver, or the health care financing administration otherwise requires cost reports to be filed prior to the waiver's approval, the commissioner shall require a cost report for the rate year.

Sec. 29. Minnesota Statutes 1995 Supplement, section 256B.49, subdivision 6, is amended to read:

Subd. 6. [ADMISSION CERTIFICATION.] In determining an individual's eligibility for the

community alternative care (CAC) waiver program, and an individual's eligibility for medical assistance under section 256B.055, subdivision 12, paragraph (b), the commissioner may review or contract for review of the individual's medical condition to determine level of care using criteria in Minnesota Rules, parts 9505.0520 to 9505.0540.

For purposes of this subdivision, a person requires long-term care in an inpatient hospital setting if the person has an ongoing condition that is expected to last one year or longer, and would require continuous or frequent hospitalizations during that period, but for the provision of home care services under this section.

Sec. 30. Minnesota Statutes 1995 Supplement, section 256B.49, subdivision 7, is amended to read:

Subd. 7. [PERSONS WITH DEVELOPMENTAL DISABILITIES OR RELATED CONDITIONS.] Individuals who apply for services under the community alternatives for disabled individuals (CADI) waiver program or the traumatic brain injury nursing facility waiver program who have developmental disabilities or related conditions must be screened for the appropriate institutional level of care in accordance with section 256B.092.

Sec. 31. Minnesota Statutes 1994, section 256B.49, is amended by adding a subdivision to read:

Subd. 9. [CASE MANAGEMENT SERVICES.] The county may allow a case manager to delegate certain aspects of the case management activity to another individual employed by the county provided there is oversight of the individual by the case manager. The case manager may not delegate those aspects which require professional judgment including assessments, reassessments, and care plan development.

Sec. 32. Minnesota Statutes 1995 Supplement, section 256B.69, subdivision 6, is amended to read:

Subd. 6. [SERVICE DELIVERY.] (a) Each demonstration provider shall be responsible for the health care coordination for eligible individuals. Demonstration providers:

(1) shall authorize and arrange for the provision of all needed health services including but not limited to the full range of services listed in sections 256B.02, subdivision 8, and 256B.0625 ~~and for children eligible for medical assistance under section 256B.055, subdivision 12, home care services and personal care assistant services~~ in order to ensure appropriate health care is delivered to enrollees;

(2) shall accept the prospective, per capita payment from the commissioner in return for the provision of comprehensive and coordinated health care services for eligible individuals enrolled in the program;

(3) may contract with other health care and social service practitioners to provide services to enrollees; and

(4) shall institute recipient grievance procedures according to the method established by the project, utilizing applicable requirements of chapter 62D. Disputes not resolved through this process shall be appealable to the commissioner as provided in subdivision 11.

(b) Demonstration providers must comply with the standards for claims settlement under section 72A.201, subdivisions 4, 5, 7, and 8, when contracting with other health care and social service practitioners to provide services to enrollees. A demonstration provider must pay a clean claim, as defined in Code of Federal Regulations, title 42, section 447.45(b), within 30 business days of the date of acceptance of the claim.

Sec. 33. Minnesota Statutes 1995 Supplement, section 256D.03, subdivision 4, is amended to read:

Subd. 4. [GENERAL ASSISTANCE MEDICAL CARE; SERVICES.] (a) For a person who is eligible under subdivision 3, paragraph (a), clause (3), general assistance medical care covers, except as provided in paragraph (c):

- (1) inpatient hospital services;
 - (2) outpatient hospital services;
 - (3) services provided by Medicare certified rehabilitation agencies;
 - (4) prescription drugs and other products recommended through the process established in section 256B.0625, subdivision 13;
 - (5) equipment necessary to administer insulin and diagnostic supplies and equipment for diabetics to monitor blood sugar level;
 - (6) eyeglasses and eye examinations provided by a physician or optometrist;
 - (7) hearing aids;
 - (8) prosthetic devices;
 - (9) laboratory and X-ray services;
 - (10) physician's services;
 - (11) medical transportation;
 - (12) chiropractic services as covered under the medical assistance program;
 - (13) podiatric services;
 - (14) dental services;
 - (15) outpatient services provided by a mental health center or clinic that is under contract with the county board and is established under section 245.62;
 - (16) day treatment services for mental illness provided under contract with the county board;
 - (17) prescribed medications for persons who have been diagnosed as mentally ill as necessary to prevent more restrictive institutionalization;
 - (18) case management services for a person with serious and persistent mental illness who would be eligible for medical assistance except that the person resides in an institution for mental diseases;
 - (19) psychological services, medical supplies and equipment, and Medicare premiums, coinsurance and deductible payments;
 - (20) medical equipment not specifically listed in this paragraph when the use of the equipment will prevent the need for costlier services that are reimbursable under this subdivision;
 - (21) services performed by a certified pediatric nurse practitioner, a certified family nurse practitioner, a certified adult nurse practitioner, a certified obstetric/gynecological nurse practitioner, or a certified geriatric nurse practitioner in independent practice, if the services are otherwise covered under this chapter as a physician service, and if the service is within the scope of practice of the nurse practitioner's license as a registered nurse, as defined in section 148.171; and
 - (22) services of a certified public health nurse or a registered nurse practicing in a public health nursing clinic that is a department of, or that operates under the direct authority of, a unit of government, if the service is within the scope of practice of the public health nurse's license as a registered nurse, as defined in section 148.171.
- (b) Except as provided in paragraph (c), for a recipient who is eligible under subdivision 3, paragraph (a), clause (1) or (2), general assistance medical care covers the services listed in paragraph (a) with the exception of special transportation services.

(c) Gender reassignment surgery and related services are not covered services under this subdivision unless the individual began receiving gender reassignment services prior to July 1, 1995.

(d) In order to contain costs, the commissioner of human services shall select vendors of medical care who can provide the most economical care consistent with high medical standards and shall where possible contract with organizations on a prepaid capitation basis to provide these services. The commissioner shall consider proposals by counties and vendors for prepaid health plans, competitive bidding programs, block grants, or other vendor payment mechanisms designed to provide services in an economical manner or to control utilization, with safeguards to ensure that necessary services are provided. Before implementing prepaid programs in counties with a county operated or affiliated public teaching hospital or a hospital or clinic operated by the University of Minnesota, the commissioner shall consider the risks the prepaid program creates for the hospital and allow the county or hospital the opportunity to participate in the program in a manner that reflects the risk of adverse selection and the nature of the patients served by the hospital, provided the terms of participation in the program are competitive with the terms of other participants considering the nature of the population served. Payment for services provided pursuant to this subdivision shall be as provided to medical assistance vendors of these services under sections 256B.02, subdivision 8, and 256B.0625, ~~and for contracts beginning on or after July 1, 1995, shall be discounted ten percent from comparable fee for service payments.~~ For payments made during fiscal year 1990 and later years, the commissioner shall consult with an independent actuary in establishing prepayment rates, but shall retain final control over the rate methodology. Notwithstanding the provisions of subdivision 3, an individual who becomes ineligible for general assistance medical care because of failure to submit income reports or recertification forms in a timely manner, shall remain enrolled in the prepaid health plan and shall remain eligible for general assistance medical care coverage through the last day of the month in which the enrollee became ineligible for general assistance medical care.

(e) The commissioner of human services may reduce payments provided under sections 256D.01 to 256D.21 and 261.23 in order to remain within the amount appropriated for general assistance medical care, within the following restrictions.

For the period July 1, 1985 to December 31, 1985, reductions below the cost per service unit allowable under section 256.966, are permitted only as follows: payments for inpatient and outpatient hospital care provided in response to a primary diagnosis of chemical dependency or mental illness may be reduced no more than 30 percent; payments for all other inpatient hospital care may be reduced no more than 20 percent. Reductions below the payments allowable under general assistance medical care for the remaining general assistance medical care services allowable under this subdivision may be reduced no more than ten percent.

For the period January 1, 1986 to December 31, 1986, reductions below the cost per service unit allowable under section 256.966 are permitted only as follows: payments for inpatient and outpatient hospital care provided in response to a primary diagnosis of chemical dependency or mental illness may be reduced no more than 20 percent; payments for all other inpatient hospital care may be reduced no more than 15 percent. Reductions below the payments allowable under general assistance medical care for the remaining general assistance medical care services allowable under this subdivision may be reduced no more than five percent.

For the period January 1, 1987 to June 30, 1987, reductions below the cost per service unit allowable under section 256.966 are permitted only as follows: payments for inpatient and outpatient hospital care provided in response to a primary diagnosis of chemical dependency or mental illness may be reduced no more than 15 percent; payments for all other inpatient hospital care may be reduced no more than ten percent. Reductions below the payments allowable under medical assistance for the remaining general assistance medical care services allowable under this subdivision may be reduced no more than five percent.

For the period July 1, 1987 to June 30, 1988, reductions below the cost per service unit allowable under section 256.966 are permitted only as follows: payments for inpatient and outpatient hospital care provided in response to a primary diagnosis of chemical dependency or mental illness may be reduced no more than 15 percent; payments for all other inpatient hospital

care may be reduced no more than five percent. Reductions below the payments allowable under medical assistance for the remaining general assistance medical care services allowable under this subdivision may be reduced no more than five percent.

For the period July 1, 1988 to June 30, 1989, reductions below the cost per service unit allowable under section 256.966 are permitted only as follows: payments for inpatient and outpatient hospital care provided in response to a primary diagnosis of chemical dependency or mental illness may be reduced no more than 15 percent; payments for all other inpatient hospital care may not be reduced. Reductions below the payments allowable under medical assistance for the remaining general assistance medical care services allowable under this subdivision may be reduced no more than five percent.

There shall be no copayment required of any recipient of benefits for any services provided under this subdivision. A hospital receiving a reduced payment as a result of this section may apply the unpaid balance toward satisfaction of the hospital's bad debts.

(f) Any county may, from its own resources, provide medical payments for which state payments are not made.

(g) Chemical dependency services that are reimbursed under chapter 254B must not be reimbursed under general assistance medical care.

(h) The maximum payment for new vendors enrolled in the general assistance medical care program after the base year shall be determined from the average usual and customary charge of the same vendor type enrolled in the base year.

(i) The conditions of payment for services under this subdivision are the same as the conditions specified in rules adopted under chapter 256B governing the medical assistance program, unless otherwise provided by statute or rule.

Sec. 34. Minnesota Statutes 1994, section 256I.04, subdivision 1, is amended to read:

Subdivision 1. [INDIVIDUAL ELIGIBILITY REQUIREMENTS.] An individual is eligible for and entitled to a group residential housing payment to be made on the individual's behalf if the county agency has approved the individual's residence in a group residential housing setting and the individual meets the requirements in paragraph (a) or (b).

(a) The individual is aged, blind, or is over 18 years of age and disabled as determined under the criteria used by the title II program of the Social Security Act, and meets the resource restrictions and standards of the supplemental security income program, and the individual's countable income after deducting the exclusions and disregards of the SSI program and the medical assistance personal needs allowance under section 256B.35 is less than the monthly rate specified in the county agency's agreement with the provider of group residential housing in which the individual resides.

(b) The individual meets a category of eligibility under section 256D.05, subdivision 1, paragraph (a), and the individual's resources are less than the standards specified by section 256D.08, and the individual's countable income as determined under sections 256D.01 to 256D.21, less the medical assistance personal needs allowance under section 256B.35 is less than the monthly rate specified in the county agency's agreement with the provider of group residential housing in which the individual resides.

Sec. 35. Minnesota Statutes 1995 Supplement, section 256I.04, subdivision 2b, is amended to read:

Subd. 2b. [GROUP RESIDENTIAL HOUSING AGREEMENTS.] Agreements between county agencies and providers of group residential housing must be in writing and must specify the name and address under which the establishment subject to the agreement does business and under which the establishment, or service provider, if different from the group residential housing establishment, is licensed by the department of health or the department of human services; the specific license or registration from the department of health or the department of human services

held by the provider and the number of beds subject to that license; the address of the location or locations at which group residential housing is provided under this agreement; the per diem and monthly rates that are to be paid from group residential housing funds for each eligible resident at each location; the number of beds at each location which are subject to the group residential housing agreement; whether the license holder is a not-for-profit corporation under section 501(c)(3) of the Internal Revenue Code; and a statement that the agreement is subject to the provisions of sections 256I.01 to 256I.06 and subject to any changes to those sections. Group residential housing agreements may be terminated with or without cause by either the county or the provider with two calendar months prior notice.

Sec. 36. Minnesota Statutes 1995 Supplement, section 256I.04, subdivision 3, is amended to read:

Subd. 3. [MORATORIUM ON THE DEVELOPMENT OF GROUP RESIDENTIAL HOUSING BEDS.] (a) County agencies shall not enter into agreements for new group residential housing beds with total rates in excess of the MSA equivalent rate except: (1) for group residential housing establishments meeting the requirements of subdivision 2a, clause (2) with department approval; (2) for group residential housing establishments licensed under Minnesota Rules, parts 9525.0215 to 9525.0355, provided the facility is needed to meet the census reduction targets for persons with mental retardation or related conditions at regional treatment centers; (3) to ensure compliance with the federal Omnibus Budget Reconciliation Act alternative disposition plan requirements for inappropriately placed persons with mental retardation or related conditions or mental illness; (4) up to 80 beds in a single, specialized facility located in Hennepin county that will provide housing for chronic inebriates who are repetitive users of detoxification centers and are refused placement in emergency shelters because of their state of intoxication. Planning for the specialized facility must have been initiated before July 1, 1991, in anticipation of receiving a grant from the housing finance agency under section 462A.05, subdivision 20a, paragraph (b); or (5) notwithstanding the provisions of subdivision 2a, for up to 180 supportive housing units in Anoka, Dakota, Hennepin, or Ramsey county for homeless adults with a mental illness, a history of substance abuse, or human immunodeficiency virus or acquired immunodeficiency syndrome. For purposes of this section, "homeless adult" means a person who is living on the street or in a shelter or is evicted from a dwelling unit or discharged from a regional treatment center, community hospital, or residential treatment program and has no appropriate housing available and lacks the resources and support necessary to access appropriate housing. At least 70 percent of the supportive housing units must serve homeless adults with mental illness, substance abuse problems, or human immunodeficiency virus or acquired immunodeficiency syndrome who are about to be or, within the previous six months, has been discharged from a regional treatment center, or a state-contracted psychiatric bed in a community hospital, or a residential mental health or chemical dependency treatment program. If a person meets the requirements of subdivision 1, paragraph (a), and receives a federal Section 8 housing subsidy, the group residential housing rate for that person is limited to the supplementary rate under section 256I.05, subdivision 1a, and is determined by subtracting the amount of the person's countable income that exceeds the MSA equivalent rate from the group residential housing supplementary rate. A resident in a demonstration project site who no longer participates in the demonstration program shall retain eligibility for a group residential housing payment in an amount determined under section 256I.06, subdivision 8, using the MSA equivalent rate. Service funding under section 256I.05, subdivision 1a, must will end June 30, 1997, if federal matching funds are available and the services can be provided through a managed care entity. If federal matching funds are not available, then service funding will continue under section 256I.05, subdivision 1a. Effective July 1, 1997, services to persons in these settings must be provided through a managed care entity. This provision is subject to the availability of matching federal funds.

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

Sec. 37. [RECOMMENDATIONS ON HOME CARE PROVIDED IN FOSTER CARE SETTINGS.]

The commissioner of human services, in consultation with counties, home care providers, foster care providers, and representatives of home care recipients who are both children and adults, shall review the provision of home care services to children and adults living in licensed foster care settings. By November 15, 1996, the commissioner shall report to the legislature on recommendations for standards to determine home care service authorization for foster care residents, which will assure appropriate care for recipients while avoiding duplication of services and payment.

Sec. 38. [COMMISSIONER'S TASK FORCE TO CONSOLIDATE MINNESOTA RULES; CONSUMER INFORMATION SYSTEM AND EDUCATIONAL MATERIALS.]

The commissioner, in consultation with the commissioner of health and representatives of affected organizations, including counties, providers, the Minnesota Nurses Association, and advocacy groups shall develop proposed legislation consolidating Minnesota Rules, parts 9525.0215 to 9525.0355; 9525.0500 to 9525.0660; 9525.1500 to 9525.1690; and 9525.2000 to 9525.2140, new regulatory strategies to determine compliance with the new consolidated standard, and strategies to develop a consumer information system and educational materials. The purpose of the rule consolidation and regulatory strategies are to eliminate duplication, outmoded provisions and unnecessary paperwork and ensure adequate oversight and monitoring of medication administration, while protecting safety, health, rights and protection for persons using the services licensed under the above parts. The purpose of the consumer information systems and educational materials are to provide easy access to information for consumers and interested parties to make informed choices about service delivery. The commissioner shall provide recommended legislation to consolidate these rules and regulate the provisions of the rules more efficiently to the legislative commission on health care access by November 15, 1996.

Sec. 39. [REPEALER.]

Minnesota Rules, part 9505.5230, is repealed effective July 1, 1996.

Minnesota Statutes 1995 Supplement, section 256B.69, subdivision 4a, is repealed.

Sec. 40. [EFFECTIVE DATES.]

Sections 1 and 2 are effective for requests for proposals issued on or after July 1, 1996.

Section 14 is effective October 1, 1996, or upon receipt of any necessary federal approval, whichever date is later.

ARTICLE 6
MISCELLANEOUS

Section 1. Minnesota Statutes 1994, section 148.235, is amended by adding a subdivision to read:

Subd. 6. [STANDARDS FOR WRITTEN AGREEMENTS; REVIEW AND FILING.] Written agreements required by subdivisions 2 and 4 shall be maintained at the primary practice site of the nurse practitioner, clinical specialist in psychiatric and mental health nursing and the collaborating physician. The written agreement does not need to be filed with the board of nursing, provided that the information required to be filed with the board, either on initial application for prescribing privileges or on renewal of privileges, has been submitted.

Sec. 2. Minnesota Statutes 1994, section 245.94, subdivision 2a, is amended to read:

Subd. 2a. [MANDATORY REPORTING.] Within 24 hours after a client suffers death or serious injury, the agency, facility, or program director shall notify the ombudsman of the death or serious injury.

Sec. 3. Minnesota Statutes 1994, section 245.94, subdivision 3, is amended to read:

Subd. 3. [COMPLAINTS.] The ombudsman may receive a complaint from any source concerning an action of an agency, facility, or program. After completing a review, the ombudsman shall inform the complainant and the agency, facility, or program. No client may be punished nor may the general condition of the client's treatment be unfavorably altered as a result of an investigation, a complaint by the client, or by another person on the client's behalf. An agency, facility, or program shall not retaliate or take adverse action, ~~as defined in section 626.557, subdivision 17, paragraph (c),~~ against a client or other person, who in good faith makes a complaint or assists in an investigation. The ombudsman may classify as confidential, the identity of a complainant, upon request of the complainant.

Sec. 4. Minnesota Statutes 1994, section 245.95, subdivision 2, is amended to read:

Subd. 2. [GENERAL REPORTS.] In addition to whatever conclusions or recommendations the ombudsman may make to the governor on an ad hoc basis, the ombudsman shall, at the end of each year biennium, report to the governor concerning the exercise of the ombudsman's functions during the preceding year biennium.

Sec. 5. Minnesota Statutes 1994, section 245.97, subdivision 6, is amended to read:

Subd. 6. [TERMS, COMPENSATION, AND REMOVAL AND EXPIRATION.] The membership terms, compensation, and removal of members of the committee and the filling of membership vacancies are governed by section 15.0575. ~~The ombudsman committee and the medical review subcommittee expire on June 30, 1994.~~

Sec. 6. Minnesota Statutes 1994, section 246.57, is amended by adding a subdivision to read:

Subd. 6. [DENTAL SERVICES.] The commissioner of human services shall authorize any regional treatment center or state-operated nursing home under the commissioner's authority to provide dental services to disabled persons who are eligible for medical assistance and are not residing at the regional treatment center or state-operated nursing home, provided that the reimbursement received for these services is sufficient to cover actual costs. To provide these services, regional treatment centers and state-operated nursing homes may participate under contract with health networks in their service area. Notwithstanding section 16B.06, subdivision 2, the commissioner of human services may delegate the execution of these dental services contracts to the chief executive officers of the regional centers or state-operated nursing homes. All receipts for these dental services shall be retained by the regional treatment center or state-operated nursing home that provides the services and shall be in addition to other funding the regional treatment center or state-operated nursing home receives.

Sec. 7. Minnesota Statutes 1994, section 256.482, is amended by adding a subdivision to read:

Subd. 8. [SUNSET.] Notwithstanding section 15.059, subdivision 5, the council on disability shall not sunset until June 30, 2001.

Sec. 8. Minnesota Statutes 1994, section 256.73, subdivision 1, is amended to read:

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

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

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

Sec. 9. Minnesota Statutes 1994, section 256.73, is amended by adding a subdivision to read:

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

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

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

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

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

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

Sec. 10. [256.9750] [SENIOR NUTRITION PROGRAMS.]

Subdivision 1. [PROGRAM GOALS.] It is the goal of all agencies on aging and senior nutrition programs to support the physical and mental health of seniors living in the community by:

(1) promoting nutrition programs that serve senior citizens in their homes and communities; and

(2) providing, within the limit of funds available, the support services that will enable the senior citizen to access nutrition programs in the most cost-effective and efficient manner.

Subd. 2. [AUTHORITY.] The Minnesota board on aging shall allocate to area agencies on aging the federal funds which are received for the senior nutrition programs of congregate dining and home-delivered meals in a manner consistent with federal requirements.

Subd. 3. [NUTRITION SUPPORT SERVICES.] (a) Funds allocated to an area agency on aging for nutrition support services may be used for the following:

(1) transportation of home-delivered meals and purchased food and medications to the residence of a senior citizen;

(2) expansion of home-delivered meals into unserved and underserved areas;

(3) transportation to supermarkets or delivery of groceries from supermarkets to homes;

(4) vouchers for food purchases at selected restaurants in isolated rural areas;

(5) food stamp outreach;

(6) transportation of seniors to congregate dining sites;

(7) nutrition screening assessments and counseling as needed by individuals with special dietary needs, performed by a licensed dietitian or nutritionist; and

(8) other appropriate services which support senior nutrition programs, including new service delivery models.

(b) An area agency on aging may transfer unused funding for nutrition support services to fund congregate dining services and home-delivered meals.

Sec. 11. [299A.281] [SAFE HOUSE PROGRAM IN FERGUS FALLS.]

Notwithstanding Minnesota Statutes, section 299A.28, another similar safe house program, primarily focusing on the safety and protection of children, may be developed and operate in the city of Fergus Falls if the program members have completed a criminal background check

satisfactory to the Fergus Falls police department. However, the commissioner of public safety is not required to perform the duties listed under Minnesota Statutes, section 299A.28, subdivision 2, with respect to the program in Fergus Falls and is not accountable or liable for any act or failure to act by a member of that program.

Sec. 12. Laws 1995, chapter 207, article 1, section 2, subdivision 4, is amended to read:

Subd. 4. Children's Program	19,860,000	21,453,000
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The amounts that may be spent from this appropriation for each purpose are as follows:

(a) Children's Trust Fund Grants

247,000	247,000
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(b) Families With Children

Services Grants and Administration

1,718,000	1,710,000
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(c) Family Service Collaborative Grants

1,000,000	1,500,000
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(d) Family Preservation, Family Support,
and Child Protection Grants

8,573,000	8,573,000
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(e) Subsidized Adoption Grants

5,587,000	6,688,000
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(f) Other Families with Children

Services Grants

2,735,000	2,735,000
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[FAMILY SERVICES COLLABORATIVE.]

Plans for the expenditure of funds for family services collaboratives must be approved by the children's cabinet according to criteria in Minnesota Statutes, section 121.8355. Money appropriated for these purposes may be expended in either year of the biennium. Money appropriated for family services collaboratives is also available for start-up funds under Minnesota Statutes, section 245.492, subdivision 19, for children's mental health collaboratives.

[HOME CHOICE PROGRAM.] Of this appropriation, \$75,000 each year must be used as a grant to the metropolitan council to support the housing and related counseling component of the home choice program.

~~[FOSTER CARE.] Foster care, as defined in Minnesota Statutes, section 260.015, subdivision 7, is not a community social service as defined in Minnesota Statutes, section 256E.03, subdivision 2, paragraph (a). This paragraph is effective the day following final enactment.~~

[NEW CHANCE.] Of this appropriation, \$100,000 each year is for a grant to the New

Chance demonstration project that provides comprehensive services to young AFDC recipients who became pregnant as teenagers and dropped out of high school. The commissioner shall provide an annual report on the progress of the demonstration project, including specific data on participant outcomes in comparison to a control group that received no services. The commissioner shall also include recommendations on whether strategies or methods that have proven successful in the demonstration project should be incorporated into the STRIDE employment program for AFDC recipients.

[HIPPIY CARRY FORWARD.] \$50,000 in unexpended money appropriated in fiscal year 1995 for the Home Instruction Program for Preschool Youngsters (HIPPIY) in Laws 1994, chapter 636, article 1, section 11, does not cancel but is available for the same purposes for fiscal year 1996.

[COMMUNITY COLLABORATIVE MATCHING GRANT.] Of the funds appropriated for family services collaboratives, \$75,000 in fiscal year 1996 shall be used for the commissioner of human services to provide a matching grant for community collaborative projects for children and youth developed by a regional organization established under Minnesota Statutes, section 116N.08, to receive rural development challenge grants. The regional organization must include a broad cross-section of public and private sector community representatives to develop programs, services or facilities to address specific community needs of children and youth. The regional organization must also provide a two-to-one match of nonstate dollars for this grant.

[INDIAN CHILD WELFARE GRANTS.] \$100,000 is appropriated from the general fund to the commissioner of human services for the purposes of providing compliance grants to an Indian child welfare defense corporation, pursuant to Minnesota Statutes, section 257.3571, subdivision 2a, to be available until June 30, 1997.

Sec. 13. [PLANNING FOR RESIDENTIAL FACILITY FOR PARENTS WITH HIV OR AIDS AND THEIR CHILDREN.]

The commissioner of health shall report to the legislature by January 15, 1997, on the planning activities for HIV housing, in cooperation with the Coalition for Housing for People with AIDS, including consideration of appropriate housing options so that parents with HIV or AIDS may live with their children when the disease debilitates the parent so that the parent is not able to care for

their children. The report shall also make appropriate recommendations concerning the development of such housing.

Sec. 14. [WAIVER AUTHORITY.]

The commissioner of human services shall seek federal waivers as necessary to implement sections 8 and 9.

Sec. 15. [SEVERABILITY.]

If any provision of sections 8 or 9 is found to be unconstitutional or void by a court of competent jurisdiction, all remaining provisions of the law shall remain valid and shall be given full effect.

Sec. 16. [EFFECTIVE DATE.]

Section 12 is effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to human services; adding provisions for health and continuing care related to medical assistance and general assistance medical care, long-term care, health plan regulations; making technical and policy changes; appropriating money; amending Minnesota Statutes 1994, sections 62D.04, subdivision 5; 62N.10, subdivision 4; 62Q.075, subdivision 2; 144.0722, by adding a subdivision; 144.572; 144.71, subdivisions 1 and 2; 144.72, subdivisions 1 and 2; 144.73, subdivision 1; 144.74; 144A.04, by adding a subdivision; 144A.09, subdivision 1; 144A.20, subdivision 2; 145.61, subdivision 5; 148.235, by adding a subdivision; 148C.01, by adding a subdivision; 148C.09, by adding a subdivision; 245.462, subdivision 4; 245.4871, subdivision 4; 245.94, subdivisions 2a and 3; 245.95, subdivision 2; 245.97, subdivision 6; 246.57, by adding a subdivision; 253B.11, subdivision 2; 256.482, by adding a subdivision; 256.73, subdivision 1, and by adding a subdivision; 256.9355, subdivision 3; 256B.03, by adding a subdivision; 256B.056, subdivisions 1 and 1a; 256B.0595, by adding subdivisions; 256B.0627, subdivisions 1, as amended, 4, as amended, 5, as amended, and by adding a subdivision; 256B.0913, subdivision 7, and by adding subdivisions; 256B.0915, subdivision 1b, and by adding subdivisions; 256B.15, by adding subdivisions; 256B.35, subdivision 1; 256B.37, subdivision 5; 256B.49, by adding a subdivision; 256B.501, by adding subdivisions; 256B.69, by adding a subdivision; 256G.01, subdivision 3, and by adding subdivisions; 256G.02, subdivisions 4 and 6; 256G.03; 256G.06; 256G.07, subdivisions 1 and 2; 256G.08, subdivision 1; 256G.09, subdivision 2; 256G.10; 256I.04, subdivision 1; 256I.05, subdivision 1c, and by adding a subdivision; 325F.71, subdivision 2; 327.14, subdivision 8; 524.2-403; and 524.3-801; Minnesota Statutes 1995 Supplement, sections 62Q.03, subdivision 8; 62Q.19, subdivisions 1 and 5; 62R.17; 144.122; 144.9503, subdivisions 6, 8, and 9; 144.9504, subdivisions 2, 7, and 8; 144.9505, subdivision 4; 144A.071, subdivisions 3 and 4a; 148C.01, subdivisions 12 and 13; 148C.02, subdivisions 1 and 2; 148C.03, subdivision 1; 148C.04, subdivisions 3, 4, and by adding a subdivision; 148C.05, subdivision 1; 148C.06; 148C.11, subdivisions 1 and 3; 157.011, subdivision 1; 157.15, subdivisions 4, 5, 6, 9, 12, 13, 14, and by adding subdivisions; 157.16; 157.17, subdivision 2; 157.20, subdivision 1, and by adding a subdivision; 157.21; 252.27, subdivision 2a; 256.045, subdivision 3; 256.969, subdivisions 1, 2b, 9, and 10; 256B.055, subdivision 12; 256B.0575; 256B.0595, subdivisions 1, 2, 3, and 4; 256B.0625, subdivisions 17, 19a, and 30; 256B.0628, subdivision 2; 256B.0913, subdivisions 5 and 15a; 256B.0915, subdivisions 3 and 3a; 256B.093, subdivision 3; 256B.15, subdivision 5; 256B.431, subdivision 25; 256B.432, subdivision 2; 256B.434, subdivision 10; 256B.49, subdivisions 6 and 7; 256B.501, subdivisions 5b and 5c; 256B.69, subdivisions 3a, 4, 5b, 6, and 21; 256D.02, subdivision 12a; 256D.03, subdivision 4; 256D.045; and 256I.04, subdivisions 2b and 3; Laws 1995, chapter 207, article 1, section 2, subdivision 4; proposing coding for new law in Minnesota Statutes, chapters 62J; 144; 145; 252; 252B; 256; 256B; and 299A; repealing Minnesota Statutes 1994, sections 144.691, subdivision 4; 146.14; and 146.20; Minnesota Statutes 1995 Supplement, sections 157.03; 157.15, subdivision 2; 157.18; 157.19; 256B.15, subdivision 5; 256B.69, subdivision 4a; 256G.05, subdivision 1; and 256G.07, subdivision 3a; Minnesota Rules, part 9505.5230."

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

House Conferees: (Signed) Lee Greenfield, Bob Anderson, Thomas Huntley, Tony Onnen

Senate Conferees: (Signed) Don Samuelson, Linda Berglin, Dallas C. Sams, Sheila M. Kiscaden, Roy W. Terwilliger

Mr. Samuelson moved that the foregoing recommendations and Conference Committee Report on H.F. No. 2818 be now adopted, and that the bill be repassed as amended by the Conference Committee.

Mr. Neuville moved that the recommendations and Conference Committee Report on H.F. No. 2818 be rejected and that the bill be re-referred to the Conference Committee as formerly constituted for further consideration.

CALL OF THE SENATE

Mr. Samuelson imposed a call of the Senate for the balance of the proceedings on H.F. No. 2818. The Sergeant at Arms was instructed to bring in the absent members.

The question was taken on the adoption of the motion.

Ms. Kiscaden moved that those not voting be excused from voting. The motion prevailed.

The roll was called, and there were yeas 24 and nays 39, as follows:

Those who voted in the affirmative were:

Belanger	Johnson, D.E.	Kramer	Oliver	Runbeck
Day	Johnston	Larson	Olson	Scheevel
Dille	Kiscaden	Lesewski	Ourada	Stevens
Fischbach	Kleis	Limmer	Pariseau	Terwilliger
Frederickson	Knutson	Neuville	Robertson	

Those who voted in the negative were:

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

The motion did not prevail.

The question recurred on the motion of Mr. Samuelson to adopt the recommendations and Conference Committee Report on H.F. No. 2818. The motion prevailed.

H.F. No. 2818 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 47 and nays 17, as follows:

Those who voted in the affirmative were:

Anderson	Frederickson	Kroening	Novak	Samuelson
Beckman	Hanson	Laidig	Pappas	Solon
Berg	Hottinger	Langseth	Pariseau	Spear
Berglin	Janezich	Lesewski	Piper	Stumpf
Betzold	Johnson, D.J.	Lessard	Pogemiller	Terwilliger
Chandler	Johnson, J.B.	Marty	Price	Vickerman
Cohen	Kelly	Metzen	Ranum	Wiener
Day	Kiscaden	Moe, R.D.	Reichgott Junge	
Fischbach	Kleis	Morse	Riveness	
Flynn	Krentz	Murphy	Sams	

Those who voted in the negative were:

Belanger	Knutson	Merriam	Ourada	Stevens
Dille	Kramer	Neuville	Robertson	
Johnson, D.E.	Larson	Oliver	Runbeck	
Johnston	Limmer	Olson	Scheevel	

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

MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

I have the honor to announce the passage by the House of the following House File, herewith transmitted: H.F. No. 637.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted March 21, 1996

FIRST READING OF HOUSE BILLS

The following bill was read the first time.

H.F. No. 637: A bill for an act relating to taxation; property; allowing for a market value exclusion for electric power generation facilities based on facility efficiency; providing for an analysis of utility taxation; proposing coding for new law in Minnesota Statutes, chapter 272.

Mr. Moe, R.D. moved that H.F. No. 637 be laid on the table. The motion prevailed.

MOTIONS AND RESOLUTIONS - CONTINUED

Mrs. Fischbach moved that the name of Mr. Stevens be added as a co-author to Senate Resolution No. 117. The motion prevailed.

Ms. Ranum moved that S.F. No. 2489, No. 4 on General Orders, be stricken and returned to its author. The motion prevailed.

Ms. Ranum moved that S.F. No. 2331, No. 5 on General Orders, be stricken and returned to its author. The motion prevailed.

Ms. Ranum moved that S.F. No. 1966, No. 7 on General Orders, be stricken and returned to its author. The motion prevailed.

Ms. Ranum moved that S.F. No. 2450, No. 10 on General Orders, be stricken and returned to its author. The motion prevailed.

Ms. Ranum moved that S.F. No. 2357, No. 12 on General Orders, be stricken and returned to its author. The motion prevailed.

RECESS

Mr. Moe, R.D. moved that the Senate do now recess until 1:00 p.m. The motion prevailed.

The hour of 1:00 p.m. having arrived, the President called the Senate to order.

CALL OF THE SENATE

Mr. Betzold imposed a call of the Senate. The Sergeant at Arms was instructed to bring in the absent members.

MOTIONS AND RESOLUTIONS - CONTINUED

S.F. No. 2856 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 2856

A bill for an act relating to criminal justice; appropriating money for the judicial branch, public safety, corrections, criminal justice, crime prevention programs, and other related purposes; providing for community notification of the release of certain sex offenders, expanding the sex offender registration act; reconciling various provisions on criminal history background checks; implementing, clarifying, and modifying certain criminal and juvenile provisions; prohibiting the possession or use of tobacco by inmates of state correctional facilities; implementing, clarifying, and modifying certain penalty provisions; establishing and expanding pilot programs, grant programs, task forces, committees, and studies; providing for the retention of consultants; amending Minnesota Statutes 1994, sections 8.01; 15.86, by adding a subdivision; 84.91, by adding a subdivision; 86B.331, by adding a subdivision; 144A.46, subdivision 5; 168.041, subdivision 6; 168.042, subdivisions 8, 12, and by adding a subdivision; 169.121, subdivisions 2, 3, and 4; 169.123, subdivision 4; 171.17, subdivision 1; 171.29, subdivision 1; 171.30, subdivisions 1 and 2a; 181.9412; 244.17, subdivision 2, and by adding a subdivision; 244.172, subdivision 2; 268.30, subdivision 2; 299A.35, as amended; 609.115, by adding a subdivision; 609.52, subdivision 2; 611.271; 611A.25, subdivision 3; and 611A.361, subdivision 3; Minnesota Statutes 1995 Supplement, sections 16B.181; 144.057, subdivisions 1, 3, and 4; 171.29, subdivision 2; 243.166, subdivisions 1 and 7; 245A.04, subdivision 3; 299A.326, subdivision 1; 299C.67, subdivision 5; 299C.68, subdivisions 2, 5, and 6; and 609.2325, subdivision 3; Laws 1995, chapter 229, article 3, section 17; proposing coding for new law in Minnesota Statutes, chapters 15; 168; 168A; 243; 244; 299A; and 609.

March 21, 1996

The Honorable Allan H. Spear
President of the Senate

The Honorable Irv Anderson
Speaker of the House of Representatives

We, the undersigned conferees for S.F. No. 2856, report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendments and that S.F. No. 2856 be further amended as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1

APPROPRIATIONS

Section 1. [CRIMINAL JUSTICE APPROPRIATIONS.]

The sums shown in the columns marked "APPROPRIATIONS" are appropriated from the general fund, or another fund named, to the agencies and for the purposes specified in this article, to be available for the fiscal years indicated for each purpose. The figures "1996" and "1997," where used in this article, mean that the appropriation or appropriations listed under them are available for the year ending June 30, 1996, or June 30, 1997, respectively.

SUMMARY BY FUND

	1996	1997	TOTAL
General	\$ 764,000	\$ 16,539,000	\$ 17,303,000
Special Revenue	-0-	984,000	984,000
Trunk Highway	19,000	-0-	19,000
TOTAL	\$ 783,000	\$ 17,523,000	\$ 18,306,000

APPROPRIATIONS

Available for the Year

Ending June 30

	1996	1997
Sec. 2. SUPREME COURT	\$ -0-	\$ 350,000

\$350,000 is a one-time appropriation for civil legal services to low-income clients.

The conference of chief judges and board of public defense are requested to study ways to improve court appearance scheduling to maximize use of public defenders and minimize travel. The state court administrator is requested to report recommendations by January 15, 1997, to the committees on judiciary and judiciary finance in the house of representatives and the committee on crime prevention in the senate.

Sec. 3. BOARD OF JUDICIAL STANDARDS

100,000	-0-
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This is a one-time appropriation.

Sec. 4. PUBLIC SAFETY

Subdivision 1. Total
Appropriation

683,000	7,040,000
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Summary by Fund

	1996	1997
General	664,000	7,040,000
Trunk Highway	19,000	-0-

\$4,660,000 is a one-time appropriation for the purposes specified in this paragraph. Of this amount, 54.5 percent is for grants to hire new peace officers under Minnesota Statutes, section 299A.62; 21.5 percent is for grants to fund overtime for law enforcement officers under Minnesota Statutes, section 299A.62; 13 percent is for weed and seed grants; and 11 percent is for grants to local law enforcement agencies for law enforcement officers assigned to schools as school liaison officers.

The school liaison officer grants may be used to expand the assignment of law enforcement officers to middle schools, junior high schools, and high schools. The amount of the state grant

must be matched by at least an equal amount of money from nonstate sources and may not exceed \$250,000 for a single grant.

Subd. 2. Emergency Management

483,000 30,000

Summary by Fund

General	464,000	30,000
Trunk Highway	19,000	-0-

\$464,000 from the general fund the first year and \$30,000 the second year are for program administration and disaster relief for wind damage resulting from storms occurring in the summer of 1995.

\$19,000 from the trunk highway fund the first year is for program administration and disaster relief for wind damage resulting from storms occurring in the summer of 1995.

Subd. 3. Criminal Apprehension

-0- 500,000

\$450,000 is for four forensic scientists for enhanced laboratory services and four special agents.

\$50,000 is a one-time appropriation for grants from the witness and victim protection fund described in Minnesota Statutes, section 299C.065, subdivision 1a.

\$20,000 of the fiscal year 1997 appropriation for the school-related crime telephone line under Minnesota Statutes, section 299A.60, shall be transferred to be used for the antiviolence advertising campaign authorized in article 2.

The superintendent of the bureau of criminal apprehension shall convene a workgroup to study and make recommendations on criminal justice information access and retention issues including processes on expungement, correction of inaccurate records, destruction of records, and other matters relating to the privacy interests of individuals. The workgroup shall also address noncriminal justice agency access to records.

The workgroup shall include representatives of the criminal and juvenile justice information policy group and task force, the supreme court implementation committee on diversity and racial fairness, the department of human services, the department of administration, law enforcement, prosecuting authorities, public defenders, one member of each caucus in each house, and interest and advocacy groups.

The workgroup shall report to the committee on crime prevention in the senate and the committees on judiciary and judiciary finance in the house of representatives by January 15, 1997.

Subd. 4. Drug Policy and Violence Prevention

200,000

1,850,000

\$1,775,000 is a one-time appropriation for community crime reduction grants under Minnesota Statutes, section 299A.35. Up to five percent of this appropriation may be used for administration and evaluation of the programs funded by this appropriation.

\$75,000 is a one-time appropriation to fund the higher education center on violence and abuse under Minnesota Statutes, section 135A.153.

\$200,000 is a one-time appropriation for a grant to the Council on Black Minnesotans to fund the Martin Luther King, Jr. nonviolent institutional child development pilot program. This sum is available the day following final enactment and is available until June 30, 1997.

Sec. 5. BOARD OF PUBLIC
DEFENSE

-0-

50,000

This amount is to the office of the state public defender to implement community notification for sex offenders. This amount shall be annualized and added to the base budget of the office of the state public defender for the 1998-1999 biennium.

Of the amount appropriated to the board of public defense in Laws 1995, chapter 226, article 1, section 10, subdivision 3, up to \$100,000 in fiscal year 1996 and up to \$100,000 in fiscal year 1997 may be used by the board for the operation of its management information system and administration. This transfer is effective the day following final enactment.

Sec. 6. CORRECTIONS

Subdivision 1. Total Appropriation

-0-

7,069,000

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

During the biennium ending June 30, 1997, whenever offenders are assigned for the purpose of work under agreement with a state department or agency, local unit of government, or other government subdivision, the state department or agency, local unit of government, or other governmental subdivision must certify in writing

to the appropriate bargaining agent that the work performed by inmates will not result in the displacement of currently employed workers or workers on seasonal layoff, including partial displacement such as reduction in hours of nonovertime work, wages, or other employment benefits.

The commissioner shall attempt to maximize the use of inmate labor throughout the state by entering into negotiations and agreements, where feasible.

Subd. 2. Structural Deficiency

\$6,000,000 is to maintain the current operations of the department's correctional facilities and community services programs.

Subd. 3. Correctional Institutions

-0-

345,000

\$345,000 is to fund the additional employer contributions associated with changes in the membership of the correctional employees retirement plan.

The copayment required under Minnesota Statutes, section 243.212, is \$3 and must be assessed each time medical, dental, or mental health care services are provided to an inmate at the initiation of an inmate. The copayment must be deducted from an inmate's account of earnings and other funds as provided under Minnesota Statutes, section 243.23, subdivision 3. If the funds in an inmate's account are insufficient to pay a copayment incurred, the copayment shall be a debt against the account, and paid when funds are available.

The commissioner shall develop a policy to implement the smoking prohibition under Minnesota Statutes, section 243.555. In developing the policy, the commissioner shall meet and confer with representatives of bargaining units to address employee concerns including, but not limited to, employee education on the smoking prohibition, control of tobacco and tobacco-related devices as contraband, and employee discipline and grievance procedures related to the smoking prohibition.

The commissioner shall enter into a contract with a nonprofit correctional facility to house at least 200 inmates at the facility by April 1, 1997, if the cost does not exceed \$55 per inmate per day.

Subd. 4. Community Services

-0-

720,000

\$95,000 is a one-time appropriation for grants to aid in the establishment and implementation of family group conferencing programs in Dakota county and the first judicial district.

\$225,000 is a one-time appropriation to establish and fund pilot programs to provide intensive monitoring in the community for juveniles who have committed or who are at risk to commit status offenses or juvenile acts. Not more than \$12,000 of this appropriation may be used to prepare the required report. This sum is available until June 30, 1998.

\$250,000 is a one-time appropriation to fund a collaborative project for at-risk juveniles to be established by the southwest and west central service cooperatives in the Willmar public schools and community in collaboration with the Willmar regional treatment center.

\$150,000 is to implement community notification for sex offenders.

In fiscal year 1997, the commissioner shall distribute money appropriated for state and county probation officer caseload reduction, increased supervised release and probation services, and county probation officer reimbursement according to the formula contained in Minnesota Statutes, section 401.10. These appropriations may not be used to supplant existing state or county probation officer positions or existing correctional services or programs. The money appropriated under this provision is intended to reduce state and county probation officer workload overcrowding and to increase supervision of individuals sentenced to probation at the county level. This increased supervision may be accomplished through a variety of methods, including, but not limited to: (1) innovative technology services, such as automated probation reporting systems and electronic monitoring; (2) prevention and diversion programs; (3) intergovernmental cooperation agreements between local governments and appropriate community resources; and (4) traditional probation program services.

\$75,000 of the fiscal year 1997 probation caseload reduction appropriation must be transferred to the director of the office of strategic and long-range planning to be used by the criminal justice center for the development of a weighted workload study to be used as a basis

of distributing probation officer caseload reduction funding across all three probation delivery systems, based on uniform workload standards and level of risk of individual offenders. In conducting this study, the center shall consult with an advisory committee appointed for this purpose by the commissioner and consisting of representatives of county commissioners, county corrections professionals, and the department of corrections. The center also may contract with national experts in the fields of community corrections and probation to conduct or assist in conducting the study. The center shall submit the study to the legislature by February 1, 1997, and shall include in it an addendum that summarizes the response received from interested community corrections agencies and organizations. In fiscal year 1998 and each subsequent year, subject to legislative approval, the commissioner shall distribute money appropriated for state and county probation officer caseload reduction according to this weighted workload study.

The chairs of the house judiciary finance committee and the senate crime prevention finance division or their designees shall convene a work group to review possible measures of probation officer travel time for inclusion in the community corrections funding formula defined in Minnesota Statutes, section 401.10. The work group shall complete its review by October 30, 1996, and shall present its recommendations to the 1997 legislature.

Notwithstanding Minnesota Statutes, section 401.10, in fiscal year 1997, the commissioner shall allocate \$27,912,000 in community corrections act base funding so that no county receives less money in fiscal year 1997 than it received in fiscal year 1995.

All money received by the commissioner of corrections pursuant to the domestic abuse assessment fee under Minnesota Statutes, section 609.2244, shall be available for use by the commissioner and is hereby appropriated annually to the commissioner of corrections for costs related to conducting the assessments.

Subd. 5. Management Services

-0-

4,000

\$4,000 is a one-time appropriation for the international women's shelter in Rochester, Minnesota for the purpose of researching, preparing, and translating into appropriate

languages a brochure on laws concerning violence against women and children, including, but not limited to, laws on domestic abuse, child abuse, and female genital mutilation.

Notwithstanding the provisions of Laws 1995, chapter 226, article 1, section 22, the funds appropriated under Laws 1995, chapter 226, article 1, for the fiscal year ending June 30, 1997, to the department of corrections for victim services, the department of public safety for crime victim services, and the supreme court for community dispute resolution are available.

The governor shall designate the department of corrections as the state agency authorized to receive and administer any funds made available through the STOP Violence Against Women Formula and Discretionary Grants Program of the United States Department of Justice under Code of Federal Regulations, title 28, chapter 1.

Subd. 6. Spending Cap

General fund spending by the department of corrections is limited to \$614,000,000 in the biennium ending June 30, 1999.

The commissioner of corrections shall prepare and submit to the legislature by December 1, 1996, a proposal on how to limit the increase in general fund appropriations to the department of corrections from the 1996-1997 biennium to the 1998-1999 biennium so as not to exceed the spending cap. The commissioner may also submit alternative proposals to accomplish the same goal. The proposal or proposals must include the commissioner's recommendations for changes in administration, programming, staffing, and community services.

Sec. 7. HUMAN SERVICES

-0-

404,000

Summary by Fund

	1996	1997
General	-0-	350,000
Special	-0-	54,000

\$250,000 is a one-time appropriation for grants under Minnesota Statutes, section 256F.11. The grants must assist private and public agencies and organizations to provide crisis nurseries to offer temporary care to children who are abused or neglected, or who are at high risk of abuse or neglect; and children who are in families receiving child protective services.

\$100,000 is a one-time appropriation for the

following purposes: (1) \$35,000 is for a grant to Hennepin county to establish a community-oriented chemical dependency pilot project. This money is available only upon approval by the governing board of Hennepin county under Minnesota Statutes, section 645.021; and (2) \$65,000 is for chemical dependency services for the population served by the pilot project. By May 1, 1997, the commissioner of human services shall determine whether the chemical dependency fund can absorb the cost of the services provided to this population. If the commissioner determines that the cost can be absorbed or if the additional cost does not exceed \$65,000, then the remaining amount of this appropriation shall be transferred to Hennepin county to be used for the pilot project, upon approval by its governing board under Minnesota Statutes, section 645.021.

For the fiscal year ending June 30, 1997, \$54,000 is appropriated from the state government special revenue fund to cover the costs of expanded criminal background checks required by Minnesota Statutes, sections 144.057 and 245A.04, subdivision 3. The commissioner shall charge fees to recover the cost of the expanded background checks and shall deposit the fees into the state government special revenue fund.

Sec. 8. CHILDREN, FAMILIES,
AND LEARNING

-0-

100,000

\$100,000 is a one-time appropriation for violence prevention education grants under Minnesota Statutes, section 126.78. One hundred percent of this appropriation must be paid according to the process established in Minnesota Statutes, section 124.195, subdivision 9. Up to five percent of this appropriation may be used for auditing, monitoring, and administration of the programs funded by this appropriation.

Sec. 9. HEALTH

-0-

310,000

\$250,000 is a one-time appropriation for grants under Minnesota Statutes, section 145A.15. The grants must fund projects designed to prevent child abuse and neglect and reduce juvenile delinquency.

\$30,000 is a one-time appropriation for a grant to the institute for child and adolescent sexual health for early age treatment programs for those children exhibiting sexual aggression who have not been adjudicated delinquent. "Early age" means an individual who is at least eight years of age but less than 11 years of age.

\$30,000 is a one-time appropriation for a grant to the institute for child and adolescent sexual health to identify and provide leadership in resolving gaps and obstacles in the delivery of services to those children affected by sexual aggression by establishing a recognized network between individuals who work with sexual abusers, victims of sexual aggression, and individuals who provide prevention oriented education including, but not limited to, the following groups: corrections, treatment facilities, the medical community, schools, academia, communities of faith, communities of color, and other invested individuals, families, and groups.

Sec. 10. ECONOMIC SECURITY

-0-

580,000

\$240,000 is a one-time appropriation for grants to youth intervention programs under Minnesota Statutes, section 268.30. One-half of the appropriation shall be used for grants to programs operating within the seven-county metropolitan area and one-half of the appropriation shall be used for programs operating outside of the seven-county metropolitan area.

\$340,000 is a one-time appropriation for grants to cities of the first class and counties containing cities of the first class that demonstrate a need for creating and expanding curfew enforcement, truancy prevention, and pretrial diversion programs. Programs funded under this provision must have clearly established neighborhood, community, and family measures of success and must report to the commissioner on the achievement of these outcomes on or before June 30, 1997.

Sec. 11. ADMINISTRATION

-0-

350,000

\$218,000 is to conduct a systemwide evaluation of corrections in the state.

\$132,000 is to retain a consultant to evaluate the operation of prison industries in the state.

Sec. 12. AUTOMOBILE THEFT
PREVENTION BOARD

-0-

930,000

\$930,000 from the special revenue fund is for program administration and vehicle theft prevention activities under Minnesota Statutes, section 168A.40.

Sec. 13. ATTORNEY GENERAL

-0-

340,000

\$200,000 is for psychopathic personality and sexually dangerous person proceedings.

\$140,000 is to implement community notification for sex offenders.

ARTICLE 2

CRIME PREVENTION AND COMMUNITY SAFETY PROGRAMS

Section 1. [168A.40] [AUTOMOBILE THEFT PREVENTION PROGRAM.]

Subdivision 1. [BOARD MEMBERSHIP.] An automobile theft prevention board consists of seven members appointed by the governor and shall include representatives of law enforcement, prosecuting attorneys, the department of public safety, automobile insurers, and the public. The board shall annually elect a chair from among its members. The board may employ professional, technical, consulting, and clerical service staff. The board is governed by section 15.0575 except that the terms of the members are two years. The commissioner of public safety shall provide office space and administrative support to the board.

Subd. 2. [PROGRAM DUTIES.] The automobile theft prevention board shall:

(1) develop and sponsor the implementation of statewide plans, programs, and strategies to combat automobile theft, improve the administration of the automobile theft laws, and provide a forum for identification of critical problems for those persons dealing with automobile theft;

(2) coordinate the development, adoption, and implementation of plans, programs, and strategies relating to interagency and intergovernmental cooperation with respect to automobile theft enforcement;

(3) audit at its own discretion the plans and programs that it has funded in whole or in part to evaluate the effectiveness of the plans and programs, and withdraw funding should the board determine that a plan or program is ineffective or is no longer in need of further financial support from the fund;

(4) develop a plan of operation including an assessment of the scope of the problem of automobile theft, including areas of the state where the problem is greatest; an analysis of various methods of combating the problem of automobile theft; a plan for providing financial support to combat automobile theft; a plan for eliminating car hijacking; and an estimate of the funds required to implement the plan; and

(5) distribute money from the automobile theft prevention special revenue account for automobile theft prevention activities, including:

(i) paying the administrative costs of the board;

(ii) providing financial support to the state patrol and local law enforcement agencies for automobile theft enforcement teams;

(iii) providing financial support to state or local law enforcement agencies for programs designed to reduce the incidence of automobile theft;

(iv) providing financial support to local prosecutors for programs designed to reduce the incidence of automobile theft;

(v) providing financial support to judicial agencies for programs designed to reduce the incidence of automobile theft;

(vi) providing financial support for neighborhood or community organizations or business organizations for programs designed to reduce the incidence of automobile theft;

(vii) providing financial support for automobile theft educational and training programs for state and local law enforcement officials, driver and vehicle services exam and inspections staff, and members of the judiciary; and

(viii) conducting educational programs designed to inform automobile owners of methods of

preventing automobile theft and to provide equipment, for experimental purposes, to enable automobile owners to prevent automobile theft.

By January 15 of each year, the board shall report to the governor and legislature on its activities and expenditures in the preceding year.

Subd. 3. [SURCHARGE.] Each insurer engaged in the writing of policies of automobile insurance shall collect a surcharge, at the rate of 50 cents per vehicle for every six months of coverage, on each policy of automobile insurance providing comprehensive insurance coverage issued or renewed in this state. The surcharge may not be considered premium for any purpose, including the computation of premium tax or agents' commissions. The amount of the surcharge must be separately stated on either a billing or policy declaration sent to an insured. Insurers shall remit the revenue derived from this surcharge at least quarterly to the board for purposes of the automobile theft prevention program. For purposes of this subdivision, "policy of automobile insurance" has the meaning given it in section 65B.14, except that no vehicle with a gross vehicle weight in excess of 10,000 pounds is included within this definition.

Subd. 4. [AUTOMOBILE THEFT PREVENTION ACCOUNT.] A special revenue account is created in the state treasury to be credited with the proceeds of the surcharge imposed under subdivision 3. Revenue in the account may be used only for the automobile theft prevention program. The board may not spend in any fiscal year more than ten percent of the money in the fund for its administrative and operating costs.

Sec. 2. Minnesota Statutes 1994, section 268.30, subdivision 2, is amended to read:

Subd. 2. [APPLICATIONS.] Applications for a grant-in-aid shall be made by the administering agency to the commissioner. The grant-in-aid is contingent upon the agency having obtained from the community in which the youth intervention program is established local matching money two times the amount of the grant that is sought.

The commissioner shall provide by rule the application form, procedures for making application form, criteria for review of the application, and kinds of contributions in addition to cash that qualify as local matching money. No grant to any agency shall may exceed \$25,000 \$50,000.

Sec. 3. [299A.281] [SAFE HOUSE PROGRAM IN FERGUS FALLS.]

Notwithstanding section 299A.28, another similar safe house program, primarily focusing on the safety and protection of children, may be developed and operate in the city of Fergus Falls if the program members have completed a criminal background check satisfactory to the Fergus Falls police department. However, the commissioner of public safety is not required to perform the duties listed under 299A.28, subdivision 2, with respect to the program in Fergus Falls and is not accountable or liable for any act or failure to act by a member of that program.

Sec. 4. Minnesota Statutes 1995 Supplement, section 299A.326, subdivision 1, is amended to read:

Subdivision 1. [ESTABLISHMENT; REQUIREMENTS.] The commissioner of public safety may establish up to three pilot projects at neighborhood centers serving youths between the ages of 11 to 21. The centers may offer recreational activities, social services, meals, job skills and career services, and provide referrals for youths to other available services outside the centers. The commissioner may consult with other appropriate agencies and, to the extent possible, use existing resources and staff in creating the programs. The commissioner shall ensure that the programs, if offered, are adequately staffed by specially trained personnel and outreach street workers. Each center may integrate community volunteers into the program's activities and services and cooperate with local law enforcement agencies. The centers must be open during hours convenient to youths including evenings, weekends, and extended summer hours. However, there may not be any conflicts with truancy laws. Each center must have a plan for evaluation designed to measure the program's effectiveness in aiding youths.

Sec. 5. Minnesota Statutes 1994, section 299A.35, as amended by Laws 1995, chapter 226, article 4, section 4, is amended to read:

299A.35 [COMMUNITY CRIME REDUCTION PREVENTION PROGRAMS; GRANTS.]

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

~~(1) programs to provide security systems for residential buildings serving low-income persons, elderly persons, and persons who have physical or mental disabilities~~ community-based programs designed to provide services for children aged 8 to 13 who are juvenile offenders or who are at risk of becoming juvenile offenders. The programs must give priority to:

(i) juvenile restitution;

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

(iii) probation innovation;

(iv) teen courts, community service; or

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

(2) community-based programs designed to provide at-risk children and youth aged 8 to 13 with after-school and summer enrichment activities;

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

~~(3)~~ (4) neighborhood block clubs and innovative community-based crime watch prevention programs;

~~(4)~~ (5) community- and school-based programs designed to enrich the educational, cultural, or recreational opportunities of at-risk elementary or secondary school-age children and youth, including programs designed to keep at-risk youth from dropping out of school and encourage school dropouts to return to school;

~~(5) support services for a municipal curfew enforcement program including, but not limited to, rent for drop-off centers, staff, supplies, equipment, and the referral of children who may be abused or neglected;~~

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

~~(7) community-based collaboratives that coordinate five or more programs designed to enrich the educational, cultural, or recreational opportunities of at-risk elementary or secondary school age youth, including programs designed to keep at-risk youth from dropping out of school and to encourage school dropouts to return to school~~ community-based collaboratives that coordinate multiple programs and funding sources to address the needs of at-risk children and youth, including, but not limited to, collaboratives that address the continuum of services for juvenile offenders and those who are at risk of becoming juvenile offenders;

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

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

(10) programs designed to reduce truancy; and

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

Subd. 2. [GRANT PROCEDURE.] A local unit of government or a nonprofit community-based entity may apply for a grant by submitting an application with the commissioner. The applicant shall specify the following in its application:

- (1) a description of each program for which funding is sought;
- (2) the amount of funding to be provided to the program outcomes and performance indicators for the program;
- (3) a description of the planning process that identifies local community needs, surveys existing programs, provides for coordination with existing programs, and involves all affected sectors of the community;
- (4) the geographical area to be served by the program;
- (4) (5) statistical information as to the number of arrests in the geographical area for violent crimes and for crimes involving schedule I and II controlled substances. "Violent crime" includes a violation of or an attempt or conspiracy to violate any of the following laws: sections 609.185; 609.19; 609.195; 609.20; 609.205; 609.21; 609.221; 609.222; 609.223; 609.228; 609.235; 609.24; 609.245; 609.25; 609.255; 609.2661; 609.2662; 609.2663; 609.2664; 609.2665; 609.267; 609.2671; 609.268; 609.342; 609.343; 609.344; 609.345; 609.498, subdivision 1; 609.561; 609.562; 609.582, subdivision 1; 609.687; or any provision of chapter 152 that is punishable by a maximum sentence greater than ten years; and
- (5) (6) the number of economically disadvantaged youth in the geographical areas to be served by the program.

The commissioner shall give priority to funding community-based collaboratives, programs that demonstrate substantial involvement by members of the community served by the program and programs that either serve the geographical areas that have the highest crime rates, as measured by the data supplied under clause (4), or serve geographical areas that have the largest concentrations of economically disadvantaged youth. The maximum amount that may be awarded to an applicant is \$50,000; except that if the applicant is a community-based collaborative under subdivision 1, clause (7), the maximum amount that can be awarded is \$50,000 for each program participating in the collaborative. Up to 2.5 percent of the appropriation may be used by the commissioner to administer the program.

Subd. 3. [REPORT.] An applicant that receives a grant under this section shall provide the commissioner with a summary of how the grant funds were spent and the extent to which the objectives of the program were achieved. The commissioner shall submit a written report to the children's cabinet and chairs of the committees of the senate and house of representatives with jurisdiction over criminal justice policy and funding of crime prevention programs, by February 1 each year, based on the information provided by applicants under this subdivision.

Sec. 6. [299A.62] [COMMUNITY-ORIENTED POLICING (COPS) GRANT PROGRAM.]

Subdivision 1. [PROGRAM ESTABLISHED.] A community-oriented policing grant program is established under the administration of the commissioner of public safety. Grants may be awarded as provided in subdivision 2 for the following purposes:

(1) to enable local law enforcement agencies to hire law enforcement officers. The grants must be used by law enforcement agencies to increase the complement of officers in the agency by paying the salaries of new officers who replace an existing officer who has been reassigned primarily to investigate and prevent juvenile crime or to perform community-oriented policing duties; and

(2) to enable local law enforcement agencies to assign overtime officers to high crime areas within their jurisdictions.

Subd. 2. [AWARDING GRANTS.] Grants under this section shall be awarded by the commissioner of public safety. Before any grants are awarded, a committee consisting of the attorney general, and representatives from the Minnesota chiefs of police association, the

Minnesota sheriffs association, and the Minnesota police and peace officers association, shall evaluate the grant applications. Before grants are awarded, the commissioner shall meet and consult with the committee concerning its evaluation of and recommendations on grant proposals. A grant under subdivision 1, clause (1), may be awarded only to a law enforcement agency that demonstrates in its application that it currently has a need for an additional officer to be assigned to: (i) community-oriented policing duties; or (ii) the investigation and prevention of juvenile crime, based on the juvenile crime rate in the area over which the agency has jurisdiction. More than one grant under subdivision 1, clause (1), may be awarded to an agency; however, each grant may fund only one position. At least 50 percent of the grants awarded under subdivision 1, clause (1), must be awarded to the cities of Minneapolis and St. Paul.

Subd. 3. [AMOUNT OF GRANTS TO HIRE OFFICERS.] A grant awarded under subdivision 1, clause (1), must reimburse up to 150 percent of the entry level salary and benefits of a law enforcement officer, not to exceed \$75,000. However, the money may not be used to pay for equipment or uniforms for the officer. The grant is intended to be used for the salary of the officer over a three-year period.

Subd. 4. [CONDITIONS OF GRANTS TO HIRE OFFICERS.] Grant recipients who receive grants under subdivision 1, clause (1), shall continue to employ a law enforcement officer hired with money granted under this section for at least a three-year period. If for any reason during the three-year period the employment relationship ends, the agency shall hire an additional officer so that the total number of officers employed by the agency does not change. A law enforcement agency that fails to comply with this subdivision shall reimburse the commissioner as follows:

(1) if the failure occurs during the first year, the agency shall reimburse the full amount of the grant;

(2) if the failure occurs during the second year, the agency shall reimburse two-thirds of the grant; or

(3) if the failure occurs during the third year but prior to the three-year anniversary of the officer's hiring, the agency shall reimburse one-third of the grant.

The commissioner shall deposit the reimbursement in the state treasury and credit it to the general fund.

Sec. 7. [WEED AND SEED GRANT PROGRAM.]

Subdivision 1. [ESTABLISHMENT.] A grant program is established under the administration of the commissioner of public safety to assist local communities in their efforts to eradicate violent crime, illegal drug activity, and illegal gang activity in targeted neighborhoods, and to revitalize these targeted neighborhoods economically and physically.

Subd. 2. [AWARDING GRANTS.] The commissioner of public safety shall act as fiscal agent for the grant program and shall be responsible for receiving applications for grants and awarding grants under this section. Before any grants are awarded, a committee consisting of the attorney general, and representatives from the Minnesota chiefs of police association, the Minnesota sheriffs association, and the Minnesota police and peace officers association, shall evaluate the grant applications. Before grants are awarded, the commissioner shall meet and consult with the committee concerning its evaluation of and recommendations on grant proposals. At least 50 percent of the grants awarded under this section must be awarded to the cities of Minneapolis and St. Paul.

Subd. 3. [GRANT PROCESS.] (a) A city may apply for a grant under this section by submitting an application to the commissioner of public safety on a form prescribed by the commissioner. The application shall:

(1) identify the neighborhood within the city that has been proposed by the city's mayor as a targeted site;

(2) describe the problems to be corrected within the targeted neighborhood and the strengths that make the targeted neighborhood a suitable candidate for funding; and

(3) contain the city's plan for use of the grant funds. This plan must:

(i) be prepared in consultation with residents of the targeted neighborhood;

(ii) describe the specific law enforcement, community policing, prevention, intervention, treatment, and neighborhood revitalization activities that the city intends to undertake; and

(iii) include a reporting and evaluation component.

(b) A city may apply for more than one grant under this section; however, each grant may target only one neighborhood.

Subd. 4. [ATTORNEY GENERAL DUTIES.] (a) The attorney general may assist cities and local law enforcement officials in developing and implementing anticrime and neighborhood community revitalization strategies and may assist local prosecutors in prosecuting crimes occurring in the targeted neighborhoods that receive funding under this section. Upon request of the local prosecuting authority, the attorney general may appear in court in those civil and criminal cases arising as a result of this section that the attorney general deems appropriate. For the purposes of this section, the attorney general may appear in court in nuisance actions under Minnesota Statutes, chapter 617, and misdemeanor prosecutions under Minnesota Statutes, chapter 609.

(b) The attorney general shall develop appropriate applications to the United States Department of Justice for federal weed and seed grants for use in conjunction with grants awarded under this section.

Sec. 8. [INTENSIVE JUVENILE MONITORING PILOT PROGRAM.]

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

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

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

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

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

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

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

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

Sec. 9. [PILOT PROJECT FOR FAMILY GROUP CONFERENCING IN DAKOTA COUNTY.]

Subdivision 1. [PILOT PROJECT ESTABLISHED.] By July 1, 1996, the commissioner of corrections shall establish a pilot project in Dakota county to provide assistance to counties, school districts, and cities in the first judicial district in establishing family group conferencing programs. The pilot project must be administered by a coordinator responsible for supervising and implementing the project. The coordinator shall cooperate with and provide necessary assistance and training to county attorneys, local law enforcement agencies, school districts, and community groups in establishing family group conferencing programs under subdivision 2.

Subd. 2. [FAMILY GROUP CONFERENCING PROGRAMS.] A county attorney, school district, or city in the first judicial district, in consultation with the coordinator and local law enforcement agencies, may establish a family group conferencing program. The program may provide forums where, as an alternative to prosecution, certain individuals accused of having committed crimes meet with the victim or victims of the alleged crime; family members of the victim or victims, if appropriate; family members of the offender, if appropriate; a law enforcement official or prosecutor; and members of the community. An individual properly trained in moderating a family group conference shall act as moderator of the conference. The conference must focus on the impact of the offense on the victim and the community and assign an appropriate sanction to the offender. An appropriate sanction may include reparation to the victim or community, specified community service, or other sanction agreed upon during the conference.

Subd. 3. [CONFERENCE PARAMETERS.] A county or city attorney, in consultation with the coordinator and local law enforcement agencies, shall establish parameters for the conferences. The parameters must specify the types of offenders and offenses eligible for the conferences and the nature and goals of the conferences. Only certain offenders deemed appropriate by the county attorney are eligible for the conferences. Decisions on eligibility shall be based on the criminal history of the offender, the nature of the offense, the danger posed by the offender to the victim and the community, and the best interests of the victim and community. Participation in the conference is voluntary, no offender or victim may be required to participate in a conference. A decision to prosecute an offender who has refused to participate in a conference may not be considered in determining the voluntariness of an offender's decision to participate.

A prosecutor who offers an offender the opportunity to participate in a conference retains the authority to prosecute the offender if the offender refuses to participate in the conference, chooses not to complete the conference, or fails to comply with sanctions imposed at the conference.

Subd. 4. [GRANTS AUTHORIZED.] The commissioner of corrections, in consultation with the coordinator, may award grants to aid in the establishment and implementation of family group conferencing programs in the first judicial district. The commissioner shall establish the criteria and procedure for the grants and shall require that any entity awarded a grant to establish a program have clearly established neighborhood, community, and family measures of success of the program and report to the commissioner on the achievement of these outcomes on or before December 31, 1998.

Subd. 5. [REPORT REQUIRED.] By January 15, 1999, the commissioner of corrections shall report to the chairs of the senate and house of representatives committees having jurisdiction over criminal justice policy on the effectiveness of the pilot project and any family group conferencing programs created under this section and the awarding of grants, if any, under subdivision 4.

Sec. 10. [ADVERTISING CAMPAIGN.]

The commissioner of public safety is authorized to contract with an advertising firm for a public advertising campaign designed to reduce violence and counteract the effect of violence in the media. The contracts for advertising must include provisions for evaluating the effectiveness of the campaign.

Sec. 11. [COMMUNITY-ORIENTED CHEMICAL DEPENDENCY PILOT PROJECT.]

Subdivision 1. [PILOT PROJECT ESTABLISHED.] Hennepin county, in conjunction with

local neighborhoods, shall establish a community-oriented chemical dependency pilot project. The project must take a comprehensive public health approach to the problem of chemical dependency, including the problems associated with cocaine, as it impacts certain neighborhoods.

Subd. 2. [OUTREACH AND ASSESSMENT.] The pilot project must include a street outreach and assessment program that is coordinated with health workers, community policing teams, and neighborhood crime prevention units. The assessments must be conducted in accordance with the provisions that apply to chemical dependency care for public assistance recipients under rules promulgated by the commissioner of human services, except that the requirements of the compliance provisions that apply to an assessor under contract with a county that has a shared financial interest with a treatment provider does not apply to this pilot project. The assessor shall make a recommendation as to the duration and method of treatment.

Subd. 3. [CHEMICAL DEPENDENCY TREATMENT.] The pilot project must include efforts to direct persons into appropriate chemical dependency treatment using the criteria that apply to chemical dependency care for public assistance recipients under rules promulgated by the commissioner of human services. The project may require that all participating third-party payors, including medical assistance, accept the assessment conducted under subdivision 2 and accept the duration and method of treatment recommended by the assessor. The pilot project must include all measures to ensure that culturally appropriate treatment programs are utilized. The pilot project must include efforts to address the other needs of persons undergoing treatment that may interfere with their ability to receive effective treatment, including housing, child care, and referrals to the maternal child substance abuse project as appropriate.

Subd. 4. [AFTERCARE PROGRAM.] The pilot project must include an aftercare program, with home-based services and assistance with education, jobs, child care, transportation, and housing.

Subd. 5. [COORDINATION WITH DRUG COURT.] The pilot project must seek to coordinate efforts with the drug court initiatives being undertaken in Hennepin county.

Subd. 6. [EXPEDITED PROCESS.] The pilot project must work with appropriate law enforcement officials to expedite the process of getting persons into appropriate chemical dependency treatment.

Subd. 7. [CRITERIA FOR PARTICIPATION.] Hennepin county shall establish the criteria for determining the neighborhoods eligible to participate in the pilot project. Hennepin county shall consider factors in the neighborhood including crime reports, the number of repeat arrests, the number of arrests for narcotics laws violations, the number of drug-related homicides and violent crimes, the presence of community crime prevention block clubs, and the ability to work with the county.

Subd. 8. [FUNDING FOR TREATMENT.] A person participating in the pilot project under this section who requires chemical dependency treatment shall utilize reimbursement from any health coverage the person has. If the person does not have health coverage, the person shall be funded under Minnesota Statutes, chapter 254B, if eligible.

Subd. 9. [STATE-MANAGED CARE PROGRAMS.] (a) This section does not change eligibility requirements, payment rates, covered services, or administrative requirements for health plans under the prepaid medical assistance program and the MinnesotaCare managed care program, except that health plans must accept the assessor's recommendation regarding the need for treatment and the appropriate type and duration of treatment if the assessment was performed in compliance with the rules specified in subdivision 2. The assessor shall notify a health plan of the results of each assessment performed for a person covered by the health plan. The independent evaluation required under subdivision 10 must include an evaluation of the impact of the project on the costs incurred by each prepaid health plan participating in state health care programs. The evaluation must be based on reports submitted by prepaid health plans and other information obtained by the evaluator.

(b) If the commissioner of human services determines that a prepaid health plan incurred higher costs for a covered person served under the pilot project that are due to additional services that

would not otherwise be covered under the prepaid medical assistance program, the commissioner of human services shall reimburse the prepaid health plan for the additional costs within 120 days after the conclusion of the pilot project.

Subd. 10. [EVALUATION.] The pilot project must include an independent evaluation of the effectiveness of the program established under the project. The evaluation must examine the effectiveness of the outreach and assessment procedures, the effectiveness of treatment methods including the impact on recidivism rates, the costs of treatment and other services provided, the impact on prepaid health plans serving public programs, a comparison of the methods used in the pilot project to other approaches to serving the target population, and other relevant matters.

Subd. 11. [REPORT.] By July 1, 1997, Hennepin county shall report to the chairs of the senate and house of representatives committees having jurisdiction over health and criminal justice policies on the status of the pilot project. The report must be compiled from information submitted by the neighborhoods participating in the pilot project. The report must include recommendations on whether some of the appropriations for the pilot project should be directed to the drug court being developed in Hennepin or other counties.

Sec. 12. [GRANT PROGRAMS AUDITED.]

The legislative audit commission is requested to direct the legislative auditor to analyze and report on grant programs administered by the departments of corrections; economic security; human services; public safety; health; children, families, and learning; and the office of strategic and long-range planning. The report must:

- (1) describe each grant program contained in statute or session law;
- (2) list the appropriations to the programs over the past five years and specify whether the appropriation was included in the department's base or was a separate appropriation;
- (3) specify the percentages of each program's total appropriation used for actual grants compared with administrative expenses; and
- (4) analyze the amount of duplication in the various grant programs.

If the commission directs the auditor to conduct this evaluation, the auditor shall report to the chairs of the senate and house of representatives committees having jurisdiction over criminal justice funding by February 15, 1997.

Sec. 13. [AUTHORIZATION FOR THE MARTIN LUTHER KING, JR. NONVIOLENT INSTITUTIONAL CHILD DEVELOPMENT PILOT PROGRAM.]

(a) The council on Black Minnesotans shall proceed with the planning, designing, and implementation of the Martin Luther King, Jr. nonviolent institutional child development pilot program which must provide:

- (1) multi-institutional interdisciplinary community violence prevention programs; and
- (2) multi-institutional interdisciplinary intervention programs.

(b) The pilot program may provide service to the following institutions:

- (1) elementary and secondary schools;
- (2) social service programs and agencies;
- (3) youth programs and services;
- (4) juvenile delinquency programs;
- (5) residential treatment facilities;
- (6) foster homes;

- (7) law enforcement agencies;
- (8) medical centers;
- (9) mental health programs; and
- (10) religious outreach programs.

(c) The program may include:

(1) development and implementation of each participating institution's long-range community violence prevention plan for school-age children;

(2) development and implementation of each participating institution's community violence intervention plan for children affected by violence in the community;

(3) identification and implementation of each participating institution's training and staffing needs;

(4) development and implementation of a network among participating institutions to coordinate services, share information, and develop common strategies for violence prevention and intervention; and

(5) funding for participating institution's violence prevention and intervention programs.

(d) The pilot program must be evaluated based on outcome evaluation criteria determined by the commissioner of public safety, in consultation with the executive director of the council on Black Minnesotans and a community-based advisory council before implementation of the program.

(e) The pilot program must start by January 2, 1997.

(f) The pilot program must be completed by the council on Black Minnesotans by July 1, 1998, and presented to the commissioners of human services, public safety, corrections, and children, families, and learning.

(g) Government data on individuals that is maintained under the program are confidential data on individuals as defined in Minnesota Statutes, section 13.02, subdivision 3, but may be shared among institutions participating in the program for purposes of providing services under the program.

Sec. 14. [INITIAL TERMS.]

Notwithstanding section 1, subdivision 1, in making the initial appointments to the automobile theft prevention board established by that subdivision, the governor shall appoint four members to two-year terms and three members to one-year terms.

Sec. 15. [COMMENCEMENT OF SURCHARGE.]

Each insurer governed by section 1, subdivision 3, shall begin to collect and remit the surcharge required by that subdivision on January 1, 1997.

Sec. 16. [REPEALER.]

(a) Minnesota Statutes 1994, section 299A.60, is repealed.

(b) Section 1 is repealed January 1, 2002.

Sec. 17. [EFFECTIVE DATE.]

Section 13 is effective the day following final enactment.

ARTICLE 3 GENERAL CRIME PROVISIONS

Section 1. Minnesota Statutes 1994, section 169.09, subdivision 14, is amended to read:

Subd. 14. [PENALTIES.] (a) ~~The driver of any vehicle who violates subdivision 1 or 6 and who caused the accident is punishable as follows:~~

(1) ~~if the accident results in the death of any person, the driver is guilty of a felony and may be sentenced to imprisonment for not more than ten years, or to payment of a fine of not more than \$20,000, or both;~~

(2) ~~if the accident results in great bodily harm to any person, as defined in section 609.02, subdivision 8, the driver is guilty of a felony and may be sentenced to imprisonment for not more than five years, or to payment of a fine of not more than \$10,000, or both; or~~

(3) ~~if the accident results in substantial bodily harm to any person, as defined in section 609.02, subdivision 7a, the driver is guilty of a felony and may be sentenced to imprisonment for not more than three years, or to payment of a fine of not more than \$5,000, or both.~~

(b) The driver of any vehicle who violates subdivision 1 or 6 and who did not cause the accident is punishable as follows:

(1) if the accident results in the death of any person, the driver is guilty of a felony and may be sentenced to imprisonment for not more than three years, or to payment of a fine of not more than \$5,000, or both;

(2) if the accident results in great bodily harm to any person, as defined in section 609.02, subdivision 8, the driver is guilty of a felony and may be sentenced to imprisonment for not more than two years, or to payment of a fine of not more than \$4,000, or both; or

(3) if the accident results in substantial bodily harm to any person, as defined in section 609.02, subdivision 7a, the driver may be sentenced to imprisonment for not more than one year, or to payment of a fine of not more than \$3,000, or both.

(e) (b) The driver of any vehicle involved in an accident not resulting in substantial bodily harm or death who violates subdivision 1 or 6 may be sentenced to imprisonment for not more than one year, or to payment of a fine of not more than \$3,000, or both.

(d) (c) Any person who violates subdivision 2, 3, 4, 5, 7, 8, 10, 11, or 12 is guilty of a misdemeanor.

The attorney in the jurisdiction in which the violation occurred who is responsible for prosecution of misdemeanor violations of this section shall also be responsible for prosecution of gross misdemeanor violations of this section.

Sec. 2. Minnesota Statutes 1994, section 169.791, subdivision 2a, is amended to read:

Subd. 2a. [LATER PRODUCTION OF PROOF BY DRIVER WHO IS OWNER.] A driver who is the owner of the vehicle may, within ten days after the demand no later than the date and time specified in the citation for the driver's first court appearance, produce proof of insurance stating that security had been provided for the vehicle that was being operated at the time of the demand to the court administrator. The required proof of insurance may be sent by mail by the driver as long as it is received within ten days no later than the date and time specified in the citation for the driver's first court appearance. If a citation is issued, no person shall be convicted of violating this section if the court administrator receives the required proof of insurance within ten days of the issuance of the citation no later than the date and time specified in the citation for the driver's first court appearance. If the charge is made other than by citation, no person shall be convicted of violating this section if the person presents the required proof of insurance at the person's first court appearance after the charge is made.

Sec. 3. Minnesota Statutes 1994, section 169.791, subdivision 3, is amended to read:

Subd. 3. [LATER PRODUCTION OF INFORMATION BY DRIVER WHO IS NOT OWNER.] If the driver is not the owner of the vehicle, the driver shall, within ten days of the

officer's demand no later than the date and time specified in the citation for the driver's first court appearance, provide the district court administrator with proof of insurance or the name and address of the owner. Upon receipt of the name and address of the owner, the district court administrator shall communicate the information to the law enforcement agency.

Sec. 4. Minnesota Statutes 1994, section 169.791, subdivision 4, is amended to read:

Subd. 4. [REQUIREMENT FOR OWNER WHO IS NOT DRIVER.] If the driver is not the owner of the vehicle, the officer may send or provide a notice to the owner of the vehicle requiring the owner to produce proof of insurance for the vehicle that was being operated at the time of the demand. Notice by mail is presumed to be received five days after mailing and shall be sent to the owner's current address or the address listed on the owner's driver's license. Within ten days after receipt of the notice, the owner shall produce the required proof of insurance to the place stated in the notice received by the owner. The required proof of insurance may be sent by mail by the owner as long as it is received within ten days. Any owner who fails to produce proof of insurance within ten days of an officer's request under this subdivision is guilty of a misdemeanor. The peace officer may mail the citation to the owner's current address or address stated on the owner's driver's license. It is an affirmative defense to a charge against the owner that the driver used the owner's vehicle without consent, if insurance would not have been required in the absence of the unauthorized use by the driver. It is not a defense that a person failed to notify the department of public safety of a change of name or address as required under section 171.11. The citation may be sent after the ten-day period.

Sec. 5. Minnesota Statutes 1994, section 169.792, subdivision 1, is amended to read:

Subdivision 1. [IMPLIED CONSENT.] Any driver or owner of a vehicle consents, subject to the provisions of this section and section 169.791, to the requirement of having possession of proof of insurance, and to the revocation of the person's license if the driver or owner does not produce the required proof of insurance within ten days of an officer's demand no later than the date and time specified in the citation for the driver's first court appearance, if a citation is issued, or within ten days of receipt of a written notice, if a written notice is sent or given. Any driver of a vehicle who is not the owner of the vehicle consents, subject to the provisions of this section and section 169.791, to providing to the officer the name and address of the owner of the vehicle.

Sec. 6. Minnesota Statutes 1994, section 169.792, subdivision 2, is amended to read:

Subd. 2. [REQUIREMENT FOR DRIVER WHETHER OR NOT OWNER.] Except as provided in subdivision 3, every driver of a vehicle shall, within ten days after upon the demand of a peace officer, produce proof of insurance in force for the vehicle that was being operated at the time of the demand, to the district court administrator no later than the date and time specified in the citation for the driver's first court appearance. The required proof of insurance may be sent by the driver by mail as long as it is received within ten days no later than the date and time specified in the citation for the driver's first court appearance. A driver who is not the owner does not violate this section unless the driver knew or had reason to know that the owner did not have proof of insurance required by this section, provided that the driver provides the officer with the owner's name and address at the time of the demand or complies with subdivision 3.

Sec. 7. Minnesota Statutes 1994, section 169.792, subdivision 3, is amended to read:

Subd. 3. [REQUIREMENT FOR DRIVER WHO IS NOT OWNER.] If the driver is not the owner of the vehicle, then the driver shall provide the officer with the name and address of the owner at the time of the demand or shall within ten days of the officer's demand, no later than the date and time specified in the citation for the driver's first court appearance, provide the district court administrator with proof of insurance or the name and address of the owner. Upon receipt of the owner's name and address, the district court administrator shall forward the information to the law enforcement agency. If the name and address received from the driver do not match information available to the district court administrator, the district court administrator shall notify the law enforcement agency of the discrepancy.

Sec. 8. Minnesota Statutes 1994, section 169.792, subdivision 5, is amended to read:

Subd. 5. [WRITTEN NOTICE.] (a) When proof of insurance is demanded and none is in possession, the law enforcement agency may send or give the driver written notice as provided ~~herein~~ in this subdivision, unless the officer issues a citation to the driver under section 169.791 or 169.797. If the driver is not the owner and does not produce the required proof of insurance within ten days of the demand, the law enforcement agency may send or give written notice to the owner of the vehicle.

(b) Within ten days after receipt of the notice, if given, the driver or owner shall produce the required proof of insurance to the place stated in the notice. Notice to the driver or owner by mail is presumed to be received within five days after mailing. It is not a defense that a person failed to notify the department of public safety of a change of name or address as required under section 171.11.

(c) The department of public safety shall prescribe a form setting forth the written notice to be provided to the driver or owner. The department shall, upon request, provide a sample of the form to any law enforcement agency. The notice shall provide that the driver or owner must produce the proof of insurance to the law enforcement agency, at the place specified in the notice. The notice shall also state:

(1) that Minnesota law requires every driver and owner to produce an insurance identification card, insurance policy, or written statement indicating that the vehicle had insurance at the time of an officer's demand ~~within ten days of the demand~~, no later than the date and time specified in the citation for the driver's first court appearance, if a citation is issued, or within ten days of receipt of the written notice if a written notice is sent or given, provided, however, that a driver who does not own the vehicle shall provide the name and address of the owner;

(2) that if the driver fails to produce the information ~~within ten days from the date of demand~~ the required time or if the owner fails to produce the information within ten days of receipt of the notice from the peace officer, the commissioner of public safety shall revoke the person's driver's license or permit to drive for a minimum of 30 days, and shall revoke the registration of the vehicle;

(3) that any person who displays or causes another to display an insurance identification card, insurance policy, or written statement, knowing that the insurance is not in force, is guilty of a misdemeanor; and

(4) that any person who alters or makes a fictitious identification card, insurance policy, or written statement, or knowingly displays an altered or fictitious identification card, insurance policy, or written statement, is guilty of a misdemeanor.

Sec. 9. Minnesota Statutes 1994, section 169.792, subdivision 6, is amended to read:

Subd. 6. [REPORT TO COMMISSIONER OF PUBLIC SAFETY.] If a driver fails to produce the required proof of insurance or name and address of the owner ~~within ten days of the demand~~ no later than the date and time specified in the citation for the driver's first court appearance, the district court administrator shall report the failure to the commissioner. If an owner who is not the driver fails to produce the required proof of insurance, or if a driver to whom a citation has not been issued does not provide proof of insurance or the owner's name and address, within ten days of receipt of the notice, the law enforcement agency shall report the failure to the commissioner. Failure to produce proof of insurance or the owner's name and address as required by this section must be reported to the commissioner promptly regardless of the status or disposition of any related criminal charges.

Sec. 10. [171.174] REVOCATION; FLEEING PEACE OFFICER OFFENSE.]

The commissioner of public safety shall revoke the driver's license of a person upon receipt of a certificate of conviction showing that the person has in a motor vehicle violated section 609.487, subdivision 3 or 4, or an ordinance in conformity with those subdivisions. The commissioner shall revoke the driver's license as follows:

(1) for the first offense under section 609.487, subdivision 3, for not less than one year;

(2) for the second offense or subsequent offenses under section 609.487, subdivision 3, for not less than three years;

(3) for an offense under section 609.487, subdivision 4, clause (a), for not less than ten years;

(4) for an offense under section 609.487, subdivision 4, clause (b), for not less than seven years; and

(5) for an offense under section 609.487, subdivision 4, clause (c), for not less than five years.

A limited license under section 171.30 may not be issued for one-half of the revocation period specified in clauses (1) to (5) and after that period is over only upon and as recommended by the adjudicating court.

Sec. 11. Minnesota Statutes 1994, section 244.09, subdivision 5, is amended to read:

Subd. 5. The commission shall, on or before January 1, 1980, promulgate sentencing guidelines for the district court. The guidelines shall be based on reasonable offense and offender characteristics. The guidelines promulgated by the commission shall be advisory to the district court and shall establish:

(1) The circumstances under which imprisonment of an offender is proper; and

(2) A presumptive, fixed sentence for offenders for whom imprisonment is proper, based on each appropriate combination of reasonable offense and offender characteristics. The guidelines may provide for an increase or decrease of up to 15 percent in the presumptive, fixed sentence.

The sentencing guidelines promulgated by the commission may also establish appropriate sanctions for offenders for whom imprisonment is not proper. Any guidelines promulgated by the commission establishing sanctions for offenders for whom imprisonment is not proper shall make specific reference to noninstitutional sanctions, including but not limited to the following: payment of fines, day fines, restitution, community work orders, work release programs in local facilities, community based residential and nonresidential programs, incarceration in a local correctional facility, and probation and the conditions thereof.

In establishing and modifying the sentencing guidelines, the primary consideration of the commission shall be public safety. The commission shall also consider current sentencing and release practices and; correctional resources, including but not limited to the capacities of local and state correctional facilities; and the long-term negative impact of the crime on the community.

The provisions of sections 14.001 to 14.69 do not apply to the promulgation of the sentencing guidelines, and the sentencing guidelines, including severity levels and criminal history scores, are not subject to review by the legislative commission to review administrative rules. However, on or before January 1, 1986, the commission shall adopt rules pursuant to sections 14.001 to 14.69 which establish procedures for the promulgation of the sentencing guidelines, including procedures for the promulgation of severity levels and criminal history scores, and these rules shall be subject to review by the legislative commission to review administrative rules.

Sec. 12. Minnesota Statutes 1994, section 609.06, is amended to read:

609.06 [AUTHORIZED USE OF FORCE.]

Subdivision 1. [WHEN AUTHORIZED.] Except as otherwise provided in subdivision 2, reasonable force may be used upon or toward the person of another without the other's consent when the following circumstances exist or the actor reasonably believes them to exist:

(1) when used by a public officer or one assisting a public officer under the public officer's direction:

(a) in effecting a lawful arrest; or

(b) in the execution of legal process; or

- (c) in enforcing an order of the court; or
- (d) in executing any other duty imposed upon the public officer by law; or
- (2) when used by a person not a public officer in arresting another in the cases and in the manner provided by law and delivering the other to an officer competent to receive the other into custody; or
- (3) when used by any person in resisting or aiding another to resist an offense against the person; or
- (4) when used by any person in lawful possession of real or personal property, or by another assisting the person in lawful possession, in resisting a trespass upon or other unlawful interference with such property; or
- (5) when used by any person to prevent the escape, or to retake following the escape, of a person lawfully held on a charge or conviction of a crime; or
- (6) when used by a parent, guardian, teacher or other lawful custodian of a child or pupil, in the exercise of lawful authority, to restrain or correct such child or pupil; or
- (7) when used by a school employee or school bus driver, in the exercise of lawful authority, to restrain a child or pupil, or to prevent bodily harm or death to another; or
- (8) when used by a common carrier in expelling a passenger who refuses to obey a lawful requirement for the conduct of passengers and reasonable care is exercised with regard to the passenger's personal safety; or
- (9) when used to restrain a mentally ill or mentally defective person from self-injury or injury to another or when used by one with authority to do so to compel compliance with reasonable requirements for the person's control, conduct or treatment; or
- (10) when used by a public or private institution providing custody or treatment against one lawfully committed to it to compel compliance with reasonable requirements for the control, conduct or treatment of the committed person.

Subd. 2. [DEADLY FORCE USED AGAINST PEACE OFFICERS.] Deadly force may not be used against peace officers who have announced their presence and are performing official duties at a location where a person is committing a crime or an act that would be a crime if committed by an adult.

Sec. 13. Minnesota Statutes 1995 Supplement, section 609.20, is amended to read:

609.20 [MANSLAUGHTER IN THE FIRST DEGREE.]

Whoever does any of the following is guilty of manslaughter in the first degree and may be sentenced to imprisonment for not more than 15 years or to payment of a fine of not more than \$30,000, or both:

- (1) intentionally causes the death of another person in the heat of passion provoked by such words or acts of another as would provoke a person of ordinary self-control under like circumstances, provided that the crying of a child does not constitute provocation;
- (2) violates section 609.224 and causes the death of another or causes the death of another in committing or attempting to commit a misdemeanor or gross misdemeanor offense with such force and violence that death of or great bodily harm to any person was reasonably foreseeable, and murder in the first or second degree was not committed thereby;
- (3) intentionally causes the death of another person because the actor is coerced by threats made by someone other than the actor's coconspirator and which cause the actor reasonably to believe that the act performed by the actor is the only means of preventing imminent death to the actor or another;

(4) proximately causes the death of another, without intent to cause death by, directly or indirectly, unlawfully selling, giving away, bartering, delivering, exchanging, distributing, or administering a controlled substance classified in schedule III, IV, or V; or

(5) causes the death of another in committing or attempting to commit a violation of section 609.377 (malicious punishment of a child), and murder in the first, second, or third degree is not committed thereby.

As used in this section, a "person of ordinary self-control" does not include a person under the influence of intoxicants or a controlled substance.

Sec. 14. Minnesota Statutes 1994, section 609.21, subdivision 1, is amended to read:

Subdivision 1. [CRIMINAL VEHICULAR HOMICIDE.] Whoever causes the death of a human being not constituting murder or manslaughter as a result of operating a motor vehicle,

(1) in a grossly negligent manner;

(2) in a negligent manner while under the influence of alcohol, a controlled substance, or any combination of those elements;

(3) while having an alcohol concentration of 0.10 or more; or

(4) while having an alcohol concentration of 0.10 or more, as measured within two hours of the time of driving; or

(5) where the driver who causes the accident leaves the scene of the accident in violation of section 169.09, subdivision 1 or 6,

is guilty of criminal vehicular homicide resulting in death and may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than \$20,000, or both.

Sec. 15. Minnesota Statutes 1994, section 609.21, subdivision 2, is amended to read:

Subd. 2. [RESULTING IN GREAT BODILY HARM.] Whoever causes great bodily harm to another, not constituting attempted murder or assault, as a result of operating a motor vehicle,

(1) in a grossly negligent manner;

(2) in a negligent manner while under the influence of alcohol, a controlled substance, or any combination of those elements;

(3) while having an alcohol concentration of 0.10 or more; or

(4) while having an alcohol concentration of 0.10 or more, as measured within two hours of the time of driving; or

(5) where the driver who causes the accident leaves the scene of the accident in violation of section 169.09, subdivision 1 or 6,

is guilty of criminal vehicular operation resulting in great bodily harm and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both.

Sec. 16. Minnesota Statutes 1994, section 609.21, subdivision 2a, is amended to read:

Subd. 2a. [RESULTING IN SUBSTANTIAL BODILY HARM.] Whoever causes substantial bodily harm to another, as a result of operating a motor vehicle,

(1) in a grossly negligent manner;

(2) in a negligent manner while under the influence of alcohol, a controlled substance, or any combination of those elements;

- (3) while having an alcohol concentration of 0.10 or more; or
- (4) while having an alcohol concentration of 0.10 or more, as measured within two hours of the time of driving; or
- (5) where the driver who causes the accident leaves the scene of the accident in violation of section 169.09, subdivision 1 or 6,
is guilty of criminal vehicular operation resulting in substantial bodily harm and may be sentenced to imprisonment for not more than three years or to payment of a fine of not more than \$10,000, or both.

Sec. 17. Minnesota Statutes 1994, section 609.21, subdivision 3, is amended to read:

Subd. 3. [RESULTING IN DEATH TO AN UNBORN CHILD.] Whoever causes the death of an unborn child as a result of operating a motor vehicle,

- (1) in a grossly negligent manner;
- (2) in a negligent manner while under the influence of alcohol, a controlled substance, or any combination of those elements;
- (3) while having an alcohol concentration of 0.10 or more; or
- (4) while having an alcohol concentration of 0.10 or more, as measured within two hours of the time of driving; or
- (5) where the driver who causes the accident leaves the scene of the accident in violation of section 169.09, subdivision 1 or 6,

is guilty of criminal vehicular operation resulting in death to an unborn child and may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than \$20,000, or both. A prosecution for or conviction of a crime under this subdivision is not a bar to conviction of or punishment for any other crime committed by the defendant as part of the same conduct.

Sec. 18. Minnesota Statutes 1994, section 609.21, subdivision 4, is amended to read:

Subd. 4. [RESULTING IN INJURY TO UNBORN CHILD.] Whoever causes great bodily harm to an unborn child who is subsequently born alive, as a result of operating a motor vehicle,

- (1) in a grossly negligent manner;
- (2) in a negligent manner while under the influence of alcohol, a controlled substance, or any combination of those elements;
- (3) while having an alcohol concentration of 0.10 or more; or
- (4) while having an alcohol concentration of 0.10 or more, as measured within two hours of the time of driving; or
- (5) where the driver who causes the accident leaves the scene of the accident in violation of section 169.09, subdivision 1 or 6,

is guilty of criminal vehicular operation resulting in injury to an unborn child and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both. A prosecution for or conviction of a crime under this subdivision is not a bar to conviction of or punishment for any other crime committed by the defendant as part of the same conduct.

Sec. 19. Minnesota Statutes 1994, section 609.2231, subdivision 2, is amended to read:

Subd. 2. [FIREFIGHTERS AND EMERGENCY MEDICAL PERSONNEL.] Whoever

assaults any of the following persons and inflicts demonstrable bodily harm is guilty of a gross misdemeanor felony and may be sentenced to imprisonment for not more than two years or to payment of a fine of not more than \$4,000, or both:

(1) a member of a municipal or volunteer fire department or emergency medical services personnel unit in the performance of the member's duties; or

(2) a physician, nurse, or other person providing health care services in a hospital emergency department; or

~~(3) an employee of the department of natural resources who is engaged in forest fire activities.~~

Sec. 20. Minnesota Statutes 1994, section 609.2231, is amended by adding a subdivision to read:

Subd. 2a. [CERTAIN DEPARTMENT OF NATURAL RESOURCES EMPLOYEES.] Whoever assaults and inflicts demonstrable bodily harm on an employee of the department of natural resources who is engaged in forest fire activities is guilty of a gross misdemeanor.

Sec. 21. Minnesota Statutes 1995 Supplement, section 609.224, subdivision 2, is amended to read:

Subd. 2. [GROSS MISDEMEANOR.] (a) Whoever violates the provisions of subdivision 1 against the same victim during the time period between a previous conviction under this section, sections 609.221 to 609.2231, 609.2242, 609.342 to 609.345, or 609.713, or any similar law of another state, and the end of the five years following discharge from sentence for that conviction, is guilty of a gross misdemeanor and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both.

(b) Whoever violates the provisions of subdivision 1 within two years of a previous conviction under this section or sections 609.221 to 609.2231, 609.2242, or 609.713 is guilty of a gross misdemeanor and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both.

(c) A caregiver, as defined in section 609.232, who is an individual and who violates the provisions of subdivision 1 against a vulnerable adult, as defined in section 609.232, is guilty of a gross misdemeanor and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both.

Sec. 22. Minnesota Statutes 1994, section 609.224, subdivision 4, is amended to read:

Subd. 4. [FELONY.] (a) Whoever violates the provisions of subdivision 1 against the same victim during the time period between the first of two or more previous convictions under this section or sections 609.221 to 609.2231, 609.2242, 609.342 to 609.345, or 609.713, and the end of the five years following discharge from sentence for that conviction is guilty of a felony and may be sentenced to imprisonment for not more than five years or payment of a fine of not more than \$10,000, or both.

(b) Whoever violates the provisions of subdivision 1 within three years of the first of two or more previous convictions under this section or sections 609.221 to 609.2231, 609.2242, or 609.713 is guilty of a felony and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both.

Sec. 23. [609.2243] [SENTENCING; REPEAT DOMESTIC ASSAULT.]

Subdivision 1. [GROSS MISDEMEANOR.] A person convicted of gross misdemeanor domestic assault under section 609.2242, subdivision 2, shall be sentenced to a minimum of 20 days imprisonment, at least 96 hours of which must be served consecutively. The court may stay execution of the minimum sentence required under this subdivision on the condition that the person sentenced complete anger therapy or counseling and fulfill any other condition, as ordered by the court; provided, however, that the court shall revoke the stay of execution and direct the person to be taken into immediate custody if it appears that the person failed to attend or complete

the ordered therapy or counseling, or violated any other condition of the stay of execution. If the court finds at the revocation hearing required under section 609.14, subdivision 2, that the person failed to attend or complete the ordered therapy, or violated any other condition of the stay of execution, the court shall order execution of the sentence previously imposed.

Subd. 2. [FELONY.] (a) Except as otherwise provided in paragraph (b), in determining an appropriate disposition for felony domestic assault under section 609.2242, subdivision 4, the court shall presume that a stay of execution with at least a 45-day period of incarceration as a condition of probation shall be imposed. If the court imposes a stay of execution with a period of incarceration as a condition of probation, at least 15 days must be served consecutively.

(b) If the defendant's criminal history score, determined according to the sentencing guidelines, indicates a presumptive executed sentence, that sentence shall be imposed unless the court departs from the sentencing guidelines pursuant to section 244.10. A stay of imposition of sentence under this paragraph may be granted only if accompanied by a statement on the record of the reasons for it.

Sec. 24. [609.2244] [DOMESTIC ABUSE ASSESSMENTS.]

Subdivision 1. [DOMESTIC ABUSE ASSESSMENT.] A domestic abuse assessment must be conducted and an assessment report submitted to the court by the county agency responsible for administering the assessment when:

- (1) a defendant is convicted of an offense described in section 518B.01, subdivision 2; or
- (2) a defendant is arrested for committing an offense described in section 518B.01, subdivision 2, but is convicted of another offense arising out of the same circumstances surrounding the arrest.

Subd. 2. [REPORT.] (a) The assessment report must contain an evaluation of the convicted defendant including the circumstances of the offense, impact on the victim, the defendant's prior record, characteristics and history of alcohol and chemical use problems, and amenability to domestic abuse counseling programs. The report is classified as private data on individuals as defined in section 13.02, subdivision 12.

(b) The assessment report must include:

- (1) a recommendation on any limitations on contact with the victim;
- (2) a recommendation for the defendant to enter and successfully complete domestic abuse counseling and any aftercare found necessary by the assessment;
- (3) a recommendation for chemical dependency evaluation and treatment as determined by the evaluation whenever alcohol or drugs were found to be a contributing factor to the offense;
- (4) recommendations for other appropriate remedial action or care, which may consist of educational programs, one-on-one counseling, a program or type of treatment that addresses mental health concerns, or a specific explanation why no level of care or action is recommended; and
- (5) consequences for failure to abide by conditions set up by the court.

Subd. 3. [ASSESSOR STANDARDS; RULES; ASSESSMENT TIME LIMITS.] A domestic abuse assessment required by this section must be conducted by an assessor approved by the court, the local corrections department, or the commissioner of corrections. The assessor shall have access to any police reports, or other law enforcement data relating to the current offense or previous offenses that are necessary to complete the evaluation. An assessor providing an assessment under this section may not have any direct or shared financial interest or referral relationship resulting in shared financial gain with a treatment provider. An appointment for the defendant to undergo the assessment shall be made by the court, a court services probation officer, or court administrator as soon as possible but in no case more than one week after the defendant's court appearance. The assessment must be completed no later than three weeks after the defendant's court date.

Subd. 4. [DOMESTIC ABUSE ASSESSMENT FEE.] When the court sentences a person convicted of an offense described in section 518B.01, subdivision 2, the court shall impose a domestic abuse assessment fee of \$125. This fee must be imposed whether the sentence is executed, stayed, or suspended. The court may not waive payment or authorize payment of the fee in installments unless it makes written findings on the record that the convicted person is indigent or that the fee would create undue hardship for the convicted person or that person's immediate family. The person convicted of the offense and ordered to pay the fee shall pay the fee to the county corrections department or other designated agencies conducting the assessment.

Sec. 25. [609.2246] [TATTOOS; MINORS.]

Subdivision 1. [REQUIREMENTS.] No person under the age of 18 may receive a tattoo unless the person provides written parental consent to the tattoo. The consent must include both the custodial and noncustodial parents, where applicable.

Subd. 2. [DEFINITION.] For the purposes of this section, "tattoo" means an indelible mark or figure fixed on the body by insertion of pigment under the skin or by production of scars.

Subd. 3. [PENALTY.] A person who provides a tattoo to a minor in violation of this section is guilty of a misdemeanor.

Sec. 26. Minnesota Statutes 1995 Supplement, section 609.3451, subdivision 1, is amended to read:

Subdivision 1. [CRIME DEFINED.] A person is guilty of criminal sexual conduct in the fifth degree:

- (1) if the person engages in nonconsensual sexual contact; or
- (2) the person engages in masturbation or lewd exhibition of the genitals in the presence of a minor under the age of 16, knowing or having reason to know the minor is present.

For purposes of this section, "sexual contact" has the meaning given in section 609.341, subdivision 11, paragraph (a), clauses (i) and (iv), but does not include the intentional touching of the clothing covering the immediate area of the buttocks. Sexual contact also includes the intentional removal or attempted removal of clothing covering the complainant's intimate parts or undergarments, and the nonconsensual touching by the complainant of the actor's intimate parts, effected by the actor, if the action is performed with sexual or aggressive intent.

Sec. 27. Minnesota Statutes 1994, section 609.3451, is amended by adding a subdivision to read:

Subd. 3. [FELONY.] A person is guilty of a felony and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both, if the person violates subdivision 1, clause (2), after having been previously convicted of or adjudicated delinquent for violating subdivision 1, clause (2); section 617.23, paragraph (b), clause (1); or a statute from another state in conformity with subdivision 1, clause (2), or section 617.23, paragraph (b), clause (1).

Sec. 28. Minnesota Statutes 1995 Supplement, section 609.485, subdivision 2, is amended to read:

Subd. 2. [ACTS PROHIBITED.] Whoever does any of the following may be sentenced as provided in subdivision 4:

- (1) escapes while held in lawful custody on a charge or conviction of a crime, or while held in lawful custody on an allegation or adjudication of a delinquent act ~~while 18 years of age;~~
- (2) transfers to another, who is in lawful custody on a charge or conviction of a crime, or introduces into an institution in which the latter is confined, anything usable in making such escape, with intent that it shall be so used;

(3) having another in lawful custody on a charge or conviction of a crime, intentionally permits the other to escape;

(4) escapes while in a facility designated under section 253B.18, subdivision 1, pursuant to a court commitment order after a finding of not guilty by reason of mental illness or mental deficiency of a crime against the person, as defined in section 253B.02, subdivision 4a. Notwithstanding section 609.17, no person may be charged with or convicted of an attempt to commit a violation of this clause; or

(5) escapes while in a facility designated under section 253B.18, subdivision 1, pursuant to a court commitment order under section 253B.185 or 526.10.

For purposes of clause (1), "escapes while held in lawful custody" includes absconding from electronic monitoring or absconding after removing an electronic monitoring device from the person's body.

Sec. 29. Minnesota Statutes 1995 Supplement, section 609.485, subdivision 4, is amended to read:

Subd. 4. [SENTENCE.] (a) Except as otherwise provided in subdivision 3a, whoever violates this section may be sentenced as follows:

(1) if the person who escapes is in lawful custody on a charge or conviction of a felony, to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both;

(2) if the person who escapes is in lawful custody after a finding of not guilty by reason of mental illness or mental deficiency of a crime against the person, as defined in section 253B.02, subdivision 4a, or pursuant to a court commitment order under section 253B.185 or 526.10, to imprisonment for not more than one year and one day or to payment of a fine of not more than \$3,000, or both; or

(3) if such charge or conviction is for a gross misdemeanor or misdemeanor, or if the person who escapes is in lawful custody on an allegation or adjudication of a delinquent act while 18 years of age, to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both.

(b) If the escape was a violation of subdivision 2, clause (1), (2), or (3), and was effected by violence or threat of violence against a person, the sentence may be increased to not more than twice those permitted in paragraph (a), clauses (1) and (3).

(c) Unless a concurrent term is specified by the court, a sentence under this section shall be consecutive to any sentence previously imposed or which may be imposed for any crime or offense for which the person was in custody when the person escaped.

(d) Notwithstanding paragraph (c), if a person who was committed to the commissioner of corrections under section 260.185 escapes from the custody of the commissioner while 18 years of age, the person's sentence under this section shall commence on the person's 19th birthday or on the person's date of discharge by the commissioner of corrections, whichever occurs first. However, if the person described in this clause is convicted under this section after becoming 19 years old and after having been discharged by the commissioner, the person's sentence shall commence upon imposition by the sentencing court.

(e) Notwithstanding paragraph (c), if a person who is in lawful custody on an allegation or adjudication of a delinquent act while 18 years of age escapes from a local juvenile correctional facility, the person's sentence under this section begins on the person's 19th birthday or on the person's date of discharge from the jurisdiction of the juvenile court, whichever occurs first. However, if the person described in this paragraph is convicted after becoming 19 years old and after discharge from the jurisdiction of the juvenile court, the person's sentence begins upon imposition by the sentencing court.

Sec. 30. Minnesota Statutes 1994, section 609.487, is amended by adding a subdivision to read:

Subd. 5. [REVOCACTION; FLEEING PEACE OFFICER OFFENSE.] When a person is convicted of operating a motor vehicle in violation of subdivision 3 or 4, or an ordinance in conformity with those subdivisions, the court shall notify the commissioner of public safety and order the commissioner to revoke the driver's license of the person.

Sec. 31. Minnesota Statutes 1995 Supplement, section 609.52, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] In this section:

(1) "Property" means all forms of tangible property, whether real or personal, without limitation including documents of value, electricity, gas, water, corpses, domestic animals, dogs, pets, fowl, and heat supplied by pipe or conduit by municipalities or public utility companies and articles, as defined in clause (4), representing trade secrets, which articles shall be deemed for the purposes of Extra Session Laws 1967, chapter 15 to include any trade secret represented by the article.

(2) "Movable property" is property whose physical location can be changed, including without limitation things growing on, affixed to, or found in land.

(3) "Value" means the retail market value at the time of the theft, or if the retail market value cannot be ascertained, the cost of replacement of the property within a reasonable time after the theft, or in the case of a theft or the making of a copy of an article representing a trade secret, where the retail market value or replacement cost cannot be ascertained, any reasonable value representing the damage to the owner which the owner has suffered by reason of losing an advantage over those who do not know of or use the trade secret. For a check, draft, or other order for the payment of money, "value" means the amount of money promised or ordered to be paid under the terms of the check, draft, or other order. For a theft committed within the meaning of subdivision 2, clause (5), (a) and (b), if the property has been restored to the owner, "value" means the value of the use of the property or the damage which it sustained, whichever is greater, while the owner was deprived of its possession, but not exceeding the value otherwise provided herein.

(4) "Article" means any object, material, device or substance, including any writing, record, recording, drawing, sample specimen, prototype, model, photograph, microorganism, blueprint or map, or any copy of any of the foregoing.

(5) "Representing" means describing, depicting, containing, constituting, reflecting or recording.

(6) "Trade secret" means information, including a formula, pattern, compilation, program, device, method, technique, or process, that:

(i) derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use, and

(ii) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

(7) "Copy" means any facsimile, replica, photograph or other reproduction of an article, and any note, drawing, or sketch made of or from an article while in the presence of the article.

(8) "Property of another" includes property in which the actor is coowner or has a lien, pledge, bailment, or lease or other subordinate interest, property transferred by the actor in circumstances which are known to the actor and which make the transfer fraudulent as defined in section 513.44, and property of a partnership of which the actor is a member, unless the actor and the victim are husband and wife. It does not include property in which the actor asserts in good faith a claim as a collection fee or commission out of property or funds recovered, or by virtue of a lien, setoff, or counterclaim.

(9) "Services" include but are not limited to labor, professional services, transportation services, electronic computer services, the supplying of hotel accommodations, restaurant services, entertainment services, advertising services, telecommunication services, and the supplying of equipment for use.

(10) "Motor vehicle" means a self-propelled device for moving persons or property or pulling implements from one place to another, whether the device is operated on land, rails, water, or in the air.

Sec. 32. Minnesota Statutes 1994, section 609.52, subdivision 2, is amended to read:

Subd. 2. [ACTS CONSTITUTING THEFT.] Whoever does any of the following commits theft and may be sentenced as provided in subdivision 3:

(1) intentionally and without claim of right takes, uses, transfers, conceals or retains possession of movable property of another without the other's consent and with intent to deprive the owner permanently of possession of the property; or

(2) having a legal interest in movable property, intentionally and without consent, takes the property out of the possession of a pledgee or other person having a superior right of possession, with intent thereby to deprive the pledgee or other person permanently of the possession of the property; or

(3) obtains for the actor or another the possession, custody, or title to property of or performance of services by a third person by intentionally deceiving the third person with a false representation which is known to be false, made with intent to defraud, and which does defraud the person to whom it is made. "False representation" includes without limitation:

(a) the issuance of a check, draft, or order for the payment of money, except a forged check as defined in section 609.631, or the delivery of property knowing that the actor is not entitled to draw upon the drawee therefor or to order the payment or delivery thereof; or

(b) a promise made with intent not to perform. Failure to perform is not evidence of intent not to perform unless corroborated by other substantial evidence; or

(c) the preparation or filing of a claim for reimbursement, a rate application, or a cost report used to establish a rate or claim for payment for medical care provided to a recipient of medical assistance under chapter 256B, which intentionally and falsely states the costs of or actual services provided by a vendor of medical care; or

(d) the preparation or filing of a claim for reimbursement for providing treatment or supplies required to be furnished to an employee under section 176.135 which intentionally and falsely states the costs of or actual treatment or supplies provided; or

(e) the preparation or filing of a claim for reimbursement for providing treatment or supplies required to be furnished to an employee under section 176.135 for treatment or supplies that the provider knew were medically unnecessary, inappropriate, or excessive; or

(4) by swindling, whether by artifice, trick, device, or any other means, obtains property or services from another person; or

(5) intentionally commits any of the acts listed in this subdivision but with intent to exercise temporary control only and:

(a) the control exercised manifests an indifference to the rights of the owner or the restoration of the property to the owner; or

(b) the actor pledges or otherwise attempts to subject the property to an adverse claim; or

(c) the actor intends to restore the property only on condition that the owner pay a reward or buy back or make other compensation; or

(6) finds lost property and, knowing or having reasonable means of ascertaining the true owner, appropriates it to the finder's own use or to that of another not entitled thereto without first having made reasonable effort to find the owner and offer and surrender the property to the owner; or

(7) intentionally obtains property or services, offered upon the deposit of a sum of money or tokens in a coin or token operated machine or other receptacle, without making the required deposit or otherwise obtaining the consent of the owner; or

(8) intentionally and without claim of right converts any article representing a trade secret, knowing it to be such, to the actor's own use or that of another person or makes a copy of an article representing a trade secret, knowing it to be such, and intentionally and without claim of right converts the same to the actor's own use or that of another person. It shall be a complete defense to any prosecution under this clause for the defendant to show that information comprising the trade secret was rightfully known or available to the defendant from a source other than the owner of the trade secret; or

(9) leases or rents personal property under a written instrument and who with intent to place the property beyond the control of the lessor conceals or aids or abets the concealment of the property or any part thereof, or any lessee of the property who sells, conveys, or encumbers the property or any part thereof without the written consent of the lessor, without informing the person to whom the lessee sells, conveys, or encumbers that the same is subject to such lease and with intent to deprive the lessor of possession thereof. Evidence that a lessee used a false or fictitious name or address in obtaining the property or fails or refuses to return the property to lessor within five days after written demand for the return has been served personally in the manner provided for service of process of a civil action or sent by certified mail to the last known address of the lessee, whichever shall occur later, shall be evidence of intent to violate this clause. Service by certified mail shall be deemed to be complete upon deposit in the United States mail of such demand, postpaid and addressed to the person at the address for the person set forth in the lease or rental agreement, or, in the absence of the address, to the person's last known place of residence; or

(10) alters, removes, or obliterates numbers or symbols placed on movable property for purpose of identification by the owner or person who has legal custody or right to possession thereof with the intent to prevent identification, if the person who alters, removes, or obliterates the numbers or symbols is not the owner and does not have the permission of the owner to make the alteration, removal, or obliteration; or

(11) with the intent to prevent the identification of property involved, so as to deprive the rightful owner of possession thereof, alters or removes any permanent serial number, permanent distinguishing number or manufacturer's identification number on personal property or possesses, sells or buys any personal property with knowledge knowing or having reason to know that the permanent serial number, permanent distinguishing number or manufacturer's identification number has been removed or altered; or

(12) intentionally deprives another of a lawful charge for cable television service by:

(i) making or using or attempting to make or use an unauthorized external connection outside the individual dwelling unit whether physical, electrical, acoustical, inductive, or other connection, or by

(ii) attaching any unauthorized device to any cable, wire, microwave, or other component of a licensed cable communications system as defined in chapter 238. Nothing herein shall be construed to prohibit the electronic video rerecording of program material transmitted on the cable communications system by a subscriber for fair use as defined by Public Law Number 94-553, section 107; or

(13) except as provided in paragraphs (12) and (14), obtains the services of another with the intention of receiving those services without making the agreed or reasonably expected payment of money or other consideration; or

(14) intentionally deprives another of a lawful charge for telecommunications service by:

(i) making, using, or attempting to make or use an unauthorized connection whether physical, electrical, by wire, microwave, radio, or other means to a component of a local telecommunication system as provided in chapter 237; or

(ii) attaching an unauthorized device to a cable, wire, microwave, radio, or other component of a local telecommunication system as provided in chapter 237.

The existence of an unauthorized connection is prima facie evidence that the occupier of the premises:

- (i) made or was aware of the connection; and
- (ii) was aware that the connection was unauthorized; or

(15) with intent to defraud, diverts corporate property other than in accordance with general business purposes or for purposes other than those specified in the corporation's articles of incorporation; or

(16) with intent to defraud, authorizes or causes a corporation to make a distribution in violation of section 302A.551, or any other state law in conformity with it; or

(17) intentionally takes or drives a motor vehicle without the consent of the owner or an authorized agent of the owner.

Sec. 33. Minnesota Statutes 1994, section 609.583, is amended to read:

609.583 [SENTENCING; FIRST BURGLARY OF A DWELLING.]

Except as provided in section 609.582, subdivision 1a, in determining an appropriate disposition for a first offense of burglary of a dwelling, the court shall presume that a stay of execution with at least a 90-day period of incarceration as a condition of probation shall be imposed unless the defendant's criminal history score determined according to the sentencing guidelines indicates a presumptive executed sentence, in which case the presumptive executed sentence shall be imposed unless the court departs from the sentencing guidelines pursuant to section 244.10. A stay of imposition of sentence may be granted only if accompanied by a statement on the record of the reasons for it. The presumptive period of incarceration may be waived in whole or in part by the court if the defendant provides restitution or performs community work service.

Sec. 34. [609.586] [POSSESSION OF CODE GRABBING DEVICES; PENALTY.]

Subdivision 1. [DEFINITION.] As used in this section, "code grabbing device" means a device that can receive and record the coded signal sent by the transmitter of a security or other electronic system and can play back the signal to disarm or operate that system.

Subd. 2. [CRIME.] Whoever possesses a code grabbing device with intent to use the device to commit an unlawful act may be sentenced to imprisonment for not more than three years or to payment of a fine of not more than \$5,000, or both.

Sec. 35. Minnesota Statutes 1994, section 609.596, is amended to read:

609.596 [KILLING OR HARMING A POLICE, CORRECTIONS OR ARSON DOG.]

Subdivision 1. [FELONY.] Whoever intentionally and without justification causes the death of a police dog or an arson dog when the dog is involved in law enforcement, fire, or correctional investigation or apprehension, or the dog is in the custody of or under the control of a peace officer, as defined in section 626.84, subdivision 1, paragraph (c), or an employee of a correctional facility, as defined in section 241.021, subdivision 1, clause (5), is guilty of a felony and may be sentenced to imprisonment for not more than two years or to payment of a fine of not more than \$4,000 \$5,000, or both. In lieu of a fine, the court may order a defendant convicted under this subdivision to pay restitution to the affected agency to replace the police dog or arson dog, in an amount not to exceed \$5,000.

Subd. 2. [GROSS MISDEMEANOR.] Whoever intentionally and without justification causes substantial or great bodily harm to a police dog or an arson dog when the dog is involved in law enforcement, fire, or correctional investigation or apprehension, or the dog is in the custody of or under the control of a peace officer or an employee of a correctional facility, as defined in section 241.021, subdivision 1, clause (5), is guilty of a gross misdemeanor.

Subd. 3. [DEFINITION.] As used in this section, "arson dog" means a dog that has been certified as an arson dog by a state fire or police agency or by an independent testing laboratory.

Sec. 36. Minnesota Statutes 1994, section 609.611, is amended to read:

609.611 [DEFRAUDING INSURER INSURANCE FRAUD.]

Subdivision 1. ~~[DEFRAUD; DAMAGES OR CONCEALS PROPERTY INSURANCE FRAUD PROHIBITED.]~~ Whoever with intent to injure or defraud an insurer, damages, removes, or conceals any property real or personal, whether the actor's own or that of another, which is at the time insured by any person, firm, or corporation against loss or damage;

~~(a) May be sentenced to imprisonment for not more than three years or to payment of fine of not more than \$5,000, or both if the value insured for is less than \$20,000; or~~

~~(b) May be sentenced to imprisonment for not more than five years or to payment of fine of not more than \$10,000, or both if the value insured for is \$20,000 or greater;~~

~~(c) Proof that the actor recovered or attempted to recover on a policy of insurance by reason of the alleged loss is relevant but not essential to establish the actor's intent to defraud the insurer. the intent to defraud for the purpose of depriving another of property or for pecuniary gain, commits, or permits its employees or its agents to commit any of the following acts, is guilty of insurance fraud and may be sentenced as provided in subdivision 3:~~

~~(a) Presents, causes to be presented, or prepares with knowledge or reason to believe that it will be presented, by or on behalf of an insured, claimant, or applicant to an insurer, insurance professional, or premium finance company in connection with an insurance transaction or premium finance transaction, any information that contains a false representation as to any material fact, or that conceals a material fact concerning any of the following:~~

~~(1) an application for, rating of, or renewal of, an insurance policy;~~

~~(2) a claim for payment or benefit under an insurance policy;~~

~~(3) a payment made according to the terms of an insurance policy;~~

~~(4) an application used in a premium finance transaction;~~

~~(b) Presents, causes to be presented, or prepares with knowledge or reason to believe that it will be presented, to or by an insurer, insurance professional, or a premium finance company in connection with an insurance transaction or premium finance transaction, any information that contains a false representation as to any material fact, or that conceals a material fact, concerning any of the following:~~

~~(1) a solicitation for sale of an insurance policy or purported insurance policy;~~

~~(2) an application for certificate of authority;~~

~~(3) the financial condition of an insurer; or~~

~~(4) the acquisition, formation, merger, affiliation, or dissolution of an insurer;~~

~~(c) Solicits or accepts new or renewal insurance risks by or for an insolvent insurer;~~

~~(d) Removes the assets or any record of assets, transactions, and affairs or any material part thereof, from the home office or other place of business of an insurer, or from the place of safekeeping of an insurer, or destroys or sequesters the same from the department of commerce.~~

~~(e) Diverts, misappropriates, converts, or embezzles funds of an insurer, insured, claimant, or applicant for insurance in connection with:~~

~~(1) an insurance transaction;~~

~~(2) the conducting of business activities by an insurer or insurance professional; or~~

~~(3) the acquisition, formation, merger, affiliation, or dissolution of any insurer.~~

Subd. 2. ~~[DEFRAUD; FALSE LOSS CLAIM STATUTE OF LIMITATIONS.]~~ ~~Whoever intentionally makes a claim to an insurance company that personal property was lost, stolen, damaged, destroyed, misplaced, or disappeared, knowing the claim to be false may be sentenced as provided in section 609.52, subdivision 3. The applicable statute of limitations provision under section 628.26 shall not begin to run until the insurance company or law enforcement agency is aware of the fraud, but in no event may the prosecution be commenced later than seven years after the claim was made act has occurred.~~

Subd. 3. ~~[SENTENCE.]~~ ~~Whoever violates this provision may be sentenced as provided in section 609.52, subdivision 3, based on the greater of (i) the value of property, services, or other benefit wrongfully obtained or attempted to obtain, or (ii) the aggregate economic loss suffered by any person as a result of the violation. A person convicted of a violation of this section must be ordered to pay restitution to persons aggrieved by the violation. Restitution must be ordered in addition to a fine or imprisonment but not in lieu of a fine or imprisonment.~~

Subd. 4. ~~[DEFINITIONS.]~~ (a) "Insurance policy" means the written instrument in which are set forth the terms of any certificate of insurance, binder of coverage, or contract of insurance (including a certificate, binder, or contract issued by a state-assigned risk plan); benefit plan; nonprofit hospital service plan; motor club service plan; or surety bond, cash bond, or any other alternative to insurance authorized by a state's financial responsibility act.

(b) "Insurance professional" means sales agents, agencies, managing general agents, brokers, producers, claims representatives, adjusters, and third-party administrators.

(c) "Insurance transaction" means a transaction by, between or among: (1) an insurer or a person who acts on behalf of an insurer; and (2) an insured, claimant, applicant for insurance, public adjuster, insurance professional, practitioner, or any person who acts on behalf of any of the foregoing, for the purpose of obtaining insurance or reinsurance, calculating insurance premiums, submitting a claim, negotiating or adjusting a claim, or otherwise obtaining insurance, self-insurance, or reinsurance or obtaining the benefits thereof or therefrom.

(d) "Insurer" means a person purporting to engage in the business of insurance or authorized to do business in the state or subject to regulation by the state, who undertakes to indemnify another against loss, damage or liability arising from a contingent or unknown event. Insurer includes, but is not limited to, an insurance company; self-insurer; reinsurer; reciprocal exchange; interinsurer; risk retention group; Lloyd's insurer; fraternal benefit society; surety; medical service, dental, optometric, or any other similar health service plan; and any other legal entity engaged or purportedly engaged in the business of insurance, including any person or entity that falls within the definition of insurer found within section 60A.951, subdivision 5.

(e) "Premium" means consideration paid or payable for coverage under an insurance policy. Premium includes any payment, whether due within the insurance policy term or otherwise, and any deductible payment, whether advanced by the insurer or insurance professional and subject to reimbursement by the insured or otherwise, any self insured retention or payment, whether advanced by the insurer or insurance professional and subject to reimbursement by the insured or otherwise, and any collateral or security to be provided to collateralize obligations to pay any of the above.

(f) "Premium finance company" means a person engaged or purporting to engage in the business of advancing money, directly or indirectly, to an insurer or producer at the request of an insured under the terms of a premium finance agreement, including but not limited to, loan contracts, notes, agreements or obligations, wherein the insured has assigned the unearned premiums, accrued dividends, or loss payments as security for such advancement in payment of premiums on insurance policies only, but does not include the financing of insurance premiums purchased in connection with the financing of goods or services.

(g) "Premium finance transaction" means a transaction by, between, or among an insured, a producer or other party claiming to act on behalf of an insured and a third-party premium finance company, for the purposes of purportedly or actually advancing money directly or indirectly to an insurer or producer at the request of an insured under the terms of a premium finance agreement, wherein the insured has assigned the unearned premiums, accrued dividends or loan payments as

security for such advancement in payment of premiums on insurance policies only, but does not include the financing of insurance premiums purchased in connection with the financing of goods or services.

Sec. 37. Minnesota Statutes 1995 Supplement, section 617.23, is amended to read:

617.23 [INDECENT EXPOSURE; PENALTIES.]

(a) A person is guilty of a misdemeanor who in any public place, or in any place where others are present:

(1) willfully and lewdly exposes the person's body, or the private parts thereof;

(2) procures another to expose private parts; or

(3) engages in any open or gross lewdness or lascivious behavior, or any public indecency other than behavior specified in clause (1) or (2) or this clause.

(b) A person is guilty of a gross misdemeanor if:

(1) the person violates this section in the presence of a minor under the age of 16; or

(2) the person violates this section after having been previously convicted of violating this section, sections 609.342 to 609.3451, or a statute from another state in conformity with any of those sections.

(c) A person is guilty of a felony and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both, if the person violates paragraph (b), clause (1), after having been previously convicted of or adjudicated delinquent for violating paragraph (b), clause (1); section 609.3451, subdivision 1, clause (2); or a statute from another state in conformity with paragraph (b), clause (1), or section 609.3451, subdivision 1, clause (2).

Sec. 38. [INSURANCE FRAUD REVOLVING ACCOUNT.]

The attorney general shall deposit in a separate account in the state treasury all money voluntarily contributed by insurance companies for the investigation and prosecution of insurance fraud. Money in the account is appropriated to the attorney general for that purpose.

Sec. 39. [SENTENCING GUIDELINES MODIFICATIONS.]

Pursuant to Minnesota Statutes, section 244.09, the proposed modifications to the sentencing guidelines regarding the adjustment of increases in durations across criminal history at severity levels I through VI contained on page 11 of the January 1996, Minnesota sentencing guidelines commission's report to the legislature, shall not take effect until August 1, 1997.

Sec. 40. [REPEALER.]

Minnesota Statutes 1994, section 609.495, subdivision 2, is repealed.

Sec. 41. [EFFECTIVE DATE.]

Sections 1, 10 to 23, 25 to 32, and 34 to 38 are effective August 1, 1996, and apply to offenses committed on or after that date.

Sections 2 to 9 are effective August 1, 1996, and apply to demands for proof of insurance made on or after that date.

Section 24 is effective March 1, 1997, and applies to offenses committed on or after that date.

Section 33 is effective August 1, 1996.

Section 1. Minnesota Statutes 1995 Supplement, section 518B.01, subdivision 14, is amended to read:

Subd. 14. [VIOLATION OF AN ORDER FOR PROTECTION.] (a) Whenever an order for protection is granted pursuant to this section, and the respondent or person to be restrained knows of the order, violation of the order for protection is a misdemeanor. Upon conviction, the defendant must be sentenced to a minimum of three days imprisonment and must be ordered to participate in counseling or other appropriate programs selected by the court. If the court stays imposition or execution of the jail sentence and the defendant refuses or fails to comply with the court's treatment order, the court must impose and execute the stayed jail sentence. A person is guilty of a gross misdemeanor who violates this paragraph during the time period between a previous conviction under this paragraph; sections 609.221 to 609.224; 609.2242; 609.713, subdivision 1 or 3; 609.748, subdivision 6; 609.749; or a similar law of another state and the end of the five years following discharge from sentence for that conviction. Upon conviction, the defendant must be sentenced to a minimum of ten days imprisonment and must be ordered to participate in counseling or other appropriate programs selected by the court. Notwithstanding section 609.135, the court must impose and execute the minimum sentence provided in this paragraph for gross misdemeanor convictions.

(b) A peace officer shall arrest without a warrant and take into custody a person whom the peace officer has probable cause to believe has violated an order granted pursuant to this section restraining the person or excluding the person from the residence or the petitioner's place of employment, even if the violation of the order did not take place in the presence of the peace officer, if the existence of the order can be verified by the officer. The person shall be held in custody for at least 36 hours, excluding the day of arrest, Sundays, and holidays, unless the person is released earlier by a judge or judicial officer. A peace officer acting in good faith and exercising due care in making an arrest pursuant to this paragraph is immune from civil liability that might result from the officer's actions.

(c) A violation of an order for protection shall also constitute contempt of court and be subject to the penalties therefor.

(d) If the court finds that the respondent has violated an order for protection and that there is reason to believe that the respondent will commit a further violation of the provisions of the order restraining the respondent from committing acts of domestic abuse or excluding the respondent from the petitioner's residence, the court may require the respondent to acknowledge an obligation to comply with the order on the record. The court may require a bond sufficient to deter the respondent from committing further violations of the order for protection, considering the financial resources of the respondent, and not to exceed \$10,000. If the respondent refuses to comply with an order to acknowledge the obligation or post a bond under this paragraph, the court shall commit the respondent to the county jail during the term of the order for protection or until the respondent complies with the order under this paragraph. The warrant must state the cause of commitment, with the sum and time for which any bond is required. If an order is issued under this paragraph, the court may order the costs of the contempt action, or any part of them, to be paid by the respondent. An order under this paragraph is appealable.

(e) Upon the filing of an affidavit by the petitioner, any peace officer, or an interested party designated by the court, alleging that the respondent has violated any order for protection granted pursuant to this section, the court may issue an order to the respondent, requiring the respondent to appear and show cause within 14 days why the respondent should not be found in contempt of court and punished therefor. The hearing may be held by the court in any county in which the petitioner or respondent temporarily or permanently resides at the time of the alleged violation. The court also shall refer the violation of the order for protection to the appropriate prosecuting authority for possible prosecution under paragraph (a).

(f) If it is alleged that the respondent has violated an order for protection issued under subdivision 6 and the court finds that the order has expired between the time of the alleged violation and the court's hearing on the violation, the court may grant a new order for protection under subdivision 6 based solely on the respondent's alleged violation of the prior order, to be effective until the hearing on the alleged violation of the prior order. If the court finds that the

respondent has violated the prior order, the relief granted in the new order for protection shall be extended for a fixed period, not to exceed one year, except when the court determines a longer fixed period is appropriate.

(g) The admittance into petitioner's dwelling of an abusing party excluded from the dwelling under an order for protection is not a violation by the petitioner of the order for protection.

A peace officer is not liable under section 609.43, clause (1), for a failure to perform a duty required by paragraph (b).

(h) When a person is convicted of violating an order for protection under this section and the court determines that the person used a firearm in any way during commission of the violation, the court may order that the person is prohibited from possessing any type of firearm for any period longer than three years or for the remainder of the person's life. A person who violates this paragraph is guilty of a gross misdemeanor. At the time of the conviction, the court shall inform the defendant whether and for how long the defendant is prohibited from possessing a firearm and that it is a gross misdemeanor to violate this paragraph. The failure of the court to provide this information to a defendant does not affect the applicability of the firearm possession prohibition or the gross misdemeanor penalty to that defendant.

(i) Except as otherwise provided in paragraph (h), when a person is convicted of violating an order for protection under this section, the court shall inform the defendant that the defendant is prohibited from possessing a pistol for three years from the date of conviction and that it is a gross misdemeanor offense to violate this prohibition. The failure of the court to provide this information to a defendant does not affect the applicability of the pistol possession prohibition or the gross misdemeanor penalty to that defendant.

(j) Except as otherwise provided in paragraph (h), a person is not entitled to possess a pistol if the person has been convicted after August 1, 1996, of violating an order for protection under this section, unless three years have elapsed from the date of conviction and, during that time, the person has not been convicted of any other violation of this section. Property rights may not be abated but access may be restricted by the courts. A person who possesses a pistol in violation of this paragraph is guilty of a gross misdemeanor.

(k) If the court determines that a person convicted of violating an order for protection under this section owns or possesses a firearm and used it in any way during the commission of the violation, it shall order that the firearm be summarily forfeited under section 609.5316, subdivision 3.

Sec. 2. Minnesota Statutes 1994, section 609.035, subdivision 1, is amended to read:

Subdivision 1. Except as provided in subdivision 2, subdivision 3, and in sections 609.251, 609.585, 609.21, subdivisions 3 and 4, 609.2691, 609.486, 609.494, and 609.856, if a person's conduct constitutes more than one offense under the laws of this state, the person may be punished for only one of the offenses and a conviction or acquittal of any one of them is a bar to prosecution for any other of them. All the offenses, if prosecuted, shall be included in one prosecution which shall be stated in separate counts.

Sec. 3. Minnesota Statutes 1994, section 609.035, is amended by adding a subdivision to read:

Subd. 3. [EXCEPTION; FIREARMS OFFENSES.] Notwithstanding section 609.04, a prosecution for or conviction of a violation of section 609.165 or 624.713, subdivision 1, clause (b), is not a bar to conviction of or punishment for any other crime committed by the defendant as part of the same conduct.

Sec. 4. Minnesota Statutes 1994, section 609.11, subdivision 5, is amended to read:

Subd. 5. [FIREARM.] (a) Except as otherwise provided in paragraph (b), any defendant convicted of an offense listed in subdivision 9 in which the defendant or an accomplice, at the time of the offense, had in possession or used, whether by brandishing, displaying, threatening with, or otherwise employing, a firearm, shall be committed to the commissioner of corrections for not less than three years, nor more than the maximum sentence provided by law. Any defendant convicted

of a second or subsequent offense in which the defendant or an accomplice, at the time of the offense, had in possession or used a firearm shall be committed to the commissioner of corrections for not less than five years, nor more than the maximum sentence provided by law.

(b) Any defendant convicted of violating section 609.165 or 624.713, subdivision 1, clause (b), shall be committed to the commissioner of corrections for not less than 18 months, nor more than the maximum sentence provided by law. Any defendant convicted of a second or subsequent violation of either of these sections shall be committed to the commissioner of corrections for not less than five years, nor more than the maximum sentence provided by law.

Sec. 5. Minnesota Statutes 1994, section 609.11, subdivision 9, is amended to read:

Subd. 9. [APPLICABLE OFFENSES.] The crimes for which mandatory minimum sentences shall be served as provided in this section are: murder in the first, second, or third degree; assault in the first, second, or third degree; burglary; kidnapping; false imprisonment; manslaughter in the first or second degree; aggravated robbery; simple robbery; criminal sexual conduct under the circumstances described in sections 609.342, subdivision 1, clauses (a) to (f); 609.343, subdivision 1, clauses (a) to (f); and 609.344, subdivision 1, clauses (a) to (e) and (h) to (j); escape from custody; arson in the first, second, or third degree; drive-by shooting under section 609.66, subdivision 1e; possession or other unlawful use of a firearm in violation of section 609.165, subdivision 1b or 624.713, subdivision 1, clause (b), a felony violation of chapter 152; or any attempt to commit any of these offenses.

Sec. 6. Minnesota Statutes 1995 Supplement, section 609.152, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] (a) As used in this section, the following terms have the meanings given.

(b) "Conviction" means any of the following accepted and recorded by the court: a plea of guilty, a verdict of guilty by a jury, or a finding of guilty by the court. The term includes a conviction by any court in Minnesota or another jurisdiction.

(c) "Prior conviction" means a conviction that occurred before the offender committed the next felony resulting in a conviction and before the offense for which the offender is being sentenced under this section.

(d) "Violent crime" means a violation of or an attempt or conspiracy to violate any of the following laws of this state or any similar laws of the United States or any other state: section 609.165; 609.185; 609.19; 609.195; 609.20; 609.205; 609.21; 609.221; 609.222; 609.223; 609.228; 609.235; 609.24; 609.245; 609.25; 609.255; 609.2661; 609.2662; 609.2663; 609.2664; 609.2665; 609.267; 609.2671; 609.268; 609.342; 609.343; 609.344; 609.345; 609.498, subdivision 1; 609.561; 609.562; 609.582, subdivision 1; 609.66, subdivision 1e; 609.687; 609.855, subdivision 5; any provision of sections 609.229; 609.377; 609.378; and 609.749; and 624.713 that is punishable by a felony penalty; or any provision of chapter 152 that is punishable by a maximum sentence of 15 years or more.

Sec. 7. Minnesota Statutes 1994, section 609.165, subdivision 1b, is amended to read:

Subd. 1b. [VIOLATION AND PENALTY.] (a) Any person who has been convicted of a crime of violence, as defined in section 624.712, subdivision 5, and who ships, transports, possesses, or receives a firearm in violation of subdivision 1a before ten years have elapsed since the person was restored to civil rights, commits a felony and may be sentenced to imprisonment for not more than three 15 years or to payment of a fine of not more than \$6,000 \$30,000, or both.

(b) Nothing in this section shall be construed to bar a conviction and sentencing for a violation of section 624.713, subdivision 1, clause (b) 2.

Sec. 8. Minnesota Statutes 1995 Supplement, section 609.19, is amended to read:

609.19 [MURDER IN THE SECOND DEGREE.]

Subdivision 1. [INTENTIONAL MURDER; DRIVE-BY SHOOTINGS.] Whoever does any either of the following is guilty of murder in the second degree and may be sentenced to imprisonment for not more than 40 years:

(1) causes the death of a human being with intent to effect the death of that person or another, but without premeditation; or

(2) causes the death of a human being while committing or attempting to commit a drive-by shooting in violation of section 609.66, subdivision 1e.

Subd. 2. [UNINTENTIONAL MURDERS.] Whoever does either of the following is guilty of unintentional murder in the second degree and may be sentenced to imprisonment for not more than 40 years:

(1) causes the death of a human being, without intent to effect the death of any person, while committing or attempting to commit a felony offense other than criminal sexual conduct in the first or second degree with force or violence or a drive-by shooting; or

(3) (2) causes the death of a human being without intent to effect the death of any person, while intentionally inflicting or attempting to inflict bodily harm upon the victim, when the perpetrator is restrained under an order for protection and the victim is a person designated to receive protection under the order. As used in this clause, "order for protection" includes an order for protection issued under chapter 518B; a harassment restraining order issued under section 609.748; a court order setting conditions of pretrial release or conditions of a criminal sentence or juvenile court disposition; a restraining order issued in a marriage dissolution action; and any order issued by a court of another state or of the United States that is similar to any of these orders.

Sec. 9. Minnesota Statutes 1994, section 609.5316, subdivision 3, is amended to read:

Subd. 3. [WEAPONS AND BULLET-RESISTANT VESTS.] Weapons used are contraband and must be summarily forfeited to the appropriate agency upon conviction of the weapon's owner or possessor for a controlled substance crime or; for any offense of this chapter or chapter 624, or for a violation of an order for protection under section 518B.01, subdivision 14. Bullet-resistant vests, as defined in section 609.486, worn or possessed during the commission or attempted commission of a crime are contraband and must be summarily forfeited to the appropriate agency upon conviction of the owner or possessor for a controlled substance crime or for any offense of this chapter. Notwithstanding this subdivision, weapons used and bullet-resistant vests worn or possessed may be forfeited without a conviction under sections 609.531 to 609.5315.

Sec. 10. Minnesota Statutes 1994, section 609.66, subdivision 1a, is amended to read:

Subd. 1a. [FELONY CRIMES; SILENCERS PROHIBITED; RECKLESS DISCHARGE.] (a) Whoever does any of the following is guilty of a felony and may be sentenced as provided in paragraph (b):

(1) sells or has in possession any device designed to silence or muffle the discharge of a firearm;

(2) intentionally discharges a firearm under circumstances that endanger the safety of another; or

(3) recklessly discharges a firearm within a municipality.

(b) A person convicted under paragraph (a) may be sentenced as follows:

(1) if the act was a violation of paragraph (a), clause (2), or if the act was a violation of paragraph (a), clause (1) or (3) and was committed in a public housing zone, as defined in section 152.01, subdivision 19, a school zone, as defined in section 152.01, subdivision 14a, or a park zone, as defined in section 152.01, subdivision 12a, to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both; or

(2) otherwise, to imprisonment for not more than two years or to payment of a fine of not more than \$5,000, or both.

Sec. 11. Minnesota Statutes 1994, section 609.666, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] For purposes of this section, the following words have the meanings given.

(a) "Firearm" means a device designed to be used as a weapon, from which is expelled a projectile by the force of any explosion or force of combustion.

(b) "Child" means a person under the age of 14 18 years.

(c) "Loaded" means the firearm has ammunition in the chamber or magazine, if the magazine is in the firearm, unless the firearm is incapable of being fired by a child who is likely to gain access to the firearm.

Sec. 12. Minnesota Statutes 1994, section 609.749, is amended by adding a subdivision to read:

Subd. 8. [STALKING; FIREARMS.] (a) When a person is convicted of a harassment or stalking crime under this section and the court determines that the person used a firearm in any way during commission of the crime, the court may order that the person is prohibited from possessing any type of firearm for any period longer than three years or for the remainder of the person's life. A person who violates this paragraph is guilty of a gross misdemeanor. At the time of the conviction, the court shall inform the defendant whether and for how long the defendant is prohibited from possessing a firearm and that it is a gross misdemeanor to violate this paragraph. The failure of the court to provide this information to a defendant does not affect the applicability of the firearm possession prohibition or the gross misdemeanor penalty to that defendant.

(b) Except as otherwise provided in paragraph (a), when a person is convicted of a stalking or harassment crime under this section, the court shall inform the defendant that the defendant is prohibited from possessing a pistol for three years from the date of conviction and that it is a gross misdemeanor offense to violate this prohibition. The failure of the court to provide this information to a defendant does not affect the applicability of the pistol possession prohibition or the gross misdemeanor penalty to that defendant.

(c) Except as otherwise provided in paragraph (a), a person is not entitled to possess a pistol if the person has been convicted after August 1, 1996, of a stalking or harassment crime under this section, unless three years have elapsed from the date of conviction and, during that time, the person has not been convicted of any other violation of this section. Property rights may not be abated but access may be restricted by the courts. A person who possesses a pistol in violation of this paragraph is guilty of a gross misdemeanor.

(d) If the court determines that a person convicted of a stalking or harassment crime under this section owns or possesses a firearm and used it in any way during the commission of the crime, it shall order that the firearm be summarily forfeited under section 609.5316, subdivision 3.

Sec. 13. Minnesota Statutes 1994, section 609.855, subdivision 5, is amended to read:

Subd. 5. [SHOOTING AT OR IN PUBLIC TRANSIT VEHICLE OR FACILITY.] Whoever recklessly discharges a firearm at or in any portion of a public transit vehicle or facility is guilty of a felony and may be sentenced to imprisonment for not more than three years or to payment of a fine of not more than \$6,000, or both. If the transit vehicle or facility is occupied by any person other than the offender, the person may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both.

Sec. 14. Minnesota Statutes 1995 Supplement, section 624.712, subdivision 5, is amended to read:

Subd. 5. [CRIME OF VIOLENCE.] "Crime of violence" includes murder in the first, second, and third degrees, manslaughter in the first and second degrees, aiding suicide, aiding attempted suicide, felony violations of assault in the first, second, third, and fourth degrees, assaults motivated by bias under section 609.2231, subdivision 4, drive-by shootings, terroristic threats, use of drugs to injure or to facilitate crime, crimes committed for the benefit of a gang, commission of a crime while wearing or possessing a bullet-resistant vest, simple robbery,

aggravated robbery, kidnapping, false imprisonment, criminal sexual conduct in the first, second, third, and fourth degrees, theft of a firearm, felony theft involving the intentional taking or driving of a motor vehicle without the consent of the owner or the authorized agent of the owner, felony theft involving the taking of property from a burning, abandoned, or vacant building, or from an area of destruction caused by civil disaster, riot, bombing, or the proximity of battle, felony theft involving the theft of a controlled substance, an explosive, or an incendiary device, arson in the first and second degrees, riot, burglary in the first, second, third, and fourth degrees, harassment and stalking, shooting at a public transit vehicle or facility, reckless use of a gun or dangerous weapon, intentionally pointing a gun at or towards a human being, setting a spring gun, and unlawfully owning, possessing, operating a machine gun or short-barreled shotgun, and an attempt to commit any of these offenses, as each of those offenses is defined in chapter 609. "Crime of violence" also includes felony violations of the following: malicious punishment of a child; neglect or endangerment of a child; and chapter 152.

Sec. 15. Minnesota Statutes 1994, section 624.713, subdivision 2, is amended to read:

Subd. 2. [PENALTIES.] A person named in subdivision 1, clause (a) ~~or (b)~~, who possesses a pistol or semiautomatic military-style assault weapon is guilty of a felony and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both. A person named in subdivision 1, clause (b), who possesses any type of firearm is guilty of a felony and may be sentenced to imprisonment for not more than 15 years or to payment of a fine of not more than \$30,000, or both. A person named in any other clause of subdivision 1 who ~~possesses a pistol or semiautomatic military-style assault weapon~~ any type of firearm is guilty of a gross misdemeanor.

Sec. 16. [EFFECTIVE DATE.]

Sections 1 to 15 are effective August 1, 1996, and apply to offenses committed on or after that date.

ARTICLE 5 COMMUNITY NOTIFICATION

Section 1. [LEGISLATIVE FINDINGS AND PURPOSE.]

The legislature finds that if members of the public are provided adequate notice and information about a sex offender who has been or is about to be released from custody and who lives or will live in or near their neighborhood, the community can develop constructive plans to prepare themselves and their children for the offender's release.

Sec. 2. Minnesota Statutes 1995 Supplement, section 243.166, subdivision 1, is amended to read:

Subdivision 1. [REGISTRATION REQUIRED.] (a) A person shall register under this section if:

(1) the person was charged with or petitioned for a felony violation of or attempt to violate any of the following, and convicted of or adjudicated delinquent for that offense or of another offense arising out of the same set of circumstances:

- (i) murder under section 609.185, clause (2);
- (ii) kidnapping under section 609.25, involving a minor victim; or
- (iii) criminal sexual conduct under section 609.342; 609.343; 609.344; or 609.345; or

(2) the person was charged with or petitioned for using a minor in a sexual performance in violation of section 617.246, or possessing pictorial representations of minors in violation of section 617.247, and convicted of or adjudicated delinquent for that offense or another offense arising out of the same set of circumstances; or

(3) the person was convicted of a predatory crime as defined in section 609.1352, and the

offender was sentenced as a patterned sex offender or the court found on its own motion or that of the prosecutor that the crime was part of a predatory pattern of behavior that had criminal sexual conduct as its goal; or

(3) (4) the person was convicted of or adjudicated delinquent for violating a law of the United States similar to the offenses described in clause (1) or (2), or (3).

(b) A person also shall register under this section if:

(1) the person was convicted of or adjudicated delinquent in another state for an offense that would be a violation of a law described in paragraph (a) if committed in this state;

(2) the person enters and remains in this state for 30 days or longer; and

(3) ten years have not elapsed since the person was released from confinement or, if the person was not confined, since the person was convicted of or adjudicated delinquent for the offense that triggers registration.

(c) A person also shall register under this section if the person was committed pursuant to a court commitment order under section 253B.185 or Minnesota Statutes 1992, section 526.10, regardless of whether the person was convicted of any offense.

Sec. 3. Minnesota Statutes 1995 Supplement, section 243.166, subdivision 7, is amended to read:

Subd. 7. [USE OF INFORMATION.] Except as otherwise provided in section 244.052, the information provided under this section is private data on individuals under section 13.01, subdivision 12. The information may be used only for law enforcement purposes.

Sec. 4. [244.052] [SEX OFFENDERS; NOTICE.]

Subdivision 1. [DEFINITIONS.] As used in this section:

(1) "accepted for supervision" means accepted from another state under a reciprocal agreement under the interstate compact authorized by section 243.16;

(2) "confinement" means confinement in a state correctional facility or a state treatment facility;

(3) "law enforcement agency" means the law enforcement agency having primary jurisdiction over the location where the offender expects to reside upon release; and

(4) "sex offender" and "offender" mean a person who has been convicted of an offense for which registration under section 243.166 is required or a person who has been committed pursuant to a court commitment order under section 253B.185 or Minnesota Statutes 1992, section 526.10, regardless of whether the person was convicted of any offense.

Subd. 2. [RISK ASSESSMENT SCALE.] By January 1, 1997, the commissioner of corrections shall develop a risk assessment scale which assigns weights to the various risk factors listed in subdivision 3, paragraph (g), and specifies the risk level to which offenders with various risk assessment scores shall be assigned. In developing this scale, the commissioner shall consult with county attorneys, treatment professionals, law enforcement officials, and probation officers.

Subd. 3. [END-OF-CONFINEMENT REVIEW COMMITTEE.] (a) The commissioner of corrections shall establish and administer end-of-confinement review committees at each state correctional facility and at each state treatment facility where sex offenders are confined. The committees shall assess on a case-by-case basis:

(1) the public risk posed by sex offenders who are about to be released from confinement; and

(2) the public risk posed by sex offenders who are accepted from another state under a reciprocal agreement under the interstate compact authorized by section 243.16.

(b) Each committee shall be a standing committee and shall consist of the following members appointed by the commissioner:

(1) the chief executive officer or head of the correctional or treatment facility where the offender is currently confined, or that person's designee;

(2) a law enforcement officer;

(3) a treatment professional who is trained in the assessment of sex offenders;

(4) a caseworker experienced in supervising sex offenders; and

(5) an employee of the department of corrections from the victim's services unit.

Members of the committee, other than the facility's chief executive officer or head, shall be appointed by the commissioner to two-year terms. The chief executive officer or head of the facility or designee shall act as chair of the committee and shall use the facility's staff, as needed, to administer the committee, obtain necessary information from outside sources, and prepare risk assessment reports on offenders.

(c) The committee shall have access to the following data on a sex offender only for the purposes of its assessment under this section:

(1) private medical data under section 13.42 or 144.335, or welfare data under section 13.46 that relate to medical treatment of the offender;

(2) private and confidential court services data under section 13.84;

(3) private and confidential corrections data under section 13.85; and

(4) private criminal history data under section 13.87.

Data collected and maintained by the committee under this paragraph may not be disclosed outside the committee, except as provided under section 13.05, subdivision 3 or 4. The sex offender has access to data on the offender collected and maintained by the committee, unless the data are confidential data received under this paragraph.

(d) At least 90 days before a sex offender is to be released from confinement or accepted for supervision, the commissioner of corrections shall convene the appropriate end-of-confinement review committee for the purpose of assessing the risk presented by the offender and determining the risk level to which the offender shall be assigned under paragraph (e). The offender shall be notified of the time and place of the committee's meeting and has a right to be present and be heard at the meeting. The committee shall use the risk factors described in paragraph (g) and the risk assessment scale developed under subdivision 2 to determine the offender's risk assessment score and risk level. Offenders scheduled for release from confinement shall be assessed by the committee established at the facility from which the offender is to be released. Offenders accepted for supervision shall be assessed by whichever committee the commissioner directs.

(e) The committee shall assign to risk level I a sex offender whose risk assessment score indicates a low risk of reoffense. The committee shall assign to risk level II an offender whose risk assessment score indicates a moderate risk of reoffense. The committee shall assign to risk level III an offender whose risk assessment score indicates a high risk of reoffense.

(f) Before the sex offender is released from confinement or accepted for supervision, the committee shall prepare a risk assessment report which specifies the risk level to which the offender has been assigned and the reasons underlying the committee's risk assessment decision. The committee shall give the report to the offender and to the law enforcement agency at least 60 days before an offender is released from confinement or accepted for supervision. The committee also shall inform the offender of the availability of review under subdivision 6.

(g) As used in this subdivision, "risk factors" includes, but is not limited to, the following factors:

(1) the seriousness of the offense should the offender reoffend. This factor includes consideration of the following: (i) the degree of likely force or harm; (ii) the degree of likely physical contact; and (iii) the age of the likely victim;

(2) the offender's prior offense history. This factor includes consideration of the following: (i) the relationship of prior victims to the offender; (ii) the number of prior offenses or victims; (iii) the duration of the offender's prior offense history; (iv) the length of time since the offender's last prior offense, while the offender was at risk to commit offenses; and (v) the offender's prior history of other antisocial acts;

(3) the offender's characteristics. This factor includes consideration of the following: (i) the offender's response to prior treatment efforts; and (ii) the offender's history of substance abuse;

(4) the availability of community supports to the offender. This factor includes consideration of the following: (i) the availability and likelihood that the offender will be involved in therapeutic treatment; (ii) the availability of residential supports to the offender, such as a stable and supervised living arrangement in an appropriate location; (iii) the offender's familial and social relationships, including the nature and length of these relationships and the level of support that the offender may receive from these persons; and (iv) the offender's lack of education or employment stability;

(5) whether the offender has indicated or credible evidence in the record indicates that the offender will reoffend if released into the community; and

(6) whether the offender demonstrates a physical condition that minimizes the risk of reoffense, including but not limited to, advanced age or a debilitating illness or physical condition.

(h) Upon the request of the law enforcement agency or the offender's corrections agent, the commissioner may reconvene the end-of-confinement review committee for the purpose of reassessing the risk level to which an offender has been assigned under paragraph (e). In a request for a reassessment, the law enforcement agency or agent shall list the facts and circumstances arising after the initial assignment under paragraph (e) which support the request for a reassessment. Upon review of the request, the end-of-confinement review committee may reassign an offender to a different risk level. If the offender is reassigned to a higher risk level, the offender has the right to seek review of the committee's determination under subdivision 6.

(i) An offender may request the end-of-confinement review committee to reassess the offender's assigned risk level after two years have elapsed since the committee's initial risk assessment and may renew the request once every two years following subsequent denials. In a request for reassessment, the offender shall list the facts and circumstances which demonstrate that the offender no longer poses the same degree of risk to the community. The committee shall follow the process outlined in paragraphs (a) to (e), and (g) in the reassessment.

Subd. 4. [LAW ENFORCEMENT AGENCY; DISCLOSURE OF INFORMATION TO PUBLIC.] (a) The law enforcement agency in the area where the sex offender resides, expects to reside, is employed, or is regularly found, is authorized to disclose information to the public regarding the offender if the agency determines that disclosure of the information is relevant and necessary to protect the public and to counteract the offender's dangerousness. The extent of the information disclosed and the community to whom disclosure is made must relate to the level of danger posed by the offender, to the offender's pattern of offending behavior, and to the need of community members for information to enhance their individual and collective safety.

(b) The law enforcement agency shall consider the following guidelines in determining the scope of disclosure made under this subdivision:

(1) if the offender is assigned to risk level I, the agency may maintain information regarding the offender within the agency and may disclose it to other law enforcement agencies. Additionally, the agency may disclose the information to any victims of or witnesses to the offense committed by the offender. The agency shall disclose the information to victims of the offense committed by the offender who have requested disclosure;

(2) if the offender is assigned to risk level II, the agency also may disclose the information to the following agencies and groups that the offender is likely to encounter: public and private educational institutions; day care establishments; and establishments and organizations that primarily serve individuals likely to be victimized by the offender;

(3) if the offender is assigned to risk level III, the agency also may disclose the information to other members of the community whom the offender is likely to encounter.

Notwithstanding the assignment of a sex offender to risk level II or III, a law enforcement agency may not make the disclosures permitted by clause (2) or (3), if: the offender is placed or resides in a residential facility that is licensed as a residential program, as defined in section 245A.02, subdivision 14, by the commissioner of human services under chapter 254A, or the commissioner of corrections under section 241.021; and the facility and its staff are trained in the supervision of sex offenders. However, if an offender is placed or resides in a licensed facility, the head of the facility shall notify the law enforcement agency before the end of the offender's placement or residence in the facility. Upon receiving this notification, the law enforcement agency may make the disclosures permitted by clause (2) or (3), as appropriate.

(c) As used in paragraph (b), clauses (2) and (3), "likely to encounter" means that: (1) the organizations or community members are in a location or in close proximity to a location where the offender lives or is employed, or which the offender visits or is likely to visit on a regular basis, other than the location of the offender's outpatient treatment program; and (2) the types of interaction which ordinarily occur at that location and other circumstances indicate that contact with the offender is reasonably certain.

(d) A law enforcement agency or official who decides to disclose information under this subdivision shall make a good faith effort to make the notification at least 14 days before an offender is released from confinement or accepted for supervision. If a change occurs in the release plan, this notification provision does not require an extension of the release date.

(e) A law enforcement agency or official that decides to disclose information under this subdivision shall make a good faith effort to conceal the identity of the victim or victims of the offender's offense.

(f) A law enforcement agency may continue to disclose information on an offender under this subdivision for as long as the offender is required to register under section 243.166.

Subd. 5. [RELEVANT INFORMATION PROVIDED TO LAW ENFORCEMENT.] At least 60 days before a sex offender is released from confinement or accepted for supervision, the department of corrections or the department of human services, in the case of a person who was committed under section 253B.185 or Minnesota Statutes 1992, section 526.10, shall provide the appropriate law enforcement agency all relevant information that the departments have concerning the offender, including information on risk factors in the offender's history.

Subd. 6. [ADMINISTRATIVE REVIEW.] (a) An offender assigned or reassigned to risk level II or III under subdivision 3, paragraph (e) or (h), has the right to seek administrative review of an end-of-confinement review committee's risk assessment determination. The offender must exercise this right within 14 days of receiving notice of the committee's decision by notifying the chair of the committee. Upon receiving the request for administrative review, the chair shall notify the offender, the victim or victims of the offender's offense or their designee, the law enforcement agency, and any other individuals the chair may select, of the time and place of the hearing. A request for a review hearing shall not interfere with or delay the notification process under subdivision 4 or 5.

(b) An offender who requests a review hearing must be given a reasonable opportunity to prepare for the hearing. The review hearing shall be conducted on the record before an administrative law judge. The offender has the burden of proof to show, by a preponderance of the evidence, that the end-of-confinement review committee's risk assessment determination was erroneous. The attorney general or a designee shall defend the end-of-confinement review committee's determination. The offender has the right to be present and be represented by counsel at the hearing, to present evidence in support of the offender's position, to call supporting

witnesses and to cross-examine witnesses testifying in support of the committee's determination. Counsel for indigent offenders shall be provided by the Legal Advocacy Project of the state public defender's office.

(c) After the hearing is concluded, the administrative law judge shall decide whether the end-of-confinement review committee's risk assessment determination was erroneous and, based on this decision, shall either uphold or modify the review committee's determination. The judge's decision shall be in writing and shall include the judge's reasons for the decision. The judge's decision shall be final and a copy of it shall be given to the offender, the victim, the law enforcement agency, and the chair of the end-of-confinement review committee.

(d) The review hearing is subject to the contested case provisions of chapter 14.

Subd. 7. [IMMUNITY FROM LIABILITY.] A state or local agency or official, or a private organization or individual authorized to act on behalf of a state or local agency or official, is not civilly or criminally liable for disclosing or failing to disclose information as permitted by this section.

Subd. 8. [LIMITATION ON SCOPE.] Nothing in this section imposes a duty upon a person licensed under chapter 82, or an employee of the person, to disclose information regarding an offender who is required to register under section 243.166, or about whom notification is made under this section.

Sec. 5. [244.053] [NOTICE OF RELEASE OF CERTAIN OFFENDERS.]

Subdivision 1. [NOTICE OF IMPENDING RELEASE.] At least 60 days before the release of any inmate convicted of an offense requiring registration under section 243.166, the commissioner of corrections shall send written notice of the impending release to the sheriff of the county and the police chief of the city in which the inmate will reside or in which placement will be made in a work release program. The sheriff of the county where the offender was convicted also shall be notified of the inmate's impending release.

Subd. 2. [ADDITIONAL NOTICE.] The same notice shall be sent to the following persons concerning a specific inmate convicted of an offense requiring registration under section 243.166:

(1) the victim of the crime for which the inmate was convicted or a deceased victim's next of kin if the victim or deceased victim's next of kin requests the notice in writing;

(2) any witnesses who testified against the inmate in any court proceedings involving the offense, if the witness requests the notice in writing; and

(3) any person specified in writing by the prosecuting attorney.

The notice sent to victims under clause (1) must inform the person that the person has the right to request and receive information about the offender authorized for disclosure under the community notification provisions of section 244.052.

If the victim or witness is under the age of 16, the notice required by this section shall be sent to the parents or legal guardian of the child. The commissioner shall send the notices required by this provision to the last address provided to the commissioner by the requesting party. The requesting party shall furnish the commissioner with a current address. Information regarding witnesses requesting the notice, information regarding any other person specified in writing by the prosecuting attorney to receive the notice, and the notice are private data on individuals, as defined in section 13.02, subdivision 12, and are not available to the inmate.

The notice to victims provided under this subdivision does not limit the victim's right to request notice of release under section 611A.06.

Subd. 3. [NO EXTENSION OF RELEASE DATE.] The existence of the notice requirements contained in this section shall in no event require an extension of the release date.

Sec. 6. Minnesota Statutes 1994, section 244.10, is amended by adding a subdivision to read:

Subd. 2a. [NOTICE OF INFORMATION REGARDING SEX OFFENDERS.] (a) In any case in which a person is convicted of an offense which requires registration under section 243.166, subdivision 1, and the presumptive sentence under the sentencing guidelines is commitment to the custody of the commissioner of corrections, if the court grants a dispositional departure and stays imposition or execution of sentence, the probation or court services officer who is assigned to supervise the offender shall provide in writing to the following the fact that the offender is on probation and the terms and conditions of probation:

(1) a victim of and any witnesses to the offense committed by the offender, if the victim or the witness has requested notice; and

(2) the chief law enforcement officer in the area where the offender resides or intends to reside.

The law enforcement officer, in consultation with the offender's probation officer, may provide all or part of this information to any of the following agencies or groups the offender is likely to encounter: public and private educational institutions, day care establishments, and establishments or organizations that primarily serve individuals likely to be victimized by the offender.

The probation officer is not required under this subdivision to provide any notice while the offender is placed or resides in a residential facility that is licensed under section 245A.02, subdivision 14, or section 241.021, if the facility staff is trained in the supervision of sex offenders.

(b) The notice authorized by paragraph (a) shall be limited to data classified as public under section 13.84, subdivision 6, unless the offender provides informed consent to authorize the release of nonpublic data or unless a court order authorizes the release of nonpublic data.

(c) Nothing in this subdivision shall be interpreted to impose a duty on any person to use any information regarding an offender about whom notification is made under this subdivision.

Sec. 7. [COMMUNITY NOTIFICATION ABOUT SEX OFFENDERS; POLICY AND INSTRUCTION.]

Subdivision 1. [MODEL POLICY.] (a) By August 1, 1996, the peace officer standards and training board shall develop a model policy for law enforcement agencies to follow when they disclose information on sex offenders to the public under Minnesota Statutes, section 244.052, subdivision 3. The model policy shall be designed to further the objectives of providing adequate notice to the community concerning sex offenders who are or will be residing in the neighborhood and of helping community members develop constructive plans to prepare themselves and their children for residing near these sex offenders. In developing the policy, the board shall consult with representatives of the bureau of criminal apprehension, the Minnesota chiefs of police association, the Minnesota sheriffs association, the Minnesota association of women police, the Minnesota sex crimes investigators association, the Minnesota police and peace officers association, the Minnesota institute of community policing, the county attorneys association, the Minnesota corrections association, the Minnesota association of county probation officers, the commissioner of corrections, local corrections agencies, the state public defender, sex offender treatment professionals, victims groups, and interested members of the public.

(b) The model policy shall, at a minimum, address the following matters:

(1) recommended contents and form of community notification documents, including recommended ways of protecting the privacy of victims of the offender's crime;

(2) recommended scope of disclosure for offenders classified at each risk level, including: (i) specific factors, if any, that would justify a law enforcement agency in engaging in broader disclosure than that recommended in the policy; and (ii) methods to ensure that the scope of disclosure is closely tailored to the risk level posed by the offender;

(3) recommended method or methods of distributing community notification documents;

(4) recommended methods of providing follow-up notifications to community residents at specified intervals and of disclosing information about offenders to law enforcement agencies in other jurisdictions when necessary to protect the public;

(5) recommended methods of educating community residents at public meetings on how they can use the information in the notification document in a reasonable manner to enhance their individual and collective safety;

(6) procedures for ensuring that community members are educated regarding the right of sex offenders not to be subjected to harassment or criminal acts because of the notification process;

(7) recommended ways of educating sex offenders before they are released from incarceration on the nature and scope of the notification process, the likely reaction of community residents to their presence in the community, and their right to be free from harassment or criminal acts committed by community residents because of the notification process; and

(8) other matters that the board deems necessary to ensure the effective and fair administration of the community notification law.

Subd. 2. [LOCAL POLICY.] By January 1, 1997, all chief law enforcement officers shall establish and implement a written policy governing the public disclosure of information on sex offenders under Minnesota Statutes, section 244.052, subdivision 3. A chief law enforcement officer shall adopt a policy that is identical or substantially similar to the model policy developed by the board under subdivision 1.

Sec. 8. [EFFECTIVE DATE.]

Section 2 is effective August 1, 1996, and applies to persons who are released from prison on or after that date, or who are under supervision as of that date, or who enter this state on or after that date.

Sections 1 and 3 to 6 are effective January 1, 1997, and apply to persons released or sentenced on or after that date.

Section 7 is effective the day following final enactment.

ARTICLE 6

JUVENILES

Section 1. Minnesota Statutes 1995 Supplement, section 260.015, subdivision 21, is amended to read:

Subd. 21. [JUVENILE PETTY OFFENDER; JUVENILE PETTY OFFENSE.] (a) "Juvenile petty offense" includes a juvenile alcohol offense, a juvenile controlled substance offense, a violation of section 609.685, or a violation of a local ordinance, which by its terms prohibits conduct by a child under the age of 18 years which would be lawful conduct if committed by an adult.

(b) ~~Except as otherwise provided in paragraph (c), "juvenile petty offense" also includes an offense, other than a violation of section 609.224, 609.324, 609.563, 609.576, or 617.23, that would be a misdemeanor if committed by an adult if:~~

~~(1) the child has not been found to be a juvenile petty offender on more than two prior occasions for a misdemeanor-level offense;~~

~~(2) the child has not previously been found to be delinquent for a misdemeanor, gross misdemeanor, or felony offense; or~~

~~(3) the county attorney designates the child on the petition as a juvenile petty offender, notwithstanding the child's prior record of misdemeanor-level juvenile petty offenses.~~

(c) "Juvenile petty offense" does not include any of the following:

(1) a misdemeanor-level violation of section 588.20, 609.224, 609.2242, 609.324, 609.563, 609.576, 609.66, or 617.23;

(2) a major traffic offense or an adult court traffic offense, as described in section 260.193;

(3) a misdemeanor-level offense committed by a child whom the juvenile court previously has found to have committed a misdemeanor, gross misdemeanor, or felony offense; or

(4) a misdemeanor-level offense committed by a child whom the juvenile court has found to have committed a misdemeanor-level juvenile petty offense on two or more prior occasions, unless the county attorney designates the child on the petition as a juvenile petty offender notwithstanding this prior record. As used in this clause, "misdemeanor-level juvenile petty offense" includes a misdemeanor-level offense that would have been a juvenile petty offense if it had been committed on or after July 1, 1995.

(d) A child who commits a juvenile petty offense is a "juvenile petty offender."

Sec. 2. Minnesota Statutes 1995 Supplement, section 260.132, subdivision 3a, is amended to read:

Subd. 3a. [NO RIGHT TO COUNSEL AT PUBLIC EXPENSE.] Except as otherwise provided in section 260.155, subdivision 2, a child alleged to be a juvenile petty offender may be represented by counsel, but does not have a right to appointment of a public defender or other counsel at public expense.

Sec. 3. Minnesota Statutes 1994, section 260.141, is amended by adding a subdivision to read:

Subd. 1a. [NOTICE IN LIEU OF SUMMONS; PERSONAL SERVICE.] The service of a summons or a notice in lieu of summons shall be as provided in the rules of juvenile procedure.

Sec. 4. Minnesota Statutes 1994, section 260.145, is amended to read:

260.145 [FAILURE TO OBEY SUMMONS OR SUBPOENA; CONTEMPT, ARREST.]

If any person personally served with summons or subpoena fails, without reasonable cause, to appear or bring the child, or if the court has reason to believe the person is avoiding personal service, or if any custodial parent or guardian fails, without reasonable cause, to accompany the child to a hearing as required under section 260.155, subdivision 4b, the person may be proceeded against for contempt of court or the court may issue a warrant for the person's arrest, or both. In any case when it appears to the court that the service will be ineffectual, or that the welfare of the child requires that the child be brought forthwith into the custody of the court, the court may issue a warrant for immediate custody of the child.

Sec. 5. Minnesota Statutes 1995 Supplement, section 260.155, subdivision 2, is amended to read:

Subd. 2. [APPOINTMENT OF COUNSEL.] (a) The child, parent, guardian or custodian has the right to effective assistance of counsel in connection with a proceeding in juvenile court ~~unless the. This right does not apply to a child who is charged with a juvenile petty offense as defined in section 260.015, subdivision 21, unless the child is charged with a third or subsequent juvenile alcohol or controlled substance offense and may be subject to the alternative disposition described in section 260.195, subdivision 4.~~

(b) The court shall appoint counsel, or stand-by counsel if the child waives the right to counsel, for a child who is:

(1) charged by delinquency petition with a gross misdemeanor or felony offense; or

(2) the subject of a delinquency proceeding in which out-of-home placement has been proposed.

(b) (c) If they desire counsel but are unable to employ it, the court shall appoint counsel to represent the child or the parents or guardian in any case in which it feels that such an appointment is desirable, ~~except a juvenile petty offense as defined in section 260.015, subdivision 21 offender who does not have the right to counsel under paragraph (a).~~

Sec. 6. Minnesota Statutes 1994, section 260.161, subdivision 1a, is amended to read:

Subd. 1a. [RECORD OF ADJUDICATIONS; NOTICE TO BUREAU OF CRIMINAL APPREHENSION.] (a) The juvenile court shall forward to the Bureau of Criminal Apprehension the following data on juveniles adjudicated delinquent for having committed felony-level criminal sexual conduct:

- (1) the name and birth date of the juvenile, including any of the juvenile's known aliases or street names;
- (2) the type of act for which the juvenile was adjudicated delinquent and date of the offense; and
- (3) the date and county of the adjudication.

(b) The bureau shall retain data on a juvenile until the offender reaches the age of 28. If the offender commits another violation of sections 609.342 to 609.345 as an adult, the bureau shall retain the data for as long as the data would have been retained if the offender had been an adult at the time of the juvenile offense.

(c) The juvenile court shall forward to the bureau the following data on individuals convicted as extended jurisdiction juveniles:

- (1) the name and birthdate of the offender, including any of the juvenile's known aliases or street names;
- (2) the crime committed by the offender and the date of the crime; and
- (3) the date and county of the conviction.

The court shall notify the bureau whenever it executes an extended jurisdiction juvenile's adult sentence under section 260.126, subdivision 5.

(d) The bureau shall retain the extended jurisdiction juvenile data for as long as the data would have been retained if the offender had been an adult at the time of the offense. Data retained on individuals under this subdivision are private data under section 13.02, except that extended jurisdiction juvenile data becomes public data under section 13.87, subdivision 2, when the juvenile court notifies the bureau that the individual's adult sentence has been executed under section 260.126, subdivision 5.

Sec. 7. Minnesota Statutes 1994, section 260.171, subdivision 2, is amended to read:

Subd. 2. (a) If the child is not released as provided in subdivision 1, the person taking the child into custody shall notify the court as soon as possible of the detention of the child and the reasons for detention.

(b) No child may be detained in a juvenile secure detention facility or shelter care facility longer than 36 hours, excluding Saturdays, Sundays, and holidays, after being taken into custody for a delinquent act as defined in section 260.015, subdivision 5, unless a petition has been filed and the judge or referee determines pursuant to section 260.172 that the child shall remain in detention.

(c) No child may be detained in an adult jail or municipal lockup longer than 24 hours, excluding Saturdays, Sundays, and holidays, or longer than six hours in an adult jail or municipal lockup in a standard metropolitan statistical area, after being taken into custody for a delinquent act as defined in section 260.015, subdivision 5, unless:

- (1) a petition has been filed under section 260.131; and
- (2) a judge or referee has determined under section 260.172 that the child shall remain in detention.

After August 1, 1991, no child described in this paragraph may be detained in an adult jail or municipal lockup longer than 24 hours, excluding Saturdays, Sundays, and holidays, or longer than six hours in an adult jail or municipal lockup in a standard metropolitan statistical area, unless

the requirements of this paragraph have been met and, in addition, a motion to refer the child for adult prosecution has been made under section 260.125. Notwithstanding this paragraph, continued detention of a child in an adult detention facility outside of a standard metropolitan statistical area county is permissible if:

(i) the facility in which the child is detained is located where conditions of distance to be traveled or other ground transportation do not allow for court appearances within 24 hours. A delay not to exceed 48 hours may be made under this clause; or

(ii) the facility is located where conditions of safety exist. Time for an appearance may be delayed until 24 hours after the time that conditions allow for reasonably safe travel. "Conditions of safety" include adverse life-threatening weather conditions that do not allow for reasonably safe travel.

The continued detention of a child under clause (i) or (ii) must be reported to the commissioner of corrections.

(d) No child taken into custody pursuant to section 260.165, subdivision 1, clause (a) or (c)(2) may be held in a shelter care facility longer than 72 hours, excluding Saturdays, Sundays and holidays, unless a petition has been filed and the judge or referee determines pursuant to section 260.172 that the child shall remain in custody.

(e) If a child described in paragraph (c) is to be detained in a jail beyond 24 hours, excluding Saturdays, Sundays, and holidays, the judge or referee, in accordance with rules and procedures established by the commissioner of corrections, shall notify the commissioner of the place of the detention and the reasons therefor. The commissioner shall thereupon assist the court in the relocation of the child in an appropriate juvenile secure detention facility or approved jail within the county or elsewhere in the state, or in determining suitable alternatives. The commissioner shall direct that a child detained in a jail be detained after eight days from and including the date of the original detention order in an approved juvenile secure detention facility with the approval of the administrative authority of the facility. If the court refers the matter to the prosecuting authority pursuant to section 260.125, notice to the commissioner shall not be required.

Sec. 8. Minnesota Statutes 1995 Supplement, section 260.195, subdivision 2a, is amended to read:

Subd. 2a. [NO RIGHT TO COUNSEL AT PUBLIC EXPENSE.] Except as otherwise provided in section 260.155, subdivision 2, a child alleged to be a juvenile petty offender may be represented by counsel, but does not have a right to appointment of a public defender or other counsel at public expense.

Sec. 9. Minnesota Statutes 1994, section 260.281, is amended to read:

260.281 [NEW EVIDENCE.]

A child whose status has been adjudicated by a juvenile court, or the child's parent, guardian, custodian or spouse may, at any time within 90 15 days of the filing of the court's order, petition the court for a rehearing on the ground that new evidence has been discovered affecting the advisability of the court's original adjudication or disposition. Upon a showing that such evidence does exist the court shall order that a new hearing be held within 30 days, unless the court extends this time period for good cause shown within the 30-day period, and shall make such disposition of the case as the facts and the best interests of the child warrant.

Sec. 10. Minnesota Statutes 1994, section 260.301, is amended to read:

260.301 [CONTEMPT.]

Any person knowingly interfering with an order of the juvenile court is in contempt of court. However, a child who is under the continuing jurisdiction of the court for reasons other than delinquency having committed a delinquent act or a juvenile petty offense may not be adjudicated as a delinquent solely on the basis of having knowingly interfered with or disobeyed an order of the court.

Sec. 11. Minnesota Statutes 1995 Supplement, section 299C.10, subdivision 1, is amended to read:

Subdivision 1. [LAW ENFORCEMENT DUTY.] (a) It is hereby made the duty of the sheriffs of the respective counties and, of the police officers in cities of the first, second, and third classes, under the direction of the chiefs of police in such cities, and of community corrections agencies operating secure juvenile detention facilities to take or cause to be taken immediately finger and thumb prints, photographs, distinctive physical mark identification data, and such other identification data as may be requested or required by the superintendent of the bureau; of all persons arrested for a felony, gross misdemeanor, of all juveniles committing felonies as distinguished from those committed by adult offenders, of all persons reasonably believed by the arresting officer to be fugitives from justice, of all persons in whose possession, when arrested, are found concealed firearms or other dangerous weapons, burglar tools or outfits, high-power explosives, or articles, machines, or appliances usable for an unlawful purpose and reasonably believed by the arresting officer to be intended for such purposes, and within 24 hours thereafter to forward such fingerprint records and other identification data on such forms and in such manner as may be prescribed by the superintendent of the bureau of criminal apprehension.

(b) Effective August 1, 1997, the identification reporting requirements shall also apply to persons committing misdemeanor offenses, including violent and enhanceable crimes, and juveniles committing gross misdemeanors. In addition, the reporting requirements shall include any known aliases or street names of the offenders.

Sec. 12. [REPEALER.]

Minnesota Statutes 1994, section 260.141, subdivision 1, is repealed.

Sec. 13. [EFFECTIVE DATE.]

Sections 1 to 12 are effective August 1, 1996, and apply to offenses committed on or after that date.

ARTICLE 7

VICTIMS

Section 1. [15.87] [VICTIMS OF VIOLENCE.]

In furtherance of the state policy of zero tolerance for violence in section 1.50, the state shall have a goal of providing:

(a) every victim of violence in Minnesota, regardless of the county of residence, access to necessary services, including, but not limited to:

- (1) crisis intervention services, including a 24-hour emergency telephone line;
- (2) safe housing;
- (3) counseling and peer support services; and
- (4) assistance in pursuing legal remedies and appropriate medical care; and

(b) every child who is a witness to abuse or who is a victim of violence, access to necessary services, including, but not limited to:

- (1) crisis child care;
- (2) safe supervised child visitation, when needed;
- (3) age appropriate counseling and support; and
- (4) assistance with legal remedies, medical care, and needed social services.

Sec. 2. Minnesota Statutes 1995 Supplement, section 609.10, is amended to read:

609.10 [SENTENCES AVAILABLE.]

Upon conviction of a felony and compliance with the other provisions of this chapter the court, if it imposes sentence, may sentence the defendant to the extent authorized by law as follows:

- (1) to life imprisonment; or
- (2) to imprisonment for a fixed term of years set by the court; or
- (3) to both imprisonment for a fixed term of years and payment of a fine; or
- (4) to payment of a fine without imprisonment or to imprisonment for a fixed term of years if the fine is not paid; or
- (5) to payment of court-ordered restitution in addition to either imprisonment or payment of a fine, or both; or
- (6) to payment of a local correctional fee as authorized under section 609.102 in addition to any other sentence imposed by the court.

As used in this section, "restitution" includes:

- (i) payment of compensation to the victim or the victim's family; and
- (ii) if the victim is deceased or already has been fully compensated, payment of money to a victim assistance program or other program directed by the court.

In controlled substance crime cases, "restitution" also includes payment of compensation to a government entity that incurs loss as a direct result of the controlled substance crime.

Sec. 3. Minnesota Statutes 1995 Supplement, section 609.125, is amended to read:

609.125 [SENTENCE FOR MISDEMEANOR OR GROSS MISDEMEANOR.]

Upon conviction of a misdemeanor or gross misdemeanor the court, if sentence is imposed, may, to the extent authorized by law, sentence the defendant:

- (1) to imprisonment for a definite term; or
- (2) to payment of a fine, or to imprisonment for a specified term if the fine is not paid; or
- (3) to both imprisonment for a definite term and payment of a fine; or
- (4) to payment of court-ordered restitution in addition to either imprisonment or payment of a fine, or both; or
- (5) to payment of a local correctional fee as authorized under section 609.102 in addition to any other sentence imposed by the court.

As used in this section, "restitution" includes:

- (i) payment of compensation to the victim or the victim's family; and
- (ii) if the victim is deceased or already has been fully compensated, payment of money to a victim assistance program or other program directed by the court.

In controlled substance crime cases, "restitution" also includes payment of compensation to a government entity that incurs loss as a direct result of the controlled substance crime.

Sec. 4. Minnesota Statutes 1994, section 609.135, subdivision 1, is amended to read:

Subdivision 1. [TERMS AND CONDITIONS.] Except when a sentence of life imprisonment is required by law, or when a mandatory minimum sentence is required by section 609.11, any court may stay imposition or execution of sentence and (a) may order intermediate sanctions without

placing the defendant on probation, or (b) may place the defendant on probation with or without supervision and on the terms the court prescribes, including intermediate sanctions when practicable. The court may order the supervision to be under the probation officer of the court, or, if there is none and the conviction is for a felony or gross misdemeanor, by the commissioner of corrections, or in any case by some other suitable and consenting person. No intermediate sanction may be ordered performed at a location that fails to observe applicable requirements or standards of chapter 181A or 182, or any rule promulgated under them. For purposes of this subdivision, subdivision 6, and section 609.14, the term "intermediate sanctions" includes but is not limited to incarceration in a local jail or workhouse, home detention, electronic monitoring, intensive probation, sentencing to service, reporting to a day reporting center, chemical dependency or mental health treatment or counseling, restitution, fines, day-fines, community work service, and work in lieu of or to work off fines and, with the victim's consent, work in lieu of or to work off restitution.

A court may not stay the revocation of the driver's license of a person convicted of violating the provisions of section 169.121.

Sec. 5. Minnesota Statutes 1995 Supplement, section 611A.01, is amended to read:

611A.01 [DEFINITIONS.]

For the purposes of sections 611A.01 to 611A.06:

(a) "Crime" means conduct that is prohibited by local ordinance and results in bodily harm to an individual; or conduct that is included within the definition of "crime" in section 609.02, subdivision 1, or would be included within that definition but for the fact that (i) the person engaging in the conduct lacked capacity to commit the crime under the laws of this state, or (ii) the act was alleged or found to have been committed by a juvenile;

(b) "Victim" means a natural person who incurs loss or harm as a result of a crime, including a good faith effort to prevent a crime, and for purposes of sections 611A.04 and 611A.045, also includes (i) a corporation that incurs loss or harm as a result of a crime, and (ii) any other entity authorized to receive restitution under section 609.10 or 609.125. If the victim is a natural person and is deceased, "victim" means the deceased's surviving spouse or next of kin; and

(c) "Juvenile" has the same meaning as given to the term "child" in section 260.015, subdivision 2.

Sec. 6. Minnesota Statutes 1995 Supplement, section 611A.04, subdivision 1, is amended to read:

Subdivision 1. [REQUEST; DECISION.] (a) A victim of a crime has the right to receive restitution as part of the disposition of a criminal charge or juvenile delinquency proceeding against the offender if the offender is convicted or found delinquent. The court, or a person or agency designated by the court, shall request information from the victim to determine the amount of restitution owed. The court or its designee shall obtain the information from the victim in affidavit form or by other competent evidence. Information submitted relating to restitution must describe the items or elements of loss, itemize the total dollar amounts of restitution claimed, and specify the reasons justifying these amounts, if restitution is in the form of money or property. A request for restitution may include, but is not limited to, any out-of-pocket losses resulting from the crime, including medical and therapy costs, replacement of wages and services, expenses incurred to return a child who was a victim of a crime under section 609.26 to the child's parents or lawful custodian, and funeral expenses. An actual or prospective civil action involving the alleged crime shall not be used by the court as a basis to deny a victim's right to obtain court-ordered restitution under this section. In order to be considered at the sentencing or dispositional hearing, all information regarding restitution must be received by the court administrator of the appropriate court at least three business days before the sentencing or dispositional hearing. The court administrator shall provide copies of this request to the prosecutor and the offender or the offender's attorney at least 24 hours before the sentencing or dispositional hearing. The issue of restitution may be is reserved or the sentencing or dispositional hearing or hearing on the restitution request may be continued if the victim's affidavit or other competent

evidence submitted by the victim is not received in time. At the sentencing or dispositional hearing, the court shall give the offender an opportunity to respond to specific items of restitution and their dollar amounts in accordance with the procedures established in section 611A.045, subdivision 3.

(b) The court may amend or issue an order of restitution after the sentencing or dispositional hearing if:

(1) the offender is on probation, committed to the commissioner of corrections, or on supervised release;

(2) ~~information regarding sufficient evidence of a right to restitution was~~ has been submitted as ~~required under paragraph (a); and~~

(3) the true extent of the victim's loss or the loss of the crime victims reparations board was not known at the time of the sentencing or dispositional hearing, or hearing on the restitution request.

If the court holds a hearing on the restitution request, the court must notify the offender, the offender's attorney, the victim, and the prosecutor, and the crime victims reparations board at least five business days before the hearing. The court's restitution decision is governed by this section and section 611A.045.

(c) The court shall grant or deny restitution or partial restitution and shall state on the record its reasons for its decision on restitution if information relating to restitution has been presented. If the court grants partial restitution it shall also specify the full amount of restitution that may be docketed as a civil judgment under subdivision 3. The court may not require that the victim waive or otherwise forfeit any rights or causes of action as a condition of granting restitution or partial restitution. In the case of a defendant who is on probation, the court may not refuse to enforce an order for restitution solely on the grounds that the order has been docketed as a civil judgment.

Sec. 7. Minnesota Statutes 1994, section 611A.04, subdivision 1a, is amended to read:

Subd. 1a. [CRIME BOARD REQUEST.] The crime victims reparations board may request restitution on behalf of a victim by filing a copy of orders of the board, if any, which detail any amounts paid by the board to the victim. The board may file the payment order with the court administrator or with the person or agency the court has designated to obtain information relating to restitution. ~~In either event, The board shall submit the payment order not less than three business days before the sentencing or dispositional hearing after it is issued by the board. The court administrator shall provide copies of the payment order to the prosecutor and the offender or the offender's attorney within 48 hours of receiving it from the board or at least 24 hours before the sentencing or dispositional hearing, whichever is earlier. By operation of law, the issue of restitution may be is reserved or the sentencing or disposition continued if the payment order is not received in time at least three days before the sentencing or dispositional hearing. The filing of a payment order for reparations with the court administrator shall also serve as a request for restitution by the victim. The restitution requested by the board may be considered to be both on its own behalf and on behalf of the victim. If the board has not paid reparations to the victim or on the victim's behalf, restitution may be made directly to the victim. If the board has paid reparations to the victim or on the victim's behalf, the court shall order restitution payments to be made directly to the board.~~

Sec. 8. Minnesota Statutes 1994, section 611A.04, subdivision 3, is amended to read:

Subd. 3. [EFFECT OF ORDER FOR RESTITUTION.] An order of restitution may be enforced by any person named in the order to receive the restitution, or by the crime victims reparations board in the same manner as a judgment in a civil action. Any order for restitution in favor of a victim shall also operate as an order for restitution in favor of the crime victims reparations board, if the board has paid reparations to the victim or on the victim's behalf. Filing fees for docketing an order of restitution as a civil judgment are waived for any victim named in the restitution order. An order of restitution shall be docketed as a civil judgment, in the name of any person named in the order and in the name of the crime victims reparations board, by the court administrator of the district court in the county in which the order of restitution was entered. The court administrator

also shall notify the commissioner of revenue of the restitution debt in the manner provided in chapter 270A, the revenue recapture act. A juvenile court is not required to appoint a guardian ad litem for a juvenile offender before docketing a restitution order. Interest shall accrue on the unpaid balance of the judgment as provided in section 549.09. Whether the order of restitution has been docketed or not, it is a debt that is not dischargeable in bankruptcy. A decision for or against restitution in any criminal or juvenile proceeding is not a bar to any civil action by the victim or by the state pursuant to section 611A.61 against the offender. The offender shall be given credit, in any order for judgment in favor of a victim in a civil action, for any restitution paid to the victim for the same injuries for which the judgment is awarded.

Sec. 9. Minnesota Statutes 1994, section 611A.25, subdivision 3, is amended to read:

Subd. 3. [TERMS; VACANCIES; EXPENSES.] Section 15.059 governs the filling of vacancies and removal of members of the sexual assault advisory council. The terms of the members of the advisory council shall be two years. No member may serve on the advisory council for more than two consecutive terms. Council members shall ~~not receive per diem or~~ expense reimbursement as specified in section 15.059.

Sec. 10. Minnesota Statutes 1994, section 611A.361, subdivision 3, is amended to read:

Subd. 3. [TERMS; VACANCIES; EXPENSES.] Section 15.059 governs the filling of vacancies and removal of members of the general crime victims advisory council. The terms of the members of the advisory council shall be two years. No member may serve on the advisory council for more than two consecutive terms. Council members shall ~~not receive per diem or~~ expense reimbursement as specified in section 15.059.

Sec. 11. [611A.78] [CRIME VICTIM SERVICES ROUNDTABLE.]

Subdivision 1. [MEMBERSHIP.] A crime victim services roundtable is created and shall be convened by the commissioner of administration or a designee. The roundtable membership shall include representatives from the following: the departments of health; human services; children, families, and learning; corrections; and public safety; the supreme court; the Minnesota planning agency; the office of the attorney general; the office of crime victim ombudsman; the county attorneys association; and the office of dispute resolution. The roundtable membership shall also include one person representing the four councils designated in sections 3.922, 3.9223, 3.9225, and 3.9226.

Subd. 2. [DUTIES.] The crime victim services roundtable shall meet at least four times each year to discuss issues concerning victim services, including, but not limited to, methods for improving the delivery of and securing increased funding for victim services. The roundtable shall present to the legislature any initiatives, including those for increasing efficiency in the administration of services, which require legislative action.

Sec. 12. [EFFECTIVE DATE.]

Sections 1 to 8, and 11 are effective August 1, 1996. Sections 9 and 10 are effective July 1, 1996.

ARTICLE 8 CORRECTIONS

Section 1. Minnesota Statutes 1995 Supplement, section 16B.181, is amended to read:

16B.181 [PURCHASES FROM CORRECTIONS INDUSTRIES.]

~~(a) The commissioner, in consultation with the commissioner of corrections, shall prepare a list of products and services that are available for purchase from department of corrections industries. After publication of the product and service list by the commissioner, state agencies and institutions shall purchase the listed products and services from department of corrections industries if the products and services are equivalent in price and quality to products and services available from other sources unless the commissioner of corrections certifies that the correctional institutions cannot provide them at a price within five percent of the fair market price for~~

comparable level of quality and within a reasonable delivery time. In determining the fair market price, the commissioner of administration shall use competitive bidding or consider open market bid prices in previous years for similar products and services, plus inflationary increases.

(b) The commissioner of administration shall ensure that state agency specifications are not unduly restrictive as to prevent corrections industries from providing products or services that meet the needs of the purchasing department, institution, or agency.

Subdivision 1. [DEFINITIONS.] As used in this section:

(1) "public entity" or "public entities" include the state and an agency, department, or institution of the state, and state colleges and universities; and

(2) "items" include articles, products, supplies, and services.

Subd. 2. [PUBLIC ENTITIES; PURCHASES FROM CORRECTIONS INDUSTRIES.] (a) The commissioner of corrections shall prepare updated lists of the items available for purchase from department of corrections industries and annually forward a copy of the most recent list to all public entities within the state. A public entity that is supported in whole or in part with funds from the state treasury shall purchase directly from corrections industries those items that are comparable in price, quality, and delivery time to items available from other vendors. An item is comparable in price if the price is no more than five percent higher than the lowest bid price.

(b) The commissioner of administration shall develop a contract pursuant to section 16B.09, to enable public entities to purchase items directly from corrections industries. The commissioner of administration, in consultation with the commissioner of corrections, shall determine the fair market price for listed items. In determining fair market price, the commissioner shall use competitive bidding, or shall consider open bid prices in previous years for similar products which meet the needs of the public entity.

(c) No public entity may evade the intent of this section by adopting slight variations in specifications, when Minnesota corrections industry items meet the reasonable needs and specifications of the public entity.

(d) As part of its ongoing audit process, the legislative auditor is requested to ensure that state agencies are in compliance with this section.

(e) (e) The commissioners of administration and corrections shall appoint a joint task force to explore additional methods that support the philosophy of providing a substantial market opportunity to correctional industries that maximizes inmate work opportunities. The task force shall develop a plan and prepare a set of criteria with which to evaluate the effectiveness of the recommendations and initiatives in the plan. By February 15, 1997, the task force shall report to the chairs of the senate and house of representatives committees having jurisdiction over criminal justice funding.

Sec. 2. [241.265] [HIGHER EDUCATION; CERTAIN PAYMENTS PROHIBITED.]

The commissioner may not pay for a college education program beyond the associate of arts degree level for an inmate convicted of first or second degree murder. The commissioner of corrections may only pay for an associate of arts college education program for an inmate convicted of first or second degree murder if the inmate's participation in the program does not increase the cost of the program to the institution.

Sec. 3. Minnesota Statutes 1994, section 241.275, is amended to read:

241.275 [PRODUCTIVE DAY INITIATIVE PROGRAMS; CORRECTIONAL FACILITIES; HENNEPIN, RAMSEY, AND ST. LOUIS COUNTIES.]

Subdivision 1. [PROGRAM ESTABLISHMENT.] (a) As used in this section, "correctional facility" includes a community-based day program to which an offender is sentenced in lieu of incarceration, if the program provides close supervision of offenders through such means as electronic monitoring and drug and alcohol testing.

(b) The counties of Hennepin, Ramsey, and St. Louis shall each establish a productive day initiative program in their correctional facilities as described in this section. The productive day program shall be designed to motivate inmates sentenced offenders in local correctional facilities to develop basic life and work skills through training and education, thereby creating opportunities for inmates on-release offenders to achieve more successful integration into the community upon their release.

Subd. 2. [PROGRAM COMPONENTS.] The productive day initiative programs shall include components described in paragraphs (a) to (c).

(a) The initiative programs shall contain programs designed to promote the inmate's offender's self-esteem, self-discipline, and economic self-sufficiency by providing structured training and education with respect to basic life skills, including hygiene, personal financial budgeting, literacy, and conflict management.

(b) The programs shall contain individualized educational, vocational, and work programs designed to productively occupy an inmate offender for at least eight hours a day.

(c) The program administrators shall develop correctional industry programs, including marketing efforts to attract work opportunities both inside correctional facilities and outside in the community. Program options may include expanding and reorganizing on-site industry programs, locating off-site industry work areas, and community service work programs, and employment programs. To develop innovative work programs, program administrators may enlist members of the business and labor community to help target possible productive enterprises for inmate offender work programs.

(d) Whenever inmates offenders are assigned to work within the correctional facility or with any state department or agency, local unit of government, or other government subdivision, the program administrator must certify to the appropriate bargaining agent that work performed by inmates offenders will not result in the displacement of current employed workers or workers on seasonal layoff or layoff from a substantially equivalent position, including partial displacement such as reduction in hours of work other than overtime work, wages, or other employment benefits.

Subd. 3. [ELIGIBILITY.] The administrators of each productive day program shall develop criteria for inmate offender eligibility for the program.

Subd. 4. [EVALUATION.] The administrators of each of the productive day initiative programs shall develop program evaluation tools to monitor the success of the programs.

Subd. 5. [REPORT.] Hennepin, Ramsey, and St. Louis counties shall each report results of their evaluations to the chairs of the house judiciary finance division and the senate crime prevention finance division by July 1, 1996.

Sec. 4. Minnesota Statutes 1995 Supplement, section 243.212, is amended to read:

243.212 [COPAYMENTS FOR HEALTH SERVICES.]

Any inmate of an adult correctional facility under the control of the commissioner of corrections shall incur copayment and ~~coinsurance obligations for health care services received in the amounts established for adult enrollees of the MinnesotaCare program established under section 256.9353, subdivision 7, to the extent the inmate has available funds~~ obligations for health care services provided. The copayment will be paid from the inmate account of earnings and other funds, as provided in section 243.23, subdivision 3. The funds paid under this subdivision are appropriated to the commissioner of corrections for the delivery of health care services to inmates.

Sec. 5. [243.555] [SMOKING BY INMATES PROHIBITED.]

No inmate in a state correctional facility may possess or use tobacco or a tobacco-related device. For the purposes of this section, "tobacco" and "tobacco-related device" have the meanings given in section 609.685, subdivision 1. This section does not prohibit the possession or use of tobacco or a tobacco-related device by an adult as a part of a traditional Indian spiritual or cultural

ceremony. For purposes of this section, an Indian is a person who is a member of an Indian tribe as defined in section 257.351, subdivision 9.

Sec. 6. Minnesota Statutes 1994, section 244.17, subdivision 2, is amended to read:

Subd. 2. [ELIGIBILITY.] The commissioner must limit the challenge incarceration program to the following persons:

(1) offenders who are committed to the commissioner's custody following revocation of a stayed sentence; and

(2) offenders who are committed to the commissioner's custody ~~for a, who have 36 months or less in or remaining in their term of imprisonment of not less than 18 months nor more than 36 months,~~ and who did not receive a dispositional departure under the sentencing guidelines.

An eligible inmate is not entitled to participate in the program.

Sec. 7. Minnesota Statutes 1994, section 244.172, subdivision 2, is amended to read:

Subd. 2. [PHASE II.] Phase II of the program lasts at least six months. The offender shall serve this phase of the offender's sentence in an intensive supervision and surveillance program established by the commissioner. The commissioner may impose such requirements on the offender as are necessary to carry out the goals of the program. Throughout phase II, the offender must be required to submit to drug and alcohol tests randomly or for cause, on demand of the supervising agent. The commissioner shall also require the offender to report daily to a day-reporting facility designated by the commissioner. ~~In addition, if the commissioner required the offender to undergo acupuncture during phase I, the offender must submit to acupuncture treatment throughout phase II, on demand of the supervising agent.~~

Sec. 8. Minnesota Statutes 1994, section 260.311, subdivision 3a, is amended to read:

Subd. 3a. [DETAINING PERSON ON CONDITIONAL RELEASE OR PROBATION.] (a) The written order of the court services director or designee of a county probation agency not organized under chapter 401 is sufficient authority for peace officers and county probation officers serving a the district or juvenile court may, without a warrant of nonparticipating counties when it appears necessary to prevent escape or enforce discipline, to take and detain a probationer or any person on conditional release and bring that person before the court or the commissioner of corrections, whichever is appropriate, for disposition. No probationer or other person on conditional release shall be detained under this subdivision more than 72 hours, excluding Saturdays, Sundays and holidays, without being given an opportunity for a hearing before the court or the commissioner of corrections or a designee.

(b) The written order of the court services director or designee of a county probation agency not established under chapter 401 is sufficient authority for probation officers serving the district and juvenile courts of nonparticipating counties to release within 72 hours, exclusive of legal holidays, Saturdays, and Sundays, without appearance before the court or the commissioner of corrections or a designee, any person detained pursuant to paragraph (a).

(c) The written order of the chief executive officer or designee of a county corrections agency established under this section and not organized under chapter 401 is sufficient authority for any peace officer or county probation officer to take and place in actual custody any person under sentence or on probation who:

(1) fails to report to serve a sentence at a local correctional facility, as defined in section 241.021, subdivision 1;

(2) fails to return from furlough or authorized temporary release from a local correctional facility;

(3) escape from a local correctional facility; or

(4) absconds from court-ordered home detention.

(d) The written order of the court services director or designee of a county probation agency established under this section and not organized under chapter 401 is sufficient authority for any peace officer or county probation officer to take and place in actual custody any person on a court-authorized pretrial release who absconds from pretrial release or fails to abide by the conditions of pretrial release.

Sec. 9. Minnesota Statutes 1994, section 352.90, is amended to read:

352.90 [POLICY.]

It is the policy of the legislature to provide special retirement benefits and contributions for certain correctional employees who may be required to retire at an early age because they lose the mental or physical capacity required to maintain the safety, security, discipline, and custody of inmates at state adult correctional facilities or of patients at the Minnesota security hospital or at the Minnesota sexual psychopathic personality treatment center.

Sec. 10. Minnesota Statutes 1994, section 352.91, subdivision 1, is amended to read:

Subdivision 1. [QUALIFYING JOBS.] "Covered correctional service" means: (1) services performed on, before, or after July 1, 1973, by a state employee, as defined in section 352.01, employed at a state correctional facility, the Minnesota security hospital, or the Minnesota sexual psychopathic personality treatment center as an attendant guard, attendant guard supervisor, correctional captain, correctional counselor I, correctional counselor II, correctional counselor III, correctional counselor IV, correctional lieutenant, correctional officer, correctional sergeant, director of attendant guards, and guard farmer garden, provided the employee was employed in the position on July 1, 1973, or after; (2) services performed before July 1, 1973, by an employee covered under clause (1) in a position classified as a houseparent, special schools counselor, shop instructor, or guard instructor; and (3) services performed before July 1, 1973, in a position listed in clause (1) and positions classified as houseparent, guard instructor, and guard farmer dairy, by a person employed on July 1, 1973, in a position classified as a license plant manager, prison industry lead supervisor (general, metal fabricating and foundry), prison industry supervisor, food service manager, prison farmer supervisor, prison farmer assistant supervisor, or rehabilitation therapist employed at the Minnesota security hospital. However, an employee is not covered under sections 352.91 to 352.951 if first employed after July 1, 1973, and because of age could not acquire sufficient service to qualify for an annuity as a correctional employee;

- (1) a corrections officer 1;
- (2) a corrections officer 2;
- (3) a corrections officer 3;
- (4) a corrections officer supervisor;
- (5) a corrections officer 4;
- (6) a corrections captain;
- (7) a security counselor; or
- (8) a security counselor lead.

Sec. 11. Minnesota Statutes 1994, section 352.91, subdivision 2, is amended to read:

Subd. 2. [TEACHING, MAINTENANCE, AND TRADES.] "Covered correctional service" also means service rendered at any time by state employees as special teachers, maintenance personnel, and members of trades certified by the commissioner of employee relations as being regularly engaged in rehabilitation, treatment, custody, or supervision of inmates employed at the a Minnesota correctional facility St. Cloud, the Minnesota correctional facility Stillwater and the Minnesota correctional facility Shakopee on or after July 1, 1974, other than any employees who are age 62 or older as of July 1, 1974. Effective the first payroll period after June 1, 1980, or the date of initial employment in covered correctional service, whichever is later, "covered

correctional service" also includes those employees of the Minnesota correctional facility Lino Lakes and the employees of any other adult state correctional facility which may be established, who perform covered correctional service after June 1, 1980. "Special teacher" also includes the classifications of facility educational administrator and supervisor facility, or of patients at the Minnesota security hospital or at the Minnesota sexual psychopathic personality treatment center.

Sec. 12. Minnesota Statutes 1994, section 352.91, is amended by adding a subdivision to read:

Subd. 2a. [SPECIAL TEACHERS.] "Covered correctional service" also means service rendered by a state employee as a special teacher employed by the department of corrections or by the department of human services at a security unit, provided that at least 75 percent of the employee's working time is spent in direct contact with inmates or patients and the fact of this direct contact is certified to the executive director by the appropriate commissioner, unless the person elects to retain the current retirement coverage under section 21.

Sec. 13. Minnesota Statutes 1994, section 352.91, subdivision 3b, is amended to read:

Subd. 3b. [OLDER EMPLOYEES FORMERLY EXCLUDED.] "Covered correctional service" also means service performed by certain state employees in positions usually covered by this section who: (1) were excluded by law from coverage between July 1973 and July 1980; (2) were age 45 or over when hired; (3) are were state employees on March 26, 1986; and (4) elect who elected coverage. Eligible employees who elect coverage must file written notice of their election with the director before July 1, 1986. An employee who did not elect coverage before July 1, 1986, is not covered by the correctional retirement plan, even if the employee's employment classification may be considered to be covered correctional service under another subdivision of this section.

Sec. 14. Minnesota Statutes 1994, section 352.91, is amended by adding a subdivision to read:

Subd. 3c. [NURSING PERSONNEL.] (a) "Covered correctional service" means service by a state employee in one of the employment positions at a correctional facility or at the Minnesota security hospital specified in paragraph (b), provided that at least 75 percent of the employee's working time is spent in direct contact with inmates or patients and the fact of this direct contact is certified to the executive director by the appropriate commissioner, unless the person elects to retain the current retirement coverage under section 21.

(b) The employment positions are as follows:

- (1) registered nurse - senior;
- (2) registered nurse;
- (3) registered nurse - principal; and
- (4) licensed practical nurse 2.

Sec. 15. Minnesota Statutes 1994, section 352.91, is amended by adding a subdivision to read:

Subd. 3d. [OTHER CORRECTIONAL PERSONNEL.] (a) "Covered correctional service" means service by a state employee in one of the employment positions at a correctional facility or at the Minnesota security hospital specified in paragraph (b), provided that at least 75 percent of the employee's working time is spent in direct contact with inmates or patients and the fact of this direct contact is certified to the executive director by the appropriate commissioner, unless the person elects to retain the current retirement coverage under section 21.

(b) The employment positions are as follows: baker, chemical dependency counselor supervisor, chief cook, cook, cook coordinator, corrections behavior therapist, corrections behavior therapist specialist, corrections parent education coordinator, corrections security caseworker, corrections security caseworker career, corrections teaching assistant, dentist, electrician supervisor, general repair worker, library/information research services specialist, library information research services specialist senior, plumber supervisor, psychologist 3, recreation therapist, recreation therapist coordinator, recreation program assistant, recreation

therapist senior, stores clerk senior, water treatment plant operator, work therapy technician, work therapy assistant, work therapy program coordinator.

Sec. 16. Minnesota Statutes 1994, section 352.91, subdivision 4, is amended to read:

Subd. 4. [CERTIFICATION PROCEDURE FOR ADDITIONAL POSITIONS.] Upon the recommendation of the commissioner of corrections or the commissioner of human services, whichever is the appropriate employing authority, with the approval of the legislative advisory committee and with notification to and receipt of comments from the legislative commission on pensions and retirement, the commissioner of employee relations may certify additional civil service classifications positions at a state correctional or security hospital facilities facility, the Minnesota security hospital, or the Minnesota sexual psychopathic personality treatment center to the executive director of the Minnesota state retirement system as positions rendering covered correctional service. The commissioner of corrections and the commissioner of human services must establish, in writing, a set of criteria upon which to base a recommendation for certifying additional civil service classifications as rendering covered correctional service.

Sec. 17. Minnesota Statutes 1994, section 352.91, is amended by adding a subdivision to read:

Subd. 5. [CORRECTION OF ERRORS.] (a) If it is determined that an employee should have been covered by the correctional retirement plan but was placed in the general employees retirement plan or teachers retirement association in error, the commissioner of corrections or the commissioner of human services must report the error to the executive director of the Minnesota state retirement system. The service must be properly credited under the correctional employees retirement plan for a period of not to exceed five years before the date on which the commissioner of corrections or human services notifies the executive director of the Minnesota state retirement system in writing or five years from the date on which an employee requests, in writing, the applicable department to determine if the person has appropriate retirement plan coverage, whichever is earlier. If the error covers more than a five-year period, the service before the five-year period must remain under the plan originally credited the service. The employee shall pay the difference between the employee contributions actually paid during the five-year period and what should have been paid under the correctional employees retirement plan. The department making the error shall pay to the correctional employees retirement plan an amount equal to the difference in the present value of accrued retirement benefits caused by the change in coverage after subtracting the amount paid by the employee. Calculation of this amount must be made by the executive director of the Minnesota state retirement system using the applicable preretirement interest rate specified in section 356.215, subdivision 4d, and the mortality table adopted for the Minnesota state retirement system. The calculation must assume continuous future service in the correctional employees retirement plan until the employee would reach the age eligible for normal retirement. The calculation must also assume a future salary history that includes annual salary increases at the salary increase rate or rates specified in section 356.215, subdivision 4d.

(b) If an employee was covered under the correctional employees retirement plan, but it is determined that the person should have been covered under the general employees retirement plan, the error must be corrected if written notification is provided to the employee and the executive director of the Minnesota state retirement system within three years of the date on which the coverage was improperly started. The difference in employee and employer contributions actually paid to the correctional employees retirement plan in excess of the amount that should have been paid to the general employees retirement plan must be refunded to the employee and the employer paying the additional contributions.

Sec. 18. Minnesota Statutes 1994, section 352.92, subdivision 2, is amended to read:

Subd. 2. [EMPLOYER CONTRIBUTIONS.] (a) In lieu of employer contributions payable under section 352.04, subdivision 3, the employer shall contribute for covered correctional employees an amount equal to ~~6.27~~ 6.75 percent of salary.

(b) By January 1 of each year, the board of directors shall report to the legislative commission on pensions and retirement, the chair of the committee on appropriations of the house of representatives, and the chair of the committee on finance of the senate on the amount raised by the employer and employee contribution rates in effect and whether the total amount is less than, the same as, or more than the actuarial requirement determined under section 356.215.

Sec. 19. Minnesota Statutes 1994, section 401.10, is amended to read:

401.10 ~~[COMMUNITY CORRECTIONS EQUALIZATION FORMULA AID.]~~

Subdivision 1. ~~[AID CALCULATIONS.]~~ To determine the community corrections aid amount to be paid to each participating counties county, the commissioner of corrections will must apply the following formula:

~~(1) All 87 counties will be scored in accordance with a formula involving four factors:~~

~~(a) per capita income;~~

~~(b) per capita net tax capacity;~~

~~(c) per capita expenditure per 1,000 population for correctional purposes, and;~~

~~(d) percent of county population aged six through 30 years of age according to the most recent federal census, and, in the intervening years between the taking of the federal census, according to the state demographer.~~

~~"Per capita expenditure per 1,000 population" for each county is to be determined by multiplying the number of persons convicted of a felony under supervision in each county at the end of the current year by \$350. To the product thus obtained will be added:~~

~~(i) the number of presentence investigations completed in that county for the current year multiplied by \$50;~~

~~(ii) the annual cost to the county for county probation officers' salaries for the current year; and~~

~~(iii) 33 1/3 percent of such annual cost for probation officers' salaries.~~

~~The total figure obtained by adding the foregoing items is then divided by the total county population according to the most recent federal census, or, during the intervening years between federal censuses, according to the state demographer.~~

~~(2) The percent of county population aged six through 30 years shall be determined according to the most recent federal census, or, during the intervening years between federal censuses, according to the state demographer.~~

~~(3) Each county is then scored as follows:~~

~~(a) Each county's per capita income is divided into the 87 county average;~~

~~(b) Each county's per capita net tax capacity is divided into the 87 county average;~~

~~(c) Each county's per capita expenditure for correctional purposes is divided by the 87 county average;~~

~~(d) Each county's percent of county population aged six through 30 is divided by the 87 county average.~~

~~(4) The scores given each county on each of the foregoing four factors are then totaled and divided by four.~~

~~(5) The quotient thus obtained then becomes the computation factor for the county. This computation factor is then multiplied by a "dollar value," as fixed by the appropriation pursuant to sections 401.01 to 401.16, times the total county population. The resulting product is the amount of subsidy to which the county is eligible under sections 401.01 to 401.16. Notwithstanding any law to the contrary, the commissioner of corrections, after notifying the committees on finance of the senate and appropriations of the house of representatives, may, at the end of any fiscal year, transfer any unobligated funds in any appropriation to the department of corrections to the appropriation under sections 401.01 to 401.16, which appropriation shall not cancel but is reappropriated for the purposes of sections 401.01 to 401.16.~~

(1) For each of the 87 counties in the state, a percent score must be calculated for each of the following five factors:

(a) percent of the total state population aged ten to 24 residing within the county according to the most recent federal census, and, in the intervening years between the taking of the federal census, according to the most recent estimate of the state demographer;

(b) percent of the statewide total number of felony case filings occurring within the county, as determined by the state court administrator;

(c) percent of the statewide total number of juvenile case filings occurring within the county, as determined by the state court administrator;

(d) percent of the statewide total number of gross misdemeanor case filings occurring within the county, as determined by the state court administrator; and

(e) percent of the total statewide number of convicted felony offenders who did not receive an executed prison sentence, as monitored and reported by the sentencing guidelines commission.

The percents in clauses (b) to (e) must be calculated by combining the most recent three-year period of available data. The percents in clauses (a) to (e) each must sum to 100 percent across the 87 counties.

(2) For each of the 87 counties, the county's percents in clauses (a) to (e) must be weighted, summed, and divided by the sum of the weights to yield an average percent for each county, referred to as the county's "composite need percent." When performing this calculation, the weight for each of the percents in clauses (a) to (e) is 1.0. The composite need percent must sum to 100 percent across the 87 counties.

(3) For each of the 87 counties, the county's "adjusted net tax capacity percent" is the county's adjusted net tax capacity amount, defined in the same manner as it is defined for cities in section 477A.011, subdivision 20, divided by the statewide total adjusted net tax capacity amount. The adjusted net tax capacity percent must sum to 100 percent across the 87 counties.

(4) For each of the 87 counties, the county's composite need percent must be divided by the county's adjusted net tax capacity percent to produce a ratio that, when multiplied by the county's composite need percent, results in the county's "tax base adjusted need percent."

(5) For each of the 87 counties, the county's tax base adjusted need percent must be added to twice the composite need percent, and the sum must be divided by 3, to yield the county's "weighted need percent."

(6) Each participating county's weighted need percent must be added to the weighted need percent of each other participating county to yield the "total weighted need percent for participating counties."

(7) Each participating county's weighted need percent must be divided by the total weighted need percent for participating counties to yield the county's "share percent." The share percents for participating counties must sum to 100 percent.

(8) Each participating county's "base funding amount" is the aid amount that the county received under this section for fiscal year 1995, as reported by the commissioner of corrections. In fiscal year 1997 and thereafter, no county's aid amount under this section may be less than its base funding amount, provided that the total amount appropriated for this purpose is at least as much as the aggregate base funding amount defined in clause (9).

(9) The "aggregate base funding amount" is equal to the sum of the base funding amounts for all participating counties. If a county that participated under this section during fiscal year 1995 chooses not to participate in any given year, then the aggregate base funding amount must be reduced by that county's base funding amount. If a county that did not participate under this section in fiscal year 1995 chooses to participate in any given year, then the aggregate base funding amount must be increased by the amount of aid that the county would have received had it

participated in fiscal year 1995, as reported by the commissioner of corrections, and the amount of increase shall be that county's base funding amount.

(10) In any given year, the total amount appropriated for this purpose first must be allocated to participating counties in accordance with each county's base funding amount. Then, any remaining amount in excess of the aggregate base funding amount must be allocated to participating counties in proportion to each county's share percent, and is referred to as the county's "formula amount."

Each participating county's "community corrections aid amount" equals the sum of (i) the county's base funding amount, and (ii) the county's formula amount.

However, if in any year the total amount appropriated for the purpose of this section is less than the aggregate base funding amount, then each participating county's community corrections aid amount is the product of (i) the county's base funding amount multiplied by (ii) the ratio of the total amount appropriated to the aggregate base funding amount.

For each participating county, the county's community corrections aid amount calculated in this subdivision is the total amount of subsidy to which the county is entitled under sections 401.01 to 401.16.

Subd. 2. [TRANSFER OF FUNDS.] Notwithstanding any law to the contrary, the commissioner of corrections, after notifying the committees on finance of the senate and ways and means of the house of representatives, may, at the end of any fiscal year, transfer any unobligated funds in any appropriation to the department of corrections to the appropriation under sections 401.01 to 401.16, which appropriation shall not cancel but is reappropriated for the purposes of sections 401.01 to 401.16.

Subd. 3. [FORMULA REVIEW.] Prior to January 16, 2002, the committees with jurisdiction over community corrections funding decisions in the house of representatives and the senate, in consultation with the department of corrections and any interested county organizations, must review the formula in subdivision 1 and make recommendations to the legislature for its continuation, modification, replacement, or discontinuation.

Sec. 20. Minnesota Statutes 1995 Supplement, section 641.15, subdivision 2, is amended to read:

Subd. 2. [MEDICAL AID.] Except as provided in section 466.101, the county board shall pay the costs of medical services provided to prisoners. The county is entitled to reimbursement from the prisoner for payment of medical bills to the extent that the prisoner to whom the medical aid was provided has the ability to pay the bills. ~~If the prisoner does not have the ability to pay the prisoner's entire medical bill, The prisoner shall, at a minimum, incur copayment and coinsurance obligations for health care services received in the amounts established for adult enrollees of the MinnesotaCare program established under section 256.9353, subdivision 7, to the extent the prisoner has available funds provided by a county correctional facility.~~ The county board shall determine the copayment amount. Notwithstanding any law to the contrary, the copayment shall be deducted from any of the prisoner's funds held by the county, to the extent possible. If there is a disagreement between the county and a prisoner concerning the prisoner's ability to pay, the court with jurisdiction over the defendant shall determine the extent, if any, of the prisoner's ability to pay for the medical services. If a prisoner is covered by health or medical insurance or other health plan when medical services are provided, the county providing the medical services has a right of subrogation to be reimbursed by the insurance carrier for all sums spent by it for medical services to the prisoner that are covered by the policy of insurance or health plan, in accordance with the benefits, limitations, exclusions, provider restrictions, and other provisions of the policy or health plan. The county may maintain an action to enforce this subrogation right. The county does not have a right of subrogation against the medical assistance program or the general assistance medical care program.

Sec. 21. [TEMPORARY PROVISION; ELECTION TO RETAIN RETIREMENT COVERAGE.]

(a) An employee in a position specified as qualifying under sections 12, 14, and 15, may elect to retain coverage under the general employees retirement plan of the Minnesota state retirement system or the teachers retirement association, or may elect to have coverage transferred to and to contribute to the correctional employees retirement plan. An employee electing to participate in the correctional employees retirement plan shall begin making contributions to the correctional plan beginning the first full pay period after January 1, 1997, or the first full pay period following filing of their election to transfer coverage to the correctional employees retirement plan, whichever is later. The election to retain coverage or to transfer coverage must be made in writing by the person on a form prescribed by the executive director of the Minnesota state retirement system and must be filed with the executive director no later than June 30, 1997.

(b) An employee failing to make an election by June 15, 1997, must be notified by certified mail by the executive director of the Minnesota state retirement system or of the teachers retirement association, whichever applies, of the deadline to make a choice. A person who does not submit an election form must continue coverage in the general employees retirement plan or the teachers retirement association, whichever applies, and forfeits all rights to transfer retirement coverage to the correctional employees retirement plan.

(c) The election to retain coverage in the general employee retirement plan or the teachers retirement association or the election to transfer retirement coverage to the correctional employees retirement plan is irrevocable once it is filed with the executive director.

Sec. 22. [COVERAGE FOR PRIOR STATE SERVICE FOR CERTAIN PERSONS.]

Subdivision 1. [ELECTION OF PRIOR STATE SERVICE COVERAGE.] (a) An employee who has future retirement coverage transferred to the correctional employees retirement plan under sections 12, 14, and 15, and who does not elect to retain general state employee retirement plan or teachers retirement association coverage is entitled to elect to obtain prior service credit for eligible state service performed on or after July 1, 1975, and before the first day of the first full pay period beginning after June 30, 1997, with the department of corrections or with the department of human services at the Minnesota security hospital. All prior service credit must be purchased.

(b) Eligible state service with the department of corrections or with the department of human services is any prior period of continuous service on or after July 1, 1975, performed as an employee of the department of corrections or of the department of human services that would have been eligible for the correctional employees retirement plan coverage under sections 12, 14, and 15, if that prior service had been performed after the first day of the first full pay period beginning after December 31, 1996, rather than before that date. Service is continuous if there has been no period of discontinuation of eligible state service for a period greater than 180 calendar days.

(c) The department of corrections or the department of human services, whichever applies, shall certify eligible state service to the executive director of the Minnesota state retirement system.

(d) A covered correctional plan employee employed on January 1, 1997, who has past service in a job classification covered under section 12, 14, or 15 on January 1, 1997, is entitled to purchase the past service if the applicable department certifies that the employee met the eligibility requirements for coverage. The employee must make the additional employee contributions under section 17. Payments for past service must be completed by June 30, 1999.

Subd. 2. [PAYMENT FOR PRIOR SERVICE.] (a) An employee electing to obtain prior service credit under subdivision 1 must pay an additional employee contribution for that prior service except for any period of time that the employee was a member of the basic program of the teachers retirement association. The additional member contribution is the contribution differential percentage applied to the actual salary paid to the employee during the period of the prior eligible state service, plus interest at the rate of six percent per annum, compounded annually. The contribution differential percentage is the difference between 4.9 percent of salary and the applicable employee contribution rate of the general state employees retirement plan or the teachers retirement association during the prior eligible state service.

(b) The additional member contribution must be paid only in a lump sum. Payment must accompany the election to obtain prior service credit. No election or payment may be made by the person or accepted by the executive director after June 30, 1999.

Subd. 3. [TRANSFER OF ASSETS.] Assets must be transferred from the teachers retirement association or the general state employees retirement plan, whichever applies, to the correctional employees retirement plan in an amount equal to the present value of benefits earned under the general employees retirement plan or the teachers retirement plan, whichever applies, for each employee transferring to the correctional employees retirement plan, as determined by the actuary retained by the legislative commission on pensions and retirement in accordance with Minnesota Statutes, section 356.215, multiplied by the accrued liability funding ratio of active members as derived from the most recent actuarial valuation prepared by the commission-retained actuary. The transfer of assets must be made within 45 days after the employee elects to transfer coverage to the correctional employees retirement plan.

Subd. 4. [EFFECT OF THE ASSET TRANSFER.] Upon the transfer of assets in subdivision 3, service credit in the general state employees plan of the Minnesota state retirement system or the teachers retirement association, whichever applies, is forfeited and may not be reinstated. The service credit and transferred assets must be credited to the correctional employees retirement plan.

Subd. 5. [COUNSELING.] (a) The commissioners of corrections, human services, and employee relations, and the executive directors of the Minnesota state retirement system and teachers retirement association have the joint responsibility of providing affected employees of the department of corrections or the department of human services with appropriate and timely retirement and related benefit counseling.

(b) Counseling must include the anticipated impact of the retirement coverage change on the person's future retirement benefit amounts, future retirement eligibility, future applicability of mandatory retirement laws, and future postemployment insurance coverage.

(c) The commissioners of corrections and human services must consult with the appropriate collective bargaining agents of the affected employees regarding the content, form, and timing of the counseling required by this section.

Sec. 23. [TRANSITIONAL PROVISION; RETENTION OF CERTAIN RIGHTS.]

(a) Nothing in this article may be considered to restrict the entitlement of a person under state law to repay a previously taken refund of employee or member contributions to a Minnesota public pension plan if all qualifying requirements are met.

(b) The period of correctional employees retirement plan contributions, plus interest, must be restored upon the repayment of the appropriate refund amount if the service was correctional employees retirement plan covered service on the date when the service was rendered or on the date when the refund was taken.

Sec. 24. [EARLY RETIREMENT INCENTIVE.]

This section applies to an employee who has future retirement coverage transferred to the correctional employee retirement plan under sections 12, 14, and 15, and who is at least 55 years old on the effective date of sections 12, 14, and 15. That employee may participate in a health insurance early retirement incentive available under the terms of a collective bargaining agreement in effect on the day before the effective date of sections 12, 14, and 15, notwithstanding any provision of the collective bargaining agreement that limits participation to persons who select the option during the payroll period in which their 55th birthday occurs. A person selecting the health insurance early retirement incentive under this section must retire by the later of December 31, 1997, or within the pay period following the time at which the person has at least three years of covered correctional service, including any purchased service credit. An employee meeting this criteria who wishes to extend the person's employment must do so under Minnesota Statutes, section 43A.34, subdivision 3.

Sec. 25. [INMATE RECIDIVISM STUDY.]

The legislative audit commission is requested to direct the legislative auditor to analyze and report on the recidivism rates of felons released from state and local correctional facilities and programs. If the commission directs the auditor to conduct this evaluation, the auditor shall report to the chairs of the senate and house of representatives committees having jurisdiction over criminal justice policy by February 15, 1997.

Sec. 26. [SYSTEMWIDE EVALUATION OF CORRECTIONS.]

Subdivision 1. [COMMISSIONER'S DUTIES.] The commissioner of administration shall conduct a thorough evaluation of the state's correctional system, including:

- (1) the operation of state correctional facilities, including:
 - (i) programming;
 - (ii) staffing; and
 - (iii) medical services; and
- (2) strategic planning to meet the state's correctional needs.

The commissioner shall evaluate the effectiveness of current correctional policies and recommend appropriate alternatives and cost savings.

Subd. 2. [REPORT REQUIRED.] By December 15, 1996, the commissioner shall report to the chairs of the senate and house of representatives committees having jurisdiction over criminal justice policy and funding on the results of the evaluation.

Sec. 27. [EVALUATION OF PRISON INDUSTRY PROGRAM BY CONSULTANT.]

By May 15, 1996, the commissioner of administration shall issue a request for proposals to serve as a consultant to evaluate the operation of prison industries in this state. By July 1, 1996, the commissioner shall select the consultant. The consultant shall develop a five-year business plan and report on the contents of the plan as required in section 28.

Sec. 28. [FIVE-YEAR BUSINESS PLAN TO BE DEVELOPED BY MINNCOR AND CONSULTANT.]

Subdivision 1. [BUSINESS PLANS.] (a) MinnCor and the consultant retained under section 26 shall develop five-year business plans for the operation of prison industries at state and local correctional facilities. By February 1, 1997, the consultant and the chief executive officer of MinnCor shall report to the governor and the majority and minority leaders of the senate and house of representatives on the contents of the respective plans.

(b) Representatives of labor organizations certified to represent MinnCor employees may also develop a five-year business plan either separately or in conjunction with MinnCor and submit it to the governor and the majority and minority leaders of the senate and house of representatives by February 1, 1997.

(c) The consultant and MinnCor shall consult with the representatives of labor organizations certified to represent MinnCor employees in preparing the five-year plans.

Subd. 2. [ACCESS TO INFORMATION.] (a) In developing the five-year plan, the consultant shall have access to:

- (1) all records kept by MinnCor in the course of its business, including financial records;
- (2) all correctional facilities;
- (3) all noninmate employees of MinnCor; and
- (4) all inmates employed by MinnCor.

Representatives of labor organizations developing a five-year plan pursuant to subdivision 1, paragraph (b), shall also have all the access specified in this subdivision.

(b) The consultant shall have the right to conduct private, confidential interviews with all inmate and noninmate employees of MinnCor who consent to be interviewed.

The commissioner of corrections and the chief executive officer of MinnCor shall cooperate with the consultant and the exclusive representatives to ensure that the access specified in this subdivision is given.

Subd. 3. [CONSULTANT'S PLAN.] (a) In developing a five-year business plan, the consultant shall assume that a private corporation will be operating prison industries and that the corporation will be required to:

(1) employ at least the same number of inmates by the end of its first year of operation as MinnCor employed on July 1, 1996;

(2) initially offer employment to noninmate MinnCor employees prior to any other hiring, to fill available positions at the same salaries and benefits, including pension benefits, as the employees were earning as of July 1, 1996;

(3) operate without any state subsidy;

(4) provide adequate security at its own expense, including training employees in security techniques that conform to established standards of security and control specified in the American correctional association's standards for adult correctional institutions;

(5) provide maintenance for leased facilities and equipment;

(6) continue to operate commercial and industrial activities suitable to the profitable employment, vocational training, and development of proper work habits of inmates at correctional facilities; and

(7) demonstrate it has the experience and financial capacity to comply with appropriate correctional standards and court orders.

(b) In developing its five-year business plan, the consultant shall also assume:

(1) that the corporation will be able to lease all, or any percentage, of the facilities and equipment used by MinnCor on July 1, 1996, to operate its business for \$1 per year;

(2) that the corporation may operate as a corporation deemed to be primarily acting as an instrumentality of the state with Minnesota Statutes, sections 3.732, 3.736, 3.738, and 3.739 applying to it;

(3) that the corporation will be liable within the limitations provided by applicable law for inmate injury due to its negligence;

(4) that members of the corporation's board of directors will not be liable to any inmate for any injury sustained in an industry program;

(5) that inmates will not be considered employees of the corporation for any purpose; and

(6) that if the corporation is dissolved or otherwise ceases to function effectively, any interest of the corporation in buildings, land, furnishings, fixtures, equipment, and other chattels purchased or leased in connection with its operation of industry programs shall automatically revert, subject to valid security interests, to the department of corrections.

(c) The plan must address the possibility of future capital expansion and improvements of industry programs at state and local correctional facilities. Specifically, the plan must address the need for additional equipment and buildings, and improvements to existing equipment and buildings. The plan may assume that the state will finance these expenses, but will require the corporation to enter into leases to reimburse these expenses at cost.

(d) The plan must describe the advantages and disadvantages of a private corporation operating prison industries as opposed to the department of corrections, specifically as relating to purchases, sales, management, marketing, security, and personnel decisions, including recruitment, retention, and training of employees.

(e) The plan must describe the most feasible method and timetable for transferring the assets and operations of MinnCor if a private corporation were to assume control over prison industries.

(f) The plan must consider the impact on Minnesota businesses of expanding industry products and services sold to the private and public sector.

Subd. 4. [FIVE-YEAR PLANS OF CONSULTANT AND MINNCOR.] At a minimum, and in addition to the requirements applicable only to the consultant's plan contained in subdivision 3, both the consultant and MinnCor shall address in the respective five-year business plans:

(1) methods to increase the number of inmate workers;

(2) methods to increase profits and expand markets, including recommended changes in the state use law;

(3) proposed new product lines;

(4) methods to employ inmates who require lower security in settings outside state and local correctional facilities;

(5) appropriate compensation for management, employees, and inmates;

(6) methods to assist inmate employees in obtaining employment upon the inmate's release from confinement; and

(7) methods to determine what effect employment in a prison industry program has upon recidivism of inmates who have participated in the program, including methods to track former inmate employees to determine recidivism.

Sec. 29. [REPEALER.]

Minnesota Statutes 1994, section 352.91, subdivision 3, is repealed.

Sec. 30. [EFFECTIVE DATE.]

Section 1 is effective June 1, 1996.

Sections 2, 3, 7, and 8 are effective August 1, 1996.

Sections 4 and 20 are effective July 1, 1996.

Section 5 is effective August 1, 1997.

Sections 6 and 25 to 28 are effective the day following final enactment.

Sections 9 to 18, 21 to 24, and 29 are effective on the first day of the first full pay period beginning after January 1, 1997.

Section 19 is effective July 1, 1996, and shall be used for calculating the community correction aid distribution for fiscal year 1997 and thereafter.

ARTICLE 9

EXPUNGEMENT

Section 1. Minnesota Statutes 1994, section 13.99, subdivision 53a, is amended to read:

Subd. 53a. [CONTROLLED SUBSTANCE CONVICTIONS.] Data on certain convictions for controlled substances offenses may be expunged under section 152.18, subdivisions ~~2~~ and subdivision 3.

Sec. 2. Minnesota Statutes 1995 Supplement, section 152.18, subdivision 1, is amended to read:

Subdivision 1. If any person who has not previously participated in or completed a diversion program authorized under section 401.065 or who has not previously been placed on probation without a judgment of guilty and thereafter been discharged from probation under this section is found guilty of a violation of section 152.024, subdivision 2, 152.025, subdivision 2, or 152.027, subdivision 2, 3, or 4, for possession of a controlled substance, after trial or upon a plea of guilty, and the court determines that the violation does not qualify as a subsequent controlled substance conviction under section 152.01, subdivision 16a, the court may, without entering a judgment of guilty and with the consent of the person, defer further proceedings and place the person on probation upon such reasonable conditions as it may require and for a period, not to exceed the maximum sentence provided for the violation. The court may give the person the opportunity to attend and participate in an appropriate program of education regarding the nature and effects of alcohol and drug abuse as a stipulation of probation. Upon violation of a condition of the probation, the court may enter an adjudication of guilt and proceed as otherwise provided. The court may, in its discretion, dismiss the proceedings against the person and discharge the person from probation before the expiration of the maximum period prescribed for the person's probation. If during the period of probation the person does not violate any of the conditions of the probation, then upon expiration of the period the court shall discharge the person and dismiss the proceedings against that person. Discharge and dismissal under this subdivision shall be without court adjudication of guilt, but a not public record of it shall be retained by the department of public safety bureau of criminal apprehension for the purpose of use by the courts in determining the merits of subsequent proceedings against the person. The not public record may also be opened only upon court order for purposes of a criminal investigation, prosecution, or sentencing. Upon request by law enforcement, prosecution, or corrections authorities, the department bureau shall notify the requesting party of the existence of the not public record and the right to seek a court order to open it pursuant to this section. The court shall forward a record of any discharge and dismissal under this subdivision to the department of public safety who bureau which shall make and maintain the not public record of it as provided under this subdivision. The discharge or dismissal shall not be deemed a conviction for purposes of disqualifications or disabilities imposed by law upon conviction of a crime or for any other purpose.

For purposes of this subdivision, "not public" has the meaning given in section 13.02, subdivision 8a.

Sec. 3. Minnesota Statutes 1995 Supplement, section 242.31, subdivision 1, is amended to read:

Subdivision 1. Whenever a person who has been committed to the custody of the commissioner of corrections upon conviction of a crime following certification under the provisions of section 260.125 is finally discharged by order of the commissioner, that discharge shall restore the person to all civil rights and, if so ordered by the commissioner of corrections, also shall have the effect of setting aside the conviction, nullifying it and purging the person of it. The commissioner shall file a copy of the order with the district court of the county in which the conviction occurred; upon receipt, the court shall order the conviction set aside. An order setting aside a conviction for a crime of violence as defined in section 624.712, subdivision 5, must provide that the person is not entitled to ship, transport, possess, or receive a firearm until ten years have elapsed since the order was entered and during that time the person was not convicted of any other crime of violence. A person whose conviction was set aside under this section and who thereafter has received a relief of disability under United States Code, title 18, section 925, shall not be subject to the restrictions of this subdivision.

Sec. 4. Minnesota Statutes 1994, section 242.31, subdivision 2, is amended to read:

Subd. 2. Whenever a person described in subdivision 1 has been placed on probation by the court pursuant to section 609.135 and, after satisfactory fulfillment of it, is discharged from probation, the court shall issue an order of discharge pursuant to subdivision 2a and section 609.165. On application of the defendant or on its own motion and after notice to the county attorney, the court in its discretion may also order that the defendant's conviction be set aside with the same effect as a court order under subdivision 1.

~~These orders restore~~ This order restores the defendant to civil rights and ~~purge and free the defendant from all penalties and disabilities arising from the defendant's conviction and the conviction shall not thereafter be used against the defendant, except in a criminal prosecution for a subsequent offense if otherwise admissible therein. In addition, the record of the defendant's conviction shall be sealed and may be opened only upon court order for purposes of a criminal investigation, prosecution, or sentencing. Upon request by law enforcement, prosecution, or corrections authorities, the court or the department of public safety shall notify the requesting party of the existence of the sealed record and the right to seek a court order to open it pursuant to this section.~~

Sec. 5. Minnesota Statutes 1995 Supplement, section 299C.11, is amended to read:

299C.11 [IDENTIFICATION DATA FURNISHED TO BUREAU.]

(a) The sheriff of each county and the chief of police of each city of the first, second, and third classes shall furnish the bureau, upon such form as the superintendent shall prescribe, with such finger and thumb prints, photographs, distinctive physical mark identification data, and other identification data as may be requested or required by the superintendent of the bureau, which may be taken under the provisions of section 299C.10, of persons who shall be convicted of a felony, gross misdemeanor, or who shall be found to have been convicted of a felony or gross misdemeanor, within ten years next preceding their arrest.

(b) No petition under chapter 609A is required if the person has not been convicted of any felony or gross misdemeanor, either within or without the state, within the period of ten years immediately preceding the determination of all pending criminal actions or proceedings in favor of the arrested person, and either of the following occurred:

(1) all charges were dismissed prior to a determination of probable cause; or

(2) the prosecuting authority declined to file any charges and a grand jury did not return an indictment.

Where these conditions are met, the bureau or agency shall, upon demand, return to the arrested person finger and thumb prints, photographs, distinctive physical mark identification data, and other identification data, and all copies and duplicates of them.

(c) Except as otherwise provided in paragraph (b), upon the determination of all pending criminal actions or proceedings in favor of the arrested person, and the granting of the petition of the arrested person under chapter 609A, the bureau shall, upon demand, have all such seal finger and thumb prints, photographs, distinctive physical mark identification data, and other identification data, and all copies and duplicates thereof, returned, provided it is not established that the arrested person of them if the arrested person has not been convicted of any felony or gross misdemeanor, either within or without the state, within the period of ten years immediately preceding such determination.

(d) DNA samples and DNA records of the arrested person shall not be returned, sealed, or destroyed as to a charge supported by probable cause.

(e) For purposes of this section, "determination of all pending criminal actions or proceedings in favor of the arrested person" does not include:

(1) the sealing of a criminal record pursuant to section 152.18, subdivision 1, 242.31, or 609.168, or chapter 609A; or

(2) the arrested person's successful completion of a diversion program;

(3) an order of discharge under section 609.165; or

(4) a pardon granted under section 638.02.

Sec. 6. Minnesota Statutes 1994, section 299C.13, is amended to read:

299C.13 [INFORMATION FURNISHED TO PEACE OFFICERS.]

Upon receipt of information data as to any arrested person, the bureau shall immediately ascertain whether the person arrested has a criminal record or is a fugitive from justice, and shall at once inform the arresting officer of the facts ascertained. Upon application by any sheriff, chief of police, or other peace officer in the state, or by an officer of the United States or by an officer of another state, territory, or government duly authorized to receive the same and effecting reciprocal interchange of similar information with the division, it shall be the duty of the bureau to furnish all information in its possession pertaining to the identification of any person. If the bureau has a sealed record on the arrested person, it shall notify the requesting peace officer of that fact and of the right to seek a court order to open the record for purposes of law enforcement. A criminal justice agency shall be notified, upon request, of the existence and contents of a sealed record containing conviction information about an applicant for employment. For purposes of this section a "criminal justice agency" means courts or a government agency that performs the administration of criminal justice under statutory authority.

Sec. 7. [609A.01] [CRIMINAL RECORDS EXPUNGEMENT.]

This chapter provides the grounds and procedures for expungement of criminal records under sections 13.82; 152.18, subdivision 1; 299C.11, where a petition is authorized under section 609A.02, subdivision 3; or other applicable law. The remedy available is limited to a court order sealing the records and prohibiting the disclosure of their existence or their opening except under court order or statutory authority. Nothing in this chapter authorizes the destruction of records or their return to the subject of the records.

Sec. 8. [609A.02] [GROUNDS FOR ORDER.]

Subdivision 1. [CERTAIN CONTROLLED SUBSTANCE OFFENSES.] Upon the dismissal and discharge of proceedings against a person under section 152.18, subdivision 1, for violation of section 152.024, 152.025, or 152.027 for possession of a controlled substance, the person may petition under section 609A.03 for the sealing of all records relating to the arrest, indictment or information, trial, and dismissal and discharge.

Subd. 2. [JUVENILES PROSECUTED AS ADULTS.] A petition for the sealing of a conviction record may be filed under section 609A.03 by a person who has been committed to the custody of the commissioner of corrections upon conviction of a crime following certification to district court under section 260.125, if the person:

(1) is finally discharged by the commissioner; or

(2) has been placed on probation by the court under section 609.135 and has been discharged from probation after satisfactory fulfillment of it.

Subd. 3. [CERTAIN CRIMINAL PROCEEDINGS NOT RESULTING IN A CONVICTION.] A petition may be filed under section 609A.03 to seal all records relating to an arrest, indictment or information, trial, or verdict if the records are not subject to section 299C.11, paragraph (b), and if all pending actions or proceedings were resolved in favor of the petitioner.

Subd. 4. [EXPUNGEMENT PROHIBITED.] Records of a conviction of an offense for which registration is required under section 243.166 may not be expunged.

Sec. 9. [609A.03] [PETITION TO EXPUNGE CRIMINAL RECORDS.]

Subdivision 1. [PETITION; FILING FEE.] An individual who is the subject of a criminal record who is seeking the expungement of the record shall file a petition under this section and pay a filing fee in the amount required under section 357.021, subdivision 2, clause (1). The filing fee may be waived in cases of indigency and shall be waived in the cases described in section 609A.02, subdivision 3.

Subd. 2. [CONTENTS OF PETITION.] A petition for expungement shall be signed under oath by the petitioner and shall state the following:

(1) the petitioner's full name and all other legal names or aliases by which the petitioner has been known at any time;

(2) the petitioner's date of birth;

(3) all of the petitioner's addresses from the date of the offense or alleged offense in connection with which an expungement order is sought, to the date of the petition;

(4) why expungement is sought, if it is for employment or licensure purposes, the statutory or other legal authority under which it is sought, and why it should be granted;

(5) the details of the offense or arrest for which expungement is sought, including date and jurisdiction of the occurrence, court file number, and date of conviction or of dismissal;

(6) in the case of a conviction, what steps the petitioner has taken since the time of the offense toward personal rehabilitation, including treatment, work, or other personal history that demonstrates rehabilitation;

(7) petitioner's criminal conviction record indicating all convictions for misdemeanors, gross misdemeanors, or felonies in this state, and for all comparable convictions in any other state, federal court, or foreign country, whether the convictions occurred before or after the arrest or conviction for which expungement is sought; and

(8) all prior requests by the petitioner, whether for the present offense or for any other offenses, in this state or any other state or federal court, for pardon, return of arrest records, or expungement or sealing of a criminal record, whether granted or not, and all stays of adjudication or imposition of sentence involving the petitioner.

Subd. 3. [SERVICE OF PETITION.] The petition for expungement and a proposed expungement order shall be served by mail on the state and local government agencies and jurisdictions whose records would be affected by the proposed order. Service shall also be made by mail on the attorney for each agency and jurisdiction.

Subd. 4. [HEARING.] A hearing on the petition shall be held not sooner than 60 days after service of the petition.

Subd. 5. [NATURE OF REMEDY; STANDARD; FIREARMS RESTRICTION.] (a) Expungement of a criminal record is an extraordinary remedy to be granted only upon clear and convincing evidence that it would yield a benefit to the petitioner commensurate with the disadvantages to the public and public safety of:

(1) sealing the record; and

(2) burdening the court and public authorities to issue, enforce, and monitor an expungement order.

(b) If the petitioner is petitioning for the sealing of a criminal record under section 609A.02, subdivision 3, the court shall grant the petition to seal the record unless the agency or jurisdiction whose records would be affected establishes by clear and convincing evidence that the interests of the public and public safety outweigh the disadvantages to the petitioner of not sealing the record.

(c) If the court issues an expungement order it may require that the criminal record shall be sealed, the existence of the record shall not be revealed, and the record should not be opened except as required under subdivision 7. Records shall not be destroyed or returned.

(d) An order expunging the record of a conviction for a crime of violence as defined in section 624.712, subdivision 5, must provide that the person is not entitled to ship, transport, possess, or receive a firearm until ten years have elapsed since the order was entered and during that time the person was not convicted of any other crime of violence. Any person whose record of conviction is expunged under this section and who thereafter receives a relief of disability under United States Code, title 18, section 925, is not subject to the restriction in this paragraph.

Subd. 6. [ORDER CONCERNING CONTROLLED SUBSTANCE OFFENSES.] If the court orders the sealing of the record of proceedings under section 152.18, the effect of the order shall be to restore the person, in the contemplation of the law, to the status the person occupied before the arrest, indictment, or information. The person shall not be held guilty of perjury or otherwise of giving a false statement if the person fails to acknowledge the arrest, indictment, information, or trial in response to any inquiry made for any purpose.

Subd. 7. [LIMITATIONS OF ORDER.] (a) Upon issuance of an expungement order related to a charge supported by probable cause, the DNA samples and DNA records held by the bureau of criminal apprehension shall not be sealed, returned, or destroyed.

(b) Notwithstanding the issuance of an expungement order:

(1) an expunged record may be opened for purposes of a criminal investigation, prosecution, or sentencing, upon an ex parte court order; and

(2) an expunged record of a conviction may be opened for purposes of evaluating a prospective employee in a criminal justice agency without a court order.

Upon request by law enforcement, prosecution, or corrections authorities, an agency or jurisdiction subject to an expungement order shall inform the requester of the existence of a sealed record and of the right to obtain access to it as provided by this paragraph. For purposes of this section a "criminal justice agency" means courts or a government agency that performs the administration of criminal justice under statutory authority.

Subd. 8. [STAY OF ORDER; APPEAL.] An expungement order shall be automatically stayed for 60 days after filing of the order and, if the order is appealed, during the appeal period. A person or an agency or jurisdiction whose records would be affected by the order may appeal the order within 60 days of service of notice of filing of the order. An agency or jurisdiction or officials or employees thereof need not file a cost bond or supersedeas bond in order to further stay the proceedings or file an appeal.

Subd. 9. [DISTRIBUTION OF EXPUNGEMENT ORDERS.] If an expungement order is issued, the court administrator shall send a copy of it to each agency and jurisdiction whose records are affected by the terms of the order.

Sec. 10. [REPEALER.]

Minnesota Statutes 1994, sections 152.18, subdivision 2; 242.31, subdivision 3; 609.166; 609.167; and 609.168, are repealed.

Sec. 11. [EFFECTIVE DATE; APPLICATION.]

Section 10 is effective the day following final enactment and applies to requests for expungement of criminal records initiated on or after that date.

Sections 1 to 9 are effective May 1, 1996, and apply to requests for expungement of criminal records initiated on or after that date.

ARTICLE 10

CRIMINAL BACKGROUND CHECKS

Section 1. Minnesota Statutes 1995 Supplement, section 144.057, subdivision 1, is amended to read:

Subdivision 1. [BACKGROUND STUDIES REQUIRED.] The commissioner of health shall contract with the commissioner of human services to conduct background studies of individuals providing services which have direct contact, as defined under section 245A.04, subdivision 3, with patients and residents in hospitals, boarding care homes, outpatient surgical centers licensed under sections 144.50 to 144.58; nursing homes and home care agencies licensed under chapter 144A; residential care homes licensed under chapter 144B, and board and lodging establishments that are registered to provide supportive or health supervision services under section 157.031 157.17.

If a facility or program is licensed by the department of human services and subject to the background study provisions of chapter 245A and is also licensed by the department of health, the department of human services is solely responsible for the background studies of individuals in the jointly licensed programs.

Sec. 2. Minnesota Statutes 1995 Supplement, section 144.057, subdivision 3, is amended to read:

Subd. 3. [RECONSIDERATIONS.] The commissioner of health shall review and decide reconsideration requests, including the granting of variances, in accordance with the procedures and criteria contained in chapter 245A and Minnesota Rules, parts 9543.3000 to 9543.3090. The commissioner's decision shall be provided to the individual and to the department of human services. The commissioner's decision to grant or deny a reconsideration of disqualification is the final administrative agency action.

Sec. 3. Minnesota Statutes 1995 Supplement, section 144.057, subdivision 4, is amended to read:

Subd. 4. [RESPONSIBILITIES OF FACILITIES.] Facilities described in subdivision 1 shall be responsible for cooperating with the departments in implementing the provisions of this section. The responsibilities imposed on applicants and licensees under chapter 245A and Minnesota Rules, parts 9543.3000 to 9543.3090, shall apply to these facilities. The provision of section 245A.04, subdivision 3, paragraph (d) (e), shall apply to applicants, licensees, or an individual's refusal to cooperate with the completion of the background studies.

Sec. 4. Minnesota Statutes 1994, section 144A.46, subdivision 5, is amended to read:

Subd. 5. [PRIOR CRIMINAL CONVICTIONS.] (a) ~~All persons who have or will have direct contact with clients, including the home care provider, employees of the provider, and applicants for employment~~ Before the commissioner issues a license and, as defined in the home care licensure rules promulgated by the commissioner of health, an owner or managerial official shall be required to disclose all criminal convictions. The commissioner may adopt rules that may require a person who must disclose criminal convictions under this subdivision to provide fingerprints and releases that authorize law enforcement agencies, including the bureau of criminal apprehension and the Federal Bureau of Investigation, to release information about the person's criminal convictions to the commissioner and home care providers. The bureau of criminal apprehension, county sheriffs, and local chiefs of police shall, if requested, provide the commissioner with criminal conviction data available from local, state, and national criminal record repositories, including the criminal justice data communications network. No person may be employed by a home care provider in a position that involves contact with recipients of home care services nor may any person be involved in the management, operation, or control of a provider, if the person has been convicted of a crime that relates to the provision of home care services or to the position, duties, or responsibilities undertaken by that person in the operation of the home care provider, unless the person can provide sufficient evidence of rehabilitation. The commissioner shall adopt rules for determining what types of employment positions, including volunteer positions, involve contact with recipients of home care services, and whether a crime relates to home care services and what constitutes sufficient evidence of rehabilitation. The rules must require consideration of the nature and seriousness of the crime; the relationship of the crime to the purposes of home care licensure and regulation; the relationship of the crime to the ability, capacity, and fitness required to perform the duties and discharge the responsibilities of the person's position; mitigating circumstances or social conditions surrounding the commission of the crime; the length of time elapsed since the crime was committed; the seriousness of the risk to the home care client's person or property; and other factors the commissioner considers appropriate. Data collected under this subdivision shall be classified as private data under section 13.02, subdivision 12.

(b) Employees, contractors, and volunteers of a home care provider or hospice are subject to the background study required by section 144.057. These individuals shall be disqualified under the provisions of chapter 245A and Minnesota Rules, parts 9543.3000 to 9543.3090. Until October 1, 1997, grounds for disqualification shall also include the crimes specified under Minnesota

Rules, part 4668.0020, subpart 14, or a comparable crime or act in another jurisdiction. Nothing in this section shall be construed to prohibit a home care provider from requiring self-disclosure of criminal conviction information; however, compliance with the provisions of section 144.057 constitutes compliance with the provisions of Minnesota Rules, part 4668.0020, subpart 8.

(c) Notwithstanding the provisions of Minnesota Rules, part 4668.0020, subparts 12, 13, and 15, disqualifications under paragraph (b), removal from a direct care position, and the process for reconsiderations shall be governed by the provisions of section 144.057.

(d) Unless superseded by the provisions of section 144.057 or this section, the provisions of Minnesota Rules, part 4668.0020, remain in effect.

(b) (e) Termination of an employee in good faith reliance on information or records obtained under paragraph (a) or (b) regarding a confirmed conviction does not subject the home care provider to civil liability or liability for reemployment insurance benefits.

Sec. 5. Minnesota Statutes 1995 Supplement, section 245A.04, subdivision 3, is amended to read:

Subd. 3. [STUDY OF THE APPLICANT.] (a) Before the commissioner issues a license, the commissioner shall conduct a study of the individuals specified in paragraph (c), clauses (1) to (5), according to rules of the commissioner.

Beginning January 1, 1997, the commissioner shall also conduct a study of employees providing direct contact services for nonlicensed personal care provider organizations described in paragraph (c), clause (5).

The commissioner shall recover the cost of these background studies through a fee of no more than \$12 per study charged to the personal care provider organization.

(b) Beginning July 1, 1997, the commissioner shall conduct a background study on individuals specified in paragraph (c), clauses (1) to (5), who perform direct contact services in a nursing home or a home care agency licensed under chapter 144A or a boarding care home licensed under sections 144.50 to 144.58, when the subject of the study resides outside Minnesota; the study must be at least as comprehensive as that of a Minnesota resident and include a search of information from the criminal justice data communications network in the state where the subject of the study resides.

(c) The applicant, license holder, the bureau of criminal apprehension, the commissioner of health and county agencies, after written notice to the individual who is the subject of the study, shall help with the study by giving the commissioner criminal conviction data and reports about ~~abuse or neglect~~ the maltreatment of adults in licensed programs substantiated under section 626.557 and the maltreatment of minors in licensed programs substantiated under section 626.556. The individuals to be studied shall include:

(1) the applicant;

(2) persons over the age of 13 living in the household where the licensed program will be provided;

(3) current employees or contractors of the applicant who will have direct contact with persons served by the facility, agency, or program;

(4) volunteers or student volunteers who have direct contact with persons served by the program to provide program services, if the contact is not directly supervised by the individuals listed in clause (1) or (3); and

(5) any person who, as an individual or as a member of an organization, exclusively offers, provides, or arranges for personal care assistant services under the medical assistance program as authorized under sections 256B.04, subdivision 16, and 256B.0625, subdivision 19.

The juvenile courts shall also help with the study by giving the commissioner existing juvenile

court records on individuals described in clause (2) relating to delinquency proceedings held within either the five years immediately preceding the application or the five years immediately preceding the individual's 18th birthday, whichever time period is longer. The commissioner shall destroy juvenile records obtained pursuant to this subdivision when the subject of the records reaches age 23.

For purposes of this section and Minnesota Rules, part 9543.3070, a finding that a delinquency petition is proven in juvenile court shall be considered a conviction in state district court.

For purposes of this subdivision, "direct contact" means providing face-to-face care, training, supervision, counseling, consultation, or medication assistance to persons served by a program. For purposes of this subdivision, "directly supervised" means an individual listed in clause (1), (3), or (5) is within sight or hearing of a volunteer to the extent that the individual listed in clause (1), (3), or (5) is capable at all times of intervening to protect the health and safety of the persons served by the program who have direct contact with the volunteer.

A study of an individual in clauses (1) to (5) shall be conducted at least upon application for initial license and reapplication for a license. The commissioner is not required to conduct a study of an individual at the time of reapplication for a license, other than a family day care or foster care license, if: (i) a study of the individual was conducted either at the time of initial licensure or when the individual became affiliated with the license holder; (ii) the individual has been continuously affiliated with the license holder since the last study was conducted; and (iii) the procedure described in paragraph (b) (d) has been implemented and was in effect continuously since the last study was conducted. For individuals who are required to have background studies under clauses (1) to (5) and who have been continuously affiliated with a foster care provider that is licensed in more than one county, criminal conviction data may be shared among those counties in which the foster care programs are licensed. A county agency's receipt of criminal conviction data from another county agency shall meet the criminal data background study requirements of this section.

The commissioner may also conduct studies on individuals specified in clauses (3) and (4) when the studies are initiated by:

- (i) personnel pool agencies;
- (ii) temporary personnel agencies;
- (iii) educational programs that train persons by providing direct contact services in licensed programs; and
- (iv) professional services agencies that are not licensed and which contract with licensed programs to provide direct contact services or individuals who provide direct contact services.

Studies on individuals in items (i) to (iv) must be initiated annually by these agencies, programs, and individuals. Except for personal care provider organizations, no applicant, license holder, or individual who is the subject of the study shall pay any fees required to conduct the study.

(1) At the option of the licensed facility, rather than initiating another background study on an individual required to be studied who has indicated to the licensed facility that a background study by the commissioner was previously completed, the facility may make a request to the commissioner for documentation of the individual's background study status, provided that:

- (i) the facility makes this request using a form provided by the commissioner;
- (ii) in making the request the facility informs the commissioner that either:
 - (A) the individual has been continuously affiliated with a licensed facility since the individual's previous background study was completed, or since October 1, 1995, whichever is shorter; or
 - (B) the individual is affiliated only with a personnel pool agency, a temporary personnel agency, an educational program that trains persons by providing direct contact services in licensed

programs, or a professional services agency that is not licensed and which contracts with licensed programs to provide direct contact services or individuals who provide direct contact services; and

(iii) the facility provides notices to the individual as required in paragraphs (a) to (d) of this subdivision, and that the facility is requesting written notification of the individual's background study status from the commissioner.

(2) The commissioner shall respond to each request under paragraph (1) with a written notice to the facility and the study subject. If the commissioner determines that a background study is necessary, the study shall be completed without further request from a licensed agency or notifications to the study subject.

(3) When a background study is being initiated by a licensed facility, a study subject affiliated with multiple licensed facilities may attach to the background study form a cover letter indicating the additional facilities' names, addresses, and background study identification numbers. When the commissioner receives such notices, each facility identified by the background study subject shall be notified of the study results. The background study notice sent to the subsequent agencies shall satisfy those facilities' responsibilities for initiating a background study on that individual.

(b) (d) If an individual who is affiliated with a program or facility regulated by the department of human services or department of health or who is affiliated with a nonlicensed personal care provider organization, is convicted of a crime constituting a disqualification under Minnesota Rules, parts 9543.3000 to 9543.3090, the probation officer or corrections agent shall notify the commissioner of the conviction. The commissioner, in consultation with the commissioner of corrections, shall develop forms and information necessary to implement this paragraph and shall provide the forms and information to the commissioner of corrections for distribution to local probation officers and corrections agents. The commissioner shall inform individuals subject to a background study that criminal convictions for disqualifying crimes will be reported to the commissioner by the corrections system. A probation officer, corrections agent, or corrections agency is not civilly or criminally liable for disclosing or failing to disclose the information required by this paragraph. Upon receipt of disqualifying information, the commissioner shall provide the notifications required in subdivision 3a, as appropriate to agencies on record as having initiated a background study or making a request for documentation of the background study status of the individual. This paragraph does not apply to family day care and foster care programs.

(e) (e) The individual who is the subject of the study must provide the applicant or license holder with sufficient information to ensure an accurate study including the individual's first, middle, and last name; home address, city, county, and state of residence for the past five years; zip code; sex; date of birth; and driver's license number. The applicant or license holder shall provide this information about an individual in paragraph (a) (c), clauses (1) to (5), on forms prescribed by the commissioner. The commissioner may request additional information of the individual, which shall be optional for the individual to provide, such as the individual's social security number or race.

(d) (f) Except for child foster care, adult foster care, and family day care homes, a study must include information from the county agency's record of substantiated abuse or neglect of adults in licensed programs related to names of substantiated perpetrators of maltreatment of vulnerable adults that has been received by the commissioner as required under section 626.557, subdivision 9c, paragraph (i), and the commissioner's records relating to the maltreatment of minors in licensed programs, information from juvenile courts as required in paragraph (a) (c) for persons listed in paragraph (a) (c), clause (2), and information from the bureau of criminal apprehension. For child foster care, adult foster care, and family day care homes, the study must include information from the county agency's record of substantiated abuse or neglect maltreatment of adults, and the maltreatment of minors, information from juvenile courts as required in paragraph (a) (c) for persons listed in paragraph (a) (c), clause (2), and information from the bureau of criminal apprehension. The commissioner may also review arrest and investigative information from the bureau of criminal apprehension, the commissioner of health, a county attorney, county sheriff, county agency, local chief of police, other states, the courts, or a national criminal record repository the Federal Bureau of Investigation if the commissioner has reasonable cause to believe the information is pertinent to the disqualification of an individual listed in paragraph (a) (c),

clauses (1) to (5). The commissioner is not required to conduct more than one review of a subject's records from the ~~national criminal record repository~~ Federal Bureau of Investigation if a review of the subject's criminal history with the ~~national criminal record repository~~ Federal Bureau of Investigation has already been completed by the commissioner and there has been no break in the subject's affiliation with the license holder who initiated the background studies.

When the commissioner has reasonable cause to believe that further pertinent information may exist on the subject, the subject shall provide a set of classifiable fingerprints obtained from an authorized law enforcement agency. For purposes of requiring fingerprints, the commissioner shall be considered to have reasonable cause under, but not limited to, the following circumstances: (1) information from the bureau of criminal apprehension indicates that the subject is a multistate offender; (2) information from the bureau of criminal apprehension indicates that multistate offender status is undetermined; or (3) the commissioner has received a report from the subject or a third party indicating that the subject has a criminal history in a jurisdiction other than Minnesota.

(e) (g) An applicant's or license holder's failure or refusal to cooperate with the commissioner is reasonable cause to deny an application or immediately suspend, suspend, or revoke a license. Failure or refusal of an individual to cooperate with the study is just cause for denying or terminating employment of the individual if the individual's failure or refusal to cooperate could cause the applicant's application to be denied or the license holder's license to be immediately suspended, suspended, or revoked.

(f) (h) The commissioner shall not consider an application to be complete until all of the information required to be provided under this subdivision has been received.

(g) (i) No person in paragraph (a) (c), clause (1), (2), (3), (4), or (5) who is disqualified as a result of this section may be retained by the agency in a position involving direct contact with persons served by the program.

(h) (j) Termination of persons in paragraph (a) (c), clause (1), (2), (3), (4), or (5), made in good faith reliance on a notice of disqualification provided by the commissioner shall not subject the applicant or license holder to civil liability.

(i) (k) The commissioner may establish records to fulfill the requirements of this section.

(j) (l) The commissioner may not disqualify an individual subject to a study under this section because that person has, or has had, a mental illness as defined in section 245.462, subdivision 20.

(k) (m) An individual who is subject to an applicant background study under this section and whose disqualification in connection with a license would be subject to the limitations on reconsideration set forth in subdivision 3b, paragraph (c), shall be disqualified for conviction of the crimes specified in the manner specified in subdivision 3b, paragraph (c). The commissioner of human services shall amend Minnesota Rules, part 9543.3070, to conform to this section.

~~(l) An individual must be disqualified if it has been determined that the individual failed to make required reports under section 626.556, subdivision 3, or 626.557, subdivision 3, for incidents in which: (1) the final disposition under section 626.556 or 626.557 was substantiated maltreatment, and (2) the maltreatment was recurring or serious as defined in Minnesota Rules, part 9543.3020, subpart 10.~~

~~(m)~~ (n) An individual subject to disqualification under this subdivision has the applicable rights in subdivision 3a, 3b, or 3c.

Sec. 6. Minnesota Statutes 1995 Supplement, section 256.045, subdivision 3, is amended to read:

Subd. 3. [STATE AGENCY HEARINGS.] (a) State agency hearings are available for the following: (1) any person applying for, receiving or having received public assistance or a program of social services granted by the state agency or a county agency under sections 252.32, 256.031 to 256.036, and 256.72 to 256.879, chapters 256B, 256D, 256E, 261, or the federal Food

Stamp Act whose application for assistance is denied, not acted upon with reasonable promptness, or whose assistance is suspended, reduced, terminated, or claimed to have been incorrectly paid; (2) any patient or relative aggrieved by an order of the commissioner under section 252.27; (3) a party aggrieved by a ruling of a prepaid health plan; or (4) any individual or facility determined by a lead agency to have maltreated a vulnerable adult under section 626.557 after they have exercised their right to administrative reconsideration under section 626.557. The failure to exercise the right to an administrative reconsideration shall not be a bar to a hearing under this section if federal law provides an individual the right to a hearing to dispute a finding of maltreatment. Individuals and organizations specified in this section may contest the specified action, decision, or final disposition before the state agency by submitting a written request for a hearing to the state agency within 30 days after receiving written notice of the action, decision, or final disposition, or within 90 days of such written notice if the applicant, recipient, patient, or relative shows good cause why the request was not submitted within the 30-day time limit.

The hearing for an individual or facility under clause (4) is the only administrative appeal to the final lead agency disposition specifically, including a challenge to the accuracy and completeness of data under section 13.04. Hearings requested under clause (4) apply only to incidents of maltreatment that occur on or after October 1, 1995. Hearings requested by nursing assistants in nursing homes alleged to have maltreated a resident prior to October 1, 1995, shall be held as a contested case proceeding under the provisions of chapter 14.

For purposes of this section, bargaining unit grievance procedures are not an administrative appeal.

(b) Except for a prepaid health plan, a vendor of medical care as defined in section 256B.02, subdivision 7, or a vendor under contract with a county agency to provide social services under section 256E.08, subdivision 4, is not a party and may not request a hearing under this section, except if assisting a recipient as provided in subdivision 4.

(c) An applicant or recipient is not entitled to receive social services beyond the services included in the amended community social services plan developed under section 256E.081, subdivision 3, if the county agency has met the requirements in section 256E.081.

Sec. 7. Minnesota Statutes 1995 Supplement, section 299C.67, subdivision 5, is amended to read:

Subd. 5. [OWNER.] "Owner" has the meaning given in section 566.18, subdivision 3. However, "owner" does not include a person who owns, operates, or is in control of a health care facility or a home health agency licensed by the commissioner of health or human services under chapter 144, 144A, or 144B, or 245A, or a board and lodging establishment with special services registered under section 157.17.

Sec. 8. Minnesota Statutes 1995 Supplement, section 299C.68, subdivision 2, is amended to read:

Subd. 2. [PROCEDURES.] The superintendent shall develop procedures to enable an owner to request a background check to determine whether a manager is the subject of a reported conviction for a background check crime. The superintendent shall perform the background check by retrieving and reviewing data on background check crimes maintained in the CJIS computers. The superintendent shall notify the owner in writing of the results of the background check. If the manager has resided in Minnesota for less than five years or upon request of the owner, the superintendent shall also either: (1) conduct a search of the national criminal records repository, including the criminal justice data communications network; or (2) conduct a search of the criminal justice data communications network records in the state or states where the manager has resided for the preceding five years. The superintendent is authorized to exchange fingerprints with the Federal Bureau of Investigation for purposes of the criminal history check. The superintendent shall recover the cost of a background check through a fee charged to the owner.

Sec. 9. Minnesota Statutes 1995 Supplement, section 299C.68, subdivision 5, is amended to read:

Subd. 5. [RESPONSE OF BUREAU.] The superintendent shall respond in writing to a background check request within a reasonable time not to exceed ten working days after receiving the signed form under subdivision 3. If a search is being done of the national criminal records repository and that portion of the background check is not completed, the superintendent shall notify the owner that the background check is not complete and shall provide that portion of the background check to the owner as soon as it is available. The superintendent's response must clearly indicate whether the manager has ever been convicted of a background check crime and, if so, a description of the crime, date and jurisdiction of conviction, and date of discharge of the sentence.

Sec. 10. Minnesota Statutes 1995 Supplement, section 299C.68, subdivision 6, is amended to read:

Subd. 6. [EQUIVALENT BACKGROUND CHECK.] (a) An owner may satisfy the requirements of this section: (1) by obtaining a copy of a completed background check that was required to be performed by the department of human services as provided for under sections 144.057 and 245A.04, and then placing the copy on file with the owner; (2) in the case of a background check performed on a manager for one residential setting when multiple residential settings are operated by one owner, by placing the results in a central location; or (3) by obtaining a background check from a private business or a local law enforcement agency rather than the superintendent if the scope of the background check provided by the private business or local law enforcement agency is at least as broad as that of a background check performed by the superintendent and the response to the background check request occurs within a reasonable time not to exceed ten working days after receiving the signed form described in subdivision 3. Local law enforcement agencies may access the criminal justice data network to perform the background check.

(b) A private business or local law enforcement agency providing a background check under this section must use a notification form similar to the form described in subdivision 3, except that the notification form must indicate that the background check will be performed by the private business or local law enforcement agency using records of the superintendent and other data sources.

Sec. 11. Minnesota Statutes 1995 Supplement, section 609.2325, subdivision 3, is amended to read:

Subd. 3. [PENALTIES.] (a) A person who violates subdivision 1, paragraph (a), ~~clause (1),~~ may be sentenced as follows:

(1) if the act results in the death of a vulnerable adult, imprisonment for not more than 15 years or payment of a fine of not more than \$30,000, or both;

(2) if the act results in great bodily harm, imprisonment for not more than ten years or payment of a fine of not more than \$20,000, or both;

(3) if the act results in substantial bodily harm or the risk of death, imprisonment for not more than five years or payment of a fine of not more than \$10,000, or both; or

(4) in other cases, imprisonment for not more than one year or payment of a fine of not more than \$3,000, or both.

(b) A person who violates subdivision 1, ~~paragraph (a), clause (2), or paragraph (b),~~ may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both.

Sec. 12. Laws 1995, chapter 229, article 3, section 17, is amended to read:

Sec. 17. [REPORT.]

By January 15, 1997, the commissioner of human services shall report to the legislature on the implementation of the process for reporting convictions under Minnesota Statutes, section 245A.04, subdivision 3, paragraph (b) (d). The report must include an analysis of any reduction in

the cost of performing background studies resulting from implementing the process and any recommendations for modification of the fee increases in article 4, section 21, based on a reduction in costs.

As part of this report, the commissioner shall make recommendations for using any cost savings to begin conducting comparable background studies of individuals who reside outside Minnesota but are employed or perform direct contact services in a nursing home, home care agency, or boarding care home located in Minnesota.

Sec. 13. [UNCODIFIED LANGUAGE CHANGES AND RULE CHANGES.]

The commissioner shall amend Minnesota Rules, part 9543.3070, subpart 1, to include the offenses in paragraphs (a) and (b) to disqualify a person for whom a background study is required under Minnesota Statutes, section 144.057 or 245A.04.

(a) An individual must be disqualified if it has been determined that the individual failed to make required reports under Minnesota Statutes, section 626.556, subdivision 3, or 626.557, subdivision 3, for incidents in which: (1) the final disposition under Minnesota Statutes, section 626.556 or 626.557, was substantiated maltreatment; and (2) the maltreatment was recurring or serious as defined in Minnesota Rules, part 9543.3020, subpart 10.

(b) An individual must be disqualified if the individual has been convicted for any of the following reasons: (1) criminal abuse of a vulnerable adult under Minnesota Statutes, section 609.2325; (2) criminal neglect of a vulnerable adult under Minnesota Statutes, section 609.233; (3) financial exploitation of a vulnerable adult under Minnesota Statutes, section 609.2335; (4) failure to report under Minnesota Statutes, section 609.234; or (5) stalking under Minnesota Statutes, section 609.749.

(c) Both the commissioner's authority to make the rule changes and the substantive language in paragraphs (a) and (b) are effective the day following final enactment. The rule changes described in paragraphs (a) and (b) are not subject to the rulemaking provisions of Minnesota Statutes, chapter 14, but the commissioner must comply with Minnesota Statutes, section 14.38, subdivision 7, in adopting the amendment.

Sec. 14. [STANDARDIZING OF CRIMINAL DISQUALIFICATION PLAN.]

The commissioner of health, in consultation with the commissioner of human services and the attorney general, shall convene an advisory workgroup to develop a plan for presentation to the 1997 legislature on recommendations and draft legislation to standardize, as appropriate, the criminal disqualification classifications for application to those required to comply with the applicant background study requirements under Minnesota Statutes, chapter 245A, Minnesota Statutes, sections 256B.04, subdivision 16, 256B.0625, subdivision 19a, 299C.67, and 299C.71, and Minnesota Rules, part 4668.0020, and make recommendations for legislation to replace current disqualification crimes under all systems.

The plan shall provide for a review of the appropriateness of standardizing disqualification classifications relative to type of care setting, the nature of the crime, and time from the date of discharge for the crime for which an individual can be disqualified.

The advisory workgroup shall include representatives of health care providers, both organizational providers and professional providers, unions, state agencies, the attorney general's office, and consumer groups.

The plan, including recommendations and draft legislation, must be reported to the chairs of the senate crime prevention committee and the house of representatives judiciary committee by January 15, 1997.

Sec. 15. [EFFECTIVE DATE.]

Sections 1 to 14 are effective the day following final enactment.

MISCELLANEOUS

Section 1. Minnesota Statutes 1994, section 2.724, subdivision 3, is amended to read:

Subd. 3. [RETIRED JUSTICES AND JUDGES.] (a) The chief justice of the supreme court may assign a retired justice of the supreme court to act as a justice of the supreme court pursuant to subdivision 2 or as a judge of any other court. The chief justice may assign a retired judge of any court to act as a judge of any court except the supreme court. A judge acting pursuant to this subdivision paragraph shall receive pay and expenses in the amount and manner provided by law for judges serving on the court to which the retired judge is assigned, less the amount of retirement pay which the judge is receiving.

(b) A judge who has been elected to office and who has retired as a judge in good standing and is not practicing law may also be appointed to serve as judge of any court except the supreme court. A retired judge acting under this paragraph will receive pay and expenses in the amount established by the supreme court.

Sec. 2. Minnesota Statutes 1994, section 152.02, subdivision 2, is amended to read:

Subd. 2. The following items are listed in Schedule I:

(1) Any of the following substances, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of such isomers, esters, ethers and salts is possible within the specific chemical designation: Acetylmethadol; Allylprodine; Alphacetylmethadol; Alphameprodine; Alphamethadol; Benzethidine; Betacetylmethadol; Betameprodine; Betamethadol; Betaprodine; Clonitazene; Dextromoramide; Dextrorphan; Diampromide; Diethylambutene; Dimenoxadol; Dimepheptanol; Dimethylambutene; Dioxaphetyl butyrate; Dipipanone; Ethylmethylthiambutene; Etonitazene; Etoperidine; Furethidine; Hydroxypethidine; Ketobemidone; Levomoramide; Levophenacetyl morphan; Morpheridine; Noracymethadol; Norlevorphanol; Normethadone; Norpipanone; Phenadoxone; Phenampromide; Phenomorphan; Phenoperidine; Piritramide; Proheptazine; Properidine; Racemoramide; Trimeperidine.

(2) Any of the following opium derivatives, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation: Acetorphine; Acetyldihydrocodeine; Acetylcodeine; Benzylmorphine; Codeine methylbromide; Codeine-N-Oxide; Cyprenorphine; Desomorphine; Dihydromorphine; Etorphine; Heroin; Hydromorphanol; Methylmorphine; Methylhydromorphine; Morphine methylbromide; Morphine methylsulfonate; Morphine-N-Oxide; Myrophine; Nicocodeine; Nicomorphine; Normorphine; Pholcodine; Thebacon.

(3) Any material, compound, mixture or preparation which contains any quantity of the following hallucinogenic substances, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation: 3,4-methylenedioxy amphetamine; 4-bromo-2,5-dimethoxyamphetamine; 2,5-dimethoxyamphetamine; 4-methoxyamphetamine; 5-methoxy-3, 4-methylenedioxy amphetamine; Bufotenine; Diethyltryptamine; Dimethyltryptamine; 3,4,5-trimethoxy amphetamine; 4-methyl-2, 5-dimethoxyamphetamine; Ibogaine; Lysergic acid diethylamide; marijuana; Mescaline; N-ethyl-3-piperidyl benzilate; N-methyl-3-piperidyl benzilate; Psilocybin; Psilocyn; Tetrahydrocannabinols; 1-(1-(2-thienyl) cyclohexyl) piperidine; n-ethyl-1-phenyl-cyclohexylamine; 1-(1-phenylcyclohexyl) pyrrolidine.

(4) Peyote, providing the listing of peyote as a controlled substance in schedule I does not apply to the nondrug use of peyote in bona fide religious ceremonies of the American Indian Church, and members of the American Indian Church are exempt from registration. Any person who manufactures peyote for or distributes peyote to the American Indian Church, however, is required to obtain federal registration annually and to comply with all other requirements of law.

(5) Unless specifically excepted or unless listed in another schedule, any material compound, mixture, or preparation which contains any quantity of the following substances having a

depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

Mecloqualone;

Flunitrazepam.

Sec. 3. Minnesota Statutes 1994, section 168.36, is amended by adding a subdivision to read:

Subd. 4. [OFFICER MAY SEIZE REGISTRATION PLATES.] If a peace officer stops a motor vehicle and determines, through a check of the motor vehicle registration record system, that the vehicle is being operated while the certificate of registration for the vehicle is revoked, the officer may immediately seize the vehicle's registration plates and destroy the plates or return them to the commissioner of public safety.

Sec. 4. Minnesota Statutes 1994, section 181.9412, is amended to read:

181.9412 [SCHOOL CONFERENCE AND ACTIVITIES LEAVE.]

Subdivision 1. [DEFINITION.] For purposes of this section, "employee" does not include the requirement of section 181.940, subdivision 2, clause (1).

Subd. 2. [LEAVE OF 16 HOURS.] (a) An employer must grant an employee leave of up to a total of 16 hours during any 12-month period to attend school conferences or classroom school-related activities related to the employee's child, provided the conferences or classroom school-related activities cannot be scheduled during nonwork hours. If the employee's child receives child care services as defined in section 256H.01, subdivision 2, or attends a prekindergarten regular or special education program, the employee may use the leave time provided in this section to attend a conference or activity related to the employee's child, or to observe and monitor the services or program, provided the conference, activity, or observation cannot be scheduled during nonwork hours. When the leave cannot be scheduled during nonwork hours and the need for the leave is foreseeable, the employee must provide reasonable prior notice of the leave and make a reasonable effort to schedule the leave so as not to disrupt unduly the operations of the employer.

(b) Nothing in this section requires that the leave be paid; except that, an employee may substitute any accrued paid vacation leave or other appropriate paid leave for any part of the leave under this section.

Sec. 5. Minnesota Statutes 1995 Supplement, section 481.01, is amended to read:

481.01 [BOARD OF LAW EXAMINERS; EXAMINATIONS; ALTERNATIVE DISPUTE FEES.]

The supreme court shall, by rule from time to time, prescribe the qualifications of all applicants for admission to practice law in this state, and shall appoint a board of law examiners, which shall be charged with the administration of the rules and with the examination of all applicants for admission to practice law. The board shall consist of not less than three, nor more than seven, attorneys at law, who shall be appointed each for the term of three years and until a successor qualifies. The supreme court may fill any vacancy in the board for the unexpired term and in its discretion may remove any member of it. The board shall have a seal and shall keep a record of its proceedings, of all applications for admission to practice, and of persons admitted to practice upon its recommendation. At least two times a year the board shall hold examinations and report the result of them, with its recommendations, to the supreme court. Upon consideration of the report, the supreme court shall enter an order in the case of each person examined, directing the board to reject or to issue to the person a certificate of admission to practice. The board shall have such officers as may, from time to time, be prescribed and designated by the supreme court. The fee for examination shall be fixed, from time to time, by the supreme court, ~~but shall not exceed \$50.~~ This fee, and any other fees which may be received pursuant to any rules the supreme court promulgates adopts governing the practice of law and court-related alternative dispute resolution

practices shall be paid to the state treasurer and shall constitute a special fund in the state treasury which shall be exempt from section 16A.127. The moneys money in this fund are is appropriated annually to the supreme court for the payment of compensation and expenses of the members of the board of law examiners and for otherwise regulating the practice of law. The moneys money in the fund shall never cancel. Payments from it shall be made by the state treasurer, upon warrants of the commissioner of finance issued upon vouchers signed by one of the justices of the supreme court. The members of the board shall have compensation and allowances for expenses as may, from time to time, be fixed by the supreme court.

Sec. 6. Minnesota Statutes 1994, section 490.15, is amended by adding a subdivision to read:

Subd. 3. The salary of the executive secretary of the board shall be 85 percent of the maximum salary provided for an administrative law judge under section 15A.083, subdivision 6a.

Sec. 7. [609.5319] [FINANCIAL INSTITUTION SECURED INTEREST.]

Property that is subject to a bona fide security interest, based upon a loan or other financing arranged by a bank, credit union, or any other financial institution, is subject to the interest of the bank, credit union, or other financial institution in any forfeiture proceeding that is based upon a violation of any provision of chapter 609 or the commission of any other criminal act. The security interest must be established by clear and convincing evidence.

Sec. 8. Minnesota Statutes 1994, section 611.271, is amended to read:

611.271 [COPIES OF DOCUMENTS; FEES.]

The court administrators of courts, the prosecuting attorneys of counties and municipalities, and the law enforcement agencies of the state and its political subdivisions shall furnish, upon the request of the district public defender, the state public defender, or an attorney working for a public defense corporation under section 611.216, copies of any documents, including police reports, in their possession at no charge to the public defender, including the following: police reports, photographs, copies of existing grand jury transcripts, audiotapes, videotapes, copies of existing transcripts of audiotapes or videotapes and, in child protection cases, reports prepared by local welfare agencies. Nothing in this section shall compel production of documents that are not discoverable under the rules of court, court order, or chapter 13.

Sec. 9. Laws 1991, chapter 271, section 9, is amended to read:

Sec. 9. [REPEALER.]

Section 5 is repealed effective July 1, 1996 1997, for cases filed on or after that date.

Sec. 10. [EFFECTIVE DATE.]

Sections 1 to 3, 5, 7, and 8 are effective August 1, 1996.

Section 6 is effective July 1, 1997.

Section 9 is effective the day following final enactment.

Section 4 is effective July 1, 1996."

Delete the title and insert:

"A bill for an act relating to criminal justice; crime prevention; appropriating money for the judicial branch, public safety, corrections, criminal justice, crime prevention programs, and other related purposes; providing for community notification of the release of certain sex offenders, expanding the sex offender registration act; implementing, clarifying, and modifying certain criminal and juvenile provisions; prescribing, clarifying, and modifying certain penalty provisions; establishing and expanding pilot programs, grant programs, task forces, committees, and studies; providing for the retention of consultants; limiting expungement of certain criminal records and providing an expungement process; reconciling various provisions on criminal history background checks; prohibiting use of deadly force against peace officers under certain circumstances;

amending Minnesota Statutes 1994, sections 2.724, subdivision 3; 13.99, subdivision 53a; 144A.46, subdivision 5; 152.02, subdivision 2; 168.36, by adding a subdivision; 169.09, subdivision 14; 169.791, subdivisions 2a, 3, and 4; 169.792, subdivisions 1, 2, 3, 5, and 6; 181.9412; 241.275; 242.31, subdivision 2; 244.09, subdivision 5; 244.10, by adding a subdivision; 244.17, subdivision 2; 244.172, subdivision 2; 260.141, by adding a subdivision; 260.145; 260.161, subdivision 1a; 260.171, subdivision 2; 260.281; 260.301; 260.311, subdivision 3a; 268.30, subdivision 2; 299A.35, as amended; 299C.13; 352.90; 352.91, subdivisions 1, 2, 3b, 4, and by adding subdivisions; 352.92, subdivision 2; 401.10; 490.15, by adding a subdivision; 609.035, subdivision 1, and by adding a subdivision; 609.06; 609.11, subdivisions 5 and 9; 609.135, subdivision 1; 609.165, subdivision 1b; 609.21, subdivisions 1, 2, 2a, 3, and 4; 609.2231, subdivision 2, and by adding a subdivision; 609.224, subdivision 4; 609.3451, by adding a subdivision; 609.487, by adding a subdivision; 609.52, subdivision 2; 609.5316, subdivision 3; 609.583; 609.596; 609.611; 609.66, subdivision 1a; 609.666, subdivision 1; 609.749, by adding a subdivision; 609.855, subdivision 5; 611.271; 611A.04, subdivisions 1a and 3; 611A.25, subdivision 3; 611A.361, subdivision 3; and 624.713, subdivision 2; Minnesota Statutes 1995 Supplement, sections 16B.181; 144.057, subdivisions 1, 3, and 4; 152.18, subdivision 1; 242.31, subdivision 1; 243.166, subdivisions 1 and 7; 243.212; 245A.04, subdivision 3; 256.045, subdivision 3; 260.015, subdivision 21; 260.132, subdivision 3a; 260.155, subdivision 2; 260.195, subdivision 2a; 299A.326, subdivision 1; 299C.10, subdivision 1; 299C.11; 299C.67, subdivision 5; 299C.68, subdivisions 2, 5, and 6; 481.01; 518B.01, subdivision 14; 609.10; 609.125; 609.152, subdivision 1; 609.19; 609.20; 609.224, subdivision 2; 609.2325, subdivision 3; 609.3451, subdivision 1; 609.485, subdivisions 2 and 4; 609.52, subdivision 1; 611A.01; 611A.04, subdivision 1; 617.23; 624.712, subdivision 5; and 641.15, subdivision 2; Laws 1991, chapter 271, section 9; Laws 1995, chapter 229; article 3, section 17; proposing coding for new law in Minnesota Statutes, chapters 15; 168A; 171; 241; 243; 244; 299A; 609; and 611A; proposing coding for new law as Minnesota Statutes, chapter 609A; repealing Minnesota Statutes 1994, sections 152.18, subdivision 2; 242.31, subdivision 3; 260.141, subdivision 1; 299A.60; 352.91, subdivision 3; 609.166; 609.167; 609.168; and 609.495, subdivision 2."

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

Senate Conferees: (Signed) Tracy L. Beckman, Allan H. Spear, Jane B. Ranum, Randy C. Kelly, Thomas M. Neuville

House Conferees: (Signed) Mary Murphy, Wesley J. "Wes" Skoglund, Phil Carruthers, Thomas Pugh, Doug Swenson

Mr. Beckman moved that the foregoing recommendations and Conference Committee Report on S.F. No. 2856 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

S.F. No. 2856 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

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

Those who voted in the affirmative were:

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

Mr. Merriam voted in the negative.

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

MOTIONS AND RESOLUTIONS - CONTINUED

Pursuant to Rule 10, Mr. Moe, R.D., Chair of the Committee on Rules and Administration, designated H.F. No. 1800 a Special Order to be heard immediately.

SPECIAL ORDER

H.F. No. 1800: A bill for an act relating to local government; requiring a sustainable development planning guide and a model ordinance to be developed for local government use by the office of strategic and long-range planning; adopting principles of sustainable development; requiring reports; proposing coding for new law in Minnesota Statutes, chapter 4A.

Ms. Johnson, J.B. moved that the amendment made to H.F. No. 1800 by the Committee on Rules and Administration in the report adopted March 12, 1996, pursuant to Rule 49, be stricken. The motion prevailed. So the amendment was stricken.

Ms. Johnson, J.B. then moved to amend H.F. No. 1800 as follows:

Pages 1 and 2, delete section 1

Page 2, line 24, delete "principles of"

Page 2, line 25, delete everything before the period and insert "guidelines developed by the environmental quality board task force on sustainable development"

Page 3, line 12, delete "state" and delete "principles" and insert "guidelines developed by the environmental quality board task force on sustainable development"

Page 3, line 17, delete "principles of"

Page 3, line 18, before the period, insert "guidelines developed by the environmental quality board task force on sustainable development"

Renumber the sections in sequence and correct the internal references

Amend the title as follows:

Page 1, lines 5 and 6, delete "adopting principles of sustainable development;"

The motion prevailed. So the amendment was adopted.

H.F. No. 1800 was read the third time, as amended, and placed on its final passage.

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

The roll was called, and there were yeas 63 and nays 0, as follows:

Those who voted in the affirmative were:

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

Riveness
Robertson
Runbeck

Sams
Samuelson
Scheevel

Solon
Spear
Stevens

Stumpf
Terwilliger
Vickerman

Wiener

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. 1147 a Special Order to be heard immediately.

SPECIAL ORDER

S.F. No. 1147: A bill for an act relating to taxation; property; allowing for a market value exclusion for electric power generation facilities based on facility efficiency; requiring a study; proposing coding for new law in Minnesota Statutes, chapter 272.

Mr. Novak moved to amend S.F. No. 1147 as follows:

Page 2, after line 32, insert:

"Subd. 3. [ELIGIBILITY.] An owner or operator of a new or existing electric power generation facility who offers electric power generated by the facility for sale is eligible for an exclusion under this section only if:

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

(2) the purchaser has agreed not to offer the electric power for resale to a retail customer located outside of the purchaser's existing electric service franchise area, unless otherwise permitted by law."

The motion prevailed. So the amendment was adopted.

Mr. Novak then moved to amend S.F. No. 1147 as follows:

Page 3, after line 16, insert:

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

The motion prevailed. So the amendment was adopted.

Mr. Morse moved to amend S.F. No. 1147 as follows:

Page 2, after line 32, insert:

"Sec. 2. [LEGISLATIVE APPROVAL OF CONSUMPTIVE USE OF WATER.]

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

Page 3, line 19, after the period, insert "Section 2 is effective the day following final enactment."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Mr. Novak moved that S.F. No. 1147 be laid on the table. The motion prevailed.

MOTIONS AND RESOLUTIONS - CONTINUED

Mr. Moe, R.D. moved that H.F. No. 637 be taken from the table. The motion prevailed.

H.F. No. 637: A bill for an act relating to taxation; property; allowing for a market value exclusion for electric power generation facilities based on facility efficiency; providing for an analysis of utility taxation; proposing coding for new law in Minnesota Statutes, chapter 272.

SUSPENSION OF RULES

Mr. Moe, R.D. moved that an urgency be declared within the meaning of Article IV, Section 19, of the Constitution of Minnesota, with respect to H.F. No. 637 and that the rules of the Senate be so far suspended as to give H.F. No. 637 its second and third reading and place it on its final passage. The motion prevailed.

H.F. No. 637 was read the second time.

Mr. Novak moved to amend H.F. No. 637 as follows:

Delete everything after the enacting clause, and delete the title, of H.F. No. 637, and insert the language after the enacting clause, and the title, of S.F. No. 1147, the second engrossment, and as amended by the Senate March 22, 1996.

The motion prevailed. So the amendment was adopted.

H.F. No. 637 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 41 and nays 22, as follows:

Those who voted in the affirmative were:

Anderson	Hottinger	Lessard	Pappas	Solon
Berglin	Janezich	Limmer	Pariseau	Spear
Betzold	Johnson, D.E.	Metzen	Pogemiller	Stevens
Cohen	Johnson, J.B.	Mondale	Price	Stumpf
Dille	Kelly	Morse	Ranum	Wiener
Fischbach	Kleis	Murphy	Riveness	
Flynn	Knutson	Novak	Runbeck	
Frederickson	Laidig	Oliver	Sams	
Hanson	Langseth	Olson	Scheevel	

Those who voted in the negative were:

Beckman	Johnston	Lesewski	Ourada	Terwilliger
Belanger	Kramer	Marty	Piper	Vickerman
Berg	Krentz	Merriam	Reichgott Junge	
Day	Kroening	Moe, R.D.	Robertson	
Johnson, D.J.	Larson	Neuville	Samuelson	

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

MOTIONS AND RESOLUTIONS - CONTINUED

Mr. Janezich moved that the name of Mr. Lessard be added as a co-author to S.F. No. 1977. The motion prevailed.

Mr. Morse moved that his name be stricken as chief author and the name of Mr. Merriam be shown as chief author to S.F. No. 2866. The motion prevailed.

INTRODUCTION AND FIRST READING OF SENATE BILLS

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

Ms. Berglin introduced--

S.F. No. 2881: A bill for an act relating to special transportation services; requiring the metropolitan council and the commissioner of human services to establish a task force on service coordination.

Referred to the Committee on Transportation and Public Transit.

MEMBERS EXCUSED

Messrs. Chmielewski and Finn were excused from the Session of today. Ms. Kiscaden was excused from the Session of today at 1:15 p.m. Mr. Mondale was excused from the Session of today from 9:00 a.m. to 1:00 p.m.

ADJOURNMENT

Mr. Moe, R.D. moved that the Senate do now adjourn until 10:00 a.m., Monday, March 25, 1996. The motion prevailed.

Patrick E. Flahaven, Secretary of the Senate

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