Sec. 24. **EFFECTIVE DATE.**

Sections 10 and 21 are effective the day following final enactment.

Approved April 28, 1988

CHAPTER 689—H.F.No. 2126

An act relating to the organization and operation of state government; appropriating money for human services and health and other purposes with certain conditions; amending Minnesota Statutes 1986, sections 3.9223, subdivision 3; 3.9225, subdivision 3; 3.9226, subdivision 3; 62A.54; 62E.04, by adding subdivisions; 129A.02, subdivision 3; 129A.09; 129A.10; 144.053, by adding a subdivision; 144.125; 144.50, by adding a subdivision; 144A.04, by adding a subdivision; 144A.08, by adding a subdivision; 145.43, subdivisions 1 and 1a; 145.853, subdivision 2; 145.894; 245.771, by adding a subdivision; 245.814, subdivisions 1, 2, and 3; 245.83; 245.84, subdivision 1; 246.023, subdivision 1; 252.291, subdivisions 1 and 2; 253B.03, by adding a subdivision; 253B.17, subdivision 1; 256.73, subdivisions 2 and 6, and by adding subdivisions; 256.736, by adding subdivisions; 256.76, subdivision 1; 256B.08; 256B.092, subdivisions 5 and 7; 256B.14, subdivision 2; 256B.17, subdivision 7; 256B.431, by adding subdivisions; 256B.50, subdivision 1, and by adding subdivisions; 256B.501, subdivision 3, and by adding subdivisions; 256B.69, subdivisions 3 and 4; 256D.02, subdivision 7, and by adding a subdivision; 256D.06, by adding a subdivision; 256D.07; 256D.35, by adding a subdivision; 256D.37, subdivision 2, and by adding subdivisions; 256E.12, subdivisions 1 and 2; 256F.03, subdivision 8; 256F.07, by adding a subdivision; 257.071, subdivisions 2, 3, 6, and by adding a subdivision; 257.072; 260.181, subdivision 3; 268.0111, by adding a subdivision; 268.86, by adding a subdivision; 268.91, subdivision 7; 268.911, subdivision 3; 326.371; 462.05, by adding a subdivision; 462A.21, by adding a subdivision; 609.72, subdivision 1; and 611A.32, by adding a subdivision; Minnesota Statutes 1987 Supplement, sections 3.922, subdivision 6; 16B.08, subdivision 7; 62A.152, subdivision 2; 62A.48, subdivision 7; 62A.50, subdivision 3; 62D.102; 129A.01, subdivision 5, 6, and 7; 129A.03; 129A.06, subdivision 1; 129A.07, subdivision 1; 129A.08, subdivisions 1, 4, 5, and by adding a subdivision; 144A.071, subdivision 3; 144A.073, subdivisions 1, 7, and 8; 145.43, subdivision 4; 145A.06, by adding a subdivision; 148B.23, subdivision 1; 148B.42, subdivision 1; 245.462, subdivisions 3, 4, 6, 17, 18, 19, 20, 21, 23, and 25; 245.465; 245.466, subdivisions 1, 2, and 5; 245.467, by adding subdivisions; 245.469, subdivision 2; 245.471, subdivisions 2 and 3; 245.472, subdivision 2; 245.475, subdivisions 1 and 2; 245.476, subdivision 1; 245.477; 245.478, subdivisions 1, 2, and 9; 245.479; 245.482, subdivision 2; 245.696, subdivision 2; 245.697, subdivision 2, and by adding a subdivision; 252.291, subdivision 3; 252.46, subdivisions 5 and 6, and by adding subdivisions; 253B.03, subdivision 6; 256.01, subdivision 4; 256.015, subdivision 2; 256.736, subdivisions 1b, 4, and 11; 256.936; 256.969, subdivisions 2 and 3; 256B.02, subdivision 8; 256B.031, subdivision 5; 256B.042, subdivision 2; 256B.06, subdivisions 1 and 4; 256B.091, subdivision 4; 256B.35, subdivision 1; 256B.431, subdivisions 2b, 3, and 4; 256B.433, subdivision 1; 256B.50, subdivision 2; 256B.501, subdivision 1; 256B.73, subdivision 2; 256D.01, subdivision 1a; 256D.03, subdivision 3; 256D.06, subdivisions 1 and 1b; 256D.37, subdivision 1; 256E.12, subdivision 3; 268.91, subdivisions 1, 3, 3b,

3c, 3e, 4, and 12; and 326.73; Laws 1984, chapter 654, article 5, section 57, subdivision 1, as amended; Laws 1987, chapter 337, section 131; Laws 1987, chapter 403, articles 1, section 4, subdivision 4; 2, section 34; and 4, section 13; proposing coding for new law in Minnesota Statutes, chapters 62A; 62C; 62D; 144; 145; 153A; 157; 179A; 198; 245; 252; 256; 256B; 257; and 268; proposing coding for new law as Minnesota Statutes, chapter 152A; repealing Minnesota Statutes 1986, sections 144.388; 153A.01; 153A.02; 153A.03; 153A.04; 153A.05; 153A.06; 153A.07; 153A.08; 153A.09; 153A.10; 153A.11; 153A.12; 245.84, subdivision 4; 245.86; 245.87; 246.023, subdivisions 2, 3, 4, and 5; 257.071, subdivision 6; and 268.061; Minnesota Statutes 1987 Supplement, sections 129A.01, subdivision 8; 129A.07, subdivision 2; 129A.08, subdivision 3; 148B.04, subdivision 1; and 256B.73, subdivision 10.

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

ARTICLE 1

APPROPRIATIONS

Section 1. **HUMAN SERVICES; HEALTH; APPROPRIATIONS.**

The sums shown in the columns marked "APPROPRIATIONS" are appropriated from the general fund, or another fund named, to the agencies and for the purposes specified in this act, to be available for the fiscal years indicated for each purpose. The figures "1988" and "1989," where used in this article, mean that the appropriation or appropriations listed under them are available for the year ending June 30, 1988, or June 30, 1989, respectively.

SUMMARY BY FUND

	1988	1989	TOTAL
General	$(17,545,900)	$17,035,700	$(510,200)
Special Revenue	-0-	320,300	320,300
Public Health	175,200	200,800	376,000
Trunk Highway	74,400	85,500	159,900
Metro Landfill	19,300	22,000	41,300
TOTAL	$(17,277,000)	$17,664,300	$ 387,300

	APPROPRIATIONS Available for the Year Ending June 30	
	1988	1989
Sec. 2. HUMAN SERVICES		
Subdivision 1. Appropriation by Fund		
General Fund	(17,553,800)	11,722,100
This appropriation is added to the appropriation in Laws 1987, chapter 403, article 1, section 2.		
Subd. 2. Human Services Management		
	$ -0-	$ -0-

Subd. 3. Social Services

$ -0-	$1,220,200

Any balance remaining at the end of fiscal year 1988 in the appropriation for chemical dependency evaluation in Laws 1987, chapter 403, article 1, section 2, subdivision 8, does not cancel but is available for fiscal year 1989 to complete the incidence and prevalence survey on the extent of drug and alcohol problems in Minnesota.

Of this appropriation, $200,000 is for semi-independent living services for those people determined eligible who have not received funding. This appropriation may be used to fund services for individuals who are currently living in intermediate care facilities for the mentally retarded, who are receiving waivered services and are no longer eligible for those services, or who are living in their family home, a foster home, or their own home.

Of this appropriation, $50,000 is for a grant related to attention deficit disorder (ADD). The commissioner shall award the grant to a nonprofit corporation whose only purpose is to educate people about ADD and to support children with ADD and their families. Grant money awarded under this provision must be used for the following purposes: (1) in-service training for school personnel, including teachers at all levels from early childhood through college and vocational training, on the unique problems of children who suffer from ADD, and (2) support groups for children with ADD and their families.

Of this appropriation, $150,000 is for a demonstration grant under the community initiatives for children program, to be awarded to a project in the seven-county metropolitan area. The amount of the grant may not exceed the lesser of

$150,000 or 50 percent of capital costs incurred within a two-year period.

Subd. 4. Mental Health

$(1,330,000) $1,395,000

Of the amount appropriated in Laws 1987, chapter 403, article 1, section 2, subdivision 5, for state mental health grants for fiscal year 1988, $720,000 does not cancel but is available for fiscal year 1989 for the same purposes and $1,330,000 is transferred to fiscal year 1989.

Of the amount appropriated in Laws 1987, chapter 403, article 1, section 2, subdivision 5, for mental health for fiscal year 1988, $250,000 for information systems is transferred in fiscal year 1988 to the state systems account established in Minnesota Statutes, section 256.014, subdivision 2.

Money appropriated for the children's mental health plan is for fiscal year 1989 only. Money needed beyond June 30, 1989, to develop or implement the plan must be requested as a change request in the 1989 to 1991 biennial budget.

Upon approval of the legislative audit commission, $25,000 of this appropriation is transferred to the legislative auditor for a program evaluation of the quality of treatment provided by community residential programs for people who are mentally ill or mentally ill and chemically dependent. The evaluation should consider the extent to which facility size and ownership structure affect the quality of treatment; the appropriateness of the reimbursement and payment system, including methods of paying for buildings and land; and the impact of programs on residential areas.

Subd. 5. Income Maintenance and Residential Programs

General Fund

$(16,987,000) $5,884,300

(a) Health Care and Residential Programs

$(11,933,200) $6,252,900

For services rendered on or after January 1, 1989, the maximum pharmacy dispensing fee under medical assistance and general assistance medical care is $4.20.

For medical assistance services rendered on or after October 1, 1988, payments to medical assistance vendors for physician services, dental care, vision care, podiatric services, chiropractic care, physical therapy, occupational therapy, speech pathologists, audiologists, mental health centers, psychologists, public health clinics, and independent laboratory and X-ray services must be based on payment rates in effect on June 30, 1987, except that the base rate for obstetrical care is increased by ten percent from the base rate in effect on June 30, 1987.

For medical assistance and general assistance medical care services rendered on or after July 1, 1989, payments to physicians and dentists must be calculated at the lower of (1) the submitted charges, or (2) the 50th percentile of prevailing charges in 1982.

The increased payments to small hospitals in Minnesota Statutes, section 256.969, subdivision 3, are authorized for fiscal year 1989 only.

Notwithstanding Minnesota Statutes 1986, section 256.969, subdivision 3, paragraph (b), the appropriation in Laws 1987, chapter 403, article 1, section 2, subdivision 6, paragraph (b), for supplemental grants to hospitals is allocated as follows: $51,900 to Hennepin county medical center and $48,100 to St. Paul-Ramsey medical center. The commissioner shall distribute this money by June 30, 1988.

For the six-month period ending June 30, 1989, persons with serious and persistent mental illness who, except for their residence in a facility licensed under Minnesota Rules, parts 9520.0500 to 9520.0690, would be eligible for medical assistance services, are eligible under the general assistance medical care program for services covered under the general assistance medical care program plus case management. The commissioner may, with the approval of the governor and after consulting with the legislative advisory commission, transfer $711,000 of the medical assistance appropriation to the general assistance medical care appropriation for this purpose.

In the biennium ending on June 30, 1989, the commissioner shall not authorize or approve more than 150 newly constructed or newly established intermediate care beds for persons with mental retardation or related conditions under Minnesota Statutes, section 252.291, subdivision 2. One-half of the first 70 newly constructed or newly established intermediate care beds for persons with mental retardation or related conditions approved by the commissioner must be state-operated community-based intermediate care beds for persons with mental retardation or related conditions. Money appropriated to operate and expand state-operated community-based program pilot projects pursuant to Laws 1987, chapter 403, article 1, section 2, subdivision 9, may be used to establish state-operated community-based intermediate care beds for persons with mental retardation or related conditions.

Of this appropriation, $200,000 is for a regional demonstration project under Minnesota Statutes, section 256B.73, to provide health coverage to low-income uninsured persons. The appropriation is available when the planning for the

project is complete, sufficient money has been committed from nonstate sources to allow the project to proceed, and the project is prepared to begin accepting and approving applications from uninsured individuals. The commissioner shall contract with the coalition formed for the nine counties named in Minnesota Statutes, section 256B.73, subdivision 2.

Of this appropriation, $752,500 in fiscal year 1988 and $5,117,000 in fiscal year 1989 are for additional positions required in the regional treatment centers as a result of health care financing administration surveys of mental illness program staffing.

Any unexpended balance remaining in the regional treatment center accounts for fiscal year 1988 is available to pay the billing for the state health insurance trust fund and the costs of implementing the Jarvis v. Levine court decision. For fiscal year 1989, $420,000 is appropriated for the costs of implementing the decision.

$1,600,000 is appropriated in the public health fund for medical assistance to extend eligibility to include pregnant women and infants to age one with income at or below 185 percent of the federal poverty level.

On or after October 1, 1988, the commissioner shall transfer $1,600,000 to the public health fund for the children's health plan and $500,000 to the preadmission screening and alternative care grants program from the medical assistance and general assistance medical care programs after any transfers necessary because of projected deficits in the aid to families with dependent children, general assistance, or Minnesota supplemental aid programs. The transfers may occur

only to the extent possible using any surplus projected to exist at the end of the biennium within the appropriations for the medical assistance and general assistance medical care programs.

(b) Family Support Programs

$(3,551,500) $(1,376,600)

(c) Other Income Maintenance Activities

$(1,502,300) $1,008,000

Federal receipts for the alien verification entitlement system must be deposited in the state systems account.

Money appropriated for the medical assistance and general assistance medical care managed care project under Minnesota Statutes, section 256B.74, is available through June 30, 1989. Money needed to implement or continue the recommendations of the task force must be included as a change request in the 1989 to 1991 biennial budget.

Money appropriated to develop a plan to implement the healthspan program is available until June 30, 1989.

By January 1, 1989, the commissioner of the department of human services shall, in cooperation with the commissioner of employee relations, complete a job evaluation study to determine the comparable worth value of direct care staff positions in intermediate care facilities for the mentally retarded, waivered residential services, semi-independent living programs, and developmental achievement centers that are licensed by the department of human services or by a county. The commissioner shall contract with the department of employee relations for completion of the study. Results of the study shall be reported to the chair of the finance committee of the senate and to the chair of the appropriations committee of the house.

Notwithstanding Laws 1987, chapter 403, article 1, section 14, subdivision 1, the commissioner is authorized to transfer funds as necessary from nonsalary object of expenditure classes to salary object of expenditure classes in the medical assistance demonstration project in order to efficiently educate and enroll medical assistance recipients in the project.

$40,000 of this appropriation must be transferred to the commissioner of the state planning agency for the biennium ending June 30, 1989, to fund the local efforts of a multicounty area in southwest central Minnesota to plan, organize, and design a health insurance program demonstration project for low income adults and their dependents. The demonstration project shall be designed to best meet the health insurance needs of individuals and families who are not eligible for any other federally subsidized health benefits program and who do not have any health insurance or who do not have adequate health insurance. The project shall be planned and organized to make the best use of existing community health providers and agencies. By February 1, 1989, the commissioner shall report to the chairs of the health and human services committees of the senate and the house with a plan, organization, and design for implementation of the health insurance demonstration project. The report must be based on recommendations from the multicounty area.

The developmental achievement center pilot payment rate system in Minnesota Statutes, section 252.46, subdivision 14, may operate through June 30, 1990.

Of this appropriation, $150,000 is immediately available to contract with the commissioner of health to implement that part of Public Law No. 100-203 specified in section 6, subdivision 3.

Federal receipts for the independent review of medical assistance prepaid plans under contract with the commissioner are appropriated to the commissioner for the review process.

$85,000 of this appropriation must be transferred to the commissioner of administration to complete by February 1, 1989, (1) an operational cost analysis, (2) an impact analysis on other nursing homes in the area, (3) a demographic study of the number of veterans that would be served in the area, (4) staffing level requirements and the availability of staff, and (5) a site feasibility study for the following projects: (a) establishment of a facility in Fergus Falls for the housing and nursing care of veterans; and (b) establishment of a veterans home in southwestern Minnesota.

Money appropriated for the Faribault regional center planning study must be transferred to the commissioner of the state planning agency and is available until June 30, 1989.

Subd. 6. Veterans Homes

$ 763,200 $3,222,600

Funds appropriated for the Minnesota veterans homes shall be transferred to the board of directors of the homes immediately upon licensure of the board by the commissioner of health for the biennium ending June 30, 1989.

During the biennium, the board of directors of the veterans homes shall report the results of all health department and Veterans Administration inspections and surveys to the governor, the chair of the House of Representatives appropriation committee, the chair of the Senate finance committee, the chair of the House health and human services appropriation division and the chair of the Senate health and human services finance division,

within ten days of receiving written notification of the results. The report shall include plans for correcting deficiencies.

The board of directors of the veterans homes shall report to the legislature by January 1, 1989, regarding efforts to maximize use of federal Veterans Administration funds.

Of this appropriation, $410,000 is for the replacement of electrical transformers and for phase 1 of the steam retrofitting for the veterans home.

Money appropriated for repairs and replacement at the veterans homes is not included in the base funding level. The commissioner shall request necessary funds for this purpose as a change request to the 1989 to 1991 biennial budget.

Sec. 3. OMBUDSMAN FOR MENTAL HEALTH AND MENTAL RETARDATION -0- 200,000

This appropriation is added to the appropriation in Laws 1987, chapter 352, section 13.

Any balance remaining at the end of fiscal year 1988 in the account of the ombudsman for mental health and mental retardation does not cancel but is available for fiscal year 1989.

Sec. 4. JOBS AND TRAINING

Subdivision 1. Appropriation by Fund

General Fund -0- 1,800,000

This appropriation is added to the appropriation in Laws 1987, chapter 403, article 1, section 4.

Subd. 2. Employment and Training

General Fund

$ -0- $ 100,000

All money remaining in the emergency interest repayment fund established under Minnesota Statutes, section 268.061, on

June 29, 1988, is transferred to the unemployment compensation fund established under Minnesota Statutes, section 268.05.

Subd. 3. Rehabilitation Services

$ -0- $ 350,000

Of this appropriation, $150,000 is for grants to certified rehabilitation facilities to provide needed services to eligible persons who are on a waiting list for community-based employment services.

Subd. 4. Community Services

$ -0- $1,350,000

Of this appropriation, $300,000 is for Minnesota economic opportunity grants, of which $200,000 is for the Olmsted and Freeborn county community action agencies. Notwithstanding Laws 1987, chapter 403, article 1, section 4, subdivision 4, in the event the Olmsted and Freeborn county community action agencies become federal-eligible entities, the discretionary funds being held in reserve for the Olmsted and Freeborn county community action agencies must be distributed to all community action agencies.

Grants for development and administration of life skills and employment plans for homeless individuals are authorized for fiscal year 1989 only. Money needed to continue this program must be included as a change request in the 1989 to 1991 biennial budget document.

Sec. 5. CORRECTIONS

Subdivision 1. Total Appropriation	7,900	521,600

This appropriation is added to the appropriation in Laws 1987, chapter 403, article 1, section 5.

Subd. 2. Correctional Institutions

$ -0- $ 360,000

This appropriation is to replace boiler number three at the Red Wing correctional facility.

Of the appropriation in Laws 1987, chapter 403, article 1, section 5, subdivision 4, the commissioner may transfer $41,200 in 1988 and $69,100 in 1989 from contractual services to salaries.

The commissioner may transfer unencumbered grant money during the biennium to pay the department's share of the employee insurance trust fund deficit and for the completion of the Lino Lakes expansion project.

Subd. 3. Community Services

$ 7,900 $161,600

Sec. 6. HEALTH

Subdivision 1. Appropriation by Fund

General Fund	-0-	2,792,000
Special Revenue Fund	-0-	320,300
Public Health Fund	175,200	200,800
Trunk Highway Fund	74,400	85,500
Metro Landfill Fund	19,300	22,000

This appropriation is added to the appropriation in Laws 1987, chapter 403, article 1, section 8.

Subd. 2. Preventive and Protective Health Services

General Fund

$ -0- $2,002,000

Special Revenue Fund

$ -0- $ 220,300

Of the appropriation from the general fund, $700,000 is to be used for AIDS prevention grants for certain high-risk populations: $350,000 for communities of color; $250,000 for adolescents at highest risk; and $100,000 for intravenous drug abusers.

Of the appropriation from the general fund, $200,000 is to establish the Minnesota institute for addiction and stress

research. Of this total, $160,000 will be used for a grant to the institute and $40,000 will be retained by the department. The approved complement of the department of health is increased by one position for purposes of developing and monitoring the institute.

Of the appropriation from the special revenue fund, $55,000 is for implementation of the environmental laboratories certification program and is available until June 30, 1992.

Of the appropriation in Laws 1987, chapter 403, article 1, section 8, subdivision 2, the commissioner may transfer $142,000 in fiscal year 1989 from supplies and expense to salaries.

Of the appropriation in Laws 1987, chapter 403, article 1, section 8, subdivision 2, for the purchase of equipment, $190,000 is available until June 30, 1989.

Money appropriated for the safe drinking water program is available only for fiscal year 1989. The commissioner shall study alternative structures for funding the program beyond fiscal year 1989 and shall recommend a funding structure to the legislature by January 1, 1989.

Money appropriated for a medical screening of past employees and family members of past employees of the Conwed Corporation plant in Cloquet is available until expended.

Subd. 3. Health Delivery Systems

General Fund

$ -0-	$ 790,000

Special Revenue Fund

$ -0-	$ 100,000

Of the appropriation from the general fund, $400,000 is for grants to poison information centers selected by the commissioner under criteria established in Minnesota Statutes, section 145.93.

The commissioner may develop a schedule of fees for diagnostic evaluations conducted at clinics held by the services for children with handicaps program.

Notwithstanding the provisions of Minnesota Rules, part 4690.4600, an emergency medical technician certificate issued to a firefighter employed by the city of Minneapolis which expires as of December 31, 1988, shall be effective until December 31, 1989, provided that the firefighter does not serve as an ambulance attendant.

The commissioner of health, in consultation with the commissioner of human services, shall implement the provisions of Public Law Number 100-203, the Omnibus Budget Reconciliation Act of 1987, that relate to training and competency evaluation programs and the establishment of a registry for nurse aides in nursing homes and boarding care homes certified for participation in the medical assistance or Medicare programs. The board of nursing, at the request of the commissioner of health, may establish training and competency evaluation standards and may establish a registry of nurse aides who have completed the programs. The board of nursing and the commissioner of health may adopt emergency rules that may be required for the implementation of Public Law Number 100-203. Emergency rulemaking authority expires June 30, 1989. The commissioner of human services shall amend the interagency contract with the commissioner of health to incorporate these requirements.

Money appropriated for a demonstration project relating to blood lead levels in pregnant women is available until June 30, 1990.

Money appropriated for a demonstra-

tion project relating to blood lead levels in children is available until expended.

Subd. 4. Health Support Services
Public Health Fund

$ 175,200 $ 200,800

Trunk Highway Fund

$ 74,400 $ 85,500

Metro Landfill Fund

$ 19,300 $ 22,000

Sec. 7. PROJECT LABOR

For human services and corrections institutions, wages for project labor may be paid if the employee is to be engaged in a construction or repair project of short-term and nonrecurring nature. Minnesota Statutes, section 43A.25, does not prevent the payment of the prevailing wage rate, as defined in Minnesota Statutes, section 177.42, subdivision 6, to a person hired to work on a project, whether or not the person is working under a contract.

ARTICLE 2

Section 1. Minnesota Statutes 1987 Supplement, section 3.922, subdivision 6, is amended to read:

Subd. 6. **DUTIES.** The primary duties of the council shall be to:

(1) clarify for the legislature and state agencies the nature of tribal governments, the relationship of tribal governments to the Indian people of Minnesota;

(2) assist the secretary of state in establishing an election of at large members of the council;

(3) make recommendations to members of the legislature on desired and needed legislation for the benefit of the statewide Indian community and communicate to the members of the legislature when legislation has or will have an adverse effect on the statewide Indian community;

(4) provide, through the elected apparatus of the council, an effective conduit for programs, proposals, and projects to the legislature submitted by tribal governments, organizations, committees, groups, or individuals;

(5) provide a continuing dialogue with members of the appropriate tribal

governments in order to improve their knowledge of the legislative process, state agencies, and governmental due process;

(6) assist in establishing Indian advisory councils in cooperation with state agencies delivering services to the Indian community;

(7) assist state agencies in defining what groups, organizations, committees, councils, or individuals are eligible for delivery of their respective services;

(8) assist in providing resources, tribal and other, in the delivery of services to the statewide Indian community;

(9) act as a liaison between local, state, and national units of government in the delivery of services to the Indian population of Minnesota;

(10) assist state agencies in the implementation and updating of studies of services delivered to the Indian community;

(11) provide, for the benefit of all levels of state government, a continuing liaison between those governmental bodies and duly elected tribal governments and officials;

(12) interreact with private organizations involved with Indian concerns in the development and implementation of programs designed to assist Indian people, insofar as they affect state agencies and departments;

(13) act as an intermediary, when requested and if necessary between Indian interests and state agencies and departments when questions, problems, or conflicts exist or arise;

(14) provide information for and direction to a program designed to assist Indian citizens to assume all the rights, privileges, and duties of citizenship, and to coordinate and cooperate with local, state, and national private agencies providing services to the Indian people;

(15) develop educational programs, community organization programs, leadership development programs, motivational programs, and business development programs for the benefit of Indian persons who have been, are, or will be subject to prejudice and discrimination; ~~and~~

(16) cooperate and consult with appropriate commissioners and agencies to develop plans and programs to most effectively serve the needs of Indians; and

(17) review data provided by the commissioner of human services under section 257.072, subdivision 5, and present recommendations on the out-of-home placement of Indian children. Recommendations must be presented to the commissioner and the legislature by February 1, 1990; November 1, 1990; and November 1 of each year thereafter.

Sec. 2. Minnesota Statutes 1986, section 3.9223, subdivision 3, is amended to read:

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

Subd. 3. **DUTIES.** The council shall:

(a) Advise the governor and the legislature on the nature of the issues and disabilities confronting Spanish-speaking people in this state including the unique problems encountered by Spanish-speaking migrant agricultural workers;

(b) Advise the governor and the legislature on statutes or rules necessary to insure Spanish-speaking people access to benefits and services provided to people in this state;

(c) Recommend to the governor and the legislature legislation designed to improve the economic and social condition of Spanish-speaking people in this state;

(d) Serve as a conduit to state government for organizations of Spanish-speaking people in the state;

(e) Serve as a referral agency to assist Spanish-speaking people in securing access to state agencies and programs;

(f) Serve as a liaison with the federal government, local government units and private organizations on matters relating to the Spanish-speaking people of this state;

(g) Perform or contract for the performance of studies designed to suggest solutions to problems of Spanish-speaking people in the areas of education, employment, human rights, health, housing, social welfare and other related programs;

(h) Implement programs designed to solve problems of Spanish-speaking people when so authorized by other statute, rule or order;

(i) Review data provided by the commissioner of human services under section 257.072, subdivision 5, and present recommendations on the out-of-home placement of children of Hispanic people. Recommendations must be presented to the commissioner and the legislature by February 1, 1990; November 1, 1990; and November 1 of each year thereafter; and

(j) Publicize the accomplishments of Spanish-speaking people and the contributions made by them to this state.

Sec. 3. Minnesota Statutes 1986, section 3.9225, subdivision 3, is amended to read:

Subd. 3. **DUTIES.** The council shall:

(a) Advise the governor and the legislature on the nature of the issues confronting Black people in this state;

(b) Advise the governor and the legislature on statutes or rules necessary to insure Black people access to benefits and services provided to people in this state;

(c) Recommend to the governor and the legislature any revisions in the state's affirmative action program and any other steps that are necessary to eliminate underutilization of Blacks in the state's work force;

(d) Recommend to the governor and the legislature legislation designed to improve the economic and social condition of Black people in this state;

(e) Serve as a conduit to state government for organizations of Black people in the state;

(f) Serve as a referral agency to assist Black people in securing access to state agencies and programs;

(g) Serve as a liaison with the federal government, local government units and private organizations on matters relating to the Black people of this state;

(h) Perform or contract for the performance of studies designed to suggest solutions to problems of Black people in the areas of education, employment, human rights, health, housing, social welfare and other related areas;

(i) Implement programs designed to solve problems of Black people when so authorized by other statute, rule or order; ~~and~~

(j) Review data provided by the commissioner of human services under section 257.072, subdivision 5, and present recommendations on the out-of-home placement of Black children. Recommendations must be presented to the commissioner and the legislature by February 1, 1990; November 1, 1990; and November 1 of each year thereafter; and

(k) Publicize the accomplishments of Black people and the contributions made by them to this state.

Sec. 4. Minnesota Statutes 1986, section 3.9226, subdivision 3, is amended to read:

Subd. 3. **DUTIES.** The council shall:

(1) advise the governor and the legislature on issues confronting Asian-Pacific people in this state, including the unique problems of non-English-speaking immigrants and refugees;

(2) advise the governor and the legislature of administrative and legislative changes necessary to ensure Asian-Pacific people access to benefits and services provided to people in this state;

(3) recommend to the governor and the legislature any revisions in the state's affirmative action program and other steps that are necessary to eliminate underutilization of Asian-Pacific people in the state's work force;

(4) recommend to the governor and the legislature legislation designed to improve the economic and social condition of Asian-Pacific people in this state;

(5) serve as a conduit to state government for organizations of Asian-Pacific people in the state;

(6) serve as a referral agency to assist Asian-Pacific people in securing access to state agencies and programs;

(7) serve as a liaison with the federal government, local government units, and private organizations on matters relating to the Asian-Pacific people of this state;

(8) perform or contract for the performance of studies designed to suggest solutions to the problems of Asian-Pacific people in the areas of education, employment, human rights, health, housing, social welfare, and other related areas;

(9) implement programs designed to solve the problems of Asian-Pacific people when authorized by other law;

(10) publicize the accomplishments of Asian-Pacific people and their contributions to this state;

(11) work with other state and federal agencies and organizations to develop small business opportunities and promote economic development for Asian-Pacific Minnesotans;

(12) supervise development of an Asian-Pacific trade primer, outlining Asian and Pacific customs, cultural traditions, and business practices, including language usage, for use by Minnesota's export community; ~~and~~

(13) cooperate with other state and federal agencies and organizations to develop improved state trade relations with Asian and Pacific countries; and

(14) review data provided by the commissioner of human services under section 257.072, subdivision 5, and present recommendations on the out-of-home placement of Asian-Pacific children. Recommendations must be presented to the commissioner and the legislature by February 1, 1990; November 1, 1990; and November 1 of each year thereafter.

Sec. 5. Minnesota Statutes 1987 Supplement, section 16B.08, subdivision 7, is amended to read:

Subd. 7. **SPECIFIC PURCHASES.** (a) The following may be purchased without regard to the competitive bidding requirements of this chapter:

(1) merchandise for resale at state park refectories or facility operations;

(2) farm and garden products, which may be sold at the prevailing market price on the date of the sale;

(3) meat for other state institutions from the vocational school maintained at Pipestone by independent school district No. 583; and

(4) furniture from the Minnesota correctional facilities.

(b) Supplies, materials, equipment, and utility services for use by a community-based residential facility operated by the commissioner of human services may be purchased or rented without regard to the competitive bidding requirements of this chapter.

(c) Supplies, materials, or equipment to be used in the operation of a hospital licensed under sections 144.50 to 144.56 that are purchased under a shared service purchasing arrangement whereby more than one hospital purchases supplies, materials, or equipment with one or more other hospitals, either through one of the hospitals or through another entity, may be purchased without regard to the competitive bidding requirements of this chapter if the following conditions are met:

(1) the hospital's governing authority authorizes the arrangement;

(2) the shared services purchasing program purchases items available from more than one source on the basis of competitive bids or competitive quotations of prices; and

(3) the arrangement authorizes the hospital's governing authority or its representatives to review the purchasing procedures to determine compliance with these requirements.

Sec. 6. **[62A.048] DEPENDENT COVERAGE.**

A policy of accident and sickness insurance that covers an employee who is a Minnesota resident must, if it provides dependent coverage, allow dependent children who do not reside with the covered employee to be covered on the same basis as if they reside with the covered employee. Neither the amount of support provided by the employee to the dependent child nor the residency of the child may be used as an excluding or limiting factor for coverage or payment for health care.

Sec. 7. Minnesota Statutes 1987 Supplement, section 62A.152, subdivision 2, is amended to read:

Subd. 2. **MINIMUM BENEFITS.** (a) All group policies and all group subscriber contracts providing benefits for mental or nervous disorder treatments in a hospital shall also provide coverage on the same basis as coverage for other benefits for at least 80 percent of the cost of the usual and customary charges of the first ten hours of treatment incurred over a 12-month benefit period, for mental or nervous disorder consultation, diagnosis and treatment services delivered while the insured person is not a bed patient in a hospital, and at least 75 percent of the cost of the usual and customary charges for any additional hours of treatment during the same 12-month benefit period for serious ~~and~~ or persistent mental or nervous disorders, if the services are furnished by (1) a licensed or accredited hospital, (2) a community mental health

center or mental health clinic approved or licensed by the commissioner of human services or other authorized state agency, or (3) a licensed consulting psychologist licensed under the provisions of sections 148.87 to 148.98, or a psychiatrist licensed under chapter 147. Prior authorization from an accident and health insurance company, or a nonprofit health service corporation, shall be required for an extension of coverage beyond ten hours of treatment. This prior authorization must be based upon the severity of the disorder, the patient's risk of deterioration without ongoing treatment and maintenance, degree of functional impairment, and a concise treatment plan. Authorization for extended treatment may ~~not exceed~~ be limited to a maximum of 30 visit hours during any 12-month benefit period.

(b) For purposes of this section, covered treatment for a minor ~~shall include~~ includes treatment for the family if family therapy is recommended by a provider listed ~~above~~ in paragraph (a), item (1), (2) or (3). For purposes of determining benefits under this section, "hours of treatment" means treatment rendered on an individual or single-family basis. If treatment is rendered on a group basis, the hours of covered group treatment must be provided at a ratio of no less than two group treatment sessions to one individual treatment hour.

Sec. 8. Minnesota Statutes 1987 Supplement, section 62A.48, subdivision 7, is amended to read:

Subd. 7. **EXISTING POLICIES.** Nothing in sections 62A.46 to ~~62A.56~~ 62A.58 prohibits the renewal of the following long-term care policies:

(1) policies sold outside the state of Minnesota to persons who at the time of sale were not residents of the state of Minnesota;

(2) policies sold before August 1, 1986; and

(3) policies sold before July 1, 1988, by associations exempted from sections 62A.31 to 62A.44 under section 62A.31, subdivision 1a.

Sec. 9. Minnesota Statutes 1987 Supplement, section 62A.50, subdivision 3, is amended to read:

Subd. 3. **DISCLOSURES.** No long-term care policy shall be offered or delivered in this state, whether or not the policy is issued in this state, and no certificate of coverage under a group long-term care policy shall be offered or delivered in this state, unless a statement containing at least the following information is delivered to the applicant at the time the application is made:

(1) a description of the benefits and coverage provided by the policy and the differences between this policy, a supplemental Medicare policy and the benefits to which an individual is entitled under parts A and B of Medicare and the differences between policy designations A and AA;

(2) a statement of the exceptions and limitations in the policy including the following language, as applicable, in bold print: "THIS POLICY DOES NOT

COVER ALL NURSING CARE FACILITIES OR NURSING HOME ~~OR,~~ HOME CARE, OR ADULT DAY CARE EXPENSES AND DOES NOT COVER RESIDENTIAL CARE. READ YOUR POLICY CAREFULLY TO DETERMINE WHICH FACILITIES AND EXPENSES ARE COVERED BY YOUR POLICY.";

(3) a statement of the renewal provisions including any reservation by the insurer of the right to change premiums;

(4) a statement that the outline of coverage is a summary of the policy issued or applied for and that the policy should be consulted to determine governing contractual provisions;

(5) an explanation of the policy's loss ratio including at least the following language: "This means that, on the average, policyholders may expect that $..... of every $100 in premium will be returned as benefits to policyholders over the life of the contract."; ~~and~~

(6) a statement of the out-of-pocket expenses, including deductibles and copayments for which the insured is responsible, and an explanation of the specific out-of-pocket expenses that may be accumulated toward any out-of-pocket maximum as specified in the policy;

(7) the following language, in bold print: "YOUR PREMIUMS CAN BE INCREASED IN THE FUTURE. THE RATE SCHEDULE THAT LISTS YOUR PREMIUM NOW CAN CHANGE.";

(8) the following language, if applicable, in bold print: "IF YOU ARE NOT HOSPITALIZED PRIOR TO ENTERING A NURSING HOME OR NEEDING HOME CARE, YOU WILL NOT BE ABLE TO COLLECT ANY BENEFITS UNDER THIS PARTICULAR POLICY."; and

(9) a signed and completed copy of the application for insurance is left with the applicant at the time the application is made.

Sec. 10. Minnesota Statutes 1986, section 62A.54, is amended to read:

62A.54 **PROHIBITED PRACTICES.**

Unless otherwise provided for in Laws 1986, chapter 397, sections 2 to 8, the solicitation or sale of long-term care policies is subject to the requirements and penalties applicable to the sale of medicare supplement insurance policies as set forth in sections 62A.31 to 62A.44.

It is misconduct for any agent or company to make any misstatements concerning eligibility or coverage under the medical assistance program, or about how long-term care costs will or will not be financed if a person does not have long-term care insurance. Any agent or company providing information on the medical assistance program shall also provide information about how to contact the county human services department or the state department of human services.

Sec. 11. **[62C.143] DEPENDENT COVERAGE.**

A subscriber contract of a nonprofit health service plan corporation that covers an employee who is a Minnesota resident must, if it provides dependent coverage, allow dependent children who do not reside with the covered employee to be covered on the same basis as if they reside with the covered employee. Neither the amount of support provided by the employee to the dependent child nor the residency of the child may be used as an excluding or limiting factor for coverage or payment for health care.

Sec. 12. Minnesota Statutes 1987 Supplement, section 62D.102, is amended to read:

62D.102 **MINIMUM BENEFITS.**

(a) In addition to minimum requirements established in other sections, all group health maintenance contracts providing benefits for mental or nervous disorder treatments in a hospital shall also provide coverage for at least ten hours of treatment over a 12-month period with a copayment not to exceed the greater of $10 or 20 percent of the applicable usual and customary charge for mental or nervous disorder consultation, diagnosis and treatment services delivered while the enrollee is not a bed patient in a hospital and at least 75 percent of the cost of the usual and customary charges for any additional hours of ambulatory mental health treatment during the same 12-month benefit period for serious ~~and~~ or persistent mental or nervous disorders. Prior authorization may be required for an extension of coverage beyond ten hours of treatment. This prior authorization must be based upon the severity of the disorder, the patient's risk of deterioration without ongoing treatment and maintenance, degree of functional impairment, and a concise treatment plan. Authorization for extended treatment may ~~not exceed~~ be limited to a maximum of 30 visit hours during any 12-month benefit period.

(b) For purposes of this section, covered treatment for a minor ~~shall include~~ includes treatment for the family if family therapy is recommended by a health maintenance organization provider. For purposes of determining benefits under this section, "hours of treatment" means treatment rendered on an individual or single-family basis. If treatment is rendered on a group basis, the hours of covered group treatment must be provided at a ratio of no less than two group treatment sessions to one individual treatment hour. For a health maintenance contract that is offered as a companion to a health insurance subscriber contract, the benefits for mental or nervous disorders must be calculated in aggregate for the health maintenance contract and the health insurance subscriber contract.

Sec. 13. **[62D.106] DEPENDENT COVERAGE.**

A health maintenance organization subscriber contract must, if it provides dependent coverage, allow dependent children who do not reside with the covered employee to be covered on the same basis as if they reside with the covered employee. Neither the amount of support provided by the employee to the dependent child nor the residency of the child can be used as an excluding or

limiting factor for coverage or payment for any health care. Coverage under this section shall apply only if the dependent child resides within the service area of the health maintenance organization or if the dependent child is a birth or legally adopted child.

Sec. 14. Minnesota Statutes 1986, section 62E.04, is amended by adding a subdivision to read:

Subd. 9. **REDUCTION OF BENEFITS BECAUSE OF ERISA SERVICES.** No plan of health coverage including, but not limited to, any plan under the federal Employee Retirement Income Security Act of 1974 (ERISA), United States Code, title 29, sections 1001 to 1461, which covers a Minnesota resident shall deny or reduce benefits because services are rendered to a covered person or dependent who is eligible for or receiving benefits under chapter 256B.

Sec. 15. Minnesota Statutes 1986, section 62E.04, is amended by adding a subdivision to read:

Subd. 10. **DEPENDENT COVERAGE.** A plan of health coverage under the Federal Employee Retirement Income Security Act of 1974 (ERISA), United State Code, title 29, sections 1001 to 1461, which covers an employee who is a Minnesota resident must, if it provides dependent coverage, allow dependent children who are eligible for or receiving benefits under chapter 256B and who do not reside with the covered employee to be covered on the same basis as if they reside with the covered employee. Neither the amount of support provided by the employee to the dependent child nor the residency of the child can be used as an excluding or limiting factor for coverage or payment for any health care.

Sec. 16. Minnesota Statutes 1987 Supplement, section 129A.01, subdivision 5, is amended to read:

Subd. 5. ~~**HANDICAPPED PERSON**~~ **PERSON WITH A DISABILITY.** ~~"Handicapped person"~~ "Person with a disability" means a person who because of a substantial physical, mental, or emotional disability or dysfunction requires special services in order to enjoy the benefits of society.

Sec. 17. Minnesota Statutes 1987 Supplement, section 129A.01, subdivision 6, is amended to read:

Subd. 6. ~~**LONG-TERM SHELTERED WORKSHOP**~~ **REHABILITATION FACILITY.** "~~Long-term sheltered workshop~~ Rehabilitation facility" means ~~a facility where any manufacture or handiwork is carried on and~~ an entity which meets the definition of "rehabilitation facility" in the federal Rehabilitation Act of 1973, as amended; however, for the purposes of sections 129A.03, paragraph (a), 129A.06, 129A.07, and 129A.08, "rehabilitation facility" means an entity which is operated for the primary purpose of providing remunerative employment to those ~~handicapped~~ persons with a disability who, as a result of physical or mental disability, are unable to participate in competitive employment. A

~~long-term sheltered workshop~~ rehabilitation facility shall supply such employment (1) as a step in the rehabilitation process for those who cannot be readily absorbed in the competitive labor market, or (2) during such time as employment opportunities for them in the competitive labor market do not exist.

Sec. 18. Minnesota Statutes 1987 Supplement, section 129A.01, subdivision 7, is amended to read:

Subd. 7. **WORK ACTIVITY PROGRAM.** "Work activity program" means a program which utilizes paid work and training services for the primary purpose of providing basic vocational skills development for ~~the handicapped~~ persons with a disability and which permits a level of production below that required for a long-term employment program.

Sec. 19. Minnesota Statutes 1986, section 129A.02, subdivision 3, is amended to read:

Subd. 3. **CONSUMER ADVISORY COUNCIL.** To assure that consumer concerns are ~~integral parts of the considerations of~~ a major consideration in the ~~department~~ department's programs, policies, and decision making process, the commissioner shall establish and appoint a consumer advisory council on vocational rehabilitation which shall be composed of ~~nine~~ no more than 13 members. ~~No fewer than five~~ A majority of the members of the council shall be ~~handicapped~~ persons~~, and there shall be~~ with a disability who are current or former recipients of vocational rehabilitation services or who represent consumer/advocacy organizations that regularly serve vocational rehabilitation clients. If a qualified person is available to so serve, one person shall be appointed to the council to represent each of the following: business, labor, education, medicine and the private not-for-profit rehabilitation industry. The remaining members shall be public members. Under the direction of the commissioner, the council shall organize itself and elect a chair and other officers as it deems appropriate. The council shall meet at the call of the chair or the commissioner as often as necessary. The ~~council shall expire and the~~ terms, compensation, and removal of members of the council shall be as provided in section 15.059. The council shall not expire as provided by section 15.059, subdivision 5.

Sec. 20. Minnesota Statutes 1987 Supplement, section 129A.03, is amended to read:

129A.03 **POWERS AND DUTIES.**

The commissioner shall:

(a) certify the ~~long-term sheltered workshops~~ rehabilitation facilities to offer extended employment programs, grant funds to the extended employment programs, and perform the duties as specified in section 129A.08;

(b) provide vocational rehabilitation services ~~such as~~ to persons with disabilities in accordance with the state plan for vocational rehabilitation. These

services include but are not limited to: diagnostic and related services incidental to determination of eligibility for services to be provided, including medical diagnosis and vocational diagnosis; vocational counseling, training and instruction, including personal adjustment training; physical restoration, including corrective surgery, therapeutic treatment, hospitalization and prosthetic and orthotic devices, all of which shall be obtained from appropriate established agencies; transportation; occupational and business licenses or permits, customary tools and equipment~~,~~; maintenance~~,~~; books, supplies and training materials; initial stocks and supplies; placement; on-the-job skill training and time-limited postemployment services leading to supported employment; acquisition of vending stands or other equipment, initial stocks and supplies for small business enterprises; supervision and management of small business enterprises, merchandising programs or services rendered by severely disabled persons~~; establishment, improvement, maintenance or extension of public and other nonprofit rehabilitation facilities, centers, workshops, demonstration projects and research. These services shall be provided for handicapped persons in the state whose capacity to earn a living has in any way been destroyed or impaired through industrial accident or otherwise; these~~ Persons with a disability are entitled to free choice of vendor for any medical ~~or~~, dental, prosthetic, or orthotic services provided under this paragraph;

(c) expend funds and provide technical assistance for the establishment, improvement, maintenance, or extension of public and other nonprofit rehabilitation facilities or centers;

(d) formulate plans of cooperation with the commissioner of labor and industry for providing services to workers covered under the workers' compensation act;

~~(d)~~ (e) maintain a contractual or regulatory relationship with the United States as authorized by the ~~act of Congress approved September 1, 1954, known as the "Social Security Amendments of 1954," Public Law Number 761, section 221, and the act approved October 30, 1972, known as the Social Security Amendments of 1972, Public Law Number 92-603, and subsequent amendments~~ Social Security Act, as amended. Under ~~the contract~~ this relationship, the state will undertake to make determinations referred to in those public laws with respect to all individuals in Minnesota, or with respect to a class or classes of individuals in this state that is designated in the agreement at the state's request. It is the purpose of this relationship to permit the citizens of this state to obtain all benefits available under federal law;

~~(e)~~ (f) provide an in-service training program for ~~department~~ division of rehabilitation services employees by paying for its direct costs with state and federal funds;

~~(f)~~ (g) conduct research and demonstration projects; provide training and instruction, including establishment and maintenance of research fellowships and traineeships, along with all necessary stipends and allowances; disseminate

information to ~~the handicapped~~ persons with a disability and the general public; and provide technical assistance relating to vocational rehabilitation and independent living;

~~(g)~~ (h) receive and disburse pursuant to law money and gifts available from governmental and private sources including, but not limited to, the federal Department of Education and the Social Security Administration, for the purpose of vocational rehabilitation or independent living. Money received from workers' compensation carriers for vocational rehabilitation services to injured workers must be deposited in the general fund;

~~(h)~~ (i) design all state plans ~~of~~ for vocational rehabilitation or independent living services required as a condition to the receipt and disbursement of any money available from the federal government;

~~(i)~~ (j) cooperate with other public or private agencies or organizations for the purpose of vocational rehabilitation or independent living. Money received from school districts, governmental subdivisions, mental health centers or boards, and private nonprofit organizations is appropriated to the commissioner for conducting joint or cooperative vocational rehabilitation or independent living programs;

~~(j)~~ (k) enter into contractual arrangements with instrumentalities of federal, state, or local government and with private individuals, organizations, agencies, or facilities with respect to providing vocational rehabilitation or independent living services;

~~(k)~~ (l) take other actions required by state and federal legislation relating to vocational rehabilitation, independent living, and disability determination programs;

~~(l)~~ (m) hire staff and arrange services and facilities necessary to perform the duties and powers specified in this section; and

~~(m)~~ (n) adopt, amend, suspend, or repeal rules necessary to implement or make specific programs that the commissioner by sections 129A.01 to 129A.09 is empowered to administer.

Sec. 21. Minnesota Statutes 1987 Supplement, section 129A.06, subdivision 1, is amended to read:

Subdivision 1. Any city, town, county, nonprofit corporation, state regional center, or any combination thereof, may apply to the commissioner for assistance in establishing or operating a community ~~long-term sheltered workshop~~ rehabilitation facility. Application for assistance shall be on forms supplied by the commissioner. Each applicant shall annually submit to the commissioner its plan and budget for the next fiscal year. No applicant shall be eligible for a grant hereunder unless its plan and budget have been approved by the commissioner.

Sec. 22. Minnesota Statutes 1987 Supplement, section 129A.07, subdivision 1, is amended to read:

Subdivision 1. Every city, town, county, nonprofit corporation, or combination thereof establishing a ~~long-term sheltered workshop~~ rehabilitation facility shall appoint a ~~long-term sheltered workshop~~ rehabilitation facility board of no fewer than nine members before becoming eligible for the assistance provided by sections 129A.06 to 129A.08. When any city, town, or county singly establishes such a ~~workshop~~ rehabilitation facility, the board shall be appointed by the chief executive officer of the city or the chair of the governing board of the county or town. When any combination of cities, towns, counties or nonprofit corporations establishes a ~~workshop~~ rehabilitation facility, the chief executive officers of the cities, nonprofit corporations and the chairs of the governing bodies of the counties or towns shall appoint the board. If a nonprofit corporation singly establishes a ~~workshop~~ rehabilitation facility, the corporation shall appoint the board of directors. Membership on a board shall be representative of the community served and shall include a ~~handicapped~~ person with a disability. One-third to one-half of the board shall be representative of industry or business. The remaining members should be representative of lay associations for ~~the handicapped~~ persons with a disability, labor, the general public, and education, welfare, medical, and health professions. Nothing in sections 129A.06 to 129A.08 shall be construed to preclude the appointment of elected or appointed public officials or members of the board of directors of the sponsoring nonprofit corporation to the board, so long as representation described above is preserved. If a state regional center establishes an extended employment program, the chief executive officer of the state regional center shall perform the functions of the rehabilitation facility board as prescribed in subdivision 3. The regional center is not required to establish a separate governing body as a board. The state regional center shall establish an advisory committee following the membership representation requirements of this subdivision. If a county establishes ~~a workshop~~ an extended employment program and manages the ~~workshop~~ program with county employees, the governing board shall be the county board of commissioners and other provisions of this chapter pertaining to membership on the governing board do not apply.

Sec. 23. Minnesota Statutes 1987 Supplement, section 129A.08, subdivision 1, is amended to read:

Subdivision 1. **GRANTS.** The commissioner may make grants to assist cities, towns, counties, nonprofit corporations, state regional centers, or any combination thereof in the establishment, operation, and expansion of the extended employment programs offered by ~~long-term sheltered workshops~~ rehabilitation facilities. The commissioner may accept federal grants or aids and shall cooperate with federal agencies in any reasonable manner necessary to qualify for federal grants or aids for ~~long-term sheltered workshops~~ rehabilitation facilities or their programs.

Sec. 24. Minnesota Statutes 1987 Supplement, section 129A.08, subdivision 4, is amended to read:

Subd. 4. **EVALUATION OF PROGRAMS.** The program evaluation must include, but not be limited to, the following considerations:

(a) Wages and benefits paid to ~~sheltered employees~~ extended employment program participants and number of hours worked;

(b) Rate of placement in competitive employment;

(c) Opportunities for ~~sheltered employees~~ extended employment program participants to participate in decisions affecting their employment;

(d) ~~Workshop~~ Rehabilitation facility responsiveness to ~~sheltered employees~~ extended employment program participants' grievances;

(e) Increases in individual ~~sheltered employee~~ extended employment program participants' productivity;

(f) ~~Implementing innovative ways to increase placement and retention of sheltered employees in competitive employment, or in sheltered positions with competitive employers, or innovative ways that increase sheltered employee wages;~~

~~(g)~~ Efficiency of the ~~workshops~~ rehabilitation facilities; and

~~(h)~~ (g) Types and levels of disability of the ~~sheltered employees~~ extended employment program participants and willingness of the ~~workshop~~ rehabilitation facility to accept and assist persons with serious behavioral, mental, sensory, or physical disabilities.

The evaluation must take into account the disability levels of the ~~sheltered employees~~ extended employment program participants, the geographic location and size of the ~~workshop~~ rehabilitation facility and the economic conditions of the surrounding community.

Sec. 25. Minnesota Statutes 1987 Supplement, section 129A.08, is amended by adding a subdivision to read:

Subd. 4a. **FUND ALLOCATION.** Funds appropriated for the extended employment program shall be distributed to rehabilitation facilities in a manner prescribed in rule, provided that 15 percent shall be allocated based on economic conditions as defined in rule and that, for funding purposes, no credit can be given for full-time equivalents, as defined in rule, in excess of the number of persons in the program.

Sec. 26. Minnesota Statutes 1987 Supplement, section 129A.08, subdivision 5, is amended to read:

Subd. 5. **RULE AUTHORITY.** In addition to the powers already conferred by law, the commissioner shall promulgate rules on:

(a) state certification of all ~~long-term sheltered workshops~~ rehabilitation facilities;

(b) allocation of state grant funds to extended employment programs;

(c) standards for qualification of personnel and quality of professional service and for in-service training and education leave programs for personnel;

(d) eligibility for service so that no person will be denied service on the basis of race, creed, or color;

(e) regulatory fees for consultation services;

(f) standards and criteria by which ~~handicapped~~ persons with a disability are to be judged eligible for the services;

(g) evaluation criteria for extended employment programs; and

(h) program evaluation criteria for work activity programs in order to determine the extent to which these programs meet the goals and objectives established in state and federal law relating to work activity programs.

The rules on evaluation criteria for ~~long-term sheltered workshops~~ rehabilitation facilities must be in effect by July 1, 1986. The rules must be used in making allocations for fiscal years beginning after June 30, 1987.

Sec. 27. Minnesota Statutes 1986, section 129A.09, is amended to read:

129A.09 **EXPENDITURE OF FEDERAL FUNDS.**

~~Notwithstanding the provisions of Laws 1975, chapter 433, section 2, subdivision 9,~~ Any additional federal funds which become available to the state of Minnesota for vocational rehabilitation or independent living purposes ~~after March 1, 1976 and April 1 of each fiscal year thereafter~~ as a result of a reallocation of funds returned by other states or release of additional funds may be carried over and expended in the next fiscal year. ~~The state of Minnesota shall have earned these funds in the year they are received with state expenditures in accordance with the federal-state formula in effect for that year. These funds shall be subject to the provisions of Laws 1976, chapter 332, section 9, subdivision 8.~~

Sec. 28. Minnesota Statutes 1986, section 129A.10, is amended to read:

129A.10 **INDEPENDENT LIVING SERVICES.**

Subdivision 1. **SERVICES OFFERED.** Independent living services are those services designed to materially improve opportunities for persons with disabilities to live and function more independently in their home, family, and community, and the services include:

(1) intake counseling to determine the individual's needs for services;

(2) referral and counseling services with respect to attendant care;

(3) counseling and advocacy with respect to legal and economic rights and benefits;

(4) independent living skills, training, and counseling;

(5) housing and transportation referral and assistance;

(6) surveys, directories, and other activities to identify appropriate housing and accessible transportation and other support services;

(7) peer counseling;

(8) education and training necessary to living in the community and participating in community affairs;

(9) individual and group social and recreational activities;

(10) attendant care and training of personnel to provide the care; and

(11) other necessary services which are not inconsistent with sections 62A.26 and 62E.06, subdivision 1.

Subd. 2. **ADMINISTRATION.** This section shall be administered by the department of jobs and training through the division of ~~vocational~~ rehabilitation services. The department may employ staff as reasonably required to administer this section and may accept and receive funds from nonstate sources for the purpose of effectuating this section.

Subd. 3. **CERTIFICATION.** No applicant center for independent living may receive funding under this section unless it has received certification from the division of ~~vocational~~ rehabilitation services.

The division of ~~vocational~~ rehabilitation services shall involve ~~disabled consumers~~ persons with a disability and other interested persons to consider performance evaluation criteria in order to formulate rules by which centers will be certified by July 1, 1986.

The division of ~~vocational~~ rehabilitation services shall review the programs for centers of independent living receiving funds from this section to determine their adherence to standards adopted by rule and if the standards are substantially met, shall issue appropriate certifications.

Subd. 4. **APPLICATION OF CENTERS FOR INDEPENDENT LIVING.** The division of ~~vocational~~ rehabilitation services shall require centers for independent living to complete application forms, expenditure reports, and proposed plans and budgets. These reports must be in the manner and on the form prescribed by the division. When applying, the center for independent living shall agree to provide reports and records, and make available records for audit as may be required by the division of ~~vocational~~ rehabilitation services.

The applicant center for independent living shall be notified in writing by the division concerning the approval of budgets and plans.

Sec. 29. Minnesota Statutes 1986, section 144.053, is amended by adding a subdivision to read:

Subd. 5. The commissioner of health or the commissioner's agent is not required to solicit information that personally identifies persons selected to participate in an epidemiologic study if the commissioner determines that:

(1) the study monitors incidence or prevalence of a serious disease to detect potential health problems and predict risks, provides specific information to develop public health strategies to prevent serious disease, enables the targeting of intervention resources for communities, patients, or groups at risk of the disease, and informs health professionals about risks, early detection, or treatment of the disease;

(2) the personally identifying information is not necessary to validate the quality, accuracy, or completeness of the study; or

(3) the collection of personally identifying information may seriously jeopardize the validity of study results, as demonstrated by an epidemiologic study.

Sec. 30. **[144.056] PLAIN LANGUAGE IN WRITTEN MATERIALS.**

(a) To the extent reasonable and consistent with the goals of providing easily understandable and readable materials and complying with federal and state laws governing the program, all written materials relating to determinations of eligibility for or amounts of benefits that will be given to applicants for or recipients of assistance under a program administered or supervised by the commissioner of health must be understandable to a person who reads at the seventh-grade level, using the Flesch scale analysis readability score as determined under section 72C.09.

(b) All written materials relating to services and determinations of eligibility for or amounts of benefits that will be given to applicants for or recipients of assistance under programs administered or supervised by the commissioner of health must be developed to satisfy the plain language requirements of the plain language contract act under sections 325G.29 to 325G.36. Materials may be submitted to the attorney general for review and certification. Notwithstanding section 325G.35, subdivision 1, the attorney general shall review submitted materials to determine whether they comply with the requirements of section 325G.31. The remedies available pursuant to sections 8.31 and 325G.33 to 325G.36 do not apply to these materials. Failure to comply with this section does not provide a basis for suspending the implementation or operation of other laws governing programs administered by the commissioner.

(c) The requirements of this section apply to all materials modified or developed by the commissioner on or after July 1, 1988. The requirements of this section do not apply to materials that must be submitted to a federal agency for approval, to the extent that application of the requirements prevents federal approval.

(d) Nothing in this section may be construed to prohibit a lawsuit brought to require the commissioner to comply with this section or to affect individual appeal rights under the special supplemental food program for women, infants, and children granted pursuant to federal regulations under the Code of Federal Regulations, chapter 7, section 246.

(e) The commissioner shall report annually to the chairs of the health and human services divisions of the senate finance committee and the house of representatives appropriations committee on the number and outcome of cases that raise the issue of the commissioner's compliance with this section.

Sec. 31. Minnesota Statutes 1986, section 144.125, is amended to read:

144.125 **TESTS OF INFANTS FOR INBORN METABOLIC ERRORS ~~CAUSING MENTAL RETARDATION~~.**

It is the duty of (1) the administrative officer or other person in charge of each institution caring for infants 28 days or less of age and (2) the person required in pursuance of the provisions of section 144.215, to register the birth of a child, to cause to have administered to every ~~such~~ infant or child in its care tests for hemoglobinopathy, phenylketonuria and other inborn errors of metabolism ~~causing mental retardation~~ in accordance with rules prescribed by the state commissioner of health. In determining which tests must be administered, the commissioner shall take into consideration the adequacy of laboratory methods to detect the inborn metabolic error, the ability to treat or prevent medical conditions caused by the inborn metabolic error, and the severity of the medical conditions caused by the inborn metabolic error. Testing and the recording and reporting of the results of ~~such~~ the tests shall be performed at ~~such~~ the times and in ~~such~~ the manner ~~as may be~~ prescribed by the ~~state~~ commissioner of health. ~~The provisions of~~ This section ~~shall~~ does not apply to ~~any~~ an infant whose parents object ~~thereto~~ on the grounds that ~~such~~ the tests and treatment conflict with their religious tenets and practices. The commissioner shall charge laboratory service fees for conducting the tests of infants for inborn metabolic errors so that the total of fees collected will approximate the costs of conducting the tests. Costs associated with capital expenditures and the development of new procedures may be prorated over a three-year period when calculating the amount of the fees.

Sec. 32. Minnesota Statutes 1986, section 144.50, is amended by adding a subdivision to read:

Subd. 6. **SUPERVISED LIVING FACILITY LICENSES.** The commissioner may license as a supervised living facility a facility seeking medical assistance certification as an intermediate care facility for persons with mental retardation or related conditions for four or more persons as authorized under section 252.291.

Sec. 33. **[144.97] DEFINITIONS.**

Subdivision 1. **APPLICATION.** The definitions in this section apply to section 144.98.

Subd. 2. **CERTIFICATION.** "Certification" means written acknowledgement of a laboratory's demonstrated capability to perform tests for a specific purpose.

Subd. 3. **COMMISSIONER.** "Commissioner" means the commissioner of health.

Subd. 4. **CONTRACT LABORATORY.** "Contract laboratory" means a laboratory that performs tests on samples on a contract or fee-for-service basis.

Subd. 5. **ENVIRONMENTAL SAMPLE.** "Environmental sample" means a substance derived from a nonhuman source and collected for the purpose of analysis.

Subd. 6. **LABORATORY.** "Laboratory" means the state, a person, corporation, or other entity, including governmental, that examines, analyzes, or tests samples.

Subd. 7. **SAMPLE.** "Sample" means a substance derived from a nonhuman source and collected for the purpose of analysis, or a tissue, blood, excretion, or other bodily fluid specimen obtained from a human for the detection of a chemical, etiologic agent, or histologic abnormality.

Sec. 34. **[144.98] CERTIFICATION OF ENVIRONMENTAL LABORATORIES.**

Subdivision 1. **AUTHORIZATION.** The commissioner of health may certify laboratories that test environmental samples.

Subd. 2. **RULES.** The commissioner may adopt rules to implement this section, including:

(1) procedures, requirements, and fee adjustments for laboratory certification, including provisional status and recertification;

(2) standards and fees for certificate approval, suspension, and revocation;

(3) standards for environmental samples;

(4) analysis methods that assure reliable test results;

(5) laboratory quality assurance, including internal quality control, proficiency testing, and personnel training; and

(6) criteria for recognition of certification programs of other states and the federal government.

Subd. 3. **FEES.** (a) An application for certification under subdivision 1 must be accompanied by the annual fee specified in this subdivision. The fees are for:

(1) base certification fee, $250; and

(2) test category certification fees:

Test Category	Certification Fee
Bacteriology	$100
Inorganic chemistry, fewer than 4 constituents	$ 50
Inorganic chemistry, 4 or more constituents	$150
Chemistry metals, fewer than 4 constituents	$100
Chemistry metals, 4 or more constituents	$250
Volatile organic compounds	$300
Other organic compounds	$300

(b) The total annual certification fee is the base fee plus the applicable test category fees. The annual certification fee for a contract laboratory is 1.5 times the total certification fee.

(c) Laboratories located outside of this state that require an on-site survey will be assessed an additional $1,200 fee.

(d) The commissioner of health may adjust fees under section 16A.128, subdivision 2. Fees must be set so that the total fees support the laboratory certification program. Direct costs of the certification service include program administration, inspections, the agency's general support costs, and attorney general costs attributable to the fee function.

Subd. 4. **FEES FOR LABORATORY PROFICIENCY TESTING AND TECHNICAL TRAINING.** The commissioner of health may set fees for proficiency testing and technical training services under section 16A.128. Fees must be set so that the total fees cover the direct costs of the proficiency testing and technical training services, including salaries, supplies and equipment, travel expenses, and attorney general costs attributable to the fee function.

Subd. 5. **LABORATORY CERTIFICATION ACCOUNT.** There is an account in the special revenue fund called the laboratory certification account. Fees collected under this section and appropriations for the purposes of this section must be deposited in the laboratory certification account. Money in the laboratory certification account is annually appropriated to the commissioner of health to administer this section.

Sec. 35. Minnesota Statutes 1986, section 144A.04, is amended by adding a subdivision to read:

Subd. 7. **MINIMUM NURSING STAFF REQUIREMENT.** Notwithstanding the provisions of Minnesota Rules, part 4655.5600, the minimum staffing standard for nursing personnel in nursing homes is as follows:

(a) The minimum number of hours of nursing personnel to be provided in a nursing home is the greater of two hours per resident per 24 hours or 0.95 hours per standardized resident day.

(b) For purposes of this subdivision, "hours of nursing personnel" means the paid, on-duty, productive nursing hours of all nurses and nursing assistants, calculated on the basis of any given 24-hour period. "Productive nursing hours" means all on-duty hours during which nurses and nursing assistants are engaged in nursing duties. Examples of nursing duties may be found in Minnesota Rules, parts 4655.5900, 4655.6100, and 4655.6400. Not included are vacations, holidays, sick leave, in-service classroom training, or lunches. Also not included are the nonproductive nursing hours of the in-service training director. In homes with more than 60 licensed beds, the hours of the director of nursing are excluded. "Standardized resident day" means the sum of the number of residents in each case mix class multiplied by the case mix weight for that resident class, as found in Minnesota Rules, part 9549.0059, subpart 2, calculated on the basis of a facility's census for any given day.

(c) Calculation of nursing hours per standardized resident day is performed by dividing total hours of nursing personnel for a given period by the total of standardized resident days for that same period.

Sec. 36. Minnesota Statutes 1987 Supplement, section 144A.071, subdivision 3, is amended to read:

Subd. 3. **EXCEPTIONS.** The commissioner of health, in coordination with the commissioner of human services, may approve the addition of a new certified bed or the addition of a new licensed nursing home bed, under the following conditions:

(a) to replace a bed decertified after May 23, 1983 or to address an extreme hardship situation, in a particular county that, together with all contiguous Minnesota counties, has fewer nursing home beds per 1,000 elderly than the number that is ten percent higher than the national average of nursing home beds per 1,000 elderly individuals. For the purposes of this section, the national average of nursing home beds shall be the most recent figure that can be supplied by the federal health care financing administration and the number of elderly in the county or the nation shall be determined by the most recent federal census or the most recent estimate of the state demographer as of July 1, of each year of persons age 65 and older, whichever is the most recent at the time of the request for replacement. In allowing replacement of a decertified bed, the commissioners shall ensure that the number of added or recertified beds does not exceed the total number of decertified beds in the state in that level of care. An extreme hardship situation can only be found after the county documents the existence of unmet medical needs that cannot be addressed by any other alternatives;

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

dates for beginning, achieving various stages, and completing construction; and all zoning and building permits were secured;

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

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

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

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

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

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

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

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

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

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

(h) to license or certify beds that are moved from one location to another within a nursing home facility, provided the total costs of remodeling performed in conjunction with the relocation of beds does not exceed ten percent of the appraised value of the facility or $200,000, whichever is less, or to license or certify beds in a facility for which the total costs of remodeling or renovation exceed ten percent of the appraised value of the facility or $200,000, whichever is less, if the facility makes a written commitment to the commissioner of human services that it will not seek to receive an increase in its property-related payment rate by reason of the remodeling or renovation;

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

(j) to license or certify beds in a project recommended for approval by the interagency board for quality assurance under section 144A.073;

(k) to license nursing home beds in a hospital facility that are relocated from a different hospital facility under common ownership or affiliation, provided: (1) the hospital in which the nursing home beds were originally located ceases to function as an acute care facility, or necessary support services for nursing homes as required for licensure under sections 144A.02 to 144A.10, such as dietary service, physical plant, housekeeping, physical therapy, occupational therapy, and administration, are no longer available from the original hospital site; and (2) the nursing home beds are not certified for participation in the medical assistance program;

(l) to license or certify beds that are moved from one location to another within an existing identifiable complex of hospital buildings, from a hospital-attached nursing home to the hospital building, or from a separate nursing home ~~under common ownership with or control of a hospital to the hospital when a hospital-attached nursing home is moved simultaneously to the hospital~~ to a building formerly used as a hospital, provided the original nursing home building will no longer be operated as a nursing home and the building to which the beds are moved will no longer be operated as a hospital. As a condition of receiving a license or certification under this clause, the facility must make a written commitment to the commissioner of human services that it will not seek to receive an increase in its property-related payment rate as a result of the relocation. At the time of the licensure and certification of the nursing home beds, the commissioner of health shall delicense the same number of acute care beds within the existing complex of hospital buildings or building. ~~When a separate nursing home and a hospital-attached nursing home under common ownership or control are simultaneously relocated to a hospital building, a combined cost report must be submitted for the cost reporting year ending September 30, 1987, and the freestanding nursing home limits apply.~~ Relocation of nursing home beds under this clause is subject to the limitations in section 144A.073, subdivision 5;

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

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

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

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

(p) to certify and license as nursing home beds boarding care beds in a certified boarding care facility if the beds meet the standards for nursing home licensure and if the cost of any remodeling of the facility does not exceed ten percent of the appraised value of the facility or $200,000, 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 in the future. The provisions contained in section 144A.073 regarding the upgrading of the facilities do not apply to facilities that satisfy these requirements; or

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

Sec. 37. Minnesota Statutes 1987 Supplement, section 144A.073, subdivision 1, is amended to read:

Subdivision 1. **DEFINITIONS.** For purposes of this section, the following terms have the meanings given them:

(a) "Conversion" means the relocation of a nursing home bed from a nursing home to an attached hospital.

(b) "Renovation" means extensive remodeling of, or construction of an addition to, a facility on an existing site with a total cost exceeding ten percent of the appraised value of the facility or $200,000, whichever is less.

(c) "Replacement" means the demolition and reconstruction of all or part of an existing facility.

(d) "Upgrading" means a change in the level of licensure of a bed from a boarding care bed to a nursing home bed in a certified boarding care facility ~~that is attached to a nursing home or a boarding care bed in a freestanding boarding care facility that currently meets all health department standards for a nursing home~~.

Sec. 38. Minnesota Statutes 1987 Supplement, section 144A.073, subdivision 7, is amended to read:

Subd. 7. **UPGRADING RESTRICTIONS.** Proposals submitted or approved under this section involving upgrading must satisfy the following conditions:

(a) ~~No proposal for upgrading may be approved after June 30, 1989.~~

~~(b) No more than one proposal for upgrading may be approved for a facility.~~

~~(c) Upgrading is limited to a total of ten beds.~~

~~(d)~~ The facility must meet minimum nursing home care standards.

~~(e) Upgrading must not result in an increase in per diem operating costs, except for the upgrading of those freestanding boarding care facilities which currently meet existing nursing home building and space standards.~~

~~(f)~~ (b) If beds are upgraded to nursing home beds, the number of boarding care beds in a facility must not increase in the future.

~~(g)~~ (c) The average occupancy rate in the existing nursing home beds in an attached facility must be greater than 96 percent according to the most recent annual statistical report of the department of health.

~~(h) The cost of remodeling the facility to meet current nursing home construction standards must not exceed ten percent of the appraised value of the facility or $200,000, whichever is less.~~

Sec. 39. Minnesota Statutes 1987 Supplement, section 144A.073, subdivision 8, is amended to read:

Subd. 8. **RULEMAKING.** The commissioner of health shall adopt emergency or permanent rules to implement this section. The authority to adopt emergency rules continues until December 30, 1988.

Sec. 40. Minnesota Statutes 1986, section 144A.08, is amended by adding a subdivision to read:

Subd. 1b. **SUMMER TEMPERATURE AND HUMIDITY.** A nursing home, or part of a nursing home that includes resident-occupied space, constructed after June 30, 1988, must meet the interior summer design temperature and humidity recommendations in chapter 7 of the 1982 applications of the handbook published by the American Society of Heating, Refrigerating and Air-Conditioning Engineers, Inc., as amended.

Sec. 41. Minnesota Statutes 1986, section 145.43, subdivision 1, is amended to read:

Subdivision 1. **DEFINITION.** "Hearing aid" means any instrument or device designed for or represented as aiding defective human hearing, and ~~its~~ any parts, attachments, or accessories of the instrument or device, including but not limited to ear molds. Batteries and cords shall not be considered parts, attachments, or accessories of a hearing aid.

Sec. 42. Minnesota Statutes 1986, section 145.43, subdivision 1a, is amended to read:

Subdivision 1a. **[30-DAY GUARANTEE AND BUYER RIGHT TO CANCEL.]** No person shall sell a hearing aid in this state unless:

(a) The seller provides the buyer with a 30-day written money-back guarantee. The guarantee must: ~~(1)~~ permit the buyer to cancel the purchase for any reason within 30 days after receiving the hearing aid by giving or mailing written notice of cancellation to the seller; ~~(2)~~. If the hearing aid must be repaired, remade, or adjusted during the 30-day money-back guarantee period, the running of the 30-day period is suspended one day for each 24-hour period that the hearing aid is not in the buyer's possession. A repaired, remade, or adjusted hearing aid must be claimed by the buyer within three working days after notification of availability, after which time the running of the 30-day period resumes. The guarantee must entitle the buyer, upon cancellation, to receive a full refund of payment within 30 days of return of the hearing aid to the seller; ~~provided, however, that.~~ The seller may retain as a cancellation fee ~~the actual cost of any custom ear molds made for the canceled hearing aid so long as this cancellation fee does not exceed~~ ten percent of the buyer's total payment for the hearing aid;.

(b) The seller shall provide the buyer with a contract written ~~receipt or contract to the buyer which includes,~~ in plain English, that contains uniform language and provisions that meet the requirements and are certified by the attorney general under the Plain Language Contract Act, sections 325G.29 to 325G.36. The contract must include, but is not limited to, the following: in immediate proximity to the space reserved for the signature of the buyer, or on the first page if there is no space reserved for the signature of the buyer, a clear and conspicuous disclosure of the following specific statement in all capital letters of no less than 12-point boldface type: MINNESOTA STATE LAW

GIVES THE BUYER ~~HAS~~ THE RIGHT TO CANCEL THIS PURCHASE FOR ANY REASON AT ANY TIME PRIOR TO MIDNIGHT OF THE 30TH CALENDAR DAY AFTER RECEIPT OF THE HEARING AID(S). IF THE BUYER DECIDES TO RETURN THE HEARING AID(S) WITHIN THIS 30-DAY PERIOD, THE BUYER WILL RECEIVE A REFUND OF $..... (State the dollar amount of refund.)

Sec. 43. Minnesota Statutes 1987 Supplement, section 145.43, subdivision 4, is amended to read:

Subd. 4. **ITEMIZED REPAIR BILL.** (a) Any person or company who agrees to repair a hearing aid must provide the ~~customer~~ owner of the hearing aid, or the owner's representative, with a ~~billing~~ bill that specifically itemizes all parts and labor charges for services rendered. The bill must also include the person's or company's name, address, and phone number.

(b) This subdivision does not apply to:

(1) a person or company that repairs a hearing aid pursuant to an express warranty covering the entire hearing aid and the warranty covers the entire costs, both parts and labor, of the repair; and

(2) a person or company that repairs a hearing aid and the ~~repair~~ entire hearing aid, after being repaired, is expressly warranted for a period of at least ~~one year~~ six months, the warranty covers the entire costs, both parts and labor, of the repair, and a copy of the express warranty is given to the ~~customer~~ owner or the owner's representative. The owner of the hearing aid or the owner's representative must be given a written express warranty that includes the name, address, and phone number of the repairing person or company; the make, model, and serial number of the hearing aid repaired; the exact date of the last day of the warranty period; and the terms of the warranty.

Sec. 44. Minnesota Statutes 1986, section 145.853, subdivision 2, is amended to read:

Subd. 2. In seeking to determine whether a disabled person suffers from an illness, a law enforcement officer shall make a reasonable search for an identifying device and an identification card of the type described in section 145.852, subdivision 2 and examine them for emergency information. The law enforcement officer may not search for an identifying device or an identification card in a manner or to an extent that would appear to a reasonable person in the circumstances to cause an unreasonable risk of worsening the disabled person's condition. The law enforcement officer may not remove an identifying device or an identification card from the possession of a disabled person unless the removal is necessary for law enforcement purposes or to protect the safety of the disabled person.

Sec. 45. Minnesota Statutes 1986, section 145.894, is amended to read:

145.894 **STATE COMMISSIONER OF HEALTH; DUTIES, RESPONSIBILITIES.**

The commissioner of health shall:

(a) Develop a comprehensive state plan for the delivery of nutritional supplements to pregnant and lactating women, infants, and children;

(b) Contract with existing local public or private nonprofit organizations for the administration of the nutritional supplement program;

(c) Develop and implement a public education program promoting the provisions of sections 145.891 to 145.897, and provide for the delivery of individual and family nutrition education and counseling at project sites;

(d) Develop in cooperation with other agencies and vendors a uniform state voucher system for the delivery of nutritional supplements;

(e) Authorize local health agencies to issue vouchers bimonthly to some or all eligible individuals served by the agency, provided the agency demonstrates that the federal minimum requirements for providing nutrition education will continue to be met and that the quality of nutrition education and health services provided by the agency will not be adversely impacted;

(f) Investigate and implement an infant formula cost reduction system that will reduce the cost of nutritional supplements so that by October 1, 1988, additional mothers and children will be served;

(g) Develop, analyze and evaluate the health aspects of the nutritional supplement program and establish nutritional guidelines for the program;

~~(f)~~ (h) Apply for, administer, and annually expend at least 99 percent of available federal or private funds;

~~(g)~~ (i) Aggressively market services to eligible individuals by conducting ongoing outreach activities and by coordinating with and providing marketing materials and technical assistance to local human services and community service agencies and nonprofit service providers;

~~(h)~~ (j) Determine, on July 1 of each year, the number of pregnant women participating in each special supplemental food program for women, infants, and children (W.I.C.) and, in 1986, 1987, and 1988, at the commissioner's discretion, designate a different food program deliverer if the current deliverer fails to increase the participation of pregnant women in the program by at least ten percent over the previous year's participation rate;

~~(i)~~ (k) Promulgate all rules necessary to carry out the provisions of sections 145.891 to 145.897; and

~~(j)~~ (l) Report to the legislature by November 15 of every year on the expend-

itures and activities under sections 145.891 to 145.897 of the state and local health agencies for the preceding fiscal year.

Sec. 46. **[145.924] AIDS PREVENTION GRANTS.**

The commissioner may award grants to local boards of health, state agencies, state councils, or nonprofit corporations to provide evaluation and counseling services to populations at risk for acquiring human immunodeficiency virus infection, including, but not limited to, minorities, adolescents, intravenous drug users, and homosexual men.

Sec. 47. Minnesota Statutes 1987 Supplement, section 145A.06, is amended by adding a subdivision to read:

Subd. 5. **DEADLY INFECTIOUS DISEASES.** The commissioner shall promote measures aimed at preventing businesses from facilitating sexual practices that transmit deadly infectious diseases by providing technical advice to boards of health to assist them in regulating these practices or closing establishments that constitute a public health nuisance.

Sec. 48. Minnesota Statutes 1987 Supplement, section 148B.23, subdivision 1, is amended to read:

Subdivision 1. **EXEMPTION FROM EXAMINATION.** For two years from July 1, 1987, the board shall issue a license without examination to an applicant:

(1) for a licensed social worker, if the board determines that the applicant has received a baccalaureate degree from an accredited program of social work, or that the applicant has at least a baccalaureate degree from an accredited college or university and two years in full-time employment or 4,000 hours of experience in the supervised practice of social work within the five years before July 1, ~~1987~~ 1989;

(2) for a licensed graduate social worker, if the board determines that the applicant has received a master's degree from an accredited program of social work or doctoral degree in social work; or a master's or doctoral degree from a graduate program in a human service discipline, as approved by the board;

(3) for a licensed independent social worker, if the board determines that the applicant has received a master's degree from an accredited program of social work or doctoral degree in social work; or a master's or doctoral degree from a graduate program in a human service discipline, as approved by the board; and, after receiving the degree, has practiced social work for at least two years in full-time employment or 4,000 hours under the supervision of a social worker meeting these requirements, or of another qualified professional; and

(4) for a licensed independent clinical social worker, if the board determines that the applicant has received a master's degree from an accredited program of social work or doctoral degree in social work; or a master's or doctoral degree from a graduate program in a human service discipline as approved by the

board; and, after receiving the degree, has practiced clinical social work for at least two years in full-time employment or 4,000 hours under the supervision of a clinical social worker meeting these requirements, or of another qualified mental health professional.

Sec. 49. Minnesota Statutes 1987 Supplement, section 148B.42, subdivision 1, is amended to read:

Subdivision 1. **FILING.** All mental health service providers shall file with the state, on a form provided by the board, their name; home and business address; telephone number; degrees held, if any, major field, and whether the degrees are from an accredited institution and how the institution is accredited; and any other relevant experience. An applicant for filing who has practiced in another state shall authorize, in writing, the licensing or regulatory entity in the other state or states to release to the board any information on complaints or disciplinary actions pending against that individual, as well as any final disciplinary actions taken against that individual. The board shall provide a form for this purpose. The board may reject a filing if there is evidence of a violation of or failure to comply with this chapter. Filings under this subdivision are public data.

Sec. 50. **[152A.01] INSTITUTE ESTABLISHED; STRUCTURE; BOARD OF DIRECTORS.**

Subdivision 1. **INSTITUTE ESTABLISHED; NAME.** The Minnesota Institute for Addiction and Stress Research is established. For purpose of sections 152A.01 to 152A.05, "institute" means the Minnesota Institute for Addiction and Stress Research. All business of the institute must be conducted under the name "Minnesota Institute for Addiction and Stress Research." The institute is funded by a grant from the commissioner of health.

Subd. 2. **BOARD OF DIRECTORS.** The institute must be governed by a board of nine directors appointed by the governor. Terms are for three years. Three of the initial directors must be appointed for three-year terms, three for two-year terms, and three for one-year terms.

Subd. 3. **BOARD COMPOSITION; EXECUTIVE COMMITTEE.** (a) The board must include representatives from the Minnesota department of health, the medical and scientific teams of the institute, established health organizations, private citizens, and corporate representatives. The vice president for finance and operations of the institute shall serve as an ex-officio member of the board.

(b) An executive committee of four members of the board and the vice president for finance and operations of the institute shall oversee the regular activities of the institute and keep the board informed of progress and new developments at the institute.

Subd. 4. **OPERATING PROCEDURES.** The board shall adopt operating procedures necessary to conduct the business of the institute, consistent with

sections 152A.01 to 152A.05. Adoption of operating procedures under this subdivision is not subject to the administrative procedure act under chapter 14.

Subd. 5. **PLACES OF BUSINESS.** The board shall locate and maintain the institute's places of business within the state.

Subd. 6. **MEETINGS AND ACTIONS OF THE BOARD.** The board shall hold meetings as determined necessary by the executive committee, upon giving notice as provided in the operating procedures adopted by the board.

Sec. 51. **[152A.02] INSTITUTE PERSONNEL.**

Subdivision 1. **PRESIDENT.** The board shall appoint and set the compensation for a president, who serves as chief executive officer of the institute. Subject to the control of the board, the president may appoint subordinate employees and agents.

Subd. 2. **STATUS OF EMPLOYEES.** The president serves in the unclassified state civil service and is excluded from collective bargaining. All other employees of the board are subject to chapters 43A and 179A.

Sec. 52. **[152A.03] POWERS OF THE INSTITUTE.**

In addition to other powers granted by sections 152A.01 to 152A.05, the institute may:

(1) sue, and be sued;

(2) have a seal and alter it at will;

(3) acquire and dispose of personal property, including inchoate and intellectual property, royalties, stock, and stock warrants;

(4) enter into contracts or agreements with a federal or state agency, person, business, or other organization;

(5) acquire and dispose of real property or an interest in real property;

(6) purchase insurance;

(7) sell, at public or private sale, any note, mortgage, or other instrument or obligation;

(8) consent to the modification of a contract or agreement to which the institute is a party;

(9) borrow money to carry out its purposes and issue negotiable notes, which it may refund, guarantee, or insure in whole or in part with money from the fund, other assets of the institute, or an account created by the institute for that purpose;

(10) develop, buy, and possess financial and technical information, including credit reports and financial statements;

(11) accept gifts, grants, and bequests and use or dispose of them for its purposes; and

(12) receive payments in the form of royalties, dividends, or other proceeds in connection with the ownership, license, or lease of products or businesses.

Sec. 53. **[152A.04] OPERATIONS PLAN; REPORTS.**

Subdivision 1. **OPERATIONS PLAN.** The board shall submit a progress report and an operations plan to the governor and the legislature by January 1, 1989. The plan must include the board's operating procedures, accounting procedures, personnel procedures, investment procedures, and rules of conduct and ethics.

Subd. 2. **REPORTS.** The board shall report quarterly to the commissioner of finance, on forms provided by the commissioner of finance, information about fiscal performance and status. The board shall also report quarterly to the commissioner of health, on forms provided by the commissioner of health, information about the institute's status, research and clinical projects and findings, and performance.

Sec. 54. **[152A.05] MONITORING; TERMINATION.**

Subdivision 1. **MONITORING.** All relevant records and the performance of the institute shall be monitored by the commissioner of health to assure that the institute continues to demonstrate the following:

(1) the ability to carry out task-oriented basic and clinical neurobiological research on addictive disorders and the commitment to develop an integrated, comprehensive program of basic and clinical research;

(2) the institute's involvement in basic and clinical research of stress especially as it relates to addictive disorders and chronic viral infections;

(3) the ability to work with other research and education programs;

(4) the ability to cooperate with interested health professionals throughout the state to implement the research findings;

(5) the ability to seek and receive outside funding;

(6) a significant ongoing treatment program based on a medical model capable of statewide application;

(7) the relatively close proximity to a major medical educational institution; and

(8) the commitment to develop a program to educate the public about

addictive and stress-related medical disorders and also to train therapists in Minnesota.

Subd. 2. **TERMINATION.** If the commissioner of health finds that the institute is not continuing to meet the requirements in subdivision 1, the commissioner of health may terminate the grant to the institute upon 90 days' notice to the board.

Sec. 55. **[153A.13] DEFINITIONS.**

Subdivision 1. **APPLICABILITY.** The definitions in this section apply to sections 153A.13 to 153A.18.

Subd. 2. **COMMISSIONER.** "Commissioner" means the commissioner of health.

Subd. 3. **HEARING INSTRUMENT.** "Hearing instrument" means an instrument designed to or represented as being able to aid defective human hearing. "Hearing instrument" includes the instrument's parts, attachments, and accessories, including, but not limited to, ear molds. Batteries and cords are not parts, attachments, or accessories of a hearing instrument. Surgically implanted hearing instruments, and assistive listening devices that do not require testing, fitting, or the use of ear molds and are not worn within the ear canal, are not hearing instruments.

Subd. 4. **HEARING INSTRUMENT SELLING.** "Hearing instrument selling" means fitting and selling hearing instruments, assisting the consumer in instrument selection, selling hearing instruments at retail, and testing human hearing in connection with these activities.

Subd. 5. **SELLER OF HEARING INSTRUMENTS.** "Seller of hearing instruments" means a natural person who engages in hearing instrument selling whether or not registered by the commissioner of health or licensed by an existing health-related board.

Sec. 56. **[153A.14] REGULATION.**

Subdivision 1. **APPLICATION FOR PERMIT.** A seller of hearing instruments shall apply to the commissioner for a permit to sell hearing instruments. The commissioner shall provide applications for permits. At a minimum, the information that an applicant must provide includes the seller's name, social security number, business address and phone number, employer, and information about the seller's education, training, and experience in testing human hearing and fitting hearing instruments. The commissioner may reject an application for a permit if there is evidence of a violation or failure to comply with sections 153A.13 to 153A.16.

Subd. 2. **ISSUANCE OF PERMIT.** The commissioner shall issue a permit to each seller of hearing instruments who applies under subdivision 1 if the commissioner determines that the applicant is in compliance with sections 153A.13 to 153A.16.

Subd. 3. **NONTRANSFERABILITY OF PERMIT.** The permit cannot be transferred.

Subd. 4. **SALE OF HEARING INSTRUMENTS WITHOUT PERMIT.** It is unlawful for any person not holding a valid permit to sell a hearing instrument as defined in section 153A.13, subdivision 3. A person who sells a hearing instrument without the permit required by this section is guilty of a gross misdemeanor.

Subd. 5. **RULEMAKING AUTHORITY.** The commissioner shall adopt rules under chapter 14 to implement sections 153A.13 to 153A.18.

Subd. 6. **HEARING INSTRUMENTS TO COMPLY WITH FEDERAL AND STATE REQUIREMENTS.** The commissioner shall ensure that hearing instruments are sold in compliance with state requirements and the requirements of the United States Food and Drug Administration. Failure to comply with state or federal regulations may be grounds for enforcement actions.

Subd. 7. **CONTESTED CASES.** The commissioner shall comply with the contested case procedures in chapter 14 when suspending, revoking, or refusing to issue a permit under this section.

Sec. 57. **[153A.15] PROHIBITED ACTS; ENFORCEMENT; AND PENALTY.**

Subdivision 1. **PROHIBITED ACTS.** The commissioner may reject an application for a permit or may act under subdivision 2 against a seller of hearing instruments for failure to comply with sections 153A.13 to 153A.16. Failure to apply to the commissioner for a permit, or supplying false or misleading information on the application for a permit, is a ground for action under subdivision 2. The following acts and conduct are also grounds for action under subdivision 2:

(1) prescribing or otherwise recommending to a consumer or potential consumer the use of a hearing instrument, unless the prescription from a physician or recommendation from a hearing instrument seller or audiologist is in writing, is delivered to the consumer or potential consumer, and bears the following information in all capital letters of 12-point or larger bold-face type: "THIS PRESCRIPTION OR RECOMMENDATION MAY BE FILLED BY, AND HEARING INSTRUMENTS MAY BE PURCHASED FROM, THE DISPENSER, AUDIOLOGIST, OR PHYSICIAN OF YOUR CHOICE." A prescription or written recommendation must include, upon the authorization of the consumer or potential consumer, the audiogram upon which the prescription or recommendation is based if there has been a charge for the audiogram;

(2) representing through any advertising or communication to a consumer or potential consumer, that a person's permit to sell hearing instruments indicates state approval, endorsement, or satisfaction of standards of training or skill;

(3) being disciplined through a revocation, suspension, restriction, or limitation, by another state for conduct subject to action under subdivision 2;

(4) presenting advertising that is false or misleading;

(5) providing the commissioner with false or misleading statements of credentials, training, or experience;

(6) engaging in conduct likely to deceive, defraud, or harm the public; or demonstrating a willful or careless disregard for the health, welfare, or safety of a consumer;

(7) splitting fees or promising to pay a portion of a fee to any other professional other than a fee for services rendered by the other professional to the client;

(8) engaging in abusive or fraudulent billing practices, including violations of federal Medicare and Medicaid laws, Food and Drug Administration regulations, or state medical assistance laws;

(9) obtaining money, property, or services from a consumer through the use of undue influence, high pressure sales tactics, harassment, duress, deception, or fraud; or

(10) failing to comply with restrictions on sales of hearing aids in section 145.43.

Subd. 2. **ENFORCEMENT ACTIONS.** When the commissioner finds that a seller of hearing instruments has violated one or more provisions of sections 153A.13 to 153A.16, the commissioner may do one or more of the following:

(1) deny or reject the application for a permit;

(2) revoke the permit;

(3) suspend the permit;

(4) impose, for each violation, a civil penalty that deprives the seller of any economic advantage gained by the violation and that reimburses the department of health for costs of the investigation and proceeding; and

(5) censure or reprimand the dispenser.

Subd. 3. **PROCEDURES.** The commissioner shall establish, in writing, internal operating procedures for receiving and investigating complaints and imposing enforcement actions. Establishment of the operating procedures are not subject to rulemaking procedures under chapter 14.

Subd. 4. **PENALTY.** A person violating sections 153A.13 to 153A.16 is guilty of a misdemeanor.

Sec. 58. **[153A.16] BOND REQUIRED.**

A sole proprietor, partnership, association, or corporation engaged in hearing instrument sales shall provide a surety bond in favor of the state of Minnesota in the amount of $5,000 for every individual engaged in the practice of selling hearing instruments, up to a maximum of $25,000. The bond required by this section must be in favor of the state for the benefit of any person who suffers loss of payments for the purchase or repair of a hearing instrument after July 1, 1988, due to insolvency or cessation of the business of the sole proprietor, partnership, association, or corporation engaged in hearing instrument sales. A copy of the bond must be filed with the attorney general. A person claiming against the bond may maintain an action at law against the surety and the sole proprietor, partnership, association, or corporation. The aggregate liability of the surety to all persons for all breaches of the conditions of the bonds provided herein must not exceed the amount of the bond.

Sec. 59. **[153A.17] EXPENSES.**

The expenses for administering the permit requirements for hearing aid sellers in section 153A.14 and the consumer information center under section 153A.18, must be paid from permit fees collected under the authority granted in section 214.06, subdivision 1.

Sec. 60. **[153A.18] CONSUMER INFORMATION CENTER.**

The commissioner shall establish a consumer information center to assist actual and potential purchasers of hearing aids by providing them with information regarding hearing instrument sales. The consumer information center shall disseminate information about consumers' legal rights related to hearing instrument sales, provide information relating to complaints about sellers of hearing instruments, and provide information about outreach and advocacy services for consumers of hearing instruments. In establishing the center and developing the information, the commissioner shall consult with representatives of hearing instrument sellers, audiologists, physicians, and consumers.

Sec. 61. **[157.081] FINES.**

Subdivision 1. **FINES FOR VIOLATIONS; LIMITS.** The commissioner shall impose a civil fine for repeated or egregious violation of rules relating to facilities licensed under chapter 157 or 327. The fine shall be assessed for each day the licensed facility fails to comply with the rules. A fine for a specific violation shall not exceed $50 per day.

Subd. 2. **SCHEDULE OF FINES; RULES.** The commissioner shall establish a schedule of fines by adopting rules.

Subd. 3. **NOTICE OF FINE; APPEAL.** A licensed facility that is fined under subdivision 1 shall be notified of the fine by certified mail. The notice must be mailed to the address shown on the application for the license or the

last known address of the licensed facility. The notice must state the reasons for the fine and must inform the licensed facility of the right to a contested case hearing under chapter 14.

Sec. 62. **[179A.30] REGIONAL TREATMENT CENTER, NURSING HOME, AND COMMUNITY-BASED FACILITY EMPLOYEES.**

Subdivision 1. **EXCLUSIVE REPRESENTATIVE.** The exclusive representative of employees may meet and negotiate with the commissioner of employee relations, in consultation with the commissioner of human services, concerning possible changes in hours or work schedules that could produce cost reductions in the regional treatment centers.

Subd. 2. **COMMISSIONER OF EMPLOYEE RELATIONS.** The commissioner of employee relations shall meet and negotiate in accordance with chapter 179A with the appropriate exclusive representative of the regional treatment center employees concerning the terms and conditions of employment that result from state-operated, community-based residential programs established under section 252.035.

Sec. 63. **[198.35] VETERANS HOME; SILVER BAY.**

Subdivision 1. **ESTABLISHMENT.** The commissioner may establish a veterans home in Silver Bay by renovating an existing facility owned by the city of Silver Bay if the city donates the building to the commissioner at no cost. Contracts made by the commissioner for the purposes of this subdivision are subject to chapter 16B. Buildings used for the veterans home must comply with requirements established by federal agencies as conditions for the receipt of federal funds for the nursing and boarding care of veterans. The city of Silver Bay shall secure the state match requirement from sources other than the state general fund. Money from other sources must equal at least 35 percent of the total cost of the renovation with the remainder of the funds to be provided by the United States Veterans Administration.

Subd. 2. **OPERATION.** The home must provide beds for nursing or boarding and nursing care in conformance with licensing rules of the department of health. The home must be under the management of an administrator appointed by the commissioner in the unclassified service.

Sec. 64. Minnesota Statutes 1987 Supplement, section 245.462, subdivision 3, is amended to read:

Subd. 3. **CASE MANAGEMENT ACTIVITIES.** "Case management activities" means activities that are ~~part of~~ coordinated with the community support services program as defined in subdivision 6 and are designed to help people with serious and persistent mental illness in gaining access to needed medical, social, educational, vocational, and other necessary services as they relate to the client's mental health needs. Case management activities include ~~obtaining a diagnostic assessment,~~ developing an individual community support

plan, referring the person to needed mental health and other services, ~~coordinating~~ ensuring coordination of services, and monitoring the delivery of services.

Sec. 65. Minnesota Statutes 1987 Supplement, 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 the case management activities ~~as part of a community support services program~~ specified in sections 245.462, subdivision 3; 245.471; and 245.475. A case manager must ~~be qualified at the mental health practitioner level,~~ 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 persons 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 persons 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 persons 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.

Sec. 66. Minnesota Statutes 1987 Supplement, section 245.462, subdivision 6, is amended to read:

Subd. 6. **COMMUNITY SUPPORT SERVICES PROGRAM.** "Community support services program" means services, other than inpatient or residential treatment services, provided or coordinated by an identified program and staff under the clinical supervision of a mental health professional designed to help people with serious and persistent mental illness to function and remain in the community. A community support services program includes ~~case management activities provided to persons with serious and persistent mental illness,~~:

(1) client outreach,

(2) medication management,

(3) assistance in independent living skills,

(4) development of employability and supportive work opportunities,

(5) crisis assistance,

(6) psychosocial rehabilitation,

(7) help in applying for government benefits, and

(8) the development, identification, and monitoring of living arrangements.

The community support services program must be coordinated with the case management activities specified in sections 245.462, subdivision 3; 245.471; and 245.475.

Sec. 67. Minnesota Statutes 1987 Supplement, section 245.462, subdivision 17, is amended to read:

Subd. 17. **MENTAL HEALTH PRACTITIONER.** "Mental health practitioner" means a person providing services to persons with mental illness who is qualified in at least one of the following ways:

(1) holds a bachelor's degree in one of the behavioral sciences or related fields from an accredited college or university, and has at least 2,000 hours of supervised experience in the delivery of services to persons with mental illness;

(2) has at least 6,000 hours of supervised experience in the delivery of services to persons with mental illness;

(3) is a graduate student in one of the behavioral sciences or related fields and is formally assigned by an accredited college or university to an agency or facility for clinical training ~~by an accredited college or university~~; or

(4) holds a master's or other graduate degree in one of the behavioral sciences or related fields from an accredited college or university ~~with~~ and has less than 4,000 hours post-master's experience in the treatment of mental illness.

Sec. 68. Minnesota Statutes 1987 Supplement, section 245.462, subdivision 18, is amended to read:

Subd. 18. **MENTAL HEALTH PROFESSIONAL.** "Mental health professional" means a person providing clinical services in the treatment of mental illness who is qualified in at least one of the following ways:

(1) in psychiatric nursing: a registered nurse with a master's degree in one of the behavioral sciences or related fields from an accredited college or university or its equivalent, who is licensed under sections 148.171 to 148.285, with at least 4,000 hours of post-master's supervised experience in the delivery of clinical services in the treatment of mental illness;

(2) in clinical social work: a person licensed as an independent clinical social worker under section 148B.21, subdivision 6, or a person with a master's degree in social work from an accredited college or university, with at least 4,000 hours of post-master's supervised experience in the delivery of clinical services in the treatment of mental illness;

(3) in psychology: a psychologist licensed under sections 148.88 to 148.98 who has stated to the board of psychology competencies in the diagnosis and treatment of mental illness;

(4) in psychiatry: a physician licensed under chapter 147 and certified by the American board of psychiatry and neurology or eligible for board certification in psychiatry; or

(5) in allied fields: a person with a master's degree from an accredited college or university in one of the behavioral sciences or related fields, with at least 4,000 hours of post-master's supervised experience in the delivery of clinical services in the treatment of mental illness.

Sec. 69. Minnesota Statutes 1987 Supplement, section 245.462, subdivision 19, is amended to read:

Subd. 19. **MENTAL HEALTH SERVICES.** "Mental health services" means at least all of the treatment services and case management activities that are provided to persons with mental illness and are described in sections ~~245.468~~ 245.461 to ~~245.476~~ 245.486.

Sec. 70. Minnesota Statutes 1987 Supplement, section 245.462, subdivision 20, is amended to read:

Subd. 20. **MENTAL ILLNESS.** (a) "Mental illness" means an organic disorder of the brain or a clinically significant disorder of thought, mood, perception, orientation, memory, or behavior that is listed in the clinical manual of the International Classification of Diseases (ICD-9-CM), current edition, code range 290.0 to 302.99 or 306.0 to 316.0 or the corresponding code in the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders (DSM-MD), current edition, Axes I, II, or III, and that seriously limits a person's capacity to function in primary aspects of daily living such as personal relations, living arrangements, work, and recreation.

(b) A "person with acute mental illness" means a person who has a mental illness that is serious enough to require prompt intervention.

(c) For purposes of ~~sections 245.461 to 245.486~~ case management and community support services, a "person with serious and persistent mental illness" means a person who has a mental illness and meets at least one of the following criteria:

(1) the person has undergone two or more episodes of inpatient care for a mental illness within the preceding 24 months~~.~~;

(2) the person has experienced a continuous psychiatric hospitalization or residential treatment exceeding six months' duration within the preceding 12 months~~.~~;

(3) the person:

(i) has ~~had a history of recurring inpatient or residential treatment episodes of a frequency described in clause (1) or (2), but not within the preceding 24 months. There must also be~~ a diagnosis of schizophrenia, bipolar disorder, major depression, or borderline personality disorder;

(ii) indicates a significant impairment in functioning; and

(iii) has a written opinion ~~of~~ from a mental health professional stating that the person is reasonably likely to have future episodes requiring inpatient or residential treatment, of a frequency described in clause (1) or (2), unless an ongoing community support services program is provided; or

(4) the person has been committed by a court as a mentally ill person under chapter 253B, or the person's commitment has been stayed or continued.

Sec. 71. Minnesota Statutes 1987 Supplement, section 245.462, subdivision 21, is amended to read:

Subd. 21. **OUTPATIENT SERVICES.** "Outpatient services" means mental health services, excluding day treatment and community support services programs, provided by or under the clinical supervision of a mental health professional to persons with a mental illness who live outside a hospital ~~or residential treatment setting~~. Outpatient services include clinical activities such as individual, group, and family therapy; individual treatment planning; diagnostic assessments; medication management; and psychological testing.

Sec. 72. Minnesota Statutes 1987 Supplement, section 245.462, subdivision 23, is amended to read:

Subd. 23. **RESIDENTIAL TREATMENT.** "Residential treatment" means a 24-hour-a-day ~~residential~~ program under the clinical supervision of a mental health professional, in a community residential setting other than an acute care hospital or regional treatment center, ~~which~~ that must be licensed as a residential treatment facility for ~~mentally ill~~ persons with mental illness under Minnesota Rules, parts 9520.0500 to 9520.0690 for adults, 9545.0900 to 9545.1090 for children, or other rule adopted by the commissioner.

Sec. 73. Minnesota Statutes 1987 Supplement, section 245.462, subdivision 25, is amended to read:

Subd. 25. **CLINICAL SUPERVISION.** "Clinical supervision;" ~~when referring to the responsibilities of a mental health professional,~~ means the oversight responsibility ~~of a mental health professional~~ for individual treatment plans~~,~~ and individual service delivery, ~~and program activities~~ including that provided by the case manager. Clinical supervision ~~may~~ must be accomplished by full or part-time employment of or contracts with mental health professionals. Clinical supervision must be documented by the mental health professional cosigning individual treatment plans and ~~evidence of input into service delivery and program development~~ by entries in the client's record regarding supervisory activities.

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

Sec. 74. Minnesota Statutes 1987 Supplement, section 245.465, is amended to read:

245.465 **DUTIES OF COUNTY BOARD.**

The county board in each county shall use its share of mental health and community social service act funds allocated by the commissioner according to a biennial local mental health service proposal approved by the commissioner. The county board must:

(1) develop and coordinate a system of affordable and locally available mental health services in accordance with sections ~~245.466~~ 245.461 to ~~245.474~~ 245.486;

(2) provide for case management services to persons with serious and persistent mental illness in accordance with ~~section 245.475~~ sections 245.462, subdivisions 3 and 4; 245.471; 245.475; and 245.486;

(3) provide for screening of persons specified in section 245.476 upon admission to a residential treatment facility or acute care hospital inpatient, or informal admission to a regional treatment center; and

(4) prudently administer grants and purchase-of-service contracts that the county board determines are necessary to fulfill its responsibilities under sections 245.461 to 245.486.

Sec. 75. Minnesota Statutes 1987 Supplement, section 245.466, subdivision 1, is amended to read:

Subdivision 1. **DEVELOPMENT OF SERVICES.** The county board in each county is responsible for using all available resources to develop and coordinate a system of locally available and affordable mental health services. The county board may provide some or all of the mental health services and activities specified in subdivision 2 directly through a county agency or under contracts with other individuals or agencies. A county or counties may enter into an agreement with a regional treatment center under section 246.57 to enable the county or counties to provide the treatment services in subdivision 2. Services provided through an agreement between a county and a regional treatment center must meet the same requirements as services from other service providers. County boards shall demonstrate their continuous progress toward full implementation of sections 245.461 to 245.486 during the period July 1, 1987 to January 1, 1990. County boards must develop fully each of the treatment services and management activities prescribed by sections 245.461 to 245.486 by January 1, 1990, according to the priorities established in section 245.464 and the local mental health services proposal approved by the commissioner under section 245.478.

Sec. 76. Minnesota Statutes 1987 Supplement, section 245.466, subdivision 2, is amended to read:

Subd. 2. **MENTAL HEALTH SERVICES.** The mental health service system developed by each county board must include the following ~~treatment~~ services:

(1) education and prevention services in accordance with section 245.468;

(2) emergency services in accordance with section 245.469;

(3) outpatient services in accordance with section 245.470;

(4) community support program services in accordance with sections 245.471 and 245.475;

(5) residential treatment services in accordance with section 245.472;

(6) acute care hospital inpatient treatment services in accordance with section 245.473;

(7) regional treatment center inpatient services in accordance with section 245.474; ~~and~~

(8) screening in accordance with section 245.476; and

(9) case management in accordance with sections 245.462, subdivision 3; 245.471; and 245.475.

Sec. 77. Minnesota Statutes 1987 Supplement, section 245.466, subdivision 5, is amended to read:

Subd. 5. **LOCAL ADVISORY COUNCIL.** The county board, individually or in conjunction with other county boards, shall establish a local mental health advisory council or mental health subcommittee of an existing advisory council. The council's members must reflect a broad range of community interests. They must include at least one consumer, one family member of a person with mental illness, one mental health professional, and one community support services program representative. The local mental health advisory council or mental health subcommittee of an existing advisory council shall meet at least quarterly to review, evaluate, and make recommendations regarding the local mental health system. Annually, the local advisory council or mental health subcommittee of an existing advisory council shall arrange for input from the regional treatment ~~center review board~~ center's mental illness program unit regarding coordination of care between the regional treatment center and community-based services. The county board shall consider the advice of its local mental health advisory council or mental health subcommittee of an existing advisory council in carrying out its authorities and responsibilities.

Sec. 78. Minnesota Statutes 1987 Supplement, section 245.467, is amended by adding a subdivision to read:

Subd. 4. **REFERRAL FOR CASE MANAGEMENT.** Each provider of emergency services, outpatient treatment, community support services, residential treatment, acute care hospital inpatient treatment, or regional treatment center inpatient treatment must inform each of its clients with serious and

persistent mental illness of the availability and potential benefits to the client of case management. If the client consents, the provider must refer the client by notifying the county employee designated by the county board to coordinate case management activities of the client's name and address and by informing the client of whom to contact to request case management. The provider must document compliance with this subdivision in the client's record.

Sec. 79. Minnesota Statutes 1987 Supplement, section 245.467, is amended by adding a subdivision to read:

Subd. 5. **INFORMATION FOR BILLING.** Each provider of outpatient treatment, community support services, emergency services, residential treatment, or acute care hospital inpatient treatment must include the name and home address of each client for whom services are included on a bill submitted to a county, if the client has consented to the release of that information and if the county requests the information. Each provider shall attempt to obtain each client's consent and must explain to the client that the information can only be released with the client's consent and may be used only for purposes of payment and maintaining provider accountability. The provider shall document the attempt in the client's record.

Sec. 80. Minnesota Statutes 1987 Supplement, section 245.467, is amended by adding a subdivision to read:

Subd. 6. **RESTRICTED ACCESS TO DATA.** The county board shall establish procedures to ensure that the names and addresses of persons receiving mental health services are disclosed only to:

(1) county employees who are specifically responsible for determining county of financial responsibility or making payments to providers; and

(2) staff who provide treatment services or case management and their clinical supervisors.

Release of mental health data on individuals submitted under section 245.467, subdivisions 4 and 5, to persons other than those specified in this subdivision, or use of this data for purposes other than those stated in section 245.467, subdivisions 4 and 5, results in civil or criminal liability under the standards in sections 13.08 or 13.09.

Sec. 81. Minnesota Statutes 1987 Supplement, section 245.469, subdivision 2, is amended to read:

Subd. 2. **SPECIFIC REQUIREMENTS.** The county board shall require that all service providers of emergency services provide immediate direct access to a mental health ~~professionals~~ professional during regular business hours. For evenings, weekends, and holidays, the service may be by direct toll free telephone access to a mental health professional, a mental health practitioner, or a designated person with training in human services who ~~is under the~~ receives

clinical supervision ~~of~~ from a mental health professional. Whenever emergency service during nonbusiness hours is provided by anyone other than a mental health professional, a mental health professional must be available for at least telephone consultation within 30 minutes.

Sec. 82. Minnesota Statutes 1987 Supplement, section 245.471, subdivision 2, is amended to read:

Subd. 2. **CASE MANAGEMENT ACTIVITIES.** (a) By January 1, 1989, the county board shall develop case management activities ~~must be developed as part of the community support program available to~~ for all persons with serious and persistent mental illness residing in the county who request or consent to the services. Staffing ratios must be sufficient to serve the needs of the clients. The case manager must ~~at a minimum qualify as a mental health practitioner~~ meet the requirements in section 245.462, subdivision 4.

(b) ~~All providers of case management activities must develop an individual community support plan. The individual community support plan must state for each of their clients:~~

~~(1) the goals of each service;~~

~~(2) the activities for accomplishing each goal;~~

~~(3) a schedule for each activity; and~~

~~(4) the frequency of face-to-face client contacts, as appropriate to client need and the implementation of the community support plan.~~

The case manager must develop an individual community support plan ~~must incorporate~~ for each client that incorporates the client's individual treatment plan. The individual treatment plan may not be a substitute for the development of an individual community support plan. The individual community support plan must be developed within 30 days of client intake and reviewed every 90 days after it is developed. The case manager is responsible for developing the individual community support plan based on a diagnostic assessment and for implementing and monitoring the delivery of services according to the individual community support plan. To the extent possible, the person with serious and persistent mental illness, the person's family, advocates, service providers, and significant others must be involved in all phases of development and implementation of the individual community support plan.

(c) The client's individual community support plan must state:

(1) the goals of each service;

(2) the activities for accomplishing each goal;

(3) a schedule for each activity; and

(4) the frequency of face-to-face contacts by the case manager, as appropriate to client need and the implementation of the community support plan.

(d) The county board must establish procedures that ensure ongoing contact and coordination between the case manager and the community support program as well as other mental health services.

Sec. 83. Minnesota Statutes 1987 Supplement, section 245.471, subdivision 3, is amended to read:

Subd. 3. **DAY TREATMENT ~~ACTIVITIES~~ SERVICES PROVIDED.** (a) By July 1, 1989, day treatment ~~activities~~ services must be developed as a part of the community support program available to persons with serious and persistent mental illness residing in the county. ~~Day treatment services must be available to persons with serious and persistent mental illness residing in the county as part of the community support program of each county.~~ Clients may be required to pay a fee. Day treatment services must be designed to:

(1) provide a structured environment for treatment;

(2) provide family and community support;

(3) prevent placement in settings that are more intensive, costly, or restrictive than necessary and appropriate to meet client need; and

(4) establish fee schedules approved by the county board that are based on a client's ability to pay.

(b) County boards may request a waiver from including day treatment services if they can document that:

(1) an alternative plan of care exists through the county's community support program for clients who would otherwise need day treatment services;

(2) ~~that~~ day treatment, if included, would be duplicative of other components of the community support program; and

(3) ~~that~~ county demographics and geography make the provision of day treatment services cost ineffective and unfeasible.

Sec. 84. Minnesota Statutes 1987 Supplement, section 245.472, subdivision 2, is amended to read:

Subd. 2. **SPECIFIC REQUIREMENTS.** Providers of residential services must be licensed under applicable rules adopted by the commissioner and must be clinically supervised by a mental health professional. Persons employed in facilities licensed under Minnesota Rules, parts 9520.0500 to 9520.0690, in the capacity of program director as of July 1, 1987, in accordance with Minnesota Rules, parts 9520.0500 to 9520.0690, may be allowed to continue providing clinical supervision within a facility until July 1, 1991, provided they continue to be employed as a program director in a facility licensed under Minnesota Rules, parts 9520.0500 to 9520.0690.

Sec. 85. Minnesota Statutes 1987 Supplement, section 245.475, subdivision 1, is amended to read:

Subdivision 1. ~~CLIENT ELIGIBILITY~~ CASE MANAGEMENT. By January 1, 1989, the county board shall provide case management and other appropriate community support services to ~~all persons~~ each person with serious and persistent mental illness who requests services or is referred by a provider under section 245.467, subdivision 4, and to each person for whom the court appoints a case manager. Case management services provided to people with serious and persistent mental illness eligible for medical assistance must be billed to the medical assistance program under section 256B.02, subdivision 8.

Sec. 86. Minnesota Statutes 1987 Supplement, section 245.475, subdivision 2, is amended to read:

Subd. 2. ~~DESIGNATION OF CASE MANAGER~~ NOTIFICATION OF CASE MANAGEMENT ELIGIBILITY. The county board shall ~~designate a~~ notify the client of the person's potential eligibility for case ~~manager~~ management services within five working days after receiving ~~an application for community support services or immediately after authorizing payment for residential, acute care hospital inpatient, or regional treatment center services under section 245.476~~ a request from an individual or a referral from a provider under section 245.467, subdivision 4.

The county board shall send a written notice to the ~~applicant~~ client and the ~~applicant's~~ client's representative, if any, that identifies the designated case ~~manager~~ management providers.

Sec. 87. Minnesota Statutes 1987 Supplement, section 245.476, subdivision 1, is amended to read:

Subdivision 1. **SCREENING REQUIRED.** ~~By~~ No later than January 1, ~~1989~~ 1991, the county board shall screen all persons before they may be admitted for treatment of mental illness to a residential treatment facility, an acute care hospital, or informally admitted to a regional treatment center if public funds are used to pay for the services. Screening prior to admission must occur within ten days. If a person is admitted for treatment of mental illness on an emergency basis to a residential facility or acute care hospital or held for emergency care by a regional treatment center under section 253B.05, subdivision 1, screening must occur within five days of the admission. Persons must be screened within ten days before or within five days after admission to ensure that:

(1) an admission is necessary,

(2) the length of stay is as short as possible consistent with individual client need, and

(3) ~~a~~ the case manager, if assigned, is ~~immediately assigned to individuals~~

~~with serious and persistent mental illness and~~ developing an individual community support plan ~~is developed~~.

The screening process and placement decision must be documented in the client's record.

An alternate review process may be approved by the commissioner if the county board demonstrates that an alternate review process has been established by the county board and the times of review, persons responsible for the review, and review criteria are comparable to the standards specified in clauses (1) to (3).

Sec. 88. Minnesota Statutes 1987 Supplement, section 245.477, is amended to read:

245.477 **APPEALS.**

Any person who ~~applies for~~ requests mental health services under sections 245.461 to 245.486 must be advised of services available and the right to appeal at the time of ~~application~~ the request and each time the community service plan is reviewed. Any person whose ~~application~~ request for mental health services under sections ~~245.468~~ 245.461 to ~~245.476~~ 245.486 is denied, not acted upon with reasonable promptness, or whose services are suspended, reduced, or terminated may contest that action before the state agency as specified in section 256.045. The commissioner shall monitor the nature and frequency of administrative appeals under this section.

Sec. 89. Minnesota Statutes 1987 Supplement, section 245.478, subdivision 1, is amended to read:

Subdivision 1. **TIME PERIOD.** The first local mental health proposal period is from July 1, 1988, to December 31, 1989. The county board shall submit its first proposal to the commissioner by January 1, 1988. Subsequent proposals must be on the same two-year cycle as community social service plans. If a proposal complies with sections 245.461 to 245.486, it satisfies the requirement of the community social service plan for the mental illness target population as required by section 256E.09. The proposal must be made available upon request to all residents of the county at the same time it is submitted to the commissioner.

Sec. 90. Minnesota Statutes 1987 Supplement, section 245.478, subdivision 2, is amended to read:

Subd. 2. **PROPOSAL CONTENT.** The local mental health proposal must include:

(1) the local mental health advisory council's or mental health subcommittee of an existing advisory council's report on unmet needs and any other needs assessment used by the county board in preparing the local mental health proposal;

(2) a description of the local mental health advisory council's or the mental health subcommittee of an existing advisory council's involvement in preparing the local mental health proposal and methods used by the county board to obtain participation of citizens, mental health professionals, and providers in development of the local mental health proposal;

(3) information for the preceding year, including the actual number of clients who received each of the mental health services listed in sections 245.468 to 245.476, and actual expenditures ~~and revenues~~ for each mental health service;

(4) for the first proposal period only, information for the year during which the proposal is being prepared:

(i) a description of the current mental health system identifying each mental health service listed in sections 245.468 to 245.476;

(ii) a description of each service provider, including a listing of the professional qualifications of the staff involved in service delivery, that is either the sole provider of one of the ~~treatment~~ mental health services ~~or management activities~~ described in sections 245.468 to 245.476 or that provides over $10,000 of mental health services per year for the county;

(iii) a description of how the mental health services in the county are unified and coordinated;

(iv) the estimated number of clients receiving each mental health service;

(v) estimated expenditures ~~and revenues~~ for each mental health service; and

(5) the following information describing how the county board intends to meet the requirements of sections 245.461 to 245.486 during the proposal period:

(i) specific objectives and outcome goals for each mental health service listed in sections 245.468 to 245.476;

(ii) a description of each service provider, including county agencies, contractors, and subcontractors, that is expected to either be the sole provider of one of the ~~treatment~~ mental health services ~~or management activities~~ described in sections 245.468 to 245.476 or to provide over $10,000 of mental health services per year, including a listing of the professional qualifications of the staff involved in service delivery for the county;

(iii) a description of how the mental health services in the county will be unified and coordinated;

(iv) the estimated number of clients who will receive each mental health service; and

(v) estimated expenditures ~~and revenues~~ for each mental health service and revenues for the entire proposal.

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

Sec. 91. Minnesota Statutes 1987 Supplement, section 245.478, subdivision 9, is amended to read:

Subd. 9. **PLAN AMENDMENT.** If the county board finds it necessary to make significant changes in the approved local proposal, it must present the proposed changes to the commissioner for approval at least ~~60~~ 30 days before the changes take effect. "Significant changes" means:

(1) the county board proposes to provide a mental health service through a provider other than the provider listed for that service in the approved local proposal;

(2) the county board expects the total annual expenditures for any single mental health service to vary more than ten percent or $5,000, whichever is greater, from the amount in the approved local proposal;

(3) the county board expects a combination of changes in expenditures per mental health service to exceed more than ten percent of the total mental health services expenditures; or

(4) the county board proposes a major change in the specific objectives and outcome goals listed in the approved local proposal.

Sec. 92. Minnesota Statutes 1987 Supplement, section 245.479, is amended to read:

245.479 **COUNTY OF FINANCIAL RESPONSIBILITY.**

For purposes of ~~section 245.476~~ sections 245.461 to 245.486, the county of financial responsibility is ~~the same as that for community social services~~ determined under section ~~256E.08, subdivision 7~~ 256G.02, subdivision 4. Disputes between counties regarding financial responsibility must be resolved by the commissioner in accordance with section ~~256D.18, subdivision 4~~ 256G.09.

Sec. 93. Minnesota Statutes 1987 Supplement, section 245.482, subdivision 2, is amended to read:

Subd. 2. **PROGRAM REPORTS.** The commissioner shall develop a unified format for ~~a semiannual~~ an annual program report that will include information that the commissioner determines necessary to carry out sections 245.461 to 245.486 and section 256E.10. The county board shall submit a completed program report in the required format ~~no later than 75 days after each six-month period~~ by March 15 of each year.

Sec. 94. Minnesota Statutes 1987 Supplement, section 245.696, subdivision 2, is amended to read:

Subd. 2. **SPECIFIC DUTIES.** In addition to the powers and duties already conferred by law, the commissioner of human services shall:

(1) review and evaluate local programs and the performance of administrative and mental health personnel and make recommendations to county boards and program administrators;

(2) provide consultative staff service to communities and advocacy groups to assist in ascertaining local needs and in planning and establishing community mental health programs;

(3) employ qualified personnel to implement this chapter;

(4) as part of the biennial budget process, report to the legislature on staff use and staff performance, including in the report a description of duties performed by each person in the mental health division;

(5) adopt rules for minimum standards in community mental health services as directed by the legislature;

(6) cooperate with the commissioners of health and jobs and training to coordinate services and programs for people with mental illness;

(7) convene meetings with the commissioners of corrections, health, education, and commerce at least four times each year for the purpose of coordinating services and programs for children with mental illness and children with emotional or behavioral disorders;

(8) evaluate the needs of people with mental illness as they relate to assistance payments, medical benefits, nursing home care, and other state and federally funded services;

~~(8)~~ (9) provide data and other information, as requested, to the advisory council on mental health;

~~(9)~~ (10) develop and maintain a data collection system to provide information on the prevalence of mental illness, the need for specific mental health services and other services needed by people with mental illness, funding sources for those services, and the extent to which state and local areas are meeting the need for services;

~~(10)~~ (11) apply for grants and develop pilot programs to test and demonstrate new methods of assessing mental health needs and delivering mental health services;

~~(11)~~ (12) study alternative reimbursement systems and make waiver requests that are deemed necessary by the commissioner;

~~(12)~~ (13) provide technical assistance to county boards to improve fiscal management and accountability and quality of mental health services, and consult regularly with county boards, public and private mental health agencies, and client advocacy organizations for purposes of implementing this chapter;

~~(13)~~ (14) promote coordination between the mental health system and other human service systems in the planning, funding, and delivery of services; entering into cooperative agreements with other state and local agencies for that purpose as deemed necessary by the commissioner;

~~(14)~~ (15) conduct research regarding the relative effectiveness of mental health treatment methods as the commissioner deems appropriate, and for this purpose, enter treatment facilities, observe clients, and review records in a manner consistent with the Minnesota government data practices act, chapter 13; and

~~(15)~~ (16) enter into contracts and promulgate rules the commissioner deems necessary to carry out the purposes of this chapter.

Sec. 95. Minnesota Statutes 1987 Supplement, section 245.697, subdivision 2, is amended to read:

Subd. 2. **DUTIES.** The state advisory council on mental health shall:

(1) advise the governor, the legislature, and heads of state departments and agencies about policy, programs, and services affecting people with mental illness;

(2) advise the commissioner of human services on all phases of the development of mental health aspects of the biennial budget;

(3) advise the governor and the legislature about the development of innovative mechanisms for providing and financing services to people with mental illness;

(4) encourage state departments and other agencies to conduct needed research in the field of mental health;

(5) review recommendations of the subcommittee on children's mental health;

(6) educate the public about mental illness and the needs and potential of people with mental illness; and

~~(6)~~ (7) review and comment on all grants dealing with mental health and on the development and implementation of state and local mental health plans.

Sec. 96. Minnesota Statutes 1987 Supplement, section 245.697, is amended by adding a subdivision to read:

Subd. 2a. **SUBCOMMITTEE ON CHILDREN'S MENTAL HEALTH.** The state advisory council on mental health (the "advisory council") must have a subcommittee on children's mental health. The subcommittee must make recommendations to the advisory council on policies, laws, regulations, and services relating to children's mental health. Members of the subcommittee must include:

(1) the commissioners or designees of the commissioners of the departments of human services, health, education, and corrections;

(2) the commissioner of commerce or a designee of the commissioner who is knowledgeable about medical insurance issues;

(3) at least one representative of an advocacy group for children with mental illness;

(4) providers of children's mental health services, including at least one provider of services to preadolescent children, one provider of services to adolescents, and one hospital-based provider;

(5) parents of children who have mental illness or emotional or behavioral disorders;

(6) a present or former consumer of adolescent mental health services;

(7) educators experienced in working with emotionally disturbed children;

(8) people knowledgeable about the needs of emotionally disturbed children of minority races and cultures;

(9) people experienced in working with emotionally disturbed children who have committed status offenses;

(10) members of the advisory council; and

(11) county commissioners and social services agency representatives.

The chair of the advisory council shall appoint subcommittee members described in clauses (3) through (11) through the process established in section 15.0597. The chair shall appoint members to ensure a geographical balance on the subcommittee. Terms, compensation, removal, and filling of vacancies are governed by subdivision 1, except that terms of subcommittee members who are also members of the advisory council are coterminous with their terms on the advisory council. The subcommittee shall meet at the call of the subcommittee chair, who is elected by the subcommittee from among its members. The subcommittee expires with the expiration of the advisory council.

Sec. 97. **[245.698] CHILDREN'S MENTAL HEALTH SERVICE SYSTEM.**

The commissioner of human services shall create and ensure a unified, accountable, comprehensive children's mental health service system that:

(a) identifies children who are eligible for mental health services;

(b) makes preventive services available to a wide range of children, including those who are not eligible for more intensive services;

(c) assures access to a continuum of services that:

(1) educate the community about the mental health needs of children;

(2) address the unique physical, emotional, social, and educational needs of children;

(3) are coordinated with other social and human services provided to children and their families;

(4) are appropriate to the developmental needs of children; and

(5) are sensitive to cultural differences and special needs;

(d) includes early screening and prompt intervention in order to:

(1) identify and treat the mental health needs of children in the least restrictive setting appropriate to their needs; and

(2) prevent further deterioration;

(e) provides services to children and their families in the context in which the children live and go to school;

(f) addresses the unique problems of paying for mental health services for children, including:

(1) access to private insurance coverage; and

(2) public funding;

(g) to every extent possible, includes children and their families in planning the child's program of mental health services; and

(h) when necessary, assures a smooth transition to the adult services system.

For purposes of this section, "child" means a person under age 18.

The commissioner shall begin implementing the goals and objectives of this section by February 15, 1990, and shall fully implement the goals and objectives by February 15, 1992. By February 15, 1989, the commissioner shall present a report to the legislature outlining recommendations for full implementation. The report must include a timetable for implementing the recommendations and identify additional resources needed for full implementation. The report must be updated annually by February 15 of 1990, 1991, and 1992.

Sec. 98. Minnesota Statutes 1986, section 245.771, is amended by adding a subdivision to read:

Subd. 3. **EMPLOYMENT AND TRAINING PROGRAMS.** The commissioner of human services may contract with the commissioner of jobs and training to implement and supervise employment and training programs for food stamp recipients that are required by federal regulations.

Sec. 99. Minnesota Statutes 1986, section 245.814, subdivision 1, is amended to read:

Subdivision 1. **INSURANCE FOR FOSTER ~~PARENTS~~ HOME PROVIDERS.** The commissioner of human services shall within the appropriation provided purchase and provide insurance to individuals licensed as foster ~~parents~~ home providers to cover their liability for:

(1) injuries or property damage caused or sustained by ~~foster children~~ persons in foster care in their home; and

(2) actions arising out of alienation of affections sustained by the natural parents of a foster child or natural parents or children of a foster adult.

Sec. 100. Minnesota Statutes 1986, section 245.814, subdivision 2, is amended to read:

Subd. 2. **APPLICATION OF COVERAGE.** Coverage shall apply to all foster ~~boarding~~ homes licensed by the department of human services, licensed by a federally recognized tribal government, or established by the juvenile court and certified by the commissioner of corrections pursuant to section 260.185, subdivision 1, clause (c)(5), to the extent that the liability is not covered by the provisions of the standard homeowner's or automobile insurance policy. The insurance shall not cover property owned by the individual foster ~~parents~~ home provider, damage caused intentionally by a ~~child~~ person over 12 years of age, or property damage arising out of business pursuits or the operation of any vehicle, machinery, or equipment.

Sec. 101. Minnesota Statutes 1986, section 245.814, subdivision 3, is amended to read:

Subd. 3. **COMPENSATION PROVISIONS.** If the commissioner of human services is unable to obtain insurance through ordinary methods for coverage of foster ~~parents~~ home providers, the appropriation shall be returned to the general fund and the state shall pay claims subject to the following limitations.

(a) Compensation shall be provided only for injuries, damage, or actions set forth in subdivision 1.

(b) Compensation shall be subject to the conditions and exclusions set forth in subdivision 2.

(c) The state shall provide compensation for bodily injury, property damage, or personal injury resulting from the foster ~~parent's~~ home providers activities as a foster ~~parent~~ home provider while the foster child or adult is in the care, custody, and control of the foster ~~parent~~ home provider in an amount not to exceed $250,000 for each occurrence.

(d) The state shall provide compensation for damage or destruction of property caused or sustained by a foster child or adult in an amount not to exceed $250 for each occurrence.

(e) The compensation in clauses (c) and (d) is the total obligation for all

damages because of each occurrence regardless of the number of claims made in connection with the same occurrence, but compensation applies separately to each foster home. The state shall have no other responsibility to provide compensation for any injury or loss caused or sustained by any foster ~~parent~~ home provider or foster child or foster adult.

This coverage is extended as a benefit to foster ~~parents~~ home providers to encourage care of ~~children~~ persons who need out-of-home care. Nothing in this section shall be construed to mean that foster ~~parents~~ home providers are agents or employees of the state nor does the state accept any responsibility for the selection, monitoring, supervision, or control of foster ~~parents~~ home providers which is exclusively the responsibility of the counties which shall regulate foster ~~parents~~ home providers in the manner set forth in the rules of the commissioner of human services.

Sec. 102. **[245.827] COMMUNITY INITIATIVES FOR CHILDREN.**

Subdivision 1. **PROGRAM ESTABLISHED.** The commissioner of human services shall establish a demonstration program of grants for community initiatives for children. The goal of the program is to enlist the resources of a community to promote the healthy physical, educational, and emotional development of children who are living in poverty. Community initiatives for children accomplish the goal by offering support services that enable a family to provide the child with a nurturing home environment. The commissioner shall award grants to nonprofit organizations based on the criteria in subdivision 3.

Subd. 2. **DEFINITION.** "Community initiatives for children" are programs that promote the healthy development of children by increasing the stability of their home environment. They include support services such as child care, parenting education, respite activities for parents, counseling, recreation, and other services families may need to maintain a nurturing environment for their children. Community initiatives for children must be planned by members of the community who are concerned about the future of children.

Subd. 3. **CRITERIA.** In order to qualify for a community initiatives for children grant, a nonprofit organization must:

(1) involve members of the community and use community resources in planning and executing all aspects of the program;

(2) provide a central location that is accessible to low-income families and is available for informal as well as scheduled activities during the day and on evenings and weekends;

(3) provide a wide range of services to families living at or below the poverty level, including but not limited to, quality affordable child care and training in parental skills;

(4) demonstrate that the organization is using and coordinating existing resources of the community;

(5) demonstrate that the organization has applied to private foundations for funding;

(6) ensure that services are focused on development of the whole child; and

(7) have a governing structure that includes consumer families and members of the community.

Subd. 4. **COVERED EXPENSES.** Grants awarded under this section may be used for the capital costs of establishing or improving a program that meets the criteria listed in subdivision 3. Capital costs include land and building acquisition, planning, site preparation, design fees, rehabilitation, construction, and equipment costs.

Sec. 103. Minnesota Statutes 1986, section 245.83, is amended to read:

245.83 **CHILD CARE SERVICES; DEFINITIONS.**

Subdivision 1. As used in sections 245.83 to ~~245.87~~ 245.858 the words defined in this section shall have the meanings given them.

Subd. 2. **CHILD CARE SERVICES.** "Child care services" means child care provided in family day care homes, group day care ~~centers~~ homes, nursery schools, day nurseries, child day care centers, play groups, head start and parent cooperatives~~, as defined by rules of the commissioner, and in-home child care as defined in the Minnesota plan for social services to families and children~~.

Subd. 3. **CHILD.** "Child" means ~~any~~ a person ~~14~~ 12 years ~~of age~~ old or younger, or a person age 13 or 14 who is handicapped, as defined in section 120.03.

Subd. 3a. **CHILD CARE.** "Child care" means the care of a child by someone other than a parent or legal guardian outside the child's own home for gain or otherwise, on a regular basis, for any part of a 24-hour day.

Subd. 3b. **CHILD CARE WORKER.** "Child care worker" means a person who cares for children for compensation, including a licensed provider of child care services, an employee of a provider and a person who has applied for a license as a provider.

Subd. 4. **COMMISSIONER.** "Commissioner" means the commissioner of human services.

Subd. 4a. **FACILITY IMPROVEMENT EXPENSES.** "Facility improvement expenses" means building improvements, equipment, toys, and supplies needed to establish, expand, or improve a licensed child care facility.

Subd. 5. **INTERIM FINANCING.** "Interim financing" means funds to carry out such activities as are necessary for family day care homes, group family day care homes and ~~cooperative~~ child care centers to receive and maintain state licensing, to expand an existing program or to improve program

quality and to provide operating funds for a period of six consecutive months following receipt of state licensing by a family day care home, group family day care home, or ~~cooperative~~ child care center. Interim financing may not exceed a period of 18 months.

Subd. 6. **RESOURCE AND REFERRAL PROGRAM.** "Resource and referral program" means a program that provides information to parents, including referrals and coordination of community child care resources for parents and public or private providers of care. Services may include parent education, technical assistance for providers, staff development programs, and referrals to social services.

Subd. 7. **STAFF TRAINING OR DEVELOPMENT EXPENSES.** "Staff training or development expenses" include the cost to a child care worker of tuition, transportation, required materials and supplies, and wages for a substitute while the child care worker is engaged in a training program.

Subd. 8. **TRAINING PROGRAM.** "Training program" means child development courses offered by an accredited post-secondary institution or similar training approved by a county board or the department of human services. To qualify as a training program under this section, a course of study must teach specific skills that a child care worker needs to meet licensing requirements.

Sec. 104. **[245.871] DUTIES OF COMMISSIONER.**

In addition to the powers and duties already conferred by law, the commissioner of human services shall:

(1) by September 1, 1990, and by September 1 of each subsequent even-numbered year, survey and report on all components of the child care system including, but not limited to, availability of licensed child care slots; numbers of children in various kinds of child care settings; staff wages, rate of staff turnover, and qualifications of child care workers; cost of child care by type of service and ages of children; and child care availability through school systems;

(2) by September 1, 1990, and September 1 of each subsequent even-numbered year, survey and report on the extent to which existing child care services fulfill the need for child care, giving particular attention to the need for part-time care and for care of infants, sick children, children with special needs, and low-income children;

(3) administer the child care fund, including the sliding fee program, authorized under section 268.91;

(4) monitor the child care resource and referral programs established under section 268.911; and

(5) encourage child care providers to participate in a nationally-recognized accreditation system for early childhood programs.

Sec. 105. **[245.872] GRANTS FOR CHILD CARE SERVICES.**

Subdivision 1. **GRANTS ESTABLISHED.** The commissioner shall award grants to develop child care services, including facility improvement expenses, interim financing, resource and referral programs, and staff training expenses. The commissioner shall develop a grant application form, inform county social service agencies about the availability of child care services grants, and set a date by which applications must be received by the commissioner.

Subd. 2. **DISTRIBUTION OF FUNDS.** The commissioner shall allocate grant money appropriated for child care services among the 12 development regions designated by the governor under section 462.385, in proportion to the ratio of the number of children to the number of licensed child care slots available in each region. Out of the amount allocated for each development region the commissioner shall award grants based on the recommendation of the grant review advisory task force. In addition, the commissioner shall:

(1) award no more than 75 percent of the money either to child care facilities for the purpose of facility improvement or interim financing or to child care workers for staff training expenses; and

(2) redistribute funds not awarded by January 1, 1989, without regard to the distribution formula in this subdivision.

Subd. 3. **GRANT REVIEW ADVISORY TASK FORCE.** The commissioner shall appoint a child care grant review advisory task force. Members appointed under this subdivision must be parents of children in child care, providers of child care, or citizens with a demonstrated interest in child care issues. The grant review advisory task force shall review and make recommendations to the commissioner on applications for grants under this section. Task force members do not receive a per diem but may be reimbursed for expenses in accordance with section 15.059, subdivision 6. The advisory task force does not expire but is otherwise governed by section 15.059.

Subd. 4. **FUNDING PRIORITIES; FACILITY IMPROVEMENT AND INTERIM FINANCING.** In evaluating applications for funding and making recommendations to the commissioner, the grant review advisory task force shall give priority to:

(1) new programs or projects, or the expansion or enrichment of existing programs or projects;

(2) programs or projects in areas where a demonstrated need for child care facilities has been shown, with special emphasis on programs or projects in areas where there is a shortage of licensed child care;

(3) programs and projects that serve sick children, infants, children with special needs, and children from low-income families; and

(4) unlicensed providers who wish to become licensed.

Subd. 5. **FUNDING PRIORITIES; TRAINING GRANTS.** In evaluating applications for training grants and making recommendations to the commissioner, the grant review advisory task force shall give priority to:

(1) applicants who will work in facilities caring for sick children, infants, children with special needs, and children from low-income families;

(2) applicants who will work in geographic areas where there is a shortage of child care;

(3) unlicensed providers who wish to become licensed;

(4) child care providers seeking accreditation; and

(5) entities that will use grant money for scholarships for child care workers attending educational or training programs sponsored by the entity.

Sec. 106. Minnesota Statutes 1986, section 245.84, subdivision 1, is amended to read:

Subdivision 1. **AUTHORITY.** The county board is authorized to provide child care services, to make grants from the community social service fund, special tax revenue, or its general fund, or other sources to any municipality, corporation or combination thereof for the cost of providing technical assistance and child care services, or to contract for services with any licensed day care facility, as the board deems necessary or proper to carry out the purposes of sections 245.83 to ~~245.87~~ 245.856.

The board is further authorized to make grants to or contract with any municipality, ~~incorporated~~ licensed child care facility or resource and referral program, or corporation or combination thereof for any of the following purposes:

(a) For creating new licensed day care facilities and expanding existing facilities including, but not limited to, supplies, equipment, and facility renovation and remodeling;

(b) For improving licensed day care facility programs, including, but not limited to, staff specialists, staff training, supplies, equipment, and facility renovation and remodeling. In awarding grants for training, counties must give priority to child care workers caring for infants, toddlers, sick children, children in low-income families, and children with special needs;

(c) For supportive child development services including, but not limited to, in-service training, curriculum development, consulting specialist, resource centers, and program and resource materials;

(d) For carrying out programs including, but not limited to, staff, supplies, equipment, facility renovation, and training;

(e) For interim financing; and

(f) For carrying out the resource and referral program services identified in section 268.911, subdivision 3.

Sec. 107. **[245.873] INTERAGENCY ADVISORY COMMITTEE ON CHILD CARE.**

Subdivision 1. **MEMBERSHIP.** By July 1, 1988, the commissioner of the state planning agency shall convene and chair an interagency advisory committee on child care. In addition to the commissioner, members of the committee are the commissioners of each of the following agencies and departments: health, human services, jobs and training, public safety, education, and the higher education coordinating board. The purpose of the committee is to improve the quality and quantity of child care and the coordination of child care related activities among state agencies.

Subd. 2. **DUTIES.** The committee shall advise its member agencies on matters related to child care policy and planning. Specifically, the committee shall:

(1) develop a consistent policy on issues related to child care;

(2) advise the member agencies on implementing policies and developing rules that are consistent with the committee's policy on child care;

(3) advise the member agencies on state efforts to increase the supply and improve the quality of child care facilities and options; and

(4) perform other advisory tasks related to improving child care options throughout the state.

Subd. 3. **MEETINGS.** The committee shall meet as often as necessary to perform its duties.

Sec. 108. Minnesota Statutes 1986, section 246.023, subdivision 1, is amended to read:

Subdivision 1. **LEGISLATIVE POLICY.** It is recognized that closure and consolidation of ~~state hospitals~~ regional treatment centers have negative economic effects upon public employees and communities. It is the policy of the state that deinstitutionalization policies shall be carried out in a manner that ensures fair and equitable arrangements to protect the interests of employees and communities affected by deinstitutionalization ~~of state hospitals~~.

Sec. 109. **[252.50] STATE-OPERATED, COMMUNITY-BASED RESIDENTIAL PROGRAMS.**

Subdivision 1. **RESIDENTIAL PROGRAMS ESTABLISHED.** The commissioner may establish a system of noninstitutional, state-operated, community-

based residential services for persons with mental retardation or related conditions. For purposes of this section, "state-operated, community-based residential facility" means a residential program administered by the state to provide treatment and habilitation in noninstitutional community settings to persons with mental retardation or related conditions. Employees of the facilities must be state employees under chapters 43A and 179A. The establishment of state-operated, community-based residential facilities must be within the context of a comprehensive definition of the role of state-operated services in the state. The role of state-operated services must be defined within the context of a comprehensive system of services for persons with mental retardation or related conditions. Services may include, but are not limited to, community group homes, foster care, supportive living arrangements, and respite care arrangements. The commissioner may operate the pilot projects established under Laws 1985, First Special Session chapter 9, article 1, section 2, subdivision 6, and may, within the limits of available appropriations, establish additional state-operated, community-based services for regional treatment center residents with mental retardation or related conditions. Day program services for clients living in state-operated, community-based residential facilities must not be provided by a regional treatment center or a state-operated, community-based program.

Subd. 2. **AUTHORIZATION TO BUILD OR PURCHASE.** Within the limits of available appropriations, the commissioner may build, purchase or lease suitable buildings for state-operated, community-based residential facilities. Facilities must be homelike and adaptable to the needs of persons with mental retardation or related conditions.

Subd. 3. **ALTERNATIVE FUNDING MECHANISMS.** To the extent possible, the commissioner may amend the medical assistance home and community-based waiver and, as appropriate, develop special waiver procedures for targeting services to persons currently in state regional centers.

Subd. 4. **COUNTIES.** State-operated, community-based residential facilities may be developed in conjunction with existing county responsibilities and authorities for persons with mental retardation. Assessment, placement, screening, case management responsibilities, and determination of need procedures must be consistent with county responsibilities established under law and rule. Counties may enter into shared service agreements with state-operated programs.

Sec. 110. **[252.52] REGIONAL CENTER AND COMMUNITY-BASED FACILITY EMPLOYEES.**

In accordance with section 43A.21, the commissioner shall develop procedures to assure that:

(1) there are workers employed at state regional centers and nursing homes who are skilled in the treatment of persons with severe and profound mental retardation or related conditions, behavioral problems, and medical needs, to facilitate adjustment to community living;

(2) suitable training programs exist for regional treatment center and state-operated, community-based residential facility staff; and

(3) state employees under the jurisdiction of the commissioner who are included in a position reduction plan have the option of transferring to a community-based program; to a similar, comparable classification in another regional center setting; or to a position in another state agency.

Sec. 111. Minnesota Statutes 1986, section 252.291, subdivision 1, is amended to read:

Subdivision 1. **MORATORIUM.** Notwithstanding section 252.28, subdivision 1, or any other law or rule to the contrary, the commissioner of human services shall deny any request for a determination of need and refuse to grant a license pursuant to section 245.782 for any new intermediate care facility for persons with mental retardation or related conditions or for an increase in the licensed capacity of an existing facility except as provided in this subdivision and subdivision 2. ~~In no event shall~~ The total number of certified intermediate care beds for persons with mental retardation or related conditions in community facilities and state hospitals shall not exceed ~~7,500 beds as of July 1, 1983, and~~ 7,000 beds ~~as of July 1, 1986~~ except that, to the extent that federal authorities disapprove any applications of the commissioner for home and community-based waivers under United States Code, title 42, section 1396n, as amended through December 31, 1987, the commissioner may authorize new intermediate care beds, as necessary, to serve persons with mental retardation or related conditions who would otherwise have been served under a proposed waiver. "Certified bed" means an intermediate care bed for persons with mental retardation or related conditions certified by the commissioner of health for the purposes of the medical assistance program under United States Code, title 42, sections 1396 to 1396p, as amended through December 31, ~~1982~~ 1987.

Sec. 112. Minnesota Statutes 1986, section 252.291, subdivision 2, is amended to read:

Subd. 2. **EXCEPTIONS.** The commissioner of human services in coordination with the commissioner of health may approve a ~~new~~ newly constructed or newly established publicly or privately operated community intermediate care facility for six or fewer persons with mental retardation or related conditions only ~~in~~ when the following circumstances exist:

(a) when the facility is developed in accordance with a request for proposal ~~system established pursuant to subdivision 3, clause (b)~~ approved by the commissioner of human services;

(b) when the facility is necessary to serve the needs of ~~identifiable~~ identified persons with mental retardation or related conditions who are seriously behaviorally disordered or who are seriously physically or sensorily impaired. At least 50 percent of the capacity of the facility must be used for persons coming from regional treatment centers; ~~or~~ and

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

(c) ~~to license beds in new facilities where need was determined by the commissioner prior to June 10, 1983~~ when the commissioner determines that the need for increased service capacity cannot be met by the use of alternative resources or the modification of existing facilities.

Sec. 113. Minnesota Statutes 1987 Supplement, section 252.291, subdivision 3, is amended to read:

Subd. 3. **DUTIES OF COMMISSIONER OF HUMAN SERVICES.** The commissioner shall:

(a) establish standard admission criteria for state hospitals and county utilization targets to limit and reduce the number of intermediate care beds in state hospitals and community facilities in accordance with approved waivers under United States Code, title 42, sections 1396 to 1396p, as amended through December 31, ~~1982~~ 1987, to assure that appropriate services are provided in the least restrictive setting;

(b) define services, including respite care, that may be needed in meeting individual service plan objectives;

(c) provide technical assistance so that county boards may establish a request for proposal system for meeting individual service plan objectives through home and community-based services; alternative community services; or, if no other alternative will meet the needs of identifiable individuals for whom the county is financially responsible, a new intermediate care facility for persons with mental retardation or related conditions;

(d) establish a client tracking and evaluation system as required under applicable federal waiver regulations, Code of Federal Regulations, title 42, sections 431, 435, 440, and 441, as amended through December 31, ~~1982~~ 1987; and

(e) develop a state plan for the delivery and funding of residential day and support services to persons with mental retardation or related conditions in Minnesota and submit that plan to the clerk of each house of the Minnesota legislature on or before the 15th of January of each biennium beginning January 15, 1985. The biennial mental retardation plan shall include but not be limited to:

(1) county by county maximum intermediate care bed utilization quotas;

(2) plans for the development of the number and types of services alternative to intermediate care beds;

(3) procedures for the administration and management of the plan;

(4) procedures for the evaluation of the implementation of the plan; and

(5) the number, type, and location of intermediate care beds targeted for decertification.

The commissioner shall modify the plan to ensure conformance with the medical assistance home and community-based services waiver.

Sec. 114. Minnesota Statutes 1987 Supplement, section 252.46, subdivision 5, is amended to read:

Subd. 5. **SUBMITTING RECOMMENDED RATES.** The county board shall submit recommended payment rates to the commissioner on forms supplied by the commissioner ~~by November 1, 1987, and~~ at least 60 days before revised payment rates or payment rates for new vendors are to be effective. The forms must require the county board's written verification of the individual documentation required under section 252.44, clause (a). If the number of days of service provided by a licensed vendor are projected to increase, the county board must recommend payment rates based on the projected increased days of attendance and resulting lower per unit fixed costs. Recommended increases in payment rates for vendors whose approved payment rates are ten or more than ten percent below the statewide median payment rates must be equal to the maximum increases allowed for that vendor under subdivision 3. If a vendor provides services at more than one licensed site, the county board may recommend the same payment rates for each site based on the average rate for all sites. The county board may also recommend differing payment rates for each licensed site if it would result in a total annual payment to the vendor that is equal to or less than the total annual payment that would result if the average rates had been used for all sites. For purposes of this subdivision, the average payment rate for all service sites used by a vendor must be computed by adding the amounts that result when the payment rates for each licensed site are multiplied by the projected annual number of service units to be provided at that site and dividing the sum of those amounts by the total units of service to be provided by the vendor at all sites.

Sec. 115. Minnesota Statutes 1987 Supplement, section 252.46, subdivision 6, is amended to read:

Subd. 6. **VARIANCES.** A variance from the minimum or maximum payment rates in subdivisions 2 and 3 may be granted by the commissioner when the vendor requests and the county board submits to the commissioner a written variance request with the recommended payment rates. A variance may be utilized for costs associated with compliance with state administrative rules, compliance with court orders, increased insurance costs, start-up and conversion costs for supported employment, direct service staff salaries, and transportation. The county board shall review all vendors' payment rates that are ~~20~~ ten or more than ten percent lower than the ~~average rates for the regional development commission district to which the county belongs~~ statewide median payment rates. If the county determines that the payment rates do not provide sufficient revenue to the vendor for authorized service delivery the county must recommend a variance under this section. ~~This review must occur prior to November 1, 1987.~~ When the county board contracts for increased services from any vendor for some or all individuals receiving services from the vendor, the county

board shall review the vendor's payment rates to determine whether the increase requires that a variance to the minimum rates be recommended under this section to reflect the vendor's lower per unit fixed costs. The written variance request must include documentation that all the following criteria have been met:

(1) The commissioner and the county board have both conducted a review and have identified a need for a change in the payment rates ~~to change the number of direct service staff or the level of qualifications of the staff~~.

(2) The proposed changes are required for the vendor to deliver authorized individual services in an effective and efficient manner.

(3) The proposed changes are necessary to demonstrate compliance with minimum licensing standards ~~governing minimum staffing ratios and staff qualifications~~.

(4) The vendor documents that the ~~change in staff numbers or qualifications~~ changes cannot be achieved by reallocating current staff or by reallocating financial resources ~~to provide or purchase the necessary services~~.

(5) The county board submits evidence that the need for additional staff cannot be met by using temporary special needs rate exceptions under Minnesota Rules, parts 9510.1020 to 9510.1140.

(6) The county board submits a description of the nature and cost of the proposed changes, and how the county will monitor the use of money by the vendor to make necessary changes in services. ~~Allowable costs are limited to salaries, related fringe benefits, and payroll taxes.~~

(7) The county board's recommended payment rates do not exceed 125 percent of the ~~average~~ current calendar year's statewide median payment rates ~~in the regional development commission district in which the vendor is located~~.

Sec. 116. Minnesota Statutes 1987 Supplement, section 252.46, is amended by adding a subdivision to read:

Subd. 13. **REVIEW AND REVISION OF PROCEDURES FOR RATE EXCEPTIONS FOR VERY DEPENDENT PERSONS WITH SPECIAL NEEDS.** The commissioner shall review the procedures established in Minnesota Rules, parts 9510.1020 to 9510.1140, that counties must follow to seek authorization for a medical assistance rate exception for services for very dependent persons with special needs. The commissioner shall appoint an advisory task force to work with the commissioner. Members of the task force must include vendors, providers, advocates, and consumers. After considering the recommendations of the advisory task force and county rate setting procedures developed under this section, the commissioner shall:

(1) revise administrative procedures as necessary;

(2) implement new review procedures for county applications for medical assistance rate exceptions for services for very dependent persons with special needs in a manner that accounts for services available to the person within the approved payment rates of the vendor;

(3) provide training and technical assistance to vendors, providers, and counties in use of procedures governing medical assistance rate exceptions for very dependent persons with special needs and in county rate setting procedures established under this subdivision; and

(4) develop a strategy and implementation plan for uniform data collection for use in establishing equitable payment rates and medical assistance rate exceptions for services provided by vendors.

Sec. 117. Minnesota Statutes 1987 Supplement, section 252.46, is amended by adding a subdivision to read:

Subd. 14. **PILOT STUDY.** The commissioner may initiate a pilot payment rate system under section 252.47. The pilot project may establish training and demonstration sites. The pilot payment rate system must include actual transfers of funds, not simulated transfers. The pilot payment rate system may involve up to four counties and four vendors representing different geographic regions and rates of reimbursement. Participation in the pilot project is voluntary. Selection of participants by the commissioner is based on the vendor's submission of a complete application form provided by the commissioner. The application must include letters of agreement from the host county, counties of financial responsibility, and residential service providers. Evaluation of the pilot project must include consideration of the effectiveness of procedures governing establishment of equitable payment rates. Implementation of the pilot payment rate system is contingent upon federal approval and systems feasibility. The policies and procedures governing administration, participation, evaluation, service utilization, and payment for services under the pilot payment rate system are not subject to the rulemaking requirements of chapter 14.

Sec. 118. Minnesota Statutes 1987 Supplement, section 253B.03, subdivision 6, is amended to read:

Subd. 6. **CONSENT FOR MEDICAL PROCEDURE.** A patient has the right to prior consent to any medical or surgical treatment, other than the treatment of mental illness or chemical dependency. A patient with mental retardation or the patient's guardian or conservator has the right to give or withhold consent before:

(1) the implementation of any aversive or deprivation procedure except for emergency procedures permitted in rules of the commissioner adopted under section 245.825; or

(2) the administration of psychotropic medication.

The following procedures shall be used to obtain consent for any treatment necessary to preserve the life or health of any committed patient:

(a) The written, informed consent of a competent adult patient for the treatment is sufficient.

(b) If the patient is subject to guardianship or conservatorship which includes the provision of medical care, the written, informed consent of the guardian or conservator for the treatment is sufficient.

(c) If the head of the treatment facility determines that the patient is not competent to consent to the treatment and the patient has not been adjudicated incompetent, written, informed consent for the surgery or medical treatment shall be obtained from the nearest proper relative. For this purpose, the following persons are proper relatives, in the order listed: the patient's spouse, parent, adult child, or adult sibling. If the nearest proper relatives cannot be located or refuse to consent to the procedure, the head of the treatment facility or an interested person may petition the committing court for approval for the treatment or may petition ~~an appropriate~~ a court of competent jurisdiction for the appointment of a guardian or conservator. The determination that the patient is not competent, and the reasons for the determination, shall be documented in the patient's clinical record.

(d) Consent to treatment of any minor patient shall be secured in accordance with sections 144.341 to 144.346, except that a minor 16 years of age or older may give valid consent for hospitalization, routine diagnostic evaluation, and emergency or short-term acute care.

(e) In the case of an emergency ~~and~~ when the persons ordinarily qualified to give consent cannot be located, the head of the treatment facility may give consent.

No person who consents to treatment pursuant to the provisions of this subdivision shall be civilly or criminally liable for the performance or the manner of performing the treatment. No person shall be liable for performing treatment without consent if written, informed consent was given pursuant to this subdivision. This provision shall not affect any other liability which may result from the manner in which the treatment is performed.

Sec. 119. Minnesota Statutes 1986, section 253B.03, is amended by adding a subdivision to read:

Subd. 6a. **ADMINISTRATION OF NEUROLEPTIC MEDICATIONS.** (a) Neuroleptic medications may be administered to persons committed as mentally ill or mentally ill and dangerous only as described in this subdivision.

(b) A neuroleptic medication may be administered to a patient who is competent to consent to neuroleptic medications only if the patient has given written, informed consent to administration of the neuroleptic medication.

(c) A neuroleptic medication may be administered to a patient who is not competent to consent to neuroleptic medications only if a court approves the administration of the neuroleptic medication or:

(1) the patient does not object to or refuse the medication;

(2) a guardian ad litem appointed by the court with authority to consent to neuroleptic medications gives written, informed consent to the administration of the neuroleptic medication; and

(3) a multidisciplinary treatment review panel composed of persons who are not engaged in providing direct care to the patient gives written approval to administration of the neuroleptic medication.

(d) A person who consents to treatment pursuant to this subdivision is not civilly or criminally liable for the performance of or the manner of performing the treatment. A person is not liable for performing treatment without consent if written, informed consent was given pursuant to this subdivision. This provision does not affect any other liability that may result from the manner in which the treatment is performed.

Sec. 120. Minnesota Statutes 1986, section 253B.17, subdivision 1, is amended to read:

Subdivision 1. **PETITION.** Any patient, except one committed as mentally ill and dangerous to the public, or any interested person may petition the committing court or the court to which venue has been transferred for an order that the patient is not in need of continued institutionalization or for an order that an individual is no longer mentally ill, mentally retarded, or chemically dependent, or for any other relief as the court deems just and equitable. A patient committed as mentally ill or mentally ill and dangerous may petition the committing court or the court to which venue has been transferred for a hearing concerning the administration of neuroleptic medication. A hearing may also be held pursuant to sections 253B.09 and 253B.12.

Sec. 121. Minnesota Statutes 1987 Supplement, section 256.01, subdivision 4, is amended to read:

Subd. 4. **DUTIES AS STATE AGENCY.** The state agency shall:

(1) supervise the administration of assistance to dependent children under Laws 1937, chapter 438, by the county agencies in an integrated program with other service for dependent children maintained under the direction of the state agency;

(2) may subpoena witnesses and administer oaths, make rules, and take such action as may be necessary, or desirable for carrying out the provisions of Laws 1937, chapter 438. All rules made by the state agency shall be binding on the counties and shall be complied with by the respective county agencies;

(3) establish adequate standards for personnel employed by the counties and the state agency in the administration of Laws 1937, chapter 438, and make the necessary rules to maintain such standards;

(4) prescribe the form of and print and supply to the county agencies blanks for applications, reports, affidavits, and such other forms as it may deem necessary and advisable;

(5) cooperate with the federal government and its public welfare agencies in any reasonable manner as may be necessary to qualify for federal aid for aid to dependent children and in conformity with the provisions of Laws 1937, chapter 438, including the making of such reports and such forms and containing such information as the Federal Social Security Board may from time to time require, and comply with such provisions as such board may from time to time find necessary to assure the correctness and verification of such reports; ~~and~~

(6) may cooperate with other state agencies in establishing reciprocal agreements in instances where a child receiving aid to dependent children moves or contemplates moving into or out of the state, in order that such child may continue to receive supervised aid from the state moved from until the child shall have resided for one year in the state moved to; ~~and~~

(7) on or before October 1 in each even-numbered year make a biennial report to the governor concerning the activities of the agency; and

(8) ~~design, develop, and administer an intake, referral, and inventory system that provides localized, single-point intake with a direct access to a statewide data base to match client needs with employment opportunities and public and private services. The system must include information on all available public and private programs for employment and training services and income maintenance and support services as defined in section 268.0111. The state agency shall cooperate with the department of jobs and training, counties and other local service units, service providers, and clients in the development and operation of the system. The system is not subject to sections 16B.40 to 16B.45;~~

~~(9)~~ enter into agreements with other departments of the state as necessary to meet all requirements of the federal government.

Sec. 122. Minnesota Statutes 1987 Supplement, section 256.015, subdivision 2, is amended to read:

Subd. 2. **PERFECTION; ENFORCEMENT.** The state agency may perfect and enforce its lien under sections 514.69, 514.70, and 514.71, and must file the verified lien statement with the appropriate court administrator in the county of financial responsibility. The verified lien statement must contain the following: the name and address of the person to whom medical care, subsistence, or other payment was furnished; the date of injury; the name and address of vendors furnishing medical care; the dates of the service or payment; the amount claimed to be due for the care or payment; and to the best of the state agency's knowl-

edge, the names and addresses of all persons, firms, or corporations claimed to be liable for damages arising from the injuries.

This section does not affect the priority of any attorney's lien. The state agency is not subject to any limitations period referred to in section 514.69 or 514.71 and has one year from the date notice is received by it under subdivision 4, paragraph (c), or one year from the date medical bills are first paid by the state agency, whichever is later, to file its verified lien statement. The state agency may commence an action to enforce the lien within one year of (1) the date the notice required by subdivision 4, paragraph (c), is received, or (2) the date the person's cause of action is concluded by judgment, award, settlement, or otherwise, whichever is later.

Sec. 123. **[256.016] PLAIN LANGUAGE IN WRITTEN MATERIALS.**

(a) To the extent reasonable and consistent with the goals of providing easily understandable and readable materials and complying with federal and state laws governing the programs, all written materials relating to services and determinations of eligibility for or amounts of benefits that will be given to applicants for or recipients of assistance under a program administered or supervised by the commissioner of human services must be understandable to a person who reads at the seventh-grade level, using the Flesch scale analysis readability score as determined under section 72C.09.

(b) All written materials relating to determinations of eligibility for or amounts of benefits that will be given to applicants for or recipients of assistance under programs administered or supervised by the commissioner of human services must be developed to satisfy the plain language requirements of the plain language contract act under sections 325G.29 to 325G.36. Materials may be submitted to the attorney general for review and certification. Notwithstanding section 325G.35, subdivision 1, the attorney general shall review submitted materials to determine whether they comply with the requirements of section 325G.31. The remedies available pursuant to sections 8.31 and 325G.33 to 325G.36 do not apply to these materials. Failure to comply with this section does not provide a basis for suspending the implementation or operation of other laws governing programs administered by the commissioner.

(c) The requirements of this section apply to all materials modified or developed by the commissioner on or after July 1, 1988. The requirements of this section do not apply to materials that must be submitted to a federal agency for approval, to the extent that application of the requirements prevents federal approval.

(d) Nothing in this section may be construed to prohibit a lawsuit brought to require the commissioner to comply with this section or to affect individual appeal rights granted pursuant to section 256.045.

(e) The commissioner shall report annually to the chairs of the health and human services divisions of the senate finance committee and the house of representatives appropriations committee on the number and outcome of cases that raise the issue of the commissioner's compliance with this section.

Sec. 124. Minnesota Statutes 1986, section 256.73, subdivision 2, is amended to read:

Subd. 2. **ALLOWANCE BARRED BY OWNERSHIP OF PROPERTY.** Ownership by an assistance unit of property as follows is a bar to any allowance under sections 256.72 to 256.87:

(1) The value of real property other than the homestead, which when combined with other assets exceeds the limits of paragraph (2), unless the assistance unit is making a good faith effort to sell the nonexcludable real property. The time period for disposal must not exceed nine months and the assistance unit shall execute an agreement to dispose of the property to repay assistance received during the nine months up to the amount of the net sale proceeds. The payment must be made when the property is sold. If the property is not sold within the required time or the assistance unit becomes ineligible for any reason the entire amount received during the nine months is an overpayment and subject to recovery. For the purposes of this section "homestead" means the ~~house~~ home owned and occupied by the child, relative or other member of the assistance unit as a dwelling place, together with the ~~land upon which it is situated in an area no greater than two contiguous lots in a platted or laid out city or town or all contiguous acres in rural areas~~ surrounding property which is not separated from the home by intervening property owned by others. Public rights-of-way, such as roads which run through the surrounding property and separate it from the home, will not affect the exemption of the property; or

(2) Personal property of an equity value in excess of $1,000 for the entire assistance unit, exclusive of personal property used as the home, one motor vehicle of an equity value not exceeding $1,500 or the entire equity value of a motor vehicle determined to be necessary for the operation of a self-employment business, one burial plot for each member of the assistance unit, one prepaid burial contract with an equity value of no more than $1,000 for each member of the assistance unit, clothing and necessary household furniture and equipment and other basic maintenance items essential for daily living, in accordance with rules promulgated by and standards established by the commissioner of human services.

Sec. 125. Minnesota Statutes 1986, section 256.73, subdivision 6, is amended to read:

Subd. 6. **REPORTS BY RECIPIENT.** (a) An assistance unit with a recent work history or with earned income shall report monthly to the local agency on income received and other circumstances affecting eligibility or assistance amounts. All other assistance units shall report on income and other circumstances affecting eligibility and assistance amounts at less frequent intervals, as specified by the state agency. ~~All income not specifically disregarded by the Social Security Act, the Code of Federal Regulations, or state law and rules, shall be income applicable to the budgetary needs of the family. If any amount of aid to families with dependent children assistance is paid to a recipient thereof in excess of the payment due it shall be recoverable by the local agency. The agency shall give written notice to the recipient of its intention to recover the overpayment. Overpayments to a current assistance unit shall be recovered either through~~

~~repayment by the individual in part or in full or by reducing the amount of aid payable to the assistance unit of which the individual is a member. For any month in which an overpayment must be recovered, recoupment may be made by reducing the grant but only if the reduced assistance payment, together with the assistance unit's liquid assets and total income after deducting actual work expenses equals at least 95 percent of the standard of need for the assistance unit, except that if the overpayment is due solely to agency error, this total after deducting actual work expenses shall equal at least 99 percent of the standard of need. In cases when there is both an overpayment and underpayment the local agency shall offset one against the other in correcting the payment. The local agency shall make reasonable efforts to recover overpayments made to persons no longer on assistance in accordance with standards established by the commissioner of human services. The local agency need not attempt to recover overpayments of less than $35 paid to an individual no longer on assistance if the individual does not receive assistance again within three years, unless the individual has been convicted of fraud under section 256.98. The recipient may appeal the agency's determination that an overpayment has occurred in accordance with section 256.045. The county agency shall promptly repay the recipient for any underpayment and shall disregard that payment when determining the assistance unit's income and resources in the month when the payment is made and the following month.~~

(b) An assistance unit required to submit a report on the form designated by the commissioner is considered to have continued its application for assistance effective the date the required report is received by the local agency, if a complete report is received within a calendar month after the month in which assistance was received, except that no assistance shall be paid for the period beginning with the end of the month in which the report was due and ending with the date the report was received by the local agency.

Sec. 126. Minnesota Statutes 1986, section 256.73, is amended by adding a subdivision to read:

Subd. 8. **RECOVERY OF OVERPAYMENTS.** (a) If an amount of aid to families with dependent children assistance is paid to a recipient in excess of the payment due, it shall be recoverable by the local agency. The agency shall give written notice to the recipient of its intention to recover the overpayment.

(b) When an overpayment occurs, the local agency shall recover the overpayment from a current recipient by reducing the amount of aid payable to the assistance unit of which the recipient is a member for one or more monthly assistance payments until the overpayment is repaid. For any month in which an overpayment must be recovered, recoupment may be made by reducing the grant but only if the reduced assistance payment, together with the assistance unit's total income after deducting work expenses as allowed under section 256.74, subdivision 1, clauses (3) and (4), equals at least 95 percent of the standard of need for the assistance unit, except that if the overpayment is due solely to agency error, this total after deducting allowable work expenses must equal at least 99 percent of the standard of need. Notwithstanding the preceding sentence, beginning on the date on which the commissioner implements a

computerized client eligibility and information system in one or more counties, all local agencies in the state shall reduce the assistance payment by three percent of the assistance unit's standard of need or the amount of the monthly payment, whichever is less, for all overpayments whether or not the overpayment is due solely to agency error. In cases when there is both an overpayment and underpayment, the local agency shall offset one against the other in correcting the payment.

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

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

Sec. 127. Minnesota Statutes 1986, section 256.73, is amended by adding a subdivision to read:

Subd. 9. **APPEAL OF OVERPAYMENT DETERMINATIONS.** The recipient may appeal the agency's determination that an overpayment has occurred in accordance with section 256.045.

Sec. 128. Minnesota Statutes 1986, section 256.73, is amended by adding a subdivision to read:

Subd. 10. **UNDERPAYMENTS.** The local agency shall promptly repay the recipient for any underpayment. The local agency shall disregard that payment when determining the assistance unit's income and resources in the month when the payment is made and the following month.

Sec. 129. Minnesota Statutes 1986, section 256.73, is amended by adding a subdivision to read:

Subd. 11. **COMPLIANCE WITH FEDERAL LAW AND REGULATION.** None of the provisions in this section shall be implemented to the extent that they violate federal law or regulation.

Sec. 130. Minnesota Statutes 1987 Supplement, section 256.736, subdivision 1b, is amended to read:

Subd. 1b. **WORK INCENTIVE SUBSIDIZED HOUSING PROGRAM.** Within the limit of available appropriations, employed recipients of aid to families with dependent children who meet eligibility requirements established by the commissioner of human services are eligible for a state housing subsidy as an incentive to seek and retain employment. The commissioner of human services shall adopt rules for the work incentive subsidized housing program

using eligibility criteria, subsidy amounts, and an administrative system developed jointly by the commissioner of human services and the commissioner of jobs and training. Unless superseded by permanent rules, emergency rules adopted to implement this section remain in effect until July 1, 1989. The rules must:

(1) target recipients who are or are likely to become long-term recipients or who experience substantial barriers to employment;

(2) establish a fixed or sliding scale subsidy amount that will create a significant work incentive yet enable the program to serve the greatest possible number of recipients;

(3) limit the subsidy to persons who become employed while receiving assistance; and

(4) provide for continued subsidy payments for up to one year after termination of assistance to ease the transition from assistance to self-sufficiency.

The program must be coordinated with existing work and training programs and must be designed to maximize savings in the aid to families with dependent children program. The subsidy must be provided as in-kind assistance, and it is not available if it would be considered countable income under state and federal requirements.

Sec. 131. Minnesota Statutes 1986, section 256.736, is amended by adding a subdivision to read:

Subd. 3b. **MANDATORY SCHOOL ATTENDANCE FOR MINOR PARENTS. (a) DEFINITIONS.** The definitions in this paragraph apply to this subdivision.

(1) "Minor parent" means a recipient of AFDC who is under age 18, and who is the natural or adoptive parent of a child living with the minor parent.

(2) "School" means:

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

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

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

(b) **SCHOOL ATTENDANCE REQUIRED.** Notwithstanding section 256.736, subdivision 3, a minor parent must attend school if all of the following apply:

(1) the minor parent has no child living with the parent who is younger than six weeks of age;

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

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

(4) the minor parent has not already graduated from high school and has not received a general educational development (GED) diploma; and

(5) the minor parent does not have good cause for failing to attend school, as provided in paragraph (d).

(c) **ENROLLMENT AND ATTENDANCE.** The minor parent must be enrolled in school and meeting the school's attendance requirements. The minor parent is considered to be attending when the minor parent is enrolled but the school is not in regular session, including during holiday and summer breaks.

(d) **GOOD CAUSE FOR NOT ATTENDING SCHOOL.** The local agency shall determine whether good cause for not attending or not enrolling in school exists, according to this paragraph:

(1) Good cause exists when the minor parent is ill or injured seriously enough to prevent the minor parent from attending school.

(2) Good cause exists when the minor parent's child is ill or injured and the minor parent's presence in the home is required to care for the child.

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

(4) Good cause exists when there is an interruption in availability of child care services.

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

(6) Good cause exists when the school does not cooperate with the local agency in providing verification of the minor parent's education or attendance.

(7) Good cause exists when the minor parent or the minor parent's child has a medical appointment or an appointment with the local welfare agency, is required to appear in court during the minor parent's normal school hours, or has any other obligation consistent with the case management contract.

(8) For the minor parent of a child between six and twelve weeks of age,

good cause exists when child care is not available on the premises of the school, or a medical doctor certifies that it would be better for the health of either the parent or the child for the parent to remain at home with the child for a longer period of time.

(e) **FAILURE TO COMPLY.** If the school notifies the local agency that the minor parent is not enrolled or is not meeting the school's attendance requirements, and the local agency determines that the minor parent does not have good cause, the local agency shall apply the sanctions listed in subdivision 4 beginning with the first payment month after issuance of notice.

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

(g) **SOCIAL SERVICES.** When a minor parent has failed to attend school and does not have good cause, the local agency shall refer the minor parent to social services for services, as provided in section 257.33.

(h) **VERIFICATION.** No less often than quarterly, the local agency must verify that the minor parent is meeting the requirements of this subdivision. Notwithstanding section 13.32, subdivision 3, when the local agency notifies the school that a minor parent is subject to this subdivision, the school must furnish verification of school enrollment and attendance to the local agency.

Sec. 132. Minnesota Statutes 1986, section 256.736, is amended by adding a subdivision to read:

Subd. 3c. **MINOR PARENTS NOT LIVING WITH RELATIVES.** (a) This subdivision applies to a minor parent who is not living with a parent or other adult relative and who is not living in a group or foster home licensed by the commissioner.

(b) For purposes of this subdivision, the following terms have the meanings given them:

(1) "Minor parent" means an applicant for or recipient of AFDC who is under age 18, and who is the natural or adoptive parent of a child living with the minor parent.

(2) "Other adult relative" means a person who qualifies to be an eligible relative caretaker for AFDC, as specified in federal regulations.

(c) The agency shall determine, for each minor parent who applies for or receives AFDC, whether this section applies. For a minor parent to whom this section applies, the local agency shall refer the minor parent to its social services unit within 30 days of the date the application for assistance is approved for development of a social service plan as required in section 257.33. The agency shall notify the minor parent of the referral to social services and that cooperation in developing and participating in a social service plan is required in order for AFDC eligibility to continue.

(d) In addition to meeting the requirements of section 257.33, the social service plan may, based upon the social service unit's evaluation of the minor caretaker's needs and parenting abilities, and the health, safety, and parenting needs of the minor caretaker's child, require the minor caretaker to live in a group or foster home or participate in available programs which teach skills in parenting or independent living.

(e) If the minor parent fails to cooperate in developing or participating in the social service plan, the social services unit shall notify the income maintenance unit of the local agency, which shall then notify the minor parent of the determination and of the sanctions in subdivision 4 that will be applied.

Sec. 133. Minnesota Statutes 1987 Supplement, section 256.736, subdivision 4, is amended to read:

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

(1) Arrange for or provide any caretaker or child required to participate in employment and training services pursuant to this section with child-care services, transportation, and other necessary family services;

(2) Pay 10 percent of the cost of the work incentive program and any other costs that are required of that agency by federal regulation for employment and training services for recipients of aid to families with dependent children;

(3) Provide that in determining a recipient's needs any monthly incentive training payment made to the recipient by the department of jobs and training is disregarded and the additional expenses attributable to participation in a program are taken into account in grant determination to the extent permitted by federal regulation; and

(4) Provide that ~~when it has been certified by the county board that a caretaker or child required to participate in an employment and training program has been found by the employment and training service provider to have refused without good cause to participate in appropriate employment and training services or to have refused without good cause to accept a bona fide offer of public or other employment, the county board shall provide that~~ the county board shall impose the sanctions in clause (5) or (6) when the county board:

(a) is notified that a caretaker or child required to participate in employment and training services has been found by the employment and training service provider to have failed without good cause to participate in appropriate employment and training services or to have failed without good cause to accept a bona fide offer of public or other employment;

(b) determines that a minor parent who is required to attend school under subdivision 3b has, without good cause, failed to attend school;

(c) determines that subdivision 3c applies to a minor parent and the minor

parent has, without good cause, failed to cooperate with development of a social service plan or to participate in execution of the plan, to live in a group or foster home, or to participate in a program that teaches skills in parenting and independent living; or

(d) determines that a caretaker has, without good cause, failed to attend orientation.

(5) To the extent permissible by federal law, the following sanctions must be imposed for a recipient's failure to participate in required employment and training services, education, orientation, or the requirements of subdivision 3c:

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

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

(c) When protective payments are required, the local agency may continue payments to the caretaker if a protective payee cannot reasonably be found.

(6) When the sanctions provided by clause (5) are not permissible under federal law, the following sanctions shall be imposed for a recipient's failure to participate in required employment and training services, education, orientation, or the requirements of subdivision 3c:

(a) If the caretaker ~~makes the refusal~~ fails to participate, the caretaker's needs shall not be taken into account in making the grant determination, and aid for any dependent child in the family will be made in the form of protective or vendor payments, except that when protective payments are made, the local agency may continue payments to the caretaker if a protective payee cannot reasonably be found. The standard of assistance for the remaining eligible members of the assistance unit is the standard that is used in other instances in which the caretaker is excluded from the assistance unit for noncompliance with a program requirement.

(b) Aid with respect to a dependent child will be denied if a child who ~~makes the refusal~~ fails to participate is the only child receiving aid in the family.

(c) If there is more than one child receiving aid in the family, aid for the child who ~~makes the refusal~~ fails to participate will be denied and the child's needs will not be taken into account in making the grant determination.

(d) If the assistance unit's eligibility is based on the nonexempt principal earner's unemployment and this principal earner fails ~~or refuses~~ without good cause to participate or to accept employment, the entire assistance unit is ineligible for benefits under sections 256.72 to 256.87.

Sec. 134. Minnesota Statutes 1987 Supplement, section 256.736, subdivision 11, is amended to read:

Subd. 11. **CASE MANAGEMENT SERVICES.** (a) For clients described in subdivision 2a, the case manager shall:

(1) Assess the education, skills, and ability of the caretaker to secure and retain a job which, when added to child support, will support the caretaker's family. The case manager must work with the caretaker in completing this task;

(2) Set goals and develop a timetable for completing education and employment goals. The case manager must work with the caretaker in completing this task. For caretakers who are not literate or who have not completed high school, the first goal for the caretaker must be to complete literacy training or a general education diploma. Caretakers who are literate and have completed high school shall be counseled to set realistic attainable goals, taking into account the long-term needs of both the caretaker and the caretaker's family;

(3) Coordinate services such as child care, transportation, and education assistance necessary to enable the caretaker to work toward the goals developed in clause (2). When a client needs child care services in order to attend a Minnesota public or nonprofit college, university or technical institute, the case manager shall contact the appropriate agency to reserve child care funds for the client. A caretaker who needs child care services in order to complete high school or a general education diploma is eligible for child care under section 268.91;

(4) Develop, execute, and monitor a contract between the local agency and the caretaker. The contract must include: (a) specific goals of the caretaker including stated measurements of progress toward each goal; (b) specific services provided by the county agency; and (c) conditions under which the county will withdraw the services provided;

The contract may include other terms as desired or needed by either party. In all cases, however, the case manager must ensure that the caretaker has set forth in the contract realistic goals consistent with the ultimate goal of self-sufficiency for the caretaker's family; and

(5) Develop and refer caretakers to counseling or peer group networks for emotional support while participating in work, education, or training.

(b) In addition to the duties in paragraph (a), for minor parents and pregnant minors, the case manager shall:

(1) Ensure that the contract developed under paragraph (a)(4) considers all factors set forth in section 257.33, subdivision 2; ~~and~~

(2) Assess the housing and support systems needed by the caretaker in order to provide the dependent children with adequate parenting. The case manager shall encourage minor parents and pregnant minors who are not living with

friends or relatives to live in a group home or foster care setting. If minor parents and pregnant minors are unwilling to live in a group home or foster care setting or if no group home or foster care setting is available, the case manager shall assess the ~~minor parent's~~ their need for training in parenting and independent living skills and when appropriate shall refer ~~appropriate minor parents~~ them to available counseling programs designed to teach needed skills; and

(3) Inform minor parents or pregnant minors of, and assist them in evaluating the appropriateness of, the high school graduation incentives program under section 126.22, including post-secondary enrollment options, and the employment related and community based instruction programs.

(c) A caretaker may request a conciliation conference to attempt to resolve disputes regarding the contents of a contract developed under this section or a housing and support systems assessment conducted under this section. The caretaker may request a hearing pursuant to section 256.045 to dispute the contents of a contract or assessment developed under this section. The caretaker need not request a conciliation conference in order to request a hearing pursuant to section 256.045.

Sec. 135. Minnesota Statutes 1986, section 256.76, subdivision 1, is amended to read:

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

agency with the auditor of the county ~~and thereafter~~. After the order is filed, warrants shall be drawn and payments made only in accordance with this order to or for recipients of this assistance or in accordance with any subsequent order.

Sec. 136. **[256.925] OPTIONAL VOTER REGISTRATION FOR PUBLIC ASSISTANCE APPLICANTS AND RECIPIENTS.**

A county agency shall provide voter registration cards to every individual eligible to vote who applies for a public assistance program at the time application is made. The agency shall also make voter registration cards available to a public assistance recipient upon the recipient's request or at the time of the recipient's eligibility redetermination. The county agency shall assist applicants and recipients in completing the voter registration cards, as needed. Applicants must be informed that completion of the cards is optional. Completed forms shall be collected by agency employees and submitted to proper election officials.

Sec. 137. Minnesota Statutes 1987 Supplement, section 256.936, is amended to read:

256.936 **CHILDREN'S HEALTH PLAN.**

Subdivision 1. **DEFINITIONS.** For purposes of this section the following terms shall have the meanings given them:

(a) "Eligible persons" means ~~pregnant women and~~ children ~~under six years old~~ who are one year of age or older but less

than nine years of age who have gross family incomes that are

equal to or less than 185 percent of the federal poverty guidelines and who are not eligible for medical assistance under chapter 256B or general assistance medical care under chapter 256D and who are not otherwise insured for the covered services. ~~Eligibility for pregnant women shall continue for 60 days postpartum to allow for follow-up visits.~~ The period of eligibility extends from the first day of the month in which the child's first birthday occurs to the last day of the month in which the child becomes nine years old.

(b) "Covered services" means ~~prenatal care services and~~ children's health services.

(c) ~~"Prenatal care services" means the outpatient services provided to pregnant women which are medically necessary for the pregnancy. Physician or certified nurse-midwife services for delivery are included but inpatient hospital services are not included.~~

~~(d)~~ "Children's health services" means the health services reimbursed under chapter 256B, with the exception of inpatient hospital services, private duty nursing services, orthodontic services, medical transportation services, personal care assistant and case management services, hospice care services, nursing

home or intermediate care facilities services, and mental health and chemical dependency services.

~~(c)~~ (d) "Eligible providers" means those health care providers who provide ~~prenatal care services and~~ children's health services to medical assistance clients under rules established by the commissioner for that program. Reimbursement under this section shall be at the same rates and conditions established for medical assistance. ~~A provider of prenatal care services shall assess whether the pregnant woman is at risk of delivering a low birth weight baby or has a health condition which may increase the probability of a problem birth.~~

~~(f)~~ (e) "Commissioner" means the commissioner of human services.

Subd. 2. **PLAN ADMINISTRATION.** The children's health plan is established to promote access to appropriate primary health care ~~for pregnant women and~~ to assure ~~healthy babies and~~ healthy children. The commissioner shall establish an office for the state administration of this plan. The plan shall be used to provide ~~prenatal care and~~ children's health services for eligible persons. Payment for these services shall be made to all eligible providers. The commissioner shall establish marketing efforts to encourage potentially eligible persons to receive information about the program and about other medical care programs administered or supervised by the department of human services. A toll-free telephone number must be used to provide information about ~~the plan~~ medical programs and to promote access to the covered services. The commissioner must make a quarterly assessment of the expected expenditures for the covered services and the appropriation. Based on this assessment the commissioner may limit enrollments and target former aid to families with dependent children recipients. If sufficient money is not available to cover all costs incurred in one quarter, the commissioner may seek an additional authorization for funding from the legislative advisory committee.

Subd. 3. **APPLICATION PROCEDURES.** Applications and other information must be made available ~~in~~ to provider offices, local human services agencies, school districts, public and private elementary schools in which 25 percent or more of the students receive free or reduced price lunches, community health offices, and Women, Infants and Children (WIC) program sites. These sites may accept applications, collect the enrollment fee, and forward the forms and fees to the commissioner. Otherwise, applicants may apply directly to the commissioner. The commissioner may use individuals' social security numbers as identifiers for purposes of administering the plan and conduct data matches to verify income. Applicants shall submit evidence of family income, earned and unearned, that will be used to verify income eligibility. Notwithstanding any other law to the contrary, benefits under this section are secondary to ~~any~~ a plan of insurance or benefit program under which an eligible person may have coverage. The commissioner shall identify eligible persons who may have coverage or benefits under other plans of insurance or who become eligible for medical assistance.

Subd. 4. **ENROLLMENT FEE.** An ~~enrollment fee of $35 is required from eligible persons for prenatal care services and an~~ annual enrollment fee of $25, not to exceed $150 per family, is required from eligible persons for children's health services. ~~The fees may be paid together at the time of enrollment or as two payment installments.~~ Enrollment fees must be deposited in the public health fund and are appropriated to the commissioner for the children's health plan program. The commissioner shall make an annual redetermination of continued eligibility and identify people who may become eligible for medical assistance.

Sec. 138. **[256.9655] PAYMENTS TO MEDICAL PROVIDERS.**

The commissioner shall establish procedures to analyze and correct problems associated with medical care claims preparation and processing under the medical assistance, general assistance medical care, and children's health plan programs. At a minimum, the commissioner shall:

(1) designate a full-time position as a liaison between the department of human services and providers;

(2) analyze impediments to timely processing of claims, provide information and consultation to providers, and develop methods to resolve or reduce problems;

(3) provide to each acute-care hospital a quarterly listing of claims received and identify claims that have been suspended and the reason the claims were suspended;

(4) provide education and information on reasons for rejecting and suspending claims and identify methods that would avoid multiple submissions of claims; and

(5) for each acute-care hospital, identify and prioritize claims that are in jeopardy of exceeding time factors that eliminate payment.

Sec. 139. Minnesota Statutes 1987 Supplement, section 256.969, subdivision 2, is amended to read:

Subd. 2. **RATES FOR INPATIENT HOSPITALS.** On July 1, 1984, the commissioner shall begin to utilize to the extent possible existing classification systems, including Medicare. The commissioner may incorporate the grouping of hospitals with similar characteristics for uniform rates upon the development and implementation of the diagnostic classification system. Prior to implementation of the diagnostic classification system, the commissioner shall report the proposed grouping of hospitals to the senate health and human services committee and the house health and welfare committee. The computation of the base year cost per admission and the computation of the relative values of the diagnostic categories must include identified outlier cases and their weighted costs up to the point that they become outlier cases, but must exclude costs and days

beyond that point. Claims paid for care provided on or after August 1, 1985, shall be adjusted to reflect a recomputation of rates, unless disapproved by the federal Health Care Financing Administration. The state shall pay the state share of the adjustment for care provided on or after August 1, 1985, up to and including June 30, 1987, whether or not the adjustment is approved by the federal Health Care Financing Administration. The commissioner may reconstitute the diagnostic categories to reflect actual hospital practices, the specific character of specialty hospitals, or to reduce variances within the diagnostic categories after notice in the State Register and a 30-day comment period. After May 1, 1986, acute care hospital billings under the medical assistance and general assistance medical care programs must not be submitted until the recipient is discharged. However, the commissioner shall establish monthly interim payments with inpatient hospitals that have individual patient lengths of stay in excess of 30 days regardless of diagnosis-related group. For purposes of establishing interim rates, the commissioner is exempt from the requirements of chapter 14. Medical assistance and general assistance medical care reimbursement for treatment of mental illness shall be reimbursed based upon diagnosis classifications. The commissioner may selectively contract with hospitals for services within the diagnostic classifications relating to mental illness and chemical dependency under competitive bidding when reasonable geographic access by recipients can be assured. No physician shall be denied the privilege of treating a recipient required to utilize a hospital under contract with the commissioner, as long as the physician meets credentialing standards of the individual hospital. Effective July 1, 1988, the commissioner shall limit the annual increase in pass-through cost payments for depreciation, rents and leases, and interest expense to the annual growth in the ~~consumer price index for all urban consumers (CPI-U)~~ hospital cost index described in section 256.969, subdivision 1. When computing budgeted pass-through cost payments, the commissioner shall use the annual increase in the ~~CPI-U~~ hospital cost index forecasted by Data Resources, Inc. consistent with the quarter of the hospital's fiscal year end. In final settlement of pass-through cost payments, the commissioner shall use the ~~CPI-U~~ hospital cost index for the month in which the hospital's fiscal year ends compared to the same month one year earlier.

Sec. 140. Minnesota Statutes 1987 Supplement, section 256.969, subdivision 3, is amended to read:

Subd. 3. **SPECIAL CONSIDERATIONS.** (a) In determining the rate the commissioner of human services will take into consideration whether the following circumstances exist:

(1) minimal medical assistance and general assistance medical care utilization;

(2) unusual length of stay experience; and

(3) disproportionate numbers of low-income patients served.

(b) To the extent of available appropriations, the commissioner shall provide

supplemental grants directly to a hospital described in section 256B.031, subdivision 10, paragraph (a), that receives medical assistance payments through a county-managed health plan that serves only residents of the county. The payments must be designed to compensate for actuarially demonstrated higher health care costs within the county, for the population served by the plan, that are not reflected in the plan's rates under section 256B.031, subdivision 4.

(c) For inpatient hospital originally paid admissions, excluding medicare cross-overs, provided from July 1, 1988, through June 30, 1989, hospitals with 100 or fewer medical assistance annualized paid admissions, excluding medicare cross-overs, that were paid by March 1, 1988, for admissions paid during the period January 1, 1987, to June 30, 1987, shall have medical assistance inpatient payments increased 30 percent. Hospitals with more than 100 but fewer than 250 medical assistance annualized paid admissions, excluding medicare cross-overs, that were paid by March 1, 1988, for admissions paid during the period January 1, 1987, to June 30, 1987, shall have medical assistance inpatient payments increased 20 percent for inpatient hospital originally paid admissions, excluding medicare cross-overs, provided from July 1, 1988, through June 30, 1989. This provision applies only to hospitals that have 100 or fewer licensed beds on March 1, 1988.

Sec. 141. Minnesota Statutes 1987 Supplement, section 256B.02, subdivision 8, is amended to read:

Subd. 8. **MEDICAL ASSISTANCE; MEDICAL CARE.** "Medical assistance" or "medical care" means payment of part or all of the cost of the ~~following~~ care and services identified in subdivisions 8a to 8y, for eligible individuals whose income and resources are insufficient to meet all of this cost~~:~~.

~~(1)~~ Subd. 8a. **INPATIENT HOSPITAL SERVICES.** Medical assistance covers inpatient hospital services. A second medical opinion is required prior to reimbursement for elective surgeries requiring a second opinion. The commissioner shall publish in the State Register a list of elective surgeries that require a second medical opinion prior to reimbursement, and the criteria and standards for deciding whether an elective surgery should require a second medical opinion. The list and the criteria and standards are not subject to the requirements of sections 14.01 to 14.69. The commissioner's decision whether a second medical opinion is required, made in accordance with rules governing that decision, is not subject to administrative appeal~~:~~.

~~(2)~~ Subd. 8b. **SKILLED AND INTERMEDIATE NURSING CARE.** Medical assistance covers skilled nursing home services and services of intermediate care facilities, including training and habilitation services, as defined in section 252.41, subdivision 3, for persons with mental retardation or related conditions who are residing in intermediate care facilities for persons with mental retardation or related conditions. Medical assistance must not be used to pay the costs of nursing care provided to a patient in a swing bed as defined in section 144.562~~;~~, unless (a) the facility in which the swing bed is located is eligible as a sole community provider, as defined in Code of Federal Regulations, title 42, section 412.92, or the facility is a public hospital owned by a governmental entity with 15 or fewer licensed acute-care beds; (b) the health care financing administration approves the necessary state plan amendments; (c) the patient

was screened as provided in section 256B.091; (d) the patient no longer requires acute-care services; and (e) no nursing home beds are available within 25 miles of the facility. The daily medical assistance payment for nursing care for the patient in the swing bed is the statewide average medical assistance skilled nursing care per diem as computed annually by the commissioner on July 1 of each year.

~~(3)~~ Subd. 8c. **PHYSICIANS' SERVICES.** Medical assistance covers physicians' services~~;~~.

~~(4)~~ Subd. 8d. **OUTPATIENT AND CLINIC SERVICES.** Medical assistance covers outpatient hospital or nonprofit community health clinic services or physician-directed clinic services. The physician-directed clinic staff shall include at least two physicians, one of whom is on the premises whenever the clinic is open, and all services shall be provided under the direct supervision of the physician who is on the premises. Hospital outpatient departments are subject to the same limitations and reimbursements as other enrolled vendors for all services, except initial triage, emergency services, and services not provided or immediately available in clinics, physicians' offices, or by other enrolled providers. A second medical opinion is required before reimbursement for elective surgeries requiring a second opinion. The commissioner shall publish in the State Register a list of elective surgeries that require a second medical opinion before reimbursement and the criteria and standards for deciding whether an elective surgery should require a second surgical opinion. The list and the criteria and standards are not subject to the requirements of sections 14.01 to 14.69. The commissioner's decision whether a second medical opinion is required, made in accordance with rules governing that decision, is not subject to administrative appeal. "Emergency services" means those medical services required for the immediate diagnosis and treatment of medical conditions that, if not immediately diagnosed and treated, could lead to serious physical or mental disability or death or are necessary to alleviate severe pain. Neither the hospital, its employees, nor any physician or dentist, shall be liable in any action arising out of a determination not to render emergency services or care if reasonable care is exercised in determining the condition of the person, or in determining the appropriateness of the facilities, or the qualifications and availability of personnel to render these services consistent with this section~~;~~.

~~(5)~~ Subd. 8e. **COMMUNITY HEALTH CENTER SERVICES.** Medical assistance covers community mental health center services, as defined in rules adopted by the commissioner pursuant to section 256B.04, subdivision 2, and provided by a community mental health center as defined in section 245.62, subdivision 2~~;~~.

~~(6)~~ Subd. 8f. **HOME HEALTH CARE.** Medical assistance covers home health care services~~;~~.

~~(7)~~ Subd. 8g. **PRIVATE DUTY NURSING.** Medical assistance covers private duty nursing services~~;~~.

~~(8)~~ Subd. 8h. **PHYSICAL THERAPY.** Medical assistance covers physical therapy and related services~~;~~.

~~(9)~~ Subd. 8i. **DENTAL SERVICES.** Medical assistance covers dental services, excluding cast metal restorations~~;~~.

~~(10)~~ Subd. 8j. **LABORATORY AND X-RAY SERVICES.** Medical assistance covers laboratory and X-ray services~~;~~.

~~(11)~~ Subd. 8k. **NURSE ANESTHETIST SERVICES.** Medical assistance covers nurse anesthetist services.

Subd. 8l. **EYEGLASSES, DENTURES, AND PROSTHETIC DEVICES.** ~~The following~~ Medical assistance covers eyeglasses, dentures, and prosthetic devices if prescribed by a licensed practitioner~~: drugs, eyeglasses, dentures, and prosthetic devices~~.

Subd. 8m. **DRUGS.** (a) Medical assistance covers drugs if prescribed by a licensed practitioner. The commissioner shall designate a formulary committee ~~which shall~~ to advise the commissioner on the names of drugs for which payment ~~shall be~~ is made, recommend a system for reimbursing providers on a set fee or charge basis rather than the present system, and develop methods encouraging use of generic drugs when they are less expensive and equally effective as trademark drugs. The commissioner shall appoint the formulary committee members no later than 30 days following July 1, 1981. The formulary committee shall consist of nine members, four of whom shall be physicians who are not employed by the department of human services, and a majority of whose practice is for persons paying privately or through health insurance, three of whom shall be pharmacists who are not employed by the department of human services, and a majority of whose practice is for persons paying privately or through health insurance, a consumer representative, and a nursing home representative. Committee members shall serve two-year terms and shall serve without compensation. The commissioner may establish a drug formulary. Its establishment and publication shall not be subject to the requirements of the administrative procedure act, but the formulary committee shall review and comment on the formulary contents. Prior authorization may be required by the commissioner, with the consent of the drug formulary committee, before certain formulary drugs are eligible for payment. The formulary shall not include: drugs or products for which there is no federal funding; over-the-counter drugs, except for antacids, acetaminophen, family planning products, aspirin, insulin, prenatal vitamins, and vitamins for children under the age of seven; or any other over-the-counter drug identified by the commissioner, in consultation with the appropriate professional consultants under contract with or employed by the state agency, as necessary, appropriate and cost effective for the treatment of certain specified chronic diseases, conditions or disorders, and this determination shall not be subject to the requirements of chapter 14, the administrative procedure act; nutritional products, except for those products needed for treatment of phenylketonuria, hyperlysinemia, maple syrup urine disease, a combined allergy to

human milk, cow milk, and soy formula, or any other childhood or adult diseases, conditions, or disorders identified by the commissioner as requiring a similarly necessary nutritional product; anorectics; and drugs for which medical value has not been established. Separate payment shall not be made for nutritional products for residents of long-term care facilities; payment for dietary requirements is a component of the per diem rate paid to these facilities. Payment to drug vendors shall not be modified before the formulary is established except that the commissioner shall not permit payment for any drugs which may not by law be included in the formulary, and the commissioner's determination shall not be subject to chapter 14, the administrative procedure act. The commissioner shall publish conditions for prohibiting payment for specific drugs after considering the formulary committee's recommendations.

(b) The basis for determining the amount of payment shall be the lower of the actual acquisition costs of the drugs plus a fixed dispensing fee established by the commissioner, the maximum allowable cost set by the federal government or by the commissioner plus the fixed dispensing fee or the usual and customary price charged to the public. Actual acquisition cost includes quantity and other special discounts except time and cash discounts. The actual acquisition cost of a drug may be estimated by the commissioner. The maximum allowable cost of a multisource drug may be set by the commissioner and it shall be comparable to, but no higher than, the maximum amount paid by other third party payors in this state who have maximum allowable cost programs. Establishment of the amount of payment for drugs shall not be subject to the requirements of the administrative procedure act. An additional dispensing fee of $.30 may be added to the dispensing fee paid to pharmacists for prescriptions dispensed to residents of long-term care facilities when a unit dose blister card system, approved by the department, is used. Under this type of dispensing system, the pharmacist must dispense a 30-day supply of drug. The National Drug Code (NDC) from the drug container used to fill the blister card must be identified on the claim to the department. The unit dose blister card containing the drug must meet the packaging standards set forth in Minnesota Rules, part 6800.2700, that govern the return of unused drugs to the pharmacy for reuse. The pharmacy provider will be required to credit the department for the actual acquisition cost of all unused drugs that are eligible for reuse. Whenever a generically equivalent product is available, payment shall be on the basis of the actual acquisition cost of the generic drug, unless the prescriber specifically indicates "dispense as written" on the prescription as required by section 151.21, subdivision 2. ~~Notwithstanding the above provisions,~~ Implementation of any change in the fixed dispensing fee ~~which~~ that has not been subject to the administrative procedure act ~~shall be~~ is limited to not more than 180 days, unless, during that time, the commissioner ~~shall have initiated~~ initiates rulemaking through the administrative procedure act~~;~~.

~~(12)~~ Subd. 8n. **DIAGNOSTIC, SCREENING, AND PREVENTIVE SERVICES.** Medical assistance covers diagnostic, screening, and preventive services. "Preventive services" include services related to pregnancy, including services for those conditions which may complicate a pregnancy and which may be

available to a pregnant woman determined to be at risk of poor pregnancy outcome. Preventive services available to a woman at risk of poor pregnancy outcome may differ in an amount, duration, or scope from those available to other individuals eligible for medical assistance;.

~~(13)~~ Subd. 8o. **HEALTH PLAN PREMIUMS.** Medical assistance covers health care prepayment plan premiums and insurance premiums if paid directly to a vendor and supplementary medical insurance benefits under Title XVIII of the Social Security Act. For purposes of obtaining Medicare part B, expenditures may be made even if federal funding is not available;.

~~(14)~~ Subd. 8p. **ABORTION SERVICES.** Medical assistance covers abortion services, but only if one of the following conditions is met:

(a) The abortion is a medical necessity. "Medical necessity" means (1) the signed written statement of two physicians indicating the abortion is medically necessary to prevent the death of the mother, and (2) the patient has given her consent to the abortion in writing unless the patient is physically or legally incapable of providing informed consent to the procedure, in which case consent will be given as otherwise provided by law;

(b) The pregnancy is the result of criminal sexual conduct as defined in section 609.342, clauses (c), (d), (e)(i), and (f), and the incident is reported within 48 hours after the incident occurs to a valid law enforcement agency for investigation, unless the victim is physically unable to report the criminal sexual conduct, in which case the report shall be made within 48 hours after the victim becomes physically able to report the criminal sexual conduct; or

(c) The pregnancy is the result of incest, but only if the incident and relative are reported to a valid law enforcement agency for investigation prior to the abortion;.

~~(15)~~ Subd. 8q. **TRANSPORTATION COSTS.** 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 clause, a person who is incapable of transport by taxicab or bus shall be considered to be nonambulatory;.

~~(16)~~ Subd. 8r. **BUS OR TAXICAB TRANSPORTATION.** To the extent authorized by rule of the state agency, medical assistance covers costs of bus or taxicab transportation incurred by any ambulatory eligible person for obtaining nonemergency medical care;.

~~(17)~~ Subd. 8s. **PERSONAL CARE ASSISTANTS.** Medical assistance covers personal care assistant services provided by an individual, not a relative, who is qualified to provide the services, where the services are prescribed by a physician in accordance with a plan of treatment and are supervised by a

registered nurse. Payments to personal care assistants shall be adjusted annually to reflect changes in the cost of living or of providing services by the average annual adjustment granted to vendors such as nursing homes and home health agencies~~;~~.

~~(18)~~ Subd. 8t. **MENTAL ILLNESS CASE MANAGEMENT.** To the extent authorized by rule of the state agency, medical assistance covers case management services to persons with serious and persistent mental illness~~;~~.

~~(19)~~ Subd. 8u. **CASE MANAGEMENT FOR BRAIN INJURED PERSONS.** To the extent authorized by rule of the state agency, medical assistance covers case management services to persons with brain injuries~~;~~.

~~(20)~~ Subd. 8v. **HOSPICE CARE.** Medical assistance covers hospice care services under Public Law Number 99-272, section 9505, to the extent authorized by rule~~; and~~.

~~(21)~~ Subd. 8w. **DAY TREATMENT SERVICES.** Medical assistance covers day treatment services as specified in sections 245.462, subdivision 8, and 245.471, subdivision 3, that are provided under contract with the county board.

Subd. 8x. **OTHER MEDICAL OR REMEDIAL CARE.** Medical assistance covers any other medical or remedial care licensed and recognized under state law unless otherwise prohibited by law, except licensed chemical dependency treatment programs or primary treatment or extended care treatment units in hospitals that are covered under Laws 1986, chapter 394, sections 8 to 20. The commissioner shall include chemical dependency services in the state medical assistance plan for federal reporting purposes, but payment must be made under Laws 1986, chapter 394, sections 8 to 20. The commissioner shall publish in the State Register a list of elective surgeries that require a second medical opinion before medical assistance reimbursement, and the criteria and standards for deciding whether an elective surgery should require a second medical opinion. The list and criteria and standards are not subject to the requirements of sections 14.01 to 14.69.

Subd. 8y. **SECOND OPINION OR PRIOR AUTHORIZATION REQUIRED.** The commissioner shall publish in the State Register a list of health services that require prior authorization, as well as the criteria and standards used to select health services on the list. The list and the criteria and standards used to formulate it are not subject to the requirements of sections 14.01 to 14.69. The commissioner's decision whether prior authorization is required for a health service or a second medical opinion is required for an elective surgery is not subject to administrative appeal.

Sec. 142. Minnesota Statutes 1987 Supplement, section 256B.031, subdivision 5, is amended to read:

Subd. 5. **FREE CHOICE LIMITED.** (a) The commissioner may require recipients of aid to families with dependent children~~, except those recipients who are refugees and whose health services are reimbursed 100 percent by the~~

~~federal government for the first 31 months after entry into the United States,~~ to enroll in a prepaid health plan and receive services from or through the prepaid health plan, with the following exceptions:

(1) recipients who are refugees and whose health services are reimbursed 100 percent by the federal government for the first 24 months after entry into the United States; and

(2) recipients who are placed in a foster home or facility. If placement occurs before the seventh day prior to the end of any month, the recipient will be disenrolled from the recipient's prepaid health plan effective the first day of the following month. If placement occurs after the seventh day before the end of any month, that recipient will be disenrolled from the prepaid health plan on the first day of the second month following placement. The prepaid health plan must provide all services set forth in subdivision 2 during the interim period.

Enrollment in a prepaid health plan is mandatory only when recipients have a choice of at least two prepaid health plans.

(b) Recipients who become eligible on or after December 1, 1987, must choose a health plan within 30 days of the date eligibility is determined. At the time of application, the local agency shall ask the recipient whether the recipient has a primary health care provider. If the recipient has not chosen a health plan within 30 days but has provided the local agency with the name of a ~~a~~ primary health care provider, the local agency shall determine whether the provider participates in a prepaid health plan available to the recipient and, if so, the local agency shall select that plan on the recipient's behalf. If the recipient has not provided the name of a primary health care provider who participates in an available prepaid health plan, commissioner shall randomly assign the recipient to a health plan.

(c) ~~Recipients who are eligible on November 30, 1987, must choose a prepaid health plan by January 15, 1988.~~ If possible, the local agency shall ask whether the recipient has a primary health care provider and the procedures under paragraph (b) shall apply. If a recipient does not choose a prepaid health plan by this date, the commissioner shall randomly assign the recipient to a health plan.

(d) ~~Each recipient must be enrolled in the health plan for a minimum of six months following the effective date of enrollment, except that the recipient may change health plans once within the first 60 days after initial enrollment.~~ The commissioner shall request a waiver from the federal Health Care Financing Administration ~~to extend the minimum period to 12 months~~ to limit a recipient's ability to change health plans to once every six or 12 months. If such a waiver is obtained, each recipient must be enrolled in the health plan for a minimum of six or 12 months. A recipient may change health plans once within the first 60 days after initial enrollment.

(e) Women who are receiving medical assistance due to pregnancy and later

become eligible for aid to families with dependent children are not required to choose a prepaid health plan until 60 days postpartum. An infant born as a result of that pregnancy must be enrolled in a prepaid health plan at the same time as the mother.

(f) If third-party coverage is available to a recipient through enrollment in a prepaid health plan through employment, through coverage by the former spouse, or if a duty of support has been imposed by law, order, decree, or judgment of a court under section 518.551, the obligee or recipient shall participate in the prepaid health plan in which the obligee has enrolled provided that the commissioner has contracted with the plan.

Sec. 143. Minnesota Statutes 1987 Supplement, section 256B.042, subdivision 2, is amended to read:

Subd. 2. **LIEN ENFORCEMENT.** The state agency may perfect and enforce its lien by following the procedures set forth in sections 514.69, 514.70 and 514.71, and its verified lien statement shall be filed with the appropriate court administrator in the county of financial responsibility. The verified lien statement shall contain the following: the name and address of the person to whom medical care was furnished, the date of injury, the name and address of the vendor or vendors furnishing medical care, the dates of the service, the amount claimed to be due for the care, and, to the best of the state agency's knowledge, the names and addresses of all persons, firms, or corporations claimed to be liable for damages arising from the injuries. This section shall not affect the priority of any attorney's lien. The state agency is not subject to any limitations period referred to in section 514.69 or 514.71 and has one year from the date notice is received by it under subdivision 4, paragraph (c), or one year from the date medical bills are first paid by the state agency, whichever is later, to file its verified lien statement. The state agency may commence an action to enforce the lien within one year of (1) the date the notice required by subdivision 4, paragraph (c), is received or (2) the date the recipient's cause of action is concluded by judgment, award, settlement, or otherwise, whichever is later.

Sec. 144. Minnesota Statutes 1987 Supplement, section 256B.06, subdivision 1, is amended to read:

Subdivision 1. **CHILDREN ELIGIBLE FOR SUBSIDIZED ADOPTION ASSISTANCE.** Medical assistance may be paid for ~~any person: (1) who is~~ a child eligible for or receiving adoption assistance payments under Title IV-E of the Social Security Act, United States Code, title 42, sections 670 to 676 under Minnesota Statutes, section 259.40 or 259.431; ~~or~~.

~~(2) who is~~ Subd. 1a. **SUBSIDIZED FOSTER CHILDREN.** Medical assistance may be paid for a child eligible for or receiving foster care maintenance payments under Title IV-E of the Social Security Act, United States Code, title 42, sections 670 to 676; ~~or~~.

~~(3)~~ Subd. 1b. **AFDC FAMILIES.** Medical assistance may be paid for a

person who is eligible for or receiving public assistance under the aid to families with dependent children program~~;~~.

Subd. 1c. **RECIPIENTS OF MINNESOTA SUPPLEMENTAL AID.** Medical assistance may be paid for a person who is receiving public assistance under the Minnesota supplemental aid program~~, except for those persons eligible for Minnesota supplemental aid because the local agency waived excess assets under section 256D.37, subdivision 2; or~~.

~~(4) who is~~ Subd. 1d. **PREGNANT WOMEN; DEPENDENT UNBORN CHILD.** Medical assistance may be paid for a pregnant woman, as certified in writing by a physician or nurse midwife, ~~and~~ who ~~(a)~~ meets the other eligibility criteria of this section~~;~~ and ~~(b)~~ who would be categorically eligible for assistance under the aid to families with dependent children program if the child had been born and was living with the woman. For purposes of this ~~section~~ subdivision, a woman is considered pregnant for 60 days postpartum~~; or~~.

~~(5) who is~~ Subd. 1e. **PREGNANT WOMEN; NEEDY UNBORN CHILD.** Medical assistance may be paid for a pregnant woman, as certified in writing by a physician or nurse midwife, who meets the other eligibility criteria of this section and whose unborn child would be eligible as a needy child under clause (8) if born and living with the woman. For purposes of this ~~section~~ subdivision, a woman is considered pregnant for 60 days postpartum~~; or~~.

~~(6)~~ Subd. 1f. **AGED, BLIND, OR DISABLED PERSONS.** Medical assistance may be paid for a person who meets the categorical eligibility requirements of the supplemental security income program and the other eligibility requirements of this section~~; or~~. The methodology for calculating disregards and deductions from income must be as specified in section 256D.37, subdivisions 6 to 14.

~~(7)~~ Subd. 1g. **MEDICALLY NEEDY PERSONS WITH EXCESS INCOME OR ASSETS.** Medical assistance may be paid for a person who, except for the amount of income or assets, would qualify for supplemental security income for the aged, blind and disabled, or aid to families with dependent children, and who meets the other eligibility requirements of this section. However, in the case of families and children who meet the categorical eligibility requirements for aid to families with dependent children, the methodology for calculating assets shall be as specified in section 256.73, subdivision 2, except that the exclusion for an automobile shall be as in clause (13)(g) as long as acceptable to the health care financing administration, and the methodology for calculating deductions from earnings for child care and work expenses shall be as specified in section 256.74, subdivision 1~~; or~~.

~~(8)~~ Subd. 1h. **CHILDREN.** Medical assistance may be paid for a person who is under 21 years of age and in need of medical care that neither the person nor the person's relatives responsible under sections 256B.01 to 256B.26 are financially able to provide~~; or~~.

~~(9) who is~~ Subd. 1i. **INFANTS.** Medical assistance may be paid for an

infant less than one year of age born on or after October 1, 1984, whose mother was eligible at the time of birth and who remains in the mother's household. Eligibility under this ~~clause~~ subdivision is concurrent with the mother's and does not depend on the father's income except as the income affects the mother's eligibility; ~~or~~.

~~(10)~~ Subd. 1j. **ELDERLY HOSPITAL INPATIENTS.** Medical assistance may be paid for a person who is residing in a hospital for treatment of mental disease or tuberculosis and is 65 years of age or older and without means sufficient to pay the per capita hospital charge; ~~and~~.

~~(11) who resides~~ Subd. 1k. **RESIDENCY.** To be eligible for medical assistance, a person must reside in Minnesota, or, if absent from the state, ~~is~~ be deemed to be a resident of Minnesota in accordance with the rules of the state agency; ~~and~~.

~~(12) who alone,~~ Subd. 1l. **HOMESTEAD.** To be eligible for medical assistance, a person must not own, individually or together with the person's spouse, ~~does not own~~ real property other than the homestead. For the purposes of this section, "homestead" means the house owned and occupied by the applicant or recipient as a primary place of residence, together with the contiguous land upon which it is situated. The homestead shall continue to be excluded for persons residing in a long-term care facility if it is used as a primary residence by the spouse, minor child, or disabled child of any age. The homestead is also excluded for the first six calendar months of the person's stay in the long-term care facility. The homestead must be reduced to an amount within limits or excluded on another basis if the person remains in the long-term care facility for a period longer than six months. Real estate not used as a home may not be retained unless the property is not salable, the equity is $6,000 or less and the income produced by the property is at least six percent of the equity, or the excess real property is exempted for a period of nine months if there is a good faith effort to sell the property and a legally binding agreement is signed to repay the amount of assistance issued during that nine months; ~~and~~.

~~(13) who~~ Subd. 1m. **ASSET LIMITATIONS.** To be eligible for medical assistance, a person must not individually ~~does not~~ own more than $3,000 in cash or liquid assets, or if a member of a household with two family members (husband and wife, or parent and child), ~~does~~ the household must not own more than $6,000 in cash or liquid assets, plus $200 for each additional legal dependent. In addition to these maximum amounts, an eligible individual or family may accrue interest on these amounts, but they must be reduced to the maximum at the time of an eligibility redetermination. For residents of long-term care facilities, the accumulation of the clothing and personal needs allowance pursuant to section 256B.35 must also be reduced to the maximum at the time of the eligibility redetermination. Cash and liquid assets may include a prepaid funeral contract and insurance policies with cash surrender value. The value of the following shall not be included:

(a) the homestead, (b) household goods and ~~furniture in use in the home~~ personal effects with a total equity value of $2,000 or less, (c) ~~wearing apparel,~~ ~~(d)~~ personal property used as a regular abode by the applicant or recipient, ~~(e)~~ (d) a lot in a burial plot for each member of the household, ~~(f) personal jewelry acquired more than 24 months immediately prior to the period of medical assistance eligibility and personal jewelry acquired within 24 months immediately prior to the period of medical assistance eligibility and not purchased with assets of the applicant or recipient,~~ ~~(g)~~ (e) capital and operating assets of a trade or business that the local agency determines are necessary to the person's ability to earn an income, ~~(h)~~ (f) for a period of six months, insurance settlements to repair or replace damaged, destroyed, or stolen property, ~~(i)~~ (g) one motor vehicle that is licensed pursuant to chapter 168 and defined as: (1) passenger automobile, (2) station wagon, (3) motorcycle, (4) motorized bicycle or (5) truck of the weight found in categories A to E, of section 168.013, subdivision 1e, and that is used primarily for the person's benefit, and ~~(j)~~ (h) other items which may be required by federal law or statute. To be excluded, the vehicle must have a market value of less than $4,500; be necessary to obtain medically necessary health services; be necessary for employment; be modified for operation by or transportation of a handicapped person; or be necessary to perform essential daily tasks because of climate, terrain, distance, or similar factors. The equity value of other motor vehicles is counted against the cash or liquid asset limit~~; and~~.

~~(14) who has~~ Subd. 1n. **INCOME.** To be eligible for medical assistance, a person must not have, or ~~anticipates~~ anticipate receiving ~~a~~, semiannual income ~~not~~ in excess of 115 percent of the income standards by family size used in the aid to families with dependent children program, except that families and children may have an income up to 133-1/3 percent of the AFDC income standard. Notwithstanding any laws or rules to the contrary, in computing income to determine eligibility of persons who are not residents of long-term care facilities, the commissioner shall disregard increases in income as required by Public Law Numbers 94-566, section 503; 99-272; and 99-509~~; and~~.

~~(15)~~ Subd. 1o. **EXCESS INCOME.** A person who has ~~monthly~~ excess income is eligible for medical assistance if the person has expenses for medical care that are more than the amount of the person's excess income, computed ~~on a monthly basis, in which case eligibility may be established and medical assistance payments may be made to cover the monthly unmet medical need~~ by deducting incurred medical expenses from the excess income to reduce the excess to the income standard specified in clause (14). The person shall elect to have the medical expenses deducted monthly or at the beginning of the budget period; or who is a pregnant woman or infant up to one year of age who meets the requirements of clauses (1) to (8) except that her anticipated income is in excess of the income standards by family size used in the aid to families with dependent children program, but is equal to or less than ~~133-1/3~~ 185 percent of ~~that income standard~~ the federal poverty guideline for the same family size. Eligibility for a pregnant woman or infant up to one year of age with respect to this clause shall be without regard to the asset standards specified in clauses (12)

and (13). For persons who reside in licensed nursing homes, regional treatment centers, or medical institutions, the income over and above that required in section 256B.35 for personal needs allowance is to be applied to the cost of institutional care. In addition, income may be retained by an institutionalized person (a) to support dependents in the amount that, together with the income of the spouse and child under age 18, would provide net income equal to the medical assistance standard for the family size of the dependents excluding the person residing in the facility; or (b) 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 the person was not living together with a spouse or child under age 21 at the time the person entered a long-term care facility, if the person has expenses of maintaining a residence in the community, and if a physician certifies that the person is expected to reside in the long-term care facility on a short-term basis. For purposes of this section, persons are determined to be residing in licensed nursing homes, regional treatment centers, or medical institutions if the persons are expected to remain for a period expected to last longer than three months. The commissioner of human services may establish a schedule of contributions to be made by the spouse of a nursing home resident to the cost of care~~; and~~.

~~(16)~~ ~~who~~ Subd. 1p. **ASSIGNMENT OF BENEFITS.** ~~has~~ To be eligible for medical assistance a person must have applied or ~~agrees~~ must agree to apply all proceeds received or receivable by the person or the person's spouse from any third person liable for the costs of medical care for the person, the spouse, and children. The state agency shall require from any applicant or recipient of medical assistance the assignment of any rights to medical support and third party payments. Persons must cooperate with the state in establishing paternity and obtaining third party payments. By signing an application for medical assistance, a person assigns to the department of human services all rights the person may have to medical support or payments for medical expenses from any other person or entity on their own or their dependent's behalf and agrees to cooperate with the state in establishing paternity and obtaining third party payments. Any rights or amounts so assigned shall be applied against the cost of medical care paid for under this chapter. Any assignment takes effect upon the determination that the applicant is eligible for medical assistance and up to three months prior to the date of application if the applicant is determined eligible for and receives medical assistance benefits. The application must contain a statement explaining this assignment. Any assignment shall not be effective as to benefits paid or provided under automobile accident coverage and private health care coverage prior to notification of the assignment by the person or organization providing the benefits~~; and~~.

~~(17)~~ Subd. 1q. **DISABLED CHILDREN.** 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 who requires a level of care provided in a hospital, skilled nursing facility, intermediate care 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 for home care services is not more than the amount that medical assistance would pay for appropriate institutional care.

Subd. 1r. **PERIOD OF INELIGIBILITY.** Eligibility is available for the month of application and for three months prior to application if the person was eligible in those prior months. A redetermination of eligibility must occur every 12 months.

Sec. 145. Minnesota Statutes 1987 Supplement, section 256B.06, subdivision 4, is amended to read:

Subd. 4. **CITIZENSHIP REQUIREMENTS.** Eligibility for medical assistance is limited to citizens of the United States and aliens lawfully admitted for permanent residence or otherwise permanently residing in the United States under the color of law. Aliens who are seeking legalization under the Immigration Reform and Control Act of 1986, Public Law Number 99-603, who are under age 18, over age 65, blind, disabled, or Cuban or Haitian, and who meet the eligibility requirements of medical assistance under subdivision 1 and section 256B.17 are eligible to receive medical assistance. Pregnant women who are aliens seeking legalization under the Immigration Reform and Control Act of 1986, Public Law Number 99-603, and who meet the eligibility requirements of medical assistance under subdivision 1 are eligible for payment of care and services through the period of pregnancy and six weeks postpartum. Payment shall also be made for care and services that are furnished to an alien, regardless of immigration status, who otherwise meets the eligibility requirements of this section if such care and services are necessary for the treatment of an emergency medical condition. For purposes of this subdivision, the term "emergency medical condition" means a medical condition, including labor and delivery, that if not immediately treated could cause a person physical or mental disability, continuation of severe pain, or death.

Sec. 146. Minnesota Statutes 1986, section 256B.08, is amended to read:

256B.08 **APPLICATION.**

Subdivision 1. **APPLICATION PROCESS.** An applicant for medical assistance ~~hereunder~~, or a person acting in the applicant's behalf, shall file an application with a ~~county~~ local agency in ~~such~~ the manner and form ~~as shall be~~ prescribed by the state agency. When a married applicant resides in a nursing home or applies for medical assistance for nursing home services, the ~~county~~ local agency shall consider an application on behalf of the applicant's spouse only upon specific request of the applicant or upon specific request of the spouse and separate filing of an application.

Subd. 2. **EXPEDITED REVIEW FOR PREGNANT WOMEN.** A pregnant woman who may be eligible for assistance under section 256B.06, subdivision 1, must receive an appointment for eligibility determination no later than five working days from the date of her request for assistance from the local agency. The local agency shall expedite processing her application for assistance and shall make a determination of eligibility on a completed application no later than ten working days following the applicant's initial appointment. The local agency shall assist the applicant to provide all necessary information and documentation in order to process the application within the time period required under this subdivision. The state agency shall provide for the placement of applications for medical assistance in eligible provider offices, community health offices, and Women, Infants and Children (WIC) program sites.

Sec. 147. Minnesota Statutes 1987 Supplement, section 256B.091, subdivision 4, is amended to read:

Subd. 4. **SCREENING OF PERSONS.** Prior to nursing home or boarding care home admission, screening teams shall assess the needs of all applicants, except (1) patients transferred from other certified nursing homes or boarding care homes; (2) patients who, having entered acute care facilities from nursing homes or boarding care homes, are returning to a nursing home or boarding care home; (3) persons entering a facility described in section 256B.431, subdivision 4, paragraph (c); (4) individuals not eligible for medical assistance whose length of stay is expected to be 30 days or less based on a physician's certification, if the facility notifies the screening team upon admission and provides an update to the screening team on the 30th day after admission; (5) individuals who have a contractual right to have their nursing home care paid for indefinitely by the veteran's administration; or (6) persons entering a facility conducted by and for the adherents of a recognized church or religious denomination for the purpose of providing care and services for those who depend upon spiritual means, through prayer alone, for healing. ~~The cost for screening applicants who are receiving medical assistance must be paid by the medical assistance program.~~ The total screening cost for each county for applicants ~~who are not eligible for medical assistance~~ and residents of nursing homes who request a screening must be paid monthly by nursing homes and boarding care homes participating in the medical assistance program in the county. The monthly amount to be paid by each nursing home and boarding care home must be determined by dividing the county's estimate of the total annual cost of screenings allowed by the commissioner in the county for the following rate year by 12 to determine the monthly cost estimate and allocating the monthly cost estimate to each nursing home and boarding care home based on the number of licensed beds in the nursing home or boarding care home. The monthly cost estimate for each nursing home or boarding care home must be submitted to the nursing home or boarding care home and the state by the county no later than February 15 of each year for inclusion in the nursing home's or boarding care home's payment rate on the following rate year. The commissioner shall include the reported annual estimated cost of screenings for each nursing home or boarding care home as an operating cost of that nursing home in accordance with section 256B.431, subdivision 2b, clause (g). For all individuals regardless of payment source, if delay-of-screening timelines are not met because a county is late in screening an individual who meets the delay-of-screening criteria, the county is solely responsible for paying the cost of the preadmission screening. Notwithstanding section 256B.0641, overpayments attributable to payment of the screening costs under the medical assistance program may not be recovered from a facility. Any other interested person may be screened under this subdivision if the person pays a fee for the screening based upon a sliding fee scale determined by the commissioner.

Sec. 148. Minnesota Statutes 1986, section 256B.092, subdivision 5, is amended to read:

Subd. 5. **FEDERAL WAIVERS.** The commissioner shall apply for any federal waivers necessary to secure, to the extent allowed by law, federal financial participation under United States Code, title 42, sections 1396 to 1396p, as amended through December 31, ~~1982~~ 1987, for the provision of services to persons who, in the absence of the services, would need the level of care provided in a state hospital or a community intermediate care facility for persons with mental retardation or related conditions. The commissioner may seek amendments to the waivers or apply for additional waivers under United States Code, title 42, sections 1396 to 1396p, as amended through December 31, ~~1982~~ 1987, to contain costs. The commissioner shall ensure that payment for the cost of providing home and community-based alternative services under the federal waiver plan shall not exceed the cost of intermediate care services that would have been provided without the waivered services.

Sec. 149. Minnesota Statutes 1986, section 256B.092, subdivision 7, is amended to read:

Subd. 7. **SCREENING TEAMS ESTABLISHED.** Each county agency shall establish a screening team which, under the direction of the county case manager, shall make an evaluation of need for home and community-based services of persons who are entitled to the level of care provided by an intermediate care facility for persons with mental retardation or related conditions or for whom there is a reasonable indication that they might require the level of care provided by an intermediate care facility. The screening team shall make an evaluation of need within 15 working days of the ~~request for service~~ date that the assessment is completed or within 60 working days of a request for service by a person with mental retardation or related conditions, whichever is the earlier, and within five working days of an emergency admission of an individual to an intermediate care facility for persons with mental retardation or related conditions. The screening team shall consist of the case manager, the client, a parent or guardian, a qualified mental retardation professional, as defined in the Code of Federal Regulations, title 42, section 442.401, as amended through December 31, ~~1982~~ 1987. For individuals determined to have overriding health care needs, a registered nurse must be designated as either the case manager or the qualified mental retardation professional. The case manager shall consult with the client's physician, other health professionals or other persons as necessary to make this evaluation. The case manager, with the concurrence of the client or the client's legal representative, may invite other persons to attend meetings of the screening team. No member of the screening team shall have any direct or indirect service provider interest in the case.

Sec. 150. Minnesota Statutes 1986, section 256B.14, subdivision 2, is amended to read:

Subd. 2. **ACTIONS TO OBTAIN PAYMENT.** The state agency shall promulgate rules to determine the ability of responsible relatives to contribute partial or complete repayment of medical assistance furnished to recipients for whom they are responsible. ~~In determining the~~ No resource contribution is

required of a spouse at the time of the first approved medical assistance application~~, all medical assistance exclusions shall be allowed, and a resource limit of $10,000 for nonexcluded resources shall be implemented. Above these limits, a contribution of one-third of the excess resources shall be required~~. These rules shall not require repayment when payment would cause undue hardship to the responsible relative or that relative's immediate family. These rules shall be consistent with the requirements of section 252.27, subdivision 2, for parents of children whose eligibility for medical assistance was determined without deeming of the parents' resources and income. For parents of children receiving services under a federal medical assistance waiver or under section 134 of the Tax Equity and Fiscal Responsibility Act of 1982, United States Code, title 42, section 1396a(e)(3), while living in their natural home, including in-home family support services, respite care, homemaker services, and minor adaptations to the home, the state agency shall take into account the room, board, and services provided by the parents in determining the parental contribution to the cost of care. The county agency shall give the responsible relative notice of the amount of the repayment. If the state agency or county agency finds that notice of the payment obligation was given to the responsible relative, but that the relative failed or refused to pay, a cause of action exists against the responsible relative for that portion of medical assistance granted after notice was given to the responsible relative, which the relative was determined to be able to pay.

The action may be brought by the state agency or the county agency in the county where assistance was granted, for the assistance, together with the costs of disbursements incurred due to the action.

In addition to granting the county or state agency a money judgment, the court may, upon a motion or order to show cause, order continuing contributions by a responsible relative found able to repay the county or state agency. The order shall be effective only for the period of time during which the recipient receives medical assistance from the county or state agency.

Sec. 151. Minnesota Statutes 1986, section 256B.17, subdivision 7, is amended to read:

Subd. 7. **EXCEPTION FOR ASSET TRANSFERS.** Notwithstanding the provisions of subdivisions 1 to 6, an institutionalized spouse who applies for medical assistance on or after July 1, 1983, may transfer liquid assets to a noninstitutionalized spouse without loss of eligibility if all of the following conditions apply:

(a) The noninstitutionalized spouse is not applying for or receiving assistance;

(b) Either (1) the noninstitutionalized spouse has less than $10,000 in liquid assets, including assets singly owned and 50 percent of assets owned jointly with the institutionalized spouse; or (2) the noninstitutionalized spouse has less than 50 percent of the total value of nonexempt assets owned by both parties, jointly or individually;

(c) The amount transferred, together with the noninstitutionalized spouse's own assets, totals no more than one-half of the total value of the liquid assets of the parties or $10,000 in liquid assets, whichever is greater; and

(d) The transfer may be effected only once, at the time of initial medical assistance application.

Sec. 152. **[256B.31] CONTINUED HOSPITAL CARE FOR LONG-TERM POLIO PATIENT.**

A medical assistance recipient who has been a polio patient in an acute care hospital for a period of not less than 25 consecutive years is eligible to continue receiving hospital care, whether or not the care is medically necessary for purposes of federal reimbursement. The cost of continued hospital care not reimbursable by the federal government must be paid with state money allocated for the medical assistance program. The rate paid to the hospital is the rate per day established using Medicare principles for the hospital's fiscal year ending December 31, 1981, adjusted each year by the annual hospital cost index established under section 256.969, subdivision 1, or by other limits in effect at the time of the adjustment. This section does not prohibit a voluntary move to another living arrangement by a recipient whose care is reimbursed under this section.

Sec. 153. Minnesota Statutes 1987 Supplement, 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 ~~$40~~ $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.

~~Provided that this~~ (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 ~~the~~ recipients ~~from~~ of Minnesota supplemental aid ~~funds~~ may be made once each three months ~~beginning in October 1977,~~ covering liabilities that accrued during the preceding three months.

Sec. 154. Minnesota Statutes 1987 Supplement, section 256B.431, subdivision 2b, is amended to read:

Subd. 2b. **OPERATING COSTS, AFTER JULY 1, 1985.** (a) For rate years

beginning on or after July 1, 1985, the commissioner shall establish procedures for determining per diem reimbursement for operating costs.

(b) The commissioner shall contract with an econometric firm with recognized expertise in and access to national economic change indices that can be applied to the appropriate cost categories when determining the operating cost payment rate.

(c) The commissioner shall analyze and evaluate each nursing home's cost report of allowable operating costs incurred by the nursing home during the reporting year immediately preceding the rate year for which the payment rate becomes effective.

(d) The commissioner shall establish limits on actual allowable historical operating cost per diems based on cost reports of allowable operating costs for the reporting year that begins October 1, 1983, taking into consideration relevant factors including resident needs, geographic location, size of the nursing home, and the costs that must be incurred for the care of residents in an efficiently and economically operated nursing home. In developing the geographic groups for purposes of reimbursement under this section, the commissioner shall ensure that nursing homes in any county contiguous to the Minneapolis-St. Paul seven-county metropolitan area are included in the same geographic group. The limits established by the commissioner shall not be less, in the aggregate, than the 60th percentile of total actual allowable historical operating cost per diems for each group of nursing homes established under subdivision 1 based on cost reports of allowable operating costs in the previous reporting year. For rate years beginning on or after July 1, 1987, or until the new base period is established, facilities located in geographic group I as described in Minnesota Rules, part 9549.0052 (Emergency), on January 1, 1987, may choose to have the commissioner apply either the care related limits or the other operating cost limits calculated for facilities located in geographic group II, or both, if either of the limits calculated for the group II facilities is higher. The efficiency incentive for geographic group I nursing homes must be calculated based on geographic group I limits. The phase-in must be established utilizing the chosen limits. For purposes of these exceptions to the geographic grouping requirements, the definitions in Minnesota Rules, parts 9549.0050 to 9549.0059 (Emergency), and 9549.0010 to 9549.0080, apply. The limits established under this paragraph remain in effect until the commissioner establishes a new base period. Until the new base period is established, the commissioner shall adjust the limits annually using the appropriate economic change indices established in paragraph (e). In determining allowable historical operating cost per diems for purposes of setting limits and nursing home payment rates, the commissioner shall divide the allowable historical operating costs by the actual number of resident days, except that where a nursing home is occupied at less than 90 percent of licensed capacity days, the commissioner may establish procedures to adjust the computation of the per diem to an imputed occupancy level at or below 90 percent. The commissioner shall establish efficiency incentives as appropriate. The commissioner may establish efficiency incentives for different operating cost categories.

The commissioner shall consider establishing efficiency incentives in care related cost categories. The commissioner may combine one or more operating cost categories and may use different methods for calculating payment rates for each operating cost category or combination of operating cost categories. For the rate year beginning on July 1, 1985, the commissioner shall:

(1) allow nursing homes that have an average length of stay of 180 days or less in their skilled nursing level of care, 125 percent of the care related limit and 105 percent of the other operating cost limit established by rule; and

(2) exempt nursing homes licensed on July 1, 1983, by the commissioner to provide residential services for the physically handicapped under Minnesota Rules, parts 9570.2000 to 9570.3600, from the care related limits and allow 105 percent of the other operating cost limit established by rule.

For the purpose of calculating the other operating cost efficiency incentive for nursing homes referred to in clause (1) or (2), the commissioner shall use the other operating cost limit established by rule before application of the 105 percent.

(e) The commissioner shall establish a composite index or indices by determining the appropriate economic change indicators to be applied to specific operating cost categories or combination of operating cost categories.

(f) Each nursing home shall receive an operating cost payment rate equal to the sum of the nursing home's operating cost payment rates for each operating cost category. The operating cost payment rate for an operating cost category shall be the lesser of the nursing home's historical operating cost in the category increased by the appropriate index established in paragraph (e) for the operating cost category plus an efficiency incentive established pursuant to paragraph (d) or the limit for the operating cost category increased by the same index. If a nursing home's actual historic operating costs are greater than the prospective payment rate for that rate year, there shall be no retroactive cost settle-up. In establishing payment rates for one or more operating cost categories, the commissioner may establish separate rates for different classes of residents based on their relative care needs.

(g) The commissioner shall include the reported actual real estate tax liability or payments in lieu of real estate tax of each nursing home as an operating cost of that nursing home. Except as provided in Minnesota Rules, parts 9549.0010 to 9549.0080, the commissioner shall allow an amount for payments in lieu of real estate tax assessed by a municipality, city, township, or county that does not exceed an amount equivalent to a similar assessment for fire, police, or sanitation services assessed to all other nonprofit or governmental entities located in the municipality, city, township, or county in which a nursing home to be assessed is located. For rate years beginning on or after July 1, 1987, the reported actual real estate tax liability or payments in lieu of real estate tax of nursing homes shall be adjusted to include an amount equal to one-half of the dollar change in real estate taxes from the prior year. The

commissioner shall include a reported actual special assessment, and reported actual license fees required by the Minnesota department of health, for each nursing home as an operating cost of that nursing home. Total adjusted real estate tax liability, payments in lieu of real estate tax, actual special assessments paid, and license fees paid as required by the Minnesota department of health, for each nursing home (1) shall be divided by actual resident days in order to compute the operating cost payment rate for this operating cost category, (2) shall not be used to compute the 60th percentile or other operating cost limits established by the commissioner, and (3) shall not be increased by the composite index or indices established pursuant to paragraph (e).

(h) For rate years beginning on or after July 1, 1987, the commissioner shall adjust the rates of a nursing home that meets the criteria for the special dietary needs of its residents as specified in section 144A.071, subdivision 3, clause (c), and the requirements in section 31.651. The adjustment for raw food cost shall be the difference between the nursing home's allowable historical raw food cost per diem and 115 percent of the median historical allowable raw food cost per diem of the corresponding geographic group.

The rate adjustment shall be reduced by the applicable phase-in percentage as provided under subdivision 2h.

Sec. 155. Minnesota Statutes 1986, section 256B.431, is amended by adding a subdivision to read:

Subd. 2i. **OPERATING COSTS AFTER JULY 1, 1988.** (a) **OTHER-OPERATING-COST LIMITS.** For the rate year beginning July 1, 1988, the commissioner shall increase the other-operating-cost limits established in Minnesota Rules, part 9549.0055, subpart 2, item E, to 110 percent of the median of the array of allowable historical other-operating-cost per diems and index these limits as in Minnesota Rules, part 9549.0056, subparts 3 and 4. The limits must be established in accordance with subdivision 2b, paragraph (d). For rate years beginning on or after July 1, 1989, the adjusted other-operating-cost limits must be indexed as in Minnesota Rules, part 9549.0056, subparts 3 and 4.

(b) **CARE-RELATED OPERATING COST LIMITS.** For the rate year beginning July 1, 1988, the commissioner shall increase the care-related operating cost limits established in Minnesota Rules, part 9549.0055, subpart 2, items A and B, to 125 percent of the median of the array of the allowable historical case mix operating cost standardized per diems and the allowable historical other-care-related operating cost per diems and index those limits as in Minnesota Rules, part 9549.0056, subparts 1 and 2. The limits must be established in accordance with subdivision 2b, paragraph (d). For rate years beginning on or after July 1, 1989, the adjusted care-related limits must be indexed as in Minnesota Rules, part 9549.0056, subparts 1 and 2.

(c) **SALARY ADJUSTMENT PER DIEM.** For the rate period October 1, 1988, through June 30, 1990, the commissioner shall add the appropriate salary adjustment per diem calculated in clause (1) or (2) to the total operating cost payment rate of each nursing home. The salary adjustment per diem for each nursing home must be determined as follows:

(1) for each nursing home that reports salaries for registered nurses, licensed practical nurses, and aides, orderlies and attendants separately, the commissioner shall determine the salary adjustment per diem by multiplying the total salaries, payroll taxes, and fringe benefits allowed in each operating cost category, except management fees and administrator and central office salaries and the related payroll taxes and fringe benefits, by 3.5 percent and then dividing the resulting amount by the nursing home's actual resident days; and

(2) for each nursing home that does not report salaries for registered nurses, licensed practical nurses, aides, orderlies, and attendants separately, the salary adjustment per diem is the weighted average salary adjustment per diem increase determined under clause (1).

Each nursing home that receives a salary adjustment per diem pursuant to this subdivision shall adjust nursing home employee salaries by a minimum of the amount determined in clause (1) or (2). The commissioner shall review allowable salary costs, including payroll taxes and fringe benefits, for the reporting year ending September 30, 1989, to determine whether or not each nursing home complied with this requirement. The commissioner shall report the extent to which each nursing home complied with the legislative commission on long-term care by August 1, 1990.

(d) **PENSION CONTRIBUTIONS.** For rate years beginning on or after July 1, 1989, the commissioner shall exempt allowable employee pension contributions separately reported by a nursing home on its annual cost report from the care-related operating cost limits and the other-operating-cost limits. Hospital-attached homes that provide allowable employee pension contributions may report the costs that are allocated to nursing home operations independently for verification by the commissioner. For rate years beginning on or after July 1, 1989, amounts verified as allowable employee pension contributions are exempt from care-related operating cost limits and other-operating-cost limits. For purposes of this paragraph, "employee pension contributions" means contributions required under the Public Employee Retirement Act and contributions to other employee pension plans if the pension plan existed on March 1, 1988.

(e) **NEW BASE YEAR.** The commissioner shall establish the reporting year ending September 30, 1989, as a new base year.

Sec. 156. Minnesota Statutes 1987 Supplement, section 256B.431, subdivision 3, is amended to read:

Subd. 3. **PROPERTY-RELATED COSTS, 1983-1985.** (a) For rate years beginning July 1, 1983 and July 1, 1984, property-related costs shall be reimbursed to each nursing home at the level recognized in the most recent cost report received by December 31, 1982 and audited by March 1, 1983, and may be subsequently adjusted to reflect the costs recognized in the final rate for that cost report, adjusted for rate limitations in effect before the effective date of this section. Effective for rate years beginning on or after July 1, 1988, a rate limitation ratio that is based on historical limitations resulting from the applica-

tion of the regional maximum rate, private-pay rate, or ten percent cap on rate increases, must not be less than .90. Property-related costs include: depreciation, interest, earnings or investment allowance, lease, or rental payments. No adjustments shall be made as a result of sales or reorganizations of provider entities.

(b) Adjustments for the cost of repairs, replacements, renewals, betterments, or improvements to existing buildings, and building service equipment shall be allowed if:

(1) the cost incurred is reasonable, necessary, and ordinary;

(2) the net cost is greater than $5,000. "Net cost" means the actual cost, minus proceeds from insurance, salvage, or disposal;

(3) the nursing home's property-related costs per diem is equal to or less than the average property-related costs per diem within its group; and

(4) the adjustment is shown in depreciation schedules submitted to and approved by the commissioner.

(c) Annual per diem shall be computed by dividing total property-related costs by 96 percent of the nursing home's licensed capacity days for nursing homes with more than 60 beds and 94 percent of the nursing home's licensed capacity days for nursing homes with 60 or fewer beds. For a nursing home whose residents' average length of stay is 180 days or less, the commissioner may waive the 96 or 94 percent factor and divide the nursing home's property-related costs by the actual resident days to compute the nursing home's annual property-related per diem. The commissioner shall promulgate emergency and permanent rules to recapture excess depreciation upon sale of a nursing home.

Sec. 157. Minnesota Statutes 1986, section 256B.431, is amended by adding a subdivision to read:

Subd. 3d. **BETTERMENTS AND ADDITIONS.** Notwithstanding any contrary provision of chapter 256B, or a rule adopted under chapter 256B, a nursing home that commenced construction on a betterment and addition costing $700,000 or more prior to the expiration of Minnesota Rules, 12 MCAR 2.05001 to 2.05016 (Temporary)(1983) shall have its property-related payment rate step-up as a result of the betterment and addition calculated as set forth in 12 MCAR 2.05011.B.3 in the case of betterments, and 12 MCAR 2.05011.D in the case of additions. For purposes of this subdivision, the terms "betterment" and "addition" have the meaning set forth in 12 MCAR 2.05002 and the term "commenced construction" has the meaning set forth in section 144A.071, subdivision 3.

Sec. 158. Minnesota Statutes 1986, section 256B.431, is amended by adding a subdivision to read:

Subd. 3e. **HOSPITAL ATTACHED CONVALESCENT AND NURSING**

CARE FACILITIES. If a community-operated hospital and attached convalescent and nursing care facility suspend operation of the hospital, the surviving nursing care facility must be allowed to continue its status as a hospital-attached convalescent and nursing care facility for reimbursement purposes in three subsequent rate years.

Sec. 159. Minnesota Statutes 1986, section 256B.431, is amended by adding a subdivision to read:

Subd. 3f. **PROPERTY COSTS AFTER JULY 1, 1988.** (a) **INVESTMENT PER BED LIMIT.** For the rate year beginning July 1, 1988, the replacement-cost-new per bed limit must be $32,571 per licensed bed in multiple bedrooms and $48,857 per licensed bed in a single bedroom. Beginning January 1, 1989, the replacement-cost-new per bed limits must be adjusted annually as specified in Minnesota Rules, part 9549.0060, subpart 4, item A, subitem (1).

(b) **RENTAL FACTOR.** For the rate year beginning July 1, 1988, the commissioner shall increase the rental factor as established in Minnesota Rules, part 9549.0060, subpart 8, item A, by 6.2 percent rounded to the nearest 100th percent for the purpose of reimbursing nursing homes for soft costs and entrepreneurial profits not included in the cost valuation services used by the state's contracted appraisers. For rate years beginning on or after July 1, 1989, the rental factor is the amount determined under this paragraph for the rate year beginning July 1, 1988.

(c) **OCCUPANCY FACTOR.** For rate years beginning on or after July 1, 1988, in order to determine property-related payment rates under Minnesota Rules, part 9549.0060, for all nursing homes except those whose average length of stay in a skilled level of care within a nursing home is 180 days or less, the commissioner shall use 95 percent of capacity days. For a nursing home whose average length of stay in a skilled level of care within a nursing home is 180 days or less, the commissioner shall use the greater of resident days or 80 percent of capacity days but in no event shall the divisor exceed 95 percent of capacity days.

(d) **EQUIPMENT ALLOWANCE.** For rate years beginning on July 1, 1988, and July 1, 1989, the commissioner shall add ten cents per resident per day to each nursing home's property-related payment rate. The ten-cent property-related payment rate increase is not cumulative from rate year to rate year. For the rate year beginning July 1, 1990, the commissioner shall increase each nursing home's equipment allowance as established in Minnesota Rules, part 9549.0060, subpart 10, by ten cents per resident per day. For rate years beginning on or after July 1, 1991, the adjusted equipment allowance must be adjusted annually for inflation as in Minnesota Rules, part 9549.0060, subpart 10, item E.

(e) **REFINANCING.** If a nursing home is refinanced, the commissioner shall adjust the nursing home's property-related payment rate for the savings that result from refinancing. The adjustment to the property-related payment rate must be as follows:

(1) The commissioner shall recalculate the nursing home's rental per diem by substituting the new allowable annual principle and interest payments for those of the refinanced debt.

(2) The nursing home's property-related payment rate must be decreased by the difference between the nursing home's current rental per diem and the rental per diem determined under clause (1).

If a nursing home payment rate is adjusted according to this paragraph, the adjusted payment rate is effective the first of the month following the date of the refinancing for both medical assistance and private paying residents. The nursing home's adjusted property-related payment rate is effective until June 30, 1990.

Sec. 160. Minnesota Statutes 1986, section 256B.431, is amended by adding a subdivision to read:

Subd. 3g. **PROPERTY COSTS AFTER JULY 1, 1990, FOR CERTAIN FACILITIES.** For rate years beginning on or after July 1, 1990, non-hospital-attached nursing homes that, on or after January 1, 1976, but prior to December 31, 1985, were newly licensed after new construction, or increased their licensed beds by a minimum of 35 percent through new construction, and whose building capital allowance is less than their allowable annual principal and interest on allowable debt prior to the application of the replacement-cost-new per bed limit and whose remaining weighted average debt amortization schedule as of January 1, 1988, exceeded 15 years, must receive a property-related payment rate equal to the greater of their rental per diem or their annual allowable principal and allowable interest without application of the replacement-cost-new per bed limit plus their equipment allowance. A nursing home that is eligible for a property-related payment rate under this subdivision and whose property-related payment rate in a subsequent rate year is its rental per diem must continue to have its property-related payment rates established for all future rate years based on the rental reimbursement method in Minnesota Rules, part 9549.0060.

The commissioner may require the nursing home to apply for refinancing as a condition of receiving special rate treatment under this subdivision.

Sec. 161. Minnesota Statutes 1987 Supplement, section 256B.431, subdivision 4, is amended to read:

Subd. 4. **SPECIAL RATES.** (a) For the rate years beginning July 1, 1983, and July 1, 1984, a newly constructed nursing home or one with a capacity increase of 50 percent or more may, upon written application to the commissioner, receive an interim payment rate for reimbursement for property-related costs calculated pursuant to the statutes and rules in effect on May 1, 1983, and for operating costs negotiated by the commissioner based upon the 60th percentile established for the appropriate group under subdivision 2a, to be effective from the first day a medical assistance recipient resides in the home or for the added beds. For newly constructed nursing homes which are not included in the

calculation of the 60th percentile for any group, subdivision 2f, the commissioner shall establish by rule procedures for determining interim operating cost payment rates and interim property-related cost payment rates. The interim payment rate shall not be in effect for more than 17 months. The commissioner shall establish, by emergency and permanent rules, procedures for determining the interim rate and for making a retroactive cost settle-up after the first year of operation; the cost settled operating cost per diem shall not exceed 110 percent of the 60th percentile established for the appropriate group. Until procedures determining operating cost payment rates according to mix of resident needs are established, the commissioner shall establish by rule procedures for determining payment rates for nursing homes which provide care under a lesser care level than the level for which the nursing home is certified.

(b) For the rate years beginning on or after July 1, 1985, a newly constructed nursing home or one with a capacity increase of 50 percent or more may, upon written application to the commissioner, receive an interim payment rate for reimbursement for property related costs, operating costs, and real estate taxes and special assessments calculated under rules promulgated by the commissioner.

(c) For rate years beginning on or after July 1, 1983, the commissioner may exclude from a provision of 12 MCAR S 2.050 any facility that is licensed by the commissioner of health only as a boarding care home, certified by the commissioner of health as an intermediate care facility, is licensed by the commissioner of human services under Minnesota Rules, parts 9520.0500 to 9520.0690, and has less than five percent of its licensed boarding care capacity reimbursed by the medical assistance program. Until a permanent rule to establish the payment rates for facilities meeting these criteria is promulgated, the commissioner shall establish the medical assistance payment rate as follows:

(1) The desk audited payment rate in effect on June 30, 1983, remains in effect until the end of the facility's fiscal year. The commissioner shall not allow any amendments to the cost report on which this desk audited payment rate is based.

(2) For each fiscal year beginning between July 1, 1983, and June 30, 1985, the facility's payment rate shall be established by increasing the desk audited operating cost payment rate determined in clause (1) at an annual rate of five percent.

(3) For fiscal years beginning on or after July 1, 1985, but before January 1, 1988, the facility's payment rate shall be established by increasing the facility's payment rate in the facility's prior fiscal year by the increase indicated by the consumer price index for Minneapolis and St. Paul.

(4) For the fiscal year beginning on January 1, 1988, the facility's payment rate must be established using the following method: The commissioner shall divide the real estate taxes and special assessments payable as stated in the facility's current property tax statement by actual resident days to compute a

real estate tax and special assessment per diem. Next, the prior year's payment rate must be adjusted by the higher of (1) the percentage change in the consumer price index (CPI-U U.S. city average) as published by the Bureau of Labor Statistics between the previous two Septembers, new series index (1967-100), or (2) 2.5 percent, to determine an adjusted payment rate. The facility's payment rate is the adjusted prior year's payment rate plus the real estate tax and special assessment per diem.

(5) For fiscal years beginning on or after January 1, 1989, the facility's payment rate must be established using the following method: The commissioner shall divide the real estate taxes and special assessments payable as stated in the facility's current property tax statement by actual resident days to compute a real estate tax and special assessment per diem. Next, the prior year's payment rate less the real estate tax and special assessment per diem must be adjusted by the higher of (1) the percentage change in the consumer price index (CPI-U U.S. city average) as published by the Bureau of Labor Statistics between the previous two Septembers, new series index (1967-100), or (2) 2.5 percent, to determine an adjusted payment rate. The facility's payment rate is the adjusted payment rate plus the real estate tax and special assessment per diem.

(6) For the purpose of establishing payment rates under this paragraph, the facility's rate and reporting years coincide with the facility's fiscal year.

A facility that meets the criteria of this paragraph shall submit annual cost reports on forms prescribed by the commissioner.

For the rate year beginning July 1, 1985, each nursing home total payment rate must be effective two calendar months from the first day of the month after the commissioner issues the rate notice to the nursing home. From July 1, 1985, until the total payment rate becomes effective, the commissioner shall make payments to each nursing home at a temporary rate that is the prior rate year's operating cost payment rate increased by 2.6 percent plus the prior rate year's property-related payment rate and the prior rate year's real estate taxes and special assessments payment rate. The commissioner shall retroactively adjust the property-related payment rate and the real estate taxes and special assessments payment rate to July 1, 1985, but must not retroactively adjust the operating cost payment rate.

(d) For the purposes of Minnesota Rules, part 9549.0060, subpart 13, item F, the following types of transactions shall not be considered a sale or reorganization of a provider entity:

(1) the sale or transfer of a nursing home upon death of an owner;

(2) the sale or transfer of a nursing home due to serious illness or disability of an owner as defined under the social security act;

(3) the sale or transfer of the nursing home upon retirement of an owner at 62 years of age or older;

(4) any transaction in which a partner, owner, or shareholder acquires an interest or share of another partner, owner, or shareholder in a nursing home business provided the acquiring partner, owner, or shareholder has less than 50 percent ownership after the acquisition;

(5) a sale and leaseback to the same licensee which does not constitute a change in facility license;

(6) a transfer of an interest to a trust;

(7) gifts or other transfers for no consideration;

(8) a merger of two or more related organizations;

(9) a transfer of interest in a facility held in receivership;

(10) a change in the legal form of doing business other than a publicly held organization which becomes privately held or vice versa;

(11) the addition of a new partner, owner, or shareholder who owns less than 20 percent of the nursing home or the issuance of stock; or

(12) an involuntary transfer including foreclosure, bankruptcy, or assignment for the benefit of creditors.

Any increase in allowable debt or allowable interest expense or other cost incurred as a result of the foregoing transactions shall be a nonallowable cost for purposes of reimbursement under Minnesota Rules, parts 9549.0010 to 9549.0080.

(e) For rate years beginning on or after July 1, 1986, the commissioner may exclude from a provision of Minnesota Rules, parts 9549.0010 to 9549.0080, any facility that is certified by the commissioner of health as an intermediate care facility, licensed by the commissioner of human services as a chemical dependency treatment program, and enrolled in the medical assistance program as an institution for mental disease. The commissioner of human services shall establish a medical assistance payment rate for these facilities. Chapter 14 does not apply to the procedures and criteria used to establish the ratesetting structure. The ratesetting method is not appealable.

Sec. 162. Minnesota Statutes 1987 Supplement, section 256B.433, subdivision 1, is amended to read:

Subdivision 1. **SETTING PAYMENT; MONITORING USE OF THERAPY SERVICES.** The commissioner shall promulgate rules pursuant to the administrative procedure act to set the amount and method of payment for ancillary materials and services provided to recipients residing in nursing homes. Payment for materials and services may be made to either the nursing home in the operating cost per diem, to the vendor of ancillary services pursuant to Minnesota Rules, parts 9500.0750 to 9500.1080 or to a nursing home pursuant to Minnesota Rules, parts 9500.0750 to 9500.1080. Payment for the same or simi-

lar service to a recipient shall not be made to both the nursing home and the vendor. The commissioner shall ensure the avoidance of double payments through audits and adjustments to the nursing home's annual cost report as required by section 256B.47, and that charges and arrangements for ancillary materials and services are cost effective and as would be incurred by a prudent and cost-conscious buyer. Therapy services provided to a recipient must be medically necessary and appropriate to the medical condition of the recipient. If the vendor, nursing home, or ordering physician cannot provide adequate medical necessity justification, as determined by the commissioner, in consultation with an advisory committee that meets the requirements of section 256B.064, subdivision 1a, the commissioner may recover or disallow the payment for the services and may require prior authorization for therapy services as a condition of payment or may impose administrative sanctions to limit the vendor, nursing home, or ordering physician's participation in the medical assistance program. If the provider number of a nursing home is used to bill services provided by a vendor of therapy services that is not related to the nursing home by ownership, control, affiliation or employment status, no withholding of payment shall be imposed against the nursing home for services not medically necessary except for funds due the unrelated vendor of therapy services as provided in subdivision 3, paragraph (c). For the purpose of this subdivision, no monetary recovery may be imposed against the nursing home for funds paid to the unrelated vendor of therapy services as provided in subdivision 3, paragraph (c), for services not medically necessary.

Sec. 163. Minnesota Statutes 1986, section 256B.50, subdivision 1, is amended to read:

Subdivision 1. **SCOPE.** A ~~nursing home~~ provider may appeal from a ~~decision arising from the application of standards or methods~~ determination of a payment rate established pursuant to ~~sections 256B.41 and 256B.47~~ this chapter and reimbursement rules of the commissioner if the appeal, if successful, would result in a change to the ~~nursing home's~~ provider's payment rate~~, or appraised value. The appeal procedures also apply to appeals of payment rates calculated under Minnesota Rules, parts 9510.0010 to 9510.0480 filed with the commissioner on or after May 1, 1984~~. Appeals must be filed in accordance with procedures in this section. This section does not apply to a request from a resident or nursing home for reconsideration of the classification of a resident under section 144.0722.

Subd. 1a. **DEFINITIONS.** For the purposes of this section, the following terms have the meanings given.

(a) "Determination of a payment rate" means the process by which the commissioner establishes the payment rate paid to a provider pursuant to this chapter, including determinations made in desk audit, field audit, or pursuant to an amendment filed by the provider.

(b) "Provider" means a nursing home as defined in section 256B.421, subdivision 7, or a facility as defined in section 256B.501, subdivision 1.

(c) "Reimbursement rules" means Minnesota Rules, parts 9510.0010 to 9510.0480, 9510.0500 to 9510.0890, and rules adopted by the commissioner pursuant to sections 256B.41 and 256B.501, subdivision 3.

Subd. 1b. **FILING AN APPEAL.** To appeal, the ~~nursing home~~ provider shall ~~notify~~ file with the commissioner ~~in writing of its intent to appeal within 30 days and submit~~ a written notice of appeal; the appeal ~~request~~ must be received by the commissioner within 60 days of ~~receiving notice of~~ the date the ~~payment rate~~ determination ~~or decision~~ of the payment rate was mailed. The notice of appeal ~~request shall~~ must specify each disputed item~~,~~; the reason for the dispute~~, an estimate of~~; the total dollar amount ~~involved for each disputed item,~~ and the dollar amount per bed in dispute for each separate disallowance, allocation, or adjustment of each cost item or part of a cost item; the computation that the ~~nursing home~~ provider believes is correct~~,~~; the authority in statute or rule upon which the ~~nursing home~~ provider relies for each disputed item~~,~~; the name and address of the person or firm with whom contacts may be made regarding the appeal~~,~~; and other information required by the commissioner.

Subd. 1c. **CONTESTED CASE PROCEDURES.** Except as provided in subdivision 2, the appeal ~~shall~~ must be heard by an administrative law judge according to sections 14.48 to 14.56~~, or upon agreement by both parties according to a modified appeals procedure established by the commissioner and the administrative law judge~~. In any proceeding under this section, the appealing party must demonstrate by a preponderance of the evidence that the commissioner's determination is incorrect. Regardless of any rate appeal, the rate established ~~shall~~ must be the rate paid and ~~shall~~ must remain in effect until final resolution of the appeal or subsequent desk or field audit adjustment, notwithstanding any provision of law or rule to the contrary. To challenge the validity of rules established by the commissioner pursuant to this section and sections 256B.41, 256B.421, 256B.431, 256B.47, 256B.48, 256B.501, and 256B.502, a ~~nursing home~~ provider shall comply with section 14.44.

Sec. 164. Minnesota Statutes 1986, section 256B.50, is amended by adding a subdivision to read:

Subd. 1d. **EXPEDITED APPEAL REVIEW PROCESS.** (a) Within 120 days of the date an appeal is due according to subdivision 1b, the department shall review an appealed adjustment equal to or less than $100 annually per licensed bed of the provider, make a determination concerning the adjustment, and notify the provider of the determination. Except as allowed in paragraph (g), this review does not apply to an appeal of an adjustment made to, or proposed on, an amount already paid to the provider. In this subdivision, an adjustment is each separate disallowance, allocation, or adjustment of a cost item or part of a cost item as submitted by a provider according to forms required by the commissioner.

(b) For an item on which the provider disagrees with the results of the determination of the department made under paragraph (a), the provider may,

within 60 days of the date of the review notice, file with the office of administrative hearings and the department its written argument and documents, information, or affidavits in support of its appeal. If the provider fails to make a submission in accordance with this paragraph, the department's determinations on the disputed items must be upheld.

(c) Within 60 days of the date the department received the provider's submission under paragraph (b), the department may file with the office of administrative hearings and serve upon the provider its written argument and documents, information, and affidavits in support of its determination. If the department fails to make a submission in accordance with this paragraph, the administrative law judge shall proceed pursuant to paragraph (d) based on the provider's submission.

(d) Upon receipt by the office of administrative hearings of the department's submission made under paragraph (c) or upon the expiration of the 60-day filing period, whichever is earlier, the chief administrative law judge shall assign the matter to an administrative law judge. The administrative law judge shall consider the submissions of the parties and all relevant rules, statutes, and case law. The administrative law judge may request additional argument from the parties if it is deemed necessary to reach a final decision, but shall not allow witnesses to be presented or discovery to be made in the proceeding. Within 60 days of receipt by the office of administrative hearings of the department's submission or the expiration of the 60-day filing period in paragraph (c), whichever is earlier, the administrative law judge shall make a final decision on the items in issue, and shall notify the provider and the department by first-class mail of the decision on each item. The decision of the administrative law judge is the final administrative decision, is not appealable, and does not create legal precedent, except that the department may make an adjustment contrary to the decision of the administrative law judge based upon a subsequent cost report amendment or field audit that reveals information relating to the adjustment that was not known to the department at the time of the final decision.

(e) For a disputed item otherwise subject to the review set forth in this subdivision, the department and the provider may mutually agree to bypass the expedited review process and proceed to a contested case hearing at any time prior to the time for the department's submission under paragraph (c).

(f) When the department determines that the appeals of two or more providers otherwise subject to the review set forth in this subdivision present the same or substantially the same adjustment, the department may remove the disputed items from the review in this subdivision, and the disputed items shall proceed in accordance with subdivision 1c. The department's decision to remove the appealed adjustments to contested case proceeding is final and is not reviewable.

(g) For a disputed item otherwise subject to the review in this subdivision, the department or a provider may petition the chief administrative law judge to issue an order allowing the petitioning party to bypass the expedited review

process. If the petition is granted, the disputed item must proceed in accordance with subdivision 1c. In making the determination, the chief administrative law judge shall consider the potential impact and precedential and monetary value of the disputed item. A petition for removal to contested case hearing must be filed with the chief administrative law judge and the opposing party on or before the date on which its submission is due under paragraph (b) or (c). Within 20 days of receipt of the petition, the opposing party may submit its argument opposing the petition. Within 20 days of receipt of the argument opposing the petition, or if no argument is received, within 20 days of the date on which the argument was due, the chief administrative law judge shall issue a decision granting or denying the petition. If the petition is denied, the petitioning party has 60 days from the date of the denial to make a submission under paragraph (b) or (c).

(h) The department and a provider may mutually agree to use the procedures set forth in this subdivision for any disputed item not otherwise subject to this subdivision.

(i) Nothing shall prevent either party from making its submissions and arguments under this subdivision through a person who is not an attorney.

(j) This subdivision applies to all appeals for rate years beginning after June 30, 1988.

Sec. 165. Minnesota Statutes 1986, section 256B.50, is amended by adding a subdivision to read:

Subd. 1e. **ATTORNEY'S FEES AND COSTS.** (a) Notwithstanding section 3.762, paragraph (a), for an issue appealed under subdivision 1, the prevailing party in a contested case proceeding or, if appealed, in subsequent judicial review, must be awarded reasonable attorney's fees and costs incurred in litigating the appeal, if the prevailing party shows that the position of the opposing party was not substantially justified. The procedures for awarding fees and costs set forth in section 3.764 must be followed in determining the prevailing party's fees and costs except as otherwise provided in this subdivision. For purposes of this subdivision, "costs" means subpoena fees and mileage, transcript costs, court reporter fees, witness fees, postage and delivery costs, photocopying and printing costs, amounts charged the commissioner by the office of administrative hearings, and direct administrative costs of the department; and "substantially justified" means that a position had a reasonable basis in law and fact, based on the totality of the circumstances prior to and during the contested case proceeding and subsequent review.

(b) When an award is made to the department under this subdivision, attorney fees must be calculated at the cost to the department. When an award is made to a provider under this subdivision, attorney fees must be calculated at the rate charged to the provider except that attorney fees awarded must be the lesser of the attorney's normal hourly fee or $100 per hour.

(c) In contested case proceedings involving more than one issue, the administrative law judge shall determine what portion of each party's attorney fees and costs is related to the issue or issues on which it prevailed and for which it is entitled to an award. In making that determination, the administrative law judge shall consider the amount of time spent on each issue, the precedential value of the issue, the complexity of the issue, and other factors deemed appropriate by the administrative law judge.

(d) When the department prevails on an issue involving more than one provider, the administrative law judge shall allocate the total amount of any award for attorney fees and costs among the providers. In determining the allocation, the administrative law judge shall consider each provider's monetary interest in the issue and other factors deemed appropriate by the administrative law judge.

(e) Attorney fees and costs awarded to the department for proceedings under this subdivision must not be reported or treated as allowable costs on the provider's cost report.

(f) Fees and costs awarded to a provider for proceedings under this subdivision must be reimbursed to them by reporting the amount of fees and costs awarded as allowable costs on the provider's cost report for the reporting year in which they were awarded. Fees and costs reported pursuant to this subdivision must be included in the general and administrative cost category but are not subject to either the general and administrative or other-operating-cost limits.

(g) If the provider fails to pay the awarded attorney fees and costs within 120 days of the final decision on the award of attorney fees and costs, the department may collect the amount due through any method available to it for the collection of medical assistance overpayments to providers. Interest charges must be assessed on balances outstanding after 120 days of the final decision on the award of attorney fees and costs. The annual interest rate charged must be the rate charged by the commissioner of revenue for late payment of taxes that is in effect on the 121st day after the final decision on the award of attorney fees and costs.

(h) Amounts collected by the commissioner pursuant to this subdivision must be deemed to be recoveries pursuant to section 256.01, subdivision 2, clause 15.

(i) This subdivision applies to all contested case proceedings set on for hearing by the commissioner on or after the effective date of this section, regardless of the date the appeal was filed.

Sec. 166. Minnesota Statutes 1986, section 256B.50, is amended by adding a subdivision to read:

Subd. 1f. **LEGAL AND RELATED EXPENSES.** Legal and related expenses for unresolved challenges to decisions by governmental agencies shall be separately identified and explained on the provider's cost report for each year in

which the expenses are incurred. When the challenge is resolved in favor of the governmental agency, the provider shall notify the department of the extent to which its challenge was unsuccessful or the cost report filed for the reporting year in which the challenge was resolved. In addition, the provider shall inform the department of the years in which it claimed legal and related expenses and the amount of the expenses claimed in each year relating to the unsuccessful challenge. The department shall reduce the provider's medical assistance rate in the subsequent rate year by the total amount claimed by the provider for legal and related expenses incurred in an unsuccessful challenge to a decision by a governmental agency.

Sec. 167. Minnesota Statutes 1986, section 256B.50, is amended by adding a subdivision to read:

Subd. 1g. **APPEAL SUPPLEMENT.** (a) For an appeal filed with the commissioner regarding payment rates calculated pursuant to Minnesota Rules, parts 9510.0010 to 9510.0480, or parts 9510.0500 to 9510.0890, or prior provisions of these rules, that was not subject to the provisions of this section or section 256B.501, subdivision 3, at the time it was filed, the appellant must file an appeal supplement. The appeal supplement must be filed no later than December 31, 1988, and must specify each disputed item, the reason for the dispute, an estimate of the dollar amount involved for each disputed item, the computation that the provider believes is correct, the authority in statute or rule upon which the provider relies for each disputed item, the name and address of the person or firm with whom contacts may be made regarding the appeal, and any other information required by the commissioner. Failure to file the appeal supplement is jurisdictional and the commissioner may accordingly dismiss the appeal, and the rate established by the commissioner shall take effect.

(b) Filing of an appeal supplement must not be construed to correct any legal defect in the original appeal.

(c) An appeal for which an appeal supplement is filed pursuant to this subdivision must be set on for a contested case hearing, made part of the expedited appeal process with the agreement of both the provider and the department, or otherwise resolved by December 31, 1989.

Sec. 168. Minnesota Statutes 1987 Supplement, section 256B.50, subdivision 2, is amended to read:

Subd. 2. **APPRAISED VALUE.** (a) ~~An~~ A nursing home may appeal the determination of its appraised value, as determined by the commissioner pursuant to section 256B.431 and rules established thereunder. A written notice of appeal ~~request~~ concerning the appraised value of a nursing home's real estate as established by an appraisal conducted after July 1, 1986, ~~shall~~ must be filed with the commissioner within 60 days of the date the determination was made and shall state the appraised value the nursing home believes is correct for the building, land improvements, and attached equipment and the name and address of the firm with whom contacts may be made regarding the appeal. The appeal

request shall include a separate appraisal report prepared by an independent appraiser of real estate which supports the total appraised value claimed by the nursing home. The appraisal report shall be based on an on-site inspection of the nursing home's real estate using the depreciated replacement cost method, must be in a form comparable to that used in the commissioner's appraisal, and must pertain to the same time period covered by the appealed appraisal. The appraisal report shall include information related to the training, experience, and qualifications of the appraiser who conducted and prepared the appraisal report for the nursing home.

(b) A nursing home which has filed an appeal request prior to the effective date of Laws 1987, chapter 403, concerning the appraised value of its real estate as established by an appraisal conducted before July 1, 1986, must submit to the commissioner the information described under paragraph (a) within 60 days of the effective date of Laws 1987, chapter 403, in order to preserve the appeal.

(c) An appeal request which has been filed pursuant to the provisions of paragraph (a) or (b) shall be finally resolved through an agreement entered into by and between the commissioner and the nursing home or by the determination of an independent appraiser based upon an on-site inspection of the nursing home's real estate using the depreciated replacement cost method, in a form comparable to that used in the commissioner's appraisal, and pertaining to the same time period covered by the appealed appraisal. The appraiser shall be selected by the commissioner and the nursing home by alternately striking names from a list of appraisers approved for state contracts by the commissioner of administration. The appraiser shall make assurances to the satisfaction of the commissioner and the nursing home that the appraiser is experienced in the use of the depreciated cost method of appraisals and that the appraiser is free of any personal, political, or economic conflict of interest that may impair the ability to function in a fair and objective manner. The commissioner shall pay costs of the appraiser through a negotiated rate for services of the appraiser.

(d) The decision of the appraiser is final and is not appealable. Exclusive jurisdiction for appeals of the appraised value of nursing homes lies with the procedures set out in this subdivision. No court of law shall possess subject matter jurisdiction to hear appeals of appraised value determinations of nursing homes.

Sec. 169. Minnesota Statutes 1987 Supplement, section 256B.501, subdivision 1, is amended to read:

Subdivision 1. **DEFINITIONS.** For the purposes of this section, the following terms have the meaning given them.

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

(b) "Facility" means a facility licensed as a mental retardation residential facility under section 252.28, licensed as a supervised living facility under chapter 144, and certified as an intermediate care facility for persons with mental retardation or related conditions.

(c) "Waivered service" means home or community-based service authorized under United States Code, title 42, section 1396n(c), as amended through December 31, ~~1982~~ 1987, and defined in the Minnesota state plan for the provision of medical assistance services. Waivered services include, at a minimum, case management, family training and support, developmental training homes, supervised living arrangements, semi-independent living services, respite care, and training and habilitation services.

Sec. 170. Minnesota Statutes 1986, section 256B.501, subdivision 3, is amended to read:

Subd. 3. **RATES FOR INTERMEDIATE CARE FACILITIES FOR PERSONS WITH MENTAL RETARDATION OR RELATED CONDITIONS.** The commissioner shall establish, by rule, procedures for determining rates for care of residents of intermediate care facilities for persons with mental retardation or related conditions. The procedures shall be based on methods and standards that the commissioner finds are adequate to provide for the costs that must be incurred for the care of residents in efficiently and economically operated facilities. In developing the procedures, the commissioner shall include:

(a) cost containment measures that assure efficient and prudent management of capital assets and operating cost increases which do not exceed increases in other sections of the economy;

(b) limits on the amounts of reimbursement for property, general and administration, and new facilities;

(c) requirements to ensure that the accounting practices of the facilities conform to generally accepted accounting principles;

(d) incentives to reward accumulation of equity; ~~and~~

(e) a revaluation on sale for a facility that, for at least three years before its use as an intermediate care facility, has been used by the seller as a single family home and been claimed by the seller as a homestead, and was not revalued immediately prior to or upon entering the medical assistance program, provided that the facility revaluation not exceed the amount permitted by the Social Security Act, section 1902(a)(13); and

(f) appeals procedures that satisfy the requirements of section 256B.50 for appeals of decisions arising from the application of standards or methods pursuant to Minnesota Rules, parts 9510.0500 to 9510.0890, 9553.0010 to 9553.0080, and 12 MCAR 2.05301 to 2.05315 (temporary).

In establishing rules and procedures for setting rates for care of residents in intermediate care facilities for persons with mental retardation or related conditions, the commissioner shall consider the recommendations contained in the February 11, 1983, Report of the Legislative Auditor on Community Residential Programs for the Mentally Retarded and the recommendations contained in the

1982 Report of the Department of Public Welfare Rule 52 Task Force. Rates paid to supervised living facilities for rate years beginning during the fiscal biennium ending June 30, 1985, shall not exceed the final rate allowed the facility for the previous rate year by more than five percent.

Sec. 171. Minnesota Statutes 1986, section 256B.501, is amended by adding a subdivision to read:

Subd. 3a. **INTERIM RATES.** For rate years beginning October 1, 1988, and October 1, 1989, the commissioner shall establish an interim program operating cost payment rate for care of residents in intermediate care facilities for persons with mental retardation.

(a) For the rate year beginning October 1, 1988, the interim program operating cost payment rate is the greater of the facility's 1987 reporting year allowable program operating costs per resident day increased by the composite forecasted index in section 256B.501, subdivision 3c, or the facility's January 1, 1988, program operating cost payment rate increased by the composite forecasted index in section 256B.501, subdivision 3c, except that the composite forecasted index is established based on the midpoint of the period January 1, 1988, through September 30, 1988, to the midpoint of the following rate year.

(b) For the rate year beginning October 1, 1989, the interim program operating cost payment rate is the greater of the facility's 1988 reporting year allowable program operating costs per resident day increased by the composite forecasted index in section 256B.501, subdivision 3c, or the facility's October 1, 1988, program operating cost payment rate increased by the composite forecasted index in section 256B.501, subdivision 3c, except that the composite forecasted index is established based on the midpoint of the rate year beginning October 1, 1988, to the midpoint of the following rate year.

Sec. 172. Minnesota Statutes 1986, section 256B.501, is amended by adding a subdivision to read:

Subd. 3b. **SETTLE-UP OF COSTS.** The facility's program operating costs are subject to a retroactive settle-up for the 1988 and 1989 reporting years, determined by the following method:

(a) If a facility's program operating costs, including one-time adjustment program operating costs for the facility's 1988 or 1989 reporting year, are less than 98 percent of the facility's total program operating cost payments for facilities with 20 or fewer licensed beds, or less than 99 percent of the facility's total program operating cost payments for facilities with more than 20 licensed beds, then the facility must repay the difference to the state according to the desk audit adjustment procedures in Minnesota Rules, part 9553.0041, subpart 13, items B to E. For the purpose of determining the retroactive settle-up amounts, the facility's total program operating cost payments must be computed by multiplying the facility's program operating cost payment rates, including one-time program operating cost adjustment rates for those reporting years, by the prorated resident days that correspond to those program operating cost payment rates paid during those reporting years.

(b) If a facility's program operating costs, including one-time adjustment program operating costs for the facility's 1989 reporting year are between 102 and 105 percent of the amount computed by multiplying the facility's program operating cost payment rates, including one-time program operating cost adjustment rates for those reporting years, by the prorated resident days that correspond to those program operating cost payment rates paid during that reporting year, the state must repay the difference to the facility according to the desk audit adjustment procedures in Minnesota Rules, part 9553.0041, subpart 13, items B to E.

A facility's retroactive settle-up must be calculated by October 1, 1990.

Sec. 173. Minnesota Statutes 1986, section 256B.501, is amended by adding a subdivision to read:

Subd. 3c. **COMPOSITE FORECASTED INDEX.** For rate years beginning on or after October 1, 1988, the commissioner shall establish a statewide composite forecasted index to take into account economic trends and conditions between the midpoint of the facility's reporting year and the midpoint of the rate year following the reporting year. The statewide composite index must incorporate the forecast by Data Resources, Inc. of increases in the average hourly earnings of nursing and personal care workers indexed in Standard Industrial Code 805 in "Employment and Earnings," published by the Bureau of Labor Statistics, United States Department of Labor. This portion of the index must be weighted annually by the proportion of total allowable salaries and wages to the total allowable operating costs in the program, maintenance, and administrative operating cost categories for all facilities.

For adjustments to the other operating costs in the program, maintenance, and administrative operating cost categories, the statewide index must incorporate the Data Resources, Inc. forecast for increases in the national CPI-U. This portion of the index must be weighted annually by the proportion of total allowable other operating costs to the total allowable operating costs in the program, maintenance, and administrative operating cost categories for all facilities. The commissioner shall use the indices as forecasted by Data Resources, Inc., in the fourth quarter of the reporting year.

Sec. 174. Minnesota Statutes 1986, section 256B.501, is amended by adding a subdivision to read:

Subd. 3d. **LIMITS ON ADMINISTRATIVE OPERATING COSTS.** For the rate year beginning October 1, 1989, the administrative operating cost per bed limit shall be calculated according to paragraphs (a) to (d).

(a) The commissioner shall classify a facility into one of two groups based on the number of licensed beds reported on the facility's cost report. Group one includes facilities with more than 20 licensed beds. Group two includes facilities with 20 or fewer licensed beds.

(b) The commissioner shall determine the allowable administrative historical operating cost per licensed bed for each facility in the two groups by dividing the allowable administrative historical operating cost in each facility by the number of licensed beds in each facility.

(c) The commissioner shall establish the administrative cost per licensed bed limit by multiplying the median of the array of allowable administrative historical operating costs per licensed bed for each group by the percentage that establishes the limit at the 75th percentile of the array of each group.

(d) For the rate year beginning October 1, 1989, the maximum allowable administrative historical operating cost shall be the facility's allowable administrative historical operating cost or the amount in paragraph (c) multiplied by the facility's licensed beds, whichever is less.

Sec. 175. Minnesota Statutes 1986, section 256B.501, is amended by adding a subdivision to read:

Subd. 3e. **INCREASE IN LIMITS.** For rate years beginning on or after October 1, 1990, the commissioner shall increase the administrative cost per licensed bed limit in section 256B.501, subdivision 3d, paragraph (c), and the maintenance operating cost limit in Minnesota Rules, part 9553.0050, subpart 1, item A, subitem (2), by multiplying the administrative operating cost per bed limit and the maintenance operating cost limit by the composite forecasted index in section 256B.501, subdivision 3c except that the index shall be based on the 12 months between the midpoints of the two preceding reporting years.

Sec. 176. Minnesota Statutes 1986, section 256B.501, is amended by adding a subdivision to read:

Subd. 3f. **RATE ADJUSTMENTS.** For rate years beginning October 1, 1989, the commissioner may develop a method to adjust facility rates to meet new licensing or certification standards or regulations adopted by the state or federal government that result in significant cost increases. The commissioner may also consider establishing separate administrative cost limits based on other factors including difficulty of care of residents and licensure classification.

Sec. 177. Minnesota Statutes 1986, section 256B.501, is amended by adding a subdivision to read:

Subd. 3g. **ASSESSMENT OF RESIDENTS.** For rate years beginning on or after October 1, 1990, the commissioner shall establish program operating cost rates for care of residents in facilities that take into consideration service characteristics of residents in those facilities. To establish the service characteristics of residents, the quality assurance and review teams in the department of health shall assess all residents annually beginning January 1, 1989, using a uniform assessment instrument developed by the commissioner. This instrument shall include assessment of the client's behavioral needs, integration into the community, ability to perform activities of daily living, medical and therapeutic needs, and other relevant factors determined by the commissioner. The

commissioner may establish procedures to adjust the program operating costs of facilities based on a comparison of client services characteristics, resource needs, and costs.

Sec. 178. Minnesota Statutes 1986, section 256B.501, is amended by adding a subdivision to read:

Subd. 3h. **WAIVING INTEREST CHARGES.** The commissioner may waive interest charges on overpayments incurred by intermediate care facilities for persons with mental retardation and related conditions for the period October 1, 1987, through February 29, 1988, if the overpayments resulted from the continuation of the desk audit rate in effect on September 30, 1987, through the period.

Sec. 179. Minnesota Statutes 1986, section 256B.501, is amended by adding a subdivision to read:

Subd. 3i. **SCOPE.** Subdivisions 3a to 3h do not apply to facilities whose payment rates are governed by Minnesota Rules, part 9553.0075.

Sec. 180. Minnesota Statutes 1986, section 256B.501, is amended by adding a subdivision to read:

Subd. 3j. **RULES.** The commissioner shall adopt rules to implement this section. The commissioner shall consult with provider groups, advocates, and legislators to develop these rules.

Sec. 181. **[256B.64] ATTENDANTS TO VENTILATOR-DEPENDENT RECIPIENTS.**

A ventilator-dependent recipient of medical assistance who has been receiving the services of a private duty nurse or personal care assistant in the recipient's home may continue to have a private duty nurse or personal care assistant present upon admission to a hospital licensed under chapter 144. The personal care assistant or private duty nurse shall perform only the services of communicator or interpreter for the ventilator-dependent patient during a transition period of up to 120 hours to assure adequate training of the hospital staff to communicate with the patient and to understand the unique comfort, safety, and personal care needs of the patient. The personal care assistant or private duty nurse may offer nonbinding advice to the health care professionals in charge of the ventilator-dependent patient's care and treatment on matters pertaining to the comfort and safety of the patient. After the 120 hour transition period, an assessment may be made by the ventilator-dependent patient, the attending physician, and the patient's primary care nurse to determine whether continued services of communicator or interpreter for the patient by the private duty nurse or personal care assistant are necessary and appropriate for the patient's needs. If continued service is necessary and appropriate, the physician must certify this need to the commissioner of human services in order for payments to continue. The commissioner may adopt rules necessary to implement this section. Reimbursement under this section must be at the payment rate and in a manner consistent with the payment rate and manner used in

reimbursing these providers for home care services for the ventilator-dependent recipient under the medical assistance program.

Sec. 182. Minnesota Statutes 1986, section 256B.69, subdivision 3, is amended to read:

Subd. 3. **GEOGRAPHIC AREA.** The commissioner shall designate the geographic areas in which eligible individuals may be included in the demonstration project. The geographic areas ~~shall~~ may include one urban, one suburban, and ~~at least~~ one rural county. In order to encourage the participation of long-term care providers, the project area may be expanded beyond the designated counties for eligible individuals over age 65.

Sec. 183. Minnesota Statutes 1986, 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.06, subdivision 1, clause (1) or who are in foster placement; and (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 they are 65 years of age or older. Before limitation of choice is implemented, eligible individuals shall be notified and after notification, shall be allowed to choose only among demonstration providers. After initially choosing a provider, the recipient is allowed to change that choice only at specified times as allowed by the commissioner.

Sec. 184. Minnesota Statutes 1987 Supplement, section 256B.73, subdivision 2, is amended to read:

Subd. 2. **ESTABLISHMENT: GEOGRAPHIC AREA.** The commissioner of human services shall cooperate with a local coalition to establish a demonstration project to provide low cost medical insurance to uninsured low income persons in Cook, Crow Wing, Lake, St. Louis, Carlton, Aitkin, Pine, Itasca, and Koochiching counties except an individual county may be excluded as determined by the county board of commissioners. The coalition shall work with the commissioner and potential demonstration providers as well as other public and private organizations to determine program design, including enrollee eligibility requirements, benefits, and participation.

Sec. 185. Minnesota Statutes 1987 Supplement, section 256D.01, subdivision 1a, is amended to read:

Subd. 1a. **STANDARDS.** (1) A principal objective in providing general

assistance is to provide for persons ineligible for federal programs who are unable to provide for themselves. The minimum standard of assistance determines the total amount of the general assistance grant without separate standards for shelter, utilities, or other needs.

(2) The commissioner shall set the standard of assistance for an assistance unit consisting of an adult recipient who is childless and unmarried or living apart from children and spouse and who does not live with a parent or parents or a legal custodian. When the other standards specified in this subdivision increase, this standard shall also be increased by the same percentage.

(3) For an assistance unit consisting of ~~an~~ a single adult ~~who is childless and unmarried or living apart from children and spouse, but~~ who lives with a parent or parents, the general assistance standard of assistance shall be equal to the amount that the aid to families with dependent children standard of assistance would increase if the recipient were added as an additional minor child to an assistance unit consisting of the recipient's parent and all of that parent's family members, provided that the standard shall not exceed the standard for a general assistance recipient living alone. Benefits received by a responsible relative of the assistance unit under the supplemental security income program, a workers' compensation program, the Minnesota supplemental aid program, or any other program based on the responsible relative's disability, and any benefits received by a responsible relative of the assistance unit under the social security retirement program, shall not be counted in the determination of eligibility or benefit level for the assistance unit. ~~An adult child shall be~~ The assistance unit is ineligible for general assistance if the available resources or the countable income of the ~~adult child~~ assistance unit and the parent or parents with whom the ~~adult child~~ assistance unit lives are such that a family consisting of the ~~adult child's~~ assistance unit's parent or parents, the parent or parents' other family members and the ~~adult child~~ assistance unit as the only or additional minor child would be financially ineligible for general assistance. For the purposes of calculating the countable income of the assistance unit's parent or parents, use the calculation methods, income deductions, exclusions, and disregards used when calculating the countable income for a single adult or childless couple.

(4) For an assistance unit consisting of a ~~married~~ childless couple ~~who are childless or who live apart from any child or children of whom either of the married couple is a parent or legal custodian~~, the standards of assistance shall be equal to the first and second adult standards of the aid to families with dependent children program. If one member of the couple is not included in the general assistance grant, then the standard of assistance for the other shall be equal to the second adult standard of the aid to families with dependent children program, except that, when one member of the couple is not included in the general assistance grant because that member is not categorically eligible for general assistance under section 256D.05, subdivision 1, and has exhausted work readiness eligibility under section 256D.051, subdivision 4 or 5, for the period of time covered by the general assistance grant, then the standard of assistance for the remaining member of the couple shall be equal to the first adult standard of the aid to families with dependent children program.

(5) For an assistance unit consisting of all members of a family, the standards of assistance shall be the same as the standards of assistance applicable to a family under the aid to families with dependent children program if that family had the same number of parents and children as the assistance unit under general assistance and if all members of that family were eligible for the aid to families with dependent children program. If one or more members of the family are not included in the assistance unit for general assistance, the standards of assistance for the remaining members shall be equal to the standards of assistance applicable to an assistance unit composed of the entire family, less the standards of assistance applicable to a family of the same number of parents and children as those members of the family who are not in the assistance unit for general assistance. Notwithstanding the foregoing, if an assistance unit consists solely of the minor children because their parent or parents have been sanctioned from receiving benefits from the aid to families with dependent children program, the standard for the assistance unit shall be equal to the special child standard of the aid to families with dependent children program. A child shall not be excluded from the assistance unit unless income intended for its benefit is received from a federally aided categorical assistance program~~;~~ or supplemental security income~~; retirement, survivors, and disability income; other assistance programs; or child support and maintenance payments~~. The income of a child who is excluded from the assistance unit shall not be counted in the determination of eligibility or benefit level for the assistance unit.

Sec. 186. Minnesota Statutes 1986, section 256D.02, subdivision 7, is amended to read:

Subd. 7. "Childless couple" means two individuals who are ~~related by marriage and who are living~~ married to each other, live in a place of residence maintained by them as their own home, and are either childless or living apart from their children.

Sec. 187. Minnesota Statutes 1986, section 256D.02, is amended by adding a subdivision to read:

Subd. 16. "Single adult" means an individual 18 years or older who is childless and unmarried or living apart from the individual's children and spouse.

Sec. 188. Minnesota Statutes 1987 Supplement, section 256D.03, subdivision 3, is amended to read:

Subd. 3. **GENERAL ASSISTANCE MEDICAL CARE; ELIGIBILITY.** (a) General assistance medical care may be paid for any person:

(1) who is eligible for assistance under section 256D.05 or 256D.051 and is not eligible for medical assistance under chapter 256B; or

(2) who is a resident of Minnesota; whose income as calculated under chapter 256B is not in excess of the medical assistance standards or whose excess income is spent down pursuant to chapter 256B; and whose equity in

resources is not in excess of $1,000 per assistance unit. Exempt real and liquid assets, the reduction of excess assets, and the waiver of excess assets must conform to the medical assistance program in chapter 256B.

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

(c) General assistance medical care may be paid for a person, regardless of age, who is detained by law for less than one year in a county correctional or detention facility as a person accused or convicted of a crime, or admitted as an inpatient to a hospital on a criminal hold order, if the person is a recipient of general assistance medical care at the time the person is detained by law or admitted on a criminal hold order and as long as the person continues to meet other eligibility requirements of this subdivision.

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

Sec. 189. Minnesota Statutes 1987 Supplement, section 256D.06, subdivision 1, is amended to read:

Subdivision 1. General assistance shall be granted in ~~such~~ an amount that when added to the nonexempt income actually available to the ~~individual, married couple, or family~~ assistance unit, the total amount equals the applicable standard of assistance for general assistance. In determining eligibility for and the amount of assistance for an individual or married couple, the local agency shall disregard the first $50 of earned income per month.

Sec. 190. Minnesota Statutes 1987 Supplement, section 256D.06, subdivision 1b, is amended to read:

Subd. 1b. **EARNED INCOME SAVINGS ACCOUNT.** In addition to the $50 disregard required under subdivision 1, the local agency shall disregard an additional earned income up to a maximum of $150 per month for persons residing in facilities licensed under Minnesota Rules, parts 9520.0500 to 9520.0690 and 9530.2500 to 9530.4000, and for whom discharge and work are part of a treatment plan and for persons living in supervised apartments with services funded under Minnesota Rules, parts 9535.0100 to 9535.1600, and for whom discharge and work are part of a treatment plan. The additional amount disregarded must be placed in a separate savings account by the eligible individual, to be used upon discharge from the residential facility into the community. A maximum of $1,000, including interest, of the money in the savings account must be excluded from the resource limits established by section 256D.08, subdivision 1, clause (1). Amounts in that account in excess of $1,000 must be applied to the resident's cost of care. If excluded money is removed from the savings account by the eligible individual at any time before the individual is discharged from the facility into the community, the money is income to the

individual in the month of receipt and a resource in subsequent months. If an eligible individual moves from a community facility to an inpatient hospital setting, the separate savings account is an excluded asset for up to 18 months. During that time, amounts that accumulate in excess of the $1,000 savings limit must be applied to the patient's cost of care. If the patient continues to be hospitalized at the conclusion of the 18-month period, the entire account must be applied to the patient's cost of care.

Sec. 191. Minnesota Statutes 1986, section 256D.06, is amended by adding a subdivision to read:

Subd. 1c. **ELIGIBILITY OF FAMILIES.** Notwithstanding any other provisions of sections 256D.01 to 256D.22, general assistance for an assistance unit consisting of members of a family must be granted in an amount that is equal to the amount of assistance which would be paid to an aid to families with dependent children assistance unit which has the same size, composition, income, and other circumstances relevant to the computation of an AFDC grant. Income for an assistance unit consisting of members of a family applying for or receiving general assistance must be determined in the same manner as for persons applying for or receiving aid to families with dependent children, except that the first $50 per month of total child support paid on behalf of family members is excluded and the balance is counted as unearned income, and nonrecurring lump sums received by the family shall be considered income in the month received and a resource thereafter.

Sec. 192. Minnesota Statutes 1986, section 256D.07, is amended to read:

256D.07 **TIME OF PAYMENT OF ASSISTANCE.**

An applicant for general assistance or general assistance medical care authorized by section 256D.03, subdivision 3 shall be deemed eligible if the application and the verification of the statement on that application demonstrate that the applicant is within the eligibility criteria established by sections 256D.01 to 256D.21 and any applicable rules of the commissioner. Any person requesting general assistance or general assistance medical care shall be permitted by the local agency to make an application for assistance as soon as administratively possible and in no event later than the fourth day following the date on which assistance is first requested, and no local agency shall require that a person requesting assistance appear at the offices of the local agency more than once prior to the date on which the person is permitted to make the application. The application shall be in writing in the manner and upon the form prescribed by the commissioner and attested to by the oath of the applicant or in lieu thereof shall contain the following declaration which shall be signed by the applicant: "I declare that this application has been examined by me and to the best of my knowledge and belief is a true and correct statement of every material point." On the date that general assistance is first requested, the local agency shall inquire and determine whether the person requesting assistance is in immediate need of food, shelter, clothing, assistance for necessary transportation, or other

emergency assistance pursuant to section 256D.06, subdivision 2. A person in need of emergency assistance shall be granted emergency assistance immediately, and necessary emergency assistance shall continue until either the person is determined to be ineligible for general assistance or the first grant of general assistance is paid to the person. A determination of an applicant's eligibility for general assistance shall be made by the local agency as soon as the required verifications are received by the local agency and in no event later than 30 days following the date that the application is made. Any verifications required of the applicant shall be reasonable, and the commissioner shall by rule establish reasonable verifications. General assistance shall be granted to an eligible applicant without the necessity of first securing action by the board of the local agency. ~~The amount of the first grant of general assistance awarded to an applicant shall be computed to cover the time period starting with the date that assistance is first requested or if the applicant is not eligible on that date, the date on which the applicant first becomes eligible, and the first grant may be reduced by the amount of emergency general assistance provided to the applicant.~~ The first month's grant must be computed to cover the time period starting with the date a signed application form is received by the local agency or from the date that the applicant meets all eligibility factors, whichever occurs later. The first grant may be reduced by the amount of emergency general assistance provided to the applicant.

If upon verification and due investigation it appears that the applicant provided false information and the false information materially affected the applicant's eligibility for general assistance or general assistance medical care provided pursuant to section 256D.03, subdivision 3 or the amount of the applicant's general assistance grant, the local agency may refer the matter to the county attorney. The county attorney may commence a criminal prosecution or a civil action for the recovery of any general assistance wrongfully received, or both.

Sec. 193. Minnesota Statutes 1986, section 256D.35, is amended by adding a subdivision to read:

Subd. 9. **HOMESTEAD.** "Homestead" means a shelter in which the individual or the spouse with whom the individual lives has an ownership interest, and that is the principal residence of the individual, spouse, or the individual's minor or disabled child. The home may be either real or personal property, fixed or mobile, and located on land or water. The home includes all the land that appertains to it and buildings located on that land.

Sec. 194. Minnesota Statutes 1987 Supplement, section 256D.37, subdivision 1, is amended to read:

Subdivision 1. (a) For all individuals who apply to the appropriate local agency for supplemental aid, the local agency shall determine whether the individual meets the eligibility criteria prescribed in subdivision 2. For each individual who meets the relevant eligibility criteria prescribed in subdivision 2, the

local agency shall certify to the commissioner the amount of supplemental aid to which the individual is entitled in accordance with all of the standards in effect December 31, 1973, for the appropriate categorical aid program.

(b) When a recipient is an adult with mental illness in a facility licensed under Minnesota Rules, parts 9520.0500 to 9520.0690, a resident of a state hospital or a dwelling with a negotiated rate, the recipient is not eligible for a shelter standard, a basic needs standard, or for special needs payments. The state standard of assistance for those recipients is the clothing and personal needs allowance for medical assistance recipients under section 256B.35. Minnesota supplemental aid may be paid to negotiated rate facilities at the rates in effect on March 1, 1985, for services provided under the supplemental aid program to residents of the facility, up to the maximum negotiated rate specified in this section. The rate for room and board for a licensed facility must not exceed $800. The maximum negotiated rate does not apply to a facility that, on August 1, 1984, was licensed by the commissioner of health only as a boarding care home, certified by the commissioner of health as an intermediate care facility, and licensed by the commissioner of human services under Minnesota Rules, parts 9520.0500 to 9520.0690 or a facility that, on August 1, 1984, was licensed by the commissioner of human services under Minnesota Rules, parts 9525.0520 to 9525.0660, but funded as a supplemental aid negotiated rate facility under this chapter. The following facilities are exempt from the limit on negotiated rates and must be reimbursed for documented actual costs, until an alternative reimbursement system covering services excluding room and board maintenance services is developed by the commissioner:

(1) a facility that only provides services to persons with mental retardation; and

(2) a facility not certified to participate in the medical assistance program that is licensed as a boarding care facility as of March 1, 1985, and does not receive supplemental program funding under Minnesota Rules, parts 9535.2000 to 9535.3000 or parts 9553.0010 to 9553.0080. Beginning July 1, 1987, the facilities under clause (1) are subject to applicable supplemental aid limits, and must meet all applicable licensing and reimbursement requirements for programs for persons with mental retardation. The negotiated rates may be paid for persons who are placed by the local agency or who elect to reside in a room and board facility or a licensed facility for the purpose of receiving physical, mental health, or rehabilitative care, provided the local agency agrees that this care is needed by the person. When Minnesota supplemental aid is used to pay a negotiated rate, the rate payable to the facility must not exceed the rate paid by an individual not receiving Minnesota supplemental aid. To receive payment for a negotiated rate, the dwelling must comply with applicable laws and rules establishing standards necessary for health, safety, and licensure. The negotiated rate must be adjusted by the annual percentage change in the consumer price index (CPI-U U.S. city average), as published by the Bureau of Labor Statistics between the previous two Septembers, new series index (1967-100) or 2.5 percent, whichever is less. ~~In computing the amount of supplemental aid under this~~

~~section, the local agency shall deduct from the gross amount of the individual's determined needs all income, subject to the criteria for income disregards in effect December 31, 1973, for the appropriate categorical aid program, except that the earned income disregard for disabled persons who are not residents of long-term care facilities must be the same as the earned income disregard available to disabled persons in the supplemental security income program and all actual work expenses must be deducted when determining the amount of income for the individual.~~ From the first of the month in which an effective application is filed, the state and the county shall share responsibility for the payment of the supplemental aid to which the individual is entitled under this section as provided in section 256D.36.

Sec. 195. Minnesota Statutes 1986, section 256D.37, subdivision 2, is amended to read:

Subd. 2. **RESOURCE STANDARDS.** The resource standards and restrictions for supplemental aid under this section shall be those used to determine eligibility for disabled individuals in the supplemental security income program. ~~The local agency shall apply the relevant criteria to each application. The local agency in its discretion may permit eligibility of an applicant having assets in excess of the amount prescribed in this section if liquidation of the assets would cause undue loss or hardship.~~

Sec. 196. Minnesota Statutes 1986, section 256D.37, is amended by adding a subdivision to read:

Subd. 6. **TRANSFERS.** (a) In determining the resources of an individual and an eligible spouse, if any, a person shall include a resource or interest that exceeds the limits set out in subdivision 2 and that was given away or sold for less than fair market value within the 24 months preceding application for Minnesota supplemental aid or during the period of eligibility.

(b) A transaction described in this subdivision is presumed to have been made to establish eligibility for benefits or assistance under this chapter unless the individual or eligible spouse gives convincing evidence to establish that the transaction was made exclusively for another purpose.

(c) For purposes of this subdivision, the value of a resource or interest is the fair market value when it was sold or given away, less the amount of compensation received.

(d) For any uncompensated transfer, the period of ineligibility must be calculated by dividing the amount of the uncompensated transferred amount by the statewide average monthly skilled nursing facility payment for the previous calendar year to determine the number of months of ineligibility. The individual is ineligible until the fixed period of ineligibility has expired. The period of ineligibility may exceed 24 months, and a reapplication for benefits after 24 months from the date of the transfer does not result in eligibility unless and until the period of ineligibility has expired.

(e) The period of ineligibility must not be applied if the local agency determines that it would create an immediate threat to the health or safety of the assistance unit.

Sec. 197. Minnesota Statutes 1986, section 256D.37, is amended by adding a subdivision to read:

Subd. 7. **EXCLUSIONS.** The following must not be included as income in determining eligibility:

(1) the value of food stamps;

(2) home-produced food used by the household;

(3) Indian claim payments made by the United States Congress to compensate members of Indian tribes for the taking of tribal lands by the federal government;

(4) cash payments to displaced persons who face relocation as a result of the Housing Act of 1965, the Housing and Urban Development Act of 1965, or the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;

(5) one-third of child support payments received by an eligible child from an absent parent;

(6) displaced homemaker payments;

(7) reimbursement received for maintenance costs of providing foster care to adults or children;

(8) benefits received under Title IV and Title VII of the Older Americans Act of 1965;

(9) Minnesota renter or homeowner property tax refunds;

(10) infrequent, irregular income that does not total more than $20 per person in a month;

(11) reimbursement payments received from the VISTA program;

(12) in-kind income;

(13) payments received for providing volunteer services under Title I, Title II, and Title III of the Domestic Volunteer Service Act of 1973;

(14) loans that have to be repaid;

(15) federal low income heating assistance program payments; and

(16) any other type of funds excluded as income by state law.

The local agency shall exclude the first $20 of earned or unearned income.

Sec. 198. Minnesota Statutes 1986, section 256D.37, is amended by adding a subdivision to read:

Subd. 8. **APPLICATION FOR FEDERALLY FUNDED BENEFITS.** Persons for whom the applicant or recipient has financial responsibility and who have unmet needs must apply for, and if eligible, accept aid to families with dependent children and other federally funded benefits before allocation of earned and unearned income from the applicant or recipient to meet the needs of those persons. If the persons are determined potentially eligible for these benefits, the applicant or recipient may not allocate earned or unearned income to those persons.

Sec. 199. Minnesota Statutes 1986, section 256D.37, is amended by adding a subdivision to read:

Subd. 9. **ALLOCATION OF INCOME.** The rate of allocation for the financially responsible relatives of applicants or recipients is one-half the individual supplemental security income standard of assistance, except as restricted in subdivision 8.

If the applicant or recipient shares a residence with another person who has financial responsibility for the applicant or recipient, the income of the responsible relative must be considered available to the applicant or recipient after allowing the deductions in subdivisions 11 and 12.

Sec. 200. Minnesota Statutes 1986, section 256D.37, is amended by adding a subdivision to read:

Subd. 10. **EARNED INCOME DISREGARDS.** From the assistance unit's gross earned income, the local agency shall disregard $65 plus one-half of the remaining income.

Sec. 201. Minnesota Statutes 1986, section 256D.37, is amended by adding a subdivision to read:

Subd. 11. **EARNED INCOME DEDUCTIONS.** From the assistance unit's gross earned income, the local agency shall subtract work expenses allowed by the supplemental security income program.

Sec. 202. Minnesota Statutes 1986, section 256D.37, is amended by adding a subdivision to read:

Subd. 12. **SELF-EMPLOYMENT EARNINGS.** A local agency must determine gross earned income from self-employment by subtracting business costs from gross receipts.

Sec. 203. Minnesota Statutes 1986, section 256D.37, is amended by adding a subdivision to read:

Subd. 13. **RENTAL PROPERTY.** Income from rental property must be considered self-employment earnings for each month that an average of at least ten hours a week of labor is expended by the owner of the property. When no labor is expended, income from rental property must be considered as unearned income and an additional deduction must be allowed for actual, reasonable, and necessary labor costs for upkeep and repair.

Sec. 204. Minnesota Statutes 1986, section 256D.37, is amended by adding a subdivision to read:

Subd. 14. **GROSS INCOME TEST.** The local agency shall apply a gross income test prospectively for each month of program eligibility. An assistance unit is ineligible when nonexcluded income, before applying any disregards or deductions, exceeds 300 percent of the supplemental security income standard for the assistance unit.

Sec. 205. Minnesota Statutes 1986, section 256E.12, subdivision 1, is amended to read:

Subdivision 1. The commissioner shall establish ~~an experimental~~ a statewide program to assist counties in providing services to ~~chronically mentally ill~~ persons with serious and persistent mental illness as defined in section 245.462, subdivision 20. The commissioner shall make grants to counties to establish, operate, or contract with private providers to provide services designed to help ~~chronically mentally ill~~ persons with serious and persistent mental illness remain and function in their own communities. Grants received pursuant to this section may be used to fund ~~innovative~~ community support services programs~~, relating to physical fitness programs designed as part of a mental health treatment plan~~ as specified in section 245.462, subdivision 6, and case management activities that cannot be billed to the medical assistance program under section 256B.02, subdivision 8.

Sec. 206. Minnesota Statutes 1986, section 256E.12, subdivision 2, is amended to read:

Subd. 2. To apply for a grant a county board shall submit an application and budget for the use of the money in the form specified by the commissioner. The commissioner shall make grants only to counties whose applications and budgets are approved by the commissioner. A county receiving a grant under this section shall finance at least ten percent of the cost of services for ~~chronically mentally ill~~ persons with serious and persistent mental illness from local resources, which may include private contributions and federal money.

Sec. 207. Minnesota Statutes 1987 Supplement, section 256E.12, subdivision 3, is amended to read:

Subd. 3. The commissioner shall allocate grants under this section to finance up to 90 percent of each county's costs for services ~~for chronically mentally ill~~ to persons with serious and persistent mental illness. The commis-

sioner shall promulgate ~~emergency and~~ permanent rules to govern grant applications, approval of applications, allocation of grants, and maintenance of financial statements by grant recipients. The commissioner shall require collection of data and periodic reports as the commissioner deems necessary to demonstrate the effectiveness of the services in helping ~~chronically mentally ill~~ persons with serious and persistent mental illness remain and function in their own communities. ~~The experimental program shall expire no later than June 30, 1989.~~

Sec. 208. Minnesota Statutes 1986, section 256F.03, subdivision 8, is amended to read:

Subd. 8. **PLACEMENT PREVENTION AND FAMILY REUNIFICATION SERVICES.** "Placement prevention and family reunification services" means a continuum of services designed to help children remain with their families or to facilitate reunification of children with their parents. Placement prevention and family reunification services available to a minority family must reflect and support family models that are accepted within the culture of the particular minority.

Sec. 209. Minnesota Statutes 1986, section 256F.07, is amended by adding a subdivision to read:

Subd. 3a. **MINORITY FAMILY SERVICES.** In addition to services listed in subdivision 3, placement prevention and family reunification services for minority children include:

(1) development of foster and adoptive placement resources, including recruitment, licensing, and support;

(2) advocacy in working with the county and private social service agencies, and activities to help provide access to agency services;

(3) family and community involvement strategies to combat child abuse and chronic neglect of children;

(4) coordinated child welfare and mental health services to minority families; and

(5) other activities and services approved by the commissioner that further the goals of the minority heritage preservation act.

Sec. 210. **[257.066] RULES.**

By December 31, 1989, the commissioner of human services shall revise Minnesota Rules, parts 9545.0750 to 9545.0830, 9560.0010 to 9560.0180, and 9560.0500 to 9560.0670 to ensure that, as conditions of licensure, social services and child-placing agencies meet the requirements of section 257.072, subdivisions 7 and 8, and keep records in compliance with sections 257.01 and 259.46.

Sec. 211. Minnesota Statutes 1986, section 257.071, subdivision 2, is amended to read:

Subd. 2. **SIX MONTH REVIEW OF PLACEMENTS.** There shall be an administrative review of the case plan of each child placed in a residential facility no later than 180 days after the initial placement of the child in a residential facility and at least every six months thereafter if the child is not returned to the home of the parent or parents within that time. The case plan must be monitored and updated at each administrative review. As an alternative to the administrative review, the social service agency responsible for the placement may bring a petition as provided in section 260.131, subdivision 1a, to the court for review of the foster care to determine if placement is in the best interests of the child. This petition must be brought to the court within the applicable six months and is not in lieu of the requirements contained in subdivision 3 or 4.

Sec. 212. Minnesota Statutes 1986, section 257.071, subdivision 3, is amended to read:

Subd. 3. **REVIEW OF VOLUNTARY PLACEMENTS.** Subject to the provisions of subdivision 4, if the child has been placed in a residential facility pursuant to a voluntary release by the parent or parents, and is not returned home within 18 months after initial placement in the residential facility, the social service agency responsible for the placement shall:

(a) Return the child to the home of the parent or parents; or

(b) File an appropriate petition pursuant to section 260.131, subdivision 1, or 260.231, and if the petition is dismissed, petition the court within two years, pursuant to section 260.131, subdivision 1a, to determine if the placement is in the best interests of the child.

The case plan must be updated when a petition is filed and must include a specific plan for permanency.

Sec. 213. Minnesota Statutes 1986, section 257.071, subdivision 6, is amended to read:

Subd. 6. **ANNUAL FOSTER CARE REPORT.** The commissioner of human services shall publish annually a report on children in residential facilities as defined in subdivision 1. The report shall include, by county and statewide, information on legal status, living arrangement, age, sex, race, accumulated length of time in foster care, and other demographic information deemed appropriate on all children placed in residential facilities. The report shall also state the extent to which authorized child placing agencies comply with sections 257.072 and 259.455 and include descriptions of the methods used to comply with those sections. The commissioner shall publish the report for each calendar year by June 1 of the following year.

Sec. 214. Minnesota Statutes 1986, section 257.071, is amended by adding a subdivision to read:

Subd. 7. **RULES.** By December 31, 1988, the commissioner shall revise Minnesota Rules, parts 9545.0010 to 9545.0269, the rules setting standards for family and group family foster care. The commissioner shall:

(1) require that, as a condition of licensure, foster care providers attend training on the importance of protecting cultural heritage within the meaning of Laws 1983, chapter 278, the Indian Child Welfare Act, Public Law Number 95-608, and the Minnesota Indian family preservation act, sections 257.35 to 257.357; and

(2) review and, where necessary, revise foster care rules to reflect sensitivity to cultural diversity and differing lifestyles. Specifically, the commissioner shall examine whether space and other requirements discriminate against single-parent, minority, or low-income families who may be able to provide quality foster care reflecting the values of their own respective cultures.

Sec. 215. Minnesota Statutes 1986, section 257.072, is amended to read:

257.072 ~~**RECRUITMENT OF FOSTER FAMILIES**~~ **WELFARE OF MINORITY CHILDREN.**

Subdivision 1. **RECRUITMENT OF FOSTER FAMILIES.** Each authorized child placing agency shall make special efforts to recruit a foster family from among the child's relatives, except as authorized in section 260.181, subdivision 3, and among families of the same minority racial or minority ethnic heritage. Special efforts include contacting and working with community organizations and religious organizations, utilizing local media and other local resources, ~~and~~ conducting outreach activities, and increasing the number of minority recruitment staff employed by the agency. The agency may accept any gifts, grants, offers of services, and other contributions to use in making special recruitment efforts.

Subd. 2. **DUTIES OF COMMISSIONER.** The commissioner of human services shall:

(1) in cooperation with child-placing agencies, develop a cost-effective campaign using radio and television to recruit minority adoptive and foster families;

(2) require that agency staff people who work in the area of minority adoption and foster family recruitment attend cultural sensitivity training; and

(3) monitor the record keeping, licensing, placement preference, recruitment, review, and reporting requirements of the minority child heritage protection act, Laws 1983, chapter 278.

Subd. 3. **MINORITY RECRUITMENT SPECIALIST.** The commissioner shall designate a permanent professional staff position for a minority recruitment specialist. The minority recruitment specialist shall provide services to child-placing agencies seeking to recruit minority adoptive and foster care families and qualified minority professional staff. The minority recruitment specialist shall:

(1) develop materials for use by the agencies in training staff;

(2) conduct in-service workshops for agency personnel;

(3) provide consultation, technical assistance, and other appropriate services to agencies wishing to improve service delivery to minority populations;

(4) conduct workshops for foster care and adoption recruiters to evaluate the effectiveness of techniques for recruiting minority families; and

(5) perform other duties as assigned by the commissioner to implement the minority child heritage protection act and the Minnesota Indian family preservation act.

Upon recommendation of the minority recruitment specialist, the commissioner may contract for portions of these services.

Subd. 4. **CONSULTATION WITH MINORITY REPRESENTATIVES.** The commissioner of human services shall, after seeking and considering advice from representatives from the councils established under sections 3.922, 3.9223, 3.9225, and 3.9226:

(1) review, and where necessary, revise the department of human services social service manual and practice guide to reflect the scope and intent of Laws 1983, chapter 278;

(2) develop criteria for determining whether a prospective adoptive or foster family is "knowledgeable and appreciative" as the term is used in section 260.181, subdivision 3;

(3) develop a standardized training curriculum for adoption and foster care workers, family-based providers and administrators who work with minority and special needs children. Training must address the following subjects:

(a) developing and maintaining sensitivity to other cultures;

(b) assessing values and their cultural implications; and

(c) implementing the minority child heritage protection act, Laws 1983, chapter 278, and the Minnesota Indian family preservation act, sections 257.35 to 257.357;

(4) develop a training curriculum for family and extended family members of minority adoptive and foster children. The curriculum must address issues relating to cross-cultural placements as well as issues that arise after a foster or adoptive placement is made; and

(5) develop and provide to agencies an assessment tool to be used in combination with group interviews and other preplacement activities to evaluate prospective adoptive and foster families of minority children. The tool must assess problem-solving skills; identify parenting skills; and, when required by section 260.181, subdivision 3, evaluate the degree to which the prospective family is knowledgeable and appreciative of racial and ethnic differences.

Subd. 5. **MINORITY PLACEMENTS.** Beginning December 1, 1989, the commissioner shall provide to the Indian affairs council, the council on affairs of Spanish-Speaking people, the council on Black Minnesotans, and the council on Asian-Pacific Minnesotans the semiannual reports required under section 216.

Subd. 6. **ADVISORY TASK FORCE.** The commissioner of human services may convene and meet periodically with an advisory task force on minority child welfare. The task force may advise the commissioner on issues related to minority child welfare, including, but not limited to, adoption and foster care, the use of citizen review boards, infant mortality in minority communities, and placement prevention. The task force should include minority adoption and foster care workers and minority adoptive and foster parents.

Subd. 7. **DUTIES OF CHILD-PLACING AGENCIES.** Each authorized child-placing agency must:

(1) develop and follow procedures for implementing the order of preference prescribed by section 260.181, subdivision 3;

(2) have a written plan for recruiting minority adoptive and foster families. The plan must include (a) strategies for using existing resources in minority communities, (b) use of minority outreach staff wherever possible, (c) use of minority foster homes for placements after birth and before adoption, and (d) other techniques as appropriate;

(3) have a written plan for training adoptive and foster families of minority children;

(4) if located in an area with a significant minority population, have a written plan for employing minority social workers in adoption and foster care. The plan must include staffing goals and objectives; and

(5) ensure that adoption and foster care workers attend training offered or approved by the department of human services regarding cultural diversity and the needs of special needs children.

Subd. 8. **REPORTING REQUIREMENTS.** Each authorized child-placing agency shall provide to the commissioner of human services all data needed by the commissioner for the report required by section 216. The agency shall provide the data within 60 days of the end of the six-month period for which the data is applicable.

Sec. 216. **[257.0725] SEMIANNUAL REPORT.**

The commissioner of human services shall publish a semiannual report on children in out-of-home placement. The report shall include, by county and statewide, information on legal status, living arrangement, age, sex, race, accumulated length of time in placement, reason for most recent placement, race of family with whom placed, number of families from the child's own culture in the placement pool during the period for which data is provided, and other demographic information deemed appropriate on all children in out-of-home

placement. The commissioner shall provide the required data for children who entered placement during the previous quarter and for children who are in placement at the end of the quarter. Out-of-home placement includes placement in any facility by an authorized child-placing agency. By December 1, 1989, and by December 1 of each successive year, the commissioner shall publish a report covering the first six months of the calendar year. By June 1, 1990, and by June 1 of each successive year, the commissioner shall publish a report covering the last six months of the calendar year.

Sec. 217. **[257.075] GRANTS FOR SUPPORT SERVICES.**

The commissioner of human services may make grants to authorized child-placing agencies that provide services to minority children in out-of-home placements. Support services may include, but are not limited to:

(1) development of foster and adoptive placement resources, including recruitment, licensing, and support;

(2) advocacy in working with the county and private social service agencies, and activities to help provide access to agency services;

(3) family and community involvement strategies to combat child abuse and chronic neglect of children;

(4) coordinated child welfare and mental health services to minority families;

(5) preadoption, postadoption, and foster care support groups for minority children and prospective adoptive and foster families;

(6) the use of minority foster parents as continuing support for children returned to birth homes;

(7) information, counseling, and support groups to assist minority children approaching age 18 in setting permanent goals for independent living;

(8) minority adolescent support groups for children in long-term foster care, new adoptive placements, and nonminority homes where identity issues threaten the adoptive relationship and adjustment;

(9) services listed at section 256F.07; and

(10) other activities and services approved by the commissioner that further the goals of the minority heritage preservation act.

Sec. 218. Minnesota Statutes 1986, section 260.181, subdivision 3, is amended to read:

Subd. 3. **PROTECTION OF RACIAL OR ETHNIC HERITAGE, OR RELIGIOUS AFFILIATION.** The policy of the state is to ensure that the best interests of children are met by requiring due consideration of the child's minority race or minority ethnic heritage in foster care placements.

The court, in transferring legal custody of any child or appointing a guardian for the child under the laws relating to juvenile courts, shall place the child, in the following order of preference, in the absence of good cause to the contrary, in the legal custody or guardianship of an individual who (a) is the child's relative, or if that would be detrimental to the child or a relative is not available, who (b) is of the same racial or ethnic heritage as the child, or if that is not possible, who (c) is knowledgeable and appreciative of the child's racial or ethnic heritage. The court may require the county welfare agency to continue efforts to find a guardian of the child's minority racial or minority ethnic heritage when such a guardian is not immediately available. For purposes of this subdivision, "relative" includes members of a child's extended family and important friends with whom the child has resided or had significant contact.

If the child's genetic parent or parents explicitly request that the preference described in clause (a) or in clauses (a) and (b) not be followed, the court shall honor that request consistent with the best interests of the child.

If the child's genetic parent or parents express a preference for placing the child in a foster or adoptive home of the same or a similar religious background to that of the genetic parent or parents, in following the preferences in clause (a) or (b), the court shall order placement of the child with an individual who meets the genetic parent's religious preference. Only if no individual is available who is described in clause (a) or (b) may the court give preference to an individual described in clause (c) who meets the parent's religious preference.

Sec. 219. Minnesota Statutes 1986, section 268.0111, is amended by adding a subdivision to read:

Subd. 4a. **HOMELESS INDIVIDUAL.** "Homeless individual," or "homeless person" means:

(1) an individual who lacks a fixed, regular, and adequate nighttime residence; and

(2) an individual who has a primary nighttime residence that is:

(i) a supervised publicly or privately operated shelter or dwelling designed to provide temporary living accommodations,

(ii) an institution that provides a temporary residence for individuals intended to be institutionalized, or

(iii) a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for humans.

The term "homeless individual" does not include any individual imprisoned or otherwise detained pursuant to federal or state law.

Sec. 220. **[268.0124] PLAIN LANGUAGE IN WRITTEN MATERIALS.**

(a) To the extent reasonable and consistent with the goals of providing easily understandable and readable materials and complying with federal and state laws governing the programs, all written materials relating to services and determinations of eligibility for or amounts of benefits that will be given to applicants for or recipients of assistance under a program administered or supervised by the commissioner of jobs and training must be understandable to a person who reads at the seventh-grade level, using the Flesch scale analysis readability score as determined under section 72C.09.

(b) All written materials relating to determinations of eligibility for or amounts of benefits that will be given to applicants for or recipients of assistance under programs administered or supervised by the commissioner of jobs and training must be developed to satisfy the plain language requirements of the plain language contract act under sections 325G.29 to 325G.36. Materials may be submitted to the attorney general for review and certification. Notwithstanding section 325G.35, subdivision 1, the attorney general shall review submitted materials to determine whether they comply with the requirements of section 325G.31. The remedies available pursuant to sections 8.31 and 325G.33 to 325G.36 do not apply to these materials. Failure to comply with this section does not provide a basis for suspending the implementation or operation of other laws governing programs administered by the commissioner.

(c) The requirements of this section apply to all materials modified or developed by the commissioner on or after July 1, 1988. The requirements of this section do not apply to materials that must be submitted to a federal agency for approval, to the extent that application of the requirements prevents federal approval.

(d) Nothing in this section may be construed to prohibit a lawsuit brought to require the commissioner to comply with this section or to affect individual appeal rights granted pursuant to section 268.10.

(e) The commissioner shall report annually to the chairs of the health and human services divisions of the senate finance committee and the house of representatives appropriations committee on the number and outcome of cases that raise the issue of the commissioner's compliance with this section.

Sec. 221. **[268.39] LIFE SKILLS AND EMPLOYMENT GRANTS.**

The commissioner may provide grants to organizations for the development and administration of life skills and employment plans for homeless individuals that reside in residential units constructed or rehabilitated under section 462A.05, subdivision 29. Grants awarded under this section may also be used for the management of these residential units. The organizations that receive grants under this section must coordinate their efforts with organizations that receive grants under section 462A.05, subdivision 29.

A life skills and employment plan must be developed for each tenant residing in a dwelling that receives funding under section 462A.05, subdivision 29. The plan may include preapprentice and apprenticeship training in the area of

housing rehabilitation. If preapprentice and apprenticeship training is part of a plan, the organization must consult with labor organizations experienced in working with apprenticeship programs. The completion or compliance with the individual life skills and employment plan must be required for a tenant to remain in a unit constructed or rehabilitated under section 462A.05, subdivision 29.

The application for a grant under this section must include a plan that must provide for:

(1) training for tenants in areas such as cleaning and maintenance, payment of rent, and roommate skills, and

(2) tenant selection and rental policies that insure rental of units to people who are homeless if applicable.

The applicant must provide a proposed occupancy contract if applicable, the name and address of the rental agent if applicable, and other information the commissioner considers necessary with the application.

The commissioner may adopt permanent rules to administer this grant program.

Sec. 222. Minnesota Statutes 1986, section 268.86, is amended by adding a subdivision to read:

Subd. 10. **INVENTORY, REFERRAL, AND INTAKE SERVICES.** The commissioner of jobs and training, in cooperation with the commissioner of human services, shall develop an inventory, referral, and intake system. The system must provide for coordinated delivery of employment and training and income maintenance support services, efficient client referral among programs and services, reduction of duplicate data collection, coordinated program intake by local agencies, and effective evaluation of employment and training services. The system must, at a minimum, include the following:

(1) a listing of all available public and private employment and training services, income maintenance and support services, and vocationally directed education and training programs;

(2) the capability to assess client needs and match those needs with employment opportunities, education and training programs, and employment and training and income maintenance and support services, and to refer the client to the appropriate employer, educational institution, or service provider;

(3) a coordinated intake procedure for employment and training services, and income maintenance and support services;

(4) access to a statewide data base for client tracking and program evaluation; and

(5) internal security measures to protect private data from unauthorized access.

In developing the system, the commissioner shall consult with the public post-secondary educational systems, local agencies, employment and training service providers, and client and employer representatives. The system must be available in each local agency or service provider delivering programs administered by the commissioner of jobs and training or the commissioner of human services. Access by intake workers, state agency personnel, clients, and any other system users to information contained in the system must conform with all applicable federal and state data privacy requirements.

Sec. 223. Minnesota Statutes 1987 Supplement, section 268.91, subdivision 1, is amended to read:

Subdivision 1. **DEFINITIONS.** For the purposes of this section the following terms have the meanings given.

(a) "Child care services" means child care provided in family day care homes, group day care homes, nursery schools, day nurseries, child day care centers, play groups, head start, and parent cooperatives, or in the child's home.

(b) "Child" means a person 12 years old or younger, or a person age 13 or 14 who is handicapped, as defined in section 120.03.

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

(d) "Child care" means the care of a child by someone other than a parent or legal guardian in or outside the child's own home for gain or otherwise, on a regular basis, for any part of a 24-hour day.

(e) "County board" means the board of county commissioners in each county.

(f) "Education program" means remedial or basic education or English as a second language instruction, high school education, a program leading to a general equivalency diploma, and post-secondary education excluding post-baccalaureate programs.

(g) "Employment program" means employment of recipients financially eligible for the child care sliding fee program, vocational assessment, and job readiness and job search activities.

(h) "Family" means parents, stepparents, guardians, or other caretaker relatives, and their blood related dependent children and adoptive siblings under the age of 18 years living in the same home including children temporarily absent from the household in settings such as schools, foster care, and residential treatment facilities. When a minor parent or parents and his, her, or their child or children are living with other relatives, and the minor parent or parents apply for a child care subsidy, "family" means only the minor parent or parents and

the child or children. An adult may be considered a dependent member of the family unit if 50 percent of the adult's support is being provided by the parents, stepparents, guardians, or other caregiver relatives residing in the same household. An adult age 18 who is a full-time high school student and can reasonably be expected to graduate before age 19 may be considered a dependent member of the family unit.

(i) "Human services board" means a board established under section 402.02, Laws 1974, chapter 293, or Laws 1976, chapter 340.

(j) "Income" means earned or unearned income received by all family members 16 years or older, including public assistance benefits, unless specifically excluded. The following are excluded from income: scholarships and grants that cover costs for tuition, fees, books, and educational supplies; student loans for tuition, fees, books, supplies, and living expenses; in-kind income such as food stamps, energy assistance, medical assistance, and housing subsidies; income from summer or part-time employment of 16-, 17-, and 18-year-old full-time secondary school students; grant awards under the family subsidy program; and nonrecurring lump sum income only to the extent that it is earmarked and used for the purpose for which it is paid.

~~(i)~~ (k) "Provider" means the child care license holder or the legal nonlicensed caregiver who operates a family day care home, a group family day care home, a day care center, a nursery school, or a day nursery, or who functions in the child's home.

~~(j)~~ (l) "Post-secondary educational systems" means the University of Minnesota board of regents, the state university board, the state board for community colleges, and the state board of vocational technical education.

~~(k)~~ (m) "AFDC priority groups" means the recipients defined in section 256.736, subdivision 2a.

~~(l)~~ (n) "AFDC" means aid to families with dependent children.

Sec. 224. Minnesota Statutes 1987 Supplement, section 268.91, subdivision 3, is amended to read:

Subd. 3. **ALLOCATION.** (a) By June 1 of each odd-numbered year, the commissioner shall notify all county and human services boards and post-secondary educational systems of their allocation. If the appropriation is insufficient to meet the needs in all counties, the amount must be prorated among the counties. Each county that receives funds under this section must keep a written record and report to the commissioner the number of eligible families who have applied for a child care subsidy. Counties shall perform a cursory determination of eligibility when a family requests information about child care assistance. A family that appears to be eligible must be put on a waiting list if funds are not immediately available.

(b) Except for set-aside money allocated under subdivisions 3a, 3b, 3c, and 3d, the commissioner shall allocate money appropriated between the metropolitan area, comprising the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington, and the area outside the metropolitan area so that no more than 55 percent of the total appropriation goes to either area after excluding allocations for statewide administrative costs. The commissioner shall allocate 50 percent of the money among counties on the basis of the number of families below the poverty level, as determined from the most recent special census, and 50 percent on the basis of caseloads of aid to families with dependent children for the preceding fiscal year, as determined by the commissioner of human services.

(c) Once each quarter, the commissioner shall review the use of child care fund allocations by county. ~~In accordance with the formula found in paragraph (b),~~ The commissioner may reallocate unexpended or unencumbered money among those counties who have expended their full portion. Any unexpended money from the first year of the biennium may be carried forward to the second year of the biennium.

Sec. 225. Minnesota Statutes 1987 Supplement, section 268.91, subdivision 3b, is amended to read:

Subd. 3b. **SET-ASIDE MONEY FOR AFDC PRIORITY GROUPS.** (a) Set-aside money for AFDC priority groups must be allocated among the counties based on the average monthly number of caretakers receiving AFDC under the age of 21 and the average monthly number of AFDC cases open 24 or more consecutive months. For each fiscal year the average monthly caseload shall be based on the 12-month period ending March 31 of the previous fiscal year. The commissioner may reallocate quarterly unexpended or unencumbered set-aside money to counties that expend their full allocation. The county shall use the set-aside money for AFDC priority groups and for former AFDC recipients who (1) have had their child care subsidized under the set-aside for AFDC priority groups; (2) continue to require a child care subsidy in order to remain employed; and (3) are on a waiting list for the basic sliding fee program.

(b) The county shall develop cooperative agreements with the employment and training service provider for coordination of child care funding with employment, training, and education programs for aid to families with dependent children priority groups. The cooperative agreement shall specify that individuals receiving employment, training, and education services under an employability plan from the employment and training service provider shall, as resources permit, be guaranteed set-aside money for child care assistance from the county of their residence.

(c) Counties may contract for administration of the program or may arrange for or contract for child care funds to be used by other appropriate programs, in accordance with this section and as permitted by federal law and regulations.

(d) If the commissioner finds, on or after January 1 of a fiscal year, that

set-aside money for AFDC priority groups is not being fully utilized, the commissioner may permit counties to use set-aside money for other eligible applicants, as long as priority for use of the money will continue to be given to the AFDC priority groups.

(e) A county may claim federal reimbursement under the AFDC special needs program for money spent for persons listed in subdivision 3a, clause (1). The commissioner shall allocate any federal earnings to the county. The county shall use the money to expand ~~services to AFDC recipients~~ child care sliding fee services under ~~the child care sliding fee program~~ this subdivision.

Sec. 226. Minnesota Statutes 1987 Supplement, section 268.91, subdivision 3c, is amended to read:

Subd. 3c. **SET-ASIDE MONEY FOR AFDC POST-SECONDARY STUDENTS.** (a) For the fiscal year ending June 30, 1988, set-aside money for persons listed in subdivision 3a, clause (2), shall be allocated to the counties based on caseloads of aid to families with dependent children for the preceding fiscal year, as determined by the commissioner. For succeeding fiscal years, the commissioner shall, in cooperation with the director of the higher education coordinating board, develop a formula for allocation of the funds to counties based on the number of AFDC caretakers in each county who are enrolled at post-secondary institutions.

(b) Money allocated in paragraph (a) must be used for child care expenses of AFDC recipients attending post-secondary educational programs, excluding post-baccalaureate programs, and making satisfactory progress towards completion of the program.

(c) Once each quarter the commissioner shall review the use of child care fund allocations under this subdivision by county. The commissioner may reallocate unexpended or unencumbered money among those counties that have expended their full portion for the purposes of this subdivision.

(d) A county may claim federal reimbursement under the AFDC special needs program for money spent for persons listed in subdivision 3a, clause (2). The commissioner shall allocate any federal earnings to the county. The county shall use the money to expand child care sliding fee services ~~to AFDC recipients under the child care sliding fee program~~ under this subdivision.

(e) Recipients of AFDC who have completed their post-secondary education and had received child care funds during that education shall be assured, to the extent of available ~~resources~~ allocations, of sliding fee money for employment programs after graduation if they meet sliding fee program eligibility standards.

Sec. 227. Minnesota Statutes 1987 Supplement, section 268.91, subdivision 3e, is amended to read:

Subd. 3e. **USE OF MONEY.** Money for persons listed in subdivision 3a,

clauses (2) and (3), shall be used to reduce the costs of child care for students, including the costs of child care for students while employed if enrolled in an eligible education program at the same time and making satisfactory progress towards completion of the program. The county may plan for and provided child care assistance to persons listed in subdivision 3a, clauses (2) and (3), from the regular sliding fee fund to supplement the set-aside funds. Financially eligible students ~~provided~~ who have received child care assistance for one academic year shall be provided child care assistance in the following academic year~~, providing they remain financially eligible~~ if funds allocated under subdivision 3c or 3d are available.

Sec. 228. Minnesota Statutes 1987 Supplement, section 268.91, subdivision 4, is amended to read:

Subd. 4. **FINANCIAL ELIGIBILITY.** (a) Child care services must be available to families who need child care to find or keep employment or to obtain the training or education necessary to find employment and who:

(1) receive aid to families with dependent children;

(2) have household income below the eligibility levels for aid to families with dependent children; or

(3) have household income within a range established by the commissioner.

(b) Child care services for the families receiving aid to families with dependent children must be made available as in-kind services, to cover any difference between the actual cost and the amount disregarded under the aid to families with dependent children program. Child care services to families whose incomes are below the threshold of eligibility for aid to families with dependent children, but that are not receiving aid to families with dependent children, must be made available without cost to the families.

(c) Child care services to families with incomes in the commissioner's established range must be made available on a sliding fee basis. The lower limit of the sliding fee range must be the eligibility limit for aid to families with dependent children. The upper limit of the range must be neither less than 70 percent nor more than 90 percent of the state median income for a family of four, adjusted for family size.

(d) If a disproportionate amount of the available money is provided to any one of the groups described in subdivision 4, paragraph (a), the county board shall document to the commissioner the reason the group received a disproportionate share. If a county projects that its child care allocation is insufficient to meet the needs of all eligible groups, it may prioritize among the groups to be served. Counties shall assure that a person receiving child care assistance from the sliding fee program prior to July 1, 1987, continues to receive assistance, providing the person meets all other eligibility criteria. Set-aside money must be prioritized by the state, and counties do not have discretion over the use of this money.

(e) Annual income of the applicant family is the current monthly income of the family multiplied by 12 or the income for the 12-month period immediately preceding the date of application, whichever provides the most accurate assessment of income available to the family. Self-employment income must be calculated based on gross receipts less operating expenses. Income must be redetermined when the family's income changes, but no less often than every six months. Income must be verified with documentary evidence. If the applicant does not have sufficient evidence of income, verification must be obtained from the source of the income.

Sec. 229. Minnesota Statutes 1986, section 268.91, subdivision 7, is amended to read:

Subd. 7. **SLIDING FEE SCALE.** In setting the sliding fee schedule, the commissioner shall exclude from the amount of income used to determine eligibility an amount for federal and state income and social security taxes attributable to that income level according to federal and state standardized tax tables. The commissioner shall base the parent fee on the ability of the family to pay for child care. The fee schedule must be designed to use any available tax credits ~~and to progress smoothly from appropriated assistance to assistance through tax credits~~.

Sec. 230. Minnesota Statutes 1987 Supplement, section 268.91, subdivision 12, is amended to read:

Subd. 12. **FAIR HEARING PROCESS.** ~~(a) Applicants and recipients have the option to request the county to conduct a conciliation conference to attempt to resolve complaints arising from any of the following actions:~~

~~(1) a determination of ineligibility for child care assistance;~~

~~(2) unauthorized termination of child care assistance;~~

~~(3) determination of the factors considered in setting the family fee; and~~

~~(4) income redetermination resulting in change of a family fee.~~

~~(b) The county shall notify the applicant or the recipient, in writing, of any adverse action. The determination described in paragraph (a), clauses (1) and (3), must include written notice of the applicant's or recipient's right to the election described in paragraph (c), where and how to request the election, the time limit within which to make the request, and the reasons for the determination. Notice of the proposed actions described in paragraph (a), clauses (2) and (4), must be mailed to the applicant or recipient at least 15 calendar days before the effective date of the action. The notice must clearly state what action the county proposes to take, the effective date of the proposed action, the reasons for the proposed action, the necessary corrective measures, the option to request either a conciliation conference or an administrative hearing, where and how to make the request, the time limits within which a request must be made, and the consequence of the action.~~

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

~~(c) An applicant or recipient who receives a determination or notice of proposed action under paragraph (b) must mail or deliver either a written notice of request for a conciliation conference to the administering agency or a written notice of request for the hearing specified under paragraph (c) to the administering agency on or before the effective date of the proposed action or the date specified in the notice, or the action will be final.~~

~~(d) The county shall provide a conciliation conference within 30 days of receipt of a written request.~~

~~The county shall give the applicant or recipient ten calendar days' notice of the conference date. The applicant or recipient and the county's representative have the right to appear, to bring witnesses, and to submit documentation. The written request and the resolution, if any, of the conference shall be maintained as part of the official record. The county's representative shall issue a written resolution only if mutual agreement is reached between the county's representative and the applicant or recipient. The resolution must be signed by both parties and issued the same day as the conciliation conference is held. Participating in a conciliation conference or signing a resolution does not constitute a waiver of the right to an administrative hearing.~~

~~An applicant or recipient may, within 15 calendar days of the conference, mail or deliver a written request to the administering agency for an administrative hearing. Unless an appeal is requested, a determination, proposed action, or resolution of a conciliation conference will be final after the 15-day period has passed.~~

~~(e) A fair hearing shall be conducted in the manner prescribed by section 268.10, subdivision 3. A right to review will be provided in accordance with section 268.10, subdivision 5. The proposed action will not take effect until the appeal is decided by the administrative hearing process.~~

(a) An applicant or recipient adversely affected by a county agency action may request a fair hearing in accordance with section 256.045, subdivision 3.

(b) The county agency shall offer an informal conference to applicants and recipients adversely affected by an agency action to attempt to resolve the dispute. The county agency shall advise adversely affected applicants and recipients that a request for a conference with the agency is optional and does not delay or replace the right to a fair hearing.

Sec. 231. Minnesota Statutes 1986, section 268.911, subdivision 3, is amended to read:

Subd. 3. **PROGRAM SERVICES.** The commissioner may make grants to public or private nonprofit entities to fund child care resource and referral programs. Child care resource and referral programs must serve a defined geographic area.

(a) Each program shall identify all existing child care services through information provided by all relevant public and private agencies in the areas of service, and shall develop a resource file of the services which shall be maintained and updated at least quarterly. These services must include family day care homes; public and private day care programs; full-time and part-time programs; infant, preschool, and extended care programs; and programs for school age children.

The resource file must include: the type of program, hours of program service, ages of children served, fees, location of the program, eligibility requirements for enrollment, and transportation available to the program. The file may also include program information and special needs services.

(b) Each program shall establish a referral process which responds to parental need for information and which fully recognizes confidentiality rights of parents. The referral process must afford parents maximum access to all referral information. This access must include telephone referral available for no less than 20 hours per week.

Each child care resource and referral agency shall publicize its services through popular media sources, agencies, employers, and other appropriate methods.

(c) Each program shall maintain ongoing documentation of requests for service. All child care resource and referral agencies must maintain documentation of the number of calls and contacts to the child care information and referral agency or component. A program may collect and maintain the following information:

(1) ages of children served;

(2) time category of child care request for each child;

(3) special time category, such as nights, weekends, and swing shift; and

(4) reason that the child care is needed.

(d) Each program shall have available the following information as an educational aid to parents:

(1) information on aspects of evaluating the quality and suitability of child care services, including licensing regulation, financial assistance available, child abuse reporting procedures, appropriate child development information;

(2) information on available parent, early childhood, and family education programs in the community.

(e) A program may provide technical assistance to existing and potential providers of all types of child care services and employers. This assistance shall include:

(1) information on all aspects of initiating new child care services including licensing, zoning, program and budget development, and assistance in finding information from other sources;

(2) information and resources which help existing child care providers to maximize their ability to serve the children and parents of their community;

(3) dissemination of information on current public issues affecting the local and state delivery of child care services;

(4) facilitation of communication between existing child care providers and child-related services in the community served; ~~and~~

(5) recruitment of licensed providers; and

(6) options, and the benefits available to employers utilizing the various options, to expand child care services to employees.

Services prescribed by this section must be designed to maximize parental choice in the selection of child care and to facilitate the maintenance and development of child care services and resources.

(f) Child care resource and referral information must be provided to all persons requesting services and to all types of child care providers and employers.

(g) Public or private entities may apply to the commissioner for funding. The maximum amount of money which may be awarded to any entity for the provision of service under this subdivision is $60,000 per year. A local match of up to 25 percent is required.

Sec. 232. Minnesota Statutes 1986, section 326.371, is amended to read:

326.371 **BAN ON LEAD IN PLUMBING.**

Lead pipe, solders, and flux containing more than 0.2 percent lead, and pipes and pipe fittings containing more than eight percent lead shall not be used in any plumbing installation which conveys a potable water supply. A Minnesota seller of lead solder, except for a seller whose primary business is contracting in plumbing, heating, and air conditioning, shall not sell any solder containing 0.2 percent lead unless the seller displays a sign which states,

"Contains Lead

Minnesota law prohibits the use of this solder in any plumbing installation which is connected to a potable water supply."

Sec. 233. Minnesota Statutes 1987 Supplement, section 326.73, is amended to read:

326.73 **EMPLOYEE ASBESTOS CERTIFICATIONS.**

Before an employee performs asbestos-related work, the employee shall first obtain a certificate from the commissioner certifying that the employee is qualified to perform the work. No certificate shall be issued unless the employee has shown evidence of training or experience in the general commercial building construction trades, has taken a course of training in asbestos control and removal, passed an examination in those subjects, and demonstrated to the commissioner the ability to perform asbestos-related work safely in accordance with the current state-of-the-art technology. The commissioner shall specify the course of training necessary. The certificate issued by the commissioner shall be in writing, be dated when issued, contain an expiration date, be signed by the commissioner, and contain the name and address of the employee to whom it is issued. The certificate shall be carried by the employee and be readily available for inspection by the commissioner, other public officials charged with the health, safety, and welfare of the state's citizens, and the contracting entity.

Sec. 234. Minnesota Statutes 1986, section 462A.05, is amended by adding a subdivision to read:

Subd. 29. **HOUSING GRANTS FOR HOMELESS INDIVIDUALS.** The agency may provide grants to eligible mortgagors for the purpose of purchasing, rehabilitating, and constructing housing for homeless individuals as defined in section 268.0111, subdivision 4a. The agency may determine the conditions, if any, under which all or a portion of the grant will be repaid and appropriate security, if any, for repayment of the grant. In establishing this grant program, the agency must consult the commissioner of jobs and training. The applicant must consult with advocates for the homeless, representatives from neighborhood groups and representatives of labor organizations in preparing the proposal.

Grants awarded under this section may not exceed $25,000 per residential unit. Priority must be given to viable proposals with the lowest total cost. Applicants must consider the use of donated or leased, abandoned or empty dwellings owned by a public entity including, but not limited to, a housing redevelopment authority, community development authority, public housing authority, the federal Department of Housing and Urban Development, or the Farmers Home Administration. Any residential unit purchased, rehabilitated, or constructed under this section must be allocated in the following order:

(1) homeless families with at least one dependent,

(2) other homeless individuals,

(3) other very low income families or individuals whose incomes are equal to or less than 30 percent of the median income for the Minneapolis-St. Paul metropolitan area, and

(4) families or individuals that receive public assistance and do not qualify in any other priority group.

Proposals must include a plan for (a) maintaining the ownership of the property and managing the dwelling for rental to homeless individuals and families and very low income families; (b) selling rehabilitated dwellings to homeless individuals and families or very low income families; or (c) selling, leasing, or conveying to organizations that will manage the dwelling for rental to homeless individuals and families and very low income families. These organizations may include organizations awarded grants under section 268.39. The homeless individuals or families or very low income families that may purchase dwellings under (b) must have incomes that are equal to or less than 30 percent of the median income for the Minneapolis-St. Paul metropolitan area.

Eligible mortgagors must demonstrate that the grants awarded under this section will not exceed 50 percent of the project's total cost. A project's total cost includes, but is not limited to, acquisition costs, rehabilitation costs, and related costs. In cases where the property is donated, the acquisition costs are the prerehabilitated estimated market value as established for property tax purposes. Donated property may be used to satisfy the match requirement.

Sec. 235. Minnesota Statutes 1986, section 462A.21, is amended by adding a subdivision to read:

Subd. 14. It may make housing grants for homeless individuals as provided in section 462A.05, subdivision 29, and may pay the costs and expenses for the development and operation of the program.

Sec. 236. Minnesota Statutes 1986, section 609.72, subdivision 1, is amended to read:

Subdivision 1. Whoever does any of the following in a public or private place, knowing, or having reasonable grounds to know that it will, or will tend to, alarm, anger or disturb others or provoke an assault or breach of the peace, is guilty of disorderly conduct, which is a misdemeanor:

(1) Engages in brawling or fighting; or

(2) Disturbs an assembly or meeting, not unlawful in its character; or

(3) Engages in offensive, obscene, or abusive language or in boisterous and noisy conduct tending reasonably to arouse alarm, anger, or resentment in others.

A person does not violate this section if the person's disorderly conduct was caused by an epileptic seizure.

Sec. 237. Minnesota Statutes 1986, section 611A.32, is amended by adding a subdivision to read:

Subd. 1a. **PROGRAM FOR AMERICAN INDIAN WOMEN.** The commissioner shall establish at least one program under this section to provide emergency shelter services and support services to battered American Indian women. The commissioner shall grant continuing operating expenses to the program established under this subdivision in the same manner as operating expenses are granted to programs established under subdivision 1.

Sec. 238. Laws 1984, chapter 654, article 5, section 57, subdivision 1, as amended by Laws 1987, chapter 75, section 1, is amended to read:

Subdivision 1. **RESTRICTED CONSTRUCTION OR MODIFICATION.** Through June 30, 1990, the following construction or modification may not be commenced:

(1) any erection, building, alteration, reconstruction, modernization, improvement, extension, lease, or other acquisition by or on behalf of a hospital that increases the bed capacity of a hospital, relocates hospital beds from one physical facility, complex, or site to another, or otherwise results in an increase or redistribution of hospital beds within the state; and

(2) the establishment of a new hospital.

This section does not apply to:

(1) construction or relocation within a county by a hospital, clinic, or other health care facility that is a national referral center engaged in substantial programs of patient care, medical research, and medical education meeting state and national needs that receives more than 40 percent of its patients from outside the state of Minnesota;

(2) a project for construction or modification for which a health care facility held an approved certificate of need on May 1, 1984, regardless of the date of expiration of the certificate;

(3) a project for which a certificate of need was denied prior to the date of enactment of this act if a timely appeal results in an order reversing the denial;

(4) a project exempted from certificate of need requirements by Laws 1981, chapter 200, section 2;

(5) a project involving consolidation of pediatric specialty hospital services within the Minneapolis-St. Paul metropolitan area that would not result in a net increase in the number of pediatric specialty hospital beds among the hospitals being consolidated;

(6) a project involving the temporary relocation of pediatric-orthopedic hospital beds to an existing licensed hospital that will allow for the reconstruction of a new philanthropic, pediatric-orthopedic hospital on an existing site and that will not result in a net increase in the number of hospital beds. Upon completion of the reconstruction, the licenses of both hospitals must be reinstated at the capacity that existed on each site prior to the relocation;

(7) the relocation or redistribution of hospital beds within a hospital building or identifiable complex of buildings provided the relocation or redistribution does not result in: (i) an increase in the overall bed capacity at that site; (ii) relocation of hospital beds from one physical site or complex to another, or (iii) redistribution of hospital beds within the state or a region of the state; ~~or~~

(8) relocation or redistribution of hospital beds within a hospital corporate system that involves the transfer of beds from a closed facility site or complex to an existing site or complex provided that: (i) no more than 50 percent of the capacity of the closed facility is transferred; (ii) the capacity of the site or complex to which the beds are transferred does not increase by more than 50 percent; (iii) the beds are not transferred outside of a federal health systems agency boundary in place on July 1, 1983; and (iv) the relocation or redistribution does not involve the construction of a new hospital building; or

(9) a construction project involving up to 35 new beds in a psychiatric hospital in Rice county that primarily serves adolescents and that receives more than 70 percent of its patients from outside the state of Minnesota.

Sec. 239. Laws 1987, chapter 337, section 131, is amended to read:

Sec. 131. **REPEALER.**

Minnesota Statutes 1986, sections 62A.12; and 67A.43, subdivision 3, are repealed.

Minnesota Rules, parts 2700.2400; 2700.2410; 2700.2420; 2700.2430; and 2700.2440, are repealed.

~~Section 123 is repealed effective July 1, 1988, if the project implementation phase has not begun by that date.~~

Sec. 240. Laws 1987, chapter 403, article 1, section 4, subdivision 4, is amended to read:

Subd. 4. Community Services

$ 1,921,000	$ 1,520,000

Of this appropriation, $200,000 the first year and $200,000 the second year are to provide for the local storage, transportation, processing, and distribution of United States Department of Agriculture surplus commodities. The department of jobs and training shall report on the surplus commodities program to the state legislature by January 15 of each year.

Notwithstanding any law to the contrary, for the biennium ending June 30, 1989, the commissioner of jobs and training shall transfer to the community services block grant program ten percent of the money received under the low-income home energy assistance block grant

in each year of the biennium and shall expend all of the transferred money during the year of the transfer or the year following the transfer. ~~None of the transferred money may be used by the commissioner of jobs and training for administrative costs, except that up to two~~ Up to 3.75 percent of the transferred money may be used by the commissioner of jobs and training for administrative costs, except that up to 4.25 percent of the funds used to supplement the federal funding for Project Head Start may be used for administrative costs.

Twenty-five percent of the money transferred by the commissioner of jobs and training from the low-income home energy assistance block grant to the community services block grant shall be used to supplement the federal funding of Project Head Start for children from low-income families. Notwithstanding any law to the contrary, these transferred funds shall be allocated through the existing Project Head Start formula to existing Project Head Start grantees for the purpose of expanding services to additional low-income families. The transferred funds shall be expended according to the federal regulations governing Project Head Start, including Code of Federal Regulations, title 45, sections 1302 through 1305. Each local Project Head Start shall expend the supplemental funds during the year of their receipt or the year following their receipt.

The commissioner of jobs and training shall prepare an annual report to the legislature describing the uses and impacts of the Project Head Start supplemental funding. The first annual report shall be delivered to the appropriate committees of the legislature on January 1 following the first full school year for which supplemental funding is available.

For the biennium ending June 30, 1989, the commissioner of jobs and training shall shift to the low-income home weatherization program at least five percent of money received under the low-income home energy assistance block grant in each year of the biennium and shall expend all of the transferred funds during the year of the transfer or the year following the transfer. ~~None~~ Up to 1.63 percent of the transferred money may be used by the commissioner of jobs and training for administrative costs.

To the extent allowed by federal regulations, the commissioner of jobs and training shall ensure that the same income eligibility criteria apply to both the weatherization program and the energy assistance program.

For the biennium ending June 30, 1989, no more than ~~1.11 percent of funds received under the total low-income home energy assistance program may be used by the commissioner for departmental administrative costs~~ 1.63 percent of funds remaining under the low-income home energy assistance program after transfers to community services block grants and the weatherization program may be used by the department for administrative costs.

Discretionary money from the community services block grant (regular) must be used to supplement the appropriation for local storage, transportation, processing, and distribution of United States Department of Agriculture surplus commodities to the extent supplementary funding is required. Any remaining funds shall be allocated to state-designated and state-recognized community action agencies, Indian reservations, and the Minnesota migrant council.

In the event that the federal office of community services does not recognize the Olmsted and Freeborn county community action agencies as eligible entities for full funding, the commissioner shall provide full funding for those agencies from discretionary funds resulting from block grant transfers to the community services block grant. The balance of these funds may be used by the commissioner for discretionary purposes consistent with federal community services block grant guidelines stated in Public Law Number 97-35. The commissioner shall by January 1, 1988, report to the legislature on the use of these funds.

The commissioner shall by January 1, 1988, provide to the chairs of the health and human services divisions of the house appropriations committee and the senate finance committee a written plan describing how the department's division of community services will issue one contract for human service programs, with the community action agencies, the Indian reservations, and the Minnesota migrant council, including but not limited to, the community services block grant program, the low-income home weatherization program, the low-income energy assistance program, the USDA Surplus Commodities Program, and all other programs for which the division has contractual responsibility.

Sec. 241. Laws 1987, chapter 403, article 2, section 34, is amended to read:

Sec. 34. **[245.48] MAINTENANCE OF EFFORT.**

Counties must continue to spend for mental health services, according to generally accepted budgeting and accounting principles, an amount equal to the total expenditures shown in the county's approved 1987 Community Social Services Act plan under "State CSSA, Title XX and County Tax" for services to persons with mental illness plus the ~~total~~ comparable figure for Rule 5 facilities under target populations other than mental illness in the approved 1987 CSSA plan.

Sec. 242. Laws 1987, chapter 403, article 4, section 13, is amended to read:

Sec. 13. **STUDY AND REPORT.**

(a) The interagency board for quality assurance shall study the following issues and report to the legislature by December 15, 1988, on its findings and recommendations:

(1) the advisability of changing the definition of "hardship" for purposes of the nursing home moratorium;

(2) the advisability of defining the need for nursing home beds in terms of the population aged 75 and older; and

(3) the existence of a geographic maldistribution of long-term care beds and alternative care services in the state.

(b) In addition to the issues in paragraph (a), the interagency board shall study and make recommendations concerning the policy and fiscal impact of the changes made in Public Law Number 100-203 relating to the elimination of the intermediate care facility certification level in 1990. The interagency board shall consider at least the following: the need for continuation of the services currently offered by certified boarding care home beds, the need for additional beds in state licensed nursing homes, the fiscal impact associated with the reconstruction or replacement of facilities that do not meet nursing home standards, the costs of establishing an alternative funding source for the payment of services currently provided in these facilities, and the need to promulgate licensure standards. If the interagency board recommends that facilities be licensed as nursing homes, the interagency board shall recommend specific procedures for the granting of the licenses and identify methods for the licensing or funding of facilities that may be considered out of compliance with federal law on October 1, 1990. The board shall provide recommendations to the legislature for legislative changes that are necessary to implement the board's recommendations. The costs associated with the board's recommendations must be provided to the commissioner of human services and included in the medical assistance forecast and the agency budget requests for the biennium ending June 30, 1991.

Sec. 243. **MEDICAL ASSISTANCE; QUALIFIED OCCUPATIONAL THERAPIST.**

Notwithstanding Minnesota Rules, part 9500.1070, subpart 13, item B, for purposes of medical assistance reimbursement, the term "qualified occupational therapist" includes a person who:

(1) has completed an occupational therapy educational program in a foreign school approved by the World Federation of Occupational Therapists;

(2) has at least ten years' experience working as a paid occupational therapist in the United States; and

(3) is eligible to write the national certification examination administered by the American Occupational Therapy Association for registration as an occupational therapist.

Sec. 244. **NURSING HOME SPECIAL ASSESSMENT FOR SEWER RENTAL.**

Notwithstanding contrary provisions of Minnesota Statutes, section 256B.431, for purposes of determining the amount of a reported actual special assessment to be included in a nursing home's operating cost, the commissioner of human services shall include an expense charged to a nursing home by the municipality of Minneota through a sewer rental charge assessed against the nursing home for a wastewater treatment facility.

Sec. 245. **REPORT ON HOSPITAL-ATTACHED NURSING HOME PROPERTY PAYMENTS.**

The commissioner of human services shall study property-related payments for hospital-attached nursing homes and report to the legislative commission on long-term health care by February 1, 1989, with recommendations on appropriate cost allocation methods to be used for property-related reimbursement.

Sec. 246. **MEDICAL SCREENING.**

Subdivision 1. **SCREENINGS.** The commissioner of health shall conduct a medical screening of a sample of people and family members of people who were employed at the Conwed Corporation plant in Cloquet, Minnesota, from January 1, 1958 to December 31, 1974. The purpose of the screening is to study the existence of asbestos-related diseases among people employed at the plant during that time, evaluate their health care needs, and provide medical and scientific data to coordinate future health screening, counseling, and treatment activities among these people and their families.

Subd. 2. **EXPERTS.** The commissioner of health may contract with local, state, or nationally recognized experts in the diagnosis and treatment of asbestos-related diseases for medical examinations of workers, scientific evaluations of data and consultations on the screening results.

Subd. 3. **REPORT AND RECOMMENDATIONS.** The commissioner of health shall present a report and recommendations to the legislature on or before March 1, 1989, based on the findings of the medical screenings specified above. The report shall address, but not be limited to:

(1) the actual and estimated extent and risks of asbestos-related disease among the people screened;

(2) the types of counseling and prevention services that the people screened may need and the methods of administering the services; and

(3) the estimated cost and effectiveness of screening, counseling, and pre-

ventive services for people described in subdivision 1 who were not included in the sample of people screened.

Sec. 247. **[157.045] INCREASE IN FEES.**

For licenses issued for 1989 and succeeding years, the commissioner of health shall increase license fees for facilities licensed under chapters 157 and 327 to a level sufficient to recover all expenses related to the licensing, inspection, and enforcement activities prescribed in those chapters. In calculating the fee increase, the commissioner shall include the salaries and expenses of 5.5 new positions required to meet the inspection frequency prescribed in Minnesota Statutes, section 157.04. Fees collected must be deposited in the special revenue account.

Sec. 248. **LOCAL INCOME ASSISTANCE FROM FEDERAL FOOD STAMPS.**

To the extent of available appropriations, the commissioner of human services shall contract with community outreach programs to encourage participation in the food stamp program of seniors, farmers, veterans, unemployed workers, low-income working heads of households, battered women residing in shelters, migrant workers, families with children, and other eligible individuals who are homeless. For purposes of this section, "homeless" means that the individual lacks a fixed and regular nighttime residence or has a primary nighttime residence that is:

(1) a publicly supervised or privately operated shelter, including a welfare hotel or congregate shelter, designed to provide temporary living accommodations;

(2) an institution that provides a temporary residence for individuals who will be institutionalized;

(3) a temporary accommodation in the residence of another individual; or

(4) a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

The commissioner shall seek federal reimbursement for state money used for grants and contracts under this section. Federal money received is appropriated to the commissioner for purposes of this section. The commissioner shall convene an advisory committee to help establish criteria for awarding grants, to make recommendations regarding grant proposals, to assist in the development of training and educational materials, and to participate in the evaluation of grant programs. The grantees shall provide training for program workers, offer technical assistance, and prepare educational materials. Grantees must demonstrate that grants were used to increase participation in the food stamp program by creating new outreach activities, and not by replacing existing activities. No more than five percent of the appropriation for community outreach programs shall be used by the commissioner for the department's administrative costs.

The rulemaking requirements of Minnesota Statutes, chapter 14 do not apply to the procedures used by the commissioner to request and evaluate grant proposals and to award grants and contracts under this section. Distribution of grant money must begin within three months after any transfer of funds from the commissioner of health to the commissioner of human services.

Sec. 249. **HEALTHSPAN IMPLEMENTATION PLAN.**

The commissioner of human services, in consultation with the commissioners of health and commerce, shall develop a plan to implement the healthspan program to provide health coverage to uninsured individuals. The plan must include at least the following:

(1) estimates of the number of people eligible for the program, the expected number of individuals who will enroll, and the costs of the program;

(2) a description of benefits to be offered;

(3) recommendations for methods to determine eligibility and collect premiums;

(4) strategies for contracting and marketing;

(5) strategies to preserve and enhance employer participation in the provision of health care coverage;

(6) strategies to coordinate or merge the program with health care programs such as general assistance medical care, the university hospital papers program at the University of Minnesota hospitals, Minnesota comprehensive health association, medical assistance, Medicare, the catastrophic health expense protection program, the children's health plan, and other similar programs;

(7) timelines for implementing the program, with specific implementation plans for the 1989-1991 biennium;

(8) methods of financing the program; and

(9) recommendations for legislation to implement the program.

The commissioner shall report to the legislature by January 1, 1989, on options to implement the program.

Sec. 250. **TRANSFER FOR ENVIRONMENTAL LABORATORY CERTIFICATION PROGRAM.**

An amount equal to the appropriation from the special revenue fund to the commissioner of health for implementation of the environmental laboratory certification program must be transferred from the laboratory certification account to the special revenue fund by June 30, 1992.

Sec. 251. **DEMONSTRATION PROJECT.**

The commissioner of human services shall establish a demonstration project to increase the independence of people with epilepsy by providing training in independent living. The commissioner shall award a grant for the demonstration project to a nonresidential program that provides medical monitoring and living skills training to people with epilepsy who live independently. The grant awarded under this section must be used for salaries, administration, transportation, and other program costs. The developmental disabilities planning section of the state planning agency shall consult with the commissioner of human services and shall evaluate the effectiveness of the epilepsy demonstration project in increasing independence of the people with epilepsy who are served by the project. By December 1, 1989, the developmental disabilities planning section shall present a report to the legislature with the evaluation and a recommendation on whether there is a need to continue or expand the program.

Sec. 252. **PURPOSE FOR MINNESOTA INSTITUTE FOR ADDICTION AND STRESS RESEARCH.**

To place Minnesota in a leadership role for neurobiological research of addictive disorders and stress-related diseases, the legislature finds it necessary to establish a research institute dedicated to clinical and basic scientific investigation of addictive disorders and stress-related diseases. Because of the critical relationship between addictive and stress-related disorders, the institute will study the neurobiological origins of stress and will investigate and develop therapies for other stress-related medical disorders that are not responsive to available medical therapies. Regarding addictive disorders, the institute's primary objective is to develop and test new scientifically based therapy to reduce the rate of recidivism in the addicted population and lower the costs of therapy. Furthermore, the institute will stimulate and attract significant new research activity to Minnesota.

Sec. 253. **LEAD CONTAMINATION; DEMONSTRATION PROJECTS.**

The department of health shall fund and participate in a two-year demonstration project to be undertaken by an organization serving a population at risk from lead contamination to monitor blood lead levels in pregnant women, provide information to pregnant patients about how to avoid high blood lead levels, and to provide intervention for pregnant patients whose blood lead levels exceed 12 micrograms per deciliter. The purpose of the project is to establish an effective prototype method of monitoring, education, and intervention to prevent or reduce high blood lead levels in pregnant women. By November 1, 1990, the center and the department shall report to the legislature on the outcome of the project.

The department shall also fund a project for the purpose of demonstrating the impact on blood lead levels in children, of soil, dust, paint, and interior and exterior lead cleanup and use of educational materials on proper handling of lead paint removal and cleanup. The project must be undertaken by a community based organization and must include:

(1) neighborhood involvement and an educational community outreach component;

(2) a cost-benefit analysis;

(3) planning for a centrally located information and educational center to serve the community; and

(4) a final evaluation on the effectiveness of the project based on routes of exposure, statistical design of the project, and geographical distribution. The project must include cleanup of lead contamination in a targeted portion of a neighborhood with known lead contamination. Cleanup includes soil removal and replacement, landscaping and removal of loose paint. The department shall test children who reside in the project area before cleanup and one year following cleanup for blood lead levels. The evaluation required as part of the project must be presented to the legislature by January 1, 1990.

Sec. 254. **REVIEW OF SMALL HOSPITAL RATES.**

The commissioner of human services shall, in conjunction with hospitals, review the adequacy of reimbursement for catastrophic cases for hospitals described in section 140, paragraph (c), in light of changes in case mix from the base year.

Sec. 255. **STUDY OF RURAL HOSPITALS.**

The commissioner of health shall study the rural hospital system in the state and report to the legislature by February 1, 1989, with a description of the financial condition of rural hospitals, including the identification of regions in the state where the closing of a financially distressed hospital will result in access problems for rural residents.

Sec. 256. **ALTERNATIVE CARE GRANTS PILOT PROJECTS.**

Subdivision 1. **SELECTION OF PROJECTS.** The commissioner of human services shall establish pilot projects to demonstrate the feasibility and cost-effectiveness of alternatives to nursing home care that involve providing coordinated alternative care grant services for all eligible residents in an identified apartment building or complex or other congregate residential setting. The commissioner shall solicit proposals from counties and shall select up to four counties to participate, including at least one metropolitan county and one county in greater Minnesota. The commissioner shall select counties for participation based on the extent to which a proposed project is likely to:

(1) meet the needs of low-income, frail elderly;

(2) enable clients to live as independently as possible;

(3) result in cost-savings by reducing the per person cost of alternative care grant services through the efficiencies of coordinated services; and

(4) facilitate the discharge of elderly persons from nursing homes to less restrictive settings or delay their entry into nursing homes.

Participating counties shall use existing alternative care grant allocations to pay for pilot project services. The counties must contract with a medical assistance-certified home care agency to coordinate and deliver services and must demonstrate to the commissioner that quality assurance and auditing systems have been established. Notwithstanding Minnesota Statutes, section 256B.091, and rules of the commissioner of human services relating to the alternative care grants program, the commissioner may authorize pilot projects to use pre-capitated rates; to provide expanded services such as chore services, activities, and meal planning, preparation, and serving; and to waive freedom of choice of vendor to the extent necessary to allow one vendor to provide services to all eligible persons in a residence or building. The commissioner may apply for a waiver of federal requirements as necessary to implement the pilot projects.

Subd. 2. **ELIGIBLE INDIVIDUALS.** An individual is eligible to receive project services if the individual:

(1) is receiving medical assistance or would be eligible for medical assistance within 180 days after admission to a nursing home;

(2) is residing in a nursing home or is at risk of nursing home placement;

(3) is able to direct his or her own care;

(4) has been prescreened by the county for eligibility and for appropriateness of service; and

(5) is otherwise eligible for alternative care grant services.

Subd. 3. **REPORT.** The commissioner shall monitor and evaluate the pilot projects and report to the legislature by January 31, 1991. The report must address at least the following:

(1) the extent to which each pilot project succeeded in moving elderly persons out of nursing homes into less restrictive settings or in delaying placement in a nursing home;

(2) the ability of each project to target low-income, frail elderly;

(3) the cost-effectiveness of each project, including the financial impact on the resident, the state, and the county;

(4) the success of each project in meeting other goals established by the commissioner; and

(5) recommendations on whether the pilot projects should be continued or expanded.

Sec. 257. **FEASIBILITY STUDY FOR HABILITATION SERVICES.**

The commissioner of human services, in consultation with the commissioner of jobs and training, shall study the feasibility of providing medical assistance reimbursement to work activity programs for training and habilitative services provided to participants. The commissioner shall report the findings to the legislature by December 1, 1988. For the purposes of this section, a work activity program is as defined in section 129A.01.

Sec. 258. **REPORT ON INTERMEDIATE CARE FACILITY RATES.**

The commissioner of human services shall report to the legislature by February 1, 1989, on the status of rulemaking to establish a new rate system for payments to intermediate care facilities for persons with mental retardation and related conditions, including a description of the proposed rules and an estimate of their fiscal impact.

Sec. 259. **STUDY OF MEDICAL ASSISTANCE PAYMENTS FOR SWING BED CARE.**

The interagency board for quality assurance shall include in its report on nursing home bed distribution required under Laws 1987, chapter 403, article 4, section 13, a recommendation on whether medical assistance payments for swing bed care should continue beyond June 30, 1990.

Sec. 260. **REPORT ON HUMAN IMMUNODEFICIENCY VIRUS TESTING.**

The commissioner of health shall submit a report to the legislature by February 15, 1989, that:

(1) identifies existing quality controls and standards for laboratories that perform human immunodeficiency virus testing and specifies whether additional quality assurance measures are needed to ensure accurate test results; and

(2) identifies the level of counseling and education that is occurring for individuals who are tested for the human immunodeficiency virus and specifies whether additional measures are needed to ensure that individuals tested for the human immunodeficiency virus are adequately counseled about the meaning of the test, test results, and steps the individual should take to protect the individual and others from infection.

Sec. 261. **CHILD CARE SERVICES STUDY.**

The commissioner of human services shall study the existing public and private funding sources for child care services and the development of child care services, including the AFDC special needs program, the sliding fee child care program, the maternal and child nutrition program, county funding, Title XX funding, and private foundation, corporate, community social services act, or nonprofit funding to child care services providers and parents. The study shall determine the extent to which:

(i) individual funding sources meet existing needs and what level of funding comes from each source;

(ii) the need for subsidized child care services for low-income parents is being met;

(iii) present funding mechanisms are efficient or can be made more efficient;

(iv) alternative or improved methods may encourage private funding for child care services;

(v) the funding level has an impact on availability of child care facilities; and

(vi) child care reimbursement rates are meeting actual costs for quality child care.

The commissioner shall report the results of the study, together with any proposed legislation to implement study recommendations, to the legislature by January 1, 1990.

Sec. 262. **CHILD CARE INFORMATION NUMBER.**

By January 1, 1989, the council on children, youth, and families shall study and report to the legislature on the need for and the feasibility of a toll-free number to provide information and technical assistance to parents, child care providers, and potential child care providers. The study shall include an assessment of need, cost, and potential impact.

Sec. 263. **FARIBAULT REGIONAL CENTER.**

Subdivision 1. **TASK FORCE.** The commissioner of the state planning agency shall appoint a 13-member task force to develop a plan to expand the use of the Faribault regional center. The task force shall include four community representatives and one representative from each of the following entities: Faribault regional center, Faribault Technical Institute, Faribault public schools, Academies for the Deaf and Blind, Wilson Center, Rice county, city of Faribault, Rice county district No. 1 hospital, and the department of human services.

Subd. 2. **DUTIES OF COMMISSIONER.** The commissioner of the state planning agency shall provide a grant for a Faribault community task force to develop a plan for the future use of Faribault regional center. The plan must assess the feasibility of providing educational services, nonresidential services, and care to a number of populations including, but not limited to, adolescents, veterans, and people who have developmental disabilities, chemical dependency, mental illness, or communicable diseases.

Subd. 3. **REPORT.** The Faribault community task force must report the plan to the chairs of the health and human services committees of the house of

representatives and senate by November 1, 1988. The report must include a list of recommended services to be provided at Faribault regional center and must evaluate each recommendation.

Sec. 264. **STUDY OF MANAGED CARE FOR MEDICAL ASSISTANCE AND GENERAL ASSISTANCE MEDICAL CARE RECIPIENTS.**

Subdivision 1. **STUDY.** The commissioner of human services shall study the utilization patterns of individuals in the medical assistance and general assistance medical care programs. The study will examine the applicability and usefulness of focused utilization review, case management services, and other managed care approaches to all or parts of these populations.

Subd. 2. **FORMATION OF TASK FORCE.** The commissioner shall convene a task force composed of representatives from expert and interested parties to advise and assist the commissioner with the study in subdivision 1. The task force shall include, at a minimum, representatives from the provider community, recipient groups, the departments of health and finance, and the University of Minnesota. The analysis will be conducted by staff from the department of human services.

Subd. 3. **OBJECTIVES.** The specific objectives of the task force shall be determined by the commissioner in consultation with the task force, and shall include at a minimum:

(a) to identify in the state and in selected geographic areas, patterns of utilization of health services, especially high frequency, high-cost use, and possible underutilization.

(b) to recommend interventions and an implementation plan consistent with the goals of the medical assistance and general assistance medical care programs to improve the management of health services to recipients identified as at-risk of inappropriately high or low utilization of care.

Subd. 4. **REPORTING DATE.** The task force shall report its findings and recommendations to the commissioner and the legislature by September 30, 1988.

Sec. 265. **APPROVED COMPLEMENT INCREASED.**

The complement of the office of administrative hearings is increased by one full-time equivalent position.

Sec. 266. **RULES.**

The commissioner of human services may adopt rules to administer and implement the provisions of section 245.836.

Sec. 267. **RULE CHANGES.**

The commissioner of jobs and training shall adopt rule amendments to Minnesota Rules, chapter 3300, including changes in the allocation formula for funds appropriated for extended employment programs, as necessary to effect the changes required by the legislature in sections 129A.01, subdivisions 5, 6, and 7; 129A.02, subdivision 3; 129A.03; 129A.06, subdivision 1; 129A.07, subdivision 1; 129A.08, subdivisions 1, 4, 4a, and 5; 129A.09; and 129A.10.

This rule is exempt from the rulemaking provisions of Minnesota Statutes, chapter 14. The commissioner must comply with Minnesota Statutes, section 14.38, subdivision 7, when adopting this rule amendment.

Sec. 268. **INSTRUCTION TO REVISOR.**

(a) In the next edition of Minnesota Statutes, the revisor of statutes shall substitute in chapter 129A the term "rehabilitation facility" for the terms "long-term sheltered workshop," "workshop," or "sheltered workshop" in the form appropriate for the context.

In the next edition of Minnesota Statutes, the revisor of statutes shall substitute in chapter 129A the term "extended employment program participant" for the term "sheltered employee" in the form appropriate for the context.

The revisor shall make the substitutions required by this section in other places in Minnesota Statutes where the terms appear if they refer to the subject matter covered by chapter 129A.

(b) In accordance with Minnesota Statutes 1986, section 3C.10, the revisor of statutes shall renumber section 141, subdivisions 8a to 8y as a new section of Minnesota Statutes, chapter 256B.

The revisor of statutes shall renumber section 144, subdivisions 1j to 1r as a new section of Minnesota Statutes, chapter 256B.

The revisor of statutes shall correct cross-references in Minnesota Statutes and Minnesota Rules consistent with the renumbering.

Sec. 269. **REPEALER.**

Subdivision 1. Minnesota Statutes 1986, sections 144.388; 153A.01; 153A.02; 153A.03; 153A.04; 153A.05; 153A.06; 153A.07; 153A.08; 153A.09; 153A.10; 153A.11; 153A.12; 245.84, subdivision 4; 245.86; 245.87; 246.023, subdivisions 2, 3, 4, and 5; and 268.061; Minnesota Statutes 1987 Supplement, sections 129A.01, subdivision 8; 129A.07, subdivision 2; 129A.08, subdivision 3; 148B.04, subdivision 1; and 256B.73, subdivision 10, are repealed. Minnesota Statutes 1986, section 257.071, subdivision 6, is repealed effective July 1, 1989.

Subd. 2. Section 248 is repealed effective July 1, 1990.

Subd. 3. Section 243 is repealed July 1, 1989.

Subd. 4. Section 141, subdivision 8b, is repealed effective July 1, 1990.

Subd. 5. Sections 50 to 54, and 252, are repealed effective July 1, 1991.

Sec. 270. **EFFECTIVE DATE.**

Subdivision 1. Sections 6, 11, 13, and 15 apply to any policy, plan, or contract issued or renewed on or after the date following final enactment.

Subd. 2. Section 14 is effective the day after final enactment except that in the case of a plan maintained under one or more collective bargaining agreements between employee representatives and one or more employers ratified on or before April 7, 1986, section 14 is effective on the earlier of:

(1) the date on which the last of the collective bargaining agreements under which the plan is maintained, which were in effect on April 7, 1986, ends without regard to any extension of the agreement agreed to after April 7, 1986; or

(2) April 7, 1989.

Subd. 3. Section 144, subdivisions 1f and 1m, are effective February 1, 1989.

Subd. 4. Sections 193 to 204 are effective February 1, 1989.

Subd. 5. Sections 16 to 28, 267, and 268 are effective the day following final enactment and apply to allocations of funds appropriated for the extended employment programs administered under Minnesota Statutes, chapter 129A, made after July 1, 1988.

Subd. 6. Sections 29, 32, 33 to 40, 46, 48, 49, 61, 62, 84, 118 to 121, 158, 161, 163 to 168, 170, 178, 222, 238, 242 to 244, 247, 249, and 263 to 265 are effective the day after final enactment.

Subd. 7. Sections 150 and 151 are effective upon receiving approval of the health care financing administration.

Subd. 8. Section 157 is effective, and applies to nursing home rate years that begin on or after, July 1, 1988.

Subd. 9. Section 151 and that portion of section 150 relating to the resource contribution of a spouse are effective upon receiving approval from the health care financing administration.

Approved April 28, 1988