

CHAPTER 407—S.F.No. 3346

An act relating to human services; appropriating money; changing provisions for long-term care, health care programs, and provisions including MA and GAMC, MinnesotaCare, welfare reform, workfirst, compulsive gambling, child welfare modifications and child support, and regional treatment centers; providing administrative penalties; providing for the recording and reporting of abortion data; amending Minnesota Statutes 1996, sections 62A.65, subdivision 5; 62D.042, subdivision 2; 62E.16; 62J.321, by adding a subdivision; 62Q.095, subdivision 3; 144.226, subdivision 3; 144.701, subdivisions 1, 2, and 4; 144.702, subdivisions 1, 2, and 8; 144.9501, subdivisions 1, 17, 18, 20, 23, 30, 32, and by adding subdivisions; 144.9502, subdivisions 3, 4, and 9; 144.9503, subdivisions 4, 6, and 7; 144.9504, subdivisions 1, 3, 4, 5, 6, 7, 8, 9, and 10; 144.9505, subdivisions 1, 4, and 5; 144.9506, subdivision 2; 144.9507, subdivisions 2, 3, and 4; 144.9508, subdivisions 1, 3, 4, and by adding a subdivision; 144.9509, subdivision 2; 144.99, subdivision 1; 144A.04, subdivision 5; 144A.09, subdivision 1; 144A.44, subdivision 2; 145.11, by adding a subdivision; 145A.15, subdivision 2; 157.15, subdivisions 9, 12, 12a, 13, and 14; 214.03; 245.462, subdivisions 4 and 8; 245.4871, subdivision 4; 245A.03, by adding subdivisions; 245A.035, subdivision 4; 245A.14, subdivision 4; 254A.17, subdivision 1, and by adding a subdivision; 256.01, subdivision 12, and by adding subdivisions; 256.014, subdivision 1; 256.969, subdivisions 16 and 17; 256B.03, subdivision 3; 256B.055, subdivision 7, and by adding a subdivision; 256B.057, subdivision 3a, and by adding subdivisions; 256B.0625, subdivisions 7, 17, 19a, 20, 34, 38, and by adding subdivisions; 256B.0627, subdivision 4; 256B.0911, subdivision 4; 256B.0916; 256B.41, subdivision 1; 256B.431, subdivisions 2b, 2i, 4, 11, 22, and by adding subdivisions; 256B.501, subdivisions 2 and 12; 256B.69, subdivision 22, and by adding subdivisions; 256D.03, subdivision 4, and by adding a subdivision; 256D.051, by adding a subdivision; 256D.46, subdivision 2; 256I.04, subdivisions 1, 3, and by adding a subdivision; 256I.05, subdivision 2; 257.42; 257.43; 259.24, subdivision 1; 259.37, subdivision 2; 259.67, subdivision 1; 260.011, subdivision 2; 260.141, by adding a subdivision; 260.172, subdivision 1; 260.221, as amended; 268.88; 268.92, subdivision 4; 609.115, subdivision 9; and 626.556, by adding a subdivision; Minnesota Statutes 1997 Supplement, sections 13.99, by adding a subdivision; 60A.15, subdivision 1; 62D.11, subdivision 1; 62J.69, subdivisions 1, 2, and by adding subdivisions; 62J.71, subdivisions 1, 3, and 4; 62J.72, subdivision 1; 62J.75; 62Q.105, subdivision 1; 62Q.30; 103I.208, subdivision 2; 119B.01, subdivision 16; 119B.02; 123.70, subdivision 10, as amended; 144.1494, subdivision 1; 144.218, subdivision 2; 144.226, subdivision 4; 144.9504, subdivision 2; 144.9506, subdivision 1; 144A.071, subdivision 4a; 144A.4605, subdivision 4; 157.16, subdivision 3; 171.29, subdivision 2; 214.32, subdivision 1; 245A.03, subdivision 2; 245A.04, subdivisions 3b and 3d; 245B.06, subdivision 2; 256.01, subdivision 2; 256.031, subdivision 6; 256.741, by adding a subdivision; 256.82, subdivision 2; 256.9657, subdivision 3; 256.9685, subdivision 1; 256.9864; 256B.04, subdivision 18; 256B.056, subdivisions 1a and 4; 256B.06, subdivision 4; 256B.062; 256B.0625, subdivision 31a; 256B.0627, subdivisions 5 and 8; 256B.0635, by adding a subdivision; 256B.0645; 256B.0911, subdivisions 2 and 7; 256B.0913, subdivision 14; 256B.0915, subdivisions 1d and 3; 256B.0951, by adding a subdivision; 256B.431, subdivisions 3f and 26; 256B.433, subdivision 3a; 256B.434, subdivision 10; 256B.69, subdivisions 2 and 3a; 256B.692, subdivisions 2 and 5; 256B.77, subdivisions 3, 7a, 10, and 12; 256D.03, subdivision 3; 256D.05, subdivision 8; 256F.05, subdivision 8; 256J.02, subdivision 4; 256J.03; 256J.08, subdivisions 11, 26, 28, 40, 60, 68, 73, 83, and by adding subdivisions; 256J.09, subdivisions 6 and 9; 256J.11, subdivision 2, as amended; 256J.12; 256J.14; 256J.15, subdivision 2; 256J.20, subdivisions 2 and 3; 256J.21; 256J.24, subdivisions 1, 2, 3, 4, 7, and by adding subdivisions; 256J.26, subdivisions 1, 2, 3, and 4; 256J.28, subdivisions 1, 2, and by adding a subdivision; 256J.30, subdivisions 10 and 11; 256J.31, subdivisions 5, 10, and by adding a subdivision; 256J.32, subdivisions 4, 6, and by adding a subdivision; 256J.33, subdivisions 1 and 4; 256J.35; 256J.36; 256J.37, subdivisions 1, 2, 9, and by adding subdivisions; 256J.38, subdivision 1; 256J.39, subdivision 2; 256J.395;

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

256J.42; 256J.43; 256J.45, subdivisions 1, 2, and by adding a subdivision; 256J.46, subdivisions 1, 2, and 2a; 256J.47, subdivision 4; 256J.48, subdivisions 2 and 3; 256J.49, subdivision 4; 256J.50, subdivision 5, and by adding subdivisions; 256J.515; 256J.52, subdivision 4, and by adding subdivisions; 256J.54, subdivisions 2, 3, 4, and 5; 256J.55, subdivision 5; 256J.56; 256J.57, subdivision 1; 256J.645, subdivision 3; 256J.74, subdivision 2, and by adding a subdivision; 256K.03, subdivision 5; 256L.01; 256L.02, subdivision 3, and by adding a subdivision; 256L.03, subdivisions 1, 3, 4, 5, and by adding subdivisions; 256L.04, subdivisions 1, 2, 7, 8, 9, 10, and by adding subdivisions; 256L.05, subdivisions 2, 3, 4, and by adding subdivisions; 256L.06, subdivision 3; 256L.07; 256L.09, subdivisions 2, 4, and 6; 256L.11, subdivision 6; 256L.12, subdivision 5; 256L.15; 256L.17, by adding a subdivision; 257.071, subdivision 1d; 257.85, subdivision 5; 259.22, subdivision 4; 259.47, subdivision 3; 259.58; 259.60, subdivision 2; 260.012; 260.015, subdivisions 2a and 29; 260.161, subdivision 2; 260.191, subdivisions 1, 1a, 3a, and 3b; 260.241, subdivision 3; and 270A.03, subdivision 5; Laws 1994, chapter 633, article 7, section 3; Laws 1997, chapter 195, section 5; chapter 203, article 4, section 64; article 9, section 21; chapter 207, section 7; chapter 225, article 2, section 64; and chapter 248, section 46, as amended; proposing coding for new law in Minnesota Statutes, chapters 62J; 62Q; 144; 145; 245; 256; 256B; 256D; and 256J; repealing Minnesota Statutes 1996, sections 62J.685; 144.0721, subdivision 3a; 144.491; 144.9501, subdivisions 12, 14, and 16; 144.9503, subdivisions 5, 8, and 9; 157.15, subdivision 15; 256.031, subdivisions 1, 2, 3, and 4; 256.032; 256.033, subdivisions 2, 3, 4, 5, and 6; 256.034; 256.035; 256.036; 256.0361; 256.047; 256.0475; 256.048; and 256.049; Minnesota Statutes 1997 Supplement, sections 62D.042, subdivision 3; 144.0721, subdivision 3; 256.031, subdivisions 5 and 6; 256.033, subdivisions 1 and 1a; 256B.057, subdivision 1a; 256B.062; 256B.0913, subdivision 15; 256J.25; 256J.28, subdivision 4; 256J.32, subdivision 5; 256J.34, subdivision 5; 256L.04, subdivisions 3, 4, 5, and 6; 256L.06, subdivisions 1 and 2; 256L.08; 256L.09, subdivision 3; 256L.13; and 256L.14; Laws 1997, chapter 85, article 1, sections 61 and 71; and article 3, section 55.

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

ARTICLE 1

APPROPRIATIONS

Section 1. HEALTH AND HUMAN SERVICES APPROPRIATIONS.

The sums shown in the columns marked "APPROPRIATIONS" are appropriated from the general fund, or any other fund named, to the agencies and for the purposes specified in the following sections of this article, to be available for the fiscal years indicated for each purpose. The figures "1998" and "1999" where used in this article, mean that the appropriation or appropriations listed under them are available for the fiscal year ending June 30, 1998, or June 30, 1999, respectively. Where a dollar amount appears in parentheses, it means a reduction of an appropriation.

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

SUMMARY BY FUND

	1998	1999	BIENNIAL TOTAL
General	\$ (139,959,000)	\$ (161,811,000)	\$ (301,770,000)
State Government			
Special Revenue	113,000	231,000	344,000
Health Care Access			
Fund	(3,130,000)	(14,203,000)	(17,333,000)
TOTAL	\$ (142,976,000)	\$ (175,783,000)	\$ (318,759,000)

APPROPRIATIONS
Available for the Year
Ending June 30

1998 1999

Sec. 2. COMMISSIONER OF
HUMAN SERVICES

Subdivision 1. Total

Appropriation \$ (143,089,000) \$ (196,131,000)

Summary by Fund

General	(139,959,000)	(181,669,000)
Health Care Access	(3,130,000)	(14,462,000)

This appropriation is taken from the appropriation in Laws 1997, chapter 203, article 1, section 2.

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

Subd. 2. Children's Grants

-0- 1,618,000

CRISIS NURSERY PROGRAMS. Of this appropriation, \$200,000 in fiscal year 1999 is from the general fund to the commissioner to contract for technical assistance with counties and private nonprofit agencies that are interested in developing a crisis nursery program. The technical assistance must be designed to assist interested counties in building capacity to develop and maintain a crisis nursery program in the county. The grant amounts must not exceed \$20,000. To be eligible to receive a grant under this program, the county must not have an existing crisis nursery program and must not be a metropolitan county, as that term is defined

in Minnesota Statutes, section 473.121. Grants must be distributed by award letters to agencies demonstrating a need for crisis nursery services and documenting community support for these efforts. This appropriation shall not become part of base level funding for the 2000–2001 biennium.

CHILDREN'S MENTAL HEALTH SERVICES.

(a) Of this appropriation, \$300,000 in fiscal year 1999 is from the general fund for the commissioner to award grants to counties that have a relatively low net tax capacity to provide children's mental health services to children and families residing outside of a metropolitan statistical area, as that term is defined by the United States Census Bureau. Funds shall be used to provide services according to an individual family community support plan as described in Minnesota Statutes, section 245.4881, subdivision 4. The plan must be developed using a process that enhances consumer empowerment. Counties with an approved children's mental health collaborative may integrate funds appropriated for fiscal years 1998 and 1999 with existing funds to meet the needs identified in the child's individual family community support plan.

(b) In awarding grants to counties under this provision, the commissioner shall follow the process established in Minnesota Statutes, section 245.4886, subdivision 2. The commissioner shall give priority for funding to counties that continued to spend for mental health services specified in Minnesota Statutes, sections 245.461 to 245.486 and 245.487 to 245.4888, according to generally accepted accounting principles, in an amount equal to the total expenditures shown in the county's approved 1987 CSSA plan for services to persons with mental illness plus the comparable figure for facilities licensed under Minnesota Rules, chapter 9545, for target populations other than mental illness in the county's approved 1989 CSSA plan. The commissioner shall ensure

that grant funds are not used to replace existing funds.

PRIMARY SUPPORT TO IMPLEMENT THE INDIAN FAMILY PRESERVATION ACT. For fiscal year 1998, \$100,000 of federal funds are transferred from the state's federal TANF block grant and added to the state's allocation of federal Title XX block grant funds. Notwithstanding the provisions of Minnesota Statutes 1997 Supplement, section 256E.07, the commissioner shall use \$100,000 of the state's Title XX block grant funds for a grant under Minnesota Statutes, section 257.3571, subdivision 1, to an Indian organization licensed as an adoption agency. The grant must be used to provide primary support for implementation of the Minnesota Indian Family Preservation Act and compliance with the Indian Child Welfare Act. This appropriation must be used according to the requirements of United States Code, title 42, section 604(d)(3)(B). This appropriation is available until June 30, 1999.

ADOPTION ASSISTANCE CARRY-FORWARD. Of the appropriation in Laws 1997, chapter 203, section 2, subdivision 3, for children's grants for fiscal year 1998, \$600,000 of the amount appropriated for the adoption assistance program is available for the same purpose in fiscal year 1999. The amount carried forward shall become part of the base for the adoption assistance program in the 2000-2001 biennial budget.

FAMILY PRESERVATION PROGRAM FUNDING. \$10,200,000 is transferred in fiscal year 1999 from the state's federal TANF block grant to the state's federal Title XX block grant. Notwithstanding the provisions of Minnesota Statutes 1997 Supplement, section 256E.07, in fiscal year 1999 the commissioner shall transfer \$10,000,000 of the state's Title XX block grant funds to the family preservation program under Minnesota Statutes, chapter 256F. The commissioner shall transfer \$200,000 to the commissioner of health for the program under

Minnesota Statutes, section 145A.15, that funds home visiting projects; these transferred funds are available until expended. The commissioners shall ensure that money allocated to counties under this provision must be used in accordance with the requirements of United States Code, title 42, section 604(d)(3)(B). These are one-time appropriations that shall not be added to the base for these programs for the 2000–2001 biennial budget.

Subd. 3. Basic Health Care Grants

(97,529,000) (146,802,000)

Summary by Fund

General	(94,591,000)	(128,833,000)
Health Care Access	(2,938,000)	(17,969,000)

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

(a) Minnesota Care Grants

Health Care Access Fund

(2,938,000) (17,969,000)

SUBSIDIZED FAMILY HEALTH COVERAGE. Of this appropriation, \$500,000 from the health care access fund in fiscal year 1999 is to implement the employer-subsidized health coverage program described in article 5, section 45.

(b) MA Basic Health Care Grants—

Families and Children

General (32,047,000) (65,249,000)

FETAL ALCOHOL SYNDROME MEDICAL ASSISTANCE FEDERAL MATCH. The commissioner shall claim all available federal match under Title XIX for the fetal alcohol syndrome/fetal alcohol effect initiatives. Grants and projects shall be developed which focus treatment on community-based options which consider the availability of federal match.

(c) MA Basic Health Care Grants—
Elderly and Disabled
General (25,643,000) (40,952,000)

(d) General Assistance Medical Care
General (36,901,000) (22,632,000)

PRESCRIPTION DRUG BENEFIT. (a)

If, by September 15, 1998, federal approval is obtained to provide a prescription drug benefit for qualified Medicare beneficiaries at no less than 100 percent of the federal poverty guidelines and service-limited Medicare beneficiaries under Minnesota Statutes, section 256B.057, subdivision 3a, at no less than 120 percent of federal poverty guidelines, the commissioner of human services shall not implement the senior citizen drug program under Minnesota Statutes, section 256.955, but shall implement a drug benefit in accordance with the approved waiver. Upon approval of this waiver, the total appropriation for the senior citizen drug program under Laws 1997, chapter 225, article 7, section 2, shall be transferred to the medical assistance account to fund the federally approved coverage for eligible persons for fiscal year 1999.

(b) The commissioner may seek approval for a higher copayment for eligible persons above 100 percent of the federal poverty guidelines.

(c) The commissioner shall report by October 15, 1998, to the chairs of the health and human services policy and fiscal committees of the house and senate whether the waiver referred to in paragraph (a) has been approved and will be implemented or whether the state senior citizen drug program will be implemented.

(d) If the commissioner does not receive federal waiver approval at or above the level of eligibility defined in paragraph (a), the commissioner shall implement the program under Minnesota Statutes, section 256.955.

HEALTH CARE ACCESS FUND TRANSFERS TO THE GENERAL FUND.

Notwithstanding Laws 1997, chapter 203, article 1, section 2, subdivision 5, the commissioner shall transfer funds from the health care access fund to the general fund to offset the projected savings to general assistance medical care (GAMC) that would result from the transition of GAMC parents and adults without children to MinnesotaCare. For fiscal year 1998, the amount transferred from the health care access fund to the general fund shall be \$13,700,000. The amount of transfer for fiscal year 1999 shall be \$2,659,000.

Subd. 4. Basic Health Care Management
(192,000) 2,448,000

Summary by Fund

General	-0-	25,000
Health Care Access	(192,000)	2,423,000

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

(a) Health Care Policy Administration

General	-0-	25,000
Health Care Access	(192,000)	354,000

DELAY IN TRANSFERRING GAMC CLIENTS.

Due to delaying the transfer of GAMC clients to MinnesotaCare until January 1, 2000, \$192,000 in fiscal year 1998 health care access fund administrative funds, appropriated in Laws 1997, chapter 225, article 7, section 2, subdivision 1, are canceled.

HEALTH CARE MANUAL PRODUCTION COSTS.

For the biennium ending June 30, 1999, the commissioner may charge a fee for the health care manual. The difference between the cost of producing and distributing the department of human services health care manual, and the fees paid by individuals and private entities on January 1, 1998, is appropriated to the commissioner to defray manual production and distribution costs. The commissioner must provide the health care manual to government agencies and nonprofit agencies serving the legal and

social service needs of clients at no cost to those agencies.

TRANSFER. For fiscal years 2000 and 2001, the commissioner of finance shall transfer from the health care access fund to the general fund an amount to cover the expenditures associated with the services provided to pregnant women and children under the age of two enrolled in the MinnesotaCare program. Notwithstanding section 7, this provision expires on July 1, 2001.

FEDERAL CONTINGENCY RESERVE LIMIT. Notwithstanding Minnesota Statutes, section 16A.76, subdivision 2, the federal contingency reserve limit shall be reduced for fiscal years 1999, 2000, and 2001 by the cumulative amount of the expenditures associated with services provided to pregnant women and children enrolled in the MinnesotaCare program in these fiscal years. Notwithstanding section 7, this provision expires on July 1, 2001.

MINNESOTACARE OUTREACH FEDERAL MATCHING FUNDS. Any federal matching funds received as a result of the MinnesotaCare outreach activities authorized by Laws 1997, chapter 225, article 7, section 2, subdivision 1, shall be deposited in the health care access fund and dedicated to the commissioner of human services to be used for those outreach purposes.

(b) Health Care Operations

Health Care Access

-0-

2,069,000

MINNESOTACARE OUTREACH. Unexpended money in fiscal year 1998 for MinnesotaCare outreach activities appropriated in Laws 1997, chapter 225, article 7, section 2, subdivision 1, does not cancel, but is available for those purposes in fiscal year 1999.

Subd. 5. State-Operated Services

-0-

(254,000)

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

(a) RTC Facilities

-0-

700,000

LEAVE LIABILITIES. The accrued leave liabilities of state employees transferred to state-operated community services programs may be paid from the appropriation for state-operated services in Laws 1997, chapter 203, article 1, section 2, subdivision 7, paragraph (a). Funds set aside for this purpose shall not exceed the amount of the actual leave liability calculated as of June 30, 1999, and shall be available until expended. This provision is effective the day following final enactment.

GRAVE MARKERS. Of the \$195,000 retained by the commissioner from the \$200,000 appropriation in Laws 1997, chapter 203, article 1, section 2, subdivision 7, paragraph (a), for grave markers at regional treatment centers, \$29,250 is for community organizing, coordination, fundraising, and administration.

RTC BUILDING AND SPACE ANALYSIS. Of this appropriation, \$50,000 from the general fund in fiscal year 1999 is for the commissioner to conduct an analysis of surplus land and buildings on the regional treatment center campuses and to develop recommendations for future utilization of this property. The commissioner shall report to the legislature by January 15, 1999, with recommendations for an orderly process to sell, lease, demolish, transfer, or otherwise dispose of unneeded buildings and land.

(b) State-Operated Community Services - DD

-0-

(954,000)

Subd. 6. Continuing Care and

Community Support Grants

(36,806,000)

(9,289,000)

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

(a) Community Services Block Grants

130,000

846,000

WILKIN COUNTY FLOOD COSTS. Of this appropriation, \$130,000 for fiscal year

1998 is to reimburse Wilkin county for flood-related human service and public health costs which cannot be reimbursed through any other source.

(b) Aging Adult Service Grants

-0- 250,000

METROPOLITAN AREA AGENCY ON AGING. Of this appropriation, \$100,000 in fiscal year 1999 from the general fund is for the commissioner for the metropolitan area agency on aging to provide technical support and planning services to enable older adults to remain living in the community. This appropriation shall not cancel but is available until expended.* (The preceding text beginning "METROPOLITAN AREA AGENCY ON AGING." was vetoed by the governor.)

HOME SHARING. Of this appropriation, \$150,000 in fiscal year 1999 is from the general fund to the commissioner for the home-sharing program under Minnesota Statutes, section 256.973, which links elderly, disabled, and families together to share a home.

(c) Deaf and Hard-of-Hearing
Services Grants

-0- 234,000

SERVICES FOR DEAF-BLIND PERSONS. Of this appropriation, \$150,000 in fiscal year 1999 is for the following:

(1) \$100,000 for a grant to Deaf Blind Services Minnesota, Inc., in order to provide services to deaf-blind children and their families. The services include providing intervenors to assist deaf-blind children in participating in their community and providing family education specialists to teach siblings and parents skills to support the deaf-blind child in the family.

(2) \$50,000 is for a grant to Deaf Blind Services Minnesota, Inc., and Duluth Lighthouse for the Blind, Inc., in order to provide assistance to deaf-blind persons who are working toward establishing and maintaining independence.

(d) Mental Health Grants

100,000	1,803,000
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DD CRISIS INTERVENTION PROJECT. Of this appropriation, \$125,000 in fiscal year 1999 is from the general fund to the commissioner for start-up operating and training costs for the action, support, and prevention project of southeastern Minnesota. This appropriation is to provide crisis intervention through community-based services in the private sector to persons with developmental disabilities under Laws 1995, chapter 207, article 3, section 22. This appropriation shall not become part of base level funding for the 2000-2001 biennium.

FLOOD COSTS. Of this appropriation, \$100,000 for fiscal year 1998 and \$700,000 for fiscal year 1999 is to pay for flood-related mental health services and to reimburse mental health centers for the cost of disruptions in the mental health centers' other services that were caused by diversion of staff to flood efforts. Funding is limited to costs for services which cannot be reimbursed through any other source in counties officially declared as disaster areas.

COMPULSIVE GAMBLING CARRY-FORWARD. Unexpended funds appropriated to the commissioner for compulsive gambling programs for fiscal year 1998 do not cancel but are available for these purposes for fiscal year 1999.

(e) Developmental Disabilities
Support Grants

-0-	162,000
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(f) Medical Assistance Long-Term
Care Waivers and Home Care

(3,936,000)	(2,435,000)
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JULY 1, 1998, PROVIDER RATE INCREASE. (1) Effective for services rendered on or after July 1, 1998, the commissioner shall increase reimbursement or allocation rates by three percent, and county boards shall adjust provider contracts as needed, for home and community-based

waiver services for persons with mental retardation or related conditions under Minnesota Statutes, section 256B.501; home and community-based waiver services for the elderly under Minnesota Statutes, section 256B.0915; waived services under community alternatives for disabled individuals under Minnesota Statutes, section 256B.49; community alternative care waived services under Minnesota Statutes, section 256B.49; traumatic brain injury waived services under Minnesota Statutes, section 256B.49; nursing services and home health services under Minnesota Statutes, section 256B.0625, subdivision 6a; personal care services and nursing supervision of personal care services under Minnesota Statutes, section 256B.0625, subdivision 19a; private duty nursing services under Minnesota Statutes, section 256B.0625, subdivision 7; day training and habilitation services for adults with mental retardation or related conditions under Minnesota Statutes, sections 252.40 to 252.46; physical therapy services under Minnesota Statutes, sections 256B.0625, subdivision 8, and 256D.03, subdivision 4; occupational therapy services under Minnesota Statutes, sections 256B.0625, subdivision 8a, and 256D.03, subdivision 4; speech-language therapy services under Minnesota Statutes, section 256D.03, subdivision 4, and Minnesota Rules, part 9505.0390; respiratory therapy services under Minnesota Statutes, section 256D.03, subdivision 4, and Minnesota Rules, part 9505.0295; dental services under Minnesota Statutes, sections 256B.0625, subdivision 9, and 256D.03, subdivision 4; alternative care services under Minnesota Statutes, section 256B.0913; adult residential program grants under Minnesota Rules, parts 9535.2000 to 9535.3000; adult and family community support grants under Minnesota Rules, parts 9535.1700 to 9535.1760; semi-independent living services under Minnesota Statutes, section 252.275, including SILS funding under county social services grants formerly funded under Minnesota Statutes, chapter

256I; day treatment under Minnesota Rules, part 9505.0323; the skills training component of (a) family community support services under Minnesota Statutes, section 256B.0625, subdivisions 5 and 35, (b) therapeutic support of foster care under Minnesota Statutes, section 256B.0625, subdivisions 5 and 36, and (c) home-based treatment under Minnesota Rules, part 9505.0324; and community support services for deaf and hard-of-hearing adults with mental illness who use or wish to use sign language as their primary means of communication.

(2) Effective January 1, 1999, the commissioner shall increase capitation rates in the prepaid medical assistance program, prepaid general assistance medical care program, and prepaid MinnesotaCare program as appropriate to reflect the rate increases in paragraph (1).

(3) It is the intention of the legislature that the compensation packages of staff within each service be increased by three percent.

(4) Section 7, sunset of uncodified language, does not apply to this provision.

(g) Medical Assistance Long-Term
Care Facilities

(24,318,000) (16,911,000)

ICFs/MR AND NURSING FACILITY FLOOD-RELATED REPORTING. For the reporting year ending December 31, 1997, for ICFs/MR that temporarily admitted victims of the flood of 1997, the resident days related to the temporary placement of persons not formally admitted who continued to be billed under the evacuated facility's provider number shall not be counted in the cost report submitted to calculate October 1, 1998, rates, and the additional expenditures shall be considered nonallowable.

For the reporting year ending September 30, 1997, for nursing facilities that temporarily admitted victims of the flood of 1997, the resident days related to the temporary placement of persons not formally admitted who

continued to be billed under the evacuated facility's provider number shall not be counted in the cost report submitted to calculate July 1, 1998, rates, and the additional expenditures shall be considered nonallowable.

ICF/MR DISALLOWANCES. Of this appropriation, \$65,000 in fiscal year 1999 is from the general fund to the commissioner for the purpose of reimbursing a 12-bed ICF/MR in Stearns county and a 12-bed ICF/MR in Sherburne county for disallowances resulting from field audit findings. The commissioner shall exempt these facilities from the provisions of Minnesota Statutes, section 256B.501, subdivision 5b, paragraph (d), clause (6), for the rate years beginning October 1, 1997, and October 1, 1998. Section 10, sunset of uncodified language, does not apply to this provision.

NURSING HOME MORATORIUM EXCEPTIONS. Base level funding for medical assistance long-term care facilities is increased by \$255,000 in fiscal year 2000 and by \$278,000 in fiscal year 2001 for the additional medical assistance costs of the nursing home moratorium exceptions under Minnesota Statutes 1997 Supplement, section 144A.071, subdivision 4a, paragraphs (w) and (x). Notwithstanding the provisions of section 7, sunset of uncodified language, this provision shall not expire.

(h) Alternative Care Grants

-0- 22,663,000

(i) Group Residential Housing

(8,782,000) (8,408,000)

SERVICES TO DEAF PERSONS WITH MENTAL ILLNESS. Of this appropriation, \$65,000 in fiscal year 1999 is from the general fund to the commissioner for a grant to a nonprofit agency that currently serves deaf and hard-of-hearing adults with mental illness through residential programs and supported housing outreach activities. The grant must be used to continue or maintain community support services for deaf and hard-

of-hearing adults with mental illness who use or wish to use sign language as their primary means of communication. This appropriation is in addition to the appropriation in Laws 1997, chapter 203, article 1, section 2, subdivision 8, paragraph (d), for a grant to this nonprofit agency. This appropriation shall not become part of base level funding for the 2000-2001 biennium.

(j) Chemical Dependency
Entitlement Grants

-0- (7,893,000)

CHEMICAL DEPENDENCY RESERVE ACCOUNT. For fiscal year 1999, \$3,000,000 is canceled from the chemical dependency reserve account within the consolidated chemical dependency treatment fund to the general fund.

(k) Chemical Dependency
Nonentitlement Grants

-0- 400,000

MATCHING GRANT FOR YOUTH ALCOHOL TREATMENT. Of this appropriation, \$400,000 in fiscal year 1999 is from the general fund for the commissioner to provide a grant to the board of directors of the Minnesota Indian Primary Residential Treatment Center, Inc., to build a youth alcohol treatment wing at the Mash-Ka-Wisen Treatment Center. This appropriation is available only if matched by a \$1,500,000 federal grant and a \$100,000 grant from state Indian bands.

MATCHING GRANT FOR PROJECT TURNABOUT. If money is appropriated in fiscal year 1999 to the commissioner from the lottery prize fund, the money shall be used to provide a grant for capital improvements to Project Turnabout in Granite Falls. A local match is required before the commissioner may release this appropriation to the facility. The facility shall receive state funds equal to the amount of local matching funds provided, up to the limit of this appropriation.

Subd. 7. Continuing Care and
Community Support Management

-0- 25,000

REGION 10 COMMISSION CARRY-OVER AUTHORITY. Any unspent portion of the appropriation to the commissioner in Laws 1997, chapter 203, article 1, section 2, subdivision 9, for the region 10 quality assurance commission for fiscal year 1998 shall not cancel but shall be available for the commission for fiscal year 1999.

STUDY OF DAY TRAINING CAPITAL NEEDS. (a) Of this appropriation, \$25,000 in fiscal year 1999 is from the general fund to the commissioner to conduct a study to:

(1) determine the extent to which day training and habilitation programs have unmet capital improvement needs;

(2) ascertain the degree to which these unmet capital needs impact consumers of day training and habilitation programs;

(3) determine the state's role and responsibility in meeting the capital improvement needs of day training and habilitation programs; and

(4) examine the relationship among the state, counties, and community resources in meeting the capital improvement needs of day training and habilitation programs.

(b) The commissioner shall report to the legislature by January 15, 1999, the results of the study along with recommendations for involving the state, counties, and community resources in collaborative initiatives to assist in meeting the capital improvement needs of day training and habilitation programs.

(c) This appropriation shall not become part of base level funding for the 2000-2001 biennium.* (The preceding text beginning "STUDY OF DAY TRAINING CAPITAL NEEDS." was vetoed by the governor.)

Subd. 8. Economic Support Grants
(8,562,000) (44,961,000)

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

(a) Assistance to Families Grants
1,173,000 (32,282,000)

FEDERAL TANF FUNDS. Notwithstanding any contrary provisions of Laws 1997, chapter 203, article 1, section 2, subdivision 12, federal TANF block grant funds are appropriated to the commissioner in amounts up to \$230,200,000 in fiscal year 1998 and \$285,990,000 in fiscal year 1999. Additional federal TANF funds may be expended but only to the extent that an equal amount of state funds have been transferred to the TANF reserve under Minnesota Statutes, section 256J.03.

TRANSFER OF STATE MONEY FROM TANF RESERVE. For fiscal year 1999, \$5,416,000 is appropriated from the state money in the TANF reserve to the commissioner for the purposes of funding the Minnesota food assistance program under Minnesota Statutes, section 256D.053, and the eligibility of legal noncitizens who were not Minnesota residents on March 1, 1997, for the general assistance program under the amendments to Minnesota Statutes, section 256D.05, subdivision 8, in article 6.

TRANSFER OF FEDERAL TANF FUNDS TO CHILD CARE DEVELOPMENT FUND. \$791,000 is transferred in fiscal year 1999 from the state's federal TANF block grant to the state's child care development fund, and is appropriated to the commissioner of children, families, and learning for the purposes of Minnesota Statutes, section 119B.05.

TRANSFER FROM STATE TANF RESERVE. Notwithstanding the provisions of Minnesota Statutes, section 256J.03, \$7,799,000 is transferred from the state TANF reserve account to the general fund in fiscal year 2000. Notwithstanding section 7, this provision expires on July 1, 2000.

(b) Work Grants

-0-

(1,000,000)

FOOD STAMP EMPLOYMENT AND TRAINING APPROPRIATION REDUCTION.

The appropriation in Laws 1997, chapter 203, article 1, section 2, subdivision 10, paragraph (b), for fiscal year 1999 for work grants is reduced by \$1,000,000. This reduction shall be taken from the fiscal year 1999 appropriation for the food stamp employment and training program.

(c) Child Support Enforcement

-0-

(1,100,000)

CHILD SUPPORT CARRYOVER AUTHORITY.

Any unspent portion of the appropriation to the commissioner in Laws 1997, chapter 203, article 1, section 2, subdivision 10, for child support enforcement activities for fiscal year 1998 shall not cancel but shall be available to the commissioner for fiscal year 1999. The appropriation in Laws 1997, chapter 203, article 1, section 2, subdivision 10, for child support enforcement activities for fiscal year 1999 is reduced by \$1,100,000. This reduction shall not reduce base level funding for these activities for the 2000-2001 biennium.

(d) General Assistance

(6,933,000)

(6,321,000)

(e) Minnesota Supplemental Aid

(2,802,000)

(4,258,000)

Subd. 9. Economic Support

Management

Health Care Access

-0-

1,084,000

ASSESSMENT OF AFFORDABLE HOUSING SUPPLY.

The commissioner of human services shall assess the statewide supply of affordable housing for all MFIP-S and GA recipients, and report to the legislature by January 15, 1999, on the results of this assessment.

Sec. 3. COMMISSIONER OF HEALTH

Subdivision 1. Total

Appropriation	-0-	20,147,000
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Summary by Fund

General	-0-	19,780,000
State Government		
Special Revenue	-0-	108,000
Health Care Access	-0-	259,000

This appropriation is added to the appropriation in Laws 1997, chapter 203, article 1, section 3.

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

Subd. 2. Health Systems
and Special Populations

-0-	15,459,000
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Summary by Fund

General	-0-	15,200,000
Health Care Access	-0-	259,000

FETAL ALCOHOL SYNDROME. (a) Of this appropriation, \$5,000,000 in fiscal year 1999 is from the general fund to the commissioner for the fetal alcohol syndrome/fetal alcohol effect (FAS/FAE) initiatives specified in paragraphs (b) to (k).

(b) Of the amount in paragraph (a), \$200,000 is transferred to the commissioner of children, families, and learning for school-based pilot programs to identify and implement effective educational strategies for individuals with FAS/FAE.

(c) Of the amount in paragraph (a), \$800,000 is for the public awareness campaign under Minnesota Statutes, section 145.9266, subdivision 1.

(d) Of the amount in paragraph (a), \$400,000 is to develop a statewide network of regional FAS diagnostic clinics under Minnesota Statutes, section 145.9266, subdivision 2.

(e) Of the amount in paragraph (a), \$150,000 is for professional training about FAS under Minnesota Statutes, section 145.9266, subdivision 3.

(f) Of the amount in paragraph (a), \$350,000 is for the fetal alcohol coordinating board under Minnesota Statutes, section 145.9266, subdivision 6.

(g) Of the amount in paragraph (a), \$800,000 is transferred to the commissioner of human services to expand the maternal and child health social service programs under Minnesota Statutes, section 254A.17, subdivision 1. Of this amount, \$184,000 shall be used by the commissioner of human services to eliminate the asset standards for medical assistance eligibility for pregnant women.

(h) Of the amount in paragraph (a), \$200,000 is for the commissioner to study the extent of fetal alcohol syndrome in the state.

(i) Of the amount in paragraph (a), \$400,000 is transferred to the commissioner of human services for the intervention and advocacy program under Minnesota Statutes, section 254A.17, subdivision 1b.

(j) Of the amount in paragraph (a), \$850,000 is for the FAS community grant program under Minnesota Statutes, section 145.9266, subdivision 4.

(k) Of the amount in paragraph (a), \$850,000 is transferred to the commissioner of human services to expand treatment services and halfway houses for pregnant women and women with children who abuse alcohol during pregnancy.

RURAL PHYSICIAN LOAN FORGIVENESS BUDGET REQUEST. The budget request for the rural physician loan forgiveness program in the 2000–2001 biennial budget shall detail the amount of funds carried forward and obligations canceled.

CONSUMER ADVISORY BOARD. Of the general fund appropriation for fiscal year 1999, \$50,000 is to the commissioner to reimburse members of the consumer advisory board for travel, food, and lodging expenses incurred by board members in the course of conducting board duties.

MEDICAL EDUCATION AND RESEARCH TRUST FUND. Of the general fund appropriation, \$10,000,000 in fiscal year 1999 is to the commissioner for the medical education and research trust fund. Of this amount, \$5,000,000 shall become part of base level funding for the biennium beginning July 1, 1999.

MERC FEDERAL FINANCIAL PARTICIPATION. (1) The commissioner of human services shall seek to maximize federal financial participation for payments for medical education and research costs.

(2) If the commissioner of human services determines that federal financial participation is available for the fiscal year 1999 appropriation for the medical education and research trust fund under this subdivision, the commissioner of health shall transfer to the commissioner of human services the amount of state funds necessary to maximize the federal funds.

(3) The transferred amount, plus the federal financial participation amount, shall be distributed to medical assistance providers according to the distribution methodology of the medical education research trust fund established under Minnesota Statutes, section 62J.69.

DIABETES PREVENTION. Of this appropriation, \$50,000 in fiscal year 1999 from the general fund is to the commissioner for statewide activities related to general diabetes prevention, the development and dissemination of prevention materials to health care providers, and for other statewide activities related to diabetes prevention and control for targeted populations who are at high risk for developing diabetes or health complications from diabetes.

Subd. 3. Health Protection	-0-	4,688,000
Summary by Fund		
General	-0-	4,580,000
State Government		
Special Revenue	-0-	108,000

FOOD, BEVERAGE, AND LODGING PROGRAM STAFF RESTORATION. Of the appropriation from the state government special revenue fund, \$101,000 in fiscal year 1999 is for the commissioner to restore staffing for the food, beverage, and lodging program.

OCCUPATIONAL RESPIRATORY DISEASE INFORMATION SYSTEM. Of the general fund appropriation, \$250,000 in fiscal year 1999 is to design an occupational respiratory disease information system. This appropriation is available until expended. This appropriation is added to the base for the 2000-2001 biennial budget.

LEAD-SAFE PROPERTY CERTIFICATION PROGRAM. Of this appropriation, \$75,000 in fiscal year 1999 is from the general fund to the commissioner for the purposes of the lead-safe property certification program under Minnesota Statutes, section 144.9511.

INFECTION CONTROL. Of the general fund appropriation, \$200,000 in fiscal year 1999 is for infection control activities, including training and technical assistance of health care personnel to prevent and control disease outbreaks, and for hospital and public health laboratory testing and other activities to monitor trends in drug-resistant infections.

CANCER SCREENING. Of the general fund appropriation, \$1,255,000 in fiscal year 1999 is for increased cancer screening and diagnostic services for women, particularly underserved women, and to improve cancer screening rates for the general population. Of this amount, at least \$855,000 is for grants to support local boards of health in providing outreach and coordination and to reimburse

health care providers for screening and diagnostic tests, and up to \$400,000 is for technical assistance, consultation, and outreach.

SEXUALLY TRANSMITTED DISEASE. (a) of this appropriation, \$300,000 in fiscal year 1999 is from the general fund to the commissioner to do the following, in consultation with the HIV/STD prevention task force and the commissioner of children, families, and learning:

(1) \$100,000 to conduct a statewide assessment of need and capacity to prevent and treat sexually transmitted diseases and prepare a comprehensive plan for how to prevent and treat sexually transmitted diseases, including strategies for reducing infection and for increasing access to treatment;

(2) \$150,000 to conduct research on the prevalence of sexually transmitted diseases among populations at highest risk for infection. The research may be done in collaboration with the University of Minnesota and nonprofit community health clinics; and

(3) \$50,000 to conduct laboratory screenings for sexually transmitted diseases at no charge to patients participating in epidemiological research activities specified in clause (2).

(b) This appropriation shall not become part of the base for the 2000–2001 biennium.

Sec. 4. HEALTH-RELATED BOARDS

Subdivision 1. Total
Appropriation

113,000

123,000

This appropriation is added to the appropriation in Laws 1997, chapter 203, article 1, section 5.

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

NO SPENDING IN EXCESS OF REVENUES. The commissioner of finance shall not permit the allotment, encumbrance, or expenditure of money appropriated in this section in excess of the anticipated biennial

revenues or accumulated surplus revenues from fees collected by the boards. Neither this provision nor Minnesota Statutes, section 214.06, applies to transfers from the general contingent account.

Subd. 2. Board of Medical
Practice

80,000

90,000

This appropriation is added to the appropriation in Laws 1997, chapter 203, article 1, section 5, subdivision 6, and is for the health professional services activity.

Subd. 3. Board of Veterinary
Medicine

33,000

33,000

This appropriation is added to the appropriation in Laws 1997, chapter 203, article 1, section 5, subdivision 14, and is for national examination costs.

Sec. 5. EMERGENCY MEDICAL
SERVICES BOARD

General

-0-

78,000

This appropriation is added to the appropriation in Laws 1997, chapter 203, article 1, section 6.

EMERGENCY MEDICAL SERVICES COMMUNICATIONS NEEDS ASSESSMENT. (a) Of this appropriation, \$78,000 in fiscal year 1999 is from the general fund to the board to conduct an emergency medical services needs assessment for areas outside the seven-county metropolitan area. The assessment shall determine the current status of and need for emergency medical services communications equipment. All regional emergency medical services programs designated by the board under Minnesota Statutes 1997 Supplement, section 144E.50, shall cooperate in the preparation of the assessment.

(b) The appropriation for this project shall be distributed through the emergency medical services system fund under Minnesota Statutes, section 144E.50, through a request-for-proposal process. The board must select

a regional EMS program that receives at least 20 percent of its funding from nonstate sources to conduct the assessment. The request for proposals must be issued by August 1, 1998.

(c) A final report with recommendations shall be presented to the board and the legislature by July 1, 1999.

(d) This appropriation shall not become part of base level funding for the 2000-2001 biennium.

Sec. 6. CARRYOVER LIMITATION. None of the appropriations in this act which are allowed to be carried forward from fiscal year 1998 to fiscal year 1999 shall become part of the base level funding for the 2000-2001 biennial budget, unless specifically directed by the legislature.

Sec. 7. SUNSET OF UNCODIFIED LANGUAGE. All uncodified language contained in this article expires on June 30, 1999, unless a different expiration date is explicit.

Sec. 8. EFFECTIVE DATE.

The appropriations and reductions for fiscal year 1998 in this article are effective the day following final enactment.

ARTICLE 2

HEALTH DEPARTMENT AND HEALTH PROFESSIONALS

Section 1. Minnesota Statutes 1997 Supplement, section 13.99, is amended by adding a subdivision to read:

Subd. 19m. **DATA HELD BY OFFICE OF HEALTH CARE CONSUMER ASSISTANCE, ADVOCACY, AND INFORMATION.** Consumer complaint data collected or maintained by the office of health care consumer assistance, advocacy, and information under sections 62J.77 and 62J.80 are classified under section 62J.79, subdivision 4.

Sec. 2. Minnesota Statutes 1997 Supplement, section 62D.11, subdivision 1, is amended to read:

Subdivision 1. **ENROLLEE COMPLAINT SYSTEM.** Every health maintenance organization shall establish and maintain a complaint system, as required under section

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

62Q.105 to provide reasonable procedures for the resolution of written complaints initiated by or on behalf of enrollees concerning the provision of health care services. "Provision of health services" includes, but is not limited to, questions of the scope of coverage, quality of care, and administrative operations. The health maintenance organization must inform enrollees that they may choose to use alternative dispute resolution arbitration to appeal a health maintenance organization's internal appeal decision. The health maintenance organization must also inform enrollees that they have the right to use arbitration to appeal a health maintenance organization's internal appeal decision not to certify an admission, procedure, service, or extension of stay under section 62M.06. If an enrollee chooses to use an alternative dispute resolution process arbitration, the health maintenance organization must participate.

Sec. 3. Minnesota Statutes 1996, section 62J.321, is amended by adding a subdivision to read:

Subd. 5a. **PRESCRIPTION DRUG PRICE DISCLOSURE DATA.** Notwithstanding subdivisions 1 and 5, data collected under section 62J.381 shall be classified as public data.

Sec. 4. **[62J.381] PRESCRIPTION DRUG PRICE DISCLOSURE.**

By April 1, 1999, and annually thereafter, hospitals licensed under chapter 144 and group purchasers required to file a full report under section 62J.38 and the rules promulgated thereunder, must submit to the commissioner of health the total amount of:

- (1) aggregate purchases of or payments for prescription drugs; and
- (2) aggregate cash rebates, discounts, other payments received, and any fees associated with education, data collection, research, training, or market share movement, which are received during the previous calendar year from a manufacturer as defined under section 151.44, paragraph (c), or wholesale drug distributor as defined under section 151.44, paragraph (d).

The data collected under this section shall be distributed through the information clearinghouse under section 62J.2930. The identification of individual manufacturers or wholesalers or specific drugs shall not be required under this section.

Sec. 5. Minnesota Statutes 1997 Supplement, section 62J.69, subdivision 1, is amended to read:

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

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

(b) "Clinical training" means accredited training for the health care practitioners listed in paragraph (a) that is funded and was historically funded in part by inpatient patient care revenues and that occurs in both either an inpatient and or ambulatory patient care settings training site.

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

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

(d) "Eligible trainee" means a student involved in an accredited training program for medical education as defined in paragraph (a), which meets the definition of clinical training in paragraph (b), who is in a training site that is located in Minnesota and which has a medical assistance provider number.

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

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

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

(h) "Accredited training" means training provided by a program that is accredited through an organization recognized by the department of education or the health care financing administration as the official accrediting body for that program.

(i) "Sponsoring institution" means a hospital, school, or consortium located in Minnesota that sponsors and maintains primary organizational and financial responsibility for an accredited medical education program in Minnesota and which is accountable to the accrediting body.

Sec. 6. Minnesota Statutes 1997 Supplement, section 62J.69, subdivision 2, is amended to read:

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

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

(c) Eligible applicants for funds are accredited medical education teaching institutions, consortia, and programs operating in Minnesota. Applications must be submitted by the sponsoring institution on behalf of the teaching program, and must be received by September 30 of each year for distribution in January of the following year. An application for funds must include the following:

(1) the official name and address of the sponsoring institution and the official name and address of the facility or program ~~programs~~ on whose behalf the institution is applying for funding;

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

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

(3) the total number, type, and specialty orientation of eligible Minnesota-based trainees in for each accredited medical education program for which funds are being sought the type and specialty orientation of trainees in the program, the name, address, and medical assistance provider number of each training site used in the program, the total number of trainees at each site, and the total number of eligible trainees at each training site;

(4) audited clinical training costs per trainee for each medical education program where available or estimates of clinical training costs based on audited financial data;

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

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

(7) a statement identifying unfunded costs; and

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

(d) The commissioner shall distribute medical education funds to all qualifying applicants based on the following basic criteria: (1) total medical education funds available; (2) total eligible trainees in each eligible education program; and (3) the statewide average cost per trainee, by type of trainee, in each medical education program. Funds distributed shall not be used to displace current funding appropriations from federal or state sources. Funds shall be distributed to the sponsoring institutions indicating the amount to be paid to each of the sponsor's medical education programs based on the criteria in this paragraph. Sponsoring institutions which receive funds from the trust fund must distribute approved funds to the medical education program according to the commissioner's approval letter. Further, programs must distribute funds among the sites of training based on the percentage of total program training performed at each site. as specified in the commissioner's approval letter. Any funds not distributed as directed by the commissioner's approval letter shall be returned to the medical education and research trust fund within 30 days of a notice from the commissioner. The commissioner shall distribute returned funds to the appropriate entities in accordance with the commissioner's approval letter.

(e) Medical education programs receiving funds from the trust fund must submit annual cost and program reports a medical education and research grant verification report (GVR) through the sponsoring institution based on criteria established by the commissioner. If the sponsoring institution fails to submit the GVR by the stated deadline, or to request and meet the deadline for an extension, the sponsoring institution is required to return the full amount of the medical education and research trust fund grant to the medical education and research trust fund within 30 days of a notice from the commissioner. The commissioner shall distribute returned funds to the appropriate entities in accordance with the commissioner's approval letter. The reports must include:

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

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

(2) the programs and residencies funded, the amounts of trust fund payments to each program, and within each program, the percentage dollar amount distributed to each training site; and

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

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

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

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

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

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

(1) voluntary contributions by employers or other entities;

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

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

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

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

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

Sec. 7. Minnesota Statutes 1997 Supplement, section 62J.69, is amended by adding a subdivision to read:

Subd. 4. **TRANSFERS FROM THE COMMISSIONER OF HUMAN SERVICES.** (a) The amount transferred according to section 256B.69, subdivision 5c, shall be distributed to qualifying applicants based on a distribution formula that reflects a summation of two factors:

(1) an education factor, which is determined by the total number of eligible trainees and the total statewide average costs per trainee, by type of trainee, in each program; and

(2) a public program volume factor, which is determined by the total volume of public program revenue received by each training site as a percentage of all public program revenue received by all training sites in the trust fund pool.

In this formula, the education factor shall be weighted at 50 percent and the public program volume factor shall be weighted at 50 percent.

(b) Public program revenue for the formula in paragraph (a) shall include revenue from medical assistance, prepaid medical assistance, general assistance medical care, and prepaid general assistance medical care.

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

(c) Training sites that receive no public program revenue shall be ineligible for payments from the prepaid medical assistance program transfer pool.

Sec. 8. Minnesota Statutes 1997 Supplement, section 62J.69, is amended by adding a subdivision to read:

Subd. 5. **REVIEW OF ELIGIBLE PROVIDERS.** (a) Provider groups added after January 1, 1998, to the list of providers eligible for the trust fund shall not receive funding from the trust fund without prior evaluation by the commissioner and the medical education and research costs advisory committee. The evaluation shall consider the degree to which the training of the provider group:

(1) takes place in patient care settings, which are consistent with the purposes of this section;

(2) is funded with patient care revenues;

(3) takes place in patient care settings, which face increased financial pressure as a result of competition with nonteaching patient care entities; and

(4) emphasizes primary care or specialties, which are in undersupply in Minnesota.

Results of this evaluation shall be reported to the legislative commission on health care access. The legislative commission on health care access must approve funding for the provider group prior to their receiving any funding from the trust fund. In the event that a reviewed provider group is not approved by the legislative commission on health care access, trainees in that provider group shall be considered ineligible trainees for the trust fund distribution.

(b) The commissioner and the medical education and research costs advisory committee may also review provider groups, which were added to the eligible list of provider groups prior to January 1, 1998, to assure that the trust fund money continues to be distributed consistent with the purpose of this section. The results of any such reviews must be reported to the legislative commission on health care access. Trainees in provider groups, which were added prior to January 1, 1998, and which are reviewed by the commissioner and the medical education and research costs advisory committee, shall be considered eligible trainees for purposes of the trust fund distribution unless and until the legislative commission on health care access disapproves their eligibility, in which case they shall be considered ineligible trainees.

Sec. 9. **[62J.701] GOVERNMENTAL PROGRAMS.**

Beginning January 1, 1999, the provisions in paragraphs (a) to (d) apply.

(a) For purposes of sections 62J.695 to 62J.80, the requirements and other provisions that apply to health plan companies also apply to governmental programs.

(b) For purposes of this section, "governmental programs" means the medical assistance program, the MinnesotaCare program, the general assistance medical care program, the state employee group insurance program, the public employees insurance program under section 43A.316, and coverage provided by political subdivisions under section 471.617.

(c) Notwithstanding paragraph (a), section 62J.72 does not apply to the fee-for-service programs under medical assistance, MinnesotaCare, and general assistance medical care.

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

(d) If a state commissioner or local unit of government contracts with a health plan company or a third party administrator, the contract may assign any obligations under paragraph (a) to the health plan company or third party administrator. Nothing in this paragraph shall be construed to remove or diminish any enforcement responsibilities of the commissioners of health or commerce provided in sections 62J.695 to 62J.80.

Sec. 10. Minnesota Statutes 1997 Supplement, section 62J.71, subdivision 1, is amended to read:

Subdivision 1. **PROHIBITED AGREEMENTS AND DIRECTIVES.** The following types of agreements and directives are contrary to state public policy, are prohibited under this section, and are null and void:

(1) any agreement or directive that prohibits a health care provider from communicating with an enrollee with respect to the enrollee's health status, health care, or treatment options, if the health care provider is acting in good faith and within the provider's scope of practice as defined by law;

(2) any agreement or directive that prohibits a health care provider from making a recommendation regarding the suitability or desirability of a health plan company, health insurer, or health coverage plan for an enrollee, unless the provider has a financial conflict of interest in the enrollee's choice of health plan company, health insurer, or health coverage plan;

(3) any agreement or directive that prohibits a provider from providing testimony, supporting or opposing legislation, or making any other contact with state or federal legislators or legislative staff or with state and federal executive branch officers or staff;

(4) any agreement or directive that prohibits a health care provider from disclosing accurate information about whether services or treatment will be paid for by a patient's health plan company or health insurer or health coverage plan; and

(5) any agreement or directive that prohibits a health care provider from informing an enrollee about the nature of the reimbursement methodology used by an enrollee's health plan company, health insurer, or health coverage plan to pay the provider.

Sec. 11. Minnesota Statutes 1997 Supplement, section 62J.71, subdivision 3, is amended to read:

Subd. 3. **RETALIATION PROHIBITED.** No person, health plan company, or other organization may take retaliatory action against a health care provider solely on the grounds that the provider:

(1) refused to enter into an agreement or provide services or information in a manner that is prohibited under this section or took any of the actions listed in subdivision 1;

(2) disclosed accurate information about whether a health care service or treatment is covered by an enrollee's health plan company, health insurer, or health coverage plan; or

(3) discussed diagnostic, treatment, or referral options that are not covered or are limited by the enrollee's health plan company, health insurer, or health coverage plan;

(4) criticized coverage of the enrollee's health plan company, health insurer, or health coverage plan; or

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

(5) expressed personal disagreement with a decision made by a person, organization, or health care provider regarding treatment or coverage provided to a patient of the provider, or assisted or advocated for the patient in seeking reconsideration of such a decision, provided the health care provider makes it clear that the provider is acting in a personal capacity and not as a representative of or on behalf of the entity that made the decision.

Sec. 12. Minnesota Statutes 1997 Supplement, section 62J.71, subdivision 4, is amended to read:

Subd. 4. **EXCLUSION.** (a) Nothing in this section prohibits a health plan an entity that is subject to this section from taking action against a provider if the health plan entity has evidence that the provider's actions are illegal, constitute medical malpractice, or are contrary to accepted medical practices.

(b) Nothing in this section prohibits a contract provision or directive that requires any contracting party to keep confidential or to not use or disclose the specific amounts paid to a provider, provider fee schedules, provider salaries, and other proprietary information of a specific health plan or health plan company entity that is subject to this section.

Sec. 13. Minnesota Statutes 1997 Supplement, section 62J.72, subdivision 1, is amended to read:

Subdivision 1. **WRITTEN DISCLOSURE.** (a) A health plan company, as defined under section 62J.70, subdivision 3, a health care network cooperative as defined under section 62R.04, subdivision 3, and a health care provider as defined under section 62J.70, subdivision 2, shall, during open enrollment, upon enrollment, and annually thereafter, provide enrollees with a description of the general nature of the reimbursement methodologies used by the health plan company, health insurer, or health coverage plan to pay providers. The description must explain clearly any aspect of the reimbursement methodology that creates a financial incentive for the health care provider to limit or restrict the health care provided to enrollees. An entity required to disclose shall also disclose if no reimbursement methodology is used that creates a financial incentive for the health care provider to limit or restrict the health care provided to enrollees. This description may be incorporated into the member handbook, subscriber contract, certificate of coverage, or other written enrollee communication. The general reimbursement methodology shall be made available to employers at the time of open enrollment.

(b) Health plan companies, health care network cooperatives, and providers must, upon request, provide an enrollee with specific information regarding the reimbursement methodology, including, but not limited to, the following information:

(1) a concise written description of the provider payment plan, including any incentive plan applicable to the enrollee;

(2) a written description of any incentive to the provider relating to the provision of health care services to enrollees, including any compensation arrangement that is dependent on the amount of health coverage or health care services provided to the enrollee, or the number of referrals to or utilization of specialists; and

(3) a written description of any incentive plan that involves the transfer of financial risk to the health care provider.

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(c) The disclosure statement describing the general nature of the reimbursement methodologies must comply with the Readability of Insurance Policies Act in chapter 72C. Notwithstanding any other law to the contrary, the disclosure statement may voluntarily be filed with the commissioner for approval and must be filed with and approved by the commissioner prior to its use.

(d) A disclosure statement that has voluntarily been filed with the commissioner for approval under chapter 72C or voluntarily filed with the commissioner for approval for purposes other than pursuant to chapter 72C paragraph (c) is deemed approved 30 days after the date of filing, unless approved or disapproved by the commissioner on or before the end of that 30-day period.

(e) The disclosure statement describing the general nature of the reimbursement methodologies must be provided upon request in English, Spanish, Vietnamese, and Hmong. In addition, reasonable efforts must be made to provide information contained in the disclosure statement to other non-English-speaking enrollees.

(f) Health plan companies and providers may enter into agreements to determine how to respond to enrollee requests received by either the provider or the health plan company. This subdivision does not require disclosure of specific amounts paid to a provider, provider fee schedules, provider salaries, or other proprietary information of a specific health plan company or health insurer or health coverage plan or provider.

Sec. 14. Minnesota Statutes 1997 Supplement, section 62J.75, is amended to read:

62J.75 CONSUMER ADVISORY BOARD.

(a) The consumer advisory board consists of 18 members appointed in accordance with paragraph (b). All members must be public, consumer members who:

(1) do not have and never had a material interest in either the provision of health care services or in an activity directly related to the provision of health care services, such as health insurance sales or health plan administration;

(2) are not registered lobbyists; and

(3) are not currently responsible for or directly involved in the purchasing of health insurance for a business or organization.

(b) The governor, the speaker of the house of representatives, and the subcommittee on committees of the committee on rules and administration of the senate shall each appoint two six members. The Indian affairs council, the council on affairs of Chicano/Latino people, the council on Black Minnesotans, the council on Asian-Pacific Minnesotans, mid-Minnesota legal assistance, and the Minnesota chamber of commerce shall each appoint one member. The member appointed by the Minnesota chamber of commerce must represent small business interests. The health care campaign of Minnesota, Minnesotans for affordable health care, and consortium for citizens with disabilities shall each appoint two members. Members serve without compensation or reimbursement for expenses. Members may be compensated in accordance with section 15.059, subdivision 3, except that members shall not receive per diem compensation or reimbursements for child care expenses.

(c) The board shall advise the commissioners of health and commerce on the following:

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(1) the needs of health care consumers and how to better serve and educate the consumers on health care concerns and recommend solutions to identified problems; and

(2) consumer protection issues in the self-insured market, including, but not limited to, public education needs.

The board also may make recommendations to the legislature on these issues.

(d) The board and this section expire June 30, 2001.

Sec. 15. [62J.77] DEFINITIONS.

Subdivision 1. **APPLICABILITY.** For purposes of sections 62J.77 to 62J.80, the terms defined in this section have the meanings given them.

Subd. 2. **ENROLLEE.** "Enrollee" means a natural person covered by a health plan company, health insurance, or health coverage plan and includes an insured, policyholder, subscriber, contract holder, member, covered person, or certificate holder.

Subd. 3. **PATIENT.** "Patient" means a former, current, or prospective patient of a health care provider.

Subd. 4. **COMMISSIONER.** "Commissioner" means the commissioner of health.

Sec. 16. [62J.78] ESTABLISHMENT; ORGANIZATION.

Subdivision 1. **GENERAL.** The commissioner shall establish within the department of health the office of health care consumer assistance, advocacy, and information to provide assistance, advocacy, and information to all health care consumers within the state. The office shall have no regulatory power or authority, shall be separated from all regulatory functions within the department of health, and shall not provide legal representation in a court of law.

Subd. 2. **EXECUTIVE DIRECTOR.** An executive director shall be appointed by the commissioner, in consultation with the consumer advisory board, and shall report directly to the commissioner. The executive director must be selected without regard to political affiliation and must be a person who has knowledge and experience concerning the needs and rights of health care consumers and must be qualified to analyze questions of law, administrative functions, and public policy. No person may serve as executive director while holding another public office. The director shall serve in the unclassified service.

Subd. 3. **STAFF.** The executive director shall appoint at least nine consumer advocates to discharge the responsibilities and duties of the office.

Subd. 4. **TRAINING.** The executive director shall ensure that the consumer advocates are adequately trained.

Subd. 5. **STATEWIDE ADVOCACY.** The executive director shall assign a consumer advocate to represent each regional coordinating board's geographic area.

Subd. 6. **FINANCIAL INTEREST.** The executive director and staff must not have any direct personal financial interest in the health care system, except as an individual consumer of health care services.

Subd. 7. **ADMINISTRATION.** To the extent practical, the office of health care consumer assistance, advocacy, and information and all ombudsman offices with health

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care responsibilities shall have their telephone systems linked in order to facilitate immediate referrals.

Sec. 17. [62J.79] DUTIES AND POWERS OF THE OFFICE OF HEALTH CARE CONSUMER ASSISTANCE, ADVOCACY, AND INFORMATION.

Subdivision 1. DUTIES. (a) The office of health care consumer assistance, advocacy, and information shall provide information and assistance to all health care consumers by:

(1) assisting patients and enrollees in understanding and asserting their contractual and legal rights, including the rights under an alternative dispute resolution process. This assistance may include advocacy for enrollees in administrative proceedings or other formal or informal dispute resolution processes;

(2) assisting enrollees in obtaining health care referrals under their health plan company, health insurance, or health coverage plan;

(3) assisting patients and enrollees in accessing the services of governmental agencies, regulatory boards, and other state consumer assistance programs, ombudsman, or advocacy services whenever appropriate so that the patient or enrollee can take full advantage of existing mechanisms for resolving complaints;

(4) referring patients and enrollees to governmental agencies and regulatory boards for the investigation of health care complaints and for enforcement action;

(5) educating and training enrollees about their health plan company, health insurance, or health coverage plan in order to enable them to assert their rights and to understand their responsibilities;

(6) assisting enrollees in receiving a timely resolution of their complaints;

(7) monitoring health care complaints addressed by the office to identify specific complaint patterns or areas of potential improvement;

(8) recommending to health plan companies ways to identify and remove any barriers that might delay or impede the health plan company's effort to resolve consumer complaints; and

(9) in performing the duties specified in clauses (1) to (8), taking into consideration the special situations of patients and enrollees who have unique culturally defined needs.

(b) The executive director shall prioritize the duties listed in this subdivision within the appropriations allocated.

Subd. 2. COMMUNICATION. (a) The executive director shall meet at least six times per year with the consumer advisory board. The executive director shall share all public information obtained by the office of health care consumer assistance, advocacy, and information with the consumer advisory board in order to assist the consumer advisory board in its role of advising the commissioners of health and commerce and the legislature in accordance with section 62J.75.

(b) The executive director shall have the authority to make recommendations to the legislature on any issue related to the needs and interests of health care consumers.

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Subd. 3. **REPORTS.** Beginning July 1, 1999, the executive director, on at least a quarterly basis, shall provide data from the health care complaints addressed by the office to the commissioners of health and commerce, the consumer advisory board, the Minnesota council of health plans, and the Insurance Federation of Minnesota. Beginning January 15, 2000, the executive director must make an annual written report to the legislature regarding activities of the office, including recommendations on improving health care consumer assistance and complaint resolution processes.

Subd. 4. **DATA PRIVACY.** (a) Consumer complaint data, including medical records and other documentation, provided by a patient or enrollee to the office of health care consumer assistance, advocacy, and information shall be classified as private data on individuals under section 13.02, subdivision 12.

(b) Except as provided in paragraph (a), all data collected or maintained by the office in the course of assisting a patient or enrollee in resolving a complaint, including data collected or maintained for the purpose of assistance during a formal or informal dispute resolution process, shall be classified as investigative data under section 13.39 except that inactive investigative data shall be classified as private data on individuals under section 13.02, subdivision 12.

Sec. 18. [62J.80] RETALIATION.

A health plan company or health care provider shall not retaliate or take adverse action against an enrollee or patient who, in good faith, makes a complaint against a health plan company or health care provider. If retaliation is suspected, the executive director may report it to the appropriate regulatory authority.

Sec. 19. Minnesota Statutes 1996, section 62Q.095, subdivision 3, is amended to read:

Subd. 3. **MANDATORY OFFERING TO ENROLLEES.** (a) Each health plan company shall offer to enrollees the option of receiving covered services through the expanded network of allied independent health providers established under subdivisions 1 and 2. This expanded network option may be offered as a separate health plan. The network may establish separate premium rates and cost-sharing requirements for this expanded network plan, as long as these premium rates and cost-sharing requirements are actuarially justified and approved by the commissioner. This subdivision does not apply to Medicare, medical assistance, general assistance medical care, and MinnesotaCare. This subdivision is effective January 1, 1995, and applies to health plans issued or renewed, or offers of health plans to be issued or renewed, on or after January 1, 1995, except that this subdivision is effective January 1, 1996, for collective bargaining agreements of the department of employee relations and the University of Minnesota.

(b) Information on this expanded provider network option must be provided by each health plan company during open enrollment and upon enrollment.

Sec. 20. Minnesota Statutes 1997 Supplement, section 62Q.105, subdivision 1, is amended to read:

Subdivision 1. **ESTABLISHMENT.** Each health plan company shall establish and make available to enrollees, by July 1, 1998 1999, an informal complaint resolution process that meets the requirements of this section. A health plan company must make reasonable efforts to resolve enrollee complaints, and must inform complainants in writing

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of the company's decision within 30 days of receiving the complaint. The complaint resolution process must treat the complaint and information related to it as required under sections 72A.49 to 72A.505.

Sec. 21. [62Q.107] PROHIBITED PROVISION; EFFECT OF DENIAL OF CLAIM.

Beginning January 1, 1999, no health plan, including the coverages described in section 62A.011, subdivision 3, clauses (7) and (10), may specify a standard of review upon which a court may review denial of a claim or of any other decision made by a health plan company with respect to an enrollee. This section prohibits limiting court review to a determination of whether the health plan company's decision is arbitrary and capricious, an abuse of discretion, or any other standard less favorable to the enrollee than a preponderance of the evidence.

Sec. 22. Minnesota Statutes 1997 Supplement, section 62Q.30, is amended to read:

62Q.30 EXPEDITED FACT FINDING AND DISPUTE RESOLUTION PROCESS.

The commissioner shall establish an expedited fact finding and dispute resolution process to assist enrollees of health plan companies with contested treatment, coverage, and service issues to be in effect July 1, 1998 1999. If the disputed issue relates to whether a service is appropriate and necessary, the commissioner shall issue an order only after consulting with appropriate experts knowledgeable, trained, and practicing in the area in dispute, reviewing pertinent literature, and considering the availability of satisfactory alternatives. The commissioner shall take steps including but not limited to fining, suspending, or revoking the license of a health plan company that is the subject of repeated orders by the commissioner that suggests a pattern of inappropriate underutilization.

Sec. 23. Minnesota Statutes 1997 Supplement, section 103I.208, subdivision 2, is amended to read:

Subd. 2. **PERMIT FEE.** The permit fee to be paid by a property owner is:

- (1) for a well that is not in use under a maintenance permit, \$100 annually;
- (2) for construction of a monitoring well, \$120, which includes the state core function fee;
- (3) for a monitoring well that is unsealed under a maintenance permit, \$100 annually;
- (4) for monitoring wells used as a leak detection device at a single motor fuel retail outlet ~~or, a single petroleum bulk storage site excluding tank farms, or a single agricultural chemical facility site,~~ the construction permit fee is \$120, which includes the state core function fee, per site regardless of the number of wells constructed on the site, and the annual fee for a maintenance permit for unsealed monitoring wells is \$100 per site regardless of the number of monitoring wells located on site;
- (5) for a groundwater thermal exchange device, in addition to the notification fee for wells, \$120, which includes the state core function fee;
- (6) for a vertical heat exchanger, \$120;

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(7) for a dewatering well that is unsealed under a maintenance permit, \$100 annually for each well, except a dewatering project comprising more than five wells shall be issued a single permit for \$500 annually for wells recorded on the permit; and

(8) for excavating holes for the purpose of installing elevator shafts, \$120 for each hole.

Sec. 24. Minnesota Statutes 1997 Supplement, section 123.70, subdivision 10, as amended by Laws 1998, chapter 305, section 4, is amended to read:

Subd. 10. A statement required to be submitted under subdivisions 1, 2, and 4 to document evidence of immunization shall include month, day, and year for immunizations administered after January 1, 1990.

(a) For persons enrolled in grades 7 and 12 during the 1996–1997 school term, the statement must indicate that the person has received a dose of tetanus and diphtheria toxoid no earlier than 11 years of age.

(b) Except as specified in paragraph (e), for persons enrolled in grades 7, 8, and 12 during the 1997–1998 school term, the statement must indicate that the person has received a dose of tetanus and diphtheria toxoid no earlier than 11 years of age.

(c) Except as specified in paragraph (e), for persons enrolled in grades 7 through 12 during the 1998–1999 school term and for each year thereafter, the statement must indicate that the person has received a dose of tetanus and diphtheria toxoid no earlier than 11 years of age.

(d) For persons enrolled in grades 7 through 12 during the 1996–1997 school year and for each year thereafter, the statement must indicate that the person has received at least two doses of vaccine against measles, mumps, and rubella, given alone or separately and given not less than one month apart.

(e) A person who has received at least three doses of tetanus and diphtheria toxoids, with the most recent dose given after age six and before age 11, is not required to have additional immunization against diphtheria and tetanus until ten years have elapsed from the person's most recent dose of tetanus and diphtheria toxoid.

(f) The requirement for hepatitis B vaccination shall apply to persons enrolling in kindergarten beginning with the 2000–2001 school term.

(g) The requirement for hepatitis B vaccination shall apply to persons enrolling in kindergarten through grade 7 beginning with the 2007–2008 2001–2002 school term.

Sec. 25. Minnesota Statutes 1997 Supplement, section 144.1494, subdivision 1, is amended to read:

Subdivision 1. **CREATION OF ACCOUNT.** A rural physician education account is established in the health care access fund. The commissioner shall use money from the account to establish a loan forgiveness program for medical residents agreeing to practice in designated rural areas, as defined by the commissioner. Appropriations made to this account do not cancel and are available until expended, except that at the end of each biennium the commissioner shall cancel to the health care access fund any remaining unobligated balance in this account.

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Sec. 26. [144.6905] OCCUPATIONAL RESPIRATORY DISEASE INFORMATION SYSTEM ADVISORY GROUP.

Subdivision 1. ADVISORY GROUP. The commissioner of health shall convene an occupational respiratory disease advisory group and shall consult with the group on the development, implementation, and ongoing operation of an occupational respiratory disease information system. Membership in the group shall include representatives of academia, government, industry, labor, medicine, and consumers from areas of the state targeted by the information system. From members of the advisory group, the commissioner shall form a technical and medical committee to create information system protocols and a legal and policy committee to address data privacy issues. The advisory group is governed by section 15.059, except that members shall not receive per diem compensation.

Subd. 2. DATA PROVISIONS. No individually identifying data shall be collected or entered into the occupational respiratory disease information system without further action of the legislature.

Sec. 27. Minnesota Statutes 1996, section 144.701, subdivision 1, is amended to read:

Subdivision 1. CONSUMER INFORMATION. The commissioner of health shall ensure that the total costs, total revenues, overall utilization, and total services of each hospital and each outpatient surgical center are reported to the public in a form understandable to consumers.

Sec. 28. Minnesota Statutes 1996, section 144.701, subdivision 2, is amended to read:

Subd. 2. DATA FOR POLICY MAKING. The commissioner of health shall compile relevant financial and accounting, utilization, and services data concerning hospitals and outpatient surgical centers in order to have statistical information available for legislative policy making.

Sec. 29. Minnesota Statutes 1996, section 144.701, subdivision 4, is amended to read:

Subd. 4. FILING FEES. Each report which is required to be submitted to the commissioner of health under sections 144.695 to 144.703 and which is not submitted to a voluntary, nonprofit reporting organization in accordance with section 144.702 shall be accompanied by a filing fee in an amount prescribed by rule of the commissioner of health. ~~Fees received pursuant to this subdivision shall be deposited in the general fund of the state treasury.~~ Upon the withdrawal of approval of a reporting organization, or the decision of the commissioner to not renew a reporting organization, fees collected under section 144.702 shall be submitted to the commissioner and deposited in the general fund. Fees received under this subdivision shall be deposited in a revolving fund and are appropriated to the commissioner of health for the purposes of sections 144.695 to 144.703. The commissioner shall report the termination or nonrenewal of the voluntary reporting organization to the chair of the health and human services subdivision of the appropriations committee of the house of representatives, to the chair of the health and human services division of the finance committee of the senate, and the commissioner of finance.

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Sec. 30. Minnesota Statutes 1996, section 144.702, subdivision 1, is amended to read:

Subdivision 1. **REPORTING THROUGH A REPORTING ORGANIZATION.** A hospital or outpatient surgical center may agree to submit its financial, utilization, and services reports to a voluntary, nonprofit reporting organization whose reporting procedures have been approved by the commissioner of health in accordance with this section. Each report submitted to the voluntary, nonprofit reporting organization under this section shall be accompanied by a filing fee.

Sec. 31. Minnesota Statutes 1996, section 144.702, subdivision 2, is amended to read:

Subd. 2. **APPROVAL OF ORGANIZATION'S REPORTING PROCEDURES.** The commissioner of health may approve voluntary reporting procedures consistent with written operating requirements for the voluntary, nonprofit reporting organization which shall be established annually by the commissioner. These written operating requirements shall specify reports, analyses, and other deliverables to be produced by the voluntary, nonprofit reporting organization, and the dates on which those deliverables must be submitted to the commissioner. These written operating requirements shall specify deliverable dates sufficient to enable the commissioner of health to process and report health care cost information system data to the commissioner of human services by August 15 of each year. The commissioner of health shall, by rule, prescribe standards for submission of data by hospitals and outpatient surgical centers to the voluntary, nonprofit reporting organization or to the commissioner. These standards shall provide for:

(a) the filing of appropriate financial, utilization, and services information with the reporting organization;

(b) adequate analysis and verification of that financial, utilization, and services information; and

(c) timely publication of the costs, revenues, and rates of individual hospitals and outpatient surgical centers prior to the effective date of any proposed rate increase. The commissioner of health shall annually review the procedures approved pursuant to this subdivision.

Sec. 32. Minnesota Statutes 1996, section 144.702, subdivision 8, is amended to read:

Subd. 8. **TERMINATION OR NONRENEWAL OF REPORTING ORGANIZATION.** The commissioner may withdraw approval of any voluntary, nonprofit reporting organization for failure on the part of the voluntary, nonprofit reporting organization to comply with the written operating requirements under subdivision 2. Upon the effective date of the withdrawal, all funds collected by the voluntary, nonprofit reporting organization under section 144.701, subdivision 4 1, but not expended shall be deposited in the general fund a revolving fund and are appropriated to the commissioner of health for the purposes of sections 144.695 to 144.703.

The commissioner may choose not to renew approval of a voluntary, nonprofit reporting organization if the organization has failed to perform its obligations satisfactorily under the written operating requirements under subdivision 2.

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Sec. 33. [144.7022] ADMINISTRATIVE PENALTY ORDERS FOR REPORTING ORGANIZATIONS.

Subdivision 1. AUTHORIZATION. The commissioner may issue an order to the voluntary, nonprofit reporting organization requiring violations to be corrected and administratively assess monetary penalties for violations of sections 144.695 to 144.703 or rules, written operating requirements, orders, stipulation agreements, settlements, or compliance agreements adopted, enforced, or issued by the commissioner.

Subd. 2. CONTENTS OF ORDER. An order assessing an administrative penalty under this section must include:

- (1) a concise statement of the facts alleged to constitute a violation;
- (2) a reference to the section of law, rule, written operating requirement, order, stipulation agreement, settlement, or compliance agreement that has been violated;
- (3) a statement of the amount of the administrative penalty to be imposed and the factors upon which the penalty is based;
- (4) a statement of the corrective actions necessary to correct the violation; and
- (5) a statement of the right to request a hearing according to sections 14.57 to 14.62.

Subd. 3. CONCURRENT CORRECTIVE ORDER. The commissioner may issue an order assessing an administrative penalty and requiring the violations cited in the order be corrected within 30 calendar days from the date the order is received. Before the 31st day after the order was received, the voluntary, nonprofit reporting organization that is subject to the order shall provide the commissioner with information demonstrating that the violation has been corrected or that a corrective plan acceptable to the commissioner has been developed. The commissioner shall determine whether the violation has been corrected and notify the voluntary, nonprofit reporting organization of the commissioner's determination.

Subd. 4. PENALTY. If the commissioner determines that the violation has been corrected or an acceptable corrective plan has been developed, the penalty may be forgiven, except where there are repeated or serious violations, the commissioner may issue an order with a penalty that will not be forgiven after corrective action is taken. Unless there is a request for review of the order under subdivision 6 before the penalty is due, the penalty is due and payable:

- (1) on the 31st calendar day after the order was received, if the voluntary, nonprofit reporting organization fails to provide information to the commissioner showing that the violation has been corrected or that appropriate steps have been taken toward correcting the violation;
- (2) on the 20th day after the voluntary, nonprofit reporting organization receives the commissioner's determination that the information provided is not sufficient to show that either the violation has been corrected or that appropriate steps have been taken toward correcting the violation; or
- (3) on the 31st day after the order was received where the penalty is for repeated or serious violations and according to the order issued, the penalty will not be forgiven after corrective action is taken.

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All penalties due under this section are payable to the treasurer, state of Minnesota, and shall be deposited in the general fund.

Subd. 5. AMOUNT OF PENALTY; CONSIDERATIONS. (a) The maximum amount of an administrative penalty order is \$5,000 for each specific violation identified in an inspection, investigation, or compliance review, up to an annual maximum total for all violations of ten percent of the fees collected by the voluntary, nonprofit reporting organization under section 144.702, subdivision 1. The annual maximum is based on a reporting year.

(b) In determining the amount of the administrative penalty, the commissioner shall consider the following:

(1) the willfulness of the violation;

(2) the gravity of the violation;

(3) the history of past violations;

(4) the number of violations;

(5) the economic benefit gained by the person allowing or committing the violation;
and

(6) other factors as justice may require, if the commissioner specifically identifies the additional factors in the commissioner's order.

(c) In determining the amount of a penalty for a violation subsequent to an initial violation under paragraph (a), the commissioner shall also consider:

(1) the similarity of the most recent previous violation and the violation to be penalized;

(2) the time elapsed since the last violation; and

(3) the response of the voluntary, nonprofit reporting organization to the most recent previous violation.

Subd. 6. REQUEST FOR HEARING; HEARING; AND FINAL ORDER. A request for hearing must be in writing, delivered to the commissioner by certified mail within 20 calendar days after the receipt of the order, and specifically state the reasons for seeking review of the order. The commissioner must initiate a hearing within 30 calendar days from the date of receipt of the written request for hearing. The hearing shall be conducted pursuant to the contested case procedures in sections 14.57 to 14.62. No earlier than ten calendar days after and within 30 calendar days of receipt of the presiding administrative law judge's report, the commissioner shall, based on all relevant facts, issue a final order modifying, vacating, or making the original order permanent. If, within 20 calendar days of receipt of the original order, the voluntary, nonprofit reporting organization fails to request a hearing in writing, the order becomes the final order of the commissioner.

Subd. 7. REVIEW OF FINAL ORDER AND PAYMENT OF PENALTY. Once the commissioner issues a final order, any penalty due under that order shall be paid within 30 calendar days after the date of the final order, unless review of the final order is requested. The final order of the commissioner may be appealed in the manner prescribed

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in sections 14.63 to 14.69. If the final order is reviewed and upheld, the penalty shall be paid 30 calendar days after the date of the decision of the reviewing court. Failure to request an administrative hearing pursuant to subdivision 6 shall constitute a waiver of the right to further agency or judicial review of the final order.

Subd. 8. REINSPECTIONS AND EFFECT OF NONCOMPLIANCE. If, upon reinspection, or in the determination of the commissioner, it is found that any deficiency specified in the order has not been corrected or an acceptable corrective plan has not been developed, the voluntary, nonprofit reporting organization is in noncompliance. The commissioner shall issue a notice of noncompliance and may impose any additional remedy available under this chapter.

Subd. 9. ENFORCEMENT. The attorney general may proceed on behalf of the commissioner to enforce penalties that are due and payable under this section in any manner provided by law for the collection of debts.

Subd. 10. TERMINATION OR NONRENEWAL OF REPORTING ORGANIZATION. The commissioner may withdraw or not renew approval of any voluntary, nonprofit reporting organization for failure on the part of the voluntary, nonprofit reporting organization to pay penalties owed under this section.

Subd. 11. CUMULATIVE REMEDY. The authority of the commissioner to issue an administrative penalty order is in addition to other lawfully available remedies.

Subd. 12. MEDIATION. In addition to review under subdivision 6, the commissioner is authorized to enter into mediation concerning an order issued under this section if the commissioner and the voluntary, nonprofit reporting organization agree to mediation.

Sec. 34. Minnesota Statutes 1996, section 144.9501, subdivision 1, is amended to read:

Subdivision 1. **CITATION.** Sections 144.9501 to 144.9509 may be cited as the "childhood Lead Poisoning Prevention Act."

Sec. 35. Minnesota Statutes 1996, section 144.9501, is amended by adding a subdivision to read:

Subd. 4a. ASSESSING AGENCY. "Assessing agency" means the commissioner or a board of health with authority and responsibility to conduct lead risk assessments in response to reports of children or pregnant women with elevated blood lead levels.

Sec. 36. Minnesota Statutes 1996, section 144.9501, is amended by adding a subdivision to read:

Subd. 6b. CLEARANCE INSPECTION. "Clearance inspection" means a visual identification of deteriorated paint and bare soil and a resampling and analysis of interior dust lead concentrations in a residence to ensure that the lead standards established in rules adopted under section 144.9508 are not exceeded.

Sec. 37. Minnesota Statutes 1996, section 144.9501, subdivision 17, is amended to read:

Subd. 17. LEAD HAZARD REDUCTION. "Lead hazard reduction" means action undertaken in response to a lead order to make a residence, child care facility, school,

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or playground lead-safe by complying with the lead standards and methods adopted under section 144.9508, by:

(1) a property owner or lead contractor complying persons hired by the property owner to comply with a lead order issued under section 144.9504; or

(2) a swab team service provided in response to a lead order issued under section 144.9504; or

(3) a renter residing at a rental property or one or more volunteers to comply with a lead order issued under section 144.9504.

Sec. 38. Minnesota Statutes 1996, section 144.9501, is amended by adding a subdivision to read:

Subd. 17a. **LEAD HAZARD SCREEN.** "Lead hazard screen" means visual identification of the existence and location of any deteriorated paint, collection and analysis of dust samples, and visual identification of the existence and location of bare soil.

Sec. 39. Minnesota Statutes 1996, section 144.9501, subdivision 18, is amended to read:

Subd. 18. **LEAD INSPECTION.** "Lead inspection" means a qualitative or quantitative analytical inspection of a residence for deteriorated paint or bare soil and the collection of samples of deteriorated paint, bare soil, dust, or drinking water for analysis to determine if the lead concentrations in the samples exceed standards adopted under section 144.9508. Lead inspection includes the clearance inspection after the completion of a lead order measurement of the lead content of paint and a visual identification of the existence and location of bare soil.

Sec. 40. Minnesota Statutes 1996, section 144.9501, subdivision 20, is amended to read:

Subd. 20. **LEAD ORDER.** "Lead order" means a legal instrument to compel a property owner to engage in lead hazard reduction according to the specifications given by the inspecting assessing agency.

Sec. 41. Minnesota Statutes 1996, section 144.9501, is amended by adding a subdivision to read:

Subd. 20a. **LEAD PROJECT DESIGNER.** "Lead project designer" means an individual who is responsible for planning the site-specific performance of lead abatement or lead hazard reduction and who has been licensed by the commissioner under section 144.9505.

Sec. 42. Minnesota Statutes 1996, section 144.9501, is amended by adding a subdivision to read:

Subd. 20b. **LEAD RISK ASSESSMENT.** "Lead risk assessment" means a quantitative measurement of the lead content of paint, interior dust, and bare soil to determine compliance with the standards established under section 144.9508.

Sec. 43. Minnesota Statutes 1996, section 144.9501, is amended by adding a subdivision to read:

Subd. 20c. **LEAD RISK ASSESSOR.** "Lead risk assessor" means an individual who performs lead risk assessments or lead inspections and who has been licensed by the commissioner under section 144.9506.

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Sec. 44. Minnesota Statutes 1996, section 144.9501, is amended by adding a subdivision to read:

Subd. 22a. **LEAD SUPERVISOR.** "Lead supervisor" means an individual who is responsible for the on-site performance of lead abatement or lead hazard reduction and who has been licensed by the commissioner under section 144.9505.

Sec. 45. Minnesota Statutes 1996, section 144.9501, subdivision 23, is amended to read:

Subd. 23. **LEAD WORKER.** "Lead worker" means any person who is certified an individual who performs lead abatement or lead hazard reduction and who has been licensed by the commissioner under section 144.9505.

Sec. 46. Minnesota Statutes 1996, section 144.9501, is amended by adding a subdivision to read:

Subd. 25a. **PLAY AREA.** "Play area" means any established area where children play, or on residential property, any established area where children play or bare soil is accessible to children.

Sec. 47. Minnesota Statutes 1996, section 144.9501, is amended by adding a subdivision to read:

Subd. 28a. **STANDARD.** "Standard" means a quantitative assessment of lead in any environmental media or consumer product, or a work practice or method that reduces the likelihood of lead exposure.

Sec. 48. Minnesota Statutes 1996, section 144.9501, subdivision 30, is amended to read:

Subd. 30. **SWAB TEAM WORKER.** "Swab team worker" means a person who is certified an individual who performs swab team services and who has been licensed by the commissioner as a lead worker under section 144.9505.

Sec. 49. Minnesota Statutes 1996, section 144.9501, subdivision 32, is amended to read:

Subd. 32. **VOLUNTARY LEAD HAZARD REDUCTION.** "Voluntary lead hazard reduction" means action undertaken by a property owner with the intention to engage in lead hazard reduction or abatement lead hazard reduction activities defined in subdivision 17, but not undertaken in response to the issuance of a lead order.

Sec. 50. Minnesota Statutes 1996, section 144.9502, subdivision 3, is amended to read:

Subd. 3. **REPORTS OF BLOOD LEAD ANALYSIS REQUIRED.** (a) Every hospital, medical clinic, medical laboratory, or other facility, or individual performing blood lead analysis shall report the results after the analysis of each specimen analyzed, for both capillary and venous specimens, and epidemiologic information required in this section to the commissioner of health, within the time frames set forth in clauses (1) and (2):

(1) within two working days by telephone, fax, or electronic transmission, with written or electronic confirmation within one month, for a venous blood lead level equal to or greater than 15 micrograms of lead per deciliter of whole blood; or

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(2) within one month in writing or by electronic transmission, for a any capillary result or for a venous blood lead level less than 15 micrograms of lead per deciliter of whole blood.

(b) If a blood lead analysis is performed outside of Minnesota and the facility performing the analysis does not report the blood lead analysis results and epidemiological information required in this section to the commissioner, the provider who collected the blood specimen must satisfy the reporting requirements of this section. For purposes of this section, "provider" has the meaning given in section 62D.02, subdivision 9.

(c) The commissioner shall coordinate with hospitals, medical clinics, medical laboratories, and other facilities performing blood lead analysis to develop a universal reporting form and mechanism.

The reporting requirements of this subdivision shall expire on December 31, 1997. Beginning January 1, 1998, every hospital, medical clinic, medical laboratory, or other facility performing blood lead analysis shall report the results within two working days by telephone, fax, or electronic transmission, with written or electronic confirmation within one month, for capillary or venous blood lead level equal to the level for which reporting is recommended by the Center for Disease Control.

Sec. 51. Minnesota Statutes 1996, section 144.9502, subdivision 4, is amended to read:

Subd. 4. BLOOD LEAD ANALYSES AND EPIDEMIOLOGIC INFORMATION. The blood lead analysis reports required in this section must specify:

- (1) whether the specimen was collected as a capillary or venous sample;
- (2) the date the sample was collected;
- (3) the results of the blood lead analysis;
- (4) the date the sample was analyzed;
- (5) the method of analysis used;
- (6) the full name, address, and phone number of the laboratory performing the analysis;
- (7) the full name, address, and phone number of the physician or facility requesting the analysis;
- (8) the full name, address, and phone number of the person with the elevated blood lead level, and the person's birthdate, gender, and race.

Sec. 52. Minnesota Statutes 1996, section 144.9502, subdivision 9, is amended to read:

Subd. 9. CLASSIFICATION OF DATA. Notwithstanding any law to the contrary, including section 13.05, subdivision 9, data collected by the commissioner of health about persons with elevated blood lead levels, including analytic results from samples of paint, soil, dust, and drinking water taken from the individual's home and immediate property, shall be private and may only be used by the commissioner of health, the commissioner of labor and industry, authorized agents of Indian tribes, and authorized employees of local boards of health for the purposes set forth in this section.

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Sec. 53. Minnesota Statutes 1996, section 144.9503, subdivision 4, is amended to read:

Subd. 4. **SWAB TEAM SERVICES.** Primary prevention must include the use of swab team services in census tracts identified at high risk for toxic lead exposure as identified by the commissioner under this section. The swab team services may be provided based on visual inspections lead hazard screens whenever possible and must at least include lead hazard management reduction for deteriorated interior lead-based paint, bare soil, and dust.

Sec. 54. Minnesota Statutes 1996, section 144.9503, subdivision 6, is amended to read:

Subd. 6. **VOLUNTARY LEAD ABATEMENT OR LEAD HAZARD REDUCTION.** The commissioner shall monitor the lead abatement or lead hazard reduction methods adopted under section 144.9508 in cases of voluntary lead abatement or lead hazard reduction. All ~~contractors~~ persons hired to do voluntary lead abatement or lead hazard reduction must be licensed ~~lead contractors by the commissioner under section 144.9505 or 144.9506.~~ Renters and volunteers performing lead abatement or lead hazard reduction must be trained and licensed as lead supervisors or lead workers. If a property owner does not use a ~~lead contractor~~ hire a person for voluntary lead abatement or lead hazard reduction, the property owner shall provide the commissioner with a work plan for lead abatement or lead hazard reduction at least ten working days before beginning the lead abatement or lead hazard reduction. The work plan must include the details required in section 144.9505, and notice as to when lead abatement or lead hazard reduction activities will begin. Within the limits of appropriations, the commissioner shall review work plans and shall approve or disapprove them as to compliance with the requirements in section 144.9505. No penalty shall be assessed against a property owner for discontinuing voluntary lead hazard reduction before completion of the work plan, provided that the property owner discontinues the ~~plan~~ lead hazard reduction in a manner that leaves the property in a condition no more hazardous than its condition before the work plan implementation.

Sec. 55. Minnesota Statutes 1996, section 144.9503, subdivision 7, is amended to read:

Subd. 7. **LEAD-SAFE INFORMATIONAL DIRECTIVES.** (a) By July 1, 1995, and amended and updated as necessary, the commissioner shall develop in cooperation with the commissioner of administration provisions and procedures to define lead-safe informational directives for residential remodeling, renovation, installation, and rehabilitation activities that are not lead hazard reduction, but may disrupt lead-based paint surfaces.

(b) The provisions and procedures shall define lead-safe directives for nonlead hazard reduction activities including preparation, cleanup, and disposal procedures. The directives shall be based on the different levels and types of work involved and the potential for lead hazards. The directives shall address activities including painting; remodeling; weatherization; installation of cable, wire, plumbing, and gas; and replacement of doors and windows. The commissioners of health and administration shall consult with representatives of builders, weatherization providers, nonprofit rehabilitation organizations, each of the affected trades, and housing and redevelopment authorities in developing the

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directives and procedures. This group shall also make recommendations for consumer and contractor education and training. The commissioner of health shall report to the legislature by February 15, 1996, regarding development of the provisions required under this ~~subdivision~~ paragraph.

(c) By January 1, 1999, the commissioner, in cooperation with interested and informed persons and using the meeting structure and format developed in paragraph (b), shall develop lead-safe informational directives on the following topics:

- (1) maintaining floors, walls, and ceilings;
- (2) maintaining and repairing porches;
- (3) conducting a risk evaluation for lead; and
- (4) prohibited practices when working with lead.

The commissioner shall report to the legislature by January 1, 1999, regarding development of the provisions required under this paragraph.

Sec. 56. Minnesota Statutes 1996, section 144.9504, subdivision 1, is amended to read:

Subdivision 1. **JURISDICTION.** (a) A board of health serving cities of the first class must conduct lead ~~inspections~~ risk assessments for purposes of secondary prevention, according to the provisions of this section. A board of health not serving cities of the first class must conduct lead ~~inspections~~ risk assessments for the purposes of secondary prevention, unless they ~~certify~~ certified in writing to the commissioner by January 1, 1996, that they desire desired to relinquish these duties back to the commissioner. At the discretion of the commissioner, a board of health may relinquish the authority and duty to perform lead risk assessments for secondary prevention by so certifying in writing to the commissioner by December 31, 1999. At the discretion of the commissioner, a board of health may, upon written request to the commissioner, resume these duties.

(b) Inspections Lead risk assessments must be conducted by a board of health serving a city of the first class. The commissioner must conduct lead inspections risk assessments in any area not including cities of the first class where a board of health has relinquished to the commissioner the responsibility for lead inspections risk assessments. The commissioner shall coordinate with the board of health to ensure that the requirements of this section are met.

(c) The commissioner may assist boards of health by providing technical expertise, equipment, and personnel to boards of health. The commissioner may provide laboratory or field lead-testing equipment to a board of health or may reimburse a board of health for direct costs associated with lead ~~inspections~~ risk assessments.

(d) The commissioner shall enforce the rules under section 144.9508 in cases of voluntary lead hazard reduction.

Sec. 57. Minnesota Statutes 1997 Supplement, section 144.9504, subdivision 2, is amended to read:

Subd. 2. **LEAD INSPECTION RISK ASSESSMENT.** (a) An inspecting assessing agency shall conduct a lead inspection risk assessment of a residence according to

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the venous blood lead level and time frame set forth in clauses (1) to (5) for purposes of secondary prevention:

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

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

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

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

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

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

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

(d) Within the limits of appropriations, the inspecting assessing agency shall identify the known addresses for the previous 12 months of the child or pregnant female with venous blood lead levels of at least 20 micrograms per deciliter for the child or at least ten micrograms per deciliter for the pregnant female; notify the property owners, landlords, and tenants at those addresses that an elevated blood lead level was found in a person who resided at the property; and give them a copy of the lead inspection risk assessment guide. The inspecting assessing agency shall provide the notice required by this subdivision without identifying the child or pregnant female with the elevated blood lead level. The inspecting assessing agency is not required to obtain the consent of the child's parent or guardian or the consent of the pregnant female for purposes of this subdivision. This information shall be classified as private data on individuals as defined under section 13.02, subdivision 12.

(e) The inspecting assessing agency shall conduct the lead inspection risk assessment according to rules adopted by the commissioner under section 144.9508. An inspecting assessing agency shall have lead inspections risk assessments performed by lead inspectors risk assessors licensed by the commissioner according to rules adopted under section 144.9508. If a property owner refuses to allow an inspection a lead risk as-

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assessment, the inspecting assessing agency shall begin legal proceedings to gain entry to the property and the time frame for conducting a lead inspection risk assessment set forth in this subdivision no longer applies. An inspector A lead risk assessor or inspecting assessing agency may observe the performance of lead hazard reduction in progress and shall enforce the provisions of this section under section 144.9509. Deteriorated painted surfaces, bare soil, and dust, and drinking water must be tested with appropriate analytical equipment to determine the lead content, except that deteriorated painted surfaces or bare soil need not be tested if the property owner agrees to engage in lead hazard reduction on those surfaces. The lead content of drinking water must be measured if a probable source of lead exposure is not identified by measurement of lead in paint, bare soil, or dust. Within a standard metropolitan statistical area, an assessing agency may order lead hazard reduction of bare soil without measuring the lead content of the bare soil if the property is in a census tract in which soil sampling has been performed according to rules established by the commissioner and at least 25 percent of the soil samples contain lead concentrations above the standard in section 144.9508.

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

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

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

Sec. 58. Minnesota Statutes 1996, section 144.9504, subdivision 3, is amended to read:

Subd. 3. LEAD EDUCATION STRATEGY. At the time of a lead inspection risk assessment or following a lead order, the inspecting assessing agency shall ensure that a family will receive a visit at their residence by a swab team worker or public health professional, such as a nurse, sanitarian, public health educator, or other public health professional. The swab team worker or public health professional shall inform the property owner, landlord, and the tenant of the health-related aspects of lead exposure; nutrition; safety measures to minimize exposure; methods to be followed before, during, and after the lead hazard reduction process; and community, legal, and housing resources. If a family moves to a temporary residence during the lead hazard reduction process, lead education services should be provided at the temporary residence whenever feasible.

Sec. 59. Minnesota Statutes 1996, section 144.9504, subdivision 4, is amended to read:

Subd. 4. LEAD INSPECTION RISK ASSESSMENT GUIDES. (a) The commissioner of health shall develop or purchase lead inspection risk assessment guides that enable parents and other caregivers to assess the possible lead sources present and that suggest lead hazard reduction actions. The guide must provide information on lead hazard reduction and disposal methods, sources of equipment, and telephone numbers for additional information to enable the persons to either select a lead contractor persons licensed

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by the commissioner under section 144.9505 or 144.9506 to perform lead hazard reduction or perform the lead hazard reduction themselves. The guides must explain:

- (1) the requirements of this section and rules adopted under section 144.9508;
- (2) information on the administrative appeal procedures required under this section;
- (3) summary information on lead-safe directives;
- (4) be understandable at an eighth grade reading level; and
- (5) be translated for use by non-English-speaking persons.

(b) An inspecting assessing agency shall provide the lead inspection risk assessment guides at no cost to:

(1) parents and other caregivers of children who are identified as having blood lead levels of at least ten micrograms of lead per deciliter of whole blood;

(2) all property owners who are issued housing code or lead orders requiring lead hazard reduction of lead sources and all occupants of those properties; and

(3) occupants of residences adjacent to the inspected property.

(c) An inspecting assessing agency shall provide the lead inspection risk assessment guides on request to owners or occupants of residential property, builders, contractors, inspectors, and the public within the jurisdiction of the inspecting assessing agency.

Sec. 60. Minnesota Statutes 1996, section 144.9504, subdivision 5, is amended to read:

Subd. 5. **LEAD ORDERS.** An inspecting assessing agency, after conducting a lead inspection risk assessment, shall order a property owner to perform lead hazard reduction on all lead sources that exceed a standard adopted according to section 144.9508. If lead inspections risk assessments and lead orders are conducted at times when weather or soil conditions do not permit the lead inspection risk assessment or lead hazard reduction, external surfaces and soil lead shall be inspected, and lead orders complied with, if necessary, at the first opportunity that weather and soil conditions allow. If the paint standard under section 144.9508 is violated, but the paint is intact, the inspecting assessing agency shall not order the paint to be removed unless the intact paint is a known source of actual lead exposure to a specific person. Before the inspecting assessing agency may order the intact paint to be removed, a reasonable effort must be made to protect the child and preserve the intact paint by the use of guards or other protective devices and methods. Whenever windows and doors or other components covered with deteriorated lead-based paint have sound substrate or are not rotting, those components should be repaired, sent out for stripping or be planed down to remove deteriorated lead-based paint or covered with protective guards instead of being replaced, provided that such an activity is the least cost method. However, a property owner who has been ordered to perform lead hazard reduction may choose any method to address deteriorated lead-based paint on windows, doors, or other components, provided that the method is approved in rules adopted under section 144.9508 and that it is appropriate to the specific property. Lead orders must require that any source of damage, such as leaking roofs, plumbing, and windows, be repaired or replaced, as needed, to prevent damage to lead-containing interior surfaces. The inspecting assessing agency is not required to pay for lead hazard reduction. Lead

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orders must be issued within 30 days of receiving the blood lead level analysis. The inspecting assessing agency shall enforce the lead orders issued to a property owner under this section. A copy of the lead order must be forwarded to the commissioner.

Sec. 61. Minnesota Statutes 1996, section 144.9504, subdivision 6, is amended to read:

Subd. 6. **SWAB TEAM SERVICES.** After a lead inspection risk assessment or after issuing lead orders, the inspecting assessing agency, within the limits of appropriations and availability, shall offer the property owner the services of a swab team free of charge and, if accepted, shall send a swab team within ten working days to the residence to perform swab team services as defined in section 144.9501. If the inspecting assessing agency provides swab team services after a lead inspection risk assessment, but before the issuance of a lead order, swab team services do not need to be repeated after the issuance of the lead order if the swab team services fulfilled the lead order. Swab team services are not considered completed until the clearance inspection required under this section shows that the property is lead safe.

Sec. 62. Minnesota Statutes 1996, section 144.9504, subdivision 7, is amended to read:

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

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

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

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

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

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

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

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

Sec. 63. Minnesota Statutes 1996, section 144.9504, subdivision 8, is amended to read:

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

Sec. 64. Minnesota Statutes 1996, section 144.9504, subdivision 9, is amended to read:

Subd. 9. **CLEARANCE INSPECTION.** After completion of swab team services and compliance with the lead orders by the property owner, including any repairs ordered by a local housing or building inspector, ~~the inspecting assessing agency~~ shall conduct a clearance inspection by visually inspecting the residence for visual identification of deteriorated paint and bare soil and retest the dust lead concentration in the residence to assure that violations of the lead standards under section 144.9508 no longer exist. ~~The inspecting assessing agency is not required to test a dwelling unit after lead hazard reduction that was not ordered by the inspecting assessing agency.~~

Sec. 65. Minnesota Statutes 1996, section 144.9504, subdivision 10, is amended to read:

Subd. 10. **CASE CLOSURE.** A lead ~~inspection risk~~ assessment is completed and the responsibility of the inspecting assessing agency ends when all of the following conditions are met:

(1) lead orders are written on all known sources of violations of lead standards under section 144.9508;

(2) compliance with all lead orders has been completed; and

(3) clearance inspections demonstrate that no deteriorated lead paint, bare soil, or lead dust levels exist that exceed the standards adopted under section 144.9508.

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Sec. 66. Minnesota Statutes 1996, section 144.9505, subdivision 1, is amended to read:

Subdivision 1. **LICENSING AND CERTIFICATION.** (a) ~~Lead contractors~~ A person shall, before performing abatement or lead hazard reduction or providing planning services for lead abatement or lead hazard reduction, obtain a license from the commissioner as a lead supervisor, lead worker, or lead project designer. Workers for lead contractors shall obtain certification from the commissioner. The commissioner shall specify training and testing requirements for licensure and certification as required in section 144.9508 and shall charge a fee for the cost of issuing a license or certificate and for training provided by the commissioner. ~~Fees collected under this section shall be set in amounts to be determined by the commissioner to cover but not exceed the costs of adopting rules under section 144.9508, the costs of licensure, certification, and training, and the costs of enforcing licenses and certificates under this section.~~ License fees shall be nonrefundable and must be submitted with each application in the amount of \$50 for each lead supervisor, lead worker, or lead inspector and \$100 for each lead project designer, lead risk assessor, or certified firm. All fees received shall be paid into the state treasury and credited to the lead abatement licensing and certification account and are appropriated to the commissioner to cover costs incurred under this section and section 144.9508.

(b) ~~Contractors~~ Persons shall not advertise or otherwise present themselves as lead contractors supervisors, lead workers, or lead project designers unless they have lead contractor licenses issued by the department of health commissioner under section 144.9505.

Sec. 67. Minnesota Statutes 1996, section 144.9505, subdivision 4, is amended to read:

Subd. 4. **NOTICE OF LEAD ABATEMENT OR LEAD HAZARD REDUCTION WORK.** (a) At least five working days before starting work at each lead abatement or lead hazard reduction worksite, the person performing the lead abatement or lead hazard reduction work shall give written notice and an approved work plan as required in this section to the commissioner and the appropriate board of health. Within the limits of appropriations, the commissioner shall review plans and shall approve or disapprove them as to compliance with the requirements in subdivision 5.

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

Sec. 68. Minnesota Statutes 1996, section 144.9505, subdivision 5, is amended to read:

Subd. 5. **ABATEMENT OR LEAD HAZARD REDUCTION WORK PLANS.** (a) A lead contractor person who performs lead abatement or lead hazard reduction shall present a lead abatement or lead hazard reduction work plan to the property owner with each bid or estimate for lead abatement or lead hazard reduction work. The work plan does not replace or supersede more stringent contractual agreements. A written lead abatement or lead hazard reduction work plan must be prepared which describes the equipment and procedures to be used throughout the lead abatement or lead hazard reduction work project. At a minimum, the work plan must describe:

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- (1) the building area and building components to be worked on;
- (2) the amount of lead-containing material to be removed, encapsulated, or enclosed;
- (3) the schedule to be followed for each work stage;
- (4) the workers' personal protection equipment and clothing;
- (5) the dust suppression and debris containment methods;
- (6) the lead abatement or lead hazard reduction methods to be used on each building component;
- (7) cleaning methods;
- (8) temporary, on-site waste storage, if any; and
- (9) the methods for transporting waste material and its destination.

(b) ~~A lead contractor~~ The work plan shall itemize the costs for each item listed in paragraph (a) and for any other expenses associated with the lead abatement or lead hazard reduction work and shall present these costs be presented to the property owner with any bid or estimate for lead abatement or lead hazard reduction work.

(c) ~~A lead contractor~~ The person performing the lead abatement or lead hazard reduction shall keep a copy of the work plan readily available at the worksite for the duration of the project and present it to the inspecting assessing agency on demand.

(d) ~~A lead contractor~~ The person performing the lead abatement or lead hazard reduction shall keep a copy of the work plan on record for one year after completion of the project and shall present it to the inspecting assessing agency on demand.

(e) This provision does not apply to swab team workers performing work under an order of an inspecting assessing agency or providing services at no cost to a property owner with funding under a state or federal grant.

Sec. 69. Minnesota Statutes 1997 Supplement, section 144.9506, subdivision 1, is amended to read:

Subdivision 1. **LICENSE REQUIRED.** (a) ~~A lead inspector~~ person shall obtain a license as a lead inspector or a lead risk assessor before performing lead inspections, lead hazard screens, or lead risk assessments and shall renew it annually as required in rules adopted under section 144.9508. The commissioner shall charge a fee and require annual refresher training, as specified in this section. A lead inspector or lead risk assessor shall have the lead inspector's license or lead risk assessor's license readily available at all times at a lead inspection site or lead risk assessment site and make it available, on request, for inspection examination by the inspecting assessing agency with jurisdiction over the site. A license shall not be transferred. License fees shall be nonrefundable and must be submitted with each application in the amount of \$50 for each lead inspector and \$100 for each lead risk assessor.

(b) Individuals shall not advertise or otherwise present themselves as lead inspectors or lead risk assessors unless licensed by the commissioner.

(c) An individual may use sodium rhodizonate to test paint for the presence of lead without obtaining a lead inspector or lead risk assessor license, but must not represent the test as a lead inspection or lead risk assessment.

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Sec. 70. Minnesota Statutes 1996, section 144.9506, subdivision 2, is amended to read:

Subd. 2. **LICENSE APPLICATION.** An application for a license or license renewal shall be on a form provided by the commissioner and shall include:

(1) a \$50 nonrefundable fee, in a form approved by the commissioner; and

(2) evidence that the applicant has successfully completed a lead inspector training course approved under this section or from another state with which the commissioner has established reciprocity. The fee required in this section is waived for federal, state, or local government employees within Minnesota.

Sec. 71. Minnesota Statutes 1996, section 144.9507, subdivision 2, is amended to read:

Subd. 2. **LEAD INSPECTION RISK ASSESSMENT CONTRACTS.** The commissioner shall, within available federal or state appropriations, contract with boards of health to conduct lead inspections risk assessments to determine sources of lead contamination and to issue and enforce lead orders according to section 144.9504.

Sec. 72. Minnesota Statutes 1996, section 144.9507, subdivision 3, is amended to read:

Subd. 3. **TEMPORARY LEAD-SAFE HOUSING CONTRACTS.** The commissioner shall, within the limits of available appropriations, contract with boards of health for temporary housing, to be used in meeting relocation requirements in section 144.9504, and award grants to boards of health for the purposes of paying housing and relocation costs under section 144.9504. The commissioner may use up to 15 percent of the available appropriations to provide temporary lead-safe housing in areas of the state in which the commissioner has the duty under section 144.9504 to perform secondary prevention.

Sec. 73. Minnesota Statutes 1996, section 144.9507, subdivision 4, is amended to read:

Subd. 4. **LEAD CLEANUP EQUIPMENT AND MATERIAL GRANTS TO NONPROFIT ORGANIZATIONS.** (a) The commissioner shall, within the limits of available state or federal appropriations, provide funds for lead cleanup equipment and materials under a grant program to nonprofit community-based organizations in areas at high risk for toxic lead exposure, as provided for in section 144.9503.

(b) Nonprofit community-based organizations in areas at high risk for toxic lead exposure may apply for grants from the commissioner to purchase lead cleanup equipment and materials and to pay for training for staff and volunteers for lead licensure under sections 144.9505 and 144.9506.

(c) For purposes of this section, lead cleanup equipment and materials means high efficiency particle accumulator (HEPA) and wet vacuum cleaners, wash water filters, mops, buckets, hoses, sponges, protective clothing, drop cloths, wet scraping equipment, secure containers, dust and particle containment material, and other cleanup and containment materials to remove loose paint and plaster, patch plaster, control household dust, wax floors, clean carpets and sidewalks, and cover bare soil.

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(d) The grantee's staff and volunteers may make lead cleanup equipment and materials available to residents and property owners and instruct them on the proper use of the equipment. Lead cleanup equipment and materials must be made available to low-income households, as defined by federal guidelines, on a priority basis at no fee. Other households may be charged on a sliding fee scale.

(e) The grantee shall not charge a fee for services performed using the equipment or materials.

(f) Any funds appropriated for purposes of this subdivision that are not awarded, due to a lack of acceptable proposals for the full amount appropriated, may be used for any purpose authorized in this section.

Sec. 74. Minnesota Statutes 1996, section 144.9508, subdivision 1, is amended to read:

Subdivision 1. **SAMPLING AND ANALYSIS.** The commissioner shall adopt, by rule, visual inspection and sampling and analysis methods for:

(1) lead inspections under section 144.9504, lead hazard screens, lead risk assessments, and clearance inspections;

(2) environmental surveys of lead in paint, soil, dust, and drinking water to determine census tracts that are areas at high risk for toxic lead exposure;

(3) soil sampling for soil used as replacement soil; and

(4) drinking water sampling, which shall be done in accordance with lab certification requirements and analytical techniques specified by Code of Federal Regulations, title 40, section 141.89; and

(5) sampling to determine whether at least 25 percent of the soil samples collected from a census tract within a standard metropolitan statistical area contain lead in concentrations that exceed 100 parts per million.

Sec. 75. Minnesota Statutes 1996, section 144.9508, is amended by adding a subdivision to read:

Subd. 2a. **LEAD STANDARDS FOR EXTERIOR SURFACES AND STREET DUST.** The commissioner may, by rule, establish lead standards for exterior horizontal surfaces, concrete or other impervious surfaces, and street dust on residential property to protect the public health and the environment.

Sec. 76. Minnesota Statutes 1996, section 144.9508, subdivision 3, is amended to read:

Subd. 3. **LEAD CONTRACTORS AND WORKERS LICENSURE AND CERTIFICATION.** The commissioner shall adopt rules to license lead contractors and to certify supervisors, lead workers of lead contractors who perform lead abatement or lead hazard reduction, lead project designers, lead inspectors, and lead risk assessors. The commissioner shall also adopt rules requiring certification of firms that perform lead abatement, lead hazard reduction, lead hazard screens, or lead risk assessments. The commissioner shall require periodic renewal of licenses and certificates and shall establish the renewal periods.

New language is indicated by underline, deletions by strikeout.

Sec. 77. Minnesota Statutes 1996, section 144.9508, subdivision 4, is amended to read:

Subd. 4. **LEAD TRAINING COURSE.** The commissioner shall establish by rule a permit fee to be paid by a training course provider on application for a training course permit or renewal period for each lead-related training course required for certification or licensure. The commissioner shall establish criteria in rules for the content and presentation of training courses intended to qualify trainees for licensure under subdivision 3. Training course permit fees shall be nonrefundable and must be submitted with each application in the amount of \$500 for an initial training course, \$250 for renewal of a permit for an initial training course, \$250 for a refresher training course, and \$125 for renewal of a permit of a refresher training course.

Sec. 78. Minnesota Statutes 1996, section 144.9509, subdivision 2, is amended to read:

Subd. 2. **DISCRIMINATION.** A person who discriminates against or otherwise sanctions an employee who complains to or cooperates with the ~~inspecting~~ assessing agency in administering sections 144.9501 to 144.9509 is guilty of a petty misdemeanor.

Sec. 79. **[144.9511] LEAD-SAFE PROPERTY CERTIFICATION.**

Subdivision 1. **LEAD-SAFE PROPERTY CERTIFICATION PROGRAM ESTABLISHED.** (a) The commissioner shall establish, within the limits of available appropriations, recommended protocols for a voluntary lead-safe property certification program for residential properties. This program shall involve an initial property certification process, a property condition report, and a lead-safe property certification booklet.

(b) The commissioner shall establish recommended protocols for an initial property certification process composed of the following:

(1) a lead hazard screen, which shall include a visual evaluation of a residential property for both deteriorated paint and bare soil; and

(2) a quantitative measure of lead in dust within the structure and in common areas as determined by rule adopted under authority of section 144.9508.

(c) The commissioner shall establish forms, checklists, and protocols for conducting a property condition report. A property condition report is an evaluation of property components, without regard to aesthetic considerations, to determine whether any of the following conditions are likely to occur within one year of the report:

(1) that paint will become chipped, flaked, or cracked;

(2) that structural defects in the roof, windows, or plumbing will fail and cause paint to deteriorate;

(3) that window wells or window troughs will not be cleanable and washable;

(4) that windows will generate dust due to friction;

(5) that cabinet, room, and threshold doors will rub against casings or have repeated contact with painted surfaces;

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(6) that floors will not be smooth and cleanable and carpeted floors will not be cleanable;

(7) that soil will not remain covered;

(8) that bare soil in vegetable and flower gardens will not (i) be inaccessible to children or (ii) be tested to determine if it is below the soil standard under section 144.9508;

(9) that parking areas will not remain covered by an impervious surface or gravel;

(10) that covered soil will erode, particularly in play areas; and

(11) that gutters and down spouts will not function correctly.

(d) The commissioner shall develop a lead-safe property certification booklet that contains the following:

(1) information on how property owners and their maintenance personnel can perform essential maintenance practices to correct any of the property component conditions listed in paragraph (c) that may occur;

(2) the lead-safe work practices fact sheets created under section 144.9503, subdivision 7;

(3) forms, checklists, and copies of recommended lead-safe property certification certificates; and

(4) an educational sheet for landlords to give to tenants on the importance of having tenants inform property owners or designated maintenance staff of one or more of the conditions listed in paragraph (c).

Subd. 2. **CONDITIONS FOR CERTIFICATION.** A property shall be certified as lead safe only if the following conditions are met:

(1) the property passes the initial certification process in subdivision 1;

(2) the property owner agrees in writing to perform essential maintenance practices;

(3) the property owner agrees in writing to use lead-safe work practices, as provided for under section 144.9503, subdivision 7;

(4) the property owner performs essential maintenance as the need arises or uses maintenance personnel who have completed a U.S. Environmental Protection Agency- or Minnesota department of health-approved maintenance training program or course to perform essential maintenance;

(5) the lead-safe property certification booklet is distributed to the property owner, maintenance personnel, and tenants at the completion of the initial certification process; and

(6) a copy of the lead-safe property certificate is filed with the commissioner along with a \$5 filing fee.

Subd. 3. **LEAD STANDARDS.** Lead standards used in this section shall be those approved by the commissioner under section 144.9508.

Subd. 4. **LEAD RISK ASSESSORS.** Lead-safe property certifications shall only be performed by lead risk assessors licensed by the commissioner under section 144.9506.

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Subd. 5. **EXPIRATION.** Lead-safe property certificates are valid for one year.

Subd. 6. **LIST OF CERTIFIED PROPERTIES.** Within the limits of available appropriations, the commissioner shall maintain a list of all properties certified as lead-safe under this section and make it freely available to the public.

Subd. 7. **RE-APPLICATION.** Properties failing the initial property certification may re-apply for a lead-safe property certification by having a new initial certification process performed and by correcting any condition listed by the licensed lead risk assessor in the property condition report. Properties that fail the initial property certification process must have the condition corrected by the property owner, by trained maintenance staff, or by a contractor with personnel licensed for lead hazard reduction or lead abatement work by the commissioner under section 144.9505, in order to have the property certified.

Sec. 80. Minnesota Statutes 1996, section 144.99, subdivision 1, is amended to read:

Subdivision 1. **REMEDIES AVAILABLE.** The provisions of chapters 103I and 157 and sections 115.71 to 115.77; 144.12, subdivision 1, paragraphs (1), (2), (5), (6), (10), (12), (13), (14), and (15); 144.121; 144.1222; 144.35; 144.381 to 144.385; 144.411 to 144.417; 144.491; 144.495; 144.71 to 144.74; 144.9501 to 144.9509; 144.992; 326.37 to 326.45; 326.57 to 326.785; 327.10 to 327.131; and 327.14 to 327.28 and all rules, orders, stipulation agreements, settlements, compliance agreements, licenses, registrations, certificates, and permits adopted or issued by the department or under any other law now in force or later enacted for the preservation of public health may, in addition to provisions in other statutes, be enforced under this section.

Sec. 81. Minnesota Statutes 1996, section 144A.44, subdivision 2, is amended to read:

Subd. 2. **INTERPRETATION AND ENFORCEMENT OF RIGHTS.** These rights are established for the benefit of persons who receive home care services. "Home care services" means home care services as defined in section 144A.43, subdivision 3. A home care provider may not require a person to surrender these rights as a condition of receiving services. A guardian or conservator or, when there is no guardian or conservator, a designated person, may seek to enforce these rights. This statement of rights does not replace or diminish other rights and liberties that may exist relative to persons receiving home care services, persons providing home care services, or providers licensed under Laws 1987, chapter 378. A copy of these rights must be provided to an individual at the time home care services are initiated. The copy shall also contain the address and phone number of the office of health facility complaints and the office of the ombudsman for older Minnesotans and a brief statement describing how to file a complaint with that office these offices. Information about how to contact the office of the ombudsman for older Minnesotans shall be included in notices of change in client fees and in notices where home care providers initiate transfer or discontinuation of services.

Sec. 82. Minnesota Statutes 1997 Supplement, section 144A.4605, subdivision 4, is amended to read:

Subd. 4. **LICENSE REQUIRED.** (a) A housing with services establishment registered under chapter 144D that is required to obtain a home care license must obtain an assisted living home care license according to this section or a class A or class E license

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according to rule. A housing with services establishment that obtains a class E license under this subdivision remains subject to the payment limitations in sections 256B.0913, subdivision 5, paragraph (h), and 256B.0915, subdivision 3, paragraph (g).

(b) A board and lodging establishment registered for special services as of December 31, 1996, and also registered as a housing with services establishment under chapter 144D, must deliver home care services according to sections 144A.43 to 144A.49, and may apply for a waiver from requirements under Minnesota Rules, parts 4668.0002 to 4668.0240, to operate a licensed agency under the standards of section 157.17. Such waivers as may be granted by the department will expire upon promulgation of home care rules implementing section 144A.4605.

(c) An adult foster care provider licensed by the department of human services and registered under chapter 144D may continue to provide health-related services under its foster care license until the promulgation of home care rules implementing this section.

Sec. 83. [145.905] LOCATION FOR BREAST-FEEDING.

A mother may breast-feed in any location, public or private, where the mother and child are otherwise authorized to be, irrespective of whether the nipple of the mother's breast is uncovered during or incidental to the breast-feeding.

Sec. 84. [145.9261] ABSTINENCE EDUCATION GRANT PROGRAM.

The commissioner of health shall expend federal funds for abstinence education programs provided under United States Code, title 42, section 710, and state matching funds for abstinence education programs only to an abstinence education program that complies with the state plan that has been submitted to and approved by the federal Department of Health and Human Services.

Sec. 85. [145.9266] FETAL ALCOHOL SYNDROME.

Subdivision 1. PUBLIC AWARENESS. The commissioner of health shall design and implement an ongoing statewide campaign to raise public awareness about fetal alcohol syndrome and other effects of prenatal alcohol exposure. The campaign shall include messages directed to the general population as well as culturally specific and community-based messages. A toll-free resource and referral telephone line shall be included in the messages. The commissioner of health shall conduct an evaluation to determine the effectiveness of the campaign.

Subd. 2. STATEWIDE NETWORK OF FAS DIAGNOSTIC CLINICS. A statewide network of regional fetal alcohol syndrome diagnostic clinics shall be developed between the department of health and the University of Minnesota. This collaboration shall be based on a statewide needs assessment and shall include involvement from consumers, providers, and payors. By the end of calendar year 1998, a plan shall be developed for the clinic network, and shall include a comprehensive evaluation component. Sites shall be established in calendar year 1999. The commissioner shall not access or collect individually identifiable data for the statewide network of regional fetal alcohol syndrome diagnostic clinics. Data collected at the clinics shall be maintained according to applicable data privacy laws, including section 144.335.

Subd. 3. PROFESSIONAL TRAINING ABOUT FAS. (a) The commissioner of health, in collaboration with the board of medical practice, the board of nursing, and other

New language is indicated by underline, deletions by strikeout.

professional boards and state agencies, shall develop curricula and materials about fetal alcohol syndrome for professional training of health care providers, social service providers, educators, and judicial and corrections systems professionals. The training and curricula shall increase knowledge and develop practical skills of professionals to help them address the needs of at-risk pregnant women and the needs of individuals affected by fetal alcohol syndrome or fetal alcohol effects and their families.

(b) Training for health care providers shall focus on skill building for screening, counseling, referral, and follow-up for women using or at risk of using alcohol while pregnant. Training for health care professionals shall include methods for diagnosis and evaluation of fetal alcohol syndrome and fetal alcohol effects. Training for education, judicial, and corrections professionals shall involve effective education strategies, methods to identify the behaviors and learning styles of children with alcohol-related birth defects, and methods to identify available referral and community resources.

(c) Training for social service providers shall focus on resources for assessing, referring, and treating at-risk pregnant women, changes in the mandatory reporting and commitment laws, and resources for affected children and their families.

Subd. 4. FAS COMMUNITY GRANT PROGRAM. The commissioner of health shall administer a grant program to provide money to community organizations and coalitions to collaborate on fetal alcohol syndrome prevention and intervention strategies and activities. The commissioner shall disburse grant money through a request for proposal process or sole-source distribution where appropriate, and shall include at least one grant award for transitional skills and services for individuals with fetal alcohol syndrome or fetal alcohol effects.

Subd. 5. SCHOOL PILOT PROGRAMS. (a) The commissioner of children, families, and learning shall award up to four grants to schools for pilot programs to identify and implement effective educational strategies for individuals with fetal alcohol syndrome and other alcohol-related birth defects.

(b) One grant shall be awarded in each of the following age categories:

(1) birth to three years;

(2) three to five years;

(3) six to 12 years; and

(4) 13 to 18 years.

(c) Grant proposals must include an evaluation plan, demonstrate evidence of a collaborative or multisystem approach, provide parent education and support, and show evidence of a child- and family-focused approach consistent with research-based educational practices and other guidelines developed by the department of children, families, and learning.

(d) Children participating in the pilot program sites may be identified through child find activities or a diagnostic clinic. No identification activity may be undertaken without the consent of a child's parent or guardian.

Subd. 6. FETAL ALCOHOL COORDINATING BOARD; DUTIES. (a) The fetal alcohol coordinating board consists of:

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(1) the commissioners of health, human services, corrections, public safety, economic security, and children, families, and learning;

(2) the director of the office of strategic and long-range planning;

(3) the chair of the maternal and child health advisory task force established by section 145.881, or the chair's designee;

(4) a representative of the University of Minnesota academic health center, appointed by the provost;

(5) five members from the general public appointed by the governor, one of whom must be a family member of an individual with fetal alcohol syndrome or fetal alcohol effect; and

(6) one member from the judiciary appointed by the chief justice of the supreme court.

Terms, compensation, removal, and filling of vacancies of appointed members are governed by section 15.0575. The board shall elect a chair from its membership to serve a one-year term. The commissioner of health shall provide staff and consultant support for the board. Support must be provided based on an annual budget and work plan developed by the board. The board shall contract with the department of health for necessary administrative services. Administrative services include personnel, budget, payroll, and contract administration. The board shall adopt an annual budget and work program.

(b) Board duties include:

(1) reviewing programs of state agencies that involve fetal alcohol syndrome and coordinating those that are interdepartmental in nature;

(2) providing an integrated and comprehensive approach to fetal alcohol syndrome prevention and intervention strategies both at a local and statewide level;

(3) approving on an annual basis the statewide public awareness campaign as designed and implemented by the commissioner of health under subdivision 1;

(4) reviewing fetal alcohol syndrome community grants administered by the commissioner of health under subdivision 4; and

(5) submitting a report to the governor on January 15 of each odd-numbered year summarizing board operations, activities, findings, and recommendations, and fetal alcohol syndrome activities throughout the state.

(c) The board expires on January 1, 2001.

Subd. 7. FEDERAL FUNDS; CONTRACTS; DONATIONS. The fetal alcohol coordinating board may apply for, receive, and disburse federal funds made available to the state by federal law or rules adopted for any purpose related to the powers and duties of the board. The board shall comply with any requirements of federal law, rules, and regulations in order to apply for, receive, and disburse funds. The board may contract with or provide grants to public and private nonprofit entities. The board may accept donations or grants from any public or private entity. Money received by the board must be deposited in a separate account in the state treasury and invested by the state board of investment.

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The amount deposited, including investment earnings, is appropriated to the board to carry out its duties. Money deposited in the state treasury shall not cancel.

Sec. 86. Minnesota Statutes 1996, section 145A.15, subdivision 2, is amended to read:

Subd. 2. **GRANT RECIPIENTS.** (a) The commissioner is authorized to award grants to programs that meet the requirements of subdivision 3 and include a strong child abuse and neglect prevention focus for families in need of services. Priority will be given to families considered to be in need of additional services. These families include, but are not limited to, families with:

- (1) adolescent parents;
- (2) a history of alcohol and other drug abuse;
- (3) a history of child abuse, domestic abuse, or other types of violence in the family of origin;
- (4) a history of domestic abuse, rape, or other forms of victimization;
- (5) reduced cognitive functioning;
- (6) a lack of knowledge of child growth and development stages;
- (7) low resiliency to adversities and environmental stresses; or
- (8) lack of sufficient financial resources to meet their needs.

(b) Grants made under this section shall be used to fund existing and new home visiting programs. In awarding grants under this section, the commissioner shall give priority to new home visiting programs with local matching funds.

Sec. 87. Minnesota Statutes 1996, section 157.15, subdivision 9, is amended to read:

Subd. 9. **MOBILE FOOD UNIT.** "Mobile food unit" means a food and beverage service establishment that is a vehicle mounted unit, either motorized or trailered, operating no more than 14 21 days annually at any one place or is operated in conjunction with a permanent business licensed under this chapter or chapter 28A at the site of the permanent business by the same individual or company, and readily movable, without disassembling, for transport to another location.

Sec. 88. Minnesota Statutes 1996, section 157.15, subdivision 12, is amended to read:

Subd. 12. **RESTAURANT.** "Restaurant" means a food and beverage service establishment, whether the establishment serves alcoholic or nonalcoholic beverages, which operates from a location for more than 14 21 days annually. Restaurant does not include a food cart or a mobile food unit.

Sec. 89. Minnesota Statutes 1996, section 157.15, subdivision 12a, is amended to read:

Subd. 12a. **SEASONAL PERMANENT FOOD STAND.** "Seasonal permanent food stand" means a food and beverage service establishment which is a permanent food service stand or building, but which operates no more than 14 21 days annually.

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Sec. 90. Minnesota Statutes 1996, section 157.15, subdivision 13, is amended to read:

Subd. 13. **SEASONAL TEMPORARY FOOD STAND.** "Seasonal temporary food stand" means a food and beverage service establishment that is a food stand which is disassembled and moved from location to location, but which operates no more than 14 21 days annually at any one location.

Sec. 91. Minnesota Statutes 1996, section 157.15, subdivision 14, is amended to read:

Subd. 14. **SPECIAL EVENT FOOD STAND.** "Special event food stand" means a food and beverage service establishment which is used in conjunction with celebrations and special events, and which operates ~~once or twice~~ no more than three times annually for no more than ~~seven~~ ten total days.

Sec. 92. Minnesota Statutes 1997 Supplement, section 157.16, subdivision 3, is amended to read:

Subd. 3. **ESTABLISHMENT FEES; DEFINITIONS.** (a) The following fees are required for food and beverage service establishments, hotels, motels, lodging establishments, and resorts licensed under this chapter. Food and beverage service establishments must pay the highest applicable fee under paragraph (e), clause (1), (2), (3), or (4), and establishments serving alcohol must pay the highest applicable fee under paragraph (e), clause (6) or (7).

(b) All food and beverage service establishments, except special event food stands, and all hotels, motels, lodging establishments, and resorts shall pay an annual base fee of \$100.

(c) A special event food stand shall pay a flat fee of ~~\$60~~ \$30 annually. "Special event food stand" means a fee category where food is prepared or served in conjunction with celebrations, county fairs, or special events from a special event food stand as defined in section 157.15.

(d) A special event food stand—limited shall pay a flat fee of \$30.

(e) In addition to the base fee in paragraph (b), each food and beverage service establishment, other than a special event food stand, and each hotel, motel, lodging establishment, and resort shall pay an additional annual fee for each fee category as specified in this paragraph:

(1) Limited food menu selection, \$30. "Limited food menu selection" means a fee category that provides one or more of the following:

(i) prepackaged food that receives heat treatment and is served in the package;

(ii) frozen pizza that is heated and served;

(iii) a continental breakfast such as rolls, coffee, juice, milk, and cold cereal;

(iv) soft drinks, coffee, or nonalcoholic beverages; or

(v) cleaning for eating, drinking, or cooking utensils, when the only food served is prepared off site.

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(2) Small establishment, including boarding establishments, \$55. "Small establishment" means a fee category that has no salad bar and meets one or more of the following:

- (i) possesses food service equipment that consists of no more than a deep fat fryer, a grill, two hot holding containers, and one or more microwave ovens;
- (ii) serves dipped ice cream or soft serve frozen desserts;
- (iii) serves breakfast in an owner-occupied bed and breakfast establishment;
- (iv) is a boarding establishment; or
- (v) meets the equipment criteria in clause (3), item (i) or (ii), and has a maximum patron seating capacity of not more than 50.

(3) Medium establishment, \$150. "Medium establishment" means a fee category that meets one or more of the following:

- (i) possesses food service equipment that includes a range, oven, steam table, salad bar, or salad preparation area;
- (ii) possesses food service equipment that includes more than one deep fat fryer, one grill, or two hot holding containers; or
- (iii) is an establishment where food is prepared at one location and served at one or more separate locations.

Establishments meeting criteria in clause (2), item (v), are not included in this fee category.

(4) Large establishment, \$250. "Large establishment" means either:

- (i) a fee category that (A) meets the criteria in clause (3), items (i) or (ii), for a medium establishment, (B) seats more than 175 people, and (C) offers the full menu selection an average of five or more days a week during the weeks of operation; or
- (ii) a fee category that (A) meets the criteria in clause (3), item (iii), for a medium establishment, and (B) prepares and serves 500 or more meals per day.

(5) Other food and beverage service, including food carts, mobile food units, seasonal temporary food stands, and seasonal permanent food stands, \$30.

(6) Beer or wine table service, \$30. "Beer or wine table service" means a fee category where the only alcoholic beverage service is beer or wine, served to customers seated at tables.

(7) Alcoholic beverage service, other than beer or wine table service, \$75.

"Alcohol beverage service, other than beer or wine table service" means a fee category where alcoholic mixed drinks are served or where beer or wine are served from a bar.

(8) Lodging per sleeping accommodation unit, \$4, including hotels, motels, lodging establishments, and resorts, up to a maximum of \$400. "Lodging per sleeping accommodation unit" means a fee category including the number of guest rooms, cottages, or other rental units of a hotel, motel, lodging establishment, or resort; or the number of beds in a dormitory.

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(9) First public swimming pool, \$100; each additional public swimming pool, \$50. "Public swimming pool" means a fee category that has the meaning given in Minnesota Rules, part 4717.0250, subpart 8.

(10) First spa, \$50; each additional spa, \$25. "Spa pool" means a fee category that has the meaning given in Minnesota Rules, part 4717.0250, subpart 9.

(11) Private sewer or water, \$30. "Individual private water" means a fee category with a water supply other than a community public water supply as defined in Minnesota Rules, chapter 4720. "Individual private sewer" means a fee category with an individual sewage treatment system which uses subsurface treatment and disposal.

(f) (e) A fee is not required for a food and beverage service establishment operated by a school as defined in sections 120.05 and 120.101.

(g) (f) A fee of \$150 for review of the construction plans must accompany the initial license application for food and beverage service establishments, hotels, motels, lodging establishments, or resorts.

(h) (g) When existing food and beverage service establishments, hotels, motels, lodging establishments, or resorts are extensively remodeled, a fee of \$150 must be submitted with the remodeling plans.

(i) (h) Seasonal temporary food stands, ~~and special event food stands, and special event food stands~~ limited are not required to submit construction or remodeling plans for review.

Sec. 93. Minnesota Statutes 1996, section 214.03, is amended to read:

214.03 STANDARDIZED TESTS.

Subdivision 1. STANDARDIZED TESTS USED. All state examining and licensing boards, other than the state board of law examiners, the state board of professional responsibility or any other board established by the supreme court to regulate the practice of law and judicial functions, shall use national standardized tests for the objective, non-practical portion of any examination given to prospective licensees to the extent that such national standardized tests are appropriate, except when the subject matter of the examination relates to the application of Minnesota law to the profession or calling being licensed.

Subd. 2. HEALTH-RELATED BOARDS; SPECIAL ACCOUNT. An account is established in the special revenue fund where a health-related licensing board may deposit applicants' payments for national or regional standardized tests. Money in the account is appropriated to each board that has deposited monies into the account, in an amount equal to the amount deposited by the board, to pay for the use of national or regional standardized tests.

Sec. 94. Minnesota Statutes 1997 Supplement, section 214.32, subdivision 1, is amended to read:

Subdivision 1. MANAGEMENT. (a) A health professionals services program committee is established, consisting of one person appointed by each participating board, with each participating board having one vote. The committee shall designate one board to provide administrative management of the program, set the program budget and the

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pro rata share of program expenses to be borne by each participating board, provide guidance on the general operation of the program, including hiring of program personnel, and ensure that the program's direction is in accord with its authority. No more than half plus one of the members of the committee may be of one gender. If the participating boards change which board is designated to provide administrative management of the program, any appropriation remaining for the program shall transfer to the newly designated board on the effective date of the change. The participating boards must inform the appropriate legislative committees and the commissioner of finance of any change in the administrative management of the program, and the amount of any appropriation transferred under this provision.

(b) The designated board, upon recommendation of the health professional services program committee, shall hire the program manager and employees and pay expenses of the program from funds appropriated for that purpose. The designated board may apply for grants to pay program expenses and may enter into contracts on behalf of the program to carry out the purposes of the program. The participating boards shall enter into written agreements with the designated board.

(c) An advisory committee is established to advise the program committee consisting of:

(1) one member appointed by each of the following: the Minnesota Academy of Physician Assistants, the Minnesota Dental Association, the Minnesota Chiropractic Association, the Minnesota Licensed Practical Nurse Association, the Minnesota Medical Association, the Minnesota Nurses Association, and the Minnesota Podiatric Medicine Association;

(2) one member appointed by each of the professional associations of the other professions regulated by a participating board not specified in clause (1); and

(3) two public members, as defined by section 214.02.

Members of the advisory committee shall be appointed for two years and members may be reappointed.

No more than half plus one of the members of the committee may be of one gender.

The advisory committee expires June 30, 2001.

Sec. 95. Minnesota Statutes 1996, section 254A.17, subdivision 1, is amended to read:

Subdivision 1. **MATERNAL AND CHILD SERVICE PROGRAMS.** (a) The commissioner shall fund maternal and child health and social service programs designed to improve the health and functioning of children born to mothers using alcohol and controlled substances. Comprehensive programs shall include immediate and ongoing intervention, treatment, and coordination of medical, educational, and social services through a child's preschool years. Programs shall also include research and evaluation to identify methods most effective in improving outcomes among this high-risk population. The commissioner shall ensure that the programs are available on a statewide basis to the extent possible with available funds.

(b) The commissioner of human services shall develop models for the treatment of children ages 6 to 12 who are in need of chemical dependency treatment. The commis-

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sioner shall fund at least two pilot projects with qualified providers to provide nonresidential treatment for children in this age group. Model programs must include a component to monitor and evaluate treatment outcomes.

Sec. 96. Minnesota Statutes 1996, section 254A.17, is amended by adding a subdivision to read:

Subd. 1b. INTERVENTION AND ADVOCACY PROGRAM. Within the limits of money available, the commissioner of human services shall fund voluntary hospital-based outreach programs targeted at women who deliver children affected by prenatal alcohol or drug use. The program shall help women obtain treatment, stay in recovery, and plan any future pregnancies. An advocate shall be assigned to each woman in the program to provide guidance and advice with respect to treatment programs, child safety and parenting, housing, family planning, and any other personal issues that are barriers to remaining free of chemical dependence. The commissioner shall develop an evaluation component and provide centralized coordination of the evaluation process.

Sec. 97. Minnesota Statutes 1996, section 268.92, subdivision 4, is amended to read:

Subd. 4. LEAD CONTRACTORS SUPERVISOR OR CERTIFIED FIRM. (a) Eligible organizations and lead contractors supervisors or certified firms may participate in the swab team program. An eligible organization receiving a grant under this section must assure that all participating lead contractors supervisors or certified firms are licensed and that all swab team workers are certified by the department of health under section 144.9505. Eligible organizations and lead contractors supervisors or certified firms may distinguish between interior and exterior services in assigning duties and may participate in the program by:

- (1) providing on-the-job training for swab team workers;
- (2) providing swab team services to meet the requirements of sections 144.9503, subdivision 4, and 144.9504, subdivision 6;
- (3) providing a removal and replacement component using skilled craft workers under subdivision 7;
- (4) providing lead testing according to subdivision 7a;
- (5) providing lead dust cleaning supplies, as described in section 144.9503 144.9507, subdivision § 4, paragraph (b) (c), to residents; or
- (6) having a swab team worker instruct residents and property owners on appropriate lead control techniques, including the lead-safe directives developed by the commissioner of health.

(b) Participating lead contractors supervisors or certified firms must:

- (1) demonstrate proof of workers' compensation and general liability insurance coverage;
- (2) be knowledgeable about lead abatement requirements established by the Department of Housing and Urban Development and the Occupational Safety and Health Administration and lead hazard reduction requirements and lead-safe directives of the commissioner of health;

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- (3) demonstrate experience with on-the-job training programs;
- (4) demonstrate an ability to recruit employees from areas at high risk for toxic lead exposure; and
- (5) demonstrate experience in working with low-income clients.

Sec. 98. REPORT BY THE UNIVERSITY OF MINNESOTA ACADEMIC HEALTH CENTER.

The University of Minnesota academic health center, after consultation with the health care community and the medical education and research costs advisory committee, is requested to report to the commissioner of health and the legislative commission on health care access by January 15, 1999, on plans for the strategic direction and vision of the academic health center. The report shall address plans for the ongoing assessment of health provider workforce needs; plans for the ongoing assessment of the educational needs of health professionals and the implications for their education and training programs; and plans for ongoing, meaningful input from the health care community on health-related research and education programs administered by the academic health center.

Sec. 99. ADVICE AND RECOMMENDATIONS.

The commissioners of health and commerce shall convene an ad hoc advisory panel of selected representatives of health plan companies, purchasers, and provider groups engaged in the practice of health care in Minnesota, and interested legislators. This advisory panel shall meet and assist the commissioners in developing measures to prevent discrimination against providers and provider groups in managed care in Minnesota and clarify the requirements of Minnesota Statutes, section 62Q.23, paragraph (c). Any such measures shall be reported to the legislature prior to November 15, 1998.

Sec. 100. OMBUDSMAN STUDY.

The ombudsman for mental health and mental retardation and the ombudsman for older Minnesotans shall convene a work group to develop recommendations for inter-agency cooperation and/or the consolidation of all health-related ombudsman and advocacy programs provided by state agencies and to address issues to improve ombudsmen and advocacy services to health care consumers, including ease of access, timeliness of response, and quality of outcome. In developing its recommendations, the work group shall consider the unique needs of different populations of health care consumers. It shall also consider:

- (1) seamless access for health care consumers;
- (2) consumer outreach methods;
- (3) opportunities to share resources and training;
- (4) nonduplication of effort; and
- (5) the feasibility of colocation.

In developing its recommendations, the work group shall confer with and have representatives of consumers, advocacy organizations, the consumer advisory board, the office of health care consumer assistance, advocacy, and information, affected state agen-

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cies, the board on aging, and the advisory committee to the ombudsman for mental health and mental retardation. The work group shall make recommendations on how to better coordinate consumer services and submit a report to the legislature by December 15, 1999.

Sec. 101. COMPLAINT PROCESS STUDY.

The complaint process work group established by the commissioners of health and commerce as required under Laws 1997, chapter 237, section 20, shall continue to meet to develop a complaint resolution process for health plan companies to make available to enrollees as required under Minnesota Statutes, sections 62Q.105, 62Q.11, and 62Q.30. The commissioners of health and commerce shall submit a progress report to the legislative commission on health care access by September 15, 1998, and shall submit final recommendations to the legislature, including draft legislation on developing such a process by November 15, 1998. The recommendations must also include, in consultation with the work group, a permanent method of financing the office of health care consumer assistance, advocacy, and information.

Sec. 102. RESIDENTIAL HOSPICE ADVISORY TASK FORCE.

The commissioner of health shall convene an advisory task force to study issues related to the building codes and safety standards that residential hospice facilities must meet for licensure and to make recommendations on changes to these standards. Task force membership shall include representatives of residential hospices, pediatric residential hospices, the Minnesota hospice organization, the Minnesota department of health, and other interested parties. The task force is governed by Minnesota Statutes, section 15.059, subdivision 6. The task force shall submit recommendations and any draft legislation to the legislature by January 15, 1999.

Sec. 103. TEMPORARY LICENSURE WAIVER FOR DIETITIANS.

Until October 31, 1998, the board of dietetics and nutrition practice may waive the requirements for licensure as a dietitian established in Minnesota Statutes, section 148.624, subdivision 1, clause (1), and may issue a license to an applicant who meets the qualifications for licensure specified in Minnesota Statutes, section 148.627, subdivision 1. A waiver may be granted in cases in which unusual or extraordinary job-related circumstances prevented an applicant from applying for licensure during the transition period specified in Minnesota Statutes, section 148.627, subdivision 1. An applicant must request a waiver in writing and must explain the circumstances that prevented the applicant from applying for licensure during the transition period.

Sec. 104. UNITED STATES NUCLEAR REGULATORY COMMISSION AGREEMENT.

Subdivision 1. AGREEMENT AUTHORIZED. In order to have a comprehensive program to protect the public from radiation hazards, the governor may enter into an agreement with the United States Nuclear Regulatory Commission, under the Atomic Energy Act of 1954, United States Code, title 42, section 2021, paragraph (b). The agreement may allow the state to assume regulation over nonpower plant radiation hazards including certain by-product, source, and special nuclear materials not sufficient to form a critical mass. The agreement must be approved in law prior to being implemented.

Subd. 2. HEALTH DEPARTMENT DESIGNATED LEAD. The department of health is designated as the lead agency to pursue an agreement on behalf of the governor,

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and for any assumption of specified licensing and regulatory authority from the Nuclear Regulatory Commission under an agreement. The commissioner may enter into negotiations with the Nuclear Regulatory Commission for that purpose. The commissioner of health shall establish an advisory group to assist in preparing the state to meet the requirements for achieving an agreement.

Subd. 3. RULES. The commissioner of health may adopt rules for the state assumption of regulation under an agreement under this section, including the licensing and regulation of by-product, source, and special nuclear material not sufficient to form a critical mass.

Subd. 4. TRANSITION. A person who, on the effective date of an agreement under this section, possesses a Nuclear Regulatory Commission license that is subject to the agreement shall be deemed to possess a similar license issued by the department of health. Licenses shall expire on the expiration date specified in the federal license.

Subd. 5. SUNSET. An agreement entered into before August 2, 2002, shall remain in effect until terminated or suspended under the Atomic Energy Act of 1954, United States Code, title 42, section 2021, paragraph (j). The governor may not enter into an initial agreement with the Nuclear Regulatory Commission after August 1, 2002. If an agreement is not entered into, any rules adopted under this section are repealed on that date.

Sec. 105. STUDY OF EXTENT OF FETAL ALCOHOL SYNDROME.

The commissioner of health shall conduct a study of the incidence and prevalence of fetal alcohol syndrome in Minnesota. The commissioner shall not collect individually identifiable data for this study.

Sec. 106. MEDICAL EDUCATION AND RESEARCH TRUST FUND STUDY.

The commissioner of health shall review the current medical education and research costs advisory committee structure and composition and recommend methods to ensure balanced and appropriate representation of major training programs. The commissioner shall also review the statutory formula for the prepaid medical assistance carve out to determine if any adjustments should be made to correct existing or potential inequities on current training programs. The commissioner shall determine if there should be other criteria for weighting future distributions of medical education and research funds beyond the current statutory criteria, including the criteria that trainees continue to practice in Minnesota. The commissioner shall report the findings and recommendations to the legislative commission on health care access by December 15, 1998.

Sec. 107. FUNDING FOR IMMUNIZATIONS.

The commissioner of health, in consultation with the commissioner of children, families, and learning, representatives of school nurses, and other interested parties, shall develop recommendations on how to provide ongoing funding for school districts to implement the provisions of Minnesota Statutes, section 123.70. These recommendations shall specify any statutory changes needed for their implementation. The commissioners of health and of children, families, and learning shall consider the recommendations in developing their budget requests for the 2000-2001 biennial budget. The recommendations and any draft legislation needed to implement the recommendations shall be sub-

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mitted to the chairs of the senate health and family security budget division, the house health and human services finance division, the senate K-12 education budget division, and the house K-12 education finance division by December 15, 1998.

Sec. 108. **BOARD OF REHABILITATION THERAPY.**

The commissioner of health shall convene a work group to study the feasibility and need of creating a separate board of rehabilitation therapy to regulate rehabilitation therapy occupations, including physical therapists, occupational therapists, speech-language pathologists, audiologists, and hearing instrument dispensers. The work group shall consist of members representing physical therapists, occupational therapists, speech-language pathologists, audiologists, hearing instrument dispensers, and any other related occupation group that the commissioner determines should be included. The commissioner, in consultation with the work group, shall submit to the legislature by January 15, 1999, recommendations on establishing a board of rehabilitation therapy and on the appropriate occupational groups to be regulated by this board.

Sec. 109. **REPEALER.**

Minnesota Statutes 1996, sections 62J.685; 144.491; 144.9501, subdivisions 12, 14, and 16; and 144.9503, subdivisions 5, 8, and 9; and 157.15, subdivision 15, are repealed.

Sec. 110. **EFFECTIVE DATES.**

(a) Sections 2, 8, 20, 22, 34 to 80, 93, 94, and 97 to 108 are effective the day following final enactment.

(b) Sections 9 to 13, 21, and 81 are effective January 1, 1999.

ARTICLE 3

LONG-TERM CARE

Section 1. Minnesota Statutes 1996, section 144A.04, subdivision 5, is amended to read:

Subd. 5. **ADMINISTRATORS.** Except as otherwise provided by this subdivision, a nursing home must have a full time licensed nursing home administrator serving the facility. In any nursing home of less than ~~25~~ 31 beds, the director of nursing services may also serve as the licensed nursing home administrator. Two nursing homes under common ownership having a total of 150 beds or less and located within 75 miles of each other may share the services of a licensed administrator if the administrator divides full-time work week between the two facilities in proportion to the number of beds in each facility. Every nursing home shall have a person-in-charge on the premises at all times in the absence of the licensed administrator. The name of the person in charge must be posted in a conspicuous place in the facility. The commissioner of health shall by rule promulgate minimum education and experience requirements for persons-in-charge, and may promulgate rules specifying the times of day during which a licensed administrator must be on the nursing home's premises. In the absence of rules adopted by the commissioner

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governing the division of an administrator's time between two nursing homes, the administrator shall designate and post the times the administrator will be on site in each home on a regular basis. A nursing home may employ as its administrator the administrator of a hospital licensed pursuant to sections 144.50 to 144.56 if the individual is licensed as a nursing home administrator pursuant to section 144A.20 and the nursing home and hospital have a combined total of 150 beds or less and are located within one mile of each other. A nonproprietary retirement home having fewer than 15 licensed nursing home beds may share the services of a licensed administrator with a nonproprietary nursing home, having fewer than 150 licensed nursing home beds, that is located within 25 miles of the retirement home. A nursing home which is located in a facility licensed as a hospital pursuant to sections 144.50 to 144.56, may employ as its administrator the administrator of the hospital if the individual meets minimum education and long term care experience criteria set by rule of the commissioner of health.

Sec. 2. Minnesota Statutes 1997 Supplement, section 144A.071, subdivision 4a, is amended to read:

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

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

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

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

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

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

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

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

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

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

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(b) to license or certify beds that are moved from one location to another within a nursing home facility, provided the total costs of remodeling performed in conjunction with the relocation of beds does not exceed \$750,000;

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

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

(e) to certify and license as nursing home beds boarding care beds in a certified boarding care facility if the beds meet the standards for nursing home licensure, or in a facility that was granted an exception to the moratorium under section 144A.073, and if the cost of any remodeling of the facility does not exceed \$750,000. If boarding care beds are licensed as nursing home beds, the number of boarding care beds in the facility must not increase beyond the number remaining at the time of the upgrade in licensure. The provisions contained in section 144A.073 regarding the upgrading of the facilities do not apply to facilities that satisfy these requirements;

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

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

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

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

(j) to license and certify new nursing home beds to replace beds in a facility ~~con-~~demned ~~acquired by the Minneapolis community development agency as part of an eco-~~nomie redevelopment plan activities in a city of the first class, provided the new facility is located within one mile three miles of the site of the old facility. Operating and property costs for the new facility must be determined and allowed under existing reimbursement rules section 256B.431 or 256B.434;

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

(l) to license or certify beds in renovation, replacement, or upgrading projects as defined in section 144A.073, subdivision 1, so long as the cumulative total costs of the facility's remodeling projects do not exceed \$750,000;

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

(n) to allow a facility that on April 16, 1993, was a 106-bed licensed and certified nursing facility located in Minneapolis to layaway all of its licensed and certified nursing home beds. These beds may be relicensed and recertified in a newly-constructed teaching nursing home facility affiliated with a teaching hospital upon approval by the legislature. The proposal must be developed in consultation with the interagency committee on long-term care planning. The beds on layaway status shall have the same status as voluntarily delicensed and decertified beds, except that beds on layaway status remain subject to the surcharge in section 256.9657. This layaway provision expires July 1, 1998;

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

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

(1) relicensed and recertified upon relocation and reactivation of some or all of the beds to an existing licensed and certified facility or facilities located in Pine River, Brain-

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erd, or International Falls; provided that the total project construction costs related to the relocation of beds from layaway status for any facility receiving relocated beds may not exceed the dollar threshold provided in subdivision 2 unless the construction project has been approved through the moratorium exception process under section 144A.073;

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

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

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

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

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

(t) to allow 16 licensed and certified beds located on July 1, 1994, in a 142-bed nursing home and 21-bed boarding care home facility in Minneapolis, notwithstanding the licensure and certification after July 1, 1995, of the Minneapolis facility as a 147-bed nursing home facility after completion of a construction project approved in 1993 under section 144A.073, to be laid away upon 30 days' prior written notice to the commissioner. Beds on layaway status shall have the same status as voluntarily delicensed or decertified beds except that they shall remain subject to the surcharge in section 256.9657. The

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16 beds on layaway status may be relicensed as nursing home beds and recertified at any time within five years of the effective date of the layaway upon relocation of some or all of the beds to a licensed and certified facility located in Watertown, provided that the total project construction costs related to the relocation of beds from layaway status for the Watertown facility may not exceed the dollar threshold provided in subdivision 2 unless the construction project has been approved through the moratorium exception process under section 144A.073.

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

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

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

(w) to license and certify a total replacement project of up to 49 beds located in Norman county that are relocated from a nursing home destroyed by flood and whose residents were relocated to other nursing homes. The operating cost payment rates for the new nursing facility shall be determined based on the interim and settle-up payment provisions of Minnesota Rules, part 9549.0057, and the reimbursement provisions of section 256B.431, except that subdivision 26, paragraphs (a) and (b), shall not apply until the second rate year after the settle-up cost report is filed. Property-related reimbursement rates shall be determined under section 256B.431, taking into account any federal or state flood-related loans or grants provided to the facility;

(x) to license and certify a total replacement project of up to 129 beds located in Polk county that are relocated from a nursing home destroyed by flood and whose residents were relocated to other nursing homes. The operating cost payment rates for the new nursing facility shall be determined based on the interim and settle-up payment provisions of Minnesota Rules, part 9549.0057, and the reimbursement provisions of section 256B.431, except that subdivision 26, paragraphs (a) and (b), shall not apply until the second rate year after the settle-up cost report is filed. Property-related reimbursement rates shall be determined under section 256B.431, taking into account any federal or state flood-related loans or grants provided to the facility; or

(y) to license and certify beds in a renovation and remodeling project to convert 13 three-bed wards into 13 two-bed rooms and 13 single-bed rooms, expand space, and add

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improvements in a nursing home that, as of January 1, 1994, met the following conditions: the nursing home was located in Ramsey county, was not owned by a hospital corporation, had a licensed capacity of 64 beds, and had been ranked among the top 15 applicants by the 1993 moratorium exceptions advisory review panel. The total project construction cost estimate for this project must not exceed the cost estimate submitted in connection with the 1993 moratorium exception process;

(z) to license and certify up to 150 nursing home beds to replace an existing 285 bed nursing facility located in St. Paul. The replacement project shall include both the renovation of existing buildings and the construction of new facilities at the existing site. The reduction in the licensed capacity of the existing facility shall occur during the construction project as beds are taken out of service due to the construction process. Prior to the start of the construction process, the facility shall provide written information to the commissioner of health describing the process for bed reduction, plans for the relocation of residents, and the estimated construction schedule. The relocation of residents shall be in accordance with the provisions of law and rule; or

(aa) to allow the commissioner of human services to license an additional 36 beds to provide residential services for the physically handicapped under Minnesota Rules, parts 9570.2000 to 9570.3400, in a 198-bed nursing home located in Red Wing, provided that the total number of licensed and certified beds at the facility does not increase.

Sec. 3. Minnesota Statutes 1996, section 144A.09, subdivision 1, is amended to read:

Subdivision 1. **SPIRITUAL MEANS FOR HEALING.** ~~No rule established Sections 144A.04, subdivision 5, and 144A.18 to 144A.27, and rules adopted under sections 144A.01 to 144A.16 other than a rule relating to sanitation and safety of premises, to cleanliness of operation, or to physical equipment shall do not apply to a nursing home conducted by and for the adherents of any recognized church or religious denomination for the purpose of providing care and treatment for those who select and depend upon spiritual means through prayer alone, in lieu of medical care, for healing.~~

Sec. 4. Minnesota Statutes 1996, section 256B.431, subdivision 2i, is amended 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. For the rate period beginning October 1, 1992, and for rate years beginning after June 30, 1993, the amount of the surcharge under section 256.9657, subdivision 1, shall be included in the plant operations and maintenance operating cost category. The surcharge shall be an allowable cost for the purpose of establishing the payment rate.

(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

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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 Effective October July 1, 1988 1998, to June 30, 1990 2000, the commissioner shall add the appropriate make available the salary adjustment per diem calculated in clause (1) or (2) to the total operating cost payment rate of each nursing facility reimbursed under this section or section 256B.434. The salary adjustment per diem for each nursing facility must be determined as follows:

(1) For each nursing facility 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 3.0 percent and then dividing the resulting amount by the nursing facility's actual resident days; and.

(2) For each nursing facility 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 facility that receives a salary adjustment per diem pursuant to this subdivision shall adjust nursing facility 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 facility complied with this requirement. The commissioner shall report the extent to which each nursing facility complied with the legislative commission on long-term care by August 1, 1990.

(3) A nursing facility may apply for the salary adjustment per diem calculated under clauses (1) and (2). The application must be made to the commissioner and contain a plan by which the nursing facility will distribute the salary adjustment to employees of the nursing facility. In order to apply for a salary adjustment, a nursing facility reimbursed under section 256B.434, must report the information required by clause (1) or (2) in the application, in the manner specified by the commissioner. For nursing facilities in which the employees are represented by an exclusive bargaining representative, an agreement negotiated and agreed to by the employer and the exclusive bargaining representative, after July 1, 1998, may constitute the plan for the salary distribution. The commissioner shall review the plan to ensure that the salary adjustment per diem is used solely to increase the compensation of nursing home facility employees. To be eligible, a facility must submit its plan for the salary distribution by December 31, 1998. If a facility's plan for salary distribution is effective for its employees after July 1, 1998, the salary adjustment cost per diem shall be effective the same date as its plan.

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(4) Additional costs incurred by nursing facilities as a result of this salary adjustment are not allowable costs for purposes of the September 30, 1998, cost report.

(d) **NEW BASE YEAR.** The commissioner shall establish new base years for both the reporting year ending September 30, 1989, and the reporting year ending September 30, 1990. In establishing new base years, the commissioner must take into account:

(1) statutory changes made in geographic groups;

(2) redefinitions of cost categories; and

(3) reclassification, pass-through, or exemption of certain costs such as public employee retirement act contributions.

(e) **NEW BASE YEAR.** The commissioner shall establish a new base year for the reporting years ending September 30, 1991, and September 30, 1992. In establishing a new base year, the commissioner must take into account:

(1) statutory changes made in geographic groups;

(2) redefinitions of cost categories; and

(3) reclassification, pass-through, or exemption of certain costs.

Sec. 5. Minnesota Statutes 1996, section 256B.431, is amended by adding a subdivision to read:

Subd. 2s. **NONALLOWABLE COST.** Costs incurred for any activities which are directed at or are intended to influence or dissuade employees in the exercise of their legal rights to freely engage in the process of selecting an exclusive representative for the purpose of collective bargaining with their employer shall not be allowable for purposes of setting payment rates.

Sec. 6. Minnesota Statutes 1997 Supplement, section 256B.431, subdivision 3f, is amended 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. For the rate year beginning July 1, 1989, the replacement-cost-new per bed limit for a single bedroom must be \$49,907 adjusted according to Minnesota Rules, part 9549.0060, subpart 4, item A, subitem (1). Beginning January 1, 1990, 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). Beginning January 1, 1991, the replacement-cost-new per bed limits will be adjusted annually as specified in Minnesota Rules, part 9549.0060, subpart 4, item A, subitem (1), except that the index utilized will be the Bureau of the Census: Composite fixed-weighted price index as published in the C30 Report, Value of New Construction Put in Place.

(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 facilities for soft costs and entrepreneurial profits not included in the cost valuation services used by the state's contracted appraisers. For rate years beginning

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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 facilities except those whose average length of stay in a skilled level of care within a nursing facility is 180 days or less, the commissioner shall use 95 percent of capacity days. For a nursing facility whose average length of stay in a skilled level of care within a nursing facility 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 facility'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 facility'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. For the rate period beginning October 1, 1992, the equipment allowance for each nursing facility shall be increased by 28 percent. For rate years beginning after June 30, 1993, the allowance must be adjusted annually for inflation.

(e) **POST CHAPTER 199 RELATED-ORGANIZATION DEBTS AND INTEREST EXPENSE.** For rate years beginning on or after July 1, 1990, Minnesota Rules, part 9549.0060, subpart 5, item E, shall not apply to outstanding related organization debt incurred prior to May 23, 1983, provided that the debt was an allowable debt under Minnesota Rules, parts 9510.0010 to 9510.0480, the debt is subject to repayment through annual principal payments, and the nursing facility demonstrates to the commissioner's satisfaction that the interest rate on the debt was less than market interest rates for similar arms-length transactions at the time the debt was incurred. If the debt was incurred due to a sale between family members, the nursing facility must also demonstrate that the seller no longer participates in the management or operation of the nursing facility. Debts meeting the conditions of this paragraph are subject to all other provisions of Minnesota Rules, parts 9549.0010 to 9549.0080.

(f) **BUILDING CAPITAL ALLOWANCE FOR NURSING FACILITIES WITH OPERATING LEASES.** For rate years beginning on or after July 1, 1990, a nursing facility with operating lease costs incurred for the nursing facility's buildings shall receive its building capital allowance computed in accordance with Minnesota Rules, part 9549.0060, subpart 8. If an operating lease provides that the lessee's rent is adjusted to recognize improvements made by the lessor and related debt, the costs for capital improvements and related debt shall be allowed in the computation of the lessee's building capital allowance, provided that reimbursement for these costs under an operating lease shall not exceed the rate otherwise paid.

Sec. 7. Minnesota Statutes 1996, 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 facility or one with a capacity increase of 50 percent

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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 facility or for the added beds. For newly constructed nursing facilities 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 facilities which provide care under a lesser care level than the level for which the nursing facility is certified.

(b) For the rate years beginning on or after July 1, 1985, a newly constructed nursing facility 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

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change in the consumer price index (CPI-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.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.

(d) A facility that meets the criteria of paragraph (c) shall submit annual cost reports on forms prescribed by the commissioner.

(c) For the rate year beginning July 1, 1985, each nursing facility 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 facility. From July 1, 1985, until the total payment rate becomes effective, the commissioner shall make payments to each nursing facility 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 facility upon death of an owner;
- (2) the sale or transfer of a nursing facility due to serious illness or disability of an owner as defined under the social security act;
- (3) the sale or transfer of the nursing facility 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 facility 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;

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- (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 facility 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.

Sec. 8. Minnesota Statutes 1996, section 256B.431, subdivision 11, is amended to read:

Subd. 11. **SPECIAL PROPERTY RATE SETTING PROCEDURES FOR CERTAIN NURSING FACILITIES.** (a) Notwithstanding Minnesota Rules, part 9549.0060, subpart 13, item H, to the contrary, for the rate year beginning July 1, 1990, a nursing facility leased prior to January 1, 1986, and currently subject to adverse licensure action under section 144A.04, subdivision 4, paragraph (a), or section 144A.11, subdivision 2, and whose ownership changes prior to July 1, 1990, shall be allowed a property-related payment equal to the lesser of its current lease obligation divided by its capacity days as determined in Minnesota Rules, part 9549.0060, subpart 11, as modified by subdivision 3f, paragraph (c), or the frozen property-related payment rate in effect for the rate year beginning July 1, 1989. For rate years beginning on or after July 1, 1991, the property-related payment rate shall be its rental rate computed using the previous owner's allowable principal and interest expense as allowed by the department prior to that prior owner's sale and lease-back transaction of December 1985.

(b) Notwithstanding other provisions of applicable law, a nursing facility licensed for 122 beds on January 1, 1998, and located in Columbia Heights shall have its property-related payment rate set under this subdivision. The commissioner shall make a rate adjustment by adding \$2.41 to the facility's July 1, 1997, property-related payment rate. The adjusted property-related payment rate shall be effective for rate years beginning on or after July 1, 1998. The adjustment in this paragraph shall remain in effect so long as the facility's rates are set under this section. If the facility participates in the alternative payment system under section 256B.434, the adjustment in this paragraph shall be included in the facility's contract payment rate. If historical rates or property costs recognized under this section become the basis for future medical assistance payments to the facility under a managed care, capitation, or other alternative payment system, the adjustment in this paragraph shall be included in the computation of the facility's payments.

Sec. 9. Minnesota Statutes 1996, section 256B.431, subdivision 22, is amended to read:

Subd. 22. **CHANGES TO NURSING FACILITY REIMBURSEMENT.** The nursing facility reimbursement changes in paragraphs (a) to (e) apply to Minnesota

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Rules, parts 9549.0010 to 9549.0080, and this section, and are effective for rate years beginning on or after July 1, 1993, unless otherwise indicated.

(a) In addition to the approved pension or profit sharing plans allowed by the reimbursement rule, the commissioner shall allow those plans specified in Internal Revenue Code, sections 403(b) and 408(k).

(b) The commissioner shall allow as workers' compensation insurance costs under section 256B.421, subdivision 14, the costs of workers' compensation coverage obtained under the following conditions:

(1) a plan approved by the commissioner of commerce as a Minnesota group or individual self-insurance plan as provided in section 79A.03;

(2) a plan in which:

(i) the nursing facility, directly or indirectly, purchases workers' compensation coverage in compliance with section 176.181, subdivision 2, from an authorized insurance carrier;

(ii) a related organization to the nursing facility reinsures the workers' compensation coverage purchased, directly or indirectly, by the nursing facility; and

(iii) all of the conditions in clause (4) are met;

(3) a plan in which:

(i) the nursing facility, directly or indirectly, purchases workers' compensation coverage in compliance with section 176.181, subdivision 2, from an authorized insurance carrier;

(ii) the insurance premium is calculated retrospectively, including a maximum premium limit, and paid using the paid loss retro method; and

(iii) all of the conditions in clause (4) are met;

(4) additional conditions are:

(i) the costs of the plan are allowable under the federal Medicare program;

(ii) the reserves for the plan are maintained in an account controlled and administered by a person which is not a related organization to the nursing facility;

(iii) the reserves for the plan cannot be used, directly or indirectly, as collateral for debts incurred or other obligations of the nursing facility or related organizations to the nursing facility;

(iv) if the plan provides workers' compensation coverage for non-Minnesota nursing facilities, the plan's cost methodology must be consistent among all nursing facilities covered by the plan, and if reasonable, is allowed notwithstanding any reimbursement laws regarding cost allocation to the contrary;

(v) central, affiliated, corporate, or nursing facility costs related to their administration of the plan are costs which must remain in the nursing facility's administrative cost category and must not be allocated to other cost categories; and

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(vi) required security deposits, whether in the form of cash, investments, securities, assets, letters of credit, or in any other form are not allowable costs for purposes of establishing the facilities payment rate; and

(vii) for the rate year beginning on July 1, 1998, a group of nursing facilities related by common ownership that self-insures workers' compensation may allocate its directly identified costs of self-insuring its Minnesota nursing facility workers among those nursing facilities in the group that are reimbursed under this section or section 256B.434. The method of cost allocation shall be based on the ratio of each nursing facility's total allowable salaries and wages to that of the nursing facility group's total allowable salaries and wages, then similarly allocated within each nursing facility's operating cost categories. The costs associated with the administration of the group's self-insurance plan must remain classified in the nursing facility's administrative cost category. A written request of the nursing facility group's election to use this alternate method of allocation of self-insurance costs must be received by the commissioner no later than May 1, 1998, to take effect July 1, 1998, or such costs shall continue to be allocated under the existing cost allocation methods. Once a nursing facility group elects this method of cost allocation for its workers' compensation self-insurance costs, it shall remain in effect until such time as the group no longer self-insures these costs;

(5) any costs allowed pursuant to clauses (1) to (3) are subject to the following requirements:

(i) if the nursing facility is sold or otherwise ceases operations, the plan's reserves must be subject to an actuarially based settle-up after 36 months from the date of sale or the date on which operations ceased. The facility's medical assistance portion of the total excess plan reserves must be paid to the state within 30 days following the date on which excess plan reserves are determined;

(ii) any distribution of excess plan reserves made to or withdrawals made by the nursing facility or a related organization are applicable credits and must be used to reduce the nursing facility's workers' compensation insurance costs in the reporting period in which a distribution or withdrawal is received;

(iii) if reimbursement for the plan is sought under the federal Medicare program, and is audited pursuant to the Medicare program, the nursing facility must provide a copy of Medicare's final audit report, including attachments and exhibits, to the commissioner within 30 days of receipt by the nursing facility or any related organization. The commissioner shall implement the audit findings associated with the plan upon receipt of Medicare's final audit report. The department's authority to implement the audit findings is independent of its authority to conduct a field audit.

(c) In the determination of incremental increases in the nursing facility's rental rate as required in subdivisions 14 to 21, except for a refinancing permitted under subdivision 19, the commissioner must adjust the nursing facility's property-related payment rate for both incremental increases and decreases in recomputations of its rental rate;

(d) A nursing facility's administrative cost limitation must be modified as follows:

(1) if the nursing facility's licensed beds exceed 195 licensed beds, the general and administrative cost category limitation shall be 13 percent;

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(2) if the nursing facility's licensed beds are more than 150 licensed beds, but less than 196 licensed beds, the general and administrative cost category limitation shall be 14 percent; or

(3) if the nursing facility's licensed beds is less than 151 licensed beds, the general and administrative cost category limitation shall remain at 15 percent.

(e) The care related operating rate shall be increased by eight cents to reimburse facilities for unfunded federal mandates, including costs related to hepatitis B vaccinations.

(f) For the rate year beginning on July 1, 1998, a group of nursing facilities related by common ownership that self-insures group health, dental, or life insurance may allocate its directly identified costs of self-insuring its Minnesota nursing facility workers among those nursing facilities in the group that are reimbursed under this section or section 256B.434. The method of cost allocation shall be based on the ratio of each nursing facility's total allowable salaries and wages to that of the nursing facility group's total allowable salaries and wages, then similarly allocated within each nursing facility's operating cost categories. The costs associated with the administration of the group's self-insurance plan must remain classified in the nursing facility's administrative cost category. A written request of the nursing facility group's election to use this alternate method of allocation of self-insurance costs must be received by the commissioner no later than May 1, 1998, to take effect July 1, 1998, or those self-insurance costs shall continue to be allocated under the existing cost allocation methods. Once a nursing facility group elects this method of cost allocation for its group health, dental, or life insurance self-insurance costs, it shall remain in effect until such time as the group no longer self-insures these costs.

Sec. 10. Minnesota Statutes 1997 Supplement, section 256B.431, subdivision 26, is amended to read:

Subd. 26. **CHANGES TO NURSING FACILITY REIMBURSEMENT BEGINNING JULY 1, 1997.** The nursing facility reimbursement changes in paragraphs (a) to (f) shall apply in the sequence specified in Minnesota Rules, parts 9549.0010 to 9549.0080, and this section, beginning July 1, 1997.

(a) For rate years beginning on or after July 1, 1997, the commissioner shall limit a nursing facility's allowable operating per diem for each case mix category for each rate year. The commissioner shall group nursing facilities into two groups, freestanding and nonfreestanding, within each geographic group, using their operating cost per diem for the case mix A classification. A nonfreestanding nursing facility is a nursing facility whose other operating cost per diem is subject to the hospital attached, short length of stay, or the rule 80 limits. All other nursing facilities shall be considered freestanding nursing facilities. The commissioner shall then array all nursing facilities in each grouping by their allowable case mix A operating cost per diem. In calculating a nursing facility's operating cost per diem for this purpose, the commissioner shall exclude the raw food cost per diem related to providing special diets that are based on religious beliefs, as determined in subdivision 2b, paragraph (h). For those nursing facilities in each grouping whose case mix A operating cost per diem:

(1) is at or below the median of the array, the commissioner shall limit the nursing facility's allowable operating cost per diem for each case mix category to the lesser of the

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prior reporting year's allowable operating cost per diem as specified in Laws 1996, chapter 451, article 3, section 11, paragraph (h), plus the inflation factor as established in paragraph (d), clause (2), increased by two percentage points, or the current reporting year's corresponding allowable operating cost per diem; or

(2) is above the median of the array, the commissioner shall limit the nursing facility's allowable operating cost per diem for each case mix category to the lesser of the prior reporting year's allowable operating cost per diem as specified in Laws 1996, chapter 451, article 3, section 11, paragraph (h), plus the inflation factor as established in paragraph (d), clause (2), increased by one percentage point, or the current reporting year's corresponding allowable operating cost per diem.

For purposes of paragraph (a), if a nursing facility reports on its cost report a reduction in cost due to a refund or credit for a rate year beginning on or after July 1, 1998, the commissioner shall increase that facility's spend-up limit for the rate year following the current rate year by the amount of the cost reduction divided by its resident days for the reporting year preceding the rate year in which the adjustment is to be made.

(b) For rate years beginning on or after July 1, 1997, the commissioner shall limit the allowable operating cost per diem for high cost nursing facilities. After application of the limits in paragraph (a) to each nursing facility's operating cost per diem, the commissioner shall group nursing facilities into two groups, freestanding or nonfreestanding, within each geographic group. A nonfreestanding nursing facility is a nursing facility whose other operating cost per diem are subject to hospital attached, short length of stay, or rule 80 limits. All other nursing facilities shall be considered freestanding nursing facilities. The commissioner shall then array all nursing facilities within each grouping by their allowable case mix A operating cost per diem. In calculating a nursing facility's operating cost per diem for this purpose, the commissioner shall exclude the raw food cost per diem related to providing special diets that are based on religious beliefs, as determined in subdivision 2b, paragraph (h). For those nursing facilities in each grouping whose case mix A operating cost per diem exceeds 1.0 standard deviation above the median, the commissioner shall reduce their allowable operating cost per diem by three percent. For those nursing facilities in each grouping whose case mix A operating cost per diem exceeds 0.5 standard deviation above the median but is less than or equal to 1.0 standard deviation above the median, the commissioner shall reduce their allowable operating cost per diem by two percent. However, in no case shall a nursing facility's operating cost per diem be reduced below its grouping's limit established at 0.5 standard deviations above the median.

(c) For rate years beginning on or after July 1, 1997, the commissioner shall determine a nursing facility's efficiency incentive by first computing the allowable difference, which is the lesser of \$4.50 or the amount by which the facility's other operating cost limit exceeds its nonadjusted other operating cost per diem for that rate year. The commissioner shall compute the efficiency incentive by:

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

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

(d) For rate years beginning on or after July 1, 1997, the forecasted price index for a nursing facility's allowable operating cost per diem shall be determined under clauses (1) and (2) using the change in the Consumer Price Index—All Items (United States city average) (CPI-U) as forecasted by Data Resources, Inc. The commissioner shall use the indices as forecasted in the fourth quarter of the calendar year preceding the rate year, subject to subdivision 21, paragraph (c).

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

(2) For rate years beginning on or after July 1, 1997, the forecasted index for operating cost limits referred to in subdivision 21, paragraph (b), shall be based on the CPI-U for the 12-month period between the midpoints of the two reporting years preceding the rate year.

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

(f) For rate years beginning on or after July 1, 1997, the total operating cost payment rates for a nursing facility shall be the greater of the total operating cost payment rates determined under this section or the total operating cost payment rates in effect on June 30, 1997, subject to rate adjustments due to field audit or rate appeal resolution. This provision shall not apply to subsequent field audit adjustments of the nursing facility's operating cost rates for rate years beginning on or after July 1, 1997.

(g) For the rate years beginning on July 1, 1997, and July 1, 1998, and July 1, 1999, a nursing facility licensed for 40 beds effective May 1, 1992, with a subsequent increase of 20 Medicare/Medicaid certified beds, effective January 26, 1993, in accordance with an increase in licensure is exempt from paragraphs (a) and (b).

(h) For a nursing facility whose construction project was authorized according to section 144A.073, subdivision 5, paragraph (g), the operating cost payment rates for the third location shall be determined based on Minnesota Rules, part 9549.0057: Paragraphs (a) and (b) shall not apply until the second rate year after the settle-up cost report is filed. Notwithstanding subdivision 2b, paragraph (g), real estate taxes and special assessments payable by the third location, a 501(c)(3) nonprofit corporation, shall be included in the payment rates determined under this subdivision for all subsequent rate years.

(i) For the rate year beginning July 1, 1997, the commissioner shall compute the payment rate for a nursing facility licensed for 94 beds on September 30, 1996, that applied in October 1993 for approval of a total replacement under the moratorium exception process in section 144A.073, and completed the approved replacement in June 1995, with other operating cost spend-up limit under paragraph (a), increased by \$3.98, and after computing the facility's payment rate according to this section, the commissioner shall make a one-year positive rate adjustment of \$3.19 for operating costs related to the newly constructed total replacement, without application of paragraphs (a) and (b). The

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facility's per diem, before the \$3.19 adjustment, shall be used as the prior reporting year's allowable operating cost per diem for payment rate calculation for the rate year beginning July 1, 1998. A facility described in this paragraph is exempt from paragraph (b) for the rate years beginning July 1, 1997, and July 1, 1998.

(j) For the purpose of applying the limit stated in paragraph (a), a nursing facility in Kandiyohi county licensed for 86 beds that was granted hospital-attached status on December 1, 1994, shall have the prior year's allowable care-related per diem increased by \$3.207 and the prior year's other operating cost per diem increased by \$4.777 before adding the inflation in paragraph (d), clause (2), for the rate year beginning on July 1, 1997.

(k) For the purpose of applying the limit stated in paragraph (a), a 117 bed nursing facility located in Pine county shall have the prior year's allowable other operating cost per diem increased by \$1.50 before adding the inflation in paragraph (d), clause (2), for the rate year beginning on July 1, 1997.

(l) For the purpose of applying the limit under paragraph (a), a nursing facility in Hibbing licensed for 192 beds shall have the prior year's allowable other operating cost per diem increased by \$2.67 before adding the inflation in paragraph (d), clause (2), for the rate year beginning July 1, 1997.

Sec. 11. Minnesota Statutes 1996, section 256B.431, is amended by adding a subdivision to read:

Subd. 27. CHANGES TO NURSING FACILITY REIMBURSEMENT BEGINNING JULY 1, 1998. (a) For the purpose of applying the limit stated in subdivision 26, paragraph (a), a nursing facility in Hennepin county licensed for 181 beds on September 30, 1996, shall have the prior year's allowable care-related per diem increased by \$1.455 and the prior year's other operating cost per diem increased by \$0.439 before adding the inflation in subdivision 26, paragraph (d), clause (2), for the rate year beginning on July 1, 1998.

(b) For the purpose of applying the limit stated in subdivision 26, paragraph (a), a nursing facility in Hennepin county licensed for 161 beds on September 30, 1996, shall have the prior year's allowable care-related per diem increased by \$1.154 and the prior year's other operating cost per diem increased by \$0.256 before adding the inflation in subdivision 26, paragraph (d), clause (2), for the rate year beginning on July 1, 1998.

(c) For the purpose of applying the limit stated in subdivision 26, paragraph (a), a nursing facility in Ramsey county licensed for 176 beds on September 30, 1996, shall have the prior year's allowable care-related per diem increased by \$0.803 and the prior year's other operating cost per diem increased by \$0.272 before adding the inflation in subdivision 26, paragraph (d), clause (2), for the rate year beginning on July 1, 1998.

(d) For the purpose of applying the limit stated in subdivision 26, paragraph (a), a nursing facility in Brown county licensed for 86 beds on September 30, 1996, shall have the prior year's allowable care-related per diem increased by \$0.850 and the prior year's other operating cost per diem increased by \$0.275 before adding the inflation in subdivision 26, paragraph (d), clause (2), for the rate year beginning on July 1, 1998.

(e) For the rate year beginning July 1, 1998, the commissioner shall compute the payment rate for a nursing facility, which was licensed for 110 beds on May 1, 1997, was granted approval in January 1994 for a replacement and remodeling project under the

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moratorium exception process in section 144A.073, and completed the approved replacement and remodeling project on March 14, 1997, by increasing the other operating cost spend-up limit under paragraph (a) by \$1.64. After computing the facility's payment rate for the rate year beginning July 1, 1998, according to this section, the commissioner shall make a one-year positive rate adjustment of 48 cents for increased real estate taxes resulting from completion of the moratorium exception project, without application of paragraphs (a) and (b).

(f) For the rate year beginning July 1, 1998, the commissioner shall compute the payment rate for a nursing facility exempted from care-related limits under subdivision 2b, paragraph (d), clause (2), with a minimum of three-quarters of its beds licensed to provide residential services for the physically handicapped under Minnesota Rules, parts 9570.2000 to 9570.3400, with the care-related spend-up limit under subdivision 26, paragraph (a), increased by \$13.21 for the rate year beginning July 1, 1998, without application of subdivision 26, paragraph (b). For rate years beginning on or after July 1, 1999, the commissioner shall exclude that amount in calculating the facility's operating cost per diem for purposes of applying subdivision 26, paragraph (b).

(g) For the rate year beginning July 1, 1998, a nursing facility in Canby, Minnesota, licensed for 75 beds shall be reimbursed without the limitation imposed under subdivision 26, paragraph (a), and for rate years beginning on or after July 1, 1999, its base costs shall be calculated on the basis of its September 30, 1997, cost report.

(h) The nursing facility reimbursement changes in paragraphs (i) and (j) shall apply in the sequence specified in this section and Minnesota Rules, parts 9549.0010 to 9549.0080, beginning July 1, 1998.

(i) For rate years beginning on or after July 1, 1998, the operating cost limits established in subdivisions 2, 2b, 2i, 3c, and 22, paragraph (d), and any previously effective corresponding limits in law or rule shall not apply, except that these cost limits shall still be calculated for purposes of determining efficiency incentive per diems. For rate years beginning on or after July 1, 1998, the total operating cost payment rates for a nursing facility shall be the greater of the total operating cost payment rates determined under this section or the total operating cost payment rates in effect on June 30, 1998, subject to rate adjustments due to field audit or rate appeal resolution.

(j) For rate years beginning on or after July 1, 1998, the operating cost per diem referred to in subdivision 26, paragraph (a), clauses (1) and (2), is the sum of the care-related and other operating per diems for a given case mix class. Any reductions to the combined operating per diem shall be divided proportionately between the care-related and other operating per diems.

(k) For rate years beginning on or after July 1, 1998, the commissioner shall modify the determination of the spend-up limits referred to in subdivision 26, paragraph (a), by indexing each group's previous year's median value by the factor in subdivision 26, paragraph (d), clause (2), plus one percentage point.

(l) For rate years beginning on or after July 1, 1998, the commissioner shall modify the determination of the high cost limits referred to in subdivision 26, paragraph (b), by indexing each group's previous year's high cost per diem limits at .5 and one standard deviations above the median by the factor in subdivision 26, paragraph (d), clause (2), plus one percentage point.

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Sec. 12. Minnesota Statutes 1997 Supplement, section 256B.433, subdivision 3a, is amended to read:

Subd. 3a. **EXEMPTION FROM REQUIREMENT FOR SEPARATE THERAPY BILLING.** The provisions of subdivision 3 do not apply to nursing facilities that are reimbursed according to the provisions of section 256B.431 and are located in a county participating in the prepaid medical assistance program. Nursing facilities that are reimbursed according to the provisions of section 256B.434 and are located in a county participating in the prepaid medical assistance program are exempt from the maximum therapy rent revenue provisions of subdivision 3, paragraph (c).

Sec. 13. Minnesota Statutes 1997 Supplement, section 256B.434, subdivision 10, is amended to read:

Subd. 10. **EXEMPTIONS.** (a) To the extent permitted by federal law, (1) a facility that has entered into a contract under this section is not required to file a cost report, as defined in Minnesota Rules, part 9549.0020, subpart 13, for any year after the base year that is the basis for the calculation of the contract payment rate for the first rate year of the alternative payment demonstration project contract; and (2) a facility under contract is not subject to audits of historical costs or revenues, or paybacks or retroactive adjustments based on these costs or revenues, except audits, paybacks, or adjustments relating to the cost report that is the basis for calculation of the first rate year under the contract.

(b) A facility that is under contract with the commissioner under this section is not subject to the moratorium on licensure or certification of new nursing home beds in section 144A.071, unless the project results in a net increase in bed capacity or involves relocation of beds from one site to another. Contract payment rates must not be adjusted to reflect any additional costs that a nursing facility incurs as a result of a construction project undertaken under this paragraph. In addition, as a condition of entering into a contract under this section, a nursing facility must agree that any future medical assistance payments for nursing facility services will not reflect any additional costs attributable to the sale of a nursing facility under this section and to construction undertaken under this paragraph that otherwise would not be authorized under the moratorium in section 144A.073. Nothing in this section prevents a nursing facility participating in the alternative payment demonstration project under this section from seeking approval of an exception to the moratorium through the process established in section 144A.073, and if approved the facility's rates shall be adjusted to reflect the cost of the project. Nothing in this section prevents a nursing facility participating in the alternative payment demonstration project from seeking legislative approval of an exception to the moratorium under section 144A.071, and, if enacted, the facility's rates shall be adjusted to reflect the cost of the project.

(c) Notwithstanding section 256B.48, subdivision 6, paragraphs (c), (d), and (e), and pursuant to any terms and conditions contained in the facility's contract, a nursing facility that is under contract with the commissioner under this section is in compliance with section 256B.48, subdivision 6, paragraph (b), if the facility is Medicare certified.

(d) Notwithstanding paragraph (a), if by April 1, 1996, the health care financing administration has not approved a required waiver, or the health care financing administration otherwise requires cost reports to be filed prior to the waiver's approval, the commissioner shall require a cost report for the rate year.

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(e) A facility that is under contract with the commissioner under this section shall be allowed to change therapy arrangements from an unrelated vendor to a related vendor during the term of the contract. The commissioner may develop reasonable requirements designed to prevent an increase in therapy utilization for residents enrolled in the medical assistance program.

**Sec. 14. [256B.435] NURSING FACILITY REIMBURSEMENT SYSTEM
EFFECTIVE JULY 1, 2000.**

Subdivision 1. IN GENERAL. Effective July 1, 2000, the commissioner shall implement a performance-based contracting system to replace the current method of setting operating cost payment rates under sections 256B.431 and 256B.434 and Minnesota Rules, parts 9549.0010 to 9549.0080. A nursing facility in operation on May 1, 1998, with payment rates not established under section 256B.431 or 256B.434 on that date, is ineligible for this performance-based contracting system. In determining prospective payment rates of nursing facility services, the commissioner shall distinguish between operating costs and property-related costs. The commissioner of finance shall include an annual inflationary adjustment in operating costs for nursing facilities using the inflation factor specified in subdivision 3 as a budget change request in each biennial detailed expenditure budget submitted to the legislature under section 16A.11. Property related payment rates, including real estate taxes and special assessments, shall be determined under section 256B.431 or 256B.434 or under a new property-related reimbursement system, if one is implemented by the commissioner under subdivision 3.

Subd. 2. CONTRACT PROVISIONS. (a) The performance-based contract with each nursing facility must include provisions that:

(1) apply the resident case mix assessment provisions of Minnesota Rules, parts 9549.0051, 9549.0058, and 9549.0059, or another assessment system, with the goal of moving to a single assessment system;

(2) monitor resident outcomes through various methods, such as quality indicators based on the minimum data set and other utilization and performance measures;

(3) require the establishment and use of a continuous quality improvement process that integrates information from quality indicators and regular resident and family satisfaction interviews;

(4) require annual reporting of facility statistical information, including resident days by case mix category, productive nursing hours, wages and benefits, and raw food costs for use by the commissioner in the development of facility profiles that include trends in payment and service utilization;

(5) require from each nursing facility an annual certified audited financial statement consisting of a balance sheet, income and expense statements, and an opinion from either a licensed or certified public accountant, if a certified audit was prepared, or unaudited financial statements if no certified audit was prepared; and

(6) establish additional requirements and penalties for nursing facilities not meeting the standards set forth in the performance-based contract.

(b) The commissioner may develop additional incentive-based payments for achieving outcomes specified in each contract. The specified facility-specific outcomes must be measurable and approved by the commissioner.

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(c) The commissioner may also contract with nursing facilities in other ways through requests for proposals, including contracts on a risk or nonrisk basis, with nursing facilities or consortia of nursing facilities, to provide comprehensive long-term care coverage on a premium or capitated basis.

Subd. 3. PAYMENT RATE PROVISIONS. (a) For rate years beginning on or after July 1, 2000, within the limits of appropriations specifically for this purpose, the commissioner shall determine operating cost payment rates for each licensed and certified nursing facility by indexing its operating cost payment rates in effect on June 30, 2000, for inflation. The inflation factor to be used must be based on the change in the Consumer Price Index-All Items, United States city average (CPI-U) as forecasted by Data Resources, Inc. in the fourth quarter preceding the rate year. The CPI-U forecasted index for operating cost payment rates shall be based on the 12-month period from the midpoint of the nursing facility's prior rate year to the midpoint of the rate year for which the operating payment rate is being determined.

(b) Beginning July 1, 2000, each nursing facility subject to a performance-based contract under this section shall choose one of two methods of payment for property related costs:

(1) the method established in section 256B.434; or

(2) the method established in section 256B.431.

Once the nursing facility has made the election in paragraph (b), that election shall remain in effect for at least four years or until an alternative property payment system is developed.

(c) For rate years beginning on or after July 1, 2000, the commissioner may implement a new method of payment for property related costs that addresses the capital needs of nursing facilities. Notwithstanding paragraph (b), the new property payment system or systems, if implemented, shall replace the current method of setting property payment rates under sections 256B.431 and 256B.434.

Sec. 15. Minnesota Statutes 1996, section 256B.501, subdivision 12, is amended to read:

Subd. 12. ICF/MR SALARY ADJUSTMENTS. For the rate period beginning January Effective July 1, 1992 1998, and ending September 30, 1993 to September 30, 2000, the commissioner shall add make available the appropriate salary adjustment cost per diem calculated in paragraphs (a) to (d) (e) to the total operating cost payment rate of each facility subject to reimbursement under this section and Laws 1993 First Special Session, chapter 1, article 4, section 11. The salary adjustment cost per diem must be determined as follows:

(a) COMPUTATION AND REVIEW GUIDELINES. ~~Except as provided in paragraph (e),~~ A state-operated community service, and any facility whose payment rates are governed by closure agreements, receivership agreements, or Minnesota Rules, part 9553.0075, are is not eligible for a salary adjustment otherwise granted under this subdivision. For purposes of the salary adjustment per diem computation and reviews in this subdivision, the term "salary adjustment cost" means the facility's allowable program operating cost category employee training expenses, and the facility's allowable

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salaries, payroll taxes, and fringe benefits. The term does not include these same salary-related costs for both administrative or central office employees.

For the purpose of determining the amount of salary adjustment to be granted under this subdivision, the commissioner must use the reporting year ending December 31, 1990 1996, as the base year for the salary adjustment per diem computation. For the purpose of both years' salary adjustment cost review, the commissioner must use the facility's salary adjustment cost for the reporting year ending December 31, 1991, as the base year. If the base year and the reporting years subject to review include salary cost reclassifications made by the department, the commissioner must reconcile those differences before completing the salary adjustment per diem review.

(b) **SALARY ADJUSTMENT PER DIEM COMPUTATION.** For the rate period beginning January 1, 1992 July 1, 1998, each facility shall receive a salary adjustment cost per diem equal to its salary adjustment costs multiplied by $1\frac{1}{2}$ 3.0 percent, and then divided by the facility's resident days.

(c) **ADJUSTMENTS FOR NEW FACILITIES.** For newly constructed or newly established facilities, except for state-operated community services, whose payment rates are governed by Minnesota Rules, part 9553.0075, if the settle-up cost report includes a reporting year which is subject to review under this subdivision, the commissioner shall adjust the rule provision governing the maximum settle-up payment rate by increasing the .4166 percent for each full month of the settle-up cost report to .7083. For any subsequent rate period which is authorized for salary adjustments under this subdivision, the commissioner shall compute salary adjustment cost per diems by annualizing the salary adjustment costs for the settle-up cost report period and treat that period as the base year for purposes of reviewing salary adjustment cost per diems.

(d) **SALARY ADJUSTMENT PER DIEM REVIEW.** The commissioner shall review the implementation of the salary adjustments on a per diem basis. For reporting years ending December 31, 1992, and December 31, 1993, the commissioner must review and determine the amount of change in salary adjustment costs in both of the above reporting years over the base year after the reporting year ending December 31, 1993. The commissioner must inflate the base year's salary adjustment costs by the cumulative percentage increase granted in paragraph (b), plus three percentage points for each of the two years reviewed. The commissioner must then compare each facility's salary adjustment costs for the reporting year divided by the facility's resident days for both reporting years to the base year's inflated salary adjustment cost divided by the facility's resident days for the base year. If the facility has had a one-time program operating cost adjustment settle-up during any of the reporting years subject to review, the commissioner must remove the per diem effect of the one-time program adjustment before completing the review and per diem comparison.

The review and per diem comparison must be done by the commissioner after the reporting year ending December 31, 1993. If the salary adjustment cost per diem for the reporting years being reviewed is less than the base year's inflated salary adjustment cost per diem, the commissioner must recover the difference within 120 days after the date of written notice. The amount of the recovery shall be equal to the per diem difference multiplied by the facility's resident days in the reporting years being reviewed. Written notice of the amount subject to recovery must be given by the commissioner following both reporting years reviewed. Interest charges must be assessed by the commissioner after the

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120th day of that notice at the same interest rate the commissioner assesses for other balance outstanding.

(c) **SUBMITTAL OF PLAN.** A facility may apply for the salary adjustment per diem calculated under this subdivision. The application must be made to the commissioner and contain a plan by which the facility will distribute the salary adjustment to employees of the facility. For facilities in which the employees are represented by an exclusive bargaining representative, an agreement negotiated and agreed to by the employer and the exclusive bargaining representative, after July 1, 1998, may constitute the plan for the salary distribution. The commissioner shall review the plan to ensure that the salary adjustment per diem is used solely to increase the compensation of facility employees. To be eligible, a facility must submit its plan for the salary distribution by December 31, 1998. If a facility's plan for salary distribution is effective for its employees after July 1, 1998, the salary adjustment cost per diem shall be effective the same date as its plan.

(d) **COST REPORT.** Additional costs incurred by facilities as a result of this salary adjustment are not allowable costs for purposes of the December 31, 1998, cost report.

(e) **SALARY ADJUSTMENT.** In order to apply for a salary adjustment, a facility reimbursed under Laws 1993, First Special Session chapter 1, article 4, section 11, must report the information referred to in paragraph (a) in the application, in the manner specified by the commissioner.

Sec. 16. [256B.501] ICF/MR REIMBURSEMENT SYSTEM EFFECTIVE OCTOBER 1, 2000.

Subdivision 1. IN GENERAL. Effective October 1, 2000, the commissioner shall implement a performance-based contracting system to replace the current method of setting total cost payment rates under section 256B.501 and Minnesota Rules, parts 9553.0010 to 9553.0080. In determining prospective payment rates of intermediate care facilities for persons with mental retardation or related conditions, the commissioner shall index each facility's total payment rate by an inflation factor as described in subdivision 3. The commissioner of finance shall include annual inflation adjustments in operating costs for intermediate care facilities for persons with mental retardation and related conditions as a budget change request in each biennial detailed expenditure budget submitted to the legislature under section 16A.11.

Subd. 2. CONTRACT PROVISIONS. The performance-based contract with each intermediate care facility must include provisions for:

(1) modifying payments when significant changes occur in the needs of the consumers;

(2) monitoring service quality using performance indicators that measure consumer outcomes;

(3) the establishment and use of continuous quality improvement processes using the results attained through service quality monitoring;

(4) the annual reporting of facility statistical information on all supervisory personnel, direct care personnel, specialized support personnel, hours, wages and benefits, staff-to-consumer ratios, and staffing patterns;

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(5) annual aggregate facility financial information or an annual certified audited financial statement, including a balance sheet and income and expense statements for each facility, if a certified audit was prepared; and

(6) additional requirements and penalties for intermediate care facilities not meeting the standards set forth in the performance-based contract.

Subd. 3. PAYMENT RATE PROVISIONS. For rate years beginning on or after October 1, 2000, within the limits of appropriations specifically for this purpose, the commissioner shall determine the total payment rate for each licensed and certified intermediate care facility by indexing the total payment rate in effect on September 30, 2000, for inflation. The inflation factor to be used must be based on the change in the Consumer Price Index--All Items, United States city average (CPI-U) as forecasted by Data Resources, Inc. in the first quarter of the calendar year during which the rate year begins. The CPI-U forecasted index for total payment rates shall be based on the 12-month period from the midpoint of the facility's prior rate year to the midpoint of the rate year for which the operating payment rate is being determined.

Sec. 17. Minnesota Statutes 1996, section 256B.69, is amended by adding a subdivision to read:

Subd. 25. CONTINUATION OF PAYMENTS THROUGH DISCHARGE. In the event a medical assistance recipient or beneficiary enrolled in a health plan under this section is denied nursing facility services after residing in the facility for more than 180 days, any denial of medical assistance payment to a provider under this section shall be prospective only and payments to the provider shall continue until the resident is discharged or 30 days after the effective date of the service denial, whichever is sooner.

Sec. 18. Minnesota Statutes 1996, section 256I.04, subdivision 1, is amended to read:

Subdivision 1. INDIVIDUAL ELIGIBILITY REQUIREMENTS. An individual is eligible for and entitled to a group residential housing payment to be made on the individual's behalf if the county agency has approved the individual's residence in a group residential housing setting and the individual meets the requirements in paragraph (a) or (b).

(a) The individual is aged, blind, or is over 18 years of age and disabled as determined under the criteria used by the title II program of the Social Security Act, and meets the resource restrictions and standards of the supplemental security income program, and the individual's countable income after deducting the (1) exclusions and disregards of the SSI program and, (2) the medical assistance personal needs allowance under section 256B.35, and (3) an amount equal to the income actually made available to a community spouse by an elderly waiver recipient under the provisions of sections 256B.0575, paragraph (a), clause (4), and 256B.058, subdivision 2, is less than the monthly rate specified in the county agency's agreement with the provider of group residential housing in which the individual resides.

(b) The individual meets a category of eligibility under section 256D.05, subdivision 1, paragraph (a), and the individual's resources are less than the standards specified by section 256D.08, and the individual's countable income as determined under sections 256D.01 to 256D.21, less the medical assistance personal needs allowance under section

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256B.35 is less than the monthly rate specified in the county agency's agreement with the provider of group residential housing in which the individual resides.

Sec. 19. Minnesota Statutes 1996, section 256I.04, subdivision 3, is amended to read:

Subd. 3. MORATORIUM ON THE DEVELOPMENT OF GROUP RESIDENTIAL HOUSING BEDS. (a) County agencies shall not enter into agreements for new group residential housing beds with total rates in excess of the MSA equivalent rate except: (1) for group residential housing establishments meeting the requirements of subdivision 2a, clause (2) with department approval; (2) for group residential housing establishments licensed under Minnesota Rules, parts 9525.0215 to 9525.0355, provided the facility is needed to meet the census reduction targets for persons with mental retardation or related conditions at regional treatment centers; (3) to ensure compliance with the federal Omnibus Budget Reconciliation Act alternative disposition plan requirements for inappropriately placed persons with mental retardation or related conditions or mental illness; (4) up to 80 beds in a single, specialized facility located in Hennepin county that will provide housing for chronic inebriates who are repetitive users of detoxification centers and are refused placement in emergency shelters because of their state of intoxication, and planning for the specialized facility must have been initiated before July 1, 1991, in anticipation of receiving a grant from the housing finance agency under section 462A.05, subdivision 20a, paragraph (b); or (5) notwithstanding the provisions of subdivision 2a, for up to 180 supportive housing units in Anoka, Dakota, Hennepin, or Ramsey county for homeless adults with a mental illness, a history of substance abuse, or human immunodeficiency virus or acquired immunodeficiency syndrome. For purposes of this section, "homeless adult" means a person who is living on the street or in a shelter ~~or is evicted from a dwelling unit~~ or discharged from a regional treatment center, community hospital, or residential treatment program and has no appropriate housing available and lacks the resources and support necessary to access appropriate housing. At least 70 percent of the supportive housing units must serve homeless adults with mental illness, substance abuse problems, or human immunodeficiency virus or acquired immunodeficiency syndrome who are about to be or, within the previous six months, has been discharged from a regional treatment center, or a state-contracted psychiatric bed in a community hospital, or a residential mental health or chemical dependency treatment program. If a person meets the requirements of subdivision 1, paragraph (a), and receives a federal ~~Section 8~~ or state housing subsidy, the group residential housing rate for that person is limited to the supplementary rate under section 256I.05, subdivision 1a, and is determined by subtracting the amount of the person's countable income that exceeds the MSA equivalent rate from the group residential housing supplementary rate. A resident in a demonstration project site who no longer participates in the demonstration program shall retain eligibility for a group residential housing payment in an amount determined under section 256I.06, subdivision 8, using the MSA equivalent rate. Service funding under section 256I.05, subdivision 1a, will end June 30, 1997, if federal matching funds are available and the services can be provided through a managed care entity. If federal matching funds are not available, then service funding will continue under section 256I.05, subdivision 1a.

(b) A county agency may enter into a group residential housing agreement for beds with rates in excess of the MSA equivalent rate in addition to those currently covered under a group residential housing agreement if the additional beds are only a replacement of

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beds with rates in excess of the MSA equivalent rate which have been made available due to closure of a setting, a change of licensure or certification which removes the beds from group residential housing payment, or as a result of the downsizing of a group residential housing setting. The transfer of available beds from one county to another can only occur by the agreement of both counties.

Sec. 20. Minnesota Statutes 1996, section 256I.04, is amended by adding a subdivision to read:

Subd. 4. RENTAL ASSISTANCE. For participants in the Minnesota supportive housing demonstration program under subdivision 3, paragraph (a), clause (5), notwithstanding the provisions of section 256I.06, subdivision 8, the amount of the group residential housing payment for room and board must be calculated by subtracting 30 percent of the recipient's adjusted income as defined by the United States Department of Housing and Urban Development for the Section 8 program from the fair market rent established for the recipient's living unit by the federal Department of Housing and Urban Development. This payment shall be regarded as a state housing subsidy for the purposes of subdivision 3. Notwithstanding the provisions of section 256I.06, subdivision 6, the recipient's countable income will only be adjusted when a change of greater than \$100 in a month occurs or upon annual redetermination of eligibility, whichever is sooner. The commissioner is directed to study the feasibility of developing a rental assistance program to serve persons traditionally served in group residential housing settings and report to the legislature by February 15, 1999.

Sec. 21. Minnesota Statutes 1996, section 256I.05, subdivision 2, is amended to read:

Subd. 2. MONTHLY RATES; EXEMPTIONS. The maximum group residential housing rate does not apply to a residence 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. Notwithstanding the provisions of subdivision 1c, the rate paid to a facility reimbursed under this subdivision shall be determined under Minnesota Rules, parts 9510.0010 to 9510.0480 section 256B.431, or under section 256B.434 if the facility is accepted by the commissioner for participation in the alternative payment demonstration project.

Sec. 22. Laws 1997, chapter 207, section 7, is amended to read:

Sec. 7. PRIVATE SALE OF TAX-FORFEITED LAND; CARLTON COUNTY.

(a) Notwithstanding Minnesota Statutes, sections 92.45 and 282.018, subdivision 1, and the public sale provisions of Minnesota Statutes, chapter 282, Carlton county may sell by private sale the tax-forfeited land described in paragraph (d) under the remaining provisions of Minnesota Statutes, chapter 282.

(b) The land described in paragraph (d) may be sold by private sale. The consideration for the conveyance must include the taxes due on the property and any penalties, interest, and costs shall be the appraised value of the land. If the lands are sold, the conveyance must reserve to the state a conservation perpetual easement, in a form prescribed by the commissioner of natural resources, for the land within 100 feet of the ordinary high

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water level of Slaughterhouse creek for public angler access and stream habitat protection and enhancement for the benefit of the state of Minnesota, department of natural resources, over the following lands:

A strip of land lying in the North 6.66 acres of the West Half of the Northeast Quarter of the Southwest Quarter of Section 6, Township 48 North, Range 16 West, Carlton county. Said strip lying 100 feet on each side of the centerline of Slaughterhouse Creek.

(c) The conveyance must be in a form approved by the attorney general.

(d) The land to be conveyed is located in Carlton county and is described as:

North 6.66 acres of the West Half of the Northeast Quarter of the Southwest Quarter, subject to pipeline easement, Section 6, Township 48 North, Range 16 West, City of Carlton.

(e) Carlton county has determined that this sale best serves the land management interests of Carlton county.

Sec. 23. RECOMMENDATIONS TO IMPLEMENT NEW REIMBURSEMENT SYSTEM.

(a) By January 15, 1999, the commissioner shall make recommendations to the chairs of the health and human services policy and fiscal committees on the repeal of specific statutes and rules as well as any other additional recommendations related to implementation of sections 11 and 12.

(b) In developing recommendations for nursing facility reimbursement, the commissioner shall consider making each nursing facility's total payment rates, both operating and property rate components, prospective. The commissioner shall involve nursing facility industry and consumer representatives in the development of these recommendations.

(c) In making recommendations for ICF/MR reimbursement, the commissioner may consider methods of establishing payment rates that take into account individual client costs and needs, include provisions to establish links between performance indicators and reimbursement and other performance incentives, and allow local control over resources necessary for local agencies to set rates and contract with ICF/MR facilities. In addition, the commissioner may establish methods that provide information to consumers regarding service quality as measured by performance indicators. The commissioner shall involve ICF/MR industry and consumer representatives in the development of these recommendations.

Sec. 24. APPROVAL EXTENDED.

Notwithstanding Minnesota Statutes, section 144A.073, subdivision 3, the commissioner of health shall grant an additional 18 months of approval for a proposed exception to the nursing home licensure and certification moratorium, if the proposal is to replace a 96-bed nursing home facility in Carlton county and if initial approval for the proposal was granted in November 1996.

Sec. 25. EFFECTIVE DATE.

Sections 1, 3, 22, and 24 are effective the day following final enactment.

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ARTICLE 4

HEALTH CARE PROGRAMS, INCLUDING MA AND GAMC

Section 1. Minnesota Statutes 1997 Supplement, section 171.29, subdivision 2, is amended to read:

Subd. 2. **FEES, ALLOCATION.** (a) A person whose driver's license has been revoked as provided in subdivision 1, except under section 169.121 or 169.123, shall pay a \$30 fee before the driver's license is reinstated.

(b) A person whose driver's license has been revoked as provided in subdivision 1 under section 169.121 or 169.123 shall pay a \$250 fee plus a \$10 surcharge before the driver's license is reinstated. The \$250 fee is to be credited as follows:

(1) Twenty percent shall be credited to the trunk highway fund.

(2) Fifty-five percent shall be credited to the general fund.

(3) Eight percent shall be credited to a separate account to be known as the bureau of criminal apprehension account. Money in this account may be appropriated to the commissioner of public safety and the appropriated amount shall be apportioned 80 percent for laboratory costs and 20 percent for carrying out the provisions of section 299C.065.

(4) Twelve percent shall be credited to a separate account to be known as the alcohol-impaired driver education account. Money in the account is appropriated as follows:

(i) The first \$200,000 in a fiscal year is to the commissioner of children, families, and learning for programs in elementary and secondary schools.

(ii) The remainder credited in a fiscal year is appropriated to the commissioner of transportation to be spent as grants to the Minnesota highway safety center at St. Cloud State University for programs relating to alcohol and highway safety education in elementary and secondary schools.

(5) Five percent shall be credited to a separate account to be known as the traumatic brain injury and spinal cord injury account. ~~\$100,000 is annually appropriated from the account to the commissioner of human services for traumatic brain injury case management services. The remaining money in the account is annually appropriated to the commissioner of health to be used as follows: 35 percent for a contract with a qualified community-based organization to provide information, resources, and support to assist persons with traumatic brain injury and their families to access services, and 65 percent to establish and maintain the traumatic brain injury and spinal cord injury registry created in section 144.662 and to reimburse the commissioner of economic security for the reasonable cost of services provided under section 268A.03, clause (e). For the purposes of this clause, a "qualified community-based organization" is a private, not-for-profit organization of consumers of traumatic brain injury services and their family members. The organization must be registered with the United States Internal Revenue Service under the provisions of section 501(c)(3) as a tax exempt organization and must have as its purposes:~~

(i) the promotion of public, family, survivor, and professional awareness of the incidence and consequences of traumatic brain injury;

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(ii) the provision of a network of support for persons with traumatic brain injury, their families, and friends;

(iii) the development and support of programs and services to prevent traumatic brain injury;

(iv) the establishment of education programs for persons with traumatic brain injury; and

(v) the empowerment of persons with traumatic brain injury through participation in its governance.

No patient's name, identifying information or identifiable medical data will be disclosed to the organization without the informed voluntary written consent of the patient or patient's guardian, or if the patient is a minor, of the parent or guardian of the patient.

(c) The \$10 surcharge shall be credited to a separate account to be known as the remote electronic alcohol monitoring pilot program account. The commissioner shall transfer the balance of this account to the commissioner of finance on a monthly basis for deposit in the general fund.

Sec. 2. Minnesota Statutes 1996, section 245.462, subdivision 4, is amended to read:

Subd. 4. **CASE MANAGER.** (a) "Case manager" means an individual employed by the county or other entity authorized by the county board to provide case management services specified in section 245.4711. A case manager must have a bachelor's degree in one of the behavioral sciences or related fields from an accredited college or university and have at least 2,000 hours of supervised experience in the delivery of services to adults with mental illness, must be skilled in the process of identifying and assessing a wide range of client needs, and must be knowledgeable about local community resources and how to use those resources for the benefit of the client. The case manager shall meet in person with a mental health professional at least once each month to obtain clinical supervision of the case manager's activities. Case managers with a bachelor's degree but without 2,000 hours of supervised experience in the delivery of services to adults with mental illness must complete 40 hours of training approved by the commissioner of human services in case management skills and in the characteristics and needs of adults with serious and persistent mental illness and must receive clinical supervision regarding individual service delivery from a mental health professional at least once each week until the requirement of 2,000 hours of supervised experience is met. Clinical supervision must be documented in the client record.

Until June 30, 1999, a ~~refugee~~ an immigrant who does not have the qualifications specified in this subdivision may provide case management services to adult ~~refugees~~ immigrants with serious and persistent mental illness who are members of the same ethnic group as the case manager if the person: (1) is actively pursuing credits toward the completion of a bachelor's degree in one of the behavioral sciences or a related field from an accredited college or university; (2) completes 40 hours of training as specified in this subdivision; and (3) receives clinical supervision at least once a week until the requirements of obtaining a bachelor's degree and 2,000 hours of supervised experience this subdivision are met.

(b) The commissioner may approve waivers submitted by counties to allow case managers without a bachelor's degree but with 6,000 hours of supervised experience in the delivery of services to adults with mental illness if the person:

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(1) meets the qualifications for a mental health practitioner in subdivision 26;

(2) has completed 40 hours of training approved by the commissioner in case management skills and in the characteristics and needs of adults with serious and persistent mental illness; and

(3) demonstrates that the 6,000 hours of supervised experience are in identifying functional needs of persons with mental illness, coordinating assessment information and making referrals to appropriate service providers, coordinating a variety of services to support and treat persons with mental illness, and monitoring to ensure appropriate provision of services. The county board is responsible to verify that all qualifications, including content of supervised experience, have been met.

Sec. 3. Minnesota Statutes 1996, section 245.462, subdivision 8, is amended to read:

Subd. 8. **DAY TREATMENT SERVICES.** "Day treatment," "day treatment services," or "day treatment program" means a structured program of treatment and care provided to an adult in or by: (1) a hospital accredited by the joint commission on accreditation of health organizations and licensed under sections 144.50 to 144.55; (2) a community mental health center under section 245.62; or (3) an entity that is under contract with the county board to operate a program that meets the requirements of section 245.4712, subdivision 2, and Minnesota Rules, parts 9505.0170 to 9505.0475. Day treatment consists of group psychotherapy and other intensive therapeutic services that are provided at least one day a week for a ~~minimum three-hour time block~~ by a multidisciplinary staff under the clinical supervision of a mental health professional. The services are aimed at stabilizing the adult's mental health status, providing mental health services, and developing and improving the adult's independent living and socialization skills. The goal of day treatment is to reduce or relieve mental illness and to enable the adult to live in the community. Day treatment services are not a part of inpatient or residential treatment services. Day treatment services are distinguished from day care by their structured therapeutic program of psychotherapy services. The commissioner may limit medical assistance reimbursement for day treatment to 15 hours per week per person instead of the three hours per day per person specified in Minnesota Rules, part 9505.0323, subpart 15.

Sec. 4. Minnesota Statutes 1996, section 245.4871, subdivision 4, is amended to read:

Subd. 4. **CASE MANAGER.** (a) "Case manager" means an individual employed by the county or other entity authorized by the county board to provide case management services specified in subdivision 3 for the child with severe emotional disturbance and the child's family. A case manager must have experience and training in working with children.

(b) A case manager must:

(1) have at least a bachelor's degree in one of the behavioral sciences or a related field from an accredited college or university;

(2) have at least 2,000 hours of supervised experience in the delivery of mental health services to children;

(3) have experience and training in identifying and assessing a wide range of children's needs; and .

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(4) be knowledgeable about local community resources and how to use those resources for the benefit of children and their families.

(c) The case manager may be a member of any professional discipline that is part of the local system of care for children established by the county board.

(d) The case manager must meet in person with a mental health professional at least once each month to obtain clinical supervision.

(e) Case managers with a bachelor's degree but without 2,000 hours of supervised experience in the delivery of mental health services to children with emotional disturbance must:

(1) begin 40 hours of training approved by the commissioner of human services in case management skills and in the characteristics and needs of children with severe emotional disturbance before beginning to provide case management services; and

(2) receive clinical supervision regarding individual service delivery from a mental health professional at least once each week until the requirement of 2,000 hours of experience is met.

(f) Clinical supervision must be documented in the child's record. When the case manager is not a mental health professional, the county board must provide or contract for needed clinical supervision.

(g) The county board must ensure that the case manager has the freedom to access and coordinate the services within the local system of care that are needed by the child.

(h) Until June 30, 1999, a refugee or immigrant who does not have the qualifications specified in this subdivision may provide case management services to child refugees or immigrants with severe emotional disturbance of the same ethnic group as the refugee or immigrant if the person:

(1) is actively pursuing credits toward the completion of a bachelor's degree in one of the behavioral sciences or related fields at an accredited college or university;

(2) completes 40 hours of training as specified in this subdivision; and

(3) receives clinical supervision at least once a week until the requirements of obtaining a bachelor's degree and 2,000 hours of supervised experience are met.

(i) The commissioner may approve waivers submitted by counties to allow case managers without a bachelor's degree but with 6,000 hours of supervised experience in the delivery of services to children with severe emotional disturbance if the person:

(1) meets the qualifications for a mental health practitioner in subdivision 26;

(2) has completed 40 hours of training approved by the commissioner in case management skills and in the characteristics and needs of children with severe emotional disturbance; and

(3) demonstrates that the 6,000 hours of supervised experience are in identifying functional needs of children with severe emotional disturbance, coordinating assessment information and making referrals to appropriate service providers, coordinating a variety of services to support and treat children with severe emotional disturbance, and monitor-

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ing to ensure appropriate provision of services. The county board is responsible to verify that all qualifications, including content of supervised experience, have been met.

Sec. 5. Minnesota Statutes 1996, section 256.01, is amended by adding a subdivision to read:

Subd. 16. **INFORMATION FOR PERSONS WITH LIMITED ENGLISH-LANGUAGE PROFICIENCY.** By July 1, 1998, the commissioner shall implement a procedure for public assistance applicants and recipients to identify a language preference other than English in order to receive information pertaining to the public assistance programs in that preferred language.

Sec. 6. **[256.9364] POST-KIDNEY TRANSPLANT DRUG PROGRAM.**

Subdivision 1. **ESTABLISHMENT.** The commissioner of human services shall establish and administer a program to pay for costs of drugs prescribed exclusively for post-kidney transplant maintenance when those costs are not otherwise reimbursed by a third-party payer. The commissioner may contract with a nonprofit entity to administer this program.

Subd. 2. **ELIGIBILITY REQUIREMENTS.** To be eligible for the program, an applicant must satisfy the following requirements:

(1) the applicant's family gross income must not exceed 275 percent of the federal poverty level; and

(2) the applicant must be a Minnesota resident who has resided in Minnesota for at least 12 months.

An applicant shall not be excluded because the applicant received the transplant outside the state of Minnesota, so long as the other requirements are met.

Subd. 3. **PAYMENT AMOUNTS.** (a) The amount of the payments made for each eligible recipient shall be based on the following:

(1) available funds; and

(2) the cost of the post-kidney transplant maintenance drugs.

(b) The payment rate under this program must be no greater than the medical assistance reimbursement rate for the prescribed drug.

(c) Payments shall be made to or on behalf of an eligible recipient for the cost of the post-kidney transplant maintenance drugs that is not covered, reimbursed, or eligible for reimbursement by any other third party or government entity, including, but not limited to, private or group health insurance, medical assistance, Medicare, the Veterans Administration, the senior citizen drug program established under section 256.955, or under any waiver arrangement received by the state to provide a prescription drug benefit for qualified Medicare beneficiaries or service-limited Medicare beneficiaries.

(d) The commissioner may restrict or categorize payments to meet the appropriation allocated for this program.

(e) Any cost of the post-kidney transplant maintenance drugs that is not reimbursed under this program is the responsibility of the program recipient.

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Subd. 4. **DRUG FORMULARY.** The commissioner shall maintain a drug formulary that includes all drugs eligible for reimbursement by the program. The commissioner may use the drug formulary established under section 256B.0625, subdivision 13. The commissioner shall establish an internal review procedure for updating the formulary that allows for the addition and deletion of drugs to the formulary. The drug formulary must be reviewed at least quarterly per fiscal year.

Subd. 5. **PRIVATE DONATIONS.** The commissioner may accept funding from other public or private sources.

Subd. 6. **SUNSET.** This program expires on July 1, 2000.

Sec. 7. Minnesota Statutes 1997 Supplement, section 256.9657, subdivision 3, is amended to read:

Subd. 3. **HEALTH MAINTENANCE ORGANIZATION; COMMUNITY INTEGRATED SERVICE NETWORK SURCHARGE.** (a) Effective October 1, 1992, each health maintenance organization with a certificate of authority issued by the commissioner of health under chapter 62D and each community integrated service network licensed by the commissioner under chapter 62N shall pay to the commissioner of human services a surcharge equal to six-tenths of one percent of the total premium revenues of the health maintenance organization or community integrated service network as reported to the commissioner of health according to the schedule in subdivision 4.

(b) For purposes of this subdivision, total premium revenue means:

(1) premium revenue recognized on a prepaid basis from individuals and groups for provision of a specified range of health services over a defined period of time which is normally one month, excluding premiums paid to a health maintenance organization or community integrated service network from the Federal Employees Health Benefit Program;

(2) premiums from Medicare wrap-around subscribers for health benefits which supplement Medicare coverage;

(3) Medicare revenue, as a result of an arrangement between a health maintenance organization or a community integrated service network and the health care financing administration of the federal Department of Health and Human Services, for services to a Medicare beneficiary, excluding Medicare revenue that states are prohibited from taxing under sections 4001 and 4002 of Public Law Number 105-33 received by a health maintenance organization or community integrated service network through risk sharing or Medicare Choice Plus contracts; and

(4) medical assistance revenue, as a result of an arrangement between a health maintenance organization or community integrated service network and a Medicaid state agency, for services to a medical assistance beneficiary.

If advance payments are made under clause (1) or (2) to the health maintenance organization or community integrated service network for more than one reporting period, the portion of the payment that has not yet been earned must be treated as a liability.

(c) When a health maintenance organization or community integrated service network merges or consolidates with or is acquired by another health maintenance organiza-

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tion or community integrated service network, the surviving corporation or the new corporation shall be responsible for the annual surcharge originally imposed on each of the entities or corporations subject to the merger, consolidation, or acquisition, regardless of whether one of the entities or corporations does not retain a certificate of authority under chapter 62D or a license under chapter 62N.

(d) Effective July 1 of each year, the surviving corporation's or the new corporation's surcharge shall be based on the revenues earned in the second previous calendar year by all of the entities or corporations subject to the merger, consolidation, or acquisition regardless of whether one of the entities or corporations does not retain a certificate of authority under chapter 62D or a license under chapter 62N until the total premium revenues of the surviving corporation include the total premium revenues of all the merged entities as reported to the commissioner of health.

(e) When a health maintenance organization or community integrated service network, which is subject to liability for the surcharge under this chapter, transfers, assigns, sells, leases, or disposes of all or substantially all of its property or assets, liability for the surcharge imposed by this chapter is imposed on the transferee, assignee, or buyer of the health maintenance organization or community integrated service network.

(f) In the event a health maintenance organization or community integrated service network converts its licensure to a different type of entity subject to liability for the surcharge under this chapter, but survives in the same or substantially similar form, the surviving entity remains liable for the surcharge regardless of whether one of the entities or corporations does not retain a certificate of authority under chapter 62D or a license under chapter 62N.

(g) The surcharge assessed to a health maintenance organization or community integrated service network ends when the entity ceases providing services for premiums and the cessation is not connected with a merger, consolidation, acquisition, or conversion.

Sec. 8. Minnesota Statutes 1997 Supplement, section 256.9685, subdivision 1, is amended to read:

Subdivision 1. **AUTHORITY.** The commissioner shall establish procedures for determining medical assistance and general assistance medical care payment rates under a prospective payment system for inpatient hospital services in hospitals that qualify as vendors of medical assistance. The commissioner shall establish, by rule, procedures for implementing this section and sections 256.9686, 256.969, and 256.9695. ~~The medical assistance payment rates must be based on methods and standards that the commissioner finds are adequate to provide for the costs that must be incurred for the care of recipients in efficiently and economically operated hospitals. Services must meet the requirements of section 256B.04, subdivision 15, or 256D.03, subdivision 7, paragraph (b), to be eligible for payment.~~

Sec. 9. Minnesota Statutes 1996, section 256.969, subdivision 16, is amended to read:

Subd. 16. **INDIAN HEALTH SERVICE FACILITIES.** Indian health service Facilities of the Indian health service and facilities operated by a tribe or tribal organization under funding authorized by title III of the Indian Self-Determination and Education Assistance Act, Public Law Number 93-638, or by United States Code, title 25, chapter 14,

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subchapter II, sections 450f to 450n, are exempt from the rate establishment methods required by this section and shall be reimbursed at charges as limited to the amount allowed under federal law paid according to the rate published by the United States assistant secretary for health under authority of United States Code, title 42, sections 248A and 248B.

Sec. 10. Minnesota Statutes 1996, section 256.969, subdivision 17, is amended to read:

Subd. 17. OUT-OF-STATE HOSPITALS IN LOCAL TRADE AREAS. Out-of-state hospitals that are located within a Minnesota local trade area and that have more than 20 admissions in the base year shall have rates established using the same procedures and methods that apply to Minnesota hospitals. For this subdivision and subdivision 18, local trade area means a county contiguous to Minnesota and located in a metropolitan statistical area as determined by Medicare for October 1 prior to the most current rebased rate year. Hospitals that are not required by law to file information in a format necessary to establish rates shall have rates established based on the commissioner's estimates of the information. Relative values of the diagnostic categories shall not be redetermined under this subdivision until required by rule. Hospitals affected by this subdivision shall then be included in determining relative values. However, hospitals that have rates established based upon the commissioner's estimates of information shall not be included in determining relative values. This subdivision is effective for hospital fiscal years beginning on or after July 1, 1988. A hospital shall provide the information necessary to establish rates under this subdivision at least 90 days before the start of the hospital's fiscal year.

Sec. 11. Minnesota Statutes 1996, section 256B.03, subdivision 3, is amended to read:

Subd. 3. AMERICAN INDIAN HEALTH FUNDING TRIBAL PURCHASING MODEL. (a) Notwithstanding subdivision 1 and sections 256B.0625 and 256D.03, subdivision 4, paragraph (f) (i), the commissioner may make payments to federally recognized Indian tribes with a reservation in the state to provide medical assistance and general assistance medical care to Indians, as defined under federal law, who reside on or near the reservation. The payments may be made in the form of a block grant or other payment mechanism determined in consultation with the tribe. Any alternative payment mechanism agreed upon by the tribes and the commissioner under this subdivision is not dependent upon county or health plan agreement but is intended to create a direct payment mechanism between the state and the tribe for the administration of the medical assistance program and general assistance medical care programs, and for covered services.

(b) A tribe that implements a purchasing model under this subdivision shall report to the commissioner at least annually on the operation of the model. The commissioner and the tribe shall cooperatively determine the data elements, format, and timetable for the report.

(c) For purposes of this subdivision, "Indian tribe" means a tribe, band, or nation, or other organized group or community of Indians that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians and for which a reservation exists as is consistent with Public Law Number 100-485, as amended.

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(d) Payments under this subdivision may not result in an increase in expenditures that would not otherwise occur in the medical assistance program under this chapter or the general assistance medical care program under chapter 256D.

Sec. 12. [256B.038] PROVIDER RATE INCREASES AFTER JUNE 30, 1999.

(a) For fiscal years beginning on or after July 1, 1999, the commissioner of finance shall include an annual inflationary adjustment in payment rates for the services listed in paragraph (b) as a budget change request in each biennial detailed expenditure budget submitted to the legislature under section 16A.11. The adjustment shall be accomplished by indexing the rates in effect for inflation based on the change in the Consumer Price Index—All Items (United States city average)(CPI-U) as forecasted by Data Resources, Inc., in the fourth quarter of the prior year for the calendar year during which the rate increase occurs.

(b) Within the limits of appropriations specifically for this purpose, the commissioner shall apply the rate increases in paragraph (a) to home and community-based waiver services for persons with mental retardation or related conditions under section 256B.501; home and community-based waiver services for the elderly under section 256B.0915; waived services under community alternatives for disabled individuals under section 256B.49; community alternative care waived services under section 256B.49; traumatic brain injury waived services under section 256B.49; nursing services and home health services under section 256B.0625, subdivision 6a; personal care services and nursing supervision of personal care services under section 256B.0625, subdivision 19a; private duty nursing services under section 256B.0625, subdivision 7; day training and habilitation services for adults with mental retardation or related conditions under sections 252.40 to 252.46; physical therapy services under sections 256B.0625, subdivision 8, and 256D.03, subdivision 4; occupational therapy services under sections 256B.0625, subdivision 8a, and 256D.03, subdivision 4; speech-language therapy services under section 256D.03, subdivision 4, and Minnesota Rules, part 9505.0390; respiratory therapy services under section 256D.03, subdivision 4, and Minnesota Rules, part 9505.0295; physician services under section 256B.0625, subdivision 3; dental services under sections 256B.0625, subdivision 9, and 256D.03, subdivision 4; alternative care services under section 256B.0913; adult residential program grants under Minnesota Rules, parts 9535.2000 to 9535.3000; adult and family community support grants under Minnesota Rules, parts 9535.1700 to 9535.1760; and semi-independent living services under section 252.275, including SILS funding under county social services grants formerly funded under chapter 256I.

(c) The commissioner shall increase prepaid medical assistance program capitation rates as appropriate to reflect the rate increases in this section.

(d) In implementing this section, the commissioner shall consider proposing a schedule to equalize rates paid by different programs for the same service.

Sec. 13. Minnesota Statutes 1996, section 256B.055, subdivision 7, is amended to read:

Subd. 7. 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 or, who would meet those requirements except for excess income or assets, and who meets the other eligibility requirements of this section.

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Effective February 1, 1989, and to the extent allowed by federal law the commissioner shall deduct state and federal income taxes and federal insurance contributions at payments withheld from the individual's earned income in determining eligibility under this subdivision.

Sec. 14. Minnesota Statutes 1996, section 256B.055, is amended by adding a subdivision to read:

Subd. 7a. SPECIAL CATEGORY FOR DISABLED CHILDREN. Medical assistance may be paid for a person who is under age 18 and who meets income and asset eligibility requirements of the Supplemental Security Income program if the person was receiving Supplemental Security Income payments on the date of enactment of section 211(a) of Public Law Number 104-193, the Personal Responsibility and Work Opportunity Act of 1996, and the person would have continued to receive the payments except for the change in the childhood disability criteria in section 211(a) of Public Law Number 104-193.

Sec. 15. Minnesota Statutes 1997 Supplement, section 256B.056, subdivision 1a, is amended to read:

Subd. 1a. **INCOME AND ASSETS GENERALLY.** Unless specifically required by state law or rule or federal law or regulation, the methodologies used in counting income and assets to determine eligibility for medical assistance for persons whose eligibility category is based on blindness, disability, or age of 65 or more years, the methodologies for the supplemental security income program shall be used; ~~except that payments made according to a court order for the support of children shall be excluded from income in an amount not to exceed the difference between the applicable income standard used in the state's medical assistance program for aged, blind, and disabled persons and the applicable income standard used in the state's medical assistance program for families with children.~~ Exclusion of court-ordered child support payments is subject to the condition that if there has been a change in the financial circumstances of the person with the legal obligation to pay support since the support order was entered, the person with the legal obligation to pay support has petitioned for modification of the support order. For families and children, which includes all other eligibility categories, the methodologies under the state's AFDC plan in effect as of July 16, 1996, as required by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), Public Law Number 104-193, shall be used. Effective upon federal approval, in-kind contributions to, and payments made on behalf of, a recipient, by an obligor, in satisfaction of or in addition to a temporary or permanent order for child support or maintenance, shall be considered income to the recipient. For these purposes, a "methodology" does not include an asset or income standard, or accounting method, or method of determining effective dates.

Sec. 16. Minnesota Statutes 1997 Supplement, section 256B.056, subdivision 4, is amended to read:

Subd. 4. **INCOME.** To be eligible for medical assistance, a person must not have, or anticipate receiving, semiannual income in excess of 120 percent of the income standards by family size used under the aid to families with dependent children state plan as of July 16, 1996, as required by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), Public Law Number 104-193, except that eligible under

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section 256B.055, subdivision 7, and families and children may have an income up to 133-1/3 percent of the AFDC income standard in effect under the July 16, 1996, AFDC state plan. For rate years beginning on or after July 1, 1999, the commissioner shall consider increasing the base AFDC standard in effect July 16, 1996, by an amount equal to the percent change in the Consumer Price Index for all urban consumers for the previous October compared to one year earlier. 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. Veterans aid and attendance benefits and Veterans Administration unusual medical expense payments are considered income to the recipient.

Sec. 17. Minnesota Statutes 1996, section 256B.057, subdivision 3a, is amended to read:

Subd. 3a. **ELIGIBILITY FOR PAYMENT OF MEDICARE PART B PREMIUMS.** A person who would otherwise be eligible as a qualified Medicare beneficiary under subdivision 3, except the person's income is in excess of the limit, is eligible for medical assistance reimbursement of Medicare Part B premiums if the person's income is less than 140 120 percent of the official federal poverty guidelines for the applicable family size. The income limit shall increase to 120 percent of the official federal poverty guidelines for the applicable family size on January 1, 1995.

Sec. 18. Minnesota Statutes 1996, section 256B.057, is amended by adding a subdivision to read:

Subd. 3b. **QUALIFYING INDIVIDUALS.** Beginning July 1, 1998, to the extent of the federal allocation to Minnesota, a person, who would otherwise be eligible as a qualified Medicare beneficiary under subdivision 3, except that the person's income is in excess of the limit, is eligible as a qualifying individual according to the following criteria:

(1) if the person's income is greater than 120 percent, but less than 135 percent of the official federal poverty guidelines for the applicable family size, the person is eligible for medical assistance reimbursement of Medicare Part B premiums; or

(2) if the person's income is equal to or greater than 135 percent but less than 175 percent of the official federal poverty guidelines for the applicable family size, the person is eligible for medical assistance reimbursement of that portion of the Medicare Part B premium attributable to an increase in Part B expenditures which resulted from the shift of home care services from Medicare Part A to Medicare Part B under Public Law Number 105-33, section 4732, the Balanced Budget Act of 1997.

The commissioner shall limit enrollment of qualifying individuals under this subdivision according to the requirements of Public Law Number 105-33, section 4732.

Sec. 19. Minnesota Statutes 1997 Supplement, section 256B.06, subdivision 4, is amended to read:

Subd. 4. **CITIZENSHIP REQUIREMENTS.** (a) Eligibility for medical assistance is limited to citizens of the United States, qualified noncitizens as defined in this subdivision, and other persons residing lawfully in the United States.

(b) "Qualified noncitizen" means a person who meets one of the following immigration criteria:

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(1) admitted for lawful permanent residence according to United States Code, title 8;

(2) admitted to the United States as a refugee according to United States Code, title 8, section 1157;

(3) granted asylum according to United States Code, title 8, section 1158;

(4) granted withholding of deportation according to United States Code, title 8, section 1253(h);

(5) paroled for a period of at least one year according to United States Code, title 8, section 1182(d)(5);

(6) granted conditional entrant status according to United States Code, title 8, section 1153(a)(7); or

(7) determined to be a battered noncitizen by the United States Attorney General according to the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, title V of the Omnibus Consolidated Appropriations Bill, Public Law Number 104-200;

(8) is a child of a noncitizen determined to be a battered noncitizen by the United States Attorney General according to the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, title V, of the Omnibus Consolidated Appropriations Bill, Public Law Number 104-200; or

(9) determined to be a Cuban or Haitian entrant as defined in section 501(e) of Public Law Number 96-422, the Refugee Education Assistance Act of 1980.

(c) All qualified noncitizens who were residing in the United States before August 22, 1996, who otherwise meet the eligibility requirements of chapter 256B, are eligible for medical assistance with federal financial participation.

(d) All qualified noncitizens who entered the United States on or after August 22, 1996, and who otherwise meet the eligibility requirements of chapter 256B, are eligible for medical assistance with federal financial participation through November 30, 1996.

Beginning December 1, 1996, qualified noncitizens who entered the United States on or after August 22, 1996, and who otherwise meet the eligibility requirements of chapter 256B are eligible for medical assistance with federal participation for five years if they meet one of the following criteria:

(i) refugees admitted to the United States according to United States Code, title 8, section 1157;

(ii) persons granted asylum according to United States Code, title 8, section 1158;

(iii) persons granted withholding of deportation according to United States Code, title 8, section 1253(h);

(iv) veterans of the United States Armed Forces with an honorable discharge for a reason other than noncitizen status, their spouses and unmarried minor dependent children; or

(v) persons on active duty in the United States Armed Forces, other than for training, their spouses and unmarried minor dependent children.

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Beginning December 1, 1996, qualified noncitizens who do not meet one of the criteria in items (i) to (v) are eligible for medical assistance without federal financial participation as described in paragraph (j).

(e) Noncitizens who are not qualified noncitizens as defined in paragraph (b), who are lawfully residing in the United States and who otherwise meet the eligibility requirements of chapter 256B, are eligible for medical assistance under clauses (1) to (3). These individuals must cooperate with the Immigration and Naturalization Service to pursue any applicable immigration status, including citizenship, that would qualify them for medical assistance with federal financial participation.

(1) Persons who were medical assistance recipients on August 22, 1996, are eligible for medical assistance with federal financial participation through December 31, 1996.

(2) Beginning January 1, 1997, persons described in clause (1) are eligible for medical assistance without federal financial participation as described in paragraph (j).

(3) Beginning December 1, 1996, persons residing in the United States prior to August 22, 1996, who were not receiving medical assistance and persons who arrived on or after August 22, 1996, are eligible for medical assistance without federal financial participation as described in paragraph (j).

(f) Nonimmigrants who otherwise meet the eligibility requirements of chapter 256B are eligible for the benefits as provided in paragraphs (g) to (i). For purposes of this subdivision, a "nonimmigrant" is a person in one of the classes listed in United States Code, title 8, section 1101(a)(15).

(g) Payment shall also be made for care and services that are furnished to noncitizens, regardless of immigration status, who otherwise meet the eligibility requirements of chapter 256B, if such care and services are necessary for the treatment of an emergency medical condition, except for organ transplants and related care and services and routine prenatal care.

(h) For purposes of this subdivision, the term "emergency medical condition" means a medical condition that meets the requirements of United States Code, title 42, section 1396b(v).

(i) Pregnant noncitizens who are undocumented or nonimmigrants, who otherwise meet the eligibility requirements of chapter 256B, are eligible for medical assistance payment without federal financial participation for care and services through the period of pregnancy, and 60 days postpartum, except for labor and delivery.

(j) Qualified noncitizens as described in paragraph (d), and all other noncitizens lawfully residing in the United States as described in paragraph (e), who are ineligible for medical assistance with federal financial participation and who otherwise meet the eligibility requirements of chapter 256B and of this paragraph, are eligible for medical assistance without federal financial participation. Qualified noncitizens as described in paragraph (d) are only eligible for medical assistance without federal financial participation for five years from their date of entry into the United States.

(k) The commissioner shall submit to the legislature by December 31, 1998, a report on the number of recipients and cost of coverage of care and services made according to paragraphs (i) and (j).

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Sec. 20. Minnesota Statutes 1996, section 256B.0625, is amended by adding a subdivision to read:

Subd. 3a. **GENDER REASSIGNMENT SURGERY.** Gender reassignment surgery and other gender reassignment medical procedures including drug therapy for gender reassignment are not covered unless the individual began receiving gender reassignment services prior to July 1, 1998.

Sec. 21. Minnesota Statutes 1996, section 256B.0625, subdivision 7, is amended to read:

Subd. 7. **PRIVATE DUTY NURSING.** Medical assistance covers private duty nursing services in a recipient's home. Recipients who are authorized to receive private duty nursing services in their home may use approved hours outside of the home during hours when normal life activities take them outside of their home and when, without the provision of private duty nursing, their health and safety would be jeopardized. To use private duty nursing services at school, the recipient or responsible party must provide written authorization in the care plan identifying the chosen provider and the daily amount of services to be used at school. Medical assistance does not cover private duty nursing services for residents of a hospital, nursing facility, intermediate care facility, or a health care facility licensed by the commissioner of health, except as authorized in section 256B.64 for ventilator-dependent recipients in hospitals or unless a resident who is otherwise eligible is on leave from the facility and the facility either pays for the private duty nursing services or forgoes the facility per diem for the leave days that private duty nursing services are used. Total hours of service and payment allowed for services outside the home cannot exceed that which is otherwise allowed in an in-home setting according to section 256B.0627. All private duty nursing services must be provided according to the limits established under section 256B.0627. Private duty nursing services may not be reimbursed if the nurse is the spouse of the recipient or the parent or foster care provider of a recipient who is under age 18, or the recipient's legal guardian.

Sec. 22. Minnesota Statutes 1996, section 256B.0625, subdivision 17, is amended to read:

Subd. 17. **TRANSPORTATION COSTS.** (a) Medical assistance covers transportation costs incurred solely for obtaining emergency medical care or transportation costs incurred by nonambulatory persons in obtaining emergency or nonemergency medical care when paid directly to an ambulance company, common carrier, or other recognized providers of transportation services. For the purpose of this subdivision, a person who is incapable of transport by taxicab or bus shall be considered to be nonambulatory.

(b) Medical assistance covers special transportation, as defined in Minnesota Rules, part 9505.0315, subpart 1, item F, if the provider receives and maintains a current physician's order by the recipient's attending physician certifying that the recipient has a physical or mental impairment that would prohibit the recipient from safely accessing and using a bus, taxi, other commercial transportation, or private automobile. Special transportation includes driver-assisted service to eligible individuals. Driver-assisted service includes passenger pickup at and return to the individual's residence or place of business, assistance with admittance of the individual to the medical facility, and assistance in passenger securement or in securing of wheelchairs or stretchers in the vehicle. The commissioner shall establish maximum medical assistance reimbursement rates for

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special transportation services for persons who need a wheelchair lift van or stretcher-equipped vehicle and for those who do not need a wheelchair lift van or stretcher-equipped vehicle. The average of these two rates per trip must not exceed \$14 \$15 for the base rate and ~~\$1-10~~ \$1.20 per mile. Special transportation provided to nonambulatory persons who do not need a wheelchair lift van or stretcher-equipped vehicle, may be reimbursed at a lower rate than special transportation provided to persons who need a wheelchair lift van or stretcher-equipped vehicle.

Sec. 23. Minnesota Statutes 1996, section 256B.0625, is amended by adding a subdivision to read:

Subd. 17a. PAYMENT FOR AMBULANCE SERVICES. Effective for services rendered on or after July 1, 1999, medical assistance payments for ambulance services shall be increased by five percent.

Sec. 24. Minnesota Statutes 1996, section 256B.0625, subdivision 19a, is amended to read:

Subd. 19a. PERSONAL CARE SERVICES. Medical assistance covers personal care services in a recipient's home. To qualify for personal care services, recipients or responsible parties must be able to identify the recipient's needs, direct and evaluate task accomplishment, and provide for health and safety. Approved hours may be used outside the home when normal life activities take them outside the home and when, without the provision of personal care, their health and safety would be jeopardized. To use personal care services at school, the recipient or responsible party must provide written authorization in the care plan identifying the chosen provider and the daily amount of services to be used at school. Total hours for services, whether actually performed inside or outside the recipient's home, cannot exceed that which is otherwise allowed for personal care services in an in-home setting according to section 256B.0627. Medical assistance does not cover personal care services for residents of a hospital, nursing facility, intermediate care facility, health care facility licensed by the commissioner of health, or unless a resident who is otherwise eligible is on leave from the facility and the facility either pays for the personal care services or forgoes the facility per diem for the leave days that personal care services are used. All personal care services must be provided according to section 256B.0627. Personal care services may not be reimbursed if the personal care assistant is the spouse or legal guardian of the recipient or the parent of a recipient under age 18, or the responsible party or the foster care provider of a recipient who cannot direct the recipient's own care unless, in the case of a foster care provider, a county or state case manager visits the recipient as needed, but not less than every six months, to monitor the health and safety of the recipient and to ensure the goals of the care plan are met. Parents of adult recipients, adult children of the recipient or adult siblings of the recipient may be reimbursed for personal care services if they are not the recipient's legal guardian and are granted a waiver under section 256B.0627.

Sec. 25. Minnesota Statutes 1996, section 256B.0625, subdivision 20, is amended to read:

Subd. 20. MENTAL ILLNESS HEALTH CASE MANAGEMENT. (a) To the extent authorized by rule of the state agency, medical assistance covers case management services to persons with serious and persistent mental illness ~~or subject to federal approval,~~ and children with severe emotional disturbance. Services provided under this section

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must meet the relevant standards in sections 245.461 to 245.4888, the Comprehensive Adult and Children's Mental Health Acts, Minnesota Rules, parts 9520.0900 to 9520.0926, and 9505.0322, excluding subpart 10.

(b) Entities meeting program standards set out in rules governing family community support services as defined in section 245.4871, subdivision 17, are eligible for medical assistance reimbursement for case management services for children with severe emotional disturbance when these services meet the program standards in Minnesota Rules, parts 9520.0900 to 9520.0926 and 9505.0322, excluding subpart 6 subparts 6 and 10.

(b) In counties where fewer than 50 percent of children estimated to be eligible under medical assistance to receive case management services for children with severe emotional disturbance actually receive these services in state fiscal year 1995, community mental health centers serving those counties, entities meeting program standards in Minnesota Rules, parts 9520.0570 to 9520.0870, and other entities authorized by the commissioner are eligible for medical assistance reimbursement for case management services for children with severe emotional disturbance when these services meet the program standards in Minnesota Rules, parts 9520.0900 to 9520.0926 and 9505.0322, excluding subpart 6.

(c) Medical assistance and MinnesotaCare payment for mental health case management shall be made on a monthly basis. In order to receive payment for an eligible child, the provider must document at least a face-to-face contact with the child, the child's parents, or the child's legal representative. To receive payment for an eligible adult, the provider must document at least a face-to-face contact with the adult or the adult's legal representative.

(d) Payment for mental health case management provided by county or state staff shall be based on the monthly rate methodology under section 256B.094, subdivision 6, paragraph (b), with separate rates calculated for child welfare and mental health, and within mental health, separate rates for children and adults.

(e) Payment for mental health case management provided by county-contracted vendors shall be based on a monthly rate negotiated by the host county. The negotiated rate must not exceed the rate charged by the vendor for the same service to other payers. If the service is provided by a team of contracted vendors, the county may negotiate a team rate with a vendor who is a member of the team. The team shall determine how to distribute the rate among its members. No reimbursement received by contracted vendors shall be returned to the county, except to reimburse the county for advance funding provided by the county to the vendor.

(f) If the service is provided by a team which includes contracted vendors and county or state staff, the costs for county or state staff participation in the team shall be included in the rate for county-provided services. In this case, the contracted vendor and the county may each receive separate payment for services provided by each entity in the same month. In order to prevent duplication of services, the county must document, in the recipient's file, the need for team case management and a description of the roles of the team members.

(g) The commissioner shall calculate the nonfederal share of actual medical assistance and general assistance medical care payments for each county, based on the higher of calendar year 1995 or 1996, by service date, project that amount forward to 1999, and

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transfer one-half of the result from medical assistance and general assistance medical care to each county's mental health grants under sections 245.4886 and 256E.12 for calendar year 1999. The annualized minimum amount added to each county's mental health grant shall be \$3,000 per year for children and \$5,000 per year for adults. The commissioner may reduce the statewide growth factor in order to fund these minimums. The annualized total amount transferred shall become part of the base for future mental health grants for each county.

(h) Any net increase in revenue to the county as a result of the change in this section must be used to provide expanded mental health services as defined in sections 245.461 to 245.4888, the Comprehensive Adult and Children's Mental Health Acts, excluding inpatient and residential treatment. For adults, increased revenue may also be used for services and consumer supports which are part of adult mental health projects approved under Laws 1997, chapter 203, article 7, section 25. For children, increased revenue may also be used for respite care and nonresidential individualized rehabilitation services as defined in section 245.492, subdivisions 17 and 23. "Increased revenue" has the meaning given in Minnesota Rules, part 9520.0903, subpart 3.

(i) Notwithstanding section 256B.19, subdivision 1, the nonfederal share of costs for mental health case management shall be provided by the recipient's county of responsibility, as defined in sections 256G.01 to 256G.12, from sources other than federal funds or funds used to match other federal funds.

(j) The commissioner may suspend, reduce, or terminate the reimbursement to a provider that does not meet the reporting or other requirements of this section. The county of responsibility, as defined in sections 256G.01 to 256G.12, is responsible for any federal disallowances. The county may share this responsibility with its contracted vendors.

(k) The commissioner shall set aside a portion of the federal funds earned under this section to repay the special revenue maximization account under section 256.01, subdivision 2, clause (15). The repayment is limited to:

- (1) the costs of developing and implementing this section; and
- (2) programming the information systems.

(l) Notwithstanding section 256.025, subdivision 2, payments to counties for case management expenditures under this section shall only be made from federal earnings from services provided under this section. Payments to contracted vendors shall include both the federal earnings and the county share.

(m) Notwithstanding section 256B.041, county payments for the cost of mental health case management services provided by county or state staff shall not be made to the state treasurer. For the purposes of mental health case management services provided by county or state staff under this section, the centralized disbursement of payments to counties under section 256B.041 consists only of federal earnings from services provided under this section.

(n) Case management services under this subdivision do not include therapy, treatment, legal, or outreach services.

(o) If the recipient is a resident of a nursing facility, intermediate care facility, or hospital, and the recipient's institutional care is paid by medical assistance, payment for case

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management services under this subdivision is limited to the last 30 days of the recipient's residency in that facility and may not exceed more than two months in a calendar year.

(p) Payment for case management services under this subdivision shall not duplicate payments made under other program authorities for the same purpose.

(q) By July 1, 2000, the commissioner shall evaluate the effectiveness of the changes required by this section, including changes in number of persons receiving mental health case management, changes in hours of service per person, and changes in case-load size.

(r) For each calendar year beginning with the calendar year 2001, the annualized amount of state funds for each county determined under paragraph (g) shall be adjusted by the county's percentage change in the average number of clients per month who received case management under this section during the fiscal year that ended six months prior to the calendar year in question, in comparison to the prior fiscal year.

Sec. 26. Minnesota Statutes 1997 Supplement, section 256B.0625, subdivision 31a, is amended to read:

Subd. 31a. **AUGMENTATIVE AND ALTERNATIVE COMMUNICATION SYSTEMS.** (a) Medical assistance covers augmentative and alternative communication systems consisting of electronic or nonelectronic devices and the related components necessary to enable a person with severe expressive communication limitations to produce or transmit messages or symbols in a manner that compensates for that disability.

(b) By January 1, 1998, the commissioner, in cooperation with the commissioner of administration, shall establish an augmentative and alternative communication system purchasing program within a state agency or by contract with a qualified private entity. The purpose of this service is to facilitate ready availability of the augmentative and alternative communication systems needed to meet the needs of persons with severe expressive communication limitations in an efficient and cost-effective manner. This program shall:

(1) coordinate purchase and rental of augmentative and alternative communication systems;

(2) negotiate agreements with manufacturers and vendors for purchase of components of these systems, for warranty coverage, and for repair service;

(3) when efficient and cost-effective, maintain and refurbish if needed, an inventory of components of augmentative and alternative communication systems for short- or long-term loan to recipients;

(4) facilitate training sessions for service providers, consumers, and families on augmentative and alternative communication systems; and

(5) develop a recycling program for used augmentative and alternative communications systems to be reissued and used for trials and short-term use, when appropriate.

The availability of components of augmentative and alternative communication systems through this program is subject to prior authorization requirements established under subdivision 25 Until the volume of systems purchased increases to allow a dis-

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count price, the commissioner shall reimburse augmentative and alternative communication manufacturers and vendors at the manufacturer's suggested retail price for augmentative and alternative communication systems and related components. The commissioner shall separately reimburse providers for purchasing and integrating individual communication systems which are unavailable as a package from an augmentative and alternative communication vendor.

(c) Reimbursement rates established by this purchasing program are not subject to Minnesota Rules, part 9505.0445, item S or T.

Sec. 27. Minnesota Statutes 1996, section 256B.0625, subdivision 34, is amended to read:

Subd. 34. **AMERICAN INDIAN HEALTH SERVICES FACILITIES.** Medical assistance payments to American Indian health services facilities for outpatient medical services billed after June 30, 1990, must be facilities of the Indian health service and facilities operated by a tribe or tribal organization under funding authorized by United States Code, title 25, sections 450f to 450n, or title III of the Indian Self-Determination and Education Assistance Act, Public Law Number 93-638, shall be at the option of the facility in accordance with the rate published by the United States Assistant Secretary for Health under the authority of United States Code, title 42, sections 248(a) and 249(b). General assistance medical care payments to facilities of the American Indian health services and facilities operated by a tribe or tribal organization for the provision of outpatient medical care services billed after June 30, 1990, must be in accordance with the general assistance medical care rates paid for the same services when provided in a facility other than an American a facility of the Indian health service or a facility operated by a tribe or tribal organization.

Sec. 28. Minnesota Statutes 1996, section 256B.0625, subdivision 38, is amended to read:

Subd. 38. **PAYMENTS FOR MENTAL HEALTH SERVICES.** Payments for mental health services covered under the medical assistance program that are provided by masters-prepared mental health professionals shall be 80 percent of the rate paid to doctoral-prepared professionals. Payments for mental health services covered under the medical assistance program that are provided by masters-prepared mental health professionals employed by community mental health centers shall be 100 percent of the rate paid to doctoral-prepared professionals. For purposes of reimbursement of mental health professionals under the medical assistance program, all social workers who:

(1) have received a master's degree in social work from a program accredited by the council on social work education;

(2) are licensed at the level of graduate social worker or independent social worker;
and

(3) are practicing clinical social work under appropriate supervision, as defined by section 148B.18; meet all requirements under Minnesota Rules, part 9505.0323, subpart 24, and shall be paid accordingly.

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Sec. 29. Minnesota Statutes 1996, section 256B.0627, subdivision 4, is amended to read:

Subd. 4. **PERSONAL CARE SERVICES.** (a) The personal care services that are eligible for payment are the following:

- (1) bowel and bladder care;
- (2) skin care to maintain the health of the skin;
- (3) repetitive maintenance range of motion, muscle strengthening exercises, and other tasks specific to maintaining a recipient's optimal level of function;
- (4) respiratory assistance;
- (5) transfers and ambulation;
- (6) bathing, grooming, and hairwashing necessary for personal hygiene;
- (7) turning and positioning;
- (8) assistance with furnishing medication that is self-administered;
- (9) application and maintenance of prosthetics and orthotics;
- (10) cleaning medical equipment;
- (11) dressing or undressing;
- (12) assistance with eating and meal preparation and necessary grocery shopping;
- (13) accompanying a recipient to obtain medical diagnosis or treatment;
- (14) assisting, monitoring, or prompting the recipient to complete the services in clauses (1) to (13);
- (15) redirection, monitoring, and observation that are medically necessary and an integral part of completing the personal care services described in clauses (1) to (14);
- (16) redirection and intervention for behavior, including observation and monitoring;
- (17) interventions for seizure disorders, including monitoring and observation if the recipient has had a seizure that requires intervention within the past three months; and
- (18) tracheostomy suctioning using a clean procedure if the procedure is properly delegated by a registered nurse. Before this procedure can be delegated to a personal care assistant, a registered nurse must determine that the tracheostomy suctioning can be accomplished utilizing a clean rather than a sterile procedure and must ensure that the personal care assistant has been taught the proper procedure; and
- (19) incidental household services that are an integral part of a personal care service described in clauses (1) to (17) (18).

For purposes of this subdivision, monitoring and observation means watching for outward visible signs that are likely to occur and for which there is a covered personal care service or an appropriate personal care intervention. For purposes of this subdivision, a clean procedure refers to a procedure that reduces the numbers of microorganisms or prevents or reduces the transmission of microorganisms from one person or place to another. A clean procedure may be used beginning 14 days after insertion.

(b) The personal care services that are not eligible for payment are the following:

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- (1) services not ordered by the physician;
- (2) assessments by personal care provider organizations or by independently enrolled registered nurses;
- (3) services that are not in the service plan;
- (4) services provided by the recipient's spouse, legal guardian for an adult or child recipient, or parent of a recipient under age 18;
- (5) services provided by a foster care provider of a recipient who cannot direct the recipient's own care, unless monitored by a county or state case manager under section 256B.0625, subdivision 19a;
- (6) services provided by the residential or program license holder in a residence for more than four persons;
- (7) services that are the responsibility of a residential or program license holder under the terms of a service agreement and administrative rules;
- (8) sterile procedures;
- (9) injections of fluids into veins, muscles, or skin;
- (10) services provided by parents of adult recipients, adult children or adult siblings of the recipient, unless these relatives meet one of the following hardship criteria and the commissioner waives this requirement:
 - (i) the relative resigns from a part-time or full-time job to provide personal care for the recipient;
 - (ii) the relative goes from a full-time to a part-time job with less compensation to provide personal care for the recipient;
 - (iii) the relative takes a leave of absence without pay to provide personal care for the recipient;
 - (iv) the relative incurs substantial expenses by providing personal care for the recipient; or
 - (v) because of labor conditions or intermittent hours of care needed, the relative is needed in order to provide an adequate number of qualified personal care assistants to meet the medical needs of the recipient;
- (11) homemaker services that are not an integral part of a personal care services;
- (12) home maintenance, or chore services;
- (13) services not specified under paragraph (a); and
- (14) services not authorized by the commissioner or the commissioner's designee.

Sec. 30. Minnesota Statutes 1997 Supplement, section 256B.0627, subdivision 5, is amended to read:

Subd. 5. **LIMITATION ON PAYMENTS.** Medical assistance payments for home care services shall be limited according to this subdivision.

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(a) **LIMITS ON SERVICES WITHOUT PRIOR AUTHORIZATION.** A recipient may receive the following home care services during a calendar year:

- (1) any initial assessment;
- (2) up to two reassessments per year done to determine a recipient's need for personal care services; and
- (3) up to five skilled nurse visits.

(b) **PRIOR AUTHORIZATION; EXCEPTIONS.** All home care services above the limits in paragraph (a) must receive the commissioner's prior authorization, except when:

(1) the home care services were required to treat an emergency medical condition that if not immediately treated could cause a recipient serious physical or mental disability, continuation of severe pain, or death. The provider must request retroactive authorization no later than five working days after giving the initial service. The provider must be able to substantiate the emergency by documentation such as reports, notes, and admission or discharge histories;

(2) the home care services were provided on or after the date on which the recipient's eligibility began, but before the date on which the recipient was notified that the case was opened. Authorization will be considered if the request is submitted by the provider within 20 working days of the date the recipient was notified that the case was opened;

(3) a third-party payor for home care services has denied or adjusted a payment. Authorization requests must be submitted by the provider within 20 working days of the notice of denial or adjustment. A copy of the notice must be included with the request;

(4) the commissioner has determined that a county or state human services agency has made an error; or

(5) the professional nurse determines an immediate need for up to 40 skilled nursing or home health aide visits per calendar year and submits a request for authorization within 20 working days of the initial service date, and medical assistance is determined to be the appropriate payer.

(c) **RETROACTIVE AUTHORIZATION.** A request for retroactive authorization will be evaluated according to the same criteria applied to prior authorization requests.

(d) **ASSESSMENT AND SERVICE PLAN.** Assessments under section 256B.0627, subdivision 1, paragraph (a), shall be conducted initially, and at least annually thereafter, in person with the recipient and result in a completed service plan using forms specified by the commissioner. Within 30 days of recipient or responsible party request for home care services, the assessment, the service plan, and other information necessary to determine medical necessity such as diagnostic or testing information, social or medical histories, and hospital or facility discharge summaries shall be submitted to the commissioner. For personal care services:

(1) The amount and type of service authorized based upon the assessment and service plan will follow the recipient if the recipient chooses to change providers.

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(2) If the recipient's medical need changes, the recipient's provider may assess the need for a change in service authorization and request the change from the county public health nurse. Within 30 days of the request, the public health nurse will determine whether to request the change in services based upon the provider assessment, or conduct a home visit to assess the need and determine whether the change is appropriate.

(3) To continue to receive personal care services ~~when the recipient displays no significant change, the county public health nurse has the option to review with the commissioner, or the commissioner's designee, the service plan on record and receive authorization for up to an additional 12 months at a time for up to three years; after the first year, the recipient or the responsible party, in conjunction with the public health nurse, may complete a service update on forms developed by the commissioner. The service update may substitute for the annual reassessment described in subdivision 1.~~

(e) **PRIOR AUTHORIZATION.** The commissioner, or the commissioner's designee, shall review the assessment, the service plan, and any additional information that is submitted. The commissioner shall, within 30 days after receiving a complete request, assessment, and service plan, authorize home care services as follows:

(1) **HOME HEALTH SERVICES.** All home health services provided by a licensed nurse or a home health aide must be prior authorized by the commissioner or the commissioner's designee. Prior authorization must be based on medical necessity and cost-effectiveness when compared with other care options. When home health services are used in combination with personal care and private duty nursing, the cost of all home care services shall be considered for cost-effectiveness. The commissioner shall limit nurse and home health aide visits to no more than one visit each per day.

(2) **PERSONAL CARE SERVICES.** (i) All personal care services and registered nurse supervision must be prior authorized by the commissioner or the commissioner's designee except for the assessments established in paragraph (a). The amount of personal care services authorized must be based on the recipient's home care rating. A child may not be found to be dependent in an activity of daily living if because of the child's age an adult would either perform the activity for the child or assist the child with the activity and the amount of assistance needed is similar to the assistance appropriate for a typical child of the same age. Based on medical necessity, the commissioner may authorize:

(A) up to two times the average number of direct care hours provided in nursing facilities for the recipient's comparable case mix level; or

(B) up to three times the average number of direct care hours provided in nursing facilities for recipients who have complex medical needs or are dependent in at least seven activities of daily living and need physical assistance with eating or have a neurological diagnosis; or

(C) up to 60 percent of the average reimbursement rate, as of July 1, 1991, for care provided in a regional treatment center for recipients who have Level I behavior, plus any inflation adjustment as provided by the legislature for personal care service; or

(D) up to the amount the commissioner would pay, as of July 1, 1991, plus any inflation adjustment provided for home care services, for care provided in a regional treatment center for recipients referred to the commissioner by a regional treatment center preadmission evaluation team. For purposes of this clause, home care services means all ser-

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vices provided in the home or community that would be included in the payment to a regional treatment center; or

(E) up to the amount medical assistance would reimburse for facility care for recipients referred to the commissioner by a preadmission screening team established under section 256B.0911 or 256B.092; and

(F) a reasonable amount of time for the provision of nursing supervision of personal care services.

(ii) The number of direct care hours shall be determined according to the annual cost report submitted to the department by nursing facilities. The average number of direct care hours, as established by May 1, 1992, shall be calculated and incorporated into the home care limits on July 1, 1992. These limits shall be calculated to the nearest quarter hour.

(iii) The home care rating shall be determined by the commissioner or the commissioner's designee based on information submitted to the commissioner by the county public health nurse on forms specified by the commissioner. The home care rating shall be a combination of current assessment tools developed under sections 256B.0911 and 256B.501 with an addition for seizure activity that will assess the frequency and severity of seizure activity and with adjustments, additions, and clarifications that are necessary to reflect the needs and conditions of recipients who need home care including children and adults under 65 years of age. The commissioner shall establish these forms and protocols under this section and shall use an advisory group, including representatives of recipients, providers, and counties, for consultation in establishing and revising the forms and protocols.

(iv) A recipient shall qualify as having complex medical needs if the care required is difficult to perform and because of recipient's medical condition requires more time than community-based standards allow or requires more skill than would ordinarily be required and the recipient needs or has one or more of the following:

(A) daily tube feedings;

(B) daily parenteral therapy;

(C) wound or decubiti care;

(D) postural drainage, percussion, nebulizer treatments, suctioning, tracheotomy care, oxygen, mechanical ventilation;

(E) catheterization;

(F) ostomy care;

(G) quadriplegia; or

(H) other comparable medical conditions or treatments the commissioner determines would otherwise require institutional care.

(v) A recipient shall qualify as having Level I behavior if there is reasonable supporting evidence that the recipient exhibits, or that without supervision, observation, or redirection would exhibit, one or more of the following behaviors that cause, or have the potential to cause:

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(A) injury to the recipient's own body;

(B) physical injury to other people; or

(C) destruction of property.

(vi) Time authorized for personal care relating to Level I behavior in subclause (v), items (A) to (C), shall be based on the predictability, frequency, and amount of intervention required.

(vii) A recipient shall qualify as having Level II behavior if the recipient exhibits on a daily basis one or more of the following behaviors that interfere with the completion of personal care services under subdivision 4, paragraph (a):

(A) unusual or repetitive habits;

(B) withdrawn behavior; or

(C) offensive behavior.

(viii) A recipient with a home care rating of Level II behavior in subclause (vii), items (A) to (C), shall be rated as comparable to a recipient with complex medical needs under subclause (iv). If a recipient has both complex medical needs and Level II behavior, the home care rating shall be the next complex category up to the maximum rating under subclause (i), item (B).

(3) **PRIVATE DUTY NURSING SERVICES.** All private duty nursing services shall be prior authorized by the commissioner or the commissioner's designee. Prior authorization for private duty nursing services shall be based on medical necessity and cost-effectiveness when compared with alternative care options. The commissioner may authorize medically necessary private duty nursing services in quarter-hour units when:

(i) the recipient requires more individual and continuous care than can be provided during a nurse visit; or

(ii) the cares are outside of the scope of services that can be provided by a home health aide or personal care assistant.

The commissioner may authorize:

(A) up to two times the average amount of direct care hours provided in nursing facilities statewide for case mix classification "K" as established by the annual cost report submitted to the department by nursing facilities in May 1992;

(B) private duty nursing in combination with other home care services up to the total cost allowed under clause (2);

(C) up to 16 hours per day if the recipient requires more nursing than the maximum number of direct care hours as established in item (A) and the recipient meets the hospital admission criteria established under Minnesota Rules, parts 9505.0500 to 9505.0540.

The commissioner may authorize up to 16 hours per day of medically necessary private duty nursing services or up to 24 hours per day of medically necessary private duty nursing services until such time as the commissioner is able to make a determination of eligibility for recipients who are cooperatively applying for home care services under the community alternative care program developed under section 256B.49, or until it is de-

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terminated by the appropriate regulatory agency that a health benefit plan is or is not required to pay for appropriate medically necessary health care services. Recipients or their representatives must cooperatively assist the commissioner in obtaining this determination. Recipients who are eligible for the community alternative care program may not receive more hours of nursing under this section than would otherwise be authorized under section 256B.49.

(4) VENTILATOR-DEPENDENT RECIPIENTS. If the recipient is ventilator-dependent, the monthly medical assistance authorization for home care services shall not exceed what the commissioner would pay for care at the highest cost hospital designated as a long-term hospital under the Medicare program. For purposes of this clause, home care services means all services provided in the home that would be included in the payment for care at the long-term hospital. "Ventilator-dependent" means an individual who receives mechanical ventilation for life support at least six hours per day and is expected to be or has been dependent for at least 30 consecutive days.

(f) PRIOR AUTHORIZATION; TIME LIMITS. The commissioner or the commissioner's designee shall determine the time period for which a prior authorization shall be effective. If the recipient continues to require home care services beyond the duration of the prior authorization, the home care provider must request a new prior authorization. Under no circumstances, other than the exceptions in paragraph (b), shall a prior authorization be valid prior to the date the commissioner receives the request or for more than 12 months. A recipient who appeals a reduction in previously authorized home care services may continue previously authorized services, other than temporary services under paragraph (h), pending an appeal under section 256.045. The commissioner must provide a detailed explanation of why the authorized services are reduced in amount from those requested by the home care provider.

(g) APPROVAL OF HOME CARE SERVICES. The commissioner or the commissioner's designee shall determine the medical necessity of home care services, the level of caregiver according to subdivision 2, and the institutional comparison according to this subdivision, the cost-effectiveness of services, and the amount, scope, and duration of home care services reimbursable by medical assistance, based on the assessment, primary payer coverage determination information as required, the service plan, the recipient's age, the cost of services, the recipient's medical condition, and diagnosis or disability. The commissioner may publish additional criteria for determining medical necessity according to section 256B.04.

(h) PRIOR AUTHORIZATION REQUESTS; TEMPORARY SERVICES. The agency nurse, the independently enrolled private duty nurse, or county public health nurse may request a temporary authorization for home care services by telephone. The commissioner may approve a temporary level of home care services based on the assessment, and service or care plan information, and primary payer coverage determination information as required. Authorization for a temporary level of home care services including nurse supervision is limited to the time specified by the commissioner, but shall not exceed 45 days, unless extended because the county public health nurse has not completed the required assessment and service plan, or the commissioner's determination has not been made. The level of services authorized under this provision shall have no bearing on a future prior authorization.

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(i) **PRIOR AUTHORIZATION REQUIRED IN FOSTER CARE SETTING.**

Home care services provided in an adult or child foster care setting must receive prior authorization by the department according to the limits established in paragraph (a).

The commissioner may not authorize:

(1) home care services that are the responsibility of the foster care provider under the terms of the foster care placement agreement and administrative rules. Requests for home care services for recipients residing in a foster care setting must include the foster care placement agreement and determination of difficulty of care;

(2) personal care services when the foster care license holder is also the personal care provider or personal care assistant unless the recipient can direct the recipient's own care, or case management is provided as required in section 256B.0625, subdivision 19a;

(3) personal care services when the responsible party is an employee of, or under contract with, or has any direct or indirect financial relationship with the personal care provider or personal care assistant, unless case management is provided as required in section 256B.0625, subdivision 19a;

(4) home care services when the number of foster care residents is greater than four unless the county responsible for the recipient's foster placement made the placement prior to April 1, 1992, requests that home care services be provided, and case management is provided as required in section 256B.0625, subdivision 19a; or

(5) home care services when combined with foster care payments, other than room and board payments that exceed the total amount that public funds would pay for the recipient's care in a medical institution.

Sec. 31. Minnesota Statutes 1997 Supplement, section 256B.0627, subdivision 8, is amended to read:

Subd. 8. **PERSONAL CARE ASSISTANT SERVICES; SHARED CARE.** (a) Medical assistance payments for personal care assistance shared care shall be limited according to this subdivision.

(b) Recipients of personal care assistant services may share staff and the commissioner shall provide a rate system for shared personal care assistant services. For two persons sharing care, the rate system paid to a provider shall not exceed 1-1/2 times the amount rate paid for providing services to one person serving a single individual, and shall increase incrementally by one-half the cost of serving a single person, for each person served. A personal care assistant may not serve more than three children in a single setting. For three persons sharing care, the rate paid to a provider shall not exceed twice the rate paid for serving a single individual. These rates apply only to situations in which all recipients were present and received shared care on the date for which the service is billed. No more than three persons may receive shared care from a personal care assistant in a single setting.

(c) Shared care is the provision of personal care services by a personal care assistant to two or three recipients at the same time and in the same setting. For the purposes of this subdivision, "setting" means:

(1) the home or foster care home of one of the individual recipients; or

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(2) a child care program in which all recipients served by one personal care assistant are participating, which is licensed under chapter 245A or operated by a local school district or private school.

The provisions of this subdivision do not apply when a personal care assistant is caring for multiple recipients in more than one setting.

(d) The recipient or the recipient's responsible party, in conjunction with the county public health nurse, shall determine:

(1) whether shared care is an appropriate option based on the individual needs and preferences of the recipient; and

(2) the amount of shared care allocated as part of the overall authorization of personal care services.

The recipient or the responsible party, in conjunction with the supervising registered nurse, shall approve the setting, grouping, and arrangement of shared care based on the individual needs and preferences of the recipients. Decisions on the selection of recipients to share care must be based on the ages of the recipients, compatibility, and coordination of their care needs.

(e) The following items must be considered by the recipient or the responsible party and the supervising nurse, and documented in the recipient's care plan:

(1) the additional qualifications needed by the personal care assistant to provide care to several recipients in the same setting;

(2) the additional training and supervision needed by the personal care assistant to ensure that the needs of the recipient are met appropriately and safely. The provider must provide on-site supervision by a registered nurse within the first 14 days of shared care, and monthly thereafter;

(3) the setting in which the shared care will be provided;

(4) the ongoing monitoring and evaluation of the effectiveness and appropriateness of the service and process used to make changes in service or setting; and

(5) a contingency plan which accounts for absence of the recipient in a shared care setting due to illness or other circumstances and staffing contingencies.

(f) The provider must offer the recipient or the responsible party the option of shared or individual personal care assistant care. The recipient or the responsible party can withdraw from participating in a shared care arrangement at any time.

(g) In addition to documentation requirements under Minnesota Rules, part 9505.2175, a personal care provider must meet documentation requirements for shared personal care services and must document the following in the health service record for each individual recipient sharing care:

(1) authorization by the recipient or the recipient's responsible party, if any, for the maximum number of shared care hours per week chosen by the recipient;

(2) authorization by the recipient or the recipient's responsible party, if any, for personal care services provided outside the recipient's residence;

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(3) authorization by the recipient or the recipient's responsible party, if any, for others to receive shared care in the recipient's residence;

(4) revocation by the recipient or the recipient's responsible party, if any, of the shared care authorization, or the shared care to be provided to others in the recipient's residence, or the shared care to be provided outside the recipient's residence;

(5) supervision of the shared care by the supervisory nurse, including the date, time of day, number of hours spent supervising the provision of shared care services, whether the supervision was face-to-face or another method of supervision, changes in the recipient's condition, shared care scheduling issues and recommendations;

(6) documentation by the personal care assistant of telephone calls or other discussions with the supervisory nurse regarding services being provided to the recipient; and

(7) daily documentation of the shared care services provided by each identified personal care assistant including:

(i) the names of each recipient receiving shared care together;

(ii) the setting for the day's care, including the starting and ending times that the recipient received shared care; and

(iii) notes by the personal care assistant regarding changes in the recipient's condition, problems that may arise from the sharing of care, scheduling issues, care issues, and other notes as required by the supervising nurse.

(h) Unless otherwise provided in this subdivision, all other statutory and regulatory provisions relating to personal care services apply to shared care services.

Nothing in this subdivision shall be construed to reduce the total number of hours authorized for an individual recipient.

Sec. 32. Minnesota Statutes 1997 Supplement, section 256B.0645, is amended to read:

256B.0645 PROVIDER PAYMENTS; RETROACTIVE CHANGES IN ELIGIBILITY.

Payment to a provider for a health care service provided to a general assistance medical care recipient who is later determined eligible for medical assistance or Minnesota-Care according to section ~~256L.14~~ 256L.03, subdivision 1a, for the period in which the health care service was provided, ~~shall be considered payment in full, and shall not may be adjusted due to the change in eligibility.~~ This section ~~applies~~ does not apply to both fee-for-service payments and payments made to health plans on a prepaid capitated basis.

Sec. 33. Minnesota Statutes 1997 Supplement, section 256B.0911, subdivision 2, is amended to read:

Subd. 2. PERSONS REQUIRED TO BE SCREENED; EXEMPTIONS. All applicants to Medicaid certified nursing facilities must be screened prior to admission, regardless of income, assets, or funding sources, except the following:

(1) patients who, having entered acute care facilities from certified nursing facilities, are returning to a certified nursing facility;

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(2) residents transferred from other certified nursing facilities located within the state of Minnesota;

(3) individuals who have a contractual right to have their nursing facility care paid for indefinitely by the veteran's administration;

(4) individuals who are enrolled in the Ebenezer/Group Health social health maintenance organization project, or enrolled in a demonstration project under section 256B.69, subdivision 18 8, at the time of application to a nursing home;

(5) individuals previously screened and currently being served under the alternative care program or under a home and community-based services waiver authorized under section 1915(c) of the Social Security Act; or

(6) individuals who are admitted to a certified nursing facility for a short-term stay, which, based upon a physician's certification, is expected to be 14 days or less in duration, and who have been screened and approved for nursing facility admission within the previous six months. This exemption applies only if the screener determines at the time of the initial screening of the six-month period that it is appropriate to use the nursing facility for short-term stays and that there is an adequate plan of care for return to the home or community-based setting. If a stay exceeds 14 days, the individual must be referred no later than the first county working day following the 14th resident day for a screening, which must be completed within five working days of the referral. Payment limitations in subdivision 7 will apply to an individual found at screening to not meet the level of care criteria for admission to a certified nursing facility.

Regardless of the exemptions in clauses (2) to (6), persons who have a diagnosis or possible diagnosis of mental illness, mental retardation, or a related condition must receive a preadmission screening before admission unless the admission prior to screening is authorized by the local mental health authority or the local developmental disabilities case manager, or unless authorized by the county agency according to Public Law Number 101-508.

Before admission to a Medicaid certified nursing home or boarding care home, all persons must be screened and approved for admission through an assessment process. The nursing facility is authorized to conduct case mix assessments which are not conducted by the county public health nurse under Minnesota Rules, part 9549.0059. The designated county agency is responsible for distributing the quality assurance and review form for all new applicants to nursing homes.

Other persons who are not applicants to nursing facilities must be screened if a request is made for a screening.

Sec. 34. Minnesota Statutes 1996, section 256B.0911, subdivision 4, is amended to read:

Subd. 4. RESPONSIBILITIES OF THE COUNTY AND THE SCREENING TEAM. (a) The county shall:

(1) provide information and education to the general public regarding availability of the preadmission screening program;

(2) accept referrals from individuals, families, human service and health professionals, and hospital and nursing facility personnel;

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(3) assess the health, psychological, and social needs of referred individuals and identify services needed to maintain these persons in the least restrictive environments;

(4) determine if the individual screened needs nursing facility level of care;

(5) assess specialized service needs based upon an evaluation by:

(i) a qualified independent mental health professional for persons with a primary or secondary diagnosis of a serious mental illness; and

(ii) a qualified mental retardation professional for persons with a primary or secondary diagnosis of mental retardation or related conditions. For purposes of this clause, a qualified mental retardation professional must meet the standards for a qualified mental retardation professional in Code of Federal Regulations, title 42, section 483.430;

(6) make recommendations for individuals screened regarding cost-effective community services which are available to the individual;

(7) make recommendations for individuals screened regarding nursing home placement when there are no cost-effective community services available;

(8) develop an individual's community care plan and provide follow-up services as needed; and

(9) prepare and submit reports that may be required by the commissioner of human services.

(b) The screener shall document that the most cost-effective alternatives available were offered to the individual or the individual's legal representative. For purposes of this section, "cost-effective alternatives" means community services and living arrangements that cost the same or less than nursing facility care.

(c) Screeners shall adhere to the level of care criteria for admission to a certified nursing facility established under section 144.0721.

(d) For persons who are eligible for medical assistance or who would be eligible within 180 days of admission to a nursing facility and who are admitted to a nursing facility, the nursing facility must include a screener or the case manager in the discharge planning process for those individuals who the team has determined have discharge potential. The screener or the case manager must ensure a smooth transition and follow-up for the individual's return to the community.

Screeners shall cooperate with other public and private agencies in the community, in order to offer a variety of cost-effective services to the disabled and elderly. The screeners shall encourage the use of volunteers from families, religious organizations, social clubs, and similar civic and service organizations to provide services.

Sec. 35. Minnesota Statutes 1997 Supplement, section 256B.0911, subdivision 7, is amended to read:

Subd. 7. **REIMBURSEMENT FOR CERTIFIED NURSING FACILITIES.** (a) Medical assistance reimbursement for nursing facilities shall be authorized for a medical assistance recipient only if a preadmission screening has been conducted prior to admission or the local county agency has authorized an exemption. Medical assistance reimbursement for nursing facilities shall not be provided for any recipient who the local

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screeners has determined does not meet the level of care criteria for nursing facility placement or, if indicated, has not had a level II PASARR evaluation completed unless an admission for a recipient with mental illness is approved by the local mental health authority or an admission for a recipient with mental retardation or related condition is approved by the state mental retardation authority. ~~The county preadmission screening team may deny certified nursing facility admission using the level of care criteria established under section 144.0721 and deny medical assistance reimbursement for certified nursing facility care. Persons receiving care in a certified nursing facility or certified boarding care home who are reassessed by the commissioner of health according to section 144.0722 and determined to no longer meet the level of care criteria for a certified nursing facility or certified boarding care home may no longer remain a resident in the certified nursing facility or certified boarding care home and must be relocated to the community if the persons were admitted on or after July 1, 1998.~~

(b) ~~Persons receiving services under section 256B.0913, subdivisions 1 to 14, or 256B.0915 who are reassessed and found to not meet the level of care criteria for admission to a certified nursing facility or certified boarding care home may no longer receive these services if persons were admitted to the program on or after July 1, 1998. The commissioner shall make a request to the health care financing administration for a waiver allowing screening team approval of Medicaid payments for certified nursing facility care. An individual has a choice and makes the final decision between nursing facility placement and community placement after the screening team's recommendation, except as provided in paragraphs (b) and (c).~~

(c) ~~The local county mental health authority or the state mental retardation authority under Public Law Numbers 100-203 and 101-508 may prohibit admission to a nursing facility, if the individual does not meet the nursing facility level of care criteria or needs specialized services as defined in Public Law Numbers 100-203 and 101-508. For purposes of this section, "specialized services" for a person with mental retardation or a related condition means "active treatment" as that term is defined in Code of Federal Regulations, title 42, section 483.440(a)(1).~~

(d) ~~Upon the receipt by the commissioner of approval by the Secretary of Health and Human Services of the waiver requested under paragraph (a), the local screener shall deny medical assistance reimbursement for nursing facility care for an individual whose long-term care needs can be met in a community-based setting and whose cost of community-based home care services is less than 75 percent of the average payment for nursing facility care for that individual's case mix classification, and who is either:~~

(i) ~~a current medical assistance recipient being screened for admission to a nursing facility; or~~

(ii) ~~an individual who would be eligible for medical assistance within 180 days of entering a nursing facility and who meets a nursing facility level of care.~~

(e) ~~Appeals from the screening team's recommendation or the county agency's final decision shall be made according to section 256.045, subdivision 3.~~

Sec. 36. Minnesota Statutes 1997 Supplement, section 256B.0913, subdivision 14, is amended to read:

Subd. 14. **REIMBURSEMENT AND RATE ADJUSTMENTS.** (a) Reimbursement for expenditures for the alternative care services as approved by the client's case

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manager shall be through the invoice processing procedures of the department's Medicaid Management Information System (MMIS). To receive reimbursement, the county or vendor must submit invoices within 12 months following the date of service. The county agency and its vendors under contract shall not be reimbursed for services which exceed the county allocation.

(b) If a county collects less than 50 percent of the client premiums due under subdivision 12, the commissioner may withhold up to three percent of the county's final alternative care program allocation determined under subdivisions 10 and 11.

(c) For fiscal years beginning on or after July 1, 1993, the commissioner of human services shall not provide automatic annual inflation adjustments for alternative care services. The commissioner of finance shall include as a budget change request in each biennial detailed expenditure budget submitted to the legislature under section 16A.11 annual adjustments in reimbursement rates for alternative care services based on the forecasted percentage change in the Home Health Agency Market Basket of Operating Costs, for the fiscal year beginning July 1, compared to the previous fiscal year, unless otherwise adjusted by statute. The Home Health Agency Market Basket of Operating Costs is published by Data Resources, Inc. The forecast to be used is the one published for the calendar quarter beginning January 1, six months prior to the beginning of the fiscal year for which rates are set.

(d) The county shall negotiate individual rates with vendors and may be reimbursed for actual costs up to the greater of the county's current approved rate or 60 percent of the maximum rate in fiscal year 1994 and 65 percent of the maximum rate in fiscal year 1995 for each alternative care service. Notwithstanding any other rule or statutory provision to the contrary, the commissioner shall not be authorized to increase rates by an annual inflation factor, unless so authorized by the legislature.

(e) (d) On July 1, 1993, the commissioner shall increase the maximum rate for home delivered meals to \$4.50 per meal.

Sec. 37. Minnesota Statutes 1997 Supplement, section 256B.0915, subdivision 1d, is amended to read:

Subd. 1d. **POSTELIGIBILITY TREATMENT OF INCOME AND RESOURCES FOR ELDERLY WAIVER.** (a) Notwithstanding the provisions of section 256B.056, the commissioner shall make the following amendment to the medical assistance elderly waiver program effective July 1, ~~1997~~ 1999, or upon federal approval, whichever is later.

A recipient's maintenance needs will be an amount equal to the Minnesota supplemental aid equivalent rate as defined in section 256I.03, subdivision 5, plus the medical assistance personal needs allowance as defined in section 256B.35, subdivision 1, paragraph (a), when applying posteligibility treatment of income rules to the gross income of elderly waiver recipients, except for individuals whose income is in excess of the special income standard according to Code of Federal Regulations, title 42, section 435.236. Recipient maintenance needs shall be adjusted under this provision each July 1.

(b) The commissioner of human services shall secure approval of additional elderly waiver slots sufficient to serve persons who will qualify under the revised income standard described in paragraph (a) before implementing section 256B.0913, subdivision 16.

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(c) In implementing this subdivision, the commissioner shall consider allowing persons who would otherwise be eligible for the alternative care program but would qualify for the elderly waiver with a spenddown to remain on the alternative care program.

Sec. 38. Minnesota Statutes 1997 Supplement, section 256B.0915, subdivision 3, is amended to read:

Subd. 3. LIMITS OF CASES, RATES, REIMBURSEMENT, AND FORECASTING. (a) The number of medical assistance waiver recipients that a county may serve must be allocated according to the number of medical assistance waiver cases open on July 1 of each fiscal year. Additional recipients may be served with the approval of the commissioner.

(b) The monthly limit for the cost of waived services to an individual waiver client shall be the statewide average payment rate of the case mix resident class to which the waiver client would be assigned under the medical assistance case mix reimbursement system. If medical supplies and equipment or adaptations are or will be purchased for an elderly waiver services recipient, the costs may be prorated on a monthly basis throughout the year in which they are purchased. If the monthly cost of a recipient's other waived services exceeds the monthly limit established in this paragraph, the annual cost of the waived services shall be determined. In this event, the annual cost of waived services shall not exceed 12 times the monthly limit calculated in this paragraph. The statewide average payment rate is calculated by determining the statewide average monthly nursing home rate, effective July 1 of the fiscal year in which the cost is incurred, less the statewide average monthly income of nursing home residents who are age 65 or older, and who are medical assistance recipients in the month of March of the previous state fiscal year. The annual cost divided by 12 of elderly or disabled waived services for a person who is a nursing facility resident at the time of requesting a determination of eligibility for elderly or disabled waived services shall be the greater of the monthly payment for: (i) the resident class assigned under Minnesota Rules, parts 9549.0050 to 9549.0059, for that resident in the nursing facility where the resident currently resides; or (ii) the statewide average payment of the case mix resident class to which the resident would be assigned under the medical assistance case mix reimbursement system, provided that the limit under this clause only applies to persons discharged from a nursing facility and found eligible for waived services on or after July 1, 1997. The following costs must be included in determining the total monthly costs for the waiver client:

(1) cost of all waived services, including extended medical supplies and equipment; and

(2) cost of skilled nursing, home health aide, and personal care services reimbursable by medical assistance.

(c) Medical assistance funding for skilled nursing services, private duty nursing, home health aide, and personal care services for waiver recipients must be approved by the case manager and included in the individual care plan.

(d) For both the elderly waiver and the nursing facility disabled waiver, a county may purchase extended supplies and equipment without prior approval from the commissioner when there is no other funding source and the supplies and equipment are specified in the individual's care plan as medically necessary to enable the individual to remain in the community according to the criteria in Minnesota Rules, part 9505.0210,

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items A and B. A county is not required to contract with a provider of supplies and equipment if the monthly cost of the supplies and equipment is less than \$250.

(e) For the fiscal year beginning on July 1, 1993, and for subsequent fiscal years, the commissioner of human services shall not provide automatic annual inflation adjustments for home and community-based waived services. The commissioner of finance shall include as a budget change request in each biennial detailed expenditure budget submitted to the legislature under section 16A.11, annual adjustments in reimbursement rates for home and community-based waived services, based on the forecasted percentage change in the Home Health Agency Market Basket of Operating Costs, for the fiscal year beginning July 1, compared to the previous fiscal year, unless otherwise adjusted by statute. The Home Health Agency Market Basket of Operating Costs is published by Data Resources, Inc. The forecast to be used is the one published for the calendar quarter beginning January 1, six months prior to the beginning of the fiscal year for which rates are set. The adult foster care rate shall be considered a difficulty of care payment and shall not include room and board.

(f) The adult foster care daily rate for the elderly and disabled waivers shall be negotiated between the county agency and the foster care provider. The rate established under this section shall not exceed the state average monthly nursing home payment for the case mix classification to which the individual receiving foster care is assigned; the rate must allow for other waiver and medical assistance home care services to be authorized by the case manager.

(g) (f) The assisted living and residential care service rates for elderly and community alternatives for disabled individuals (CADI) waivers shall be made to the vendor as a monthly rate negotiated with the county agency based on an individualized service plan for each resident. The rate shall not exceed the nonfederal share of the greater of either the statewide or any of the geographic groups' weighted average monthly medical assistance nursing facility payment rate of the case mix resident class to which the elderly or disabled client would be assigned under Minnesota Rules, parts 9549.0050 to 9549.0059, unless the services are provided by a home care provider licensed by the department of health and are provided in a building that is registered as a housing with services establishment under chapter 144D and that provides 24-hour supervision. For alternative care assisted living projects established under Laws 1988, chapter 689, article 2, section 256, monthly rates may not exceed 65 percent of the greater of either the statewide or any of the geographic groups' weighted average monthly medical assistance nursing facility payment rate for the case mix resident class to which the elderly or disabled client would be assigned under Minnesota Rules, parts 9549.0050 to 9549.0059. The rate may not cover direct rent or food costs.

(h) (g) The county shall negotiate individual rates with vendors and may be reimbursed for actual costs up to the greater of the county's current approved rate or 60 percent of the maximum rate in fiscal year 1994 and 65 percent of the maximum rate in fiscal year 1995 for each service within each program.

(i) (h) On July 1, 1993, the commissioner shall increase the maximum rate for home-delivered meals to \$4.50 per meal.

(j) (i) Reimbursement for the medical assistance recipients under the approved waiver shall be made from the medical assistance account through the invoice processing

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procedures of the department's Medicaid Management Information System (MMIS), only with the approval of the client's case manager. The budget for the state share of the Medicaid expenditures shall be forecasted with the medical assistance budget, and shall be consistent with the approved waiver.

~~(k)~~ (j) Beginning July 1, 1991, the state shall reimburse counties according to the payment schedule in section 256.025 for the county share of costs incurred under this subdivision on or after January 1, 1991, for individuals who are receiving medical assistance.

~~(4)~~ (k) For the community alternatives for disabled individuals waiver, and nursing facility disabled waivers, county may use waiver funds for the cost of minor adaptations to a client's residence or vehicle without prior approval from the commissioner if there is no other source of funding and the adaptation:

- (1) is necessary to avoid institutionalization;
- (2) has no utility apart from the needs of the client; and
- (3) meets the criteria in Minnesota Rules, part 9505.0210, items A and B.

For purposes of this subdivision, "residence" means the client's own home, the client's family residence, or a family foster home. For purposes of this subdivision, "vehicle" means the client's vehicle, the client's family vehicle, or the client's family foster home vehicle.

~~(m)~~ (l) The commissioner shall establish a maximum rate unit for baths provided by an adult day care provider that are not included in the provider's contractual daily or hourly rate. This maximum rate must equal the home health aide extended rate and shall be paid for baths provided to clients served under the elderly and disabled waivers.

Sec. 39. Minnesota Statutes 1996, section 256B.0916, is amended to read:

256B.0916 EXPANSION OF HOME AND COMMUNITY-BASED SERVICES; MANAGEMENT AND ALLOCATION RESPONSIBILITIES.

(a) The commissioner shall expand availability of home and community-based services for persons with mental retardation and related conditions to the extent allowed by federal law and regulation and shall assist counties in transferring persons from semi-independent living services to home and community-based services. The commissioner may transfer funds from the state semi-independent living services account available under section 252.275, subdivision 8, and state community social services aids available under section 256E.15 to the medical assistance account to pay for the nonfederal share of nonresidential and residential home and community-based services authorized under section 256B.092 for persons transferring from semi-independent living services.

(b) Upon federal approval, county boards are not responsible for funding semi-independent living services as a social service for those persons who have transferred to the home and community-based waiver program as a result of the expansion under this subdivision. The county responsibility for those persons transferred shall be assumed under section 256B.092. Notwithstanding the provisions of section 252.275, the commissioner shall continue to allocate funds under that section for semi-independent living services and county boards shall continue to fund services under sections 256E.06 and 256E.14

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for those persons who cannot access home and community-based services under section 256B.092.

(c) Eighty percent of the state funds made available to the commissioner under section 252.275 as a result of persons transferring from the semi-independent living services program to the home and community-based services program shall be used to fund additional persons in the semi-independent living services program.

(d) Beginning August 1, 1998, the commissioner shall issue an annual report on the home and community-based waiver for persons with mental retardation or related conditions, that includes a list of the counties in which less than 95 percent of the allocation provided, excluding the county waived services reserve, has been committed for two or more quarters during the previous state fiscal year. For each listed county, the report shall include the amount of funds allocated but not used, the number and ages of individuals screened and waiting for services, the services needed, a description of the technical assistance provided by the commissioner to assist the counties in jointly planning with other counties in order to serve more persons, and additional actions which will be taken to serve those screened and waiting for services.

(e) The commissioner shall make available to interested parties, upon request, financial information by county including the amount of resources allocated for the home and community-based waiver for persons with mental retardation and related conditions, the resources committed, the number of persons screened and waiting for services, the type of services requested by those waiting, and the amount of allocated resources not committed.

Sec. 40. Minnesota Statutes 1997 Supplement, section 256B.0951, is amended by adding a subdivision to read:

Subd. 7. **WAIVER OF RULES.** The commissioner of health may exempt residents of intermediate care facilities for persons with mental retardation (ICFs/MR) who participate in the three-year quality assurance pilot project established in section 256B.095 from the requirements of Minnesota Rules, chapter 4665, upon approval by the federal government of a waiver of federal certification requirements for ICFs/MR. The commissioners of health and human services shall apply for any necessary waivers as soon as practicable and shall submit the concept paper to the federal government by June 1, 1998.

Sec. 41. Minnesota Statutes 1996, section 256B.41, subdivision 1, is amended to read:

Subdivision 1. **AUTHORITY.** The commissioner shall establish, by rule, procedures for determining rates for care of residents of nursing facilities which qualify as vendors of medical assistance, and for implementing the provisions of this section and sections 256B.421, 256B.431, 256B.432, 256B.433, 256B.47, 256B.48, 256B.50, and 256B.502. ~~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 nursing facilities and shall specify the costs that are allowable for establishing payment rates through medical assistance.~~

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Sec. 42. Minnesota Statutes 1996, section 256B.431, subdivision 2b, is amended to read:

Subd. 2b. **OPERATING COSTS, AFTER JULY 1, 1985.** (a) For rate years beginning on or after July 1, 1985, the commissioner shall establish procedures for determining per diem reimbursement for operating costs.

(b) The commissioner shall contract with an econometric firm with recognized expertise in and access to national economic change indices that can be applied to the appropriate cost categories when determining the operating cost payment rate.

(c) The commissioner shall analyze and evaluate each nursing facility's cost report of allowable operating costs incurred by the nursing facility during the reporting year immediately preceding the rate year for which the payment rate becomes effective.

(d) The commissioner shall establish limits on actual allowable historical operating cost per diems based on cost reports of allowable operating costs for the reporting year that begins October 1, 1983, taking into consideration relevant factors including resident needs, geographic location, and size of the nursing facility, and the costs that must be incurred for the care of residents in an efficiently and economically operated nursing facility. In developing the geographic groups for purposes of reimbursement under this section, the commissioner shall ensure that nursing facilities in any county contiguous to the Minneapolis-St. Paul seven-county metropolitan area are included in the same geographic group. The limits established by the commissioner shall not be less, in the aggregate, than the 60th percentile of total actual allowable historical operating cost per diems for each group of nursing facilities established under subdivision 1 based on cost reports of allowable operating costs in the previous reporting year. For rate years beginning on or after July 1, 1989, facilities located in geographic group I as described in Minnesota Rules, part 9549.0052, on January 1, 1989, may choose to have the commissioner apply either the care related limits or the other operating cost limits calculated for facilities located in geographic group II, or both, if either of the limits calculated for the group II facilities is higher. The efficiency incentive for geographic group I nursing facilities must be calculated based on geographic group I limits. The phase-in must be established utilizing the chosen limits. For purposes of these exceptions to the geographic grouping requirements, the definitions in Minnesota Rules, parts 9549.0050 to 9549.0059 (Emergency), and 9549.0010 to 9549.0080, apply. The limits established under this paragraph remain in effect until the commissioner establishes a new base period. Until the new base period is established, the commissioner shall adjust the limits annually using the appropriate economic change indices established in paragraph (e). In determining allowable historical operating cost per diems for purposes of setting limits and nursing facility payment rates, the commissioner shall divide the allowable historical operating costs by the actual number of resident days, except that where a nursing facility is occupied at less than 90 percent of licensed capacity days, the commissioner may establish procedures to adjust the computation of the per diem to an imputed occupancy level at or below 90 percent. The commissioner shall establish efficiency incentives as appropriate. The commissioner may establish efficiency incentives for different operating cost categories. The commissioner shall consider establishing efficiency incentives in care related cost categories. The commissioner may combine one or more operating cost categories and may use different methods for calculating payment rates for each operating cost category or com-

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bination of operating cost categories. For the rate year beginning on July 1, 1985, the commissioner shall:

(1) allow nursing facilities that have an average length of stay of 180 days or less in their skilled nursing level of care, 125 percent of the care related limit and 105 percent of the other operating cost limit established by rule; and

(2) exempt nursing facilities licensed on July 1, 1983, by the commissioner to provide residential services for the physically handicapped under Minnesota Rules, parts 9570.2000 to 9570.3600, from the care related limits and allow 105 percent of the other operating cost limit established by rule.

For the purpose of calculating the other operating cost efficiency incentive for nursing facilities referred to in clause (1) or (2), the commissioner shall use the other operating cost limit established by rule before application of the 105 percent.

(e) The commissioner shall establish a composite index or indices by determining the appropriate economic change indicators to be applied to specific operating cost categories or combination of operating cost categories.

(f) Each nursing facility shall receive an operating cost payment rate equal to the sum of the nursing facility's operating cost payment rates for each operating cost category. The operating cost payment rate for an operating cost category shall be the lesser of the nursing facility's historical operating cost in the category increased by the appropriate index established in paragraph (e) for the operating cost category plus an efficiency incentive established pursuant to paragraph (d) or the limit for the operating cost category increased by the same index. If a nursing facility's actual historic operating costs are greater than the prospective payment rate for that rate year, there shall be no retroactive cost settle-up. In establishing payment rates for one or more operating cost categories, the commissioner may establish separate rates for different classes of residents based on their relative care needs.

(g) The commissioner shall include the reported actual real estate tax liability or payments in lieu of real estate tax of each nursing facility as an operating cost of that nursing facility. Allowable costs under this subdivision for payments made by a nonprofit nursing facility that are in lieu of real estate taxes shall not exceed the amount which the nursing facility would have paid to a city or township and county for fire, police, sanitation services, and road maintenance costs had real estate taxes been levied on that property for those purposes. For rate years beginning on or after July 1, 1987, the reported actual real estate tax liability or payments in lieu of real estate tax of nursing facilities shall be adjusted to include an amount equal to one-half of the dollar change in real estate taxes from the prior year. The commissioner shall include a reported actual special assessment, and reported actual license fees required by the Minnesota department of health, for each nursing facility as an operating cost of that nursing facility. For rate years beginning on or after July 1, 1989, the commissioner shall include a nursing facility's reported public employee retirement act contribution for the reporting year as apportioned to the care-related operating cost categories and other operating cost categories multiplied by the appropriate composite index or indices established pursuant to paragraph (e) as costs under this paragraph. Total adjusted real estate tax liability, payments in lieu of real estate tax, actual special assessments paid, the indexed public employee retirement act contribution, and license fees paid as required by the Minnesota department of health, for each

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nursing facility (1) shall be divided by actual resident days in order to compute the operating cost payment rate for this operating cost category, (2) shall not be used to compute the care-related operating cost limits or other operating cost limits established by the commissioner, and (3) shall not be increased by the composite index or indices established pursuant to paragraph (e), unless otherwise indicated in this paragraph.

(h) For rate years beginning on or after July 1, 1987, the commissioner shall adjust the rates of a nursing facility that meets the criteria for the special dietary needs of its residents and the requirements in section 31.651. The adjustment for raw food cost shall be the difference between the nursing facility's allowable historical raw food cost per diem and 115 percent of the median historical allowable raw food cost per diem of the corresponding geographic group.

The rate adjustment shall be reduced by the applicable phase-in percentage as provided under subdivision 2h.

(i) ~~For the cost report year ending September 30, 1996, and for all subsequent reporting years, certified nursing facilities must identify, differentiate, and record resident day statistics for residents in case mix classification A who, on or after July 1, 1996, meet the modified level of care criteria in section 144.0721. The resident day statistics shall be separated into case mix classification A-1 for any resident day meeting the high-function class A level of care criteria and case mix classification A-2 for other case mix class A resident days.~~

Sec. 43. Minnesota Statutes 1996, section 256B.501, subdivision 2, is amended to read:

Subd. 2. **AUTHORITY.** The commissioner shall establish procedures and rules for determining rates for care of residents of intermediate care facilities for persons with mental retardation or related conditions which qualify as providers of medical assistance and waived services. ~~Approved rates shall be established on the basis of methods and standards that the commissioner finds adequate to provide for the costs that must be incurred for the quality care of residents in efficiently and economically operated facilities and services. The procedures shall specify the costs that are allowable for payment through medical assistance. The commissioner may use experts from outside the department in the establishment of the procedures.~~

Sec. 44. Minnesota Statutes 1997 Supplement, section 256B.69, subdivision 2, is amended to read:

Subd. 2. **DEFINITIONS.** For the purposes of this section, the following terms have the meanings given.

(a) "Commissioner" means the commissioner of human services. For the remainder of this section, the commissioner's responsibilities for methods and policies for implementing the project will be proposed by the project advisory committees and approved by the commissioner.

(b) "Demonstration provider" means a health maintenance organization ~~or~~ community integrated service network, or accountable provider network authorized and operating under chapter 62D ~~or~~ 62N, or 62T that participates in the demonstration project according to criteria, standards, methods, and other requirements established for the project and approved by the commissioner. Notwithstanding the above, Itasca county may continue to participate as a demonstration provider until July 1, 2000.

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(c) "Eligible individuals" means those persons eligible for medical assistance benefits as defined in sections 256B.055, 256B.056, and 256B.06.

(d) "Limitation of choice" means suspending freedom of choice while allowing eligible individuals to choose among the demonstration providers.

(e) This paragraph supersedes paragraph (c) as long as the Minnesota health care reform waiver remains in effect. When the waiver expires, this paragraph expires and the commissioner of human services shall publish a notice in the State Register and notify the revisor of statutes. "Eligible individuals" means those persons eligible for medical assistance benefits as defined in sections 256B.055, 256B.056, and 256B.06. Notwithstanding sections 256B.055, 256B.056, and 256B.06, an individual who becomes ineligible for the program because of failure to submit income reports or recertification forms in a timely manner, shall remain enrolled in the prepaid health plan and shall remain eligible to receive medical assistance coverage through the last day of the month following the month in which the enrollee became ineligible for the medical assistance program.

Sec. 45. Minnesota Statutes 1997 Supplement, section 256B.69, subdivision 3a, is amended to read:

Subd. 3a. **COUNTY AUTHORITY.** (a) The commissioner, when implementing the general assistance medical care, or medical assistance prepayment program within a county, must include the county board in the process of development, approval, and issuance of the request for proposals to provide services to eligible individuals within the proposed county. County boards must be given reasonable opportunity to make recommendations regarding the development, issuance, review of responses, and changes needed in the request for proposals. The commissioner must provide county boards the opportunity to review each proposal based on the identification of community needs under chapters 145A and 256E and county advocacy activities. If a county board finds that a proposal does not address certain community needs, the county board and commissioner shall continue efforts for improving the proposal and network prior to the approval of the contract. The county board shall make recommendations regarding the approval of local networks and their operations to ensure adequate availability and access to covered services. The provider or health plan must respond directly to county advocates and the state prepaid medical assistance ombudsperson regarding service delivery and must be accountable to the state regarding contracts with medical assistance and general assistance medical care funds. The county board may recommend a maximum number of participating health plans after considering the size of the enrolling population; ensuring adequate access and capacity; considering the client and county administrative complexity; and considering the need to promote the viability of locally developed health plans. The county board or a single entity representing a group of county boards and the commissioner shall mutually select health plans for participation at the time of initial implementation of the prepaid medical assistance program in that county or group of counties and at the time of contract renewal. The commissioner shall also seek input for contract requirements from the county or single entity representing a group of county boards at each contract renewal and incorporate those recommendations into the contract negotiation process. The commissioner, in conjunction with the county board, shall actively seek to develop a mutually agreeable timetable prior to the development of the request for proposal, but counties must agree to initial enrollment beginning on or before January 1, 1999, in either the prepaid medical assistance and general assistance medical care pro-

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grams or county-based purchasing under section 256B.692. At least 90 days before enrollment in the medical assistance and general assistance medical care prepaid programs begins in a county in which the prepaid programs have not been established, the commissioner shall provide a report to the chairs of senate and house committees having jurisdiction over state health care programs which verifies that the commissioner complied with the requirements for county involvement that are specified in this subdivision.

(b) The commissioner shall seek a federal waiver to allow a fee-for-service plan option to MinnesotaCare enrollees. The commissioner shall develop an increase of the premium fees required under section 256L.06 up to 20 percent of the premium fees for the enrollees who elect the fee-for-service option. Prior to implementation, the commissioner shall submit this fee schedule to the chair and ranking minority member of the senate health care committee, the senate health care and family services funding division, the house of representatives health and human services committee, and the house of representatives health and human services finance division.

(c) At the option of the county board, the board may develop contract requirements related to the achievement of local public health goals to meet the health needs of medical assistance and general assistance medical care enrollees. These requirements must be reasonably related to the performance of health plan functions and within the scope of the medical assistance and general assistance medical care benefit sets. If the county board and the commissioner mutually agree to such requirements, the department shall include such requirements in all health plan contracts governing the prepaid medical assistance and general assistance medical care programs in that county at initial implementation of the program in that county and at the time of contract renewal. The county board may participate in the enforcement of the contract provisions related to local public health goals.

(d) For counties in which prepaid medical assistance and general assistance medical care programs have not been established, the commissioner shall not implement those programs if a county board submits acceptable and timely preliminary and final proposals under section 256B.692, until county-based purchasing is no longer operational in that county. For counties in which prepaid medical assistance and general assistance medical care programs are in existence on or after September 1, 1997, the commissioner must terminate contracts with health plans according to section 256B.692, subdivision 5, if the county board submits and the commissioner accepts preliminary and final proposals according to that subdivision. The commissioner is not required to terminate contracts that begin on or after September 1, 1997, according to section 256B.692 until two years have elapsed from the date of initial enrollment.

(e) In the event that a county board or a single entity representing a group of county boards and the commissioner cannot reach agreement regarding: (i) the selection of participating health plans in that county; (ii) contract requirements; or (iii) implementation and enforcement of county requirements including provisions regarding local public health goals, the commissioner shall resolve all disputes after taking into account the recommendations of a three-person mediation panel. The panel shall be composed of one designee of the president of the association of Minnesota counties, one designee of the commissioner of human services, and one designee of the commissioner of health.

(f) If a county which elects to implement county-based purchasing ceases to implement county-based purchasing, it is prohibited from assuming the responsibility of

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county-based purchasing for a period of five years from the date it discontinues purchasing.

(g) Notwithstanding the requirement in this subdivision that a county must agree to initial enrollment on or before January 1, 1999, the commissioner shall grant a delay of up to nine months in the implementation of the county-based purchasing authorized in section 256B.692 if the county or group of counties has submitted a preliminary proposal for county-based purchasing by September 1, 1997, has not already implemented the prepaid medical assistance program before January 1, 1998, and has submitted a written request for the delay to the commissioner by July 1, 1998. In order for the delay to be continued, the county or group of counties must also submit to the commissioner the following information by December 1, 1998. The information must:

- (1) identify the proposed date of implementation, not later than October 1, 1999;
- (2) include copies of the county board resolutions which demonstrate the continued commitment to the implementation of county-based purchasing by the proposed date. County board authorization may remain contingent on the submission of a final proposal which meets the requirements of section 256B.692, subdivision 5, paragraph (b);
- (3) demonstrate actions taken for the establishment of a governance structure between the participating counties and describe how the fiduciary responsibilities of county-based purchasing will be allocated between the counties, if more than one county is involved in the proposal;
- (4) describe how the risk of a deficit will be managed in the event expenditures are greater than total capitation payments. This description must identify how any of the following strategies will be used:
 - (i) risk contracts with licensed health plans;
 - (ii) risk arrangements with providers who are not licensed health plans;
 - (iii) risk arrangements with other licensed insurance entities; and
 - (iv) funding from other county resources;
- (5) include, if county-based purchasing will not contract with licensed health plans or provider networks, letters of interest from local providers in at least the categories of hospital, physician, mental health, and pharmacy which express interest in contracting for services. These letters must recognize any risk transfer identified in clause (4), item (ii); and
- (6) describe the options being considered to obtain the administrative services required in section 256B.692, subdivision 3, clauses (3) and (5).

(h) For counties which receive a delay under this subdivision, the final proposals required under section 256B.692, subdivision 5, paragraph (b), must be submitted at least six months prior to the requested implementation date. Authority to implement county-based purchasing remains contingent on approval of the final proposal as required under section 256B.692.

(i) If the commissioner is unable to provide county-specific, individual-level fee-for-service claims to counties by June 4, 1998, the commissioner shall grant a delay un-

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der paragraph (g) of up to 12 months in the implementation of county-based purchasing, and shall require implementation not later than January 1, 2000. In order to receive an extension of the proposed date of implementation under this paragraph, a county or group of counties must submit a written request for the extension to the commissioner by August 1, 1998, must submit the information required under paragraph (g) by December 1, 1998, and must submit a final proposal as provided under paragraph (h).

Sec. 46. Minnesota Statutes 1996, section 256B.69, subdivision 22, is amended to read:

Subd. 22. IMPACT ON PUBLIC OR TEACHING HOSPITALS AND COMMUNITY CLINICS. (a) Before implementing prepaid programs in counties with a county operated or affiliated public teaching hospital or a hospital or clinic operated by the University of Minnesota, the commissioner shall consider the risks the prepaid program creates for the hospital and allow the county or hospital the opportunity to participate in the program, provided the terms of participation in the program are competitive with the terms of other participants.

(b) Prepaid health plans serving counties with a nonprofit community clinic or community health services agency must contract with the clinic or agency to provide services to clients who choose to receive services from the clinic or agency, if the clinic or agency agrees to payment rates that are competitive with rates paid to other health plan providers for the same or similar services.

(c) For purposes of this subdivision, "nonprofit community clinic" includes, but is not limited to, a community mental health center as defined in sections 245.62 and 256B.0625, subdivision 5.

Sec. 47. Minnesota Statutes 1996, section 256B.69, is amended by adding a subdivision to read:

Subd. 26. AMERICAN INDIAN RECIPIENTS. (a) Beginning on or after January 1, 1999, for American Indian recipients of medical assistance who are required to enroll with a demonstration provider under subdivision 4 or in a county-based purchasing entity, if applicable, under section 256B.692, medical assistance shall cover health care services provided at American Indian health services facilities and facilities operated by a tribe or tribal organization under funding authorized by United States Code, title 25, sections 450f to 450n, or title III of the Indian Self-Determination and Education Assistance Act, Public Law Number 93-638, if those services would otherwise be covered under section 256B.0625. Payments for services provided under this subdivision shall be made on a fee-for-service basis, and may, at the option of the tribe or tribal organization, be made according to rates authorized under sections 256.969, subdivision 16, and 256B.0625, subdivision 34. Implementation of this purchasing model is contingent on federal approval.

(b) The commissioner of human services, in consultation with the tribal governments, shall develop a plan for tribes to assist in the enrollment process for American Indian recipients enrolled in the prepaid medical assistance program under this section or the prepaid general assistance medical care program under section 256D.03, subdivision 4, paragraph (d). This plan also shall address how tribes will be included in ensuring the coordination of care for American Indian recipients between Indian health service or tribal providers and other providers.

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(c) For purposes of this subdivision, "American Indian" has the meaning given to persons to whom services will be provided for in Code of Federal Regulations, title 42, section 36.12.

(d) This subdivision also applies to American Indian recipients of general assistance medical care and to the prepaid general assistance medical care program under section 256D.03, subdivision 4, paragraph (d).

Sec. 48. Minnesota Statutes 1996, section 256B.69, is amended by adding a subdivision to read:

Subd. 27. INFORMATION FOR PERSONS WITH LIMITED ENGLISH-LANGUAGE PROFICIENCY. Managed care contracts entered into under this section and sections 256D.03, subdivision 4, paragraph (d), and 256L.12 must require demonstration providers to inform enrollees that upon request the enrollee can obtain a certificate of coverage in the following languages: Spanish, Hmong, Laotian, Russian, Somali, Vietnamese, or Cambodian. Upon request, the demonstration provider must provide the enrollee with a certificate of coverage in the specified language of preference.

Sec. 49. Minnesota Statutes 1997 Supplement, section 256B.692, subdivision 2, is amended to read:

Subd. 2. DUTIES OF THE COMMISSIONER OF HEALTH. Notwithstanding chapters 62D and 62N, a county that elects to purchase medical assistance and general assistance medical care in return for a fixed sum without regard to the frequency or extent of services furnished to any particular enrollee is not required to obtain a certificate of authority under chapter 62D or 62N. A county that elects to purchase medical assistance and general assistance medical care services under this section must satisfy the commissioner of health that the requirements of chapter 62D, applicable to health maintenance organizations, or chapter 62N, applicable to community integrated service networks, will be met. A county must also assure the commissioner of health that the requirements of section sections 62J.041; 62J.48; 62J.71 to 62J.73; 62M.01 to 62M.16; all applicable provisions of chapter 62Q, including sections 62Q.07; 62Q.075; 62Q.105; 62Q.1055; 62Q.106; 62Q.11; 62Q.12; 62Q.135; 62Q.14; 62Q.145; 62Q.19; 62Q.23, paragraph (c); 62Q.30; 62Q.43; 62Q.47; 62Q.50; 62Q.52 to 62Q.56; 62Q.58; 62Q.64; and 72A.201 will be met. All enforcement and rulemaking powers available under chapters 62D and, 62J, 62M, 62N, and 62Q are hereby granted to the commissioner of health with respect to counties that purchase medical assistance and general assistance medical care services under this section.

Sec. 50. Minnesota Statutes 1997 Supplement, section 256B.692, subdivision 5, is amended to read:

Subd. 5. COUNTY PROPOSALS. (a) On or before September 1, 1997, a county board that wishes to purchase or provide health care under this section must submit a preliminary proposal that substantially demonstrates the county's ability to meet all the requirements of this section in response to criteria for proposals issued by the department on or before July 1, 1997. Counties submitting preliminary proposals must establish a local planning process that involves input from medical assistance and general assistance medical care recipients, recipient advocates, providers and representatives of local school districts, labor, and tribal government to advise on the development of a final proposal and its implementation.

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(b) The county board must submit a final proposal on or before July 1, 1998, that demonstrates the ability to meet all the requirements of this section, including beginning enrollment on January 1, 1999, unless a delay has been granted under section 256B.69, subdivision 3a, paragraph (g).

(c) After January 1, 1999, for a county in which the prepaid medical assistance program is in existence, the county board must submit a preliminary proposal at least 15 months prior to termination of health plan contracts in that county and a final proposal six months prior to the health plan contract termination date in order to begin enrollment after the termination. Nothing in this section shall impede or delay implementation or continuation of the prepaid medical assistance and general assistance medical care programs in counties for which the board does not submit a proposal, or submits a proposal that is not in compliance with this section.

(d) The commissioner is not required to terminate contracts for the prepaid medical assistance and prepaid general assistance medical care programs that begin on or after September 1, 1997, in a county for which a county board has submitted a proposal under this paragraph, until two years have elapsed from the date of initial enrollment in the prepaid medical assistance and prepaid general assistance medical care programs.

Sec. 51. Minnesota Statutes 1997 Supplement, section 256B.77, subdivision 3, is amended to read:

Subd. 3. **ASSURANCES TO THE COMMISSIONER OF HEALTH.** A county authority that elects to participate in a demonstration project for people with disabilities under this section is not required to obtain a certificate of authority under chapter 62D or 62N. A county authority that elects to participate in a demonstration project for people with disabilities under this section must assure the commissioner of health that the requirements of chapters 62D and 62N, and section 256B.692, subdivision 2, are met. All enforcement and rulemaking powers available under chapters 62D and 62J, 62M, 62N, and 62Q are granted to the commissioner of health with respect to the county authorities that contract with the commissioner to purchase services in a demonstration project for people with disabilities under this section.

Sec. 52. Minnesota Statutes 1997 Supplement, section 256B.77, subdivision 7a, is amended to read:

Subd. 7a. **ELIGIBLE INDIVIDUALS.** (a) Persons are eligible for the demonstration project as provided in this subdivision.

(b) "Eligible individuals" means those persons living in the demonstration site who are eligible for medical assistance and are disabled based on a disability determination under section 256B.055, subdivisions 7 and 12, or who are eligible for medical assistance and have been diagnosed as having:

(1) serious and persistent mental illness as defined in section 245.462, subdivision 20;

(2) severe emotional disturbance as defined in section 245.487, subdivision 6; or

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(3) mental retardation, or being a mentally retarded person as defined in section 252A.02, or a related condition as defined in section 252.27, subdivision 1a.

Other individuals may be included at the option of the county authority based on agreement with the commissioner.

(c) Eligible individuals residing on a federally recognized Indian reservation may be excluded from participation in the demonstration project at the discretion of the tribal government based on agreement with the commissioner, in consultation with the county authority.

(d) Eligible individuals include individuals in excluded time status, as defined in chapter 256G. Enrollees in excluded time at the time of enrollment shall remain in excluded time status as long as they live in the demonstration site and shall be eligible for 90 days after placement outside the demonstration site if they move to excluded time status in a county within Minnesota other than their county of financial responsibility.

(e) A person who is a sexual psychopathic personality as defined in section 253B.02, subdivision 18a, or a sexually dangerous person as defined in section 253B.02, subdivision 18b, is excluded from enrollment in the demonstration project.

Sec. 53. Minnesota Statutes 1997 Supplement, section 256B.77, subdivision 10, is amended to read:

Subd. 10. **CAPITATION PAYMENT.** (a) The commissioner shall pay a capitation payment to the county authority and, when applicable under subdivision 6, paragraph (a), to the service delivery organization for each medical assistance eligible enrollee. The commissioner shall develop capitation payment rates for the initial contract period for each demonstration site in consultation with an independent actuary, to ensure that the cost of services under the demonstration project does not exceed the estimated cost for medical assistance services for the covered population under the fee-for-service system for the demonstration period. For each year of the demonstration project, the capitation payment rate shall be based on 96 percent of the projected per person costs that would otherwise have been paid under medical assistance fee-for-service during each of those years. Rates shall be adjusted within the limits of the available risk adjustment technology, as mandated by section 62Q.03. In addition, the commissioner shall implement appropriate risk and savings sharing provisions with county administrative entities and, when applicable under subdivision 6, paragraph (a), service delivery organizations within the projected budget limits. Capitation rates shall be adjusted, at least annually, to include any rate increases and payments for expanded or newly covered services for eligible individuals. The initial demonstration project rate shall include an amount in addition to the fee-for-service payments to adjust for underutilization of dental services. Any savings beyond those allowed for the county authority, county administrative entity, or service delivery organization shall be first used to meet the unmet needs of eligible individuals. Payments to providers participating in the project are exempt from the requirements of sections 256.966 and 256B.03, subdivision 2.

(b) The commissioner shall monitor and evaluate annually the effect of the discount on consumers, the county authority, and providers of disability services. Findings shall be reported and recommendations made, as appropriate, to ensure that the discount effect does not adversely affect the ability of the county administrative entity or providers of

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services to provide appropriate services to eligible individuals, and does not result in cost shifting of eligible individuals to the county authority.

Sec. 54. Minnesota Statutes 1997 Supplement, section 256B.77, subdivision 12, is amended to read:

Subd. 12. SERVICE COORDINATION. (a) For purposes of this section, "service coordinator" means an individual selected by the enrollee or the enrollee's legal representative and authorized by the county administrative entity or service delivery organization to work in partnership with the enrollee to develop, coordinate, and in some instances, provide supports and services identified in the personal support plan. Service coordinators may only provide services and supports if the enrollee is informed of potential conflicts of interest, is given alternatives, and gives informed consent. Eligible service coordinators are individuals age 18 or older who meet the qualifications as described in paragraph (b). Enrollees, their legal representatives, or their advocates are eligible to be service coordinators if they have the capabilities to perform the activities and functions outlined in paragraph (b). Providers licensed under chapter 245A to provide residential services, or providers who are providing residential services covered under the group residential housing program may not act as service coordinator for enrollees for whom they provide residential services. This does not apply to providers of short-term detoxification services. Each county administrative entity or service delivery organization may develop further criteria for eligible vendors of service coordination during the demonstration period and shall determine whom it contracts with or employs to provide service coordination. County administrative entities and service delivery organizations may pay enrollees or their advocates or legal representatives for service coordination activities.

(b) The service coordinator shall act as a facilitator, working in partnership with the enrollee to ensure that their needs are identified and addressed. The level of involvement of the service coordinator shall depend on the needs and desires of the enrollee. The service coordinator shall have the knowledge, skills, and abilities to, and is responsible for:

(1) arranging for an initial assessment, and periodic reassessment as necessary, of supports and services based on the enrollee's strengths, needs, choices, and preferences in life domain areas;

(2) developing and updating the personal support plan based on relevant ongoing assessment;

(3) arranging for and coordinating the provisions of supports and services, including knowledgeable and skilled specialty services and prevention and early intervention services, within the limitations negotiated with the county administrative entity or service delivery organization;

(4) assisting the enrollee and the enrollee's legal representative, if any, to maximize informed choice of and control over services and supports and to exercise the enrollee's rights and advocate on behalf of the enrollee;

(5) monitoring the progress toward achieving the enrollee's outcomes in order to evaluate and adjust the timeliness and adequacy of the implementation of the personal support plan;

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(6) facilitating meetings and effectively collaborating with a variety of agencies and persons, including attending individual family service plan and individual education plan meetings when requested by the enrollee or the enrollee's legal representative;

(7) soliciting and analyzing relevant information;

(8) communicating effectively with the enrollee and with other individuals participating in the enrollee's plan;

(9) educating and communicating effectively with the enrollee about good health care practices and risk to the enrollee's health with certain behaviors;

(10) having knowledge of basic enrollee protection requirements, including data privacy;

(11) informing, educating, and assisting the enrollee in identifying available service providers and accessing needed resources and services beyond the limitations of the medical assistance benefit set covered services; and

(12) providing other services as identified in the personal support plan.

(c) For the demonstration project, the qualifications and standards for service coordination in this section shall replace comparable existing provisions of existing statutes and rules governing case management for eligible individuals.

(d) The provisions of this subdivision apply only to the demonstration sites that begin implementation on July 1, 1998 designated by the commissioner under subdivision 5. All other demonstration sites must comply with laws and rules governing case management services for eligible individuals in effect when the site begins the demonstration project.

Sec. 55. Minnesota Statutes 1996, section 256D.03, subdivision 4, is amended to read:

Subd. 4. **GENERAL ASSISTANCE MEDICAL CARE; SERVICES.** (a) For a person who is eligible under subdivision 3, paragraph (a), clause (3), general assistance medical care covers, except as provided in paragraph (c):

(1) inpatient hospital services;

(2) outpatient hospital services;

(3) services provided by Medicare certified rehabilitation agencies;

(4) prescription drugs and other products recommended through the process established in section 256B.0625, subdivision 13;

(5) equipment necessary to administer insulin and diagnostic supplies and equipment for diabetics to monitor blood sugar level;

(6) eyeglasses and eye examinations provided by a physician or optometrist;

(7) hearing aids;

(8) prosthetic devices;

(9) laboratory and X-ray services;

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(10) physician's services;

(11) medical transportation;

(12) chiropractic services as covered under the medical assistance program;

(13) podiatric services;

(14) dental services;

(15) outpatient services provided by a mental health center or clinic that is under contract with the county board and is established under section 245.62;

(16) day treatment services for mental illness provided under contract with the county board;

(17) prescribed medications for persons who have been diagnosed as mentally ill as necessary to prevent more restrictive institutionalization;

(18) case management services for a person with serious and persistent mental illness who would be eligible for medical assistance except that the person resides in an institution for mental diseases;

(19) psychological services, medical supplies and equipment, and Medicare premiums, coinsurance and deductible payments;

(20) (19) medical equipment not specifically listed in this paragraph when the use of the equipment will prevent the need for costlier services that are reimbursable under this subdivision;

(21) (20) services performed by a certified pediatric nurse practitioner, a certified family nurse practitioner, a certified adult nurse practitioner, a certified obstetric/gynecological nurse practitioner, or a certified geriatric nurse practitioner in independent practice, if the services are otherwise covered under this chapter as a physician service, and if the service is within the scope of practice of the nurse practitioner's license as a registered nurse, as defined in section 148.171; and

(22) (21) services of a certified public health nurse or a registered nurse practicing in a public health nursing clinic that is a department of, or that operates under the direct authority of, a unit of government, if the service is within the scope of practice of the public health nurse's license as a registered nurse, as defined in section 148.171.

(b) Except as provided in paragraph (c), for a recipient who is eligible under subdivision 3, paragraph (a), clause (1) or (2), general assistance medical care covers the services listed in paragraph (a) with the exception of special transportation services.

(c) Gender reassignment surgery and related services are not covered services under this subdivision unless the individual began receiving gender reassignment services prior to July 1, 1995.

(d) In order to contain costs, the commissioner of human services shall select vendors of medical care who can provide the most economical care consistent with high medical standards and shall where possible contract with organizations on a prepaid capitation basis to provide these services. The commissioner shall consider proposals by counties and vendors for prepaid health plans, competitive bidding programs, block

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grants, or other vendor payment mechanisms designed to provide services in an economical manner or to control utilization, with safeguards to ensure that necessary services are provided. Before implementing prepaid programs in counties with a county operated or affiliated public teaching hospital or a hospital or clinic operated by the University of Minnesota, the commissioner shall consider the risks the prepaid program creates for the hospital and allow the county or hospital the opportunity to participate in the program in a manner that reflects the risk of adverse selection and the nature of the patients served by the hospital, provided the terms of participation in the program are competitive with the terms of other participants considering the nature of the population served. Payment for services provided pursuant to this subdivision shall be as provided to medical assistance vendors of these services under sections 256B.02, subdivision 8, and 256B.0625. For payments made during fiscal year 1990 and later years, the commissioner shall consult with an independent actuary in establishing prepayment rates, but shall retain final control over the rate methodology. Notwithstanding the provisions of subdivision 3, an individual who becomes ineligible for general assistance medical care because of failure to submit income reports or recertification forms in a timely manner, shall remain enrolled in the prepaid health plan and shall remain eligible for general assistance medical care coverage through the last day of the month in which the enrollee became ineligible for general assistance medical care.

(e) The commissioner of human services may reduce payments provided under sections 256D.01 to 256D.21 and 261.23 in order to remain within the amount appropriated for general assistance medical care, within the following restrictions:-

(i) For the period July 1, 1985 to December 31, 1985, reductions below the cost per service unit allowable under section 256.966, are permitted only as follows: payments for inpatient and outpatient hospital care provided in response to a primary diagnosis of chemical dependency or mental illness may be reduced no more than 30 percent; payments for all other inpatient hospital care may be reduced no more than 20 percent. Reductions below the payments allowable under general assistance medical care for the remaining general assistance medical care services allowable under this subdivision may be reduced no more than ten percent.

(ii) For the period January 1, 1986 to December 31, 1986, reductions below the cost per service unit allowable under section 256.966 are permitted only as follows: payments for inpatient and outpatient hospital care provided in response to a primary diagnosis of chemical dependency or mental illness may be reduced no more than 20 percent; payments for all other inpatient hospital care may be reduced no more than 15 percent. Reductions below the payments allowable under general assistance medical care for the remaining general assistance medical care services allowable under this subdivision may be reduced no more than five percent.

(iii) For the period January 1, 1987 to June 30, 1987, reductions below the cost per service unit allowable under section 256.966 are permitted only as follows: payments for inpatient and outpatient hospital care provided in response to a primary diagnosis of chemical dependency or mental illness may be reduced no more than 15 percent; payments for all other inpatient hospital care may be reduced no more than ten percent. Reductions below the payments allowable under medical assistance for the remaining general assistance medical care services allowable under this subdivision may be reduced no more than five percent.

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(iv) For the period July 1, 1987 to June 30, 1988, reductions below the cost per service unit allowable under section 256.966 are permitted only as follows: payments for inpatient and outpatient hospital care provided in response to a primary diagnosis of chemical dependency or mental illness may be reduced no more than 15 percent; payments for all other inpatient hospital care may be reduced no more than five percent. Reductions below the payments allowable under medical assistance for the remaining general assistance medical care services allowable under this subdivision may be reduced no more than five percent.

(v) For the period July 1, 1988 to June 30, 1989, reductions below the cost per service unit allowable under section 256.966 are permitted only as follows: payments for inpatient and outpatient hospital care provided in response to a primary diagnosis of chemical dependency or mental illness may be reduced no more than 15 percent; payments for all other inpatient hospital care may not be reduced. Reductions below the payments allowable under medical assistance for the remaining general assistance medical care services allowable under this subdivision may be reduced no more than five percent.

(f) There shall be no copayment required of any recipient of benefits for any services provided under this subdivision. A hospital receiving a reduced payment as a result of this section may apply the unpaid balance toward satisfaction of the hospital's bad debts.

(f) (g) Any county may, from its own resources, provide medical payments for which state payments are not made.

(g) (h) Chemical dependency services that are reimbursed under chapter 254B must not be reimbursed under general assistance medical care.

(h) (i) The maximum payment for new vendors enrolled in the general assistance medical care program after the base year shall be determined from the average usual and customary charge of the same vendor type enrolled in the base year.

(i) (j) The conditions of payment for services under this subdivision are the same as the conditions specified in rules adopted under chapter 256B governing the medical assistance program, unless otherwise provided by statute or rule.

Sec. 56. Minnesota Statutes 1996, section 256D.03, is amended by adding a subdivision to read:

Subd. 9. PAYMENT FOR AMBULANCE SERVICES. Effective for services rendered on or after July 1, 1999, general assistance medical care payments for ambulance services shall be increased by five percent.

Sec. 57. Laws 1997, chapter 195, section 5, is amended to read:

Sec. 5. PERSONAL CARE ASSISTANT PROVIDERS.

The commissioner of health shall create a unique category of licensure as appropriate for providers offering, providing, or arranging personal care assistant services to more than one individual. The commissioner shall work with the department of human services, providers, consumers, and advocates in developing the licensure standards. The licensure standards must include requirements for providers to provide consumers advance written notice of service termination, a service transition plan, and an appeal process. If the commissioner determines there are costs related to rulemaking under this sec-

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tion, the commissioner shall include a budget request for this item in the 2000-2001 biennial budget. Prior to promulgating the rule, the commissioner shall submit the proposed rule to the legislature by January 15, 1999.

Sec. 58. Laws 1997, chapter 203, article 4, section 64, is amended to read:

Sec. 64. STUDY OF ELDERLY WAIVER EXPANSION.

The commissioner of human services shall appoint a task force that includes representatives of counties, health plans, consumers, and legislators to study the impact of the expansion of the elderly waiver program under section 4 and to make recommendations for any changes in law necessary to facilitate an efficient and equitable relationship between the elderly waiver program and the Minnesota senior health options project. Based on the results of the task force study, the commissioner may seek any federal waivers needed to improve the relationship between the elderly waiver and the Minnesota senior health options project. The commissioner shall report the results of the task force study to the legislature by January 15, 1998 July 1, 2000.

Sec. 59. OFFSET OF HMO SURCHARGE.

Beginning October 1, 1998, and ending December 31, 1998, the commissioner of human services shall offset monthly charges for the health maintenance organization surcharge by the monthly amount the health maintenance organization overpaid from August 1, 1997, to September 30, 1998, due to taxation of Medicare revenues prohibited by Minnesota Statutes, section 256.9657, subdivision 3.

Sec. 60. MR/RC WAIVER PROPOSAL.

By November 15, 1998, the commissioner of human services shall provide to the chairs of the house health and human services finance division and the senate health and family security finance division a detailed budget proposal for providing services under the home and community-based waiver for persons with mental retardation or related conditions to those individuals who are screened and waiting for services.

Sec. 61. HIV HEALTH CARE ACCESS STUDY.

The commissioner of human services shall study, in consultation with the commissioner of health and a task force of affected community stakeholders, the impact of positive patient responses to new HIV treatment on re-entry to the workplace, including, but not limited to, addressing continued access to health care and disability benefits. The commissioner shall submit a report on the study with recommendations to the legislature by January 15, 1999.

Sec. 62. MENTAL HEALTH REPORT.

(a) By December 1, 1998, the commissioner of human services shall report to the legislature on recommendations to maximize federal funding for mental health services for children and adults. In developing the recommendations, the commissioner shall seek advice from a children's and adults' mental health services stakeholders advisory group including representatives of state and county government, private and state-operated mental health providers, mental health consumers, family members, and advocates.

(b) The report shall include a proposal developed in conjunction with the counties that does not shift caseload growth to counties after July 1, 1999, and recommendations

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on whether the state should directly participate in medical assistance mental health case management by funding a portion of the nonfederal share of Medicaid.

Sec. 63. CONSUMER PRICE INDEX REPORT.

By January 15, 1999, and each year thereafter, the commissioner of human services shall report to the chair of the senate health and family security budget division and the chair of the house health and human services budget division on the cost of increasing the income standard under Minnesota Statutes, section 256B.056, subdivision 4, and the provider rates under Minnesota Statutes, section 256B.038, by an amount equal to the percent change in the Consumer Price Index for all urban consumers for the previous October compared to one year earlier.

Sec. 64. TRANSLATING AND INTERPRETING INFORMATION FOR PERSONS WITH LIMITED ENGLISH-LANGUAGE PROFICIENCY.

(a) The commissioner shall develop a plan to serve public assistance applicants and recipients who have limited English-language proficiency that ensures that the state is in compliance with title VI of the Civil Rights Act and Minnesota Statutes, section 363.073, and any other laws or regulations that prohibit discrimination.

(b) The commissioner shall convene an advisory committee that consists of members of bilingual community groups, county human service agencies, health plans, health care providers, advocacy groups, and other state agencies to assist in developing the plan.

(c) The commissioner shall submit the plan and any fiscal estimates necessary to implement the plan to the chairs of the health and human services policy and finance divisions by December 15, 1998.

(d) Until the plan under paragraph (c) is implemented, the commissioner is required to include a language block on notices from county agencies that deny, reduce, or terminate benefits which states:

"IMPORTANT! This notice affects your rights and should be translated immediately. If you need help translating this notice, call your county worker."

Notices from MinnesotaCare that deny, reduce, or terminate benefits must include a language block which states:

"IMPORTANT! This notice affects your rights and should be translated immediately. If you need help translating this notice, call your enrollment representative."

The notice must include a telephone number for the MinnesotaCare enrollment representative.

(e) Until the plan under paragraph (c) is implemented, the commissioner shall require a managed care plan under contract with the commissioner of human services that issues a notice that denies, reduces, or terminates coverage to include a language block, which states:

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"IMPORTANT! This notice affects your rights and should be translated immediately."

The notice shall include the telephone number of a person to contact who can assist the enrollee in translating the notice.

Sec. 65. UNCOMPENSATED CARE STUDY.

The commissioner of health, in consultation with the commissioner of human services, associations representing Minnesota counties, consumer advocates, associations representing health care providers and institutions, and representatives of institutions providing a disproportionate share of uncompensated medical care shall submit to the legislature by January 15, 1999, a report and recommendations on the provision and financing of uncompensated care in Minnesota. The report must:

- (1) document the extent of uncompensated care provided in Minnesota;
- (2) discuss the feasibility of and evaluate options for financing uncompensated care, including but not limited to:
 - (i) modifying the eligibility standards for the MinnesotaCare and general assistance medical care programs; and
 - (ii) allowing providers to bill other counties for uncompensated care provided to residents of those counties;
- (3) evaluate approaches used by other states to monitor and finance uncompensated care; and
- (4) describe alternative approaches to encourage health care coverage.

Sec. 66. COVERAGE OF REHABILITATIVE AND THERAPEUTIC SERVICES.

(a) The threshold limits for fee-for-service medical assistance rehabilitative and therapeutic services for January 1, 1998 through June 30, 1999, shall be the limits prescribed in the department of human services health care programs provider manual for calendar year 1997. Rehabilitative and therapeutic services are: occupational therapy services provided to medical assistance recipients pursuant to Minnesota Statutes, section 256B.0625, subdivision 8a; physical therapy services provided to medical assistance recipients pursuant to Minnesota Statutes, section 256B.0625, subdivision 8; and speech language pathology services provided to medical assistance recipients pursuant to Minnesota Rules, part 9505.0390.

(b) The commissioner of human services, in consultation with the department of human services rehabilitative work group, shall report to the chair of the senate health and family security committee and the chair of the house health and human services committee by January 15, 1999, recommendations and proposed legislation for the appropriate level of rehabilitative services delivered to medical assistance recipients before prior authorization. The recommendations shall also include proposed legislation to clarify the rehabilitative and therapeutic benefit set for medical assistance, as well as the appropriate response time for requests for prior authorization.

Sec. 67. DENTAL SERVICES REIMBURSEMENT AND ACCESS STUDY.

(a) The commissioner of human services, in consultation with the commissioner of health, shall report to the legislature by December 15, 1998, on the costs of providing

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dental care services to recipients of the medical assistance, general assistance medical care and MinnesotaCare programs and the reimbursement level of those programs under fee-for-service and under managed care plans. Costs shall include both base level and incremental costs of providing services to public program recipients. In completing the study, the commissioner shall review existing dental practice literature on dental practice expenses, and conduct a random survey of dental practices in the state to establish usual and customary fees for a subset of common dental procedures. The commissioner shall compare private insurance reimbursement for a subset of common dental procedures with reimbursement levels for public programs. In determining private insurance reimbursement, the commissioner may obtain reimbursement data from health plans insuring or providing dental care services. Data obtained by the commissioner shall be nonpublic and subject to Minnesota Statutes, section 62J.321. The commissioner may include in the report related information on the costs of other health care professionals and reimbursement levels by public and private payers.

(b) The commissioner of human services shall present recommendations to the legislature by February 1, 1999, on how access to dental services for medical assistance, general assistance medical care, and MinnesotaCare recipients can be expanded. The commissioner shall also determine which areas of the state are experiencing a significant access problem. In developing recommendations, the commissioner shall evaluate the feasibility of a disproportionate share adjustment for dental services.

Sec. 68. RECYCLING PILOT PROJECT.

The commissioner of human services, in cooperation with the system of technology to achieve results (STAR) program, shall award a grant on a competitive basis to a qualified agency for the establishment of a pilot project to:

(1) obtain, refurbish, and recycle augmentative and alternative communication systems in order to allow their reuse for trials and short-term use by persons with severe expressive communication limitations; and

(2) provide training related to the use of augmentative and alternative communication systems.

The commissioner shall award the grant as soon as possible after July 1, 1998, and shall report to the legislature by January 15, 1999, on the activities of the grantee.

Sec. 69. REPEALER.

Minnesota Statutes 1996, section 144.0721, subdivision 3a; and Minnesota Statutes 1997 Supplement, sections 144.0721, subdivision 3; and 256B.0913, subdivision 15, are repealed.

Sec. 70. EFFECTIVE DATES.

(a) Sections 5, 31, 40, 45, 50, and 66 are effective the day following final enactment.

(b) Sections 10 and 48 are effective January 1, 1999.

(c) Sections 23, 25, 55, and 56 are effective July 1, 1999.

(d) Sections 14 and 19 are effective retroactive to July 1, 1997.

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(e) Section 7 is effective retroactive to August 1, 1997.

(f) Sections 3 and 44 are effective 30 days following final enactment.

(g) Section 32 is effective for changes in eligibility that occur on or after July 1, 1998.

ARTICLE 5

MINNESOTACARE

Section 1. Minnesota Statutes 1997 Supplement, section 60A.15, subdivision 1, is amended to read:

Subdivision 1. **DOMESTIC AND FOREIGN COMPANIES.** (a) On or before April 1, June 1, and December 1 of each year, every domestic and foreign company, including town and farmers' mutual insurance companies, domestic mutual insurance companies, marine insurance companies, health maintenance organizations, community integrated service networks, and nonprofit health service plan corporations, shall pay to the commissioner of revenue installments equal to one-third of the insurer's total estimated tax for the current year. Except as provided in paragraphs (d), (e), (h), and (i), installments must be based on a sum equal to two percent of the premiums described in paragraph (b).

(b) Installments under paragraph (a), (d), or (e) are percentages of gross premiums less return premiums on all direct business received by the insurer in this state, or by its agents for it, in cash or otherwise, during such year.

(c) Failure of a company to make payments of at least one-third of either (1) the total tax paid during the previous calendar year or (2) 80 percent of the actual tax for the current calendar year shall subject the company to the penalty and interest provided in this section, unless the total tax for the current tax year is \$500 or less.

(d) For health maintenance organizations, nonprofit health service plan corporations, and community integrated service networks, the installments must be based on an amount determined under paragraph (h) or (i).

(e) For purposes of computing installments for town and farmers' mutual insurance companies and for mutual property casualty companies with total assets on December 31, 1989, of \$1,600,000,000 or less, the following rates apply:

(1) for all life insurance, two percent;

(2) for town and farmers' mutual insurance companies and for mutual property and casualty companies with total assets of \$5,000,000 or less, on all other coverages, one percent; and

(3) for mutual property and casualty companies with total assets on December 31, 1989, of \$1,600,000,000 or less, on all other coverages, 1.26 percent.

(f) If the aggregate amount of premium tax payments under this section and the fire marshal tax payments under section 299F.21 made during a calendar year is equal to or

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exceeds \$120,000, all tax payments in the subsequent calendar year must be paid by means of a funds transfer as defined in section 336.4A-104, paragraph (a). The funds transfer payment date, as defined in section 336.4A-401, must be on or before the date the payment is due. If the date the payment is due is not a funds transfer business day, as defined in section 336.4A-105, paragraph (a), clause (4), the payment date must be on or before the funds transfer business day next following the date the payment is due.

(g) Premiums under medical assistance, general assistance medical care, the MinnesotaCare program, and the Minnesota comprehensive health insurance plan and all payments, revenues, and reimbursements received from the federal government for Medicare-related coverage as defined in section 62A.31, subdivision 3, paragraph (e), are not subject to tax under this section.

(h) For calendar years 1998 and 1999, the installments for health maintenance organizations, community integrated service networks, and nonprofit health service plan corporations must be based on an amount equal to one percent of premiums described under paragraph (b). Health maintenance organizations, community integrated service networks, and nonprofit health service plan corporations that have met the cost containment goals established under section 62J.04 in the individual and small employer market for calendar year 1996 are exempt from payment of the tax imposed under this section for premiums paid after March 30, 1997, and before April 1, 1998. Health maintenance organizations, community integrated service networks, and nonprofit health service plan corporations that have met the cost containment goals established under section 62J.04 in the individual and small employer market for calendar year 1997 are exempt from payment of the tax imposed under this section for premiums paid after March 30, 1998, and before April 1, 1999.

(i) For calendar years after 1999, the commissioner of finance shall determine the balance of the health care access fund on September 1 of each year beginning September 1, 1999. If the commissioner determines that there is no structural deficit for the next fiscal year, no tax shall be imposed under paragraph (d) for the following calendar year. If the commissioner determines that there will be a structural deficit in the fund for the following fiscal year, then the commissioner, in consultation with the commissioner of revenue, shall determine the amount needed to eliminate the structural deficit and a tax shall be imposed under paragraph (d) for the following calendar year. The commissioner shall determine the rate of the tax as either one-quarter of one percent, one-half of one percent, three-quarters of one percent, or one percent of premiums described in paragraph (b), whichever is the lowest of those rates that the commissioner determines will produce sufficient revenue to eliminate the projected structural deficit. The commissioner of finance shall publish in the State Register by October 1 of each year the amount of tax to be imposed for the following calendar year. In determining the structural balance of the health care access fund for fiscal years 2000 and 2001, the commissioner shall disregard the transfer amount from the health care access fund to the general fund for expenditures associated with the services provided to pregnant women and children under the age of two enrolled in the MinnesotaCare program.

(j) In approving the premium rates as required in sections 62L.08, subdivision 8, and 62A.65, subdivision 3, the commissioners of health and commerce shall ensure that any exemption from the tax as described in paragraphs (h) and (i) is reflected in the premium rate.

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Sec. 2. Minnesota Statutes 1997 Supplement, section 256B.04, subdivision 18, is amended to read:

Subd. 18. **APPLICATIONS FOR MEDICAL ASSISTANCE.** The state agency may take applications for medical assistance and conduct eligibility determinations for MinnesotaCare enrollees who are required to apply for medical assistance according to section 256L.03, subdivision 3, paragraph (b).

Sec. 3. Minnesota Statutes 1996, section 256B.057, is amended by adding a subdivision to read:

Subd. 1c. **NO ASSET TEST FOR PREGNANT WOMEN.** Beginning September 30, 1998, eligibility for medical assistance for a pregnant woman must be determined without regard to asset standards established in section 256B.056, subdivision 3.

Sec. 4. Minnesota Statutes 1996, section 256B.057, is amended by adding a subdivision to read:

Subd. 7. **WAIVER OF MAINTENANCE OF EFFORT REQUIREMENT.** Unless a federal waiver of the maintenance of effort requirement of section 2105(d) of title XXI of the Balanced Budget Act of 1997, Public Law Number 105-33, Statutes at Large, volume 111, page 251, is granted by the federal Department of Health and Human Services by September 30, 1998, eligibility for children under age 21 must be determined without regard to asset standards established in section 256B.056, subdivision 3. The commissioner of human services shall publish a notice in the State Register upon receipt of a federal waiver.

Sec. 5. Minnesota Statutes 1996, section 256B.057, is amended by adding a subdivision to read:

Subd. 8. **CHILDREN UNDER AGE TWO.** Medical assistance may be paid for a child under two years of age whose countable family income is above 275 percent of the federal poverty guidelines for the same size family but less than or equal to 280 percent of the federal poverty guidelines for the same size family.

Sec. 6. Minnesota Statutes 1997 Supplement, section 256D.03, subdivision 3, is amended to read:

Subd. 3. **GENERAL ASSISTANCE MEDICAL CARE; ELIGIBILITY.** (a) General assistance medical care may be paid for any person who is not eligible for medical assistance under chapter 256B, including eligibility for medical assistance based on a spenddown of excess income according to section 256B.056, subdivision 5, or MinnesotaCare as defined in clause (4) paragraph (b), except as provided in paragraph (b) (c); and:

(1) who is receiving assistance under section 256D.05, except for families with children who are eligible under Minnesota family investment program—statewide (MFIP-S), who is having a payment made on the person's behalf under sections 256I.01 to 256I.06, or who resides in group residential housing as defined in chapter 256I and can meet a spenddown using the cost of remedial services received through group residential housing; or

(2)(i) who is a resident of Minnesota; and whose equity in assets is not in excess of \$1,000 per assistance unit. Exempt assets, the reduction of excess assets, and the waiver

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of excess assets must conform to the medical assistance program in chapter 256B, with the following exception: the maximum amount of undistributed funds in a trust that could be distributed to or on behalf of the beneficiary by the trustee, assuming the full exercise of the trustee's discretion under the terms of the trust, must be applied toward the asset maximum; and

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

(3) who would be eligible for medical assistance except that the person resides in a facility that is determined by the commissioner or the federal Health Care Financing Administration to be an institution for mental diseases; or

(4) who is ineligible for medical assistance under chapter 256B or general assistance medical care under any other provision of this section, and is receiving care and rehabilitation services from a nonprofit center established to serve victims of torture. These individuals are eligible for general assistance medical care only for the period during which they are receiving services from the center. During this period of eligibility, individuals eligible under this clause shall not be required to participate in prepaid general assistance medical care.

(4) (b) Beginning July 1, 1998 ~~January 1, 2000~~, applicants or recipients who meet all eligibility requirements of MinnesotaCare as defined in sections 256L.01 to 256L.16, and are:

(i) adults with dependent children under 21 whose gross family income is equal to or less than 275 percent of the federal poverty guidelines; or

(ii) adults without children with earned income and whose family gross income is between 75 percent of the federal poverty guidelines and the amount set by section 256L.04, subdivision 7, shall be terminated from general assistance medical care upon enrollment in MinnesotaCare.

(b) (c) For services rendered on or after July 1, 1997, eligibility is limited to one month prior to application if the person is determined eligible in the prior month. A re-determination of eligibility must occur every 12 months. Beginning July 1, 1998 ~~January 1, 2000~~, Minnesota health care program applications completed by recipients and applicants who are persons described in paragraph (a) (b), ~~clause (4)~~, may be returned to the county agency to be forwarded to the department of human services or sent directly to the department of human services for enrollment in MinnesotaCare. If all other eligibility requirements of this subdivision are met, eligibility for general assistance medical care

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shall be available in any month during which a MinnesotaCare eligibility determination and enrollment are pending. Upon notification of eligibility for MinnesotaCare, notice of termination for eligibility for general assistance medical care shall be sent to an applicant or recipient. If all other eligibility requirements of this subdivision are met, eligibility for general assistance medical care shall be available until enrollment in MinnesotaCare subject to the provisions of paragraph ~~(d)~~ (e).

~~(e)~~ (d) The date of an initial Minnesota health care program application necessary to begin a determination of eligibility shall be the date the applicant has provided a name, address, and social security number, signed and dated, to the county agency or the department of human services. If the applicant is unable to provide an initial application when health care is delivered due to a medical condition or disability, a health care provider may act on the person's behalf to complete the initial application. The applicant must complete the remainder of the application and provide necessary verification before eligibility can be determined. The county agency must assist the applicant in obtaining verification if necessary.

~~(d)~~ (e) County agencies are authorized to use all automated databases containing information regarding recipients' or applicants' income in order to determine eligibility for general assistance medical care or MinnesotaCare. Such use shall be considered sufficient in order to determine eligibility and premium payments by the county agency.

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

~~(f)~~ (g) General assistance medical care is not available for applicants or recipients who do not cooperate with the county agency to meet the requirements of medical assistance. General assistance medical care is limited to payment of emergency services only for applicants or recipients as described in paragraph (a) ~~(b)~~, clause (4), whose MinnesotaCare coverage is denied or terminated for nonpayment of premiums as required by sections ~~256L.06 to 256L.08~~ and 256L.07.

~~(g)~~ (h) In determining the amount of assets of an individual, there shall be included any asset or interest in an asset, including an asset excluded under paragraph (a), that was given away, sold, or disposed of for less than fair market value within the 60 months preceding application for general assistance medical care or during the period of eligibility. Any transfer described in this paragraph shall be presumed to have been for the purpose of establishing eligibility for general assistance medical care, unless the individual furnishes convincing evidence to establish that the transaction was exclusively for another purpose. For purposes of this paragraph, the value of the asset or interest shall be the fair market value at the time it was given away, sold, or disposed of, less the amount of compensation received. For any uncompensated transfer, the number of months of ineligibility, including partial months, shall be calculated by dividing the uncompensated transfer amount by the average monthly per person payment made by the medical assistance program to skilled nursing facilities for the previous calendar year. The individual shall remain ineligible until this fixed period has expired. The period of ineligibility may exceed

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30 months, and a reapplication for benefits after 30 months from the date of the transfer shall not result in eligibility unless and until the period of ineligibility has expired. The period of ineligibility begins in the month the transfer was reported to the county agency, or if the transfer was not reported, the month in which the county agency discovered the transfer, whichever comes first. For applicants, the period of ineligibility begins on the date of the first approved application.

(h) (i) When determining eligibility for any state benefits under this subdivision, the income and resources of all noncitizens shall be deemed to include their sponsor's income and resources as defined in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, title IV, Public Law Number 104-193, sections 421 and 422, and subsequently set out in federal rules.

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

(j) (2) This paragraph does not apply to a child under age 18, to a Cuban or Haitian entrant as defined in Public Law Number 96-422, section 501(e)(1) or (2)(a), or to a non-citizen who is aged, blind, or disabled as defined in Code of Federal Regulations, title 42, sections 435.520, 435.530, 435.531, 435.540, and 435.541, or effective October 1, 1998, to an individual eligible for general assistance medical care under paragraph (a), clause (4), who cooperates with the Immigration and Naturalization Service to pursue any applicable immigration status, including citizenship, that would qualify the individual for medical assistance with federal financial participation.

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

(l) (k) Notwithstanding any other provision of law, a noncitizen who is ineligible for medical assistance due to the deeming of a sponsor's income and resources, is ineligible for general assistance medical care.

Sec. 7. Minnesota Statutes 1997 Supplement, section 256L.01, is amended to read:
256L.01 **DEFINITIONS.**

Subdivision 1. **SCOPE.** For purposes of sections 256L.01 to ~~256L.10~~ 256L.18, the following terms shall have the meanings given them.

Subd. 1a. **CHILD.** "Child" means an individual under 21 years of age, including the unborn child of a pregnant woman, an emancipated minor, and an emancipated minor's spouse.

Subd. 2. **COMMISSIONER.** "Commissioner" means the commissioner of human services.

Subd. 3. **ELIGIBLE PROVIDERS.** "Eligible providers" means those health care providers who provide covered health services to medical assistance recipients under rules established by the commissioner for that program.

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Subd. 3a. FAMILY WITH CHILDREN. (a) "Family with children" means:

(1) parents, their children, and dependent siblings residing in the same household; or

(2) grandparents, foster parents, relative caretakers as defined in the medical assistance program, or legal guardians; their wards who are children; and dependent siblings residing in the same household.

(b) The term includes children and dependent siblings who are temporarily absent from the household in settings such as schools, camps, or visitation with noncustodial parents.

(c) For purposes of this subdivision, a dependent sibling means an unmarried child who is a full-time student under the age of 25 years who is financially dependent upon a parent, grandparent, foster parent, relative caretaker, or legal guardian. Proof of school enrollment is required.

Subd. 4. GROSS INDIVIDUAL OR GROSS FAMILY INCOME. "Gross individual or gross family income" for farm and nonfarm self-employed means income calculated using as the baseline the adjusted gross income reported on the applicant's federal income tax form for the previous year and adding back in reported depreciation, carry-over loss, and net operating loss amounts that apply to the business in which the family is currently engaged. Applicants shall report the most recent financial situation of the family if it has changed from the period of time covered by the federal income tax form. The report may be in the form of percentage increase or decrease.

Subd. 5. INCOME. "Income" has the meaning given for earned and unearned income for families and children in the medical assistance program, according to the state's aid to families with dependent children plan in effect as of July 16, 1996. The definition does not include medical assistance income methodologies and deeming requirements. The earned income of full-time and part-time students under age 19 is not counted as income. Public assistance payments and supplemental security income are not excluded income.

Sec. 8. Minnesota Statutes 1997 Supplement, section 256L.02, subdivision 3, is amended to read:

Subd. 3. FINANCIAL MANAGEMENT. (a) The commissioner shall manage spending for the MinnesotaCare program in a manner that maintains a minimum reserve in accordance with section 16A.76. As part of each state revenue and expenditure forecast, the commissioner must make a quarterly an assessment of the expected expenditures for the covered services for the remainder of the current biennium and for the following biennium. The estimated expenditure, including the reserve requirements described in section 16A.76, shall be compared to an estimate of the revenues that will be deposited available in the health care access fund. Based on this comparison, and after consulting with the chairs of the house ways and means committee and the senate finance committee, and the legislative commission on health care access, the commissioner shall, as necessary, make the adjustments specified in paragraph (b) to ensure that expenditures remain within the limits of available revenues for the remainder of the current biennium and for the following biennium. The commissioner shall not hire additional staff using appropriations from the health care access fund until the commissioner of finance makes a determination that the adjustments implemented under paragraph (b) are sufficient to

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allow MinnesotaCare expenditures to remain within the limits of available revenues for the remainder of the current biennium and for the following biennium.

(b) The adjustments the commissioner shall use must be implemented in this order: first, stop enrollment of single adults and households without children; second, upon 45 days' notice, stop coverage of single adults and households without children already enrolled in the MinnesotaCare program; third, upon 90 days' notice, decrease the premium subsidy amounts by ten percent for families with gross annual income above 200 percent of the federal poverty guidelines; fourth, upon 90 days' notice, decrease the premium subsidy amounts by ten percent for families with gross annual income at or below 200 percent; and fifth, require applicants to be uninsured for at least six months prior to eligibility in the MinnesotaCare program. If these measures are insufficient to limit the expenditures to the estimated amount of revenue, the commissioner shall further limit enrollment or decrease premium subsidies.

Sec. 9. Minnesota Statutes 1997 Supplement, section 256L.02, is amended by adding a subdivision to read:

Subd. 4. FUNDING FOR PREGNANT WOMEN AND CHILDREN UNDER AGE TWO. For fiscal years beginning on or after July 1, 1999, the state cost of health care services provided to MinnesotaCare enrollees who are pregnant women or children under age two shall be paid out of the general fund rather than the health care access fund. If the commissioner of finance decides to pay for these costs using a source other than the general fund, the commissioner shall include the change as a budget initiative in the biennial or supplemental budget, and shall not change the funding source through a forecast modification.

Sec. 10. Minnesota Statutes 1997 Supplement, section 256L.03, subdivision 1, is amended to read:

Subdivision 1. COVERED HEALTH SERVICES. "Covered health services" means the health services reimbursed under chapter 256B, with the exception of inpatient hospital services, special education services, private duty nursing services, adult dental care services other than preventive services, orthodontic services, nonemergency medical transportation services, personal care assistant and case management services, nursing home or intermediate care facilities services, inpatient mental health services, and chemical dependency services. Effective July 1, 1998, adult dental care for nonpreventive services with the exception of orthodontic services is available to persons who qualify under section 256L.04, subdivisions 1 to 7, ~~or 256L.13~~, with family gross income equal to or less than 175 percent of the federal poverty guidelines. Outpatient mental health services covered under the MinnesotaCare program are limited to diagnostic assessments, psychological testing, explanation of findings, medication management by a physician, day treatment, partial hospitalization, and individual, family, and group psychotherapy.

No public funds shall be used for coverage of abortion under MinnesotaCare except where the life of the female would be endangered or substantial and irreversible impairment of a major bodily function would result if the fetus were carried to term; or where the pregnancy is the result of rape or incest.

Covered health services shall be expanded as provided in this section.

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Sec. 11. Minnesota Statutes 1997 Supplement, section 256L.03, is amended by adding a subdivision to read:

Subd. 1a. COVERED SERVICES FOR PREGNANT WOMEN AND CHILDREN UNDER MINNESOTA CARE HEALTH CARE REFORM WAIVER. Beginning January 1, 1999, children and pregnant women are eligible for coverage of all services that are eligible for reimbursement under the medical assistance program according to chapter 256B, except that abortion services under MinnesotaCare shall be limited as provided under section 256L.03, subdivision 1. Pregnant women and children are exempt from the provisions of subdivision 5, regarding copayments. Pregnant women and children who are lawfully residing in the United States but who are not "qualified noncitizens" under title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law Number 104-193, Statutes at Large, volume 110, page 2105, are eligible for coverage of all services provided under the medical assistance program according to chapter 256B.

Sec. 12. Minnesota Statutes 1997 Supplement, section 256L.03, is amended by adding a subdivision to read:

Subd. 1b. PREGNANT WOMEN; ELIGIBILITY FOR FULL MEDICAL ASSISTANCE SERVICES. Beginning January 1, 1999, a woman who is enrolled in MinnesotaCare when her pregnancy is diagnosed is eligible for coverage of all services provided under the medical assistance program according to chapter 256B retroactive to the date the pregnancy is medically diagnosed. Copayments totaling \$30 or more, paid after the date the pregnancy is diagnosed, shall be refunded.

Sec. 13. Minnesota Statutes 1997 Supplement, section 256L.03, subdivision 3, is amended to read:

Subd. 3. INPATIENT HOSPITAL SERVICES. (a) Beginning July 1, 1993, Covered health services shall include inpatient hospital services, including inpatient hospital mental health services and inpatient hospital and residential chemical dependency treatment, subject to those limitations necessary to coordinate the provision of these services with eligibility under the medical assistance spenddown. Prior to July 1, 1997, the inpatient hospital benefit for adult enrollees is subject to an annual benefit limit of \$10,000. Effective July 1, 1997, The inpatient hospital benefit for adult enrollees who qualify under section 256L.04, subdivision 7, or who qualify under section 256L.04, subdivisions 1 to 6 and 2, or 256L.13 with family gross income that exceeds 175 percent of the federal poverty guidelines and who are not pregnant, is subject to an annual limit of \$10,000.

(b) Enrollees who qualify under section 256L.04, subdivision 7, or who qualify under section 256L.04, subdivisions 1 to 6, or 256L.13 with family gross income that exceeds 175 percent of the federal poverty guidelines and who are not pregnant, and are determined by the commissioner to have a basis of eligibility for medical assistance shall apply for and cooperate with the requirements of medical assistance by the last day of the third month following admission to an inpatient hospital. If an enrollee fails to apply for medical assistance within this time period, the enrollee and the enrollee's family shall be disenrolled from the plan and they may not reenroll until 12 calendar months have elapsed. Enrollees and enrollees' families disenrolled for not applying for or not cooperating with medical assistance may not reenroll.

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(e) Admissions for inpatient hospital services paid for under section 256L.11, subdivision 3, must be certified as medically necessary in accordance with Minnesota Rules, parts 9505.0500 to 9505.0540, except as provided in clauses (1) and (2):

(1) all admissions must be certified, except those authorized under rules established under section 254A.03, subdivision 3, or approved under Medicare; and

(2) payment under section 256L.11, subdivision 3, shall be reduced by five percent for admissions for which certification is requested more than 30 days after the day of admission. The hospital may not seek payment from the enrollee for the amount of the payment reduction under this clause.

(d) ~~Any enrollee or family member of an enrollee who has previously been permanently disenrolled from MinnesotaCare for not applying for and cooperating with medical assistance shall be eligible to reenroll if 12 calendar months have elapsed since the date of disenrollment.~~

Sec. 14. Minnesota Statutes 1997 Supplement, section 256L.03, is amended by adding a subdivision to read:

Subd. 3a. **INTERPRETER SERVICES.** Covered services include sign and spoken language interpreter services that assist an enrollee in obtaining covered health care services.

Sec. 15. Minnesota Statutes 1997 Supplement, section 256L.03, subdivision 4, is amended to read:

Subd. 4. **COORDINATION WITH MEDICAL ASSISTANCE.** The commissioner shall coordinate the provision of hospital inpatient services under the MinnesotaCare program with enrollee eligibility under the medical assistance spenddown, and shall apply to the secretary of health and human services for any necessary federal waivers or approvals.

Sec. 16. Minnesota Statutes 1997 Supplement, section 256L.03, subdivision 5, is amended to read:

Subd. 5. **COPAYMENTS AND COINSURANCE.** The MinnesotaCare benefit plan shall include the following copayments and coinsurance requirements:

(1) ten percent of the paid charges for inpatient hospital services for adult enrollees not eligible for medical assistance, subject to an annual inpatient out-of-pocket maximum of \$1,000 per individual and \$3,000 per family;

(2) \$3 per prescription for adult enrollees;

(3) \$25 for eyeglasses for adult enrollees; and

(4) effective July 1, 1998, 50 percent of the fee-for-service rate for adult dental care services other than preventive care services for persons eligible under section 256L.04, subdivisions 1 to 7, ~~or 256L.13~~, with income equal to or less than 175 percent of the federal poverty guidelines.

Prior to July 1, 1997, enrollees who are not eligible for medical assistance with or without a spenddown shall be financially responsible for the coinsurance amount and amounts which exceed the \$10,000 benefit limit. Effective July 1, 1997, adult enrollees

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who qualify under section 256L.04, subdivision 7, or who qualify under section 256L.04, subdivisions 1 to 6, or 256L.13 with family gross income that exceeds 175 percent of the federal poverty guidelines and who are not pregnant, and who are not eligible for medical assistance with or without a spenddown, shall be financially responsible for the coinsurance amount and amounts which exceed the \$10,000 inpatient hospital benefit limit.

When a MinnesotaCare enrollee becomes a member of a prepaid health plan, or changes from one prepaid health plan to another during a calendar year, any charges submitted towards the \$10,000 annual inpatient benefit limit, and any out-of-pocket expenses incurred by the enrollee for inpatient services, that were submitted or incurred prior to enrollment, or prior to the change in health plans, shall be disregarded.

Sec. 17. Minnesota Statutes 1997 Supplement, section 256L.04, subdivision 1, is amended to read:

Subdivision 1. **CHILDREN; EXPANSION AND CONTINUATION OF ELIGIBILITY FAMILIES WITH CHILDREN.** (a) **CHILDREN.** Prior to October 1, 1992, "eligible persons" means children who are one year of age or older but less than 18 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 without a spenddown under chapter 256B and who are not otherwise insured for the covered services. 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 18 years old. Families with children with family income equal to or less than 275 percent of the federal poverty guidelines for the applicable family size shall be eligible for MinnesotaCare according to this section. All other provisions of sections 256L.01 to 256L.18, including the insurance-related barriers to enrollment under section 256L.07, shall apply unless otherwise specified.

(b) **EXPANSION OF ELIGIBILITY.** Eligibility for MinnesotaCare shall be expanded as provided in subdivisions 3 to 7, except children who meet the criteria in this subdivision shall continue to be enrolled pursuant to this subdivision. The enrollment requirements in this paragraph apply to enrollment under subdivisions 1 to 7. Parents who enroll in the MinnesotaCare program must also enroll their children and dependent siblings, if the children and their dependent siblings are eligible. Children and dependent siblings may be enrolled separately without enrollment by parents. However, if one parent in the household enrolls, both parents must enroll, unless other insurance is available. If one child from a family is enrolled, all children must be enrolled, unless other insurance is available. If one spouse in a household enrolls, the other spouse in the household must also enroll, unless other insurance is available. Families cannot choose to enroll only certain uninsured members. For purposes of this section, a "dependent sibling" means an unmarried child who is a full-time student under the age of 25 years who is financially dependent upon a parent. Proof of school enrollment will be required.

(c) **CONTINUATION OF ELIGIBILITY.** Individuals who initially enroll in the MinnesotaCare program under the eligibility criteria in subdivisions 3 to 7 remain eligible for the MinnesotaCare program, regardless of age, place of residence, or the presence or absence of children in the same household, as long as all other eligibility criteria are met and residence in Minnesota and continuous enrollment in the MinnesotaCare program or medical assistance are maintained. In order for either parent or either spouse in a

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household to remain enrolled, both must remain enrolled, unless other insurance is available.

Sec. 18. Minnesota Statutes 1997 Supplement, section 256L.04, subdivision 2, is amended to read:

Subd. 2. COOPERATION IN ESTABLISHING THIRD PARTY LIABILITY, PATERNITY, AND OTHER MEDICAL SUPPORT. (a) To be eligible for MinnesotaCare, individuals and families must cooperate with the state agency to identify potentially liable third party payers and assist the state in obtaining third party payments. "Cooperation" includes, but is not limited to, identifying any third party who may be liable for care and services provided under MinnesotaCare to the enrollee, providing relevant information to assist the state in pursuing a potentially liable third party, and completing forms necessary to recover third party payments.

(b) A parent, guardian, or child enrolled in the MinnesotaCare program must cooperate with the department of human services and the local agency in establishing the paternity of an enrolled child and in obtaining medical care support and payments for the child and any other person for whom the person can legally assign rights, in accordance with applicable laws and rules governing the medical assistance program. A child shall not be ineligible for or disenrolled from the MinnesotaCare program solely because the child's parent or guardian fails to cooperate in establishing paternity or obtaining medical support.

Sec. 19. Minnesota Statutes 1997 Supplement, section 256L.04, subdivision 7, is amended to read:

Subd. 7. ADDITION OF SINGLE ADULTS AND HOUSEHOLDS WITH NO CHILDREN. (a) Beginning October 1, 1994, the definition of "eligible persons" is expanded to include all individuals and households with no children who have gross family incomes that are equal to or less than 125 percent of the federal poverty guidelines and who are not eligible for medical assistance without a spenddown under chapter 256B.

(b) Beginning July 1, 1997, The definition of eligible persons is expanded to include includes all individuals and households with no children who have gross family incomes that are equal to or less than 175 percent of the federal poverty guidelines and who are not eligible for medical assistance without a spenddown under chapter 256B.

(c) All eligible persons under paragraphs (a) and (b) are eligible for coverage through the MinnesotaCare program but must pay a premium as determined under sections 256L.07 and 256L.08. Individuals and families whose income is greater than the limits established under section 256L.08 may not enroll in the MinnesotaCare program.

Sec. 20. Minnesota Statutes 1997 Supplement, section 256L.04, is amended by adding a subdivision to read:

Subd. 7a. INELIGIBILITY. Applicants whose income is greater than the limits established under this section may not enroll in the MinnesotaCare program.

Sec. 21. Minnesota Statutes 1997 Supplement, section 256L.04, subdivision 8, is amended to read:

Subd. 8. APPLICANTS POTENTIALLY ELIGIBLE FOR MEDICAL ASSISTANCE. (a) Individuals who apply for MinnesotaCare receive supplemental security in-

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come or retirement, survivors, or disability benefits due to a disability, or other disability-based pension, who qualify under section 256L.04, subdivision 7, but who are potentially eligible for medical assistance without a spenddown shall be allowed to enroll in MinnesotaCare for a period of 60 days, so long as the applicant meets all other conditions of eligibility. The commissioner shall identify and refer the applications of such individuals to their county social service agency. The county and the commissioner shall cooperate to ensure that the individuals obtain medical assistance coverage for any months for which they are eligible.

(b) The enrollee must cooperate with the county social service agency in determining medical assistance eligibility within the 60-day enrollment period. Enrollees who do not apply for and cooperate with medical assistance within the 60-day enrollment period, and their other family members, shall be disenrolled from the plan within one calendar month. Persons disenrolled for nonapplication for medical assistance may not reenroll until they have obtained a medical assistance eligibility determination for the family member or members who were referred to the county agency. Persons disenrolled for noncooperation with medical assistance may not reenroll until they have cooperated with the county agency and have obtained a medical assistance eligibility determination.

(c) Beginning January 1, 2000, counties that choose to become MinnesotaCare enrollment sites shall consider MinnesotaCare applications of individuals described in paragraph (a) to also be applications for medical assistance and shall first determine whether medical assistance eligibility exists. Adults with children with family income under 175 percent of the federal poverty guidelines for the applicable family size, pregnant women, and children who qualify under subdivision 1 who are potentially eligible for medical assistance without a spenddown may choose to enroll in either MinnesotaCare or medical assistance.

(d) The commissioner shall redetermine provider payments made under MinnesotaCare to the appropriate medical assistance payments for those enrollees who subsequently become eligible for medical assistance.

Sec. 22. Minnesota Statutes 1997 Supplement, section 256L.04, subdivision 9, is amended to read:

Subd. 9. **GENERAL ASSISTANCE MEDICAL CARE.** A person cannot have coverage under both MinnesotaCare and general assistance medical care in the same month. Eligibility for MinnesotaCare cannot be replaced by eligibility for general assistance medical care, and eligibility for general assistance medical care cannot be replaced by eligibility for MinnesotaCare.

Sec. 23. Minnesota Statutes 1997 Supplement, section 256L.04, subdivision 10, is amended to read:

Subd. 10. **SPONSOR'S INCOME AND RESOURCES DEEMED AVAILABLE; DOCUMENTATION.** When determining eligibility for any federal or state benefits under sections 256L.01 to ~~256L.16~~ 256L.18, the income and resources of all noncitizens whose sponsor signed an affidavit of support as defined under United States Code, title 8, section 1183a, shall be deemed to include their sponsors' income and resources as defined in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, title IV, Public Law Number 104-193, sections 421 and 422, and subse-

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quently set out in federal rules. To be eligible for the program, noncitizens must provide documentation of their immigration status.

Sec. 24. Minnesota Statutes 1997 Supplement, section 256L.04, is amended by adding a subdivision to read:

Subd. 12. **PERSONS IN DETENTION.** Beginning January 1, 1999, an applicant residing in a correctional or detention facility is not eligible for MinnesotaCare. An enrollee residing in a correctional or detention facility is not eligible at renewal of eligibility under section 256L.05, subdivision 3b.

Sec. 25. Minnesota Statutes 1997 Supplement, section 256L.04, is amended by adding a subdivision to read:

Subd. 13. **FAMILIES WITH GRANDPARENTS, RELATIVE CARETAKERS, FOSTER PARENTS, OR LEGAL GUARDIANS.** Beginning January 1, 1999, in families that include a grandparent, relative caretaker as defined in the medical assistance program, foster parent, or legal guardian, the grandparent, relative caretaker, foster parent, or legal guardian may apply as a family or may apply separately for the children. If the caretaker applies separately for the children, only the children's income is counted. If the grandparent, relative caretaker, foster parent, or legal guardian applies with the children, their income is included in the gross family income for determining eligibility and premium amount.

Sec. 26. Minnesota Statutes 1997 Supplement, section 256L.05, is amended by adding a subdivision to read:

Subd. 1a. **PERSON AUTHORIZED TO APPLY ON APPLICANT'S BEHALF.** Beginning January 1, 1999, a family member who is age 18 or over or who is an authorized representative, as defined in the medical assistance program, may apply on an applicant's behalf.

Sec. 27. Minnesota Statutes 1997 Supplement, section 256L.05, subdivision 2, is amended to read:

Subd. 2. **COMMISSIONER'S DUTIES.** The commissioner shall 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 individual and family income, earned and unearned, including such as the most recent income tax return, wage slips, or other documentation that is determined by the commissioner as necessary to verify income eligibility. The commissioner shall perform random audits to verify reported income and eligibility. The commissioner may execute data sharing arrangements with the department of revenue and any other governmental agency in order to perform income verification related to eligibility and premium payment under the MinnesotaCare program.

Sec. 28. Minnesota Statutes 1997 Supplement, section 256L.05, subdivision 3, is amended to read:

Subd. 3. **EFFECTIVE DATE OF COVERAGE.** The effective date of coverage is the first day of the month following the month in which eligibility is approved and the first premium payment has been received. As provided in section 256B.057, coverage for newborns is automatic from the date of birth and must be coordinated with other health

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coverage. The effective date of coverage for eligible newborns or eligible newly adoptive children added to a family receiving covered health services is the date of entry into the family. The effective date of coverage for other new recipients added to the family receiving covered health services is the first day of the month following the month in which eligibility is approved and the first premium payment has been received or at renewal, whichever the family receiving covered health services prefers. All eligibility criteria must be met by the family at the time the new family member is added. The income of the new family member is included with the family's gross income and the adjusted premium begins in the month the new family member is added. The premium must be received eight working days prior to the end of the month for coverage to begin the following month. Benefits are not available until the day following discharge if an enrollee is hospitalized on the first day of coverage. Notwithstanding any other law to the contrary, benefits under sections 256L.01 to 256L.10 256L.18 are secondary to a plan of insurance or benefit program under which an eligible person may have coverage and the commissioner shall use cost avoidance techniques to ensure coordination of any other health coverage for eligible persons. The commissioner shall identify eligible persons who may have coverage or benefits under other plans of insurance or who become eligible for medical assistance.

Sec. 29. Minnesota Statutes 1997 Supplement, section 256L.05, is amended by adding a subdivision to read:

Subd. 3a. **RENEWAL OF ELIGIBILITY.** Beginning January 1, 1999, an enrollee's eligibility must be renewed every 12 months. The 12-month period begins in the month after the month the application is approved.

Sec. 30. Minnesota Statutes 1997 Supplement, section 256L.05, is amended by adding a subdivision to read:

Subd. 3b. **REAPPLICATION.** Beginning January 1, 1999, families and individuals must reapply after a lapse in coverage of one calendar month or more and must meet all eligibility criteria.

Sec. 31. Minnesota Statutes 1997 Supplement, section 256L.05, subdivision 4, is amended to read:

Subd. 4. **APPLICATION PROCESSING.** The commissioner of human services shall determine an applicant's eligibility for MinnesotaCare no more than 30 days from the date that the application is received by the department of human services. Beginning January 1, 2000, this requirement also applies to local county human services agencies that determine eligibility for MinnesotaCare. To prevent processing delays, applicants who, from the information provided on the application, appear to meet eligibility requirements shall be enrolled. The enrollee must provide all required verifications within 30 days of enrollment or coverage from the program shall be terminated. Enrollees who are determined to be ineligible when verifications are provided shall be disenrolled from the program.

Sec. 32. Minnesota Statutes 1997 Supplement, section 256L.06, subdivision 3, is amended to read:

Subd. 3. **ADMINISTRATION AND COMMISSIONER'S DUTIES.** (a) Premiums are dedicated to the commissioner for MinnesotaCare. The commissioner shall

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make an annual redetermination of continued eligibility and identify people who may become eligible for medical assistance.

(b) The commissioner shall develop and implement procedures to: (1) require enrollees to report changes in income; (2) adjust sliding scale premium payments, based upon changes in enrollee income; and (3) disenroll enrollees from MinnesotaCare for failure to pay required premiums. Beginning July 1, 1998, failure to pay includes payment with a dishonored check and the commissioner may demand a guaranteed form of payment as the only means to replace a dishonored check.

(c) Premiums are calculated on a calendar month basis and may be paid on a monthly, quarterly, or annual basis, with the first payment due upon notice from the commissioner of the premium amount required. The commissioner shall inform applicants and enrollees of these premium payment options. Premium payment is required before enrollment is complete and to maintain eligibility in MinnesotaCare.

(d) Nonpayment of the premium will result in disenrollment from the plan within one calendar month after the due date. Persons disenrolled for nonpayment or who voluntarily terminate coverage from the program may not reenroll until four calendar months have elapsed. Persons disenrolled for nonpayment or who voluntarily terminate coverage from the program may not reenroll for four calendar months unless the person demonstrates good cause for nonpayment. Good cause does not exist if a person chooses to pay other family expenses instead of the premium. The commissioner shall define good cause in rule.

Sec. 33. Minnesota Statutes 1997 Supplement, section 256L.07, is amended to read:

256L.07 ELIGIBILITY FOR SUBSIDIZED PREMIUMS BASED ON SLIDING SCALE.

Subdivision 1. **GENERAL REQUIREMENTS.** Families and individuals who enroll on or after October 1, 1992, are eligible for subsidized premium payments based on a sliding scale under section 256L.08 only if the family or individual meets the requirements in subdivisions 2 and 3. Children already enrolled in the children's health plan as of September 30, 1992, eligible under section 256L.04, subdivision 1, paragraph (a), children who enroll in the MinnesotaCare program after September 30, 1992, pursuant to Laws 1992, chapter 549, article 4, section 17, and children who enroll under section 256L.04, subdivision 6, are eligible for subsidized premium payments without meeting these requirements, as long as they maintain continuous coverage in the MinnesotaCare plan or medical assistance. (a) Children enrolled in the original children's health plan as of September 30, 1992, children who enrolled in the MinnesotaCare program after September 30, 1992, pursuant to Laws 1992, chapter 549, article 4, section 17, and children who have family gross incomes that are equal to or less than 150 percent of the federal poverty guidelines are eligible for subsidized premium payments without meeting the requirements of subdivision 2, as long as they maintain continuous coverage in the MinnesotaCare program or medical assistance. Children who apply for MinnesotaCare on or after the implementation date of the employer-subsidized health coverage program as described in section 45, who have family gross incomes that are equal to or less than 150 percent of the federal poverty guidelines, must meet the requirements of subdivision 2 to be eligible for MinnesotaCare.

(b) Families and individuals who initially enrolled in MinnesotaCare under section 256L.04, and whose income increases above the limits established in section 256L.08,

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may continue enrollment and pay the full cost of coverage. Families enrolled in MinnesotaCare under section 256L.04, subdivision 1, whose income increases above 275 percent of the federal poverty guidelines, are no longer eligible for the program and shall be disenrolled by the commissioner. Individuals enrolled in MinnesotaCare under section 256L.04, subdivision 7, whose income increases above 175 percent of the federal poverty guidelines are no longer eligible for the program and shall be disenrolled by the commissioner. For persons disenrolled under this subdivision, MinnesotaCare coverage terminates the last day of the calendar month following the month in which the commissioner determines that the income of a family or individual, determined over a four-month period as required by section 256L.15, subdivision 2, exceeds program income limits.

(c) Notwithstanding paragraph (b), individuals and families may remain enrolled in MinnesotaCare if ten percent of their annual income is less than the annual premium for a policy with a \$500 deductible available through the Minnesota comprehensive health association. Individuals and families who are no longer eligible for MinnesotaCare under this subdivision shall be given an 18-month notice period from the date that ineligibility is determined before disenrollment.

Subd. 2. MUST NOT HAVE ACCESS TO EMPLOYER-SUBSIDIZED COVERAGE. (a) To be eligible for subsidized premium payments based on a sliding scale, a family or individual must not have access to subsidized health coverage through an employer, and must not have had access to subsidized health coverage through an employer for the 18 months prior to application for subsidized coverage under the MinnesotaCare program. The requirement that the family or individual must not have had access to employer-subsidized coverage during the previous 18 months does not apply if: (1) employer-subsidized coverage was lost due to the death of an employee or divorcee; (2) employer-subsidized coverage was lost because an individual became ineligible for coverage as a child or dependent; or (3) employer-subsidized coverage was lost for reasons that would not disqualify the individual for unemployment benefits under section 268.09 and the family or individual has not had access to employer-subsidized coverage since the loss of coverage. If employer-subsidized coverage was lost for reasons that disqualify an individual for unemployment benefits under section 268.09, children of that individual are exempt from the requirement of no access to employer-subsidized coverage for the 18 months prior to application, as long as the children have not had access to employer-subsidized coverage since the disqualifying event. The requirement that the. A family or individual must not have had access to employer-subsidized coverage during the previous 18 months does apply if whose employer-subsidized coverage is lost due to an employer terminating health care coverage as an employee benefit during the previous 18 months is not eligible.

(b) For purposes of this requirement, subsidized health coverage means health coverage for which the employer pays at least 50 percent of the cost of coverage for the employee, excluding dependent coverage or dependent, or a higher percentage as specified by the commissioner. Children are eligible for employer-subsidized coverage through either parent, including the noncustodial parent. The commissioner must treat employer contributions to Internal Revenue Code Section 125 plans and any other employer benefits intended to pay health care costs as qualified employer subsidies toward the cost of health coverage for employees for purposes of this subdivision.

Subd. 3. PERIOD UNINSURED OTHER HEALTH COVERAGE. To be eligible for subsidized premium payments based on a sliding scale, (a) Families and individu-

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als initially enrolled in the MinnesotaCare program under section 256L.04, subdivisions 5 and 7, must have had no health coverage while enrolled or for at least four months prior to application and renewal. Children enrolled in the original children's health plan and children in families with income equal to or less than 150 percent of the federal poverty guidelines, who have other health insurance, are eligible if the other health coverage meets the requirements of Minnesota Rules, part 9506.0020, subpart 3, item B. The commissioner may change this eligibility criterion for sliding scale premiums in order to remain within the limits of available appropriations. The requirement of at least four months of no health coverage prior to application for the MinnesotaCare program does not apply to: newborns.

(1) families, children, and individuals who apply for the MinnesotaCare program upon termination from or as required by the medical assistance program, general assistance medical care program, or coverage under a regional demonstration project for the uninsured funded under section 256B.73, the Hennepin county assured care program, or the Group Health, Inc., community health plan;

(2) families and individuals initially enrolled under section 256L.04, subdivisions 1, paragraph (a), and 3;

(3) children enrolled pursuant to Laws 1992, chapter 549, article 4, section 17; or

(4) individuals currently serving or who have served in the military reserves, and dependents of these individuals, if these individuals: (i) reapply for MinnesotaCare coverage after a period of active military service during which they had been covered by the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); (ii) were covered under MinnesotaCare immediately prior to obtaining coverage under CHAMPUS; and (iii) have maintained continuous coverage.

(b) For purposes of this section, medical assistance, general assistance medical care, and civilian health and medical program of the uniformed service, CHAMPUS, are not considered insurance or health coverage.

(c) For purposes of this section, Medicare part A or B coverage under title XVIII of the Social Security Act, United States Code, title 42, sections 1395c to 1395w-4, is considered health coverage. An applicant or enrollee may not refuse Medicare coverage to establish eligibility for MinnesotaCare.

Sec. 34. Minnesota Statutes 1997 Supplement, section 256L.09, subdivision 2, is amended to read:

Subd. 2. **RESIDENCY REQUIREMENT.** (a) Prior to July 1, 1997, to be eligible for health coverage under the MinnesotaCare program, families and individuals must be permanent residents of Minnesota.

(b) Effective July 1, 1997, To be eligible for health coverage under the MinnesotaCare program, adults without children must be permanent residents of Minnesota.

(c) Effective July 1, 1997, (b) To be eligible for health coverage under the MinnesotaCare program, pregnant women, families, and children must meet the residency requirements as provided by Code of Federal Regulations, title 42, section 435.403, except that the provisions of section 256B.056, subdivision 1, shall apply upon receipt of federal approval.

New language is indicated by underline, deletions by strikeout.

Sec. 35. Minnesota Statutes 1997 Supplement, section 256L.09, subdivision 4, is amended to read:

Subd. 4. **ELIGIBILITY AS MINNESOTA RESIDENT.** (a) For purposes of this section, a permanent Minnesota resident is a person who has demonstrated, through persuasive and objective evidence, that the person is domiciled in the state and intends to live in the state permanently.

(b) To be eligible as a permanent resident, all applicants an applicant must demonstrate the requisite intent to live in the state permanently by:

(1) showing that the applicant maintains a residence at a verified address other than a place of public accommodation, through the use of evidence of residence described in section 256D.02, subdivision 12a, clause (1);

(2) demonstrating that the applicant has been continuously domiciled in the state for no less than 180 days immediately before the application; and

(3) signing an affidavit declaring that (A) the applicant currently resides in the state and intends to reside in the state permanently; and (B) the applicant did not come to the state for the primary purpose of obtaining medical coverage or treatment.

(c) A person who is temporarily absent from the state does not lose eligibility for MinnesotaCare. "Temporarily absent from the state" means the person is out of the state for a temporary purpose and intends to return when the purpose of the absence has been accomplished. A person is not temporarily absent from the state if another state has determined that the person is a resident for any purpose. If temporarily absent from the state, the person must follow the requirements of the health plan in which he or she is enrolled to receive services.

Sec. 36. Minnesota Statutes 1997 Supplement, section 256L.09, subdivision 6, is amended to read:

Subd. 6. **12-MONTH PREEXISTING EXCLUSION.** If the 180-day requirement in subdivision 4, paragraph (b), clause (2), is determined by a court to be unconstitutional, the commissioner of human services shall impose a 12-month preexisting condition exclusion on coverage for persons who have been domiciled in the state for less than 180 days.

Sec. 37. Minnesota Statutes 1997 Supplement, section 256L.11, subdivision 6, is amended to read:

Subd. 6. **ENROLLEES 18 OR OLDER.** Payment by the MinnesotaCare program for inpatient hospital services provided to MinnesotaCare enrollees eligible under section 256L.04, subdivision 7, or who qualify under section 256L.04, subdivisions 1 to 6 and 2, or 256L.13 with family gross income that exceeds 175 percent of the federal poverty guidelines and who are not pregnant, who are 18 years old or older on the date of admission to the inpatient hospital must be in accordance with paragraphs (a) and (b). Payment for adults who are not pregnant and are eligible under section 256L.04, subdivisions 1 to 6 and 2, or 256L.13, and whose incomes are equal to or less than 175 percent of the federal poverty guidelines, shall be as provided for under paragraph (c).

(a) If the medical assistance rate minus any copayment required under section 256L.03, subdivision 4, is less than or equal to the amount remaining in the enrollee's

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benefit limit under section 256L.03, subdivision 3, payment must be the medical assistance rate minus any copayment required under section 256L.03, subdivision 4. The hospital must not seek payment from the enrollee in addition to the copayment. The MinnesotaCare payment plus the copayment must be treated as payment in full.

(b) If the medical assistance rate minus any copayment required under section 256L.03, subdivision 4, is greater than the amount remaining in the enrollee's benefit limit under section 256L.03, subdivision 3, payment must be the lesser of:

(1) the amount remaining in the enrollee's benefit limit; or

(2) charges submitted for the inpatient hospital services less any copayment established under section 256L.03, subdivision 4.

The hospital may seek payment from the enrollee for the amount by which usual and customary charges exceed the payment under this paragraph. If payment is reduced under section 256L.03, subdivision 3, paragraph (e) ~~(b)~~, the hospital may not seek payment from the enrollee for the amount of the reduction.

(c) For admissions occurring during the period of July 1, 1997, through June 30, 1998, for adults who are not pregnant and are eligible under section 256L.04, subdivisions 1 to 6 and 2, or 256L.13, and whose incomes are equal to or less than 175 percent of the federal poverty guidelines, the commissioner shall pay hospitals directly, up to the medical assistance payment rate, for inpatient hospital benefits in excess of the \$10,000 annual inpatient benefit limit.

Sec. 38. Minnesota Statutes 1997 Supplement, section 256L.12, subdivision 5, is amended to read:

Subd. 5. **ELIGIBILITY FOR OTHER STATE PROGRAMS.** MinnesotaCare enrollees who become eligible for medical assistance or general assistance medical care will remain in the same managed care plan if the managed care plan has a contract for that population. Effective January 1, 1998, MinnesotaCare enrollees who were formerly eligible for general assistance medical care pursuant to section 256D.03, subdivision 3, within six months of MinnesotaCare enrollment and were enrolled in a prepaid health plan pursuant to section 256D.03, subdivision 4, paragraph (d), must remain in the same managed care plan if the managed care plan has a contract for that population. ~~Contracts between the department of human services and managed care plans must include MinnesotaCare, and medical assistance and may, at the option of the commissioner of human services, also include general assistance medical care. Managed care plans must participate in the MinnesotaCare and general assistance medical care programs under a contract with the department of human services in service areas where they participate in the medical assistance program.~~

Sec. 39. Minnesota Statutes 1997 Supplement, section 256L.15, is amended to read:

256L.15 PREMIUMS.

Subdivision 1. **PREMIUM DETERMINATION.** Families and with children enrolled according to sections 256L.13 to 256L.16 and individuals shall pay a premium determined according to a sliding fee based on the cost of coverage as a percentage of the family's gross family income. Pregnant women and children under age two are exempt from the provisions of section 256L.06, subdivision 3, paragraph (b), clause (3), requir-

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ing disenrollment for failure to pay premiums. For pregnant women, this exemption continues until the first day of the month following the 60th day postpartum. Women who remain enrolled during pregnancy or the postpartum period, despite nonpayment of premiums, shall be disenrolled on the first of the month following the 60th day postpartum for the penalty period that otherwise applies under section 256L.06, unless they begin paying premiums.

Subd. 1a. PAYMENT OPTIONS. The commissioner may offer the following payment options to an enrollee:

- (1) payment by check;
- (2) payment by credit card;
- (3) payment by recurring automatic checking withdrawal;
- (4) payment by one-time electronic transfer of funds;
- (5) payment by wage withholding with the consent of the employer and the employee; or
- (6) payment by using state tax refund payments.

At application or reapplication, a MinnesotaCare applicant or enrollee may authorize the commissioner to use the Revenue Recapture Act in chapter 270A to collect funds from the applicant's or enrollee's state income tax refund for the purposes of meeting all or part of the applicant's or enrollee's MinnesotaCare premium obligation for the forthcoming year. The applicant or enrollee may authorize the commissioner to apply for the state working family tax credit on behalf of the applicant or enrollee. The setoff due under this subdivision shall not be subject to the \$10 fee under section 270A.07, subdivision 1.

Subd. 1b. PAYMENTS NONREFUNDABLE. MinnesotaCare premiums are not refundable.

Subd. 2. SLIDING SCALE TO DETERMINE PERCENTAGE OF GROSS INDIVIDUAL OR FAMILY INCOME. The commissioner shall establish a sliding fee scale to determine the percentage of gross individual or family income that households at different income levels must pay to obtain coverage through the MinnesotaCare program. The sliding fee scale must be based on the enrollee's gross individual or family income during the previous four months. The sliding fee scale begins with a premium of 1.5 percent of gross individual or family income for individuals or families with incomes below the limits for the medical assistance program for families and children and proceeds through the following evenly spaced steps: 1.8, 2.3, 3.1, 3.8, 4.8, 5.9, 7.4, and 8.8 percent. These percentages are matched to evenly spaced income steps ranging from the medical assistance income limit for families and children to 275 percent of the federal poverty guidelines for the applicable family size. The sliding fee scale and percentages are not subject to the provisions of chapter 14. If a family or individual reports increased income after enrollment, premiums shall not be adjusted until eligibility renewal.

Subd. 3. EXCEPTIONS TO SLIDING SCALE. An annual premium of \$48 is required for all children who are eligible according to section 256L.13, subdivision 4 in families with income at or less than 150 percent of federal poverty guidelines.

New language is indicated by underline, deletions by strikeout.

Sec. 40. Minnesota Statutes 1997 Supplement, section 256L.17, is amended by adding a subdivision to read:

Subd. 6. WAIVER OF MAINTENANCE OF EFFORT REQUIREMENT. Unless a federal waiver of the maintenance of effort requirements of section 2105(d) of title XXI of the Balanced Budget Act of 1997, Public Law Number 105-33, Statutes at Large, volume 111, page 251, is granted by the federal Department of Health and Human Services by September 30, 1998, this section does not apply to children. The commissioner shall publish a notice in the State Register upon receipt of a federal waiver.

Sec. 41. Minnesota Statutes 1997 Supplement, section 270A.03, subdivision 5, is amended to read:

Subd. 5. DEBT. "Debt" means a legal obligation of a natural person to pay a fixed and certain amount of money, which equals or exceeds \$25 and which is due and payable to a claimant agency. The term includes criminal fines imposed under section 609.10 or 609.125 and restitution. A debt may arise under a contractual or statutory obligation, a court order, or other legal obligation, but need not have been reduced to judgment.

A debt includes any legal obligation of a current recipient of assistance which is based on overpayment of an assistance grant where that payment is based on a client waiver or an administrative or judicial finding of an intentional program violation; or where the debt is owed to a program wherein the debtor is not a client at the time notification is provided to initiate recovery under this chapter and the debtor is not a current recipient of food stamps, transitional child care, or transitional medical assistance.

A debt does not include any legal obligation to pay a claimant agency for medical care, including hospitalization if the income of the debtor at the time when the medical care was rendered does not exceed the following amount:

- (1) for an unmarried debtor, an income of \$6,400 or less;
- (2) for a debtor with one dependent, an income of \$8,200 or less;
- (3) for a debtor with two dependents, an income of \$9,700 or less;
- (4) for a debtor with three dependents, an income of \$11,000 or less;
- (5) for a debtor with four dependents, an income of \$11,600 or less; and
- (6) for a debtor with five or more dependents, an income of \$12,100 or less.

The income amounts in this subdivision shall be adjusted for inflation for debts incurred in calendar years 1991 and thereafter. The dollar amount of each income level that applied to debts incurred in the prior year shall be increased in the same manner as provided in section 290.06, subdivision 2d, for the expansion of the tax rate brackets.

Debt also includes an agreement to pay a MinnesotaCare premium, regardless of the dollar amount of the premium authorized under section 256L.15, subdivision 1a.

Sec. 42. Laws 1997, chapter 225, article 2, section 64, is amended to read:

Sec. 64. EFFECTIVE DATE.

Section 8 is effective for payments made for MinnesotaCare services on or after July 1, 1996. Section 23 is effective the day following final enactment. Section 46 is effective

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January 1, 1998, and applies to high deductible health plans issued or renewed on or after that date.

Sec. 43. FEDERAL EARNED INCOME TAX CREDIT.

The commissioner of human services shall seek a federal waiver from the appropriate federal agency to allow the state to use the federal earned income tax credit for payment of state subsidized health care premiums.

Sec. 44. INPATIENT HOSPITAL COPAYMENT.

If federal approval of a waiver to obtain federal Medicaid funding for coverage provided to parents enrolled in the MinnesotaCare program is contingent upon not applying the inpatient hospital services copayment under Minnesota Statutes, section 256L.03, subdivision 5, clause (1), then the inpatient hospital services copayment shall not be applied to enrollees for whom the state receives federal Medicaid funding.

Sec. 45. EMPLOYER-SUBSIDIZED HEALTH COVERAGE PROGRAM.

Subdivision 1. PLAN SUBMITTAL. The commissioner of human services shall submit to the health care financing administration a plan to obtain federal funding, according to section 2105(c)(3) of the Balanced Budget Act of 1997, Public Law Number 105-33, to subsidize health insurance coverage for families who are ineligible for the MinnesotaCare program, due to the availability of employer-subsidized insurance as defined in Minnesota Statutes, section 256L.07, subdivision 2. The program shall pay the difference between:

(1) what the family would have paid under the sliding premium scale specified in Minnesota Statutes, section 256L.15, subdivision 2, up to a maximum of five percent of the family's income, had the family been covered under MinnesotaCare; and

(2) the required employee contribution for employer-subsidized health coverage.

Subd. 2. CONSULTATION AND PLAN SUBMITTAL. In developing the plan, the commissioner shall consult with the legislative commission on health care access. The commissioner shall submit the plan and draft legislation to the legislature by December 15, 1998, and shall not implement the plan without legislative approval.

Subd. 3. PHASE-OUT OF MINNESOTACARE ELIGIBILITY. As part of the plan submitted to the legislature under subdivision 2, the commissioner shall include a process to phase out MinnesotaCare eligibility for children who have access to employer-subsidized health coverage as defined under Minnesota Statutes, section 256L.07, subdivision 2, and who:

(1) enrolled in the original children's health plan as of September 30, 1992;

(2) enrolled in the MinnesotaCare program after September 30, 1992, according to Laws 1992, chapter 549, article 4, section 17; or

(3) have family gross incomes that are equal to or less than 150 percent of the federal poverty guidelines.

Sec. 46. STATE CHILDREN'S HEALTH INSURANCE PROGRAM.

Subdivision 1. AUTHORITY. The commissioner is authorized to claim enhanced federal matching funds under sections 2105(a)(2) and 2110 of the Balanced Budget Act

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of 1997, Public Law Number 105-33, for any and all state or local expenditures eligible as child health assistance for targeted low-income children and health service initiatives for low-income children. If required by federal law or regulations, the commissioner is authorized to establish accounts, make appropriate payments, and receive reimbursement from state and local entities providing child health assistance or health services for low-income children, in order to obtain enhanced federal matching funds. Enhanced federal matching funds received as a result of providing health care coverage authorized under this section shall be deposited in the health care access fund. Enhanced federal matching funds received as a result of outreach activities described in subdivision 2, clause (2), shall be dedicated to the commissioner of human services to be used for those outreach purposes.

Subd. 2. ENHANCED MATCHING FUNDS FOR CHILDREN'S HEALTH CARE INITIATIVES. The commissioner shall submit to the health care financing administration all plans and waiver requests necessary to obtain enhanced matching funds under the state children's health insurance program established as Title 21 of the Balanced Budget Act of 1997, Public Law Number 105-33, for:

- (1) expenditures made under Minnesota Statutes, section 256B.057, subdivision 8;
- (2) MinnesotaCare outreach activities authorized by Laws 1997, chapter 225, article 7, section 2, subdivision 1; and
- (3) expenditures made under the MinnesotaCare program, the medical assistance program, or any initiative authorized by the legislature including an initiative to subsidize health insurance coverage for families who are ineligible for MinnesotaCare due to the availability of employer-subsidized insurance.

The commissioner shall submit to the legislature, by January 15, 1999, all statutory changes necessary to receive enhanced federal matching funds.

Sec. 47. REVISOR'S INSTRUCTION.

In each section of Minnesota Statutes referred to in column A, the revisor of statutes shall delete the reference in column B and insert the reference in column C.

Column A	Column B	Column C
<u>256B.057, subd. 1a</u>	<u>256L.08</u>	<u>256L.15</u>
<u>256B.0645</u>	<u>256L.14</u>	<u>256L.03, subd. 1a</u>
<u>256L.16</u>	<u>256L.14</u>	<u>256L.03, subd. 1a</u>

Sec. 48. REPEALER.

Minnesota Statutes 1997 Supplement, sections 256B.057, subdivision 1a; 256L.04, subdivisions 3, 4, 5, and 6; 256L.06, subdivisions 1 and 2; 256L.08; 256L.09, subdivision 3; 256L.13; and 256L.14, are repealed.

Sec. 49. EFFECTIVE DATES.

(a) Sections 2, 7, 8, 10, 13, 15, 16, 17 to 23, 27, 28, 31 to 39, 41, 47, and 48 are effective January 1, 1999.

(b) Sections 4, 5, and 40 are effective September 30, 1998.

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(c) Section 6 is effective July 1, 1998, except paragraph (a), clause (4), which is effective October 1, 1998.

(d) Sections 14 and 42 to 46 are effective the day following final enactment.

ARTICLE 6

WELFARE REFORM; WORK FIRST; ASSISTANCE PROGRAM AND CHILD SUPPORT CHANGES; AND LICENSING

Section 1. Minnesota Statutes 1997 Supplement, section 119B.01, subdivision 16, is amended to read:

Subd. 16. **TRANSITION YEAR FAMILIES.** "Transition year families" means families who have received AFDC, or who were eligible to receive AFDC after choosing to discontinue receipt of the cash portion of MFIP-S assistance under section 256J.31, subdivision 12, for at least three of the last six months before losing eligibility for AFDC due to increased hours of employment, or increased income from employment or child or spousal support, ~~or the loss of income disregards due to time limitations.~~

Sec. 2. Minnesota Statutes 1997 Supplement, section 119B.02, is amended to read:

119B.02 DUTIES OF COMMISSIONER.

Subdivision 1. **CHILD CARE SERVICES.** The commissioner shall develop standards for county and human services boards to provide child care services to enable eligible families to participate in employment, training, or education programs. Within the limits of available appropriations, the commissioner shall distribute money to counties to reduce the costs of child care for eligible families. The commissioner shall adopt rules to govern the program in accordance with this section. The rules must establish a sliding schedule of fees for parents receiving child care services. The rules shall provide that funds received as a lump sum payment of child support arrearages shall not be counted as income to a family in the month received but shall be prorated over the 12 months following receipt and added to the family income during those months. In the rules adopted under this section, county and human services boards shall be authorized to establish policies for payment of child care spaces for absent children, when the payment is required by the child's regular provider. The rules shall not set a maximum number of days for which absence payments can be made, but instead shall direct the county agency to set limits and pay for absences according to the prevailing market practice in the county. County policies for payment of absences shall be subject to the approval of the commissioner. The commissioner shall maximize the use of federal money in section 256.736 and other programs that provide federal or state reimbursement for child care services for low-income families who are in education, training, job search, or other activities allowed under those programs. Money appropriated under this section must be coordinated with the programs that provide federal reimbursement for child care services to accomplish this purpose. Federal reimbursement obtained must be allocated to the county that spent money for child care that is federally reimbursable under programs that provide federal reimbursement for child care services. The counties shall use the federal money to expand child care services. The commissioner may adopt rules under chapter 14 to implement and coordinate federal program requirements.

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Subd. 2. CONTRACTUAL AGREEMENTS WITH TRIBES. The commissioner may enter into contractual agreements with a federally recognized Indian tribe with a reservation in Minnesota to carry out the responsibilities of county human service agencies to the extent necessary for the tribe to operate child care assistance programs under sections 119B.03 and 119B.05. An agreement may allow for the tribe to be reimbursed for child care assistance services provided under section 119B.05. The commissioner shall consult with the affected county or counties in the contractual agreement negotiations, if the county or counties wish to be included, in order to avoid the duplication of county and tribal child care services. Funding to support services under section 119B.03 may be transferred to the federally recognized Indian tribe with a reservation in Minnesota from allocations available to counties in which reservation boundaries lie. When funding is transferred under section 119B.03, the amount shall be commensurate to estimates of the proportion of reservation residents with characteristics identified in section 119B.03, subdivision 6, to the total population of county residents with those same characteristics.

Sec. 3. Minnesota Statutes 1996, section 245A.03, is amended by adding a subdivision to read:

Subd. 2b. EXCEPTION. The provision in subdivision 2, clause (2), does not apply to:

(1) a child care provider who as an applicant for licensure or as a license holder has received a license denial under section 245A.05, a fine under section 245A.06, or a sanction under section 245A.07 from the commissioner that has not been reversed on appeal; or

(2) a child care provider, or a child care provider who has a household member who, as a result of a licensing process, has a disqualification under this chapter that has not been set aside by the commissioner.

Sec. 4. Minnesota Statutes 1996, section 245A.03, is amended by adding a subdivision to read:

Subd. 4. EXCLUDED CHILD CARE PROGRAMS; RIGHT TO SEEK LICENSURE. Nothing in this section shall prohibit a child care program that is excluded from licensure under subdivision 2, clause (2), or under Laws 1997, chapter 248, section 46, as amended by Laws 1997, First Special Session chapter 5, section 10, from seeking a license under this chapter. The commissioner shall ensure that any application received from such an excluded provider is processed in the same manner as all other applications for licensed family day care.

Sec. 5. Minnesota Statutes 1996, section 245A.14, subdivision 4, is amended to read:

Subd. 4. SPECIAL FAMILY DAY CARE HOMES. Nonresidential child care programs serving 14 or fewer children that are conducted at a location other than the license holder's own residence shall be licensed under this section and the rules governing family day care or group family day care if:

- (a) the license holder is the primary provider of care;
- (b) and the nonresidential child care program is conducted in a dwelling that is located on a residential lot; and or

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(e) the license holder complies with all other requirements of sections 245A.01 to 245A.15 and the rules governing family day care or group family day care.

(b) the license holder is an employer who may or may not be the primary provider of care, and the purpose for the child care program is to provide child care services to children of the license holder's employees.

Sec. 6. Minnesota Statutes 1997 Supplement, section 245B.06, subdivision 2, is amended to read:

Subd. 2. **RISK MANAGEMENT PLAN.** The license holder must develop and document in writing a risk management plan that incorporates the individual abuse prevention plan as required in ~~chapter 245C~~ section 245A.65. License holders jointly providing services to a consumer shall coordinate and use the resulting assessment of risk areas for the development of this plan. Upon initiation of services, the license holder will have in place an initial risk management plan that identifies areas in which the consumer is vulnerable, including health, safety, and environmental issues and the supports the provider will have in place to protect the consumer and to minimize these risks. The plan must be changed based on the needs of the individual consumer and reviewed at least annually.

Sec. 7. Minnesota Statutes 1997 Supplement, section 256.01, subdivision 2, is amended to read:

Subd. 2. **SPECIFIC POWERS.** Subject to the provisions of section 241.021, subdivision 2, the commissioner of human services shall:

(1) Administer and supervise all forms of public assistance provided for by state law and other welfare activities or services as are vested in the commissioner. Administration and supervision of human services activities or services includes, but is not limited to, assuring timely and accurate distribution of benefits, completeness of service, and quality program management. In addition to administering and supervising human services activities vested by law in the department, the commissioner shall have the authority to:

(a) require county agency participation in training and technical assistance programs to promote compliance with statutes, rules, federal laws, regulations, and policies governing human services;

(b) monitor, on an ongoing basis, the performance of county agencies in the operation and administration of human services, enforce compliance with statutes, rules, federal laws, regulations, and policies governing welfare services and promote excellence of administration and program operation;

(c) develop a quality control program or other monitoring program to review county performance and accuracy of benefit determinations;

(d) require county agencies to make an adjustment to the public assistance benefits issued to any individual consistent with federal law and regulation and state law and rule and to issue or recover benefits as appropriate;

(e) delay or deny payment of all or part of the state and federal share of benefits and administrative reimbursement according to the procedures set forth in section 256.017; and

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(f) make contracts with and grants to public and private agencies and organizations, both profit and nonprofit, and individuals, using appropriated funds; and

(g) enter into contractual agreements with federally recognized Indian tribes with a reservation in Minnesota to the extent necessary for the tribe to operate a federally approved family assistance program or any other program under the supervision of the commissioner. The commissioner shall consult with the affected county or counties in the contractual agreement negotiations, if the county or counties wish to be included, in order to avoid the duplication of county and tribal assistance program services. The commissioner may establish necessary accounts for the purposes of receiving and disbursing funds as necessary for the operation of the programs.

(2) Inform county agencies, on a timely basis, of changes in statute, rule, federal law, regulation, and policy necessary to county agency administration of the programs.

(3) Administer and supervise all child welfare activities; promote the enforcement of laws protecting handicapped, dependent, neglected and delinquent children, and children born to mothers who were not married to the children's fathers at the times of the conception nor at the births of the children; license and supervise child-caring and child-placing agencies and institutions; supervise the care of children in boarding and foster homes or in private institutions; and generally perform all functions relating to the field of child welfare now vested in the state board of control.

(4) Administer and supervise all noninstitutional service to handicapped persons, including those who are visually impaired, hearing impaired, or physically impaired or otherwise handicapped. The commissioner may provide and contract for the care and treatment of qualified indigent children in facilities other than those located and available at state hospitals when it is not feasible to provide the service in state hospitals.

(5) Assist and actively cooperate with other departments, agencies and institutions, local, state, and federal, by performing services in conformity with the purposes of Laws 1939, chapter 431.

(6) Act as the agent of and cooperate with the federal government in matters of mutual concern relative to and in conformity with the provisions of Laws 1939, chapter 431, including the administration of any federal funds granted to the state to aid in the performance of any functions of the commissioner as specified in Laws 1939, chapter 431, and including the promulgation of rules making uniformly available medical care benefits to all recipients of public assistance, at such times as the federal government increases its participation in assistance expenditures for medical care to recipients of public assistance, the cost thereof to be borne in the same proportion as are grants of aid to said recipients.

(7) Establish and maintain any administrative units reasonably necessary for the performance of administrative functions common to all divisions of the department.

(8) Act as designated guardian of both the estate and the person of all the wards of the state of Minnesota, whether by operation of law or by an order of court, without any further act or proceeding whatever, except as to persons committed as mentally retarded. For children under the guardianship of the commissioner whose interests would be best served by adoptive placement, the commissioner may contract with a licensed child-placing agency to provide adoption services. A contract with a licensed child-placing

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agency must be designed to supplement existing county efforts and may not replace existing county programs, unless the replacement is agreed to by the county board and the appropriate exclusive bargaining representative or the commissioner has evidence that child placements of the county continue to be substantially below that of other counties.

(9) Act as coordinating referral and informational center on requests for service for newly arrived immigrants coming to Minnesota.

(10) The specific enumeration of powers and duties as hereinabove set forth shall in no way be construed to be a limitation upon the general transfer of powers herein contained.

(11) Establish county, regional, or statewide schedules of maximum fees and charges which may be paid by county agencies for medical, dental, surgical, hospital, nursing and nursing home care and medicine and medical supplies under all programs of medical care provided by the state and for congregate living care under the income maintenance programs.

(12) Have the authority to conduct and administer experimental projects to test methods and procedures of administering assistance and services to recipients or potential recipients of public welfare. To carry out such experimental projects, it is further provided that the commissioner of human services is authorized to waive the enforcement of existing specific statutory program requirements, rules, and standards in one or more counties. The order establishing the waiver shall provide alternative methods and procedures of administration, shall not be in conflict with the basic purposes, coverage, or benefits provided by law, and in no event shall the duration of a project exceed four years. It is further provided that no order establishing an experimental project as authorized by the provisions of this section shall become effective until the following conditions have been met:

(a) The secretary of health, education, and welfare of the United States has agreed, for the same project, to waive state plan requirements relative to statewide uniformity.

(b) A comprehensive plan, including estimated project costs, shall be approved by the legislative advisory commission and filed with the commissioner of administration.

(13) According to federal requirements, establish procedures to be followed by local welfare boards in creating citizen advisory committees, including procedures for selection of committee members.

(14) Allocate federal fiscal disallowances or sanctions which are based on quality control error rates for the aid to families with dependent children, Minnesota family investment program—statewide, medical assistance, or food stamp program in the following manner:

(a) One-half of the total amount of the disallowance shall be borne by the county boards responsible for administering the programs. For the medical assistance, MFIP-S, and AFDC programs, disallowances shall be shared by each county board in the same proportion as that county's expenditures for the sanctioned program are to the total of all counties' expenditures for the AFDC, MFIP-S, and medical assistance programs. For the food stamp program, sanctions shall be shared by each county board, with 50 percent of the sanction being distributed to each county in the same proportion as that county's administrative costs for food stamps are to the total of all food stamp administrative costs

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for all counties, and 50 percent of the sanctions being distributed to each county in the same proportion as that county's value of food stamp benefits issued are to the total of all benefits issued for all counties. Each county shall pay its share of the disallowance to the state of Minnesota. When a county fails to pay the amount due hereunder, the commissioner may deduct the amount from reimbursement otherwise due the county, or the attorney general, upon the request of the commissioner, may institute civil action to recover the amount due.

(b) Notwithstanding the provisions of paragraph (a), if the disallowance results from knowing noncompliance by one or more counties with a specific program instruction, and that knowing noncompliance is a matter of official county board record, the commissioner may require payment or recover from the county or counties, in the manner prescribed in paragraph (a), an amount equal to the portion of the total disallowance which resulted from the noncompliance, and may distribute the balance of the disallowance according to paragraph (a).

(15) Develop and implement special projects that maximize reimbursements and result in the recovery of money to the state. For the purpose of recovering state money, the commissioner may enter into contracts with third parties. Any recoveries that result from projects or contracts entered into under this paragraph shall be deposited in the state treasury and credited to a special account until the balance in the account reaches \$1,000,000. When the balance in the account exceeds \$1,000,000, the excess shall be transferred and credited to the general fund. All money in the account is appropriated to the commissioner for the purposes of this paragraph.

(16) Have the authority to make direct payments to facilities providing shelter to women and their children according to section 256D.05, subdivision 3. Upon the written request of a shelter facility that has been denied payments under section 256D.05, subdivision 3, the commissioner shall review all relevant evidence and make a determination within 30 days of the request for review regarding issuance of direct payments to the shelter facility. Failure to act within 30 days shall be considered a determination not to issue direct payments.

(17) Have the authority to establish and enforce the following county reporting requirements:

(a) The commissioner shall establish fiscal and statistical reporting requirements necessary to account for the expenditure of funds allocated to counties for human services programs. When establishing financial and statistical reporting requirements, the commissioner shall evaluate all reports, in consultation with the counties, to determine if the reports can be simplified or the number of reports can be reduced.

(b) The county board shall submit monthly or quarterly reports to the department as required by the commissioner. Monthly reports are due no later than 15 working days after the end of the month. Quarterly reports are due no later than 30 calendar days after the end of the quarter, unless the commissioner determines that the deadline must be shortened to 20 calendar days to avoid jeopardizing compliance with federal deadlines or risking a loss of federal funding. Only reports that are complete, legible, and in the required format shall be accepted by the commissioner.

(c) If the required reports are not received by the deadlines established in clause (b), the commissioner may delay payments and withhold funds from the county board until

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the next reporting period. When the report is needed to account for the use of federal funds and the late report results in a reduction in federal funding, the commissioner shall withhold from the county boards with late reports an amount equal to the reduction in federal funding until full federal funding is received.

(d) A county board that submits reports that are late, illegible, incomplete, or not in the required format for two out of three consecutive reporting periods is considered noncompliant. When a county board is found to be noncompliant, the commissioner shall notify the county board of the reason the county board is considered noncompliant and request that the county board develop a corrective action plan stating how the county board plans to correct the problem. The corrective action plan must be submitted to the commissioner within 45 days after the date the county board received notice of noncompliance.

(e) The final deadline for fiscal reports or amendments to fiscal reports is one year after the date the report was originally due. If the commissioner does not receive a report by the final deadline, the county board forfeits the funding associated with the report for that reporting period and the county board must repay any funds associated with the report received for that reporting period.

(f) The commissioner may not delay payments, withhold funds, or require repayment under paragraph (c) or (e) if the county demonstrates that the commissioner failed to provide appropriate forms, guidelines, and technical assistance to enable the county to comply with the requirements. If the county board disagrees with an action taken by the commissioner under paragraph (c) or (e), the county board may appeal the action according to sections 14.57 to 14.69.

(g) Counties subject to withholding of funds under paragraph (c) or forfeiture or repayment of funds under paragraph (e) shall not reduce or withhold benefits or services to clients to cover costs incurred due to actions taken by the commissioner under paragraph (c) or (e).

(18) Allocate federal fiscal disallowances or sanctions for audit exceptions when federal fiscal disallowances or sanctions are based on a statewide random sample for the foster care program under title IV-E of the Social Security Act, United States Code, title 42, in direct proportion to each county's title IV-E foster care maintenance claim for that period.

(19) Be responsible for ensuring the detection, prevention, investigation, and resolution of fraudulent activities or behavior by applicants, recipients, and other participants in the human services programs administered by the department.

(20) Require county agencies to identify overpayments, establish claims, and utilize all available and cost-beneficial methodologies to collect and recover these overpayments in the human services programs administered by the department.

(21) Have the authority to administer a drug rebate program for drugs purchased pursuant to the senior citizen drug program established under section 256.955 after the beneficiary's satisfaction of any deductible established in the program. The commissioner shall require a rebate agreement from all manufacturers of covered drugs as defined in section 256B.0625, subdivision 13. For each drug, the amount of the rebate shall be equal to the basic rebate as defined for purposes of the federal rebate program in United States

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Code, title 42, section 1396r-8(c)(1). This basic rebate shall be applied to single-source and multiple-source drugs. The manufacturers must provide full payment within 30 days of receipt of the state invoice for the rebate within the terms and conditions used for the federal rebate program established pursuant to section 1927 of title XIX of the Social Security Act. The manufacturers must provide the commissioner with any information necessary to verify the rebate determined per drug. The rebate program shall utilize the terms and conditions used for the federal rebate program established pursuant to section 1927 of title XIX of the Social Security Act.

Sec. 8. Minnesota Statutes 1996, section 256.014, subdivision 1, is amended to read:

Subdivision 1. **ESTABLISHMENT OF SYSTEMS.** The commissioner of human services shall establish and enhance computer systems necessary for the efficient operation of the programs the commissioner supervises, including:

(1) management and administration of the food stamp and income maintenance programs, including the electronic distribution of benefits;

(2) management and administration of the child support enforcement program; and

(3) administration of medical assistance and general assistance medical care.

The commissioner shall distribute the nonfederal share of the costs of operating and maintaining the systems to the commissioner and to the counties participating in the system in a manner that reflects actual system usage, except that the nonfederal share of the costs of the MAXIS computer system and child support enforcement systems shall be borne entirely by the commissioner. Development costs must not be assessed against county agencies.

The commissioner may enter into contractual agreements with federally recognized Indian tribes with a reservation in Minnesota to participate in state-operated computer systems related to the management and administration of the food stamp, income maintenance, child support enforcement, and medical assistance and general assistance medical care programs to the extent necessary for the tribe to operate a federally approved family assistance program or any other program under the supervision of the commissioner.

Sec. 9. Minnesota Statutes 1997 Supplement, section 256.031, subdivision 6, is amended to read:

Subd. 6. **END OF FIELD TRIALS.** (a) Upon agreement with the federal government, the field trials of the Minnesota family investment plan will end June 30, 1998.

(b) Families in the comparison group under subdivision 3, paragraph (d), clause (i), receiving aid to families with dependent children under sections 256.72 to 256.87, and STRIDE services under section 256.736 will continue in those programs until June 30, 1998. After June 30, 1998, families who cease receiving assistance under the Minnesota family investment plan and comparison group families who cease receiving assistance under AFDC and STRIDE who are eligible for the Minnesota family investment program-statewide (MFIP-S), medical assistance, general assistance medical care, or the food stamp program shall be placed with their consent on the programs for which they are eligible.

(c) Families who cease receiving assistance under the MFIP and comparison families who cease receiving assistance under AFDC and STRIDE who are ineligible for

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MFIP-S due to increased income from employment, or increased child or spousal support or a combination of employment income and child or spousal support, shall be eligible for transition year child care under section 119B.05, and extended medical assistance under section 256B.0635. For the purpose of assistance for transition year child care and determining receipt of extended medical assistance, receipt of AFDC and MFIP shall be considered to be the same as receipt of MFIP-S.

Sec. 10. Minnesota Statutes 1997 Supplement, section 256.741, is amended by adding a subdivision to read:

Subd. 2a. **FAMILIES-FIRST DISTRIBUTION OF CHILD SUPPORT ARREARAGES.** When the public authority collects support arrearages on behalf of an individual who is receiving assistance provided under MFIP or MFIP-R under this chapter, MFIP-S under chapter 256J, or work first under chapter 256K, and the public authority has the option of applying the collection to arrears permanently assigned to the state or to arrears temporarily assigned to the state, the public authority shall first apply the collection to satisfy those arrears that are permanently assigned to the state.

Sec. 11. Minnesota Statutes 1997 Supplement, section 256.9864, is amended to read:

256.9864 REPORTS BY RECIPIENT.

(a) An assistance unit with a recent work history or with earned income shall report monthly to the county 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, as specified by the state agency.

(b) An assistance unit required to submit a report on the form designated by the commissioner and within ten days of the due date or the date of the significant change, whichever is later, or otherwise report significant changes which would affect eligibility or assistance amounts, is considered to have continued its application for assistance effective the date the required report is received by the county agency, if a complete report is received within a calendar 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 county agency.~~

Sec. 12. Minnesota Statutes 1997 Supplement, section 256B.062, is amended to read:

256B.062 CONTINUED ELIGIBILITY.

Medical assistance may be paid for persons who received aid to families with dependent children in at least three of the six months preceding the month in which the person became ineligible for aid to families with dependent children, if the ineligibility was due to an increase in hours of employment or employment income or due to the loss of an earned income disregard. A person who is eligible for extended medical assistance is entitled to six months of assistance without reapplication, unless the assistance unit ceases to include a dependent child. For a person under 21 years of age, medical assistance may not be discontinued within the six-month period of extended eligibility until it has been determined that the person is not otherwise eligible for medical assistance. Medical assistance may be continued for an additional six months if the person meets all requirements

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for the additional six months, according to Title XIX of the Social Security Act, as amended by section 303 of the Family Support Act of 1988, Public Law Number 100-485. This section is repealed effective March 31 July 1, 1998.

Sec. 13. Minnesota Statutes 1997 Supplement, section 256B.0635, is amended by adding a subdivision to read:

Subd. 3. **MEDICAL ASSISTANCE FOR MFIP-S PARTICIPANTS WHO OPT TO DISCONTINUE MONTHLY CASH ASSISTANCE.** Upon federal approval, medical assistance is available to persons who received MFIP-S in at least three of the six months preceding the month in which the person opted to discontinue receiving MFIP-S cash assistance under section 256J.31, subdivision 12. A person who is eligible for medical assistance under this section may receive medical assistance without reapplication as long as the person meets MFIP-S eligibility requirements, unless the assistance unit does not include a dependent child. Medical assistance may be paid pursuant to subdivisions 1 and 2 for persons who are no longer eligible for MFIP-S due to increased employment or child support. A person may be eligible for MinnesotaCare due to increased employment or child support, and as such must be informed of the option to transition onto MinnesotaCare.

Sec. 14. Minnesota Statutes 1997 Supplement, section 256D.05, subdivision 8, is amended to read:

Subd. 8. **CITIZENSHIP.** (a) Effective July 1, 1997, citizenship requirements for applicants and recipients under sections 256D.01 to 256D.03, subdivision 2, and 256D.04 to 256D.21 shall be determined the same as under section 256J.11, except that legal noncitizens who are applicants or recipients must have been residents of Minnesota on March 1, 1997. Legal noncitizens who arrive in Minnesota after March 1, 1997, and become elderly or disabled after that date, and are otherwise eligible for general assistance can receive benefits under this section. The income and assets of sponsors of noncitizens shall be deemed available to general assistance applicants and recipients according to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law Number 104-193, title IV, sections 421 and 422, and subsequently set out in federal rules.

(b) As a condition of eligibility, each legal adult noncitizen in the assistance unit who has resided in the country for four years or more and who is under 70 years of age must:

(1) be enrolled in a literacy class, English as a second language class, or a citizen class;

(2) be applying for admission to a literacy class, English as a second language class, and is on a waiting list;

(3) be in the process of applying for a waiver from the Immigration and Naturalization Service of the English language or civics requirements of the citizenship test;

(4) have submitted an application for citizenship to the Immigration and Naturalization Service and is waiting for a testing date or a subsequent swearing in ceremony; or

(5) have been denied citizenship due to a failure to pass the test after two attempts or because of an inability to understand the rights and responsibilities of becoming a United

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States citizen, as documented by the Immigration and Naturalization Service or the county.

If the county social service agency determines that a legal noncitizen subject to the requirements of this subdivision will require more than one year of English language training, then the requirements of clause (1) or (2) shall be imposed after the legal noncitizen has resided in the country for three years. Individuals who reside in a facility licensed under chapter 144A, 144D, 245A, or 256I are exempt from the requirements of this section.

Sec. 15. Minnesota Statutes 1996, section 256D.051, is amended by adding a subdivision to read:

Subd. 19. WAIVER OF SERVICE COST REIMBURSEMENT LIMIT FOR PARTICIPANTS WITH SIGNIFICANT BARRIERS TO EMPLOYMENT.

(a) To the extent of available resources, the commissioner may waive the \$400 service cost limit specified in subdivision 6 for county agencies who propose to provide enhanced services under the food stamp employment and training program to hard-to-employ individuals. A "hard-to-employ individual" is defined as:

(1) a recipient of general assistance under chapter 256D; or

(2) an individual with at least one of the following three barriers to employment:

(i) the individual has not completed secondary school or obtained a general equivalency development diploma or an adult diploma, and has low skills in reading or mathematics;

(ii) the individual requires substance abuse treatment for employment; and

(iii) the individual has a poor work history.

(b) To obtain a waiver, the county agency must submit a waiver request to the commissioner. The request must specify:

(1) the number of hard-to-employ individuals the agency plans to serve;

(2) the nature of the enhanced employment and training services the agency will provide; and

(3) the agency's plan for providing referrals for substance abuse assessment and treatment for hard-to-employ individuals who require substance abuse treatment for employment.

Sec. 16. [256D.053] MINNESOTA FOOD ASSISTANCE PROGRAM.

Subdivision 1. PROGRAM ESTABLISHED. For the period of July 1, 1998, to June 30, 1999, the Minnesota food assistance program is established to provide food assistance to legal noncitizens residing in this state who are ineligible to participate in the federal Food Stamp Program solely due to the provisions of section 402 or 403 of Public Law Number 104-193, as authorized by Title VII of the 1997 Emergency Supplemental Appropriations Act, Public Law Number 105-18.

Subd. 2. ELIGIBILITY REQUIREMENTS. To be eligible for the Minnesota food assistance program, all of the following conditions must be met:

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(1) the applicant must meet the initial and ongoing eligibility requirements for the federal Food Stamp Program, except for the applicant's ineligible immigration status;

(2) the applicant must be either a qualified noncitizen as defined in section 256J.08, subdivision 73, or a noncitizen otherwise residing lawfully in the United States;

(3) the applicant must be a resident of the state; and

(4) the applicant must not be receiving assistance under the MFIP-S or the work first program.

Subd. 3. PROGRAM ADMINISTRATION. (a) The rules for the Minnesota food assistance program shall follow exactly the regulations for the federal Food Stamp Program, except for the provisions pertaining to immigration status under sections 402 or 403 of Public Law Number 104-193.

(b) The county agency shall use the income, budgeting, and benefit allotment regulations of the federal Food Stamp Program to calculate an eligible recipient's monthly Minnesota food assistance program benefit. Until September 30, 1998, eligible recipients under this subdivision shall receive the average per person food stamp issuance in Minnesota in the fiscal year ending June 30, 1997. Beginning October 1, 1998, eligible recipients shall receive the same level of benefits as those provided by the federal Food Stamp Program to similarly situated citizen recipients. The monthly Minnesota food assistance program benefits shall not exceed an amount equal to the amount of federal Food Stamp Program benefits the household would receive if all members of the household were eligible for the federal Food Stamp Program.

(c) Minnesota food assistance program benefits must be disregarded as income in all programs that do not count food stamps as income.

(d) The county agency must redetermine a Minnesota food assistance program recipient's eligibility for the federal Food Stamp Program when the agency receives information that the recipient's legal immigration status has changed in such a way that would make the recipient potentially eligible for the federal Food Stamp Program.

(e) Until October 1, 1998, the commissioner may provide benefits under this section in cash.

Subd. 4. STATE PLAN REQUIRED. The commissioner shall submit a state plan to the secretary of agriculture to allow the commissioner to purchase federal Food Stamp Program benefits for each Minnesota food assistance program recipient who is ineligible to participate in the federal Food Stamp Program solely due to the provisions of section 402 or 403 of Public Law Number 104-193, as authorized by Title VII of the 1997 Emergency Supplemental Appropriations Act, Public Law Number 105-18. The commissioner shall enter into a contract as necessary with the secretary to use the existing federal Food Stamp Program benefits delivery system for the purposes of administering the Minnesota food assistance program under this section.

Sec. 17. Minnesota Statutes 1996, section 256D.46, subdivision 2, is amended to read:

Subd. 2. INCOME AND RESOURCE TEST. All income and resources available to the recipient must be considered in determining the recipient's ability to meet the emer-

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gency need. Property that can be liquidated in time to resolve the emergency and income, (excluding Minnesota supplemental aid issued for current month's need) an amount equal to the Minnesota supplemental aid standard of assistance, that is normally disregarded or excluded under the Minnesota supplemental aid program must be considered available to meet the emergency need.

Sec. 18. Minnesota Statutes 1997 Supplement, section 256J.02, subdivision 4, is amended to read:

Subd. 4. **AUTHORITY TO TRANSFER.** Subject to limitations of title I of Public Law Number 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, as amended, the legislature may transfer money from the TANF block grant to the child care fund under chapter 119B, or the Title XX block grant under section 256E.07.

Sec. 19. Minnesota Statutes 1997 Supplement, section 256J.03, is amended to read:
256J.03 TANF RESERVE ACCOUNT.

Subdivision 1. The Minnesota family investment program—statewide/TANF TANF reserve account is created in the state treasury. Funds retained or deposited in the TANF reserve shall include: (1) funds designated by the legislature and; (2) unexpended state funds resulting from the acceleration of TANF expenditures under subdivision 2; (3) earnings available from the federal TANF block grant appropriated to the commissioner but not expended in the biennium beginning July 1, 1997, shall be retained; and (4) TANF funds available in fiscal years 1998, 1999, 2000, and 2001 that are not spent or not budgeted to be spent in those years.

Funds deposited in the reserve account to must be expended for the Minnesota family investment program—statewide in fiscal year 2000 and subsequent fiscal years and directly related state programs for the purposes in subdivision 3.

Subd. 2. **AUTHORIZATION TO ACCELERATE EXPENDITURE OF TANF FUNDS.** The commissioner may expend federal TANF block grant funds in excess of appropriated levels for the purpose of accelerating federal funding of the MFIP program. By the end of the fiscal year in which the additional federal expenditures are made, the commissioner must deposit into the reserve account an amount of unexpended state funds appropriated for assistance to families grants, AFDC, and MFIP equal to the additional federal expenditures. Reserve funds may be spent as TANF appropriations if insufficient TANF funds are available because of acceleration.

Subd. 3. **ALLOWED TRANSFER PURPOSE.** Funds from the reserve account may be used for the following purposes:

- (1) unanticipated TANF block grant maintenance of effort shortfalls;
- (2) MFIP cost increases due to reduced federal revenues and federal law changes;
- (3) one-half of the MFIP general fund cost increase in fiscal year 2000 and subsequent fiscal years due to caseload increases over fiscal year 1999; and
- (4) transfers allowed under section 256J.02, subdivision 4.

Sec. 20. Minnesota Statutes 1997 Supplement, section 256J.08, subdivision 11, is amended to read:

Subd. 11. **CAREGIVER.** "Caregiver" means a minor child's natural or adoptive parent or parents and stepparent who live in the home with the minor child. For purposes

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of determining eligibility for this program, caregiver also means any of the following individuals, if adults, who live with and provide care and support to a minor child when the minor child's natural or adoptive parent or parents or stepparents do not reside in the same home: legal custodians custodian or guardian, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, first cousin or first cousin once removed, nephew, niece, person of preceding generation as denoted by prefixes of "great," "great-great," or "great-great-great," or a spouse of any person named in the above groups even after the marriage ends by death or divorce.

Sec. 21. Minnesota Statutes 1997 Supplement, section 256J.08, is amended by adding a subdivision to read:

Subd. 24a. **DISQUALIFIED.** "Disqualified" means being ineligible to receive MFIP-S due to noncooperation with program requirements. Except for persons whose disqualification is based on fraud, a disqualified person can take action to correct the reason for ineligibility.

Sec. 22. Minnesota Statutes 1997 Supplement, section 256J.08, subdivision 26, is amended to read:

Subd. 26. **EARNED INCOME.** "Earned income" means cash or in-kind income earned through the receipt of wages, salary, commissions, profit from employment activities, net profit from self-employment activities, payments made by an employer for regularly accrued vacation or sick leave, and any other profit from activity earned through effort or labor. The income must be in return for, or as a result of, legal activity.

Sec. 23. Minnesota Statutes 1997 Supplement, section 256J.08, subdivision 28, is amended to read:

Subd. 28. **EMERGENCY.** "Emergency" means a situation or a set of circumstances that causes or threatens to cause destitution to a minor child family with a child under age 21.

Sec. 24. Minnesota Statutes 1997 Supplement, section 256J.08, subdivision 40, is amended to read: '

Subd. 40. **GROSS EARNED INCOME.** "Gross earned income" means earned income from employment before mandatory and voluntary payroll deductions. Gross earned income includes salaries, wages, tips, gratuities, commissions, incentive payments from work or training programs, payments made by an employer for regularly accrued vacation or sick leave, and profits from other activity earned by an individual's effort or labor. Gross earned income includes uniform and meal allowances if federal income tax is deducted from the allowance. Gross earned income includes flexible work benefits received from an employer if the employee has the option of receiving the benefit or benefits in cash. For self-employment, gross earned income is the nonexcluded income minus expenses for the business.

Sec. 25. Minnesota Statutes 1997 Supplement, section 256J.08, is amended by adding a subdivision to read:

Subd. 50a. **INTERSTATE TRANSITIONAL STANDARD.** "Interstate transitional standard" means a combination of the cash assistance a family with no other income would have received in the state of previous residence and the Minnesota food portion for the appropriate size family.

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Sec. 26. Minnesota Statutes 1997 Supplement, section 256J.08, is amended by adding a subdivision to read:

Subd. 51a. **LEGAL CUSTODIAN.** "Legal custodian" means any person who is under a legal obligation to provide care for a minor and who is in fact providing care for a minor. For an Indian child, "custodian" means any Indian person who has legal custody of an Indian child under tribal law or custom, under state law, or to whom temporary physical care, custody, and control has been transferred by the parent of the child, as provided in section 257.351, subdivision 8.

Sec. 27. Minnesota Statutes 1997 Supplement, section 256J.08, subdivision 60, is amended to read:

Subd. 60. **MINOR CHILD.** "Minor child" means a child who is living in the same home of a parent or other caregiver, is not the parent of a child in the home, and is either less than 18 years of age or is under the age of 19 years and is regularly attending as a full-time student and is expected to complete a high school or in a secondary school or pursuing a full-time secondary level course of vocational or technical training designed to fit students for gainful employment before reaching age 19.

Sec. 28. Minnesota Statutes 1997 Supplement, section 256J.08, is amended by adding a subdivision to read:

Subd. 61a. **NONCUSTODIAL PARENT.** "Noncustodial parent" means a minor child's parent who does not live in the same home as the child.

Sec. 29. Minnesota Statutes 1997 Supplement, section 256J.08, subdivision 68, is amended to read:

Subd. 68. **PERSONAL PROPERTY.** "Personal property" means an item of value that is not real property, including the value of a contract for deed held by a seller, assets held in trust on behalf of members of an assistance unit, ~~cash surrender value of life insurance,~~ value of a prepaid burial, savings account, value of stocks and bonds, and value of retirement accounts.

Sec. 30. Minnesota Statutes 1997 Supplement, section 256J.08, subdivision 73, is amended to read:

Subd. 73. **QUALIFIED NONCITIZEN.** "Qualified noncitizen" means a person:

(1) who was lawfully admitted for permanent residence pursuant to United States Code, title 8;

(2) who was admitted to the United States as a refugee pursuant to United States Code, title 8; section 1157;

(3) whose deportation is being withheld pursuant to United States Code, title 8, section 1253(h);

(4) who was paroled for a period of at least one year pursuant to United States Code, title 8, section 1182(d)(5);

(5) who was granted conditional entry pursuant to United State Code, title 8, section 1153(a)(7);

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(6) who was granted asylum pursuant to United States Code, title 8, section 1158; or

(7) determined to be a battered noncitizen by the United States Attorney General according to the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Title V of the Omnibus Consolidated Appropriations Bill, Public Law Number 104-208;

(8) who is a child of a noncitizen determined to be a battered noncitizen by the United States Attorney General according to the Illegal Immigration Reform and Responsibility Act of 1996, title V, Public Law Number 104-200; or

(9) who was admitted as a Cuban or Haitian entrant.

Sec. 31. Minnesota Statutes 1997 Supplement, section 256J.08, is amended by adding a subdivision to read:

Subd. 82a. **SHARED HOUSEHOLD STANDARD.** "Shared household standard" means the basic standard used when the household includes an unrelated member. The cash portion of the shared household standard is equal to 90 percent of the cash portion of the transitional standard. The cash portion of the shared household standard plus the food portion equals the full shared household standard.

Sec. 32. Minnesota Statutes 1997 Supplement, section 256J.08, is amended by adding a subdivision to read:

Subd. 82b. **SHELTER COSTS.** "Shelter costs" means rent, manufactured home lot rental costs, or monthly principal, interest, insurance premiums, and property taxes due for mortgages or contracts for deed.

Sec. 33. Minnesota Statutes 1997 Supplement, section 256J.08, subdivision 83, is amended to read:

Subd. 83. **SIGNIFICANT CHANGE.** "Significant change" means a decline in gross income of ~~35~~ 36 percent or more from the income used to determine the grant for the current month.

Sec. 34. Minnesota Statutes 1997 Supplement, section 256J.08, is amended by adding a subdivision to read:

Subd. 86a. **UNRELATED MEMBER.** "Unrelated member" means an individual in the household who does not meet the definition of an eligible caregiver, but does not include an individual who provides child care to a child in the assistance unit.

Sec. 35. Minnesota Statutes 1997 Supplement, section 256J.09, subdivision 6, is amended to read:

Subd. 6. **INVALID REASON FOR DELAY.** A county agency must not delay a decision on eligibility or delay issuing the assistance payment except to establish state residence as provided in section 256J.12 by:

- (1) treating the 30-day processing period as a waiting period;
- (2) delaying approval or issuance of the assistance payment pending the decision of the county board; or
- (3) awaiting the result of a referral to a county agency in another county when the county receiving the application does not believe it is the county of financial responsibility.

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Sec. 36. Minnesota Statutes 1997 Supplement, section 256J.09, subdivision 9, is amended to read:

Subd. 9. **ADDENDUM TO AN EXISTING APPLICATION.** (a) An addendum to an existing application must be used to add persons to an assistance unit regardless of whether the persons being added are required to be in the assistance unit. When a person is added by addendum to an assistance unit, eligibility for that person begins on the first of the month the addendum was filed except as provided in section 256J.74, subdivision 2, clause (1).

(b) An overpayment must be determined when a change in household composition is not reported within the deadlines in section 256J.30, subdivision 9. Any overpayment must be calculated from the month of the change including the needs, income, and assets of any individual who is required to be included in the assistance unit under section 256J.24, subdivision 2. Individuals not included in the assistance unit who are identified in section 256J.37, subdivisions 1 to 2, must have their income and assets considered when determining the amount of the overpayment.

Sec. 37. Minnesota Statutes 1997 Supplement, section 256J.11, subdivision 2, as amended by Laws 1997, Third Special Session chapter 1, is amended to read:

Subd. 2. **NONCITIZENS; FOOD PORTION.** (a) For the period September 1, 1997, to October 31, 1997, noncitizens who do not meet one of the exemptions in section 412 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, but were residing in this state as of July 1, 1997, are eligible for the 6/10 of the average value of food stamps for the same family size and composition until MFIP-S is operative in the noncitizen's county of financial responsibility and thereafter, the 6/10 of the food portion of MFIP-S. However, federal food stamp dollars cannot be used to fund the food portion of MFIP-S benefits for an individual under this subdivision.

(b) For the period November 1, 1997, to June 30, 1998 1999, noncitizens who do not meet one of the exemptions in section 412 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, ~~but were residing in this state as of July 1, 1997,~~ and are receiving cash assistance under the AFDC, family general assistance, MFIP or MFIP-S programs are eligible for the average value of food stamps for the same family size and composition until MFIP-S is operative in the noncitizen's county of financial responsibility and thereafter, the food portion of MFIP-S. However, federal food stamp dollars cannot be used to fund the food portion of MFIP-S benefits for an individual under this subdivision. The assistance provided under this subdivision, which is designated as a supplement to replace lost benefits under the federal food stamp program, must be disregarded as income in all programs that do not count food stamps as income where the commissioner has the authority to make the income disregard determination for the program.

(c) The commissioner shall submit a state plan to the secretary of agriculture to allow the commissioner to purchase federal Food Stamp Program benefits in an amount equal to the MFIP-S food portion for each legal noncitizen receiving MFIP-S assistance who is ineligible to participate in the federal Food Stamp Program solely due to the provisions of section 402 or 403 of Public Law Number 104-193, as authorized by Title VII of the 1997 Emergency Supplemental Appropriations Act, Public Law Number 105-18. The commissioner shall enter into a contract as necessary with the secretary to use the

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existing federal Food Stamp Program benefits delivery system for the purposes of administering the food portion of MFIP-S under this subdivision.

Sec. 38. Minnesota Statutes 1997 Supplement, section 256J.12, is amended to read:

256J.12 MINNESOTA RESIDENCE.

Subdivision 1. **SIMPLE RESIDENCY.** To be eligible for AFDC or MFIP-S, whichever is in effect, a family ~~an~~ assistance unit must have established residency in this state which means the family assistance unit is present in the state and intends to remain here. A person who lives in this state and who entered this state with a job commitment or to seek employment in this state, whether or not that person is currently employed, meets the criteria in this subdivision.

Subd. 1a. **30-DAY RESIDENCY REQUIREMENT.** A family ~~An assistance unit~~ is considered to have established residency in this state only when a child or caregiver has resided in this state for at least 30 days with the intention of making the person's home here and not for any temporary purpose. The birth of a child in Minnesota to a member of the assistance unit does not automatically establish the residency in this state under this subdivision of the other members of the assistance unit. Time spent in a shelter for battered women shall count toward satisfying the 30-day residency requirement.

Subd. 2. **EXCEPTIONS.** (a) A county shall waive the 30-day residency requirement where unusual hardship would result from denial of assistance.

(b) For purposes of this section, unusual hardship means a family ~~an~~ assistance unit:

- (1) is without alternative shelter; or
- (2) is without available resources for food.

(c) For purposes of this subdivision, the following definitions apply (1) "metropolitan statistical area" is as defined by the U.S. Census Bureau; (2) "alternative shelter" includes any shelter that is located within the metropolitan statistical area containing the county and for which the family is eligible, provided the family assistance unit does not have to travel more than 20 miles to reach the shelter and has access to transportation to the shelter. Clause (2) does not apply to counties in the Minneapolis-St. Paul metropolitan statistical area.

(d) Applicants are considered to meet the residency requirement under subdivision 1a if they once resided in Minnesota and:

(1) joined the United States armed services, returned to Minnesota within 30 days of leaving the armed services, and intend to remain in Minnesota; or

(2) left to attend school in another state, paid nonresident tuition or Minnesota tuition rates under a reciprocity agreement, and returned to Minnesota within 30 days of graduation with the intent to remain in Minnesota.

(e) The 30-day residence requirement is met when:

(1) a minor child or a minor caregiver moves from another state to the residence of a relative caregiver;

(2) the minor caregiver applies for and receives family cash assistance;

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(3) the relative caregiver chooses not to be part of the MFIP-S assistance unit; and

(4) the relative caregiver has resided in Minnesota for at least 30 days prior to the date the assistance unit applies for cash assistance.

(f) Ineligible mandatory unit members who have resided in Minnesota for 12 months immediately before the unit's date of application establish the other assistance unit members' eligibility for the MFIP-S transitional standard.

Subd. 2a. **MIGRANT WORKERS.** Migrant workers, as defined in section 256J.08, and their immediate families are exempt from the requirements of subdivisions 1 and 1a, provided the migrant worker provides verification that the migrant family worked in this state within the last 12 months and earned at least \$1,000 in gross wages during the time the migrant worker worked in this state.

Subd. 3. **PAYMENT PLAN FOR NEW RESIDENTS.** Assistance paid to an eligible family assistance unit in which all members have resided in this state for fewer than 12 consecutive calendar months immediately preceding the date of application shall be at the standard and in the form specified in section 256J.43.

Subd. 4. **SEVERABILITY CLAUSE.** If any subdivision in this section is enjoined from implementation or found unconstitutional by any court of competent jurisdiction, the remaining subdivisions shall remain valid and shall be given full effect.

Sec. 39. Minnesota Statutes 1997 Supplement, section 256J.14, is amended to read:

256J.14 ELIGIBILITY FOR PARENTING OR PREGNANT MINORS.

(a) The definitions in this paragraph only apply to this subdivision.

(1) "Household of a parent, legal guardian, or other adult relative" means the place of residence of:

(i) a natural or adoptive parent;

(ii) a legal guardian according to appointment or acceptance under section 260.242, 525.615, or 525.6165, and related laws; or

(iii) a caregiver as defined in section 256J.08, subdivision 11; or

(iv) an appropriate adult relative designated by a county agency.

(2) "Adult-supervised supportive living arrangement" means a private family setting which assumes responsibility for the care and control of the minor parent and minor child, or other living arrangement, not including a public institution, licensed by the commissioner of human services which ensures that the minor parent receives adult supervision and supportive services, such as counseling, guidance, independent living skills training, or supervision.

(b) A minor parent and the minor child who is in the care of the minor parent must reside in the household of a parent, legal guardian, other ~~appropriate adult relative, or other caregiver,~~ or in an adult-supervised supportive living arrangement in order to receive MFIP-S unless:

(1) the minor parent has no living parent, other ~~appropriate adult relative,~~ or legal guardian whose whereabouts is known;

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(2) no living parent, other appropriate adult relative, or legal guardian of the minor parent allows the minor parent to live in the parent's, appropriate other adult relative's, or legal guardian's home;

(3) the minor parent lived apart from the minor parent's own parent or legal guardian for a period of at least one year before either the birth of the minor child or the minor parent's application for MFIP-S;

(4) the physical or emotional health or safety of the minor parent or minor child would be jeopardized if the minor parent and the minor child resided in the same residence with the minor parent's parent, other ~~appropriate~~ adult relative, or legal guardian; or

(5) an adult supervised supportive living arrangement is not available for the minor parent and the dependent child in the county in which the minor parent and child currently resides reside. If an adult supervised supportive living arrangement becomes available within the county, the minor parent and child must reside in that arrangement.

(c) Minor applicants must be informed orally and in writing about the eligibility requirements and their rights and obligations under the MFIP-S program. The county must advise the minor of the possible exemptions and specifically ask whether one or more of these exemptions is applicable. If the minor alleges one or more of these exemptions, then the county must assist the minor in obtaining the necessary verifications to determine whether or not these exemptions apply.

(d) If the county worker has reason to suspect that the physical or emotional health or safety of the minor parent or minor child would be jeopardized if they resided with the minor parent's parent, other adult relative, or legal guardian, then the county worker must make a referral to child protective services to determine if paragraph (b), clause (4), applies. A new determination by the county worker is not necessary if one has been made within the last six months, unless there has been a significant change in circumstances which justifies a new referral and determination.

(e) If a minor parent is not living with a parent ~~or~~ legal guardian, or other adult relative due to paragraph (b), clause (1), (2), or (4), the minor parent must reside, when possible, in a living arrangement that meets the standards of paragraph (a), clause (2).

(f) When a minor parent and minor child live with ~~another~~ a parent, other adult relative, legal guardian, or in an adult-supervised supportive living arrangement, MFIP-S must be paid, when possible, in the form of a protective payment on behalf of the minor parent and minor child ~~in accordance with~~ according to section 256J.39, subdivisions 2 to 4.

Sec. 40. Minnesota Statutes 1997 Supplement, section 256J.15, subdivision 2, is amended to read:

Subd. 2. **ELIGIBILITY DURING LABOR DISPUTES.** To receive assistance ~~under MFIP-S, when a member of an assistance unit who is on strike, or when an individual identified under section 256J.37, subdivisions 1 to 2, whose income and assets must be considered when determining the unit's eligibility is on strike, the assistance unit must have been an receiving MFIP-S participant on the day before the strike, or have been eligible for MFIP-S on the day before the strike.~~

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The county agency must count the striker's prestrike earnings as current earnings. When A significant change cannot be invoked when a member of an assistance unit, or an individual identified under section 256J.37, subdivisions 1 to 2, is on strike. A member of an assistance unit who, or an individual identified under section 256J.37, subdivisions 1 to 2, is not considered a striker when that person is not in the bargaining unit that voted for the strike and does not cross the picket line for fear of personal injury; the assistance unit member is not a striker. Except for a member of an assistance unit who is not in the bargaining unit that voted for the strike and who does not cross the picket line for fear of personal injury, a significant change cannot be invoked as a result of a labor dispute.

Sec. 41. Minnesota Statutes 1997 Supplement, section 256J.20, subdivision 2, is amended to read:

Subd. 2. **REAL PROPERTY LIMITATIONS.** Ownership of real property by an applicant or participant is subject to the limitations in paragraphs (a) and (b).

(a) A county agency shall exclude the homestead of an applicant or participant according to clauses (1) to ~~(4)~~ (5):

(1) an applicant or participant who is purchasing real property through a contract for deed and using that property as a home is considered the owner of real property;

(2) the total amount of land that can be excluded under this subdivision is limited to surrounding property which is not separated from the home by intervening property owned by others. Additional property must be assessed as to its legal and actual availability according to subdivision 1;

(3) when real property that has been used as a home by a participant is sold, the county agency must treat the cash proceeds from the sale as excluded property for six months when the participant intends to reinvest the proceeds in another home and maintains those proceeds, unused for other purposes, in a separate account; and

(4) when the homestead is jointly owned, but the client does not reside in it because of legal separation, pending divorce, or battering or abuse by the spouse or partner, the homestead is excluded; and

(5) the homestead shall continue to be excluded if it is temporarily unoccupied due to employment, illness, or as the result of compliance with a county-approved employability plan. The education, training, or job search must be within the state, but can be outside the immediate geographic area. A homestead temporarily unoccupied because it is not habitable due to a casualty or natural disaster is excluded. The homestead is excluded during periods only if the client intends to return to it.

(b) The equity value of real property that is not excluded under paragraph (a) and which is legally available must be applied against the limits in subdivision 3. When the equity value of the real property exceeds the limits under subdivision 3, the applicant or participant may qualify to receive assistance when the applicant or participant continues to make a good faith effort to sell the property and signs a legally binding agreement to repay the amount of assistance, less child support collected by the agency. Repayment must be made within five working days after the property is sold. Repayment to the county agency must be in the amount of assistance received or the proceeds of the sale, whichever is less.

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

Sec. 42. Minnesota Statutes 1997 Supplement, section 256J.20, subdivision 3, is amended to read:

Subd. 3. **OTHER PROPERTY LIMITATIONS.** To be eligible for MFIP-S, the equity value of all nonexcluded real and personal property of the assistance unit must not exceed \$2,000 for applicants and \$5,000 for ongoing ~~recipients~~ participants. The value of assets in clauses (1) to (18) (20) must be excluded when determining the equity value of real and personal property:

(1) a licensed ~~vehicles~~ vehicle up to a total ~~market loan~~ loan value of less than or equal to \$7,500. ~~The county agency shall apply any excess market loan value as if it were equity value to the asset limit described in this section. If the assistance unit owns more than one licensed vehicle, the county agency shall determine the vehicle with the highest market loan value and count only the market loan value over \$7,500. The county agency shall count the market loan value of all other vehicles and apply this amount as if it were equity value to the asset limit described in this section. The value of special equipment for a handicapped member of the assistance unit is excluded. To establish the market loan value of vehicles, a county agency must use the N.A.D.A. Official Used Car Guide, Midwest Edition, for newer model cars. The N.A.D.A. Official Used Car Guide, Midwest Edition, is incorporated by reference. When a vehicle is not listed in the guidebook, or when the applicant or participant disputes the loan value listed in the guidebook as unreasonable given the condition of the particular vehicle, the county agency may require the applicant or participant to document the loan value by securing a written statement from a motor vehicle dealer licensed under section 168.27, stating the amount that the dealer would pay to purchase the vehicle. The county agency shall reimburse the applicant or participant for the cost of a written statement that documents a lower loan value;~~

(2) the value of life insurance policies for members of the assistance unit;

(3) one burial plot per member of an assistance unit;

(4) the value of personal property needed to produce earned income, including tools, implements, farm animals, inventory, business loans, business checking and savings accounts used at least annually and used exclusively for the operation of a self-employment business, and any motor vehicles if the vehicles are essential for the self-employment business;

(5) the value of personal property not otherwise specified which is commonly used by household members in day-to-day living such as clothing, necessary household furniture, equipment, and other basic maintenance items essential for daily living;

(6) the value of real and personal property owned by a recipient of Supplemental Security Income or Minnesota supplemental aid;

(7) the value of corrective payments, but only for the month in which the payment is received and for the following month;

(8) a mobile home used by an applicant or participant as the applicant's or participant's home;

(9) money in a separate escrow account that is needed to pay real estate taxes or insurance and that is used for this purpose;

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(10) money held in escrow to cover employee FICA, employee tax withholding, sales tax withholding, employee worker compensation, business insurance, property rental, property taxes, and other costs that are paid at least annually, but less often than monthly;

(11) monthly assistance and, emergency assistance, and diversionary payments for the current month's needs;

(12) the value of school loans, grants, or scholarships for the period they are intended to cover;

(13) payments listed in section 256J.21, subdivision 2, clause (9), which are held in escrow for a period not to exceed three months to replace or repair personal or real property;

(14) income received in a budget month through the end of the budget payment month;

(15) savings from earned income of a minor child or a minor parent that are set aside in a separate account designated specifically for future education or employment costs;

(16) the federal earned income tax credit and, Minnesota working family credit, state and federal income tax refunds, state homeowners and renters credits under chapter 290A, property tax rebates under Laws 1997, chapter 231, article 1, section 16, and other federal or state tax rebates in the month received and the following month;

(17) payments excluded under federal law as long as those payments are held in a separate account from any nonexcluded funds; and

(18) money received by a participant of the corps to career program under section 84.0887, subdivision 2, paragraph (b), as a postservice benefit under the federal Ameri-corps Act;

(19) the assets of children ineligible to receive MFIP-S benefits because foster care or adoption assistance payments are made on their behalf; and

(20) the assets of persons whose income is excluded under section 256J.21, subdivision 2, clause 43.

Sec. 43. Minnesota Statutes 1997 Supplement, section 256J.21, is amended to read:

256J.21 INCOME LIMITATIONS.

Subdivision 1. **INCOME INCLUSIONS.** To determine MFIP-S eligibility, the county agency must evaluate income received by members of an assistance unit, or by other persons whose income is considered available to the assistance unit, and only count income that is available to the member of the assistance unit. Income is available if the individual has legal access to the income. All payments, unless specifically excluded in subdivision 2, must be counted as income.

Subd. 2. **INCOME EXCLUSIONS.** (a) The following must be excluded in determining a family's available income:

(1) payments for basic care, difficulty of care, and clothing allowances received for providing family foster care to children or adults under Minnesota Rules, parts

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9545.0010 to 9545.0260 and 9555.5050 to 9555.6265, and payments received and used for care and maintenance of a third-party beneficiary who is not a household member;

(2) reimbursements for employment training received through the Job Training Partnership Act, United States Code, title 29, chapter 19, sections 1501 to 1792b;

(3) reimbursement for out-of-pocket expenses incurred while performing volunteer services, jury duty, or employment;

(4) all educational assistance, except the county agency must count graduate student teaching assistantships, fellowships, and other similar paid work as earned income and, after allowing deductions for any unmet and necessary educational expenses, shall count scholarships or grants awarded to graduate students that do not require teaching or research as unearned income;

(5) loans, regardless of purpose, from public or private lending institutions, governmental lending institutions, or governmental agencies;

(6) loans from private individuals, regardless of purpose, provided an applicant or participant documents that the lender expects repayment;

(7)(i) ~~state and federal income tax refunds; and~~

(ii) federal income tax refunds;

(8)(i) ~~state and federal earned income credits;~~

(ii) Minnesota working family credits;

(iii) state homeowners and renters credits under chapter 290A;

(iv) property tax rebates under Laws 1997, chapter 231, article 1, section 16; and

(v) other federal or state tax rebates;

(9) funds received for reimbursement, replacement, or rebate of personal or real property when these payments are made by public agencies, awarded by a court, solicited through public appeal, or made as a grant by a federal agency, state or local government, or disaster assistance organizations, subsequent to a presidential declaration of disaster;

(10) the portion of an insurance settlement that is used to pay medical, funeral, and burial expenses, or to repair or replace insured property;

(11) reimbursements for medical expenses that cannot be paid by medical assistance;

(12) payments by a vocational rehabilitation program administered by the state under chapter 268A, except those payments that are for current living expenses;

(13) in-kind income, including any payments directly made by a third party to a provider of goods and services;

(14) assistance payments to correct underpayments, but only for the month in which the payment is received;

(15) emergency assistance payments;

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- (16) funeral and cemetery payments as provided by section 256.935;
- (17) nonrecurring cash gifts of \$30 or less, not exceeding \$30 per participant in a calendar month;
- (18) any form of energy assistance payment made through Public Law Number 97-35, Low-Income Home Energy Assistance Act of 1981, payments made directly to energy providers by other public and private agencies, and any form of credit or rebate payment issued by energy providers;
- (19) Supplemental Security Income, including retroactive payments;
- (20) Minnesota supplemental aid, including retroactive payments;
- (21) proceeds from the sale of real or personal property;
- (22) adoption assistance payments under section 259.67;
- (23) state-funded family subsidy program payments made under section 252.32 to help families care for children with mental retardation or related conditions;
- (24) interest payments and dividends from property that is not excluded from and that does not exceed the asset limit;
- (25) rent rebates;
- (26) income earned by a minor caregiver or minor child who is at least a half-time student in an approved secondary education program;
- (27) income earned by a caregiver under age 20 who is at least a half-time student in an approved secondary education program;
- (28) MFIP-S child care payments under section 119B.05;
- (29) all other payments made through MFIP-S to support a caregiver's pursuit of greater self-support;
- (30) income a participant receives related to shared living expenses;
- (31) reverse mortgages;
- (32) benefits provided by the Child Nutrition Act of 1966, United States Code, title 42, chapter 13A, sections 1771 to 1790;
- (33) benefits provided by the women, infants, and children (WIC) nutrition program, United States Code, title 42, chapter 13A, section 1786;
- (34) benefits from the National School Lunch Act, United States Code, title 42, chapter 13, sections 1751 to 1769e;
- (35) relocation assistance for displaced persons under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, United States Code, title 42, chapter 61, subchapter II, section 4636, or the National Housing Act, United States Code, title 12, chapter 13, sections 1701 to 1750jj;
- (36) benefits from the Trade Act of 1974, United States Code, title 19, chapter 12, part 2, sections 2271 to 2322;

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(37) war reparations payments to Japanese Americans and Aleuts under United States Code, title 50, sections 1989 to 1989d;

(38) payments to veterans or their dependents as a result of legal settlements regarding Agent Orange or other chemical exposure under Public Law Number 101-239, section 10405, paragraph (a)(2)(E);

(39) income that is otherwise specifically excluded from the MFIP-S program consideration in federal law, state law, or federal regulation;

(40) security and utility deposit refunds;

(41) American Indian tribal land settlements excluded under Public Law Numbers 98-123, 98-124, and 99-377 to the Mississippi Band Chippewa Indians of White Earth, Leech Lake, and Mille Lacs reservations and payments to members of the White Earth Band, under United States Code, title 25, chapter 9, section 331, and chapter 16, section 1407;

(42) all income of the minor parent's parent and stepparent when determining the grant for the minor parent in households that include a minor parent living with a parent or stepparent on MFIP-S with other dependent children; and

(43) income of the minor parent's parent and stepparent equal to 200 percent of the federal poverty guideline for a family size not including the minor parent and the minor parent's child in households that include a minor parent living with a parent or stepparent not on MFIP-S when determining the grant for the minor parent. The remainder of income is deemed as specified in section 256J.37, subdivision 1 1b;

(44) payments made to children eligible for relative custody assistance under section 257.85;

(45) vendor payments for goods and services made on behalf of a client unless the client has the option of receiving the payment in cash; and

(46) the principal portion of a contract for deed payment.

Subd. 3. **INITIAL INCOME TEST.** The county agency shall determine initial eligibility by considering all earned and unearned income that is not excluded under subdivision 2. To be eligible for MFIP-S, the assistance unit's countable income minus the disregards in paragraphs (a) and (b) must be below the transitional standard of assistance according to section 256J.24 for that size assistance unit.

(a) The initial eligibility determination must disregard the following items:

(1) the employment disregard is 18 percent of the gross earned income whether or not the member is working full time or part time;

(2) dependent care costs must be deducted from gross earned income for the actual amount paid for dependent care up to the a maximum disregard allowed of \$200 per month for each child less than two years of age, and \$175 per month for each child two years of age and older under this chapter and chapter 119B; and

(3) all payments made according to a court order for spousal support or the support of children not living in the assistance unit's household shall be disregarded from the income of the person with the legal obligation to pay support, provided that, if there has

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been a change in the financial circumstances of the person with the legal obligation to pay support since the support order was entered, the person with the legal obligation to pay support has petitioned for a modification of the support order; and

(4) an allocation for the unmet need of an ineligible spouse or an ineligible child under the age of 21 for whom the caregiver is financially responsible and who lives with the caregiver according to section 256J.36.

(b) Notwithstanding paragraph (a), when determining initial eligibility for applicants who have applicant units when at least one member has received AFDC, family general assistance, MFIP, MFIP-R, work first, or MFIP-S in this state within four months of the most recent application for MFIP-S, the employment disregard for all unit members is 36 percent of the gross earned income.

After initial eligibility is established, the assistance payment calculation is based on the monthly income test.

Subd. 4. **MONTHLY INCOME TEST AND DETERMINATION OF ASSISTANCE PAYMENT.** The county agency shall determine ongoing eligibility and the assistance payment amount according to the monthly income test. To be eligible for MFIP-S, the result of the computations in paragraphs (a) to (e) must be at least \$1.

(a) Apply a 36 percent income disregard to gross earnings and subtract this amount from the family wage level. If the difference is equal to or greater than the transitional standard, the assistance payment is equal to the transitional standard. If the difference is less than the transitional standard, the assistance payment is equal to the difference. The employment disregard in this paragraph must be deducted every month there is earned income.

(b) All payments made according to a court order for spousal support or the support of children not living in the assistance unit's household must be disregarded from the income of the person with the legal obligation to pay support, provided that, if there has been a change in the financial circumstances of the person with the legal obligation to pay support since the support order was entered, the person with the legal obligation to pay support has petitioned for a modification of the court order.

(c) An allocation for the unmet need of an ineligible spouse or an ineligible child under the age of 21 for whom the caregiver is financially responsible and who lives with the caregiver must be made according to section 256J.36.

(d) Subtract unearned income dollar for dollar from the transitional standard to determine the assistance payment amount.

~~(d)~~ (e) When income is both earned and unearned, the amount of the assistance payment must be determined by first treating gross earned income as specified in paragraph (a). After determining the amount of the assistance payment under paragraph (a), unearned income must be subtracted from that amount dollar for dollar to determine the assistance payment amount.

~~(e)~~ (f) When the monthly income is greater than the transitional or family wage level standard after applicable deductions and the income will only exceed the standard for one month, the county agency must suspend the assistance payment for the payment month.

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Subd. 5. **DISTRIBUTION OF INCOME.** The income of all members of the assistance unit must be counted. Income may also be deemed from ineligible persons to the assistance unit. Income must be attributed to the person who earns it or to the assistance unit according to paragraphs (a) to (c).

(a) Funds distributed from a trust, whether from the principal holdings or sale of trust property or from the interest and other earnings of the trust holdings, must be considered income when the income is legally available to an applicant or participant. Trusts are presumed legally available unless an applicant or participant can document that the trust is not legally available.

(b) Income from jointly owned property must be divided equally among property owners unless the terms of ownership provide for a different distribution.

(c) Deductions are not allowed from the gross income of a financially responsible household member or by the members of an assistance unit to meet a current or prior debt.

Sec. 44. Minnesota Statutes 1997 Supplement, section 256J.24, subdivision 1, is amended to read:

Subdivision 1. **MFIP-S ASSISTANCE UNIT.** An MFIP-S assistance unit is either a group of individuals with at least one minor child who live together whose needs, assets, and income are considered together and who receive MFIP-S assistance, or a pregnant woman and her spouse who receives ~~receive~~ MFIP-S assistance.

Individuals identified in subdivision 2 must be included in the MFIP-S assistance unit. Individuals identified in subdivision 3 ~~must be excluded from the assistance unit~~ are ineligible to receive MFIP-S. Individuals identified in subdivision 4 may be included in the assistance unit at their option. Individuals not included in the assistance unit who are identified in section 256J.37, ~~subdivision~~ subdivisions 1 or 2, must have their income and assets considered when determining eligibility and benefits for an MFIP-S assistance unit. All assistance unit members, whether mandatory or elective, who live together and for whom one caregiver or two caregivers apply must be included in a single assistance unit.

Sec. 45. Minnesota Statutes 1997 Supplement, section 256J.24, subdivision 2, is amended to read:

Subd. 2. **MANDATORY ASSISTANCE UNIT COMPOSITION.** Except for minor caregivers and their children who are ~~must be~~ in a separate assistance unit from the other persons in the household, when the following individuals live together, they must be included in the assistance unit:

- (1) a minor child, including a pregnant minor;
- (2) the minor child's siblings, half-siblings, and step-siblings; and
- (3) the minor child's natural, adoptive parents, and stepparents; and
- (4) the spouse of a pregnant woman.

Sec. 46. Minnesota Statutes 1997 Supplement, section 256J.24, subdivision 3, is amended to read:

Subd. 3. **INDIVIDUALS WHO MUST BE EXCLUDED FROM AN ASSISTANCE UNIT.** (a) The following individuals ~~must be excluded from an assistance unit~~

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who are part of the assistance unit determined under subdivision 2 are ineligible to receive MFIP-S:

- (1) individuals receiving Supplemental Security Income or Minnesota supplemental aid;
- (2) individuals living at home while performing court-imposed, unpaid community service work due to a criminal conviction;
- (3) individuals disqualified from the food stamp program or MFIP-S, until the disqualification ends;
- (4) children on whose behalf federal, state or local foster care payments under title IV-E of the Social Security Act are made, except as provided in section sections 256J.13, subdivision 2, and 256J.74, subdivision 2; and
- (5) children receiving ongoing monthly adoption assistance payments under section 269.67 259.67.

(b) The exclusion of a person under this subdivision does not alter the mandatory assistance unit composition.

Sec. 47. Minnesota Statutes 1997 Supplement, section 256J.24, subdivision 4, is amended to read:

Subd. 4. **INDIVIDUALS WHO MAY ELECT TO BE INCLUDED IN THE ASSISTANCE UNIT.** (a) The minor child's eligible caregiver may choose to be in the assistance unit, if the caregiver is not required to be in the assistance unit under subdivision 2. If the relative eligible caregiver chooses to be in the assistance unit, that person's spouse must also be in the unit.

(b) Any minor child not related as a sibling, stepsibling, or adopted sibling to the minor child in the unit, but for whom there is an eligible caregiver may elect to be in the unit.

(c) A foster care provider of a minor child who is receiving federal, state, or local foster care maintenance payments may elect to receive MFIP-S if the provider meets the definition of caregiver under section 256J.08, subdivision 11. If the provider chooses to receive MFIP-S, the spouse of the provider must also be included in the assistance unit with the provider. The provider and spouse are eligible for assistance even if the only minor child living in the provider's home is receiving foster care maintenance payments.

(d) The adult caregiver or caregivers of a minor parent are eligible to be a separate assistance unit from the minor parent and the minor parent's child when:

- (1) the adult caregiver or caregivers have no other minor children in the household;
- (2) the minor parent and the minor parent's child are living together with the adult caregiver or caregivers; and
- (3) the minor parent and the minor parent's child receive MFIP-S, or would be eligible to receive MFIP-S, if they were not receiving SSI benefits.

Sec. 48. Minnesota Statutes 1997 Supplement, section 256J.24, is amended by adding a subdivision to read:

Subd. 5a. **FOOD PORTION OF MFIP-S TRANSITIONAL STANDARD.** The commissioner shall adjust the food portion of the MFIP-S transitional standard by Octo-

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ber 1 each year beginning October 1998 to reflect the cost-of-living adjustments to the Food Stamp Program. The commissioner shall annually publish in the State Register the transitional standard for an assistance unit of sizes 1 to 10.

Sec. 49. Minnesota Statutes 1997 Supplement, section 256J.24, subdivision 7, is amended to read:

Subd. 7. FAMILY WAGE LEVEL STANDARD. The family wage level standard is 110 percent of the transitional standard under subdivision 5 and is the standard used when there is earned income in the assistance unit. As specified in section 256J.21, earned income is subtracted from the family wage level to determine the amount of the assistance payment. Assistance payments may not exceed the shared household standard or the transitional standard for the assistance unit, whichever is less.

Sec. 50. Minnesota Statutes 1997 Supplement, section 256J.24, is amended by adding a subdivision to read:

Subd. 8. ASSISTANCE PAID TO ELIGIBLE ASSISTANCE UNITS. Payments for shelter up to the amount of the cash portion of MFIP-S benefits for which the assistance unit is eligible shall be vendor paid for as many months as the assistance unit is eligible or six months, whichever comes first. The residual amount of the grant after vendor payment, if any, must be paid to the MFIP-S caregiver.

Sec. 51. Minnesota Statutes 1997 Supplement, section 256J.24, is amended by adding a subdivision to read:

Subd. 9. SHARED HOUSEHOLD STANDARD; MFIP-S. (a) Except as prohibited in paragraph (b), the county agency must use the shared household standard when the household includes one or more unrelated members, as that term is defined in section 256J.08, subdivision 86a. The county agency must use the shared household standard, unless a member of the assistance unit is a victim of domestic violence and has an approved safety plan, regardless of the number of unrelated members in the household.

(b) The county agency must not use the shared household standard when all unrelated members are one of the following:

(1) a recipient of public assistance benefits, including food stamps, Supplemental Security Income, adoption assistance, relative custody assistance, or foster care payments;

(2) a roomer or boarder, or a person to whom the assistance unit is paying room or board;

(3) a minor;

(4) a minor caregiver living with the minor caregiver's parents or in an approved supervised living arrangement; or

(5) a caregiver who is not the parent of the minor child in the assistance unit.

(c) The shared household standard must be discontinued if it is not approved by the United States Department of Agriculture under the MFIP-S waiver.

Sec. 52. Minnesota Statutes 1997 Supplement, section 256J.26, subdivision 1, is amended to read:

Subdivision 1. PERSON CONVICTED OF DRUG OFFENSES. (a) Applicants or recipients participants who have been convicted of a drug offense after July 1, 1997,

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may, if otherwise eligible, receive AFDC or MFIP-S benefits subject to the following conditions:

(1) Benefits for the entire assistance unit must be paid in vendor form for shelter and utilities during any time the applicant is part of the assistance unit.

(2) The convicted applicant or ~~recipient~~ participant shall be subject to random drug testing as a condition of continued eligibility and ~~is subject to sanctions under section 256J.46 following any positive test for an illegal controlled substance, except that the grant must continue to be vendor paid under clause (1).~~

For purposes of this subdivision, section 256J.46 is effective July 1, 1997.

This subdivision also applies to persons who receive food stamps under section 115 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. is subject to the following sanctions:

(i) for failing a drug test the first time, the participant's grant shall be reduced by ten percent of the MFIP-S transitional standard, the shared household standard, or the interstate transitional standard, whichever is applicable prior to making vendor payments for shelter and utility costs; or

(ii) for failing a drug test two or more times, the residual amount of the participant's grant after making vendor payments for shelter and utility costs, if any, must be reduced by an amount equal to 30 percent of the MFIP-S transitional standard, the shared household standard, or the interstate transitional standard, whichever is applicable.

(b) Applicants or participants who have been convicted of a drug offense after July 1, 1997, may, if otherwise eligible, receive food stamps if the convicted applicant or participant is subject to random drug testing as a condition of continued eligibility. Following a positive test for an illegal controlled substance, the applicant is subject to the following sanctions:

(1) for failing a drug test the first time, food stamps shall be reduced by ten percent of the applicable food stamp allotment; and

(2) for failing a drug test two or more times, food stamps shall be reduced by an amount equal to 30 percent of the applicable food stamp allotment.

(b) (c) For the purposes of this subdivision, "drug offense" means a conviction that occurred after July 1, 1997, of sections 152.021 to 152.025, 152.0261, or 152.096. Drug offense also means a conviction in another jurisdiction of the possession, use, or distribution of a controlled substance, or conspiracy to commit any of these offenses, if the offense occurred after July 1, 1997, and the conviction is a felony offense in that jurisdiction, or in the case of New Jersey, a high misdemeanor.

Sec. 53. Minnesota Statutes 1997 Supplement, section 256J.26, subdivision 2, is amended to read:

Subd. 2. **PAROLE VIOLATORS.** An individual violating a condition of probation or parole or supervised release imposed under federal law or the law of any state is ~~ineligible to receive~~ disqualified from receiving AFDC or MFIP-S.

Sec. 54. Minnesota Statutes 1997 Supplement, section 256J.26, subdivision 3, is amended to read:

Subd. 3. **FLEEING FELONS.** An individual who is fleeing to avoid prosecution, or custody, or confinement after conviction for a crime that is a felony under the laws of

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the jurisdiction from which the individual flees, or in the case of New Jersey, is a high misdemeanor, is ineligible to receive disqualified from receiving AFDC or MFIP-S.

Sec. 55. Minnesota Statutes 1997 Supplement, section 256J.26, subdivision 4, is amended to read:

Subd. 4. **DENIAL OF ASSISTANCE FOR TEN YEARS TO A PERSON FOUND TO HAVE FRAUDULENTLY MISREPRESENTED RESIDENCY.** An individual who is convicted in federal or state court of having made a fraudulent statement or representation with respect to the place of residence of the individual in order to receive assistance simultaneously from two or more states is ineligible to receive disqualified from receiving AFDC or MFIP-S for ten years beginning on the date of the conviction.

Sec. 56. Minnesota Statutes 1997 Supplement, section 256J.28, subdivision 1, is amended to read:

Subdivision 1. **EXPEDITED ISSUANCE OF FOOD STAMP ASSISTANCE.** The following households are entitled to expedited issuance of food stamp assistance:

(1) households with less than \$150 in monthly gross income provided their liquid assets do not exceed \$100;

(2) migrant or seasonal farm worker households who are destitute as defined in Code of Federal Regulations, title 7, subtitle B, chapter 2, subchapter C, part 273, section 273.10, paragraph (e)(3), provided their liquid assets do not exceed \$100; and

(3) eligible households whose combined monthly gross income and liquid resources are less than the household's monthly rent or mortgage and utilities.

~~The benefits issued through expedited issuance of food stamp assistance must be deducted from the amount of the full monthly MFIP-S assistance payment and a supplemental payment for the difference must be issued. For any month an individual receives expedited Food Stamp Program benefits, the individual is not eligible for the MFIP-S food portion of assistance.~~

Sec. 57. Minnesota Statutes 1997 Supplement, section 256J.28, subdivision 2, is amended to read:

Subd. 2. **FOOD STAMPS FOR HOUSEHOLD MEMBERS NOT IN THE ASSISTANCE UNIT.** (a) For household members who purchase and prepare food with the MFIP-S assistance unit but are not part of the assistance unit, the county agency must determine a separate food stamp benefit based on regulations agreed upon with the United States Department of Agriculture.

~~(b) This subdivision does not apply to optional members who have chosen not to be in the assistance unit.~~

~~(e)~~ (b) Fair hearing requirements for persons who receive food stamps under this subdivision are governed by section 256.045, and Code of Federal Regulations, title 7, subtitle B, chapter II, part 273, section 273.15.

Sec. 58. Minnesota Statutes 1997 Supplement, section 256J.28, is amended by adding a subdivision to read:

Subd. 5. **FOOD STAMPS FOR PERSONS RESIDING IN A BATTERED WOMAN'S SHELTER.** Members of an MFIP-S assistance unit residing in a battered

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woman's shelter may receive food stamps or the food portion twice in a month if the unit that initially received the food stamps or food portion included the alleged abuser.

Sec. 59. Minnesota Statutes 1997 Supplement, section 256J.30, subdivision 10, is amended to read:

Subd. 10. **COOPERATION WITH HEALTH CARE BENEFITS.** (a) The caregiver of a minor child must cooperate with the county agency to identify and provide information to assist the county agency in pursuing third-party liability for medical services.

(b) A caregiver must assign to the department any rights to health insurance policy benefits the caregiver has during the period of MFIP-S eligibility.

(c) A caregiver must identify any third party who may be liable for care and services available under the medical assistance program on behalf of the applicant or participant and all other assistance unit members.

(d) When a participant refuses to identify any third party who may be liable for care and services, the recipient must be sanctioned as provided in section 256J.46, subdivision 1. The recipient is also ineligible for medical assistance for a minimum of one month and until the recipient cooperates with the requirements of this subdivision.

Sec. 60. Minnesota Statutes 1997 Supplement, section 256J.30, subdivision 11, is amended to read:

Subd. 11. **REQUIREMENT TO ASSIGN SUPPORT AND MAINTENANCE RIGHTS.** ~~To be eligible~~ An assistance unit is ineligible for MFIP-S, unless the caregiver must assign ~~assigns~~ all rights to child support and spousal maintenance benefits according to ~~sections 256.74, subdivision 5, and section 256.741, if enacted.~~

Sec. 61. Minnesota Statutes 1997 Supplement, section 256J.31, subdivision 5, is amended to read:

Subd. 5. **MAILING OF NOTICE.** The notice of adverse action shall be issued according to paragraphs (a) to (c).

(a) A county agency shall mail a notice of adverse action at least ten days before the effective date of the adverse action, except as provided in paragraphs (b) and (c).

(b) A county agency must mail a notice of adverse action at least five days before the effective date of the adverse action when the county agency has factual information that requires an action to reduce, suspend, or terminate assistance based on probable fraud.

(c) A county agency shall mail a notice of adverse action before or on the effective date of the adverse action when the county agency:

(1) receives the caregiver's signed monthly MFIP-S household report form that includes information that requires payment reduction, suspension, or termination;

(2) is informed of the death of a participant or the payee;

(3) receives a signed statement from the caregiver that assistance is no longer wanted;

(4) receives a signed statement from the caregiver that provides information that requires the termination or reduction of assistance;

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(5) verifies that a member of the assistance unit is absent from the home and does not meet temporary absence provisions in section 256J.13;

(6) verifies that a member of the assistance unit has entered a regional treatment center or a licensed residential facility for medical or psychological treatment or rehabilitation;

(7) verifies that a member of an assistance unit has been placed in foster care, and the provisions of section 256J.13, subdivision 2, paragraph (b) ~~(c)~~, clause (2), do not apply;

(8) verifies that a member of an assistance unit has been approved to receive assistance by another state; or

(9) cannot locate a caregiver.

Sec. 62. Minnesota Statutes 1997 Supplement, section 256J.31, subdivision 10, is amended to read:

Subd. 10. **PROTECTION FROM GARNISHMENT.** MFIP-S grants or earnings of a caregiver ~~while participating in full or part-time employment or training~~ shall be protected from garnishment. This protection for earnings shall extend for a period of six months from the date of termination from MFIP-S.

Sec. 63. Minnesota Statutes 1997 Supplement, section 256J.31, is amended by adding a subdivision to read:

Subd. 12. **RIGHT TO DISCONTINUE CASH ASSISTANCE.** A participant may discontinue receipt of the cash assistance portion of MFIP-S assistance and retain eligibility for child care assistance under section 119B.05 and for medical assistance under sections 256B.055, subdivision 3a, and 256B.0635.

Sec. 64. Minnesota Statutes 1997 Supplement, section 256J.32, subdivision 4, is amended to read:

Subd. 4. **FACTORS TO BE VERIFIED.** The county agency shall verify the following at application:

- (1) identity of adults;
- (2) presence of the minor child in the home, if questionable;
- (3) relationship of a minor child to caregivers in the assistance unit;
- (4) age, if necessary to determine MFIP-S eligibility;
- (5) immigration status;
- (6) social security number ~~in accordance with~~ according to the requirements of section 256J.30, subdivision 12;
- (7) income;
- (8) self-employment expenses used as a deduction;
- (9) source and purpose of deposits and withdrawals from business accounts;
- (10) spousal support and child support payments made to persons outside the household;

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- (11) real property;
- (12) vehicles;
- (13) checking and savings accounts;
- (14) savings certificates, savings bonds, stocks, and individual retirement accounts;
- (15) pregnancy, if related to eligibility;
- (16) inconsistent information, if related to eligibility;
- (17) medical insurance;
- (18) anticipated graduation date of an 18-year-old;
- (19) burial accounts;
- (20) school attendance, if related to eligibility; and
- (21) residence;
- (22) a claim of domestic violence if used as a basis for a deferral or exemption from the 60-month time limit in section 256J.42 or employment and training services requirements in section 256J.56; and
- (23) disability if used as an exemption from employment and training services requirements under section 256J.56.

Sec. 65. Minnesota Statutes 1997 Supplement, section 256J.32, subdivision 6, is amended to read:

Subd. 6. **RECERTIFICATION.** The county agency shall recertify eligibility in an annual face-to-face interview with the participant and verify the following:

- (1) presence of the minor child in the home, if questionable;
- (2) income, unless excluded, including self-employment expenses used as a deduction or deposits or withdrawals from business accounts;
- (3) assets when the value is within \$200 of the asset limit; and
- (4) inconsistent information, if related to eligibility.

Sec. 66. Minnesota Statutes 1997 Supplement, section 256J.32, is amended by adding a subdivision to read:

Subd. 7. **NOTICE TO UNDOCUMENTED PERSONS; RELEASE OF PRIVATE DATA.** County agencies in consultation with the commissioner of human services shall provide notification to undocumented persons regarding the release of personal data to the Immigration and Naturalization Service and develop protocol regarding the release or sharing of data about undocumented persons with the Immigration and Naturalization Service as required under sections 404, 434, and 411A of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

Sec. 67. Minnesota Statutes 1997 Supplement, section 256J.33, subdivision 1, is amended to read:

Subdivision 1. **DETERMINATION OF ELIGIBILITY.** A county agency must determine MFIP-S eligibility prospectively for a payment month based on retrospective-

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ly assessing income and the county agency's best estimate of the circumstances that will exist in the payment month.

Except as described in section 256J.34, subdivision 1, when prospective eligibility exists, a county agency must calculate the amount of the assistance payment using retrospective budgeting. To determine MFIP-S eligibility and the assistance payment amount, a county agency must apply countable income, described in section 256J.37, subdivisions 3 to 10, received by members of an assistance unit or by other persons whose income is counted for the assistance unit, described under sections 256J.21 and 256J.37, subdivisions 1 and to 2.

This income must be applied to the transitional standard, shared household standard, or family wage standard subject to this section and sections 256J.34 to 256J.36. Income received in a calendar month and not otherwise excluded under section 256J.21, subdivision 2, must be applied to the needs of an assistance unit.

Sec. 68. Minnesota Statutes 1997 Supplement, section 256J.33, subdivision 4, is amended to read:

Subd. 4. **MONTHLY INCOME TEST.** A county agency must apply the monthly income test retrospectively for each month of MFIP-S eligibility. An assistance unit is not eligible when the countable income equals or exceeds the transitional standard, the shared household standard, or the family wage level for the assistance unit. The income applied against the monthly income test must include:

(1) gross earned income from employment, prior to mandatory payroll deductions, voluntary payroll deductions, wage authorizations, and after the disregards in section 256J.21, subdivision 3 4, and the allocations in section 256J.36, unless the employment income is specifically excluded under section 256J.21, subdivision 2;

(2) gross earned income from self-employment less deductions for self-employment expenses in section 256J.37, subdivision 5, but prior to any reductions for personal or business state and federal income taxes, personal FICA, personal health and life insurance, and after the disregards in section 256J.21, subdivision 3 4, and the allocations in section 256J.36;

(3) unearned income after deductions for allowable expenses in section 256J.37, subdivision 9, and allocations in section 256J.36, unless the income has been specifically excluded in section 256J.21, subdivision 2;

(4) gross earned income from employment as determined under clause (1) which is received by a member of an assistance unit who is a minor child or minor caregiver and less than a half-time student;

(5) child support and spousal support received or anticipated to be received by an assistance unit;

(6) the income of a parent when that parent is not included in the assistance unit;

(7) the income of an eligible relative and spouse who seek to be included in the assistance unit; and

(8) the unearned income of a minor child included in the assistance unit.

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

Sec. 69. Minnesota Statutes 1997 Supplement, section 256J.35, is amended to read:

256J.35 AMOUNT OF ASSISTANCE PAYMENT.

Except as provided in paragraphs (a) to (e) (d), the amount of an assistance payment is equal to the difference between the transitional standard, shared household standard, or the Minnesota family wage level in section 256J.24, whichever is less, and countable income.

(a) When MFIP-S eligibility exists for the month of application, the amount of the assistance payment for the month of application must be prorated from the date of application or the date all other eligibility factors are met for that applicant, whichever is later. This provision applies when an applicant loses at least one day of MFIP-S eligibility.

(b) MFIP-S overpayments to an assistance unit must be recouped according to section 256J.38, subdivision 4.

(c) An initial assistance payment must not be made to an applicant who is not eligible on the date payment is made.

(d) An individual whose needs have been otherwise provided for in another state, in whole or in part by county, state, or federal dollars during a month, is ineligible to receive MFIP-S for the month.

Sec. 70. Minnesota Statutes 1997 Supplement, section 256J.36, is amended to read:

256J.36 ALLOCATION FOR UNMET NEED OF OTHER HOUSEHOLD MEMBERS.

Except as prohibited in paragraphs (a) and (b), an allocation of income is allowed from the caregiver's income to meet the unmet need of an ineligible spouse or an ineligible child under the age of 21 for whom the caregiver is financially responsible who also lives with the caregiver. ~~An allocation is allowed from the caregiver's income to meet the need of an ineligible or excluded person.~~ That allocation is allowed in an amount up to the difference between the MFIP-S family allowance transitional standard for the assistance unit when that ~~excluded or ineligible~~ person is included in the assistance unit and the MFIP-S family allowance for the assistance unit when the ~~excluded or ineligible~~ person is not included in the assistance unit. These allocations must be deducted from the caregiver's counted earnings and from unearned income subject to paragraphs (a) and (b).

(a) Income of a minor child in the assistance unit must not be allocated to meet the need of ~~a an ineligible person who is not a member of the assistance unit~~, including the child's parent, even when that parent is the payee of the child's income.

(b) Income of ~~an assistance unit a caregiver~~ must not be allocated to meet the needs of ~~a disqualified person ineligible for failure to cooperate with program requirements including child support requirements, a person ineligible due to fraud, or a relative caregiver and the caregiver's spouse who opt out of the assistance unit.~~

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

Sec. 71. Minnesota Statutes 1997 Supplement, section 256J.37, subdivision 1, is amended to read:

Subdivision 1. **DEEMED INCOME FROM INELIGIBLE HOUSEHOLD MEMBERS.** Unless otherwise provided under subdivision 1a or 1b, the income of ineligible household members must be deemed after allowing the following disregards:

(1) the first 18 percent of the excluded ineligible family member's gross earned income;

(2) amounts the ineligible person actually paid to individuals not living in the same household but whom the ineligible person claims or could claim as dependents for determining federal personal income tax liability;

(3) child or spousal support paid to a person who lives outside of the household all payments made by the ineligible person according to a court order for spousal support or the support of children not living in the assistance unit's household, provided that, if there has been a change in the financial circumstances of the ineligible person since the support order was entered, the ineligible person has petitioned for a modification of the support order; and

(4) an amount for the needs of the ineligible person and other persons who live in the household but are not included in the assistance unit and are or could be claimed by an ineligible person as dependents for determining federal personal income tax liability. This amount is equal to the difference between the MFIP-S need transitional standard when the excluded ineligible person is included in the assistance unit and the MFIP-S need transitional standard when the excluded ineligible person is not included in the assistance unit.

Sec. 72. Minnesota Statutes 1997 Supplement, section 256J.37, is amended by adding a subdivision to read:

Subd. 1a. **DEEMED INCOME FROM DISQUALIFIED MEMBERS.** The income of disqualified members must be deemed after allowing the following disregards:

(1) the first 18 percent of the disqualified member's gross earned income;

(2) amounts the disqualified member actually paid to individuals not living in the same household but whom the disqualified member claims or could claim as dependents for determining federal personal income tax liability;

(3) all payments made by the disqualified member according to a court order for spousal support or the support of children not living in the assistance unit's household, provided that, if there has been a change in the financial circumstances of the disqualified member's legal obligation to pay support since the support order was entered, the disqualified member has petitioned for a modification of the support order; and

(4) an amount for the needs of other persons who live in the household but are not included in the assistance unit and are or could be claimed by the disqualified member as dependents for determining federal personal income tax liability. This amount is equal to the difference between the MFIP-S transitional standard when the ineligible person is included in the assistance unit and the MFIP-S transitional standard when the ineligible person is not included in the assistance unit. An amount shall not be allowed for the needs of a disqualified member.

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

Sec. 73. Minnesota Statutes 1997 Supplement, section 256J.37, is amended by adding a subdivision to read:

Subd. 1b. DEEMED INCOME FROM PARENTS OF MINOR CAREGIVERS. In households where minor caregivers live with a parent or parents who do not receive MFIP-S, the income of the parents must be deemed after allowing the following disregards:

(1) income of the parents equal to 200 percent of the federal poverty guideline for a family size not including the minor parent and the minor parent's child in the household according to section 256J.21, subdivision 2, clause (43);

(2) 18 percent of the parents' gross earned income;

(3) amounts the parents actually paid to individuals not living in the same household but whom the parents claim or could claim as dependents for determining federal personal income tax liability; and

(4) all payments made by parents according to a court order for spousal support or the support of children not living in the parent's household, provided that, if there has been a change in the financial circumstances of the parent's legal obligation to pay support since the support order was entered, the parents have petitioned for a modification of the support order.

Sec. 74. Minnesota Statutes 1997 Supplement, section 256J.37, subdivision 2, is amended to read:

Subd. 2. DEEMED INCOME AND ASSETS OF SPONSOR OF NONCITIZENS. All income and assets of a sponsor, or sponsor's spouse, who executed an affidavit of support for a noncitizen must be deemed to be unearned income of the noncitizen as specified in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, title IV, Public Law Number 104-193, sections 421 and 422, and subsequently set out in federal rules. If a noncitizen applies for or receives MFIP-S, the county must deem the income and assets of the noncitizen's sponsor and the sponsor's spouse who have signed an affidavit of support for the noncitizen as specified in Public Law Number 104-193, title IV, sections 421 and 422, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The income of a sponsor and the sponsor's spouse is considered unearned income of the noncitizen. The assets of a sponsor and the sponsor's spouse are considered available assets of the noncitizen.

Sec. 75. Minnesota Statutes 1997 Supplement, section 256J.37, subdivision 9, is amended to read:

Subd. 9. UNEARNED INCOME. (a) The county agency must apply unearned income, including housing subsidies as in paragraph (b), to the transitional standard. When determining the amount of unearned income, the county agency must deduct the costs necessary to secure payments of unearned income. These costs include legal fees, medical fees, and mandatory deductions such as federal and state income taxes.

(b) Effective July 1, 1998 1999, the county agency shall count \$100 of the value of public and assisted rental subsidies provided through the Department of Housing and Urban Development (HUD) as unearned income. The full amount of the subsidy must be counted as unearned income when the subsidy is less than \$100.

New language is indicated by underline, deletions by strikeout.

Sec. 76. Minnesota Statutes 1997 Supplement, section 256J.38, subdivision 1, is amended to read:

Subdivision 1. **SCOPE OF OVERPAYMENT.** When a participant or former participant receives an overpayment due to agency, client, or ATM error, or due to assistance received while an appeal is pending and the participant or former participant is determined ineligible for assistance or for less assistance than was received, the county agency must recoup or recover the overpayment under using the conditions of this section: following methods:

- (1) reconstruct each affected budget month and corresponding payment month;
- (2) use the policies and procedures that were in effect for the payment month; and
- (3) do not allow employment disregards in section 256J.21, subdivision 3 or 4, in the calculation of the overpayment when the unit has not reported within two calendar months following the end of the month in which the income was received.

Sec. 77. Minnesota Statutes 1997 Supplement, section 256J.39, subdivision 2, is amended to read:

Subd. 2. **PROTECTIVE AND VENDOR PAYMENTS.** Alternatives to paying assistance directly to a participant may be used when:

- (1) a county agency determines that a vendor payment is the most effective way to resolve an emergency situation pertaining to basic needs;
- (2) a caregiver makes a written request to the county agency asking that part or all of the assistance payment be issued by protective or vendor payments for shelter and utility service only. The caregiver may withdraw this request in writing at any time;
- (3) a caregiver has exhibited a continuing pattern of mismanaging funds as determined by the county agency;
- (4) the vendor payment is part of a sanction under section 256J.46, ~~subdivision 2;~~ or
- ~~(5) (4) the vendor payment is required under section 256J.24, subdivision 8, 256J.26, or 256J.43;~~
- (5) protective payments are required for minor parents under section 256J.14; or
- (6) a caregiver has exhibited a continuing pattern of mismanaging funds as determined by the county agency.

The director of a county agency must approve a proposal for protective or vendor payment for money mismanagement when there is a pattern of mismanagement under clause (6). During the time a protective or vendor payment is being made, the county agency must provide services designed to alleviate the causes of the mismanagement.

The continuing need for and method of payment must be documented and reviewed every 12 months. The director of a county agency must approve the continuation of protective or vendor payments. when it appears that the need for protective or vendor payments will continue or is likely to continue beyond two years because the county agency's efforts have not resulted in sufficiently improved use of assistance on behalf of the minor child, judicial appointment of a legal guardian or other legal representative must be sought by the county agency.

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Sec. 78. Minnesota Statutes 1997 Supplement, section 256J.395, is amended to read:

256J.395 VENDOR PAYMENT OF RENT SHELTER COSTS AND UTILITIES.

Subdivision 1. **VENDOR PAYMENT.** (a) Effective July 1, 1997, when a county is required to provide assistance to a recipient participant in vendor form for ~~rent~~ shelter costs and utilities under this chapter, or chapter 256, 256D, or 256K, the cost of utilities for a given family may be assumed to be:

(1) the average of the actual monthly cost of utilities for that family for the prior 12 months at the family's current residence, if applicable;

(2) the monthly plan amount, if any, set by the local utilities for that family at the family's current residence; or

(3) the estimated monthly utility costs for the dwelling in which the family currently resides.

(b) For purposes of this section, "utility" means any of the following: municipal water and sewer service; electric, gas, or heating fuel service; or wood, if that is the heating source.

(c) In any instance where a vendor payment for rent is directed to a landlord not legally entitled to the payment, the county social services agency shall immediately institute proceedings to collect the amount of the vendored rent payment, which shall be considered a debt under section 270A.03, subdivision 5.

Subd. 2. **VENDOR PAYMENT NOTIFICATION.** (a) When a county agency is required to provide assistance to a participant in vendor payment form for shelter costs or utilities under subdivision 1, and the participant does not give the agency the information needed to pay the vendor, the county agency shall notify the participant of the intent to terminate assistance by mail at least ten days before the effective date of the adverse action.

(b) The notice of action shall include a request for information about:

(1) the amount of the participant's shelter costs or utilities;

(2) the due date of the shelter costs or utilities; and

(3) the name and address of the landlord, contract for deed holder, mortgage company, and utility vendor.

(c) If the participant fails to provide the requested information by the effective date of the adverse action, the county must terminate the MFIP-S grant. If the applicant or participant verifies they do not have shelter costs or utility obligations, the county shall not terminate assistance if the assistance unit is otherwise eligible.

Subd. 3. **DISCONTINUING VENDOR PAYMENTS DUE TO DISPUTE WITH LANDLORD.** The county agency shall discontinue vendor payments for shelter costs imposed under this chapter when the vendor payment interferes with the participant's right to withhold rent due to a dispute with the participant's landlord in accordance with federal, state, or local housing laws.

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Sec. 79. Minnesota Statutes 1997 Supplement, section 256J.42, is amended to read:
256J.42 60-MONTH TIME LIMIT.

Subdivision 1. **TIME LIMIT.** (a) Except for the exemptions in this section and in section 256J.11, subdivision 2, an assistance unit in which any adult caregiver has received 60 months of cash assistance funded in whole or in part by the TANF block grant in this or any other state or United States territory, MFIP-S, AFDC, or family general assistance, funded in whole or in part by state appropriations, is ineligible to receive MFIP-S. Any cash assistance funded with TANF dollars in this or any other state or United States territory, or MFIP-S assistance funded in whole or in part by state appropriations, that was received by the unit on or after the date TANF was implemented, including any assistance received in states or United States territories of prior residence, counts toward the 60-month limitation. The 60-month limit applies to a minor who is the head of a household or who is married to the head of a household except under subdivision 5. The 60-month time period does not need to be consecutive months for this provision to apply.

(b) Months before July 1998 in which individuals receive assistance as part of an MFIP, MFIP-R, or MFIP or MFIP-R comparison group family under sections 256.031 to 256.0361 or sections 256.047 to 256.048 are not included in the 60-month time limit.

Subd. 2. **ASSISTANCE FROM ANOTHER STATE.** An individual whose needs have been otherwise provided for in another state, in whole or in part by the TANF block grant during a month, is ineligible to receive MFIP-S for the month.

Subd. 3. **ADULTS LIVING ON AN INDIAN RESERVATION.** In determining the number of months for which an adult has received assistance under MFIP-S, the county agency must disregard any month during which the adult lived on an Indian reservation if, during the month:

- (1) at least 1,000 individuals were living on the reservation; and
- ~~(2) at least 50 percent of the adults living on the reservation were unemployed not employed.~~

Subd. 4. **VICTIMS OF DOMESTIC VIOLENCE.** Any cash assistance received by an assistance unit in a month when a caregiver is complying with a safety plan under the MFIP-S employment and training component does not count toward the 60-month limitation on assistance.

Subd. 5. **EXEMPTION FOR CERTAIN FAMILIES.** (a) Any cash assistance received by an assistance unit does not count toward the 60-month limit on assistance during a month in which the parental caregiver is in the category in section 256J.56, clause (1). The exemption applies for the period of time the caregiver belongs to one of the categories specified in this subdivision.

(b) From July 1, 1997, until the date MFIP-S is operative in the caregiver's county of financial responsibility, any cash assistance received by a caregiver who is complying with sections 256.73, subdivision 5a, and 256.736, if applicable, does not count toward the 60-month limit on assistance. Thereafter, any cash assistance received by a minor caregiver who is complying with the requirements of sections 256J.14 and 256J.54, if applicable, does not count towards the 60-month limit on assistance.

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(c) Any diversionary assistance or emergency assistance received does not count toward the 60-month limit.

(d) Any cash assistance received by an 18- or 19-year-old caregiver who is complying with the requirements of section 256J.54 does not count toward the 60-month limit.

Sec. 80. Minnesota Statutes 1997 Supplement, section 256J.43, is amended to read:

256J.43 INTERSTATE PAYMENT STANDARDS.

Subdivision 1. **PAYMENT.** (a) Effective July 1, 1997, the amount of assistance paid to an eligible family unit in which all members have resided in this state for fewer than 12 consecutive calendar months immediately preceding the date of application shall be the lesser of either the payment interstate transitional standard that would have been received by the family assistance unit from the state of immediate prior residence, or the amount calculated in accordance with AFDC or MFIP-S standards. The lesser payment must continue until the family assistance unit meets the 12-month requirement. An assistance unit that has not resided in Minnesota for 12 months from the date of application is not exempt from the interstate payment provisions solely because a child is born in Minnesota to a member of the assistance unit. Payment must be calculated by applying this state's budgeting policies, and the unit's net income must be deducted from the payment standard in the other state or in this state, whichever is lower. Payment shall be made in vendor form for rent shelter and utilities, up to the limit of the grant amount, and residual amounts, if any, shall be paid directly to the assistance unit.

(b) During the first 12 months a family an assistance unit resides in this state, the number of months that a family unit is eligible to receive AFDC or MFIP-S benefits is limited to the number of months the family assistance unit would have been eligible to receive similar benefits in the state of immediate prior residence.

(c) This policy applies whether or not the family assistance unit received similar benefits while residing in the state of previous residence.

(d) When a family an assistance unit moves to this state from another state where the family assistance unit has exhausted that state's time limit for receiving benefits under that state's TANF program, the family unit will not be eligible to receive any AFDC or MFIP-S benefits in this state for 12 months from the date the family assistance unit moves here.

(e) For the purposes of this section, "state of immediate prior residence" means:

(1) the state in which the applicant declares the applicant spent the most time in the 30 days prior to moving to this state; or

(2) the state in which an applicant who is a migrant worker maintains a home.

(f) The commissioner shall annually verify and update all other states' payment standards as they are to be in effect in July of each year.

(g) Applicants must provide verification of their state of immediate prior residence, in the form of tax statements, a driver's license, automobile registration, rent receipts, or other forms of verification approved by the commissioner.

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(h) Migrant workers, as defined in section 256J.08, and their immediate families are exempt from this section, provided the migrant worker provides verification that the migrant family worked in this state within the last 12 months and earned at least \$1,000 in gross wages during the time the migrant worker worked in this state.

Subd. 2. TEMPORARY ABSENCE FROM MINNESOTA. (a) For an assistance unit that has met the requirements of section 256J.12, the number of months that the assistance unit receives benefits under the interstate payment standards in this section is not affected by an absence from Minnesota for fewer than 30 consecutive days.

(b) For an assistance unit that has met the requirements of section 256J.12, the number of months that the assistance unit receives benefits under the interstate payment standards in this section is not affected by an absence from Minnesota for more than 30 consecutive days but fewer than 90 consecutive days, provided the assistance unit continues to maintain a residence in Minnesota during the period of absence.

Subd. 3. EXCEPTIONS TO THE INTERSTATE PAYMENT POLICY. Applicants who lived in another state in the 12 months prior to applying for assistance are exempt from the interstate payment policy for the months that a member of the unit:

(1) served in the United States armed services, provided the person returned to Minnesota within 30 days of leaving the armed forces, and intends to remain in Minnesota;

(2) attended school in another state, paid nonresident tuition or Minnesota tuition rates under a reciprocity agreement, provided the person left Minnesota specifically to attend school and returned to Minnesota within 30 days of graduation with the intent to remain in Minnesota; or

(3) meets the following criteria:

(i) a minor child or a minor caregiver moves from another state to the residence of a relative caregiver;

(ii) the minor caregiver applies for and receives family cash assistance;

(iii) the relative caregiver chooses not to be part of the MFIP-S assistance unit; and

(iv) the relative caregiver has resided in Minnesota for at least 12 months from the date the assistance unit applies for cash assistance.

Subd. 4. INELIGIBLE MANDATORY UNIT MEMBERS. Ineligible mandatory unit members who have resided in Minnesota for 12 months immediately before the unit's date of application establish the other assistance unit members' eligibility for the MFIP-S transitional standard.

Sec. 81. Minnesota Statutes 1997 Supplement, section 256J.45, subdivision 1, is amended to read:

Subdivision 1. COUNTY AGENCY TO PROVIDE ORIENTATION. A county agency must provide each MFIP-S caregiver with a face-to-face orientation. The caregiver must attend the orientation. The county agency must inform the caregiver that failure to attend the orientation is considered a first an occurrence of noncompliance with program requirements, and will result in the imposition of a sanction under section 256J.46. If the client complies with the orientation requirement prior to the first day of the

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month in which the grant reduction is proposed to occur, the orientation sanction shall be lifted.

Sec. 82. Minnesota Statutes 1997 Supplement, section 256J.45, subdivision 2, is amended to read:

Subd. 2. **GENERAL INFORMATION.** The MFIP-S orientation must consist of a presentation that informs caregivers of:

- (1) the necessity to obtain immediate employment;
- (2) the work incentives under MFIP-S;
- (3) the requirement to comply with the employment plan and other requirements of the employment and training services component of MFIP-S, including a description of the range of work and training activities that are allowable under MFIP-S to meet the individual needs of participants;
- (4) the consequences for failing to comply with the employment plan and other program requirements, and that the county agency may not impose a sanction when failure to comply is due to the unavailability of child care or other circumstances where the participant has good cause under section 256J.45, subdivision 3;
- (5) the rights, responsibilities, and obligations of participants;
- (6) the types and locations of child care services available through the county agency;
- (7) the availability and the benefits of the early childhood health and developmental screening under sections 123.701 to 123.74;
- (8) the caregiver's eligibility for transition year child care assistance under section 119B.05;
- (9) the caregiver's eligibility for extended medical assistance when the caregiver loses eligibility for MFIP-S due to increased earnings or increased child or spousal support; and
- (10) the caregiver's option to choose an employment and training provider and information about each provider, including but not limited to, services offered, program components, job placement rates, job placement wages, and job retention rates;
- (11) the caregiver's option to request approval of an education and training plan according to section 256J.52; and
- (12) the work study programs available under the higher educational system.

Sec. 83. Minnesota Statutes 1997 Supplement, section 256J.45, is amended by adding a subdivision to read:

Subd. 3. **GOOD CAUSE EXEMPTIONS FOR NOT ATTENDING ORIENTATION.** (a) The county agency shall not impose the sanction under section 256J.46 if it determines that the participant has good cause for failing to attend orientation. Good cause exists when:

- (1) appropriate child care is not available;

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(2) the participant is ill or injured;

(3) a family member is ill and needs care by the participant that prevents the participant from attending orientation;

(4) the caregiver is unable to secure necessary transportation;

(5) the caregiver is in an emergency situation that prevents orientation attendance;

(6) the orientation conflicts with the caregiver's work, training, or school schedule;

or

(7) the caregiver documents other verifiable impediments to orientation attendance beyond the caregiver's control.

(b) Counties must work with clients to provide child care and transportation necessary to ensure a caregiver has every opportunity to attend orientation.

Sec. 84. Minnesota Statutes 1997 Supplement, section 256J.46, subdivision 1, is amended to read:

Subdivision 1. SANCTIONS FOR PARTICIPANTS NOT COMPLYING WITH PROGRAM REQUIREMENTS. (a) A participant who fails without good cause to comply with the requirements of this chapter, and who is not subject to a sanction under subdivision 2, shall be subject to a sanction as provided in this subdivision.

A sanction under this subdivision becomes effective ten days after the month following the month in which a required notice is given. A sanction must not be imposed when a participant comes into compliance with the requirements for orientation under section 256J.45 or third party liability for medical services under section 256J.30, subdivision 10, prior to the effective date of the sanction. A sanction must not be imposed when a participant comes into compliance with the requirements for employment and training services under sections 256J.49 to 256J.72 ten days prior to the effective date of the sanction. For purposes of this subdivision, each month that a participant fails to comply with a requirement of this chapter shall be considered a separate occurrence of noncompliance. A participant who has had one or more sanctions imposed must remain in compliance with the provisions of this chapter for six months in order for a subsequent occurrence of noncompliance to be considered a first occurrence.

(b) Sanctions for noncompliance shall be imposed as follows:

(1) For the first occurrence of noncompliance by a participant in a single-parent household or by one participant in a two-parent household, the participant's assistance unit's grant shall be reduced by ten percent of the applicable MFIP-S transitional standard, the shared household standard, or the interstate transitional standard for an assistance unit of the same size, whichever is applicable, with the residual paid to the participant. The reduction in the grant amount must be in effect for a minimum of one month and shall be removed in the month following the month that the participant returns to compliance.

(2) For a second or subsequent occurrence of noncompliance, or when both participants in a two-parent household are out of compliance at the same time, the participant's rent assistance unit's shelter costs shall be vendor paid up to the amount of the cash portion of the MFIP-S grant for which the participant's assistance unit is eligible. At county

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option, the participant's assistance unit's utilities may also be vendor paid up to the amount of the cash portion of the MFIP-S grant remaining after vendor payment of the participant's rent assistance unit's shelter costs. ~~The vendor payment of rent and, if in effect, utilities, must be in effect for six months from the date that a sanction is imposed under this clause.~~ The residual amount of the grant after vendor payment, if any, must be reduced by an amount equal to 30 percent of the applicable MFIP-S transitional standard, the shared household standard, or the interstate transitional standard for an assistance unit of the same size, whichever is applicable, before the residual is paid to the participant assistance unit. The reduction in the grant amount must be in effect for a minimum of one month and shall be removed in the month following the month that ~~the~~ a participant in a one-parent household returns to compliance. In a two-parent household, the grant reduction must be in effect for a minimum of one month and shall be removed in the month following the month both participants return to compliance. The vendor payment of rent shelter costs and, if applicable, utilities shall be removed six months after the month in which the participant returns or participants return to compliance.

(c) No later than during the second month that a sanction under paragraph (b), clause (2), is in effect due to noncompliance with employment services, the participant's case file must be reviewed to determine if:

(i) the continued noncompliance can be explained and mitigated by providing a needed preemployment activity, as defined in section 256J.49, subdivision 13, clause (16);

(ii) the participant qualifies for a good cause exception under section 256J.57; or

(iii) the participant qualifies for an exemption under section 256J.56.

If the lack of an identified activity can explain the noncompliance, the county must work with the participant to provide the identified activity, and the county must restore the participant's grant amount to the full amount for which the assistance unit is eligible. The grant must be restored retroactively to the first day of the month in which the participant was found to lack preemployment activities or to qualify for an exemption or good cause exception.

If the participant is found to qualify for a good cause exception or an exemption, the county must restore the participant's grant to the full amount for which the assistance unit is eligible. ~~If the participant's grant is restored under this paragraph, the vendor payment of rent and if applicable, utilities, shall be removed six months after the month in which the sanction was imposed and the county must consider a subsequent occurrence of non-compliance to be a first occurrence.~~

Sec. 85. Minnesota Statutes 1997 Supplement, section 256J.46, subdivision 2, is amended to read:

Subd. 2. SANCTIONS FOR REFUSAL TO COOPERATE WITH SUPPORT REQUIREMENTS. The grant of an MFIP-S caregiver who refuses to cooperate, as determined by the child support enforcement agency, with support requirements under section 256.741, if enacted, shall be subject to sanction as specified in this subdivision. The assistance unit's grant must be reduced by 25 percent of the applicable transitional standard. The residual amount of the grant, if any, must be paid to the caregiver. A sanction under this subdivision becomes effective ten days after the first month following the

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month in which a required notice is given. A sanction must not be imposed when a caregiver comes into compliance with the requirements under section 256.741 prior to the effective date of the sanction. The sanction must be in effect for a minimum of one month and shall be removed only when in the month following the month that the caregiver cooperates with the support requirements. Each month that an MFIP-S caregiver fails to comply with the requirements of section 256.741 must be considered a separate occurrence of noncompliance. An MFIP-S caregiver who has had one or more sanctions imposed must remain in compliance with the requirements of section 256.741 for six months in order for a subsequent sanction to be considered a first occurrence.

Sec. 86. Minnesota Statutes 1997 Supplement, section 256J.46, subdivision 2a, is amended to read:

Subd. 2a. **DUAL SANCTIONS.** (a) Notwithstanding the provisions of subdivisions 1 and 2, for a participant subject to a sanction for refusal to comply with child support requirements under subdivision 2 and subject to a concurrent sanction for refusal to cooperate with other program requirements under subdivision 1, sanctions shall be imposed in the manner prescribed in this subdivision.

A participant who has had one or more sanctions imposed under this subdivision must remain in compliance with the provisions of this chapter for six months in order for a subsequent occurrence of noncompliance to be considered a first occurrence. Any vendor payment of rent shelter costs or utilities under this subdivision must remain in effect for six months after the month in which the participant is no longer subject to sanction under subdivision 1.

(b) If the participant was subject to sanction for:

(i) noncompliance under subdivision 1 before being subject to sanction for noncooperation under subdivision 2; or

(ii) noncooperation under subdivision 2 before being subject to sanction for noncompliance under subdivision 1;

the participant shall be sanctioned as provided in subdivision 1, paragraph (b), clause (2), and the requirement that the county conduct a review as specified in subdivision 1, paragraph (c), remains in effect.

(c) A participant who first becomes subject to sanction under both subdivisions 1 and 2 in the same month is subject to sanction as follows:

(i) in the first month of noncompliance and noncooperation, the participant's grant must be reduced by 25 percent of the applicable transitional standard, with any residual amount paid to the participant;

(ii) in the second and subsequent months of noncompliance and noncooperation, the participant shall be sanctioned as provided in subdivision 1, paragraph (b), clause (2).

The requirement that the county conduct a review as specified in subdivision 1, paragraph (c), remains in effect.

(d) A participant remains subject to sanction under subdivision 2 if the participant:

(i) returns to compliance and is no longer subject to sanction under subdivision 1; or

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(ii) has the sanction under subdivision 1, paragraph (b), removed upon completion of the review under subdivision 1, paragraph (c).

A participant remains subject to sanction under subdivision 1, paragraph (b), if the participant cooperates and is no longer subject to sanction under subdivision 2.

Sec. 87. Minnesota Statutes 1997 Supplement, section 256J.47, subdivision 4, is amended to read:

Subd. 4. **INELIGIBILITY FOR MFIP-S; EMERGENCY ASSISTANCE; AND EMERGENCY GENERAL ASSISTANCE.** Upon receipt of diversionary assistance, the family is ineligible for MFIP-S, emergency assistance, and emergency general assistance for a period of time. To determine the period of ineligibility, the county shall use the following formula: regardless of household changes, the county agency must calculate the number of days of ineligibility by dividing the diversionary assistance issued by the transitional standard a family of the same size and composition would have received under MFIP-S, or if applicable the interstate transitional standard, multiplied by 30, truncating the result. The ineligibility period begins the date the diversionary assistance is issued.

Sec. 88. Minnesota Statutes 1997 Supplement, section 256J.48, subdivision 2, is amended to read:

Subd. 2. **ELIGIBILITY.** Notwithstanding other eligibility provisions of this chapter, any family without resources immediately available to meet emergency needs identified in subdivision 3 shall be eligible for an emergency grant under the following conditions:

- (1) a family member has resided in this state for at least 30 days;
- (2) the family is without resources immediately available to meet emergency needs;
- (3) assistance is necessary to avoid destitution or provide emergency shelter arrangements; and
- (4) the family's destitution or need for shelter or utilities did not arise because the child or relative caregiver refused without good cause under section 256J.57 to accept employment or training for employment in this state or another state; and
- (5) at least one child or pregnant woman in the emergency assistance unit meets MFIP-S citizenship requirements in section 256J.11.

Sec. 89. Minnesota Statutes 1997 Supplement, section 256J.48, subdivision 3, is amended to read:

Subd. 3. **EMERGENCY NEEDS.** Emergency needs are limited to the following:

(a) **RENT.** A county agency may deny assistance to prevent eviction from rented or leased shelter of an otherwise eligible applicant when the county agency determines that an applicant's anticipated income will not cover continued payment for shelter, subject to conditions in clauses (1) to (3):

- (1) a county agency must not deny assistance when an applicant can document that the applicant is unable to locate habitable shelter, unless the county agency can document that one or more habitable shelters are available in the community that will result in at

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least a 20 percent reduction in monthly expense for shelter and that this shelter will be cost-effective for the applicant;

(2) when no alternative shelter can be identified by either the applicant or the county agency, the county agency shall not deny assistance because anticipated income will not cover rental obligation; and

(3) when cost-effective alternative shelter is identified, the county agency shall issue assistance for moving expenses as provided in paragraph (d) (e).

(b) **DEFINITIONS.** For purposes of paragraph (a), the following definitions apply (1) "metropolitan statistical area" is as defined by the United States Census Bureau; (2) "alternative shelter" includes any shelter that is located within the metropolitan statistical area containing the county and for which the applicant is eligible, provided the applicant does not have to travel more than 20 miles to reach the shelter and has access to transportation to the shelter. Clause (2) does not apply to counties in the Minneapolis-St. Paul metropolitan statistical area.

(c) **MORTGAGE AND CONTRACT FOR DEED ARREARAGES.** A county agency shall issue assistance for mortgage or contract for deed arrearages on behalf of an otherwise eligible applicant according to clauses (1) to (4):

(1) assistance for arrearages must be issued only when a home is owned, occupied, and maintained by the applicant;

(2) assistance for arrearages must be issued only when no subsequent foreclosure action is expected within the 12 months following the issuance;

(3) assistance for arrearages must be issued only when an applicant has been refused refinancing through a bank or other lending institution and the amount payable, when combined with any payments made by the applicant, will be accepted by the creditor as full payment of the arrearage;

(4) costs paid by a family which are counted toward the payment requirements in this clause are: principal and interest payments on mortgages or contracts for deed, balloon payments, homeowner's insurance payments, manufactured home lot rental payments, and tax or special assessment payments related to the homestead. Costs which are not counted include closing costs related to the sale or purchase of real property.

To be eligible for assistance for costs specified in clause (4) which are outstanding at the time of foreclosure, an applicant must have paid at least 40 percent of the family's gross income toward these costs in the month of application and the 11-month period immediately preceding the month of application.

When an applicant is eligible under clause (4), a county agency shall issue assistance up to a maximum of four times the MFIP-S transitional standard for a comparable assistance unit.

(d) **DAMAGE OR UTILITY DEPOSITS.** A county agency shall issue assistance for damage or utility deposits when necessary to alleviate the emergency. The county may require that assistance paid in the form of a damage deposit or a utility deposit, less any amount retained by the landlord to remedy a tenant's default in payment of rent or other funds due to the landlord under a rental agreement, or to restore the premises to the

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condition at the commencement of the tenancy, ordinary wear and tear excepted, be returned to the county when the individual vacates the premises or be paid to the recipient's new landlord as a vendor payment. The county may require that assistance paid in the form of a utility deposit less any amount retained to satisfy outstanding utility costs be returned to the county when the person vacates the premises, or be paid for the person's new housing unit as a vendor payment. The vendor payment of returned funds shall not be considered a new use of emergency assistance.

(e) **MOVING EXPENSES.** A county agency shall issue assistance for expenses incurred when a family must move to a different shelter according to clauses (1) to (4):

(1) moving expenses include the cost to transport personal property belonging to a family, the cost for utility connection, and the cost for securing different shelter;

(2) moving expenses must be paid only when the county agency determines that a move is cost-effective;

(3) moving expenses must be paid at the request of an applicant, but only when destitution or threatened destitution exists; and

(4) moving expenses must be paid when a county agency denies assistance to prevent an eviction because the county agency has determined that an applicant's anticipated income will not cover continued shelter obligation in paragraph (a).

(f) **HOME REPAIRS.** A county agency shall pay for repairs to the roof, foundation, wiring, heating system, chimney, and water and sewer system of a home that is owned and lived in by an applicant.

The applicant shall document, and the county agency shall verify the need for and method of repair.

The payment must be cost-effective in relation to the overall condition of the home and in relation to the cost and availability of alternative housing.

(g) **UTILITY COSTS.** Assistance for utility costs must be made when an otherwise eligible family has had a termination or is threatened with a termination of municipal water and sewer service, electric, gas or heating fuel service, or lacks wood when that is the heating source, subject to the conditions in clauses (1) and (2):

(1) a county agency must not issue assistance unless the county agency receives confirmation from the utility provider that assistance combined with payment by the applicant will continue or restore the utility; and

(2) a county agency shall not issue assistance for utility costs unless a family paid at least eight percent of the family's gross income toward utility costs due during the preceding 12 months.

Clauses (1) and (2) must not be construed to prevent the issuance of assistance when a county agency must take immediate and temporary action necessary to protect the life or health of a child.

(h) **SPECIAL DIETS.** Effective January 1, 1998, a county shall pay for special diets or dietary items for MFIP-S participants. Persons receiving emergency assistance funds for special diets or dietary items are also eligible to receive emergency assistance

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for shelter and utility emergencies, if otherwise eligible. The need for special diets or dietary items must be prescribed by a licensed physician. Costs for special diets shall be determined as percentages of the allotment for a one-person household under the Thrifty Food Plan as defined by the United States Department of Agriculture. The types of diets and the percentages of the Thrifty Food Plan that are covered are as follows:

- (1) high protein diet, at least 80 grams daily, 25 percent of Thrifty Food Plan;
- (2) controlled protein diet, 40 to 60 grams and requires special products, 100 percent of Thrifty Food Plan;
- (3) controlled protein diet, less than 40 grams and requires special products, 125 percent of Thrifty Food Plan;
- (4) low cholesterol diet, 25 percent of Thrifty Food Plan;
- (5) high residue diet, 20 percent of Thrifty Food Plan;
- (6) pregnancy and lactation diet, 35 percent of Thrifty Food Plan;
- (7) gluten-free diet, 25 percent of Thrifty Food Plan;
- (8) lactose-free diet, 25 percent of Thrifty Food Plan;
- (9) antidumping diet, 15 percent of Thrifty Food Plan;
- (10) hypoglycemic diet, 15 percent of Thrifty Food Plan; or
- (11) ketogenic diet, 25 percent of Thrifty Food Plan.

Sec. 90. Minnesota Statutes 1997 Supplement, section 256J.49, subdivision 4, is amended to read:

Subd. 4. **EMPLOYMENT AND TRAINING SERVICE PROVIDER.** "Employment and training service provider" means:

(1) a public, private, or nonprofit employment and training agency certified by the commissioner of economic security under sections 268.0122, subdivision 3, and 268.871, subdivision 1, or is approved under section 256J.51 and is included in the county plan submitted under section 256J.50, subdivision 7; or

(2) a public, private, or nonprofit agency that is not certified by the commissioner under clause (1), but with which a county has contracted to provide employment and training services and which is included in the county's plan submitted under section 256J.50, subdivision 7; or

(3) a county agency, if the county is certified under clause (1) has opted to provide employment and training services and the county has indicated that fact in the plan submitted under section 256J.50, subdivision 7.

Notwithstanding section 268.871, an employment and training services provider meeting this definition may deliver employment and training services under this chapter.

Sec. 91. Minnesota Statutes 1997 Supplement, section 256J.50, subdivision 5, is amended to read:

Subd. 5. **PARTICIPATION REQUIREMENTS FOR SINGLE-PARENT AND TWO-PARENT CASES.** (a) A county must establish a uniform schedule for requiring

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participation by single parents. Mandatory participation must be required within six months of eligibility for cash assistance. For two-parent cases, participation is required concurrent with the receipt of MFIP-S cash assistance.

(b) Beginning January 1, 1998, with the exception of caregivers required to attend high school under the provisions of section 256J.54, subdivision 5, MFIP caregivers, upon completion of the secondary assessment, must develop an employment plan and participate in work activities.

(c) Upon completion of the secondary assessment:

(1) In single-parent families with no children under six years of age, the job counselor and the caregiver must develop an employment plan that includes 20 to 35 hours per week of work activities for the period January 1, 1998, to September 30, 1998; 25 to 35 hours of work activities per week in federal fiscal year 1999; and 30 to 35 hours per week of work activities in federal fiscal year 2000 and thereafter.

(2) In single-parent families with a child under six years of age, the job counselor and the caregiver must develop an employment plan that includes 20 to 35 hours per week of work activities.

(3) In two-parent families, the job counselor and the caregivers must develop employment plans which result in a combined total of at least 55 hours per week of work activities.

Sec. 92. Minnesota Statutes 1997 Supplement, section 256J.50, is amended by adding a subdivision to read:

Subd. 10. REQUIRED NOTIFICATION TO VICTIMS OF DOMESTIC VIOLENCE. County agencies and their contractors must provide universal notification to all applicants and recipients of MFIP-S that:

(1) referrals to counseling and supportive services are available for victims of domestic violence;

(2) nonpermanent resident battered individuals married to United States citizens or permanent residents may be eligible to petition for permanent residency under the federal Violence Against Women Act, and that referrals to appropriate legal services are available;

(3) victims of domestic violence are exempt from the 60-month limit on assistance while the individual is complying with an approved safety plan, as defined in section 256J.49, subdivision 11; and

(4) victims of domestic violence may choose to be exempt or deferred from work requirements for up to 12 months while the individual is complying with an approved safety plan as defined in section 256J.49, subdivision 11.

Notification must be in writing and orally at the time of application and recertification, when the individual is referred to the title IV-D child support agency, and at the beginning of any job training or work placement assistance program.

Sec. 93. Minnesota Statutes 1997 Supplement, section 256J.50, is amended by adding a subdivision to read:

Subd. 11. COORDINATION. The county agency and the county agency's employment and training providers must consult and coordinate with other providers of em-

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ployment and training services to identify existing resources, in order to prevent duplication of services, to assure that other programs' services are available to enable participants to achieve self-sufficiency, and to assure that costs for these other services for which participants are eligible are not incurred by MFIP-S. At a minimum, the county agency and its providers must coordinate with Jobs Training and Partnership Act providers and with any other relevant employment, training, and education programs in the county.

Sec. 94. Minnesota Statutes 1997 Supplement, section 256J.515, is amended to read:

256J.515 OVERVIEW OF EMPLOYMENT AND TRAINING SERVICES.

During the first meeting with participants, job counselors must ensure that an overview of employment and training services is provided that: (1) stresses the necessity and opportunity of immediate employment; (2) outlines the job search resources offered; (3) outlines education or training opportunities available; (4) describes the range of work activities, including activities under section 256J.49, subdivision 13, clause (18), that are allowable under MFIP-S to meet the individual needs of participants; (5) explains the requirements to comply with an employment plan and; (6) explains the consequences for failing to comply; and (7) explains the services that are available to support job search and work and education.

Sec. 95. Minnesota Statutes 1997 Supplement, section 256J.52, subdivision 4, is amended to read:

Subd. 4. **SECONDARY ASSESSMENT.** (a) The job counselor must conduct a secondary assessment for those participants who:

(1) in the judgment of the job counselor, have barriers to obtaining employment that will not be overcome with a job search support plan under subdivision 3;

(2) have completed eight weeks of job search under subdivision 3 without obtaining suitable employment; or

(3) have not received a secondary assessment, are working at least 20 hours per week, and the participant, job counselor, or county agency requests a secondary assessment; or

(4) have an existing job search plan or employment plan developed for another program or are already involved in training or education activities under section 256J.55, subdivision 5.

(b) In the secondary assessment the job counselor must evaluate the participant's skills and prior work experience, family circumstances, interests and abilities, need for preemployment activities, supportive or educational services, and the extent of any barriers to employment. The job counselor must use the information gathered through the secondary assessment to develop an employment plan under subdivision 5.

(c) The provider shall make available to participants information regarding additional vendors or resources which provide employment and training services that may be available to the participant under a plan developed under this section. The information must include a brief summary of services provided and related performance indicators.

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Performance indicators must include, but are not limited to, the average time to complete program offerings, placement rates, entry and average wages, and retention rates. To be included in the information given to participants, a vendor or resource must provide counties with relevant information in the format required by the county.

Sec. 96. Minnesota Statutes 1997 Supplement, section 256J.52, is amended by adding a subdivision to read:

Subd. 8. **ADMINISTRATIVE SUPPORT FOR POSTEMPLOYMENT EDUCATION AND TRAINING.** After a caregiver receiving MFIP-S has been employed for six consecutive months, during which time the caregiver works on average more than 20 hours per week, the caregiver's job counselor shall inform the caregiver that the caregiver may request a secondary assessment described in subdivision 4 and shall provide information about:

(1) part-time education and training options available to the caregiver; and

(2) child care and transportation resources available to support postemployment education and training.

Sec. 97. Minnesota Statutes 1997 Supplement, section 256J.52, is amended by adding a subdivision to read:

Subd. 9. **TRAINING CONCURRENT WITH EMPLOYMENT.** An MFIP caregiver who is meeting the minimum hourly work participation requirements under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 through employment must be allowed to meet any additional MFIP-S hourly work participation requirements through training or education that meets the requirements of section 256J.53.

Sec. 98. Minnesota Statutes 1997 Supplement, section 256J.54, subdivision 2, is amended to read:

Subd. 2. **RESPONSIBILITY FOR ASSESSMENT AND EMPLOYMENT PLAN.** For caregivers who are under age 18 without a high school diploma or its equivalent, the assessment under subdivision 1 and the employment plan under subdivision 3 must be completed by the social services agency under section 257.33. For caregivers who are age 18 or 19 without a high school diploma or its equivalent, the assessment under subdivision 1 and the employment plan under subdivision 3 must be completed by the job counselor. The social services agency or the job counselor shall consult with representatives of educational agencies that are required to assist in developing educational plans under section 126.235.

Sec. 99. Minnesota Statutes 1997 Supplement, section 256J.54, subdivision 3, is amended to read:

Subd. 3. **EDUCATIONAL OPTION DEVELOPED.** If the job counselor or county social services agency identifies an appropriate educational option for a caregiver under the age of 20 without a high school diploma or its equivalent, the job counselor or agency must develop an employment plan which reflects the identified option. The plan must specify that participation in an educational activity is required, what school or educational program is most appropriate, the services that will be provided, the activities the caregiver will take part in, including child care and supportive services, the consequences to the caregiver for failing to participate or comply with the specified require-

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ments, and the right to appeal any adverse action. The employment plan must, to the extent possible, reflect the preferences of the caregiver.

Sec. 100. Minnesota Statutes 1997 Supplement, section 256J.54, subdivision 4, is amended to read:

Subd. 4. **NO APPROPRIATE EDUCATIONAL OPTION.** If the job counselor determines that there is no appropriate educational option for a caregiver who is age 18 or 19 without a high school diploma or its equivalent, the job counselor must develop an employment plan, as defined in section 256J.49, subdivision 5, for the caregiver. If the county social services agency determines that school attendance is not appropriate for a caregiver under age 18 without a high school diploma or its equivalent, the county agency shall refer the caregiver to social services for services as provided in section 257.33.

Sec. 101. Minnesota Statutes 1997 Supplement, section 256J.54, subdivision 5, is amended to read:

Subd. 5. **SCHOOL ATTENDANCE REQUIRED.** (a) Notwithstanding the provisions of section 256J.56, minor parents, or 18- or 19-year-old parents without a high school diploma or its equivalent must attend school unless:

(1) transportation services needed to enable the caregiver to attend school are not available;

(2) appropriate child care services needed to enable the caregiver to attend school are not available;

(3) the caregiver is ill or incapacitated seriously enough to prevent attendance at school; or

(4) the caregiver is needed in the home because of the illness or incapacity of another member of the household. This includes a caregiver of a child who is younger than six weeks of age.

(b) The caregiver must be enrolled in a secondary school and meeting the school's attendance requirements. The county, social service agency, or job counselor must verify at least once per quarter that the caregiver is meeting the school's attendance requirements. An enrolled caregiver is considered to be meeting the attendance requirements when the school is not in regular session, including during holiday and summer breaks.

Sec. 102. Minnesota Statutes 1997 Supplement, section 256J.55, subdivision 5, is amended to read:

Subd. 5. **OPTION TO UTILIZE EXISTING PLAN.** With job counselor approval, if a participant is already complying with a job search support or employment plan that was developed for a different program or is already involved in education or training activities, the participant may utilize continue that plan and that program's services, subject to the requirements of subdivision 3, to be in compliance with sections 256J.52 to 256J.57 so long as or activity if the plan meets, or is modified to meet, the requirements of these sections 256J.52 to 256J.57, and if the participant is concurrently employed and the combination of the hours spent in education or training and employment meets the hourly participation requirements. The participant is not required to be employed if the number of hours per week the participant is in education or training meets the hourly work participation requirements.

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Sec. 103. Minnesota Statutes 1997 Supplement, section 256J.56, is amended to read:

**256J.56 EMPLOYMENT AND TRAINING SERVICES COMPONENT; EX-
EMPTIONS.**

(a) An MFTIP-S caregiver is exempt from the requirements of sections 256J.52 to 256J.55 if the caregiver belongs to any of the following groups:

(1) individuals who are age 60 or older;

(2) individuals who are suffering from a professionally certified permanent or temporary illness, injury, or incapacity which is expected to continue for more than 30 days and which prevents the person from obtaining or retaining employment. Persons in this category with a temporary illness, injury, or incapacity must be reevaluated at least quarterly;

(3) caregivers whose presence in the home is required because of the professionally certified illness or incapacity of another member in the assistance unit, a relative in the household, or a foster child in the household;

(4) women who are pregnant, if the pregnancy has resulted in a professionally certified incapacity that prevents the woman from obtaining or retaining employment;

(5) caregivers of a child under the age of one year who personally provide full-time care for the child. This exemption may be used for only 12 months in a lifetime. In two-parent households, only one parent or other relative may qualify for this exemption;

(6) individuals who are single parents, or one parent in a two-parent family, employed at least 40 hours per week or at least 30 hours per week and engaged in job search for at least an additional ten 35 hours per week;

(7) individuals experiencing a personal or family crisis that makes them incapable of participating in the program, as determined by the county agency. If the participant does not agree with the county agency's determination, the participant may seek professional certification, as defined in section 256J.08, that the participant is incapable of participating in the program.

Persons in this exemption category must be reevaluated every 60 days, or

(8) second parents in two-parent families, provided the second parent is employed for 20 or more hours per week, provided the first parent is employed at least 35 hours per week.

A caregiver who is exempt under clause (5) must enroll in and attend an early childhood and family education class, a parenting class, or some similar activity, if available, during the period of time the caregiver is exempt under this section. Notwithstanding section 256J.46, failure to attend the required activity shall not result in the imposition of a sanction.

(b) The county agency must provide employment and training services to MFTIP-S caregivers who are exempt under this section, but who volunteer to participate. Exempt volunteers may request approval for any work activity under section 256J.49, subdivision 13. The hourly participation requirements for nonexempt caregivers under section 256J.50, subdivision 5, do not apply to exempt caregivers who volunteer to participate.

Sec. 104. Minnesota Statutes 1997 Supplement, section 256J.57, subdivision 1, is amended to read:

Subdivision 1. **GOOD CAUSE FOR FAILURE TO COMPLY.** The county agency shall not impose the sanction under section 256J.46 if it determines that the participant has good cause for failing to comply with the requirements of ~~section 256J.45 or sections 256J.52 to 256J.55.~~ Good cause exists when:

- (1) appropriate child care is not available;
- (2) the job does not meet the definition of suitable employment;
- (3) the participant is ill or injured;
- (4) a family member of the assistance unit, a relative in the household, or a foster child in the household is ill and needs care by the participant that prevents the participant from complying with the job search support plan or employment plan;
- (5) the parental caregiver is unable to secure necessary transportation;
- (6) the parental caregiver is in an emergency situation that prevents compliance with the job search support plan or employment plan;
- (7) the schedule of compliance with the job search support plan or employment plan conflicts with judicial proceedings;
- (8) the parental caregiver is already participating in acceptable work activities;
- (9) the employment plan requires an educational program for a caregiver under age 20, but the educational program is not available;
- (10) activities identified in the job search support plan or employment plan are not available;
- (11) the parental caregiver is willing to accept suitable employment, but suitable employment is not available; or
- (12) the parental caregiver documents other verifiable impediments to compliance with the job search support plan or employment plan beyond the parental caregiver's control.

Sec. 105. Minnesota Statutes 1997 Supplement, section 256J.645, subdivision 3, is amended to read:

Subd. 3. **FUNDING.** If the commissioner and an Indian tribe are parties to an agreement under this subdivision, the agreement may annually provide to the Indian tribe the funding amount in clause (1) or (2):

(1) if the Indian tribe operated a tribal STRIDE program during state fiscal year 1997, the amount to be provided is the amount the Indian tribe received from the state for operation of its tribal STRIDE program in state fiscal year 1997, except that the amount provided for a fiscal year may increase or decrease in the same proportion that the total amount of state and federal funds available for MFIP-S employment and training services increased or decreased that fiscal year; or

(2) if the Indian tribe did not operate a tribal STRIDE program during state fiscal year 1997, the commissioner may provide to the Indian tribe for the first year of opera-

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tions the amount determined by multiplying the state allocation for MFIP-S employment and training services to each county agency in the Indian tribe's service delivery area by the percentage of MFIP-S recipients in that county who were members of the Indian tribe during the previous state fiscal year. The resulting amount shall also be the amount that the commissioner may provide to the Indian tribe annually thereafter through an agreement under this subdivision, except that the amount provided for a fiscal year may increase or decrease in the same proportion that the total amount of state and federal funds available for MFIP-S employment and training services increased or decreased that fiscal year.

Sec. 106. Minnesota Statutes 1997 Supplement, section 256J.74, subdivision 2, is amended to read:

Subd. 2. **CONCURRENT ELIGIBILITY, LIMITATIONS.** A county agency must not count an applicant or participant as a member of more than one assistance unit in a given payment month, except as provided in clauses (1) and (2).

(1) A participant who is a member of an assistance unit in this state is eligible to be included in a second assistance unit in the first full month that after the month the participant leaves the first assistance unit and lives with a joins the second assistance unit.

(2) An applicant whose needs are met through foster care that is reimbursed under title IV-E of the Social Security Act for the first part of an application month is eligible to receive assistance for the remaining part of the month in which the applicant returns home. Title IV-E payments and adoption assistance payments must be considered prorated payments rather than a duplication of MFIP-S need.

Sec. 107. Minnesota Statutes 1997 Supplement, section 256J.74, is amended by adding a subdivision to read:

Subd. 5. **FOOD STAMPS.** For any month an individual receives Food Stamp Program benefits, the individual is not eligible for the MFIP-S food portion of assistance, except as provided under section 256J.28, subdivision 5.

Sec. 108. **[256J.77] AGING OF CASH BENEFITS.**

Cash benefits under chapters 256D, 256J, and 256K by warrants or electronic benefit transfer that have not been accessed within 90 days of issuance shall be canceled. Cash benefits may be replaced after they are canceled, for up to one year after the date of issuance, if failure to do so would place the client or family at risk. For purposes of this section, "accessed" means cashing a warrant or making at least one withdrawal from benefits deposited in an electronic benefit account.

Sec. 109. Minnesota Statutes 1997 Supplement, section 256K.03, subdivision 5, is amended to read:

Subd. 5. **EXEMPTION CATEGORIES.** (a) The applicant will be exempt from the job search requirements and development of a job search plan and an employability development plan under subdivisions 3, 4, and 8 if the applicant belongs to any of the following groups:

(1) caregivers under age 20 who have not completed a high school education and are attending high school on a full-time basis;

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~~(2)~~ individuals who are age 60 or older;

~~(3)~~ (2) individuals who are suffering from a professionally certified permanent or temporary illness, injury, or incapacity which is expected to continue for more than 30 days and which prevents the person from obtaining or retaining employment. Persons in this category with a temporary illness, injury, or incapacity must be reevaluated at least quarterly;

~~(4)~~ (3) caregivers whose presence in the home is needed because of the professionally certified illness or incapacity of another member in the assistance unit, a relative in the household, or a foster child in the household;

~~(5)~~ (4) women who are pregnant, if it the pregnancy has been medically verified resulted in a professionally certified incapacity that the child is expected to be born within the next six months prevents the woman from obtaining and retaining employment;

~~(6)~~ (5) caregivers or other caregiver relatives of a child under the age of three one year who personally provide full-time care for the child. This exemption may be used for only 12 months in a lifetime. In two-parent households, only one parent or other relative may qualify for this exemption;

~~(7)~~ (6) individuals who are single parents or one parent in a two-parent family employed at least 30 35 hours per week;

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

~~(9)~~ individuals for whom lack of proficiency in English is a barrier to employment, provided such individuals are participating in an intensive program which lasts no longer than six months and is designed to remedy their language deficiency;

~~(10)~~ individuals who, because of advanced age or lack of ability, are incapable of gaining proficiency in English, as determined by the county social worker, shall continue to be exempt under this subdivision and are not subject to the requirement that they be participating in a language program;

~~(11)~~ (7) individuals under such duress that they are incapable of participating in the program, as determined by the county social worker experiencing a personal or family crisis that makes them incapable of participating in the program, as determined by the county agency. If the participant does not agree with the county agency's determination, the participant may seek professional certification, as defined in section 256J.08, that the participant is incapable of participating in the program. Persons in this exemption category must be reevaluated every 60 days; or

~~(12)~~ individuals in need of refresher courses for purposes of obtaining professional certification or licensure.

~~(b)~~ In a two-parent family, only one caregiver may be exempted under paragraph (a), clauses (4) and (6).

~~(8)~~ second parents in two-parent families employed for 20 or more hours per week provided the first parent is employed at least 35 hours per week.

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(b) A caregiver who is exempt under clause (5) must enroll in and attend an early childhood and family education class, a parenting class, or some similar activity, if available, during the period of time the caregiver is exempt under this section. Notwithstanding section 256J.46, failure to attend the required activity shall not result in the imposition of a sanction.

Sec. 110. Minnesota Statutes 1996, section 268.88, is amended to read:

268.88 LOCAL SERVICE UNIT PLANS.

(a) By April 15, 1994 1999, and by April 15 of each second year thereafter, local service units shall prepare and submit to the commissioner a plan that covers the next two state fiscal years. At least 30 days prior to submission of the plan, the local service unit shall solicit comments from the public on the contents of the proposed plan. The commissioner shall notify each local service unit within 60 days of receipt of its plan that the plan has been approved or disapproved. The plan must include:

(1) a statement of objectives for the employment and training services the local service unit administers;

(2) the establishment of job placement and job retention goals, the establishment of public assistance caseload reduction goals, and the strategies and programs that will be used to achieve these goals;

(3) a statement of whether the goals from the preceding year were met and an explanation if the local service unit failed to meet the goals;

(4) the amount proposed to be allocated to each employment and training service;

(5) the proposed types of employment and training services the local service unit plans to utilize;

(6) a description of how the local service unit will use funds provided under section 256.736 to meet the requirements of that section. The description must include the two work programs required by section 256.736, subdivision 10, paragraph (a), clause (13), what services will be provided, number of clients served, per service expenditures, type of clients served, and projected outcomes chapter 256J to meet the requirements of that chapter. The description must include what services will be provided, per service expenditures, an estimate of how many employment and training slots the local service unit will provide, how many dollars the local service unit will provide per slot per provider, how many participants per slot, an estimate of the ratio of participants per job counselor, and proposed uses for any residual funds not included in slot allocations to providers;

(7) a report on the use of wage subsidies, grant diversions, community investment programs, and other services administered under this chapter;

(8) a performance review of the employment and training service providers delivering employment and training services for the local service unit;

(9) a copy of any contract between the local service unit and an employment and training service provider including expected outcomes and service levels for public assistance clients; and

(10) a copy of any other agreements between educational institutions, family support services, and child care providers; and

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(11) a description of how the local service unit ensures compliance with section 256J.06, requiring community involvement in the administration of MFIP-S.

(b) In counties with a city of the first class, the county and the city shall develop and submit a joint plan. The plan may not be submitted until agreed to by both the city and the county. The plan must provide for the direct allocation of employment and training money to the city and the county unless waived by either. If the county and the city cannot concur on a plan, the commissioner shall resolve their dispute. In counties in which a federally recognized Indian tribe is operating an employment and training program under an agreement with the commissioner of human services, the plan must provide that the county will coordinate its employment and training programs, including developing a system for referrals, sanctions, and the provision of supporting services such as access to child care funds and transportation with programs operated by the Indian tribe. The plan may not be given final approval by the commissioner until the tribal unit and county have submitted written agreement on these provisions in the plan. If the county and Indian tribe cannot agree on these provisions, the local service unit shall notify the commissioner of economic security and the commissioners of economic security and human services shall resolve the dispute.

(c) The commissioner may withhold the distribution of employment and training money from a local service unit that does not submit a plan to the commissioner by the date set by this section, and shall withhold the distribution of employment and training money from a local service unit whose plan has been disapproved by the commissioner until an acceptable amended plan has been submitted.

(d) Beginning April 15, 1992, and by April 15 of each second year thereafter, local service units must prepare and submit to the commissioner an interim year plan update that deals with performance in that state fiscal year and changes anticipated for the second year of the biennium. The update must include information about employment and training programs addressed in the local service unit's two-year plan and shall be completed in accordance with criteria established by the commissioner.

Sec. 111. Laws 1997, chapter 203, article 9, section 21, is amended to read:

Sec. 21. INELIGIBILITY FOR STATE FUNDED PROGRAMS.

(a) Beginning July 1, 1999 2000, the following persons will be ineligible for general assistance and general assistance medical care under Minnesota Statutes, chapter 256D, group residential housing under Minnesota Statutes, chapter 256I, and MFIP-S assistance under Minnesota Statutes, chapter 256J, funded with state money:

(1) persons who are terminated from or denied Supplemental Security Income due to the 1996 changes in the federal law making persons whose alcohol or drug addiction is a material factor contributing to the person's disability ineligible for Supplemental Security Income, and are eligible for general assistance under Minnesota Statutes, section 256D.05, subdivision 1, paragraph (a), clause (17), general assistance medical care under Minnesota Statutes, chapter 256D, or group residential housing under Minnesota Statutes, chapter 256I;

(2) legal noncitizens who are ineligible for Supplemental Security Income due to the 1996 changes in federal law making certain noncitizens ineligible for these programs due to their noncitizen status; and

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(3) legal noncitizens who are eligible for MFIP-S assistance, either the cash assistance portion or the food assistance portion, funded entirely with state money.

(b) State money that remains unspent ~~on June 30, 1999, due to changes in federal law enacted after May 12, 1997, that reduce state spending for legal noncitizens or for persons whose alcohol or drug addiction is a material factor contributing to the person's disability, or enacted after February 1, 1998, that reduce state spending for food benefits for legal noncitizens~~ shall not cancel and shall be deposited in the TANF reserve account.

Sec. 112. Laws 1997, chapter 248, section 46, as amended by Laws 1997, First Special Session chapter 5, section 10, is amended to read:

Sec. 46. UNLICENSED CHILD CARE PROVIDERS; INTERIM EXPANSION.

(a) Notwithstanding Minnesota Statutes, section 245A.03, subdivision 2, clause (2), until June 30, 1999, nonresidential child care programs or services that are provided by an unrelated individual to persons from two or three other unrelated families are excluded from the licensure provisions of Minnesota Statutes, chapter 245A, provided that:

(1) the individual provides services at any one time to no more than four children who are unrelated to the individual;

(2) no more than two of the children are under two years of age; and

(3) the total number of children being cared for at any one time does not exceed five.

(b) Paragraph (a), clauses (1) to (3), do not apply to:

(1) nonresidential programs that are provided by an unrelated individual to persons from a single related family;

(2) a child care provider whose child care services meet the criteria in paragraph (a), clauses (1) to (3), but who chooses to apply for licensure;

(3) a child care provider who, as an applicant for licensure or as a license holder, has received a license denial under Minnesota Statutes, section 245A.05, a fine under Minnesota Statutes, section 245A.06, or a sanction under Minnesota Statutes, section 245A.07, from the commissioner that has not been reversed on appeal; or

(4) a child care provider, or a child care provider who has a household member who, as a result of a licensing process, has a disqualification under Minnesota Statutes, chapter 245A, that has not been set aside by the commissioner.

Sec. 113. REPORT REQUIRED.

Beginning January 1, 1999, the commissioner shall report annually to the legislature on January 15 on the percent, for each of the four quarters of the immediate preceding year, of the MFIP-S caseload participants who are exempt from work under the provisions of Minnesota Statutes, section 256J.56, clause (2) or (3).

Sec. 114. REPORT; NONCERTIFIED PROVIDERS.

Beginning January 15, 1999, the commissioner of economic security, in conjunction with the commissioner of human services, shall report annually on the use in MFIP-S of employment and training providers. The report shall include information on the number and types of noncertified providers.

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Sec. 115. SCREENING AND REFERRAL GUIDELINES FOR PARTICIPANTS WITH DRUG AND ALCOHOL PROBLEMS.

The commissioner of human services shall develop guidelines for county agencies and their contractors to identify participants who have alcohol or drug problems that require treatment. The guidelines must provide for:

- (1) the use of simplified written and verbal screening tools as part of the intake process;
- (2) referral for clinical assessment and appropriate treatment, if needed; and
- (3) training for caseworkers to administer the screening protocols and refer participants to services.

Sec. 116. EBT TRANSACTION COSTS; APPROVAL FROM LEGISLATURE.

The commissioner of human services shall request and receive approval from the legislature before adjusting the payment to retailers for electronic benefit transfer transaction costs.

Sec. 117. STUDY; MFIP-S EXIT LEVEL; ELIMINATION OF SHELTER EXPENSE DEDUCTION.

The commissioner shall consider recommending to the 1999 legislature:

- (1) adjustments to the MFIP-S earned income disregard, family wage level, or transitional standard, which will ensure that participants do not lose eligibility for MFIP-S until their income reaches at least 120 percent of the 1999 federal poverty level; and
- (2) proposals responding to the effect of the elimination of the food stamp shelter expense deduction on food spending and food sufficiency of MFIP-S families paying greater than 50 percent of their income toward housing costs. The commissioner's recommendations should include information on the number of families losing greater than 20 percent of their food benefits, the number losing between ten percent and 20 percent and the number losing zero percent to ten percent, and the characteristics of families receiving less food assistance under MFIP-S. The commissioner may collaborate with private or nonprofit entities, if necessary, to provide this information.

Sec. 118. REPEALER.

(a) Minnesota Statutes 1997 Supplement, section 256J.28, subdivision 4, is repealed effective January 1, 1998.

(b) Minnesota Statutes 1997 Supplement, section 256J.25; and Laws 1997, chapter 85, article 1, sections 61 and 71, and article 3, section 55, are repealed.

(c) Minnesota Statutes 1996, sections 256.031, subdivisions 1, 2, 3, and 4; 256.032; 256.033, subdivisions 2, 3, 4, 5, and 6; 256.034; 256.035; 256.036; 256.0361; 256.047; 256.0475; 256.048; and 256.049; and Minnesota Statutes 1997 Supplement, sections 256.031, subdivisions 5 and 6; 256.033, subdivisions 1 and 1a; 256B.062; 256J.32, subdivision 5; and 256J.34, subdivision 5, are repealed effective July 1, 1998.

(d) Minnesota Rules (Exempt), parts 9500.9100; 9500.9110; 9500.9120; 9500.9130; 9500.9140; 9500.9150; 9500.9160; 9500.9170; 9500.9180; 9500.9190; 9500.9200; 9500.9210; and 9500.9220, are repealed effective July 1, 1998.

New language is indicated by underline, deletions by strikeout.

Sec. 119. EFFECTIVE DATES.

(a) Sections 2, 4, 7, 8, 19, 90, 95, and 102 are effective the day following final enactment.

(b) Section 9 is effective June 1, 1998.

(c) Section 10 is effective October 1, 1998.

(d) Section 50 is effective for all applications for MFIP-S made on or after July 1, 1998.

(e) Section 12 is effective March 30, 1998.

(f) Section 51 is effective for MFIP-S applications received on or after January 1, 1999, and for all MFIP-S recertifications occurring on or after January 1, 1999.

ARTICLE 7**REGIONAL TREATMENT CENTERS****Section 1. CONVEYANCE OF STATE LAND; ANOKA COUNTY.**

Subdivision 1. CONVEYANCE AUTHORIZED. Notwithstanding Minnesota Statutes, sections 92.45, 94.09, 94.10, and 103F.335, subdivision 3, or any other law to the contrary, the commissioner of administration may convey all, or any part of, the land and associated buildings described in subdivision 3 to Anoka county after the commissioner of human services declares said property surplus to its needs.

Subd. 2. FORM. (a) The conveyance shall be in a form approved by the attorney general.

(b) The conveyance is subject to a scenic easement, as defined in Minnesota Statutes, section 103F.311, subdivision 6, to be under the custodial control of the commissioner of natural resources, on that portion of the conveyed land that is designated for inclusion in the wild and scenic river system under Minnesota Statutes, section 103F.325. The scenic easement shall allow for continued use of the structures located within the easement and for development of a walking path within the easement.

(c) The conveyance shall restrict use of the land to governmental, including recreational, purposes and shall provide that ownership of any portion of the land that ceases to be used for such purposes shall revert to the state of Minnesota.

(d) The commissioner of administration may convey any part of the property described in subdivision 3 any time after the land is declared surplus by the commissioner of human services and the execution and recording of the scenic easement under paragraph (b) has been completed.

(e) Notwithstanding any law, regulation, or ordinance to the contrary, the instrument of conveyance to Anoka county may be recorded in the office of the Anoka county recorder without compliance with any subdivision requirement.

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

Subd. 3. LAND DESCRIPTION. Subject to right-of-way for Grant Street, Northview Lane, Garfield Street, 5th Avenue, and state trunk highway No. 288, also known as 4th Avenue, the land to be conveyed may include all, or part of, that which is described as follows:

(1) all that part of Government Lots 3 and 4 and that part of the Southeast Quarter of the Southwest Quarter, all in Section 31, Township 32 North, Range 24 West, Anoka county, Minnesota, described as follows:

Beginning at the southwest corner of said Southeast Quarter of the Southwest Quarter of Section 31; thence North 13 degrees 16 minutes 11 seconds East, assumed bearing, 473.34 feet; thence North 07 degrees 54 minutes 43 seconds East 186.87 feet; thence North 14 degrees 08 minutes 33 seconds West 154.77 feet; thence North 62 degrees 46 minutes 44 seconds West 526.92 feet; thence North 25 degrees 45 minutes 30 seconds East 74.43 feet; thence northerly 88.30 feet along a tangential curve concave to the west having a radius of 186.15 feet and a central angle of 27 degrees 10 minutes 50 seconds; thence North 01 degrees 25 minutes 20 seconds West, tangent to said curve, 140.53 feet; thence North 71 degrees 56 minutes 34 seconds West to the southeasterly shoreline of the Rum river; thence southwesterly along said shoreline to the south line of said Government Lot 4; thence easterly along said south line to the point of beginning. For the purpose of this description the south line of said Southeast Quarter of the Southwest Quarter of Section 31 has an assumed bearing of North 89 degrees 08 minutes 19 seconds East;

(2) Government Lot 1, Section 6, Township 31 North, Range 24 West, Anoka county, Minnesota; EXCEPT that part platted as Grant Properties, Anoka county, Minnesota; ALSO EXCEPT that part lying southerly of the westerly extension of the south line of Block 6, Woodbury's Addition to the city of Anoka, Anoka county, Minnesota, and lying westerly of the west line of said plat of Grant Properties, said line also being the centerline of 4th Avenue;

(3) all that part of said Block 6, Woodbury's Addition to the city of Anoka lying westerly of Northview 1st Addition, Anoka county, Minnesota;

(4) all that part of said Northview 1st Addition lying westerly of the east line of Lots 11 through 20, Block 1, inclusive, thereof; and

(5) all that part of the Northeast Quarter of the Northwest Quarter of said Section 6, Township 31 North, Range 24 West, Anoka county, Minnesota, lying northerly of the centerline of Grant Street as defined by said plat of Grant Properties and lying westerly of said east line of Lots 11 through 20, Block 1, inclusive, Northview 1st Addition and said line's extension north and south.

Subd. 4. DETERMINATION. The commissioner of human services has determined that the land described in subdivision 3 will no longer be needed for the Anoka metro regional treatment center upon the completion of the state facilities currently under construction and the completion of renovation work to state buildings that are not located on the land described in subdivision 3. The state's land and building management interests may best be served by conveying all, or part of, the land and associated buildings located on the land described in subdivision 3.

New language is indicated by underline, deletions by strikeout.

Sec. 2. CONVEYANCE OF STATE LAND; CROW WING COUNTY.

Subdivision 1. CONVEYANCE AUTHORIZED. Notwithstanding Minnesota Statutes, sections 92.45, 94.09, 94.10, and 103F.335, subdivision 3, or any other law to the contrary, the commissioner of administration may convey all, or any part of, the land and the state building located on the land described in subdivision 3, to Crow Wing county after the commissioner of human services declares the property surplus to its needs.

Subd. 2. FORM. (a) The conveyance shall be in a form approved by the attorney general.

(b) The conveyance shall restrict use of the land to county governmental purposes, including community corrections programs, and shall provide that ownership of any portion of the land or building that ceases to be used for such purposes shall revert to the state of Minnesota.

Subd. 3. LAND DESCRIPTION. That part of the Northeast Quarter (NE 1/4) of Section 30, Township 45 North, Range 30 West, Crow Wing county, Minnesota, described as follows:

Commencing at the southeast corner of said Northeast quarter; thence North 00 degrees 46 minutes 05 seconds West, bearing based on the Crow Wing county Coordinate Database NAD 83/94, 1520.06 feet along the east line of said Northeast quarter to the point of beginning; thence continue North 00 degrees 46 minutes 05 seconds West 634.14 feet along said east line of the Northeast quarter; thence South 89 degrees 13 minutes 20 seconds West 550.00 feet; thence South 18 degrees 57 minutes 23 seconds East 115.59 feet; thence South 42 degrees 44 minutes 39 seconds East 692.37 feet; thence South 62 degrees 46 minutes 19 seconds East 20.24 feet; thence North 89 degrees 13 minutes 55 seconds East 33.00 feet to the point of beginning. Containing 4.69 acres, more or less. Subject to the right-of-way of the Township road along the east side thereof, subject to other easements, reservations, and restrictions of record, if any.

Subd. 4. DETERMINATION. The commissioner of human services has determined that the land described in subdivision 3 and the building on the land will not be needed for future operations of the Brainerd regional human services center. The state's land management interests would best be served by conveying the land to Crow Wing county for governmental use.

ARTICLE 8**COMPULSIVE GAMBLING AND MISCELLANEOUS**

Section 1. Minnesota Statutes 1996, section 62A.65, subdivision 5, is amended to read:

Subd. 5. PORTABILITY OF COVERAGE. (a) No individual health plan may be offered, sold, issued, or with respect to children age 18 or under renewed, to a Minnesota

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

resident that contains a preexisting condition limitation, preexisting condition exclusion, or exclusionary rider, unless the limitation or exclusion is permitted under this subdivision, provided that, except for children age 18 or under, underwriting restrictions may be retained on individual contracts that are issued without evidence of insurability as a replacement for prior individual coverage that was sold before May 17, 1993. The individual may be subjected to an 18-month preexisting condition limitation, unless the individual has maintained continuous coverage as defined in section 62L.02. The individual must not be subjected to an exclusionary rider. An individual who has maintained continuous coverage may be subjected to a one-time preexisting condition limitation of up to 12 months, with credit for time covered under qualifying coverage as defined in section 62L.02, at the time that the individual first is covered under an individual health plan by any health carrier. Credit must be given for all qualifying coverage with respect to all preexisting conditions, regardless of whether the conditions were preexisting with respect to any previous qualifying coverage. The individual must not be subjected to an exclusionary rider. Thereafter, the individual must not be subject to any preexisting condition limitation, preexisting condition exclusion, or exclusionary rider under an individual health plan by any health carrier, except an unexpired portion of a limitation under prior coverage, so long as the individual maintains continuous coverage as defined in section 62L.02.

(b) A health carrier must offer an individual health plan to any individual previously covered under a group health plan issued by that health carrier, regardless of the size of the group, so long as the individual maintained continuous coverage as defined in section 62L.02. Beginning January 1, 1999, if the individual has available any continuation coverage provided under sections 62A.146; 62A.148; 62A.17, subdivisions 1 and 2; 62A.20; 62A.21; 62C.142; 62D.101; or 62D.105, or continuation coverage provided under federal law, the health carrier need not offer coverage under this paragraph until the individual has exhausted the continuation coverage. The offer must not be subject to underwriting, except as permitted under this paragraph. A health plan issued under this paragraph must be a qualified plan as defined in section 62E.02 and must not contain any preexisting condition limitation, preexisting condition exclusion, or exclusionary rider, except for any unexpired limitation or exclusion under the previous coverage. The individual health plan must cover pregnancy on the same basis as any other covered illness under the individual health plan. The initial premium rate for the individual health plan must comply with subdivision 3. The premium rate upon renewal must comply with subdivision 2. In no event shall the premium rate exceed 90 percent of the premium charged for comparable individual coverage by the Minnesota comprehensive health association, and the premium rate must be less than that amount if necessary to otherwise comply with this section. An individual health plan offered under this paragraph to a person satisfies the health carrier's obligation to offer conversion coverage under section 62E.16, with respect to that person. Coverage issued under this paragraph must provide that it cannot be canceled or nonrenewed as a result of the health carrier's subsequent decision to leave the individual, small employer, or other group market. Section 72A.20, subdivision 28, applies to this paragraph.

Sec. 2. Minnesota Statutes 1996, section 62D.042, subdivision 2, is amended to read:

Subd. 2. **BEGINNING ORGANIZATIONS NET WORTH REQUIREMENTS.** (a) Beginning organizations shall maintain net worth of at least 8-1/3 percent

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of the sum of all expenses expected to be incurred in the 12 months following the date the certificate of authority is granted, or \$1,500,000, whichever is greater.

(b) After the first full calendar year of operation, organizations shall maintain net worth of at least 8-1/3 percent and at most ~~16-2/3~~ 25 percent of the sum of all expenses incurred during the most recent calendar year, but in no case shall net worth fall below \$1,000,000.

(c) Notwithstanding paragraphs (a) and (b), any health maintenance organization owned by a political subdivision of this state, which has a higher than average percentage of enrollees who are enrolled in medical assistance or general assistance medical care, may exceed the maximum net worth limits provided in paragraphs (a) and (b), with the advance approval of the commissioner.

Sec. 3. Minnesota Statutes 1996, section 62E.16, is amended to read:

62E.16 POLICY CONVERSION RIGHTS.

Every program of self-insurance, policy of group accident and health insurance or contract of coverage by a health maintenance organization written or renewed in this state, shall include, in addition to the provisions required by section 62A.17, the right to convert to an individual coverage qualified plan without the addition of underwriting restrictions if after the individual insured has exhausted any continuation coverage provided under section 62A.146; 62A.148; 62A.17, subdivisions 1 and 2; 62A.20; 62A.21; 62C.142; 62D.101; or 62D.105, or continuation coverage provided under federal law, if any continuation coverage is available to the individual, and then leaves the group regardless of the reason for leaving the group or if an employer member of a group ceases to remit payment so as to terminate coverage for its employees, or upon cancellation or termination of the coverage for the group except where uninterrupted and continuous group coverage is otherwise provided to the group. If the health maintenance organization has canceled coverage for the group because of a loss of providers in a service area, the health maintenance organization shall arrange for other health maintenance or indemnity conversion options that shall be offered to enrollees without the addition of underwriting restrictions. The required conversion contract must treat pregnancy the same as any other covered illness under the conversion contract. The person may exercise this right to conversion within 30 days of exhausting any continuation coverage provided under section 62A.146; 62A.148; 62A.17, subdivisions 1 and 2; 62A.20; or 62A.21, or continuation coverage provided under federal law, and then leaving the group or within 30 days following receipt of due notice of cancellation or termination of coverage of the group or of the employer member of the group and upon payment of premiums from the date of termination or cancellation. Due notice of cancellation or termination of coverage for a group or of the employer member of the group shall be provided to each employee having coverage in the group by the insurer, self-insurer or health maintenance organization canceling or terminating the coverage except where reasonable evidence indicates that uninterrupted and continuous group coverage is otherwise provided to the group. Every employer having a policy of group accident and health insurance, group subscriber or contract of coverage by a health maintenance organization shall, upon request, provide the insurer or health maintenance organization a list of the names and addresses of covered employees. Plans of health coverage shall also include a provision which, upon the death of the individual in whose name the contract was issued, permits every other individual then covered under the contract to elect, within the period specified in the contract,

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to continue coverage under the same or a different contract without the addition of underwriting restrictions until the individual would have ceased to have been entitled to coverage had the individual in whose name the contract was issued lived. An individual conversion contract issued by a health maintenance organization shall not be deemed to be an individual enrollment contract for the purposes of section 62D.10. An individual health plan offered under section 62A.65, subdivision 5, paragraph (b), to a person satisfies the health carrier's obligation to offer conversion coverage under this section with respect to that person.

Sec. 4. **[62Q.096] CREDENTIALING OF PROVIDERS.**

If a health plan company has initially credentialed, as providers in its provider network, individual providers employed by or under contract with an entity that: (1) is authorized to bill under section 256B.0625, subdivision 5; (2) meets the requirements of Minnesota Rules, parts 9520.0750 to 9520.0870; (3) is designated an essential community provider under section 62Q.19; and (4) is under contract with the health plan company to provide mental health services, the health plan company must continue to credential at least the same number of providers from that entity, as long as those providers meet the health plan company's credentialing standards. A health plan company shall not refuse to credential these providers on the grounds that their provider network has a sufficient number of providers of that type.

Sec. 5. **[245.982] PROGRAM SUPPORT.**

In order to address the problem of gambling in this state, the compulsive gambling fund should attempt to assess the beneficiaries of gambling, on a percentage basis according to the revenue they receive from gambling, for the costs of programs to help problem gamblers and their families. In that light, the governor is requested to contact the chairs of the 11 tribal governments in this state and request a contribution of funds for the compulsive gambling program. The governor should seek a total supplemental contribution of \$643,000. Funds received from the tribal governments in this state shall be deposited in the Indian gaming revolving account.

Sec. 6. Minnesota Statutes 1997 Supplement, section 256F.05, subdivision 8, is amended to read:

Subd. 8. **USES OF FAMILY PRESERVATION FUND GRANTS.** (a) A county which has not demonstrated that year that its family preservation core services are developed as provided in subdivision 1a, must use its family preservation fund grant exclusively for family preservation services defined in section 256F.03, subdivision 5, paragraphs (a), (b), (c), and (e).

(b) A county which has demonstrated that year that its family preservation core services are developed becomes eligible either to continue using its family preservation fund grant as provided in paragraph (a), or to exercise the expanded service option under paragraph (c).

(c) The expanded service option permits an eligible county to use its family preservation fund grant for child welfare preventive services. For purposes of this section, child welfare preventive services are those services directed toward a specific child or family that further the goals of section 256F.01 and include assessments, family preservation services, service coordination, community-based treatment, crisis nursery ser-

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vices when the parents retain custody and there is no voluntary placement agreement with a child-placing agency, respite care except when it is provided under a medical assistance waiver, home-based services, and other related services. For purposes of this section, child welfare preventive services shall not include shelter care or other placement services under the authority of the court or public agency to address an emergency. To exercise this option, an eligible county must notify the commissioner in writing of its intention to do so no later than 30 days into the quarter during which it intends to begin or in its county plan, as provided in section 256F.04, subdivision 2. Effective with the first day of that quarter, the county must maintain its base level of expenditures for child welfare preventive services and use the family preservation fund to expand them. The base level of expenditures for a county shall be that established under section 256F.10, subdivision 7. For counties which have no such base established, a comparable base shall be established with the base year being the calendar year ending at least two calendar quarters before the first calendar quarter in which the county exercises its expanded service option. The commissioner shall, at the request of the counties, reduce, suspend, or eliminate either or both of a county's obligations to continue the base level of expenditures and to expand child welfare preventive services under extraordinary circumstances.

(d) Notwithstanding paragraph (a), a county that is participating in the child protection assessments or investigations community collaboration pilot program under section 626.5560, or in the concurrent permanency planning pilot program under section 257.0711, may use its family preservation fund grant for those programs.

Sec. 7. Minnesota Statutes 1996, section 609.115, subdivision 9, is amended to read:

Subd. 9. COMPULSIVE GAMBLING ASSESSMENT REQUIRED. (a) If a person is convicted of a felony ~~for~~ theft under section 609.52, embezzlement of public funds under section 609.54, or forgery under section 609.625, 609.63, or 609.631, the probation officer shall determine in the report prepared under subdivision 1 whether or not compulsive gambling contributed to the commission of the offense. If so, the report shall contain the results of a compulsive gambling assessment conducted in accordance with this subdivision. The probation officer shall make an appointment for the offender to undergo the assessment if so indicated.

(b) The compulsive gambling assessment report must include a recommended level of treatment for the offender if the assessor concludes that the offender is in need of compulsive gambling treatment. The assessment must be conducted by an assessor qualified under section 245.98, subdivision 2a, to perform these assessments or to provide compulsive gambling treatment. An assessor providing a compulsive gambling assessment may not have any direct or shared financial interest or referral relationship resulting in shared financial gain with a treatment provider. If an independent assessor is not available, the probation officer may use the services of an assessor with a financial interest or referral relationship as authorized under rules adopted by the commissioner of human services under section 245.98, subdivision 2a.

(c) The commissioner of human services shall reimburse the assessor for the costs associated with a compulsive gambling assessment at a rate established by the commissioner up to a maximum of \$100 for each assessment. The commissioner shall reimburse these costs after receiving written verification from the probation officer that the assessment was performed and found acceptable.

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

Sec. 8. Laws 1994, chapter 633, article 7, section 3, is amended to read:

Sec. 3. INDIAN GAMING REVOLVING ACCOUNT.

Funds received from the attorney general Indian tribal governments and the Minnesota state lottery shall deposit be deposited in a separate account in the state treasury all money received from Indian tribal governments for the purpose of defraying the attorney general's costs in providing legal services with respect to Indian gaming. Money in the account is appropriated to the attorney general for that purpose contributing to the compulsive gambling program.

Sec. 9. PREVALENCE STUDY.

If funding is available, the compulsive gambling program shall provide baseline prevalence studies to identify those at highest risk of developing a compulsive gambling problem, including a replication in 1999 of the 1994 adult prevalence survey.

Sec. 10. EXTENDING ASSESSMENTS TO BANKRUPTCY AND FAMILY COURT PROCEEDINGS.

If funding is available, the commissioner of human services shall study whether problem gambling assessments should be provided or required for individuals involved in bankruptcy or family court proceedings, and report to the legislature by December 15, 1998.

Sec. 11. COMPULSIVE GAMBLING APPROPRIATION.

(a) In addition to any other appropriations, \$340,000 is appropriated annually from the Minnesota lottery prize fund to the Indian gaming revolving account in Laws 1994, chapter 633, article 7, section 3, and transferred to the commissioner of human services for the compulsive gambling program. The funds provided under Minnesota Statutes, section 245.982, are to be transferred from the Indian gaming revolving account to the commissioner of human services for purposes of paragraph (d).

(b) Of the funds appropriated under this section, \$290,000 in fiscal year 1999 is appropriated for the establishment of fee-for-service projects. Fee-for-service funds under this appropriation may be awarded on a per-client basis to existing treatment centers and may be in addition to grants the centers currently receive. Baseline grants based on the last fiscal year client numbers and units of services provided constitute minimum appropriations to existing treatment centers, and upon meeting the contracted level of services, the treatment centers are eligible for fee-for-service funds on a per-client basis in addition to grants.

(c) Of the funds appropriated under this section, \$50,000 in fiscal year 1999 is appropriated for the operation of prevention and education programs aimed at helping adult and adolescent gamblers.

(d) Of the funds provided under Minnesota Statutes, section 245.982, up to \$30,000 in fiscal year 1999 may be used for the completion of the prevalence study in section 9, up to \$10,000 in fiscal year 1999 may be used for the study in section 10 related to extending assessments to bankruptcy and family court proceedings, and up to \$50,000 in fiscal year 1999 may be used for the operation of the hotline. The commissioner may prioritize the initiatives under this paragraph as the commissioner deems appropriate. Any funding re-

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maining must be used for purposes of treatment under paragraph (b) and prevention under paragraph (c), and the funds must be appropriated at a two-to-one ratio, respectively.

Sec. 12. TOWN OF WHITE, ST. LOUIS COUNTY.

Subdivision 1. TRANSFER. Notwithstanding any provision of Minnesota Statutes to the contrary, the town of White is hereby authorized to transfer the following property and any buildings, equipment, and other improvements located thereon to the White community hospital corporation, a nonprofit corporation organized and existing under Minnesota Statutes, chapter 317:

That part of the southeast quarter of southwest quarter (SE 1/4 of SW 1/4), section 10, township 58 north of range 15 west of the fourth principal meridian, according to the United States government survey thereof, St. Louis county, Minnesota, described as follows:

Commencing at the southeast corner of said SE 1/4 of SW 1/4, section 10, township 58, range 15, thence proceeding north along the east line thereof for a distance of 550 feet; thence west and parallel to the south line thereof for a distance of 800 feet; thence south and parallel to the east line thereof, for a distance of 550 feet to the south line; thence east along said south line thereof, for a distance of 800 feet to the point of beginning.

Subd. 2. NO CONSIDERATION OR ELECTION REQUIRED. The transfer authorized by subdivision 1 shall be without consideration and no vote of the electors of the town of White or city of Aurora shall be required.

Subd. 3. USE; PUBLIC PROPERTY. The property legally described in subdivision 1 shall be used for health care and related purposes and shall be considered public property for purposes of Minnesota Statutes, section 16A.695. The activities conducted on the property described in subdivision 1 by the White community hospital corporation, its successors and assigns shall be considered a governmental program as authorized by Minnesota Statutes, chapter 447.

Subd. 4. NAME. The public name of the buildings and improvements located on the real property legally described in subdivision 1 shall always include the words "White community."

Sec. 13. CITY OF EVELETH; LOAN FORGIVENESS.

Notwithstanding the provisions of any other law or charter, the city of Eveleth may, by resolution of its city council, forgive all or any portion of the principal and interest due or to become due to the city, pursuant to any loan or loans made by the city, in an amount not exceeding \$100,000, prior to January 1, 1998, to any hospital, nursing home, other health care facility or corporation, partnership, or limited liability company operating such a facility within the city of Eveleth.

Sec. 14. REPEALER.

(a) Minnesota Rules, part 2740.1600, subpart 1, is repealed.

(b) Minnesota Statutes 1997 Supplement, section 62D.042, subdivision 3, is repealed.

Sec. 15. EFFECTIVE DATES.

(a) Sections 2 and 4 are effective January 1, 1999.

New language is indicated by underline, deletions by strikeout.

(b) Section 3 is effective January 1, 1999, and applies to any individual who has continuation coverage available on or after that date.

(c) Section 12 is effective upon compliance with Minnesota Statutes, section 645.021, subdivision 2.

(d) Section 13 is effective the day following final enactment without local approval according to Minnesota Statutes, section 645.023, subdivision 1, clause (a).

(e) Section 14, paragraph (a), is effective January 1, 1999.

(f) Section 14, paragraph (b), is effective the day following final enactment.

ARTICLE 9

CHILD WELFARE MODIFICATIONS

Section 1. Minnesota Statutes 1997 Supplement, section 144.218, subdivision 2, is amended to read:

Subd. 2. **ADOPTION OF FOREIGN PERSONS.** In proceedings for the adoption of a person who was born in a foreign country, the court, upon evidence presented by the commissioner of human services from information secured at the port of entry, or upon evidence from other reliable sources, may make findings of fact as to the date and place of birth and parentage. Upon receipt of certified copies of the court findings and the order or decree of adoption or a certified copy of a decree issued under section 259.60, the state registrar shall register a birth certificate in the new name of the adopted person. The certified copies of the court findings and the order or decree of adoption, or decree issued under section 259.60 are confidential, pursuant to section 13.02, subdivision 3, and shall not be disclosed except pursuant to court order or section 144.1761. The birth certificate shall state the place of birth as specifically as possible, and that the certificate is not evidence of United States citizenship.

Sec. 2. Minnesota Statutes 1996, section 144.226, subdivision 3, is amended to read:

Subd. 3. **BIRTH CERTIFICATE COPY SURCHARGE.** In addition to any fee prescribed under subdivision 1, there shall be a surcharge of \$3 for each certified copy of a birth certificate, and for a certification that the record cannot be found. The local or state registrar shall forward this amount to the commissioner of finance for deposit into the account for the children's trust fund for the prevention of child abuse established under section 119A.12. This surcharge shall not be charged under those circumstances in which no fee for a certified copy of a birth certificate is permitted under subdivision 1, paragraph (a). Upon certification by the commissioner of finance that the assets in that fund exceed \$20,000,000, this surcharge shall be discontinued.

Sec. 3. Minnesota Statutes 1997 Supplement, section 144.226, subdivision 4, is amended to read:

Subd. 4. **VITAL RECORDS SURCHARGE.** In addition to any fee prescribed under subdivision 1, there is a nonrefundable surcharge of \$3 for each certified and noncertified birth or death record, and for a certification that the record cannot be found. The

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local or state registrar shall forward this amount to the state treasurer to be deposited into the state government special revenue fund. This surcharge shall not be charged under those circumstances in which no fee for a birth or death record is permitted under subdivision 1, paragraph (a). This surcharge requirement expires June 30, 2002.

Sec. 4. Minnesota Statutes 1997 Supplement, section 245A.03, subdivision 2, is amended to read:

Subd. 2. **EXCLUSION FROM LICENSURE.** Sections 245A.01 to 245A.16 do not apply to:

(1) residential or nonresidential programs that are provided to a person by an individual who is related unless the residential program is a child foster care placement made by a local social services agency or a licensed child-placing agency, except as provided in subdivision 2a;

(2) nonresidential programs that are provided by an unrelated individual to persons from a single related family;

(3) residential or nonresidential programs that are provided to adults who do not abuse chemicals or who do not have a chemical dependency, a mental illness, mental retardation or a related condition, a functional impairment, or a physical handicap;

(4) sheltered workshops or work activity programs that are certified by the commissioner of economic security;

(5) programs for children enrolled in kindergarten to the 12th grade and prekindergarten special education in a school as defined in section 120.101, subdivision 4, and programs serving children in combined special education and regular prekindergarten programs that are operated or assisted by the commissioner of children, families, and learning;

(6) nonresidential programs primarily for children that provide care or supervision, without charge for ten or fewer days a year, and for periods of less than three hours a day while the child's parent or legal guardian is in the same building as the nonresidential program or present within another building that is directly contiguous to the building in which the nonresidential program is located;

(7) nursing homes or hospitals licensed by the commissioner of health except as specified under section 245A.02;

(8) board and lodge facilities licensed by the commissioner of health that provide services for five or more persons whose primary diagnosis is mental illness who have refused an appropriate residential program offered by a county agency. This exclusion expires on July 1, 1990;

(9) homes providing programs for persons placed there by a licensed agency for legal adoption, unless the adoption is not completed within two years;

(10) programs licensed by the commissioner of corrections;

(11) recreation programs for children or adults that operate for fewer than 40 calendar days in a calendar year or programs operated by a park and recreation board of a city of the first class whose primary purpose is to provide social and recreational activities to school age children, provided the program is approved by the park and recreation board;

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(12) programs operated by a school as defined in section 120.101, subdivision 4, whose primary purpose is to provide child care to school-age children, provided the program is approved by the district's school board;

(13) Head Start nonresidential programs which operate for less than 31 days in each calendar year;

(14) noncertified boarding care homes unless they provide services for five or more persons whose primary diagnosis is mental illness or mental retardation;

(15) nonresidential programs for nonhandicapped children provided for a cumulative total of less than 30 days in any 12-month period;

(16) residential programs for persons with mental illness, that are located in hospitals, until the commissioner adopts appropriate rules;

(17) the religious instruction of school-age children; Sabbath or Sunday schools; or the congregate care of children by a church, congregation, or religious society during the period used by the church, congregation, or religious society for its regular worship;

(18) camps licensed by the commissioner of health under Minnesota Rules, chapter 4630;

(19) mental health outpatient services for adults with mental illness or children with emotional disturbance;

(20) residential programs serving school-age children whose sole purpose is cultural or educational exchange, until the commissioner adopts appropriate rules;

(21) unrelated individuals who provide out-of-home respite care services to persons with mental retardation or related conditions from a single related family for no more than 90 days in a 12-month period and the respite care services are for the temporary relief of the person's family or legal representative;

(22) respite care services provided as a home and community-based service to a person with mental retardation or a related condition, in the person's primary residence;

(23) community support services programs as defined in section 245.462, subdivision 6, and family community support services as defined in section 245.4871, subdivision 17;

(24) the placement of a child by a birth parent or legal guardian in a preadoptive home for purposes of adoption as authorized by section 259.47; or

(25) settings registered under chapter 144D which provide home care services licensed by the commissioner of health to fewer than seven adults.

For purposes of clause (6), a building is directly contiguous to a building in which a nonresidential program is located if it shares a common wall with the building in which the nonresidential program is located or is attached to that building by skyway, tunnel, atrium, or common roof.

Sec. 5. Minnesota Statutes 1996, section 245A.035, subdivision 4, is amended to read:

Subd. 4. **APPLICANT STUDY.** When the county agency has received the information required by section 245A.04, subdivision 3, paragraph (b), the county agency

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shall begin an applicant study according to the procedures in section 245A.04, subdivision 3. The commissioner may issue an emergency license upon recommendation of the county agency once the initial inspection has been successfully completed and the information necessary to begin the applicant background study has been provided. If the county agency does not recommend that the emergency license be granted, the agency shall notify the relative in writing that the agency is recommending denial to the commissioner; shall remove any child who has been placed in the home prior to licensure; and shall inform the relative in writing of the procedure to request review pursuant to subdivision 6. An emergency license shall be effective until a child foster care license is granted or denied, but shall in no case remain in effect more than 90 120 days from the date of placement.

Sec. 6. Minnesota Statutes 1997 Supplement, section 245A.04, subdivision 3b, is amended to read:

Subd. 3b. **RECONSIDERATION OF DISQUALIFICATION.** (a) The individual who is the subject of the disqualification may request a reconsideration of the disqualification.

The individual must submit the request for reconsideration to the commissioner in writing. A request for reconsideration for an individual who has been sent a notice of disqualification under subdivision 3a, paragraph (b), clause (1) or (2), must be submitted within 30 calendar days of the disqualified individual's receipt of the notice of disqualification. A request for reconsideration for an individual who has been sent a notice of disqualification under subdivision 3a, paragraph (b), clause (3), must be submitted within 15 calendar days of the disqualified individual's receipt of the notice of disqualification. Removal of a disqualified individual from direct contact shall be ordered if the individual does not request reconsideration within the prescribed time, and for an individual who submits a timely request for reconsideration, if the disqualification is not set aside. The individual must present information showing that:

(1) the information the commissioner relied upon is incorrect or inaccurate. If the basis of a reconsideration request is that a maltreatment determination or disposition under section 626.556 or 626.557 is incorrect, and the commissioner has issued a final order in an appeal of that determination or disposition under section 256.045, the commissioner's order is conclusive on the issue of maltreatment; or

(2) the subject of the study does not pose a risk of harm to any person served by the applicant or license holder.

(b) The commissioner may set aside the disqualification under this section if the commissioner finds that the information the commissioner relied upon is incorrect or the individual does not pose a risk of harm to any person served by the applicant or license holder. In determining that an individual does not pose a risk of harm, the commissioner shall consider the consequences of the event or events that lead to disqualification, whether there is more than one disqualifying event, the vulnerability of the victim at the time of the event, the time elapsed without a repeat of the same or similar event, documentation of successful completion by the individual studied of training or rehabilitation pertinent to the event, and any other information relevant to reconsideration. In reviewing a disqualification under this section, the commissioner shall give preeminent weight

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to the safety of each person to be served by the license holder or applicant over the interests of the license holder or applicant.

(c) Unless the information the commissioner relied on in disqualifying an individual is incorrect, the commissioner may not set aside the disqualification of an individual in connection with a license to provide family day care for children, foster care for children in the provider's own home, or foster care or day care services for adults in the provider's own home if:

(1) less than ten years have passed since the discharge of the sentence imposed for the offense; and the individual has been convicted of a violation of any offense listed in sections 609.20 (manslaughter in the first degree), 609.205 (manslaughter in the second degree), criminal vehicular homicide under 609.21 (criminal vehicular homicide and injury), 609.215 (aiding suicide or aiding attempted suicide), felony violations under 609.221 to 609.2231 (assault in the first, second, third, or fourth degree), 609.713 (terroristic threats), 609.235 (use of drugs to injure or to facilitate crime), 609.24 (simple robbery), 609.245 (aggravated robbery), 609.25 (kidnapping), 609.255 (false imprisonment), 609.561 or 609.562 (arson in the first or second degree), 609.71 (riot), burglary in the first or second degree under 609.582 (burglary), 609.66 (dangerous weapon), 609.665 (spring guns), 609.67 (machine guns and short-barreled shotguns), 609.749 (harassment; stalking), 152.021 or 152.022 (controlled substance crime in the first or second degree), 152.023, subdivision 1, clause (3) or (4), or subdivision 2, clause (4) (controlled substance crime in the third degree), 152.024, subdivision 1, clause (2), (3), or (4) (controlled substance crime in the fourth degree), 609.224, subdivision 2, paragraph (c) (fifth-degree assault by a caregiver against a vulnerable adult), 609.228 (great bodily harm caused by distribution of drugs), 609.23 (mistreatment of persons confined), 609.231 (mistreatment of residents or patients), 609.2325 (criminal abuse of a vulnerable adult), 609.233 (criminal neglect of a vulnerable adult), 609.2335 (financial exploitation of a vulnerable adult), 609.234 (failure to report), 609.265 (abduction), 609.2664 to 609.2665 (manslaughter of an unborn child in the first or second degree), 609.267 to 609.2672 (assault of an unborn child in the first, second, or third degree), 609.268 (injury or death of an unborn child in the commission of a crime), 617.293 (disseminating or displaying harmful material to minors), 609.378 (neglect or endangerment of a child), a gross misdemeanor offense under 609.377 (malicious punishment of a child), 609.72, subdivision 3 (disorderly conduct against a vulnerable adult); or an attempt or conspiracy to commit any of these offenses, as each of these offenses is defined in Minnesota Statutes; or an offense in any other state, the elements of which are substantially similar to the elements of any of the foregoing offenses;

(2) regardless of how much time has passed since the discharge of the sentence imposed for the offense, the individual was convicted of a violation of any offense listed in sections 609.185 to 609.195 (murder in the first, second, or third degree), 609.2661 to 609.2663 (murder of an unborn child in the first, second, or third degree), a felony offense under 609.377 (malicious punishment of a child), 609.322 (solicitation, inducement, and promotion of prostitution), 609.323 (receiving profit derived from prostitution), 609.342 to 609.345 (criminal sexual conduct in the first, second, third, or fourth degree), 609.352 (solicitation of children to engage in sexual conduct), 617.246 (use of minors in a sexual performance), 617.247 (possession of pictorial representations of a minor), 609.365 (incest), a felony offense under 609.2242 and 609.2243 (domestic assault), a felony offense of spousal abuse, a felony offense of child abuse or neglect, a felony offense of a crime

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against children, or an attempt or conspiracy to commit any of these offenses as defined in Minnesota Statutes, or an offense in any other state, the elements of which are substantially similar to any of the foregoing offenses;

(3) within the seven years preceding the study, the individual committed an act that constitutes maltreatment of a child under section 626.556, subdivision 10e, and that resulted in substantial bodily harm as defined in section 609.02, subdivision 7a, or substantial mental or emotional harm as supported by competent psychological or psychiatric evidence; or

(4) within the seven years preceding the study, the individual was determined under section 626.557 to be the perpetrator of a substantiated incident of maltreatment of a vulnerable adult that resulted in substantial bodily harm as defined in section 609.02, subdivision 7a, or substantial mental or emotional harm as supported by competent psychological or psychiatric evidence.

In the case of any ground for disqualification under clauses (1) to (4), if the act was committed by an individual other than the applicant or license holder residing in the applicant's or license holder's home, the applicant or license holder may seek reconsideration when the individual who committed the act no longer resides in the home.

The disqualification periods provided under clauses (1), (3), and (4) are the minimum applicable disqualification periods. The commissioner may determine that an individual should continue to be disqualified from licensure because the license holder or applicant poses a risk of harm to a person served by that individual after the minimum disqualification period has passed.

(d) The commissioner shall respond in writing or by electronic transmission to all reconsideration requests for which the basis for the request is that the information relied upon by the commissioner to disqualify is incorrect or inaccurate within 30 working days of receipt of a request and all relevant information. If the basis for the request is that the individual does not pose a risk of harm, the commissioner shall respond to the request within 15 working days after receiving the request for reconsideration and all relevant information. If the disqualification is set aside, the commissioner shall notify the applicant or license holder in writing or by electronic transmission of the decision.

(e) Except as provided in subdivision 3c, the commissioner's decision to disqualify an individual, including the decision to grant or deny a rescission or set aside a disqualification under this section, is the final administrative agency action and shall not be subject to further review in a contested case under chapter 14 involving a negative licensing appeal taken in response to the disqualification or involving an accuracy and completeness appeal under section 13.04.

Sec. 7. Minnesota Statutes 1997 Supplement, section 245A.04, subdivision 3d, is amended to read:

Subd. 3d. **DISQUALIFICATION.** When a background study completed under subdivision 3 shows any of the following: a conviction of one or more crimes listed in clauses (1) to (4); the individual has admitted to or a preponderance of the evidence indicates the individual has committed an act or acts that meet the definition of any of the crimes listed in clauses (1) to (4); or an administrative determination listed under clause (4), the individual shall be disqualified from any position allowing direct contact with persons receiving services from the license holder:

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(1) regardless of how much time has passed since the discharge of the sentence imposed for the offense, and unless otherwise specified, regardless of the level of the conviction, the individual was convicted of any of the following offenses: sections 609.185 (murder in the first degree); 609.19 (murder in the second degree); 609.195 (murder in the third degree); 609.2661 (murder of an unborn child in the first degree); 609.2662 (murder of an unborn child in the second degree); 609.2663 (murder of an unborn child in the third degree); 609.322 (solicitation, inducement, and promotion of prostitution); 609.323 (receiving profit derived from prostitution); 609.342 (criminal sexual conduct in the first degree); 609.343 (criminal sexual conduct in the second degree); 609.344 (criminal sexual conduct in the third degree); 609.345 (criminal sexual conduct in the fourth degree); 609.352 (solicitation of children to engage in sexual conduct); 609.365 (incest); felony offense under 609.377 (malicious punishment of a child); 617.246 (use of minors in sexual performance prohibited); 617.247 (possession of pictorial representations of minors); a felony offense under 609.2242 and 609.2243 (domestic assault), a felony offense of spousal abuse, a felony offense of child abuse or neglect, a felony offense of a crime against children; or attempt or conspiracy to commit any of these offenses as defined in Minnesota Statutes, or an offense in any other state or country, where the elements are substantially similar to any of the offenses listed in this clause;

(2) if less than 15 years have passed since the discharge of the sentence imposed for the offense; and the individual has received a felony conviction for a violation of any of these offenses: sections 609.20 (manslaughter in the first degree); 609.205 (manslaughter in the second degree); 609.21 (criminal vehicular homicide and injury); 609.215 (suicide); 609.221 to 609.2231 (assault in the first, second, third, or fourth degree); repeat offenses under 609.224 (assault in the fifth degree); ~~609.2242 and 609.2243 (domestic assault; sentencing; repeat domestic assault);~~ repeat offenses under 609.3451 (criminal sexual conduct in the fifth degree); 609.713 (terroristic threats); 609.235 (use of drugs to injure or facilitate crime); 609.24 (simple robbery); 609.245 (aggravated robbery); 609.25 (kidnapping); 609.255 (false imprisonment); 609.561 (arson in the first degree); 609.562 (arson in the second degree); 609.563 (arson in the third degree); repeat offenses under 617.23 (indecent exposure; penalties); repeat offenses under 617.241 (obscene materials and performances; distribution and exhibition prohibited; penalty); 609.71 (riot); 609.66 (dangerous weapons); 609.67 (machine guns and short-barreled shot-guns); 609.749 (harassment; stalking; penalties); 609.228 (great bodily harm caused by distribution of drugs); 609.2325 (criminal abuse of a vulnerable adult); 609.2664 (manslaughter of an unborn child in the first degree); 609.2665 (manslaughter of an unborn child in the second degree); 609.267 (assault of an unborn child in the first degree); 609.2671 (assault of an unborn child in the second degree); 609.268 (injury or death of an unborn child in the commission of a crime); 609.378 (neglect or endangerment of a child); 609.324, subdivision 1 (other prohibited acts); 609.52 (theft); 609.2335 (financial exploitation of a vulnerable adult); 609.521 (possession of shoplifting gear); 609.582 (burglary); 609.625 (aggravated forgery); 609.63 (forgery); 609.631 (check forgery; offering a forged check); 609.635 (obtaining signature by false pretense); 609.27 (coercion); 609.275 (attempt to coerce); 609.687 (adulteration); 260.221 (grounds for termination of parental rights); and chapter 152 (drugs; controlled substance). An attempt or conspiracy to commit any of these offenses, as each of these offenses is defined in Minnesota Statutes; or an offense in any other state or country, the elements of which are substantially similar to the elements of the offenses in this clause. If the individual studied is

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convicted of one of the felonies listed in this clause, but the sentence is a gross misdemeanor or misdemeanor disposition, the look-back period for the conviction is the period applicable to the disposition, that is the period for gross misdemeanors or misdemeanors;

(3) if less than ten years have passed since the discharge of the sentence imposed for the offense; and the individual has received a gross misdemeanor conviction for a violation of any of the following offenses: sections 609.224 (assault in the fifth degree); 609.2242 and 609.2243 (domestic assault); violation of an order for protection under 518B.01, subdivision 14; 609.3451 (criminal sexual conduct in the fifth degree); repeat offenses under 609.746 (interference with privacy); repeat offenses under 617.23 (indecent exposure); 617.241 (obscene materials and performances); 617.243 (indecent literature, distribution); 617.293 (harmful materials; dissemination and display to minors prohibited); 609.71 (riot); 609.66 (dangerous weapons); 609.749 (harassment; stalking; penalties); 609.224, subdivision 2, paragraph (c) (assault in the fifth degree by a caregiver against a vulnerable adult); 609.23 (mistreatment of persons confined); 609.231 (mistreatment of residents or patients); 609.2325 (criminal abuse of a vulnerable adult); 609.233 (criminal neglect of a vulnerable adult); 609.2335 (financial exploitation of a vulnerable adult); 609.234 (failure to report maltreatment of a vulnerable adult); 609.72, subdivision 3 (disorderly conduct against a vulnerable adult); 609.265 (abduction); 609.378 (neglect or endangerment of a child); 609.377 (malicious punishment of a child); 609.324, subdivision 1a (other prohibited acts; minor engaged in prostitution); 609.33 (disorderly house); 609.52 (theft); 609.582 (burglary); 609.631 (check forgery; offering a forged check); 609.275 (attempt to coerce); or an attempt or conspiracy to commit any of these offenses, as each of these offenses is defined in Minnesota Statutes; or an offense in any other state or country, the elements of which are substantially similar to the elements of any of the offenses listed in this clause. If the defendant is convicted of one of the gross misdemeanors listed in this clause, but the sentence is a misdemeanor disposition, the look-back period for the conviction is the period applicable to misdemeanors; or

(4) if less than seven years have passed since the discharge of the sentence imposed for the offense; and the individual has received a misdemeanor conviction for a violation of any of the following offenses: sections 609.224 (assault in the fifth degree); 609.2242 (domestic assault); violation of an order for protection under 518B.01 (Domestic Abuse Act); violation of an order for protection under 609.3232 (protective order authorized; procedures; penalties); 609.746 (interference with privacy); 609.79 (obscene or harassing phone calls); 609.795 (letter, telegram, or package; opening; harassment); 617.23 (indecent exposure; penalties); 609.2672 (assault of an unborn child in the third degree); 617.293 (harmful materials; dissemination and display to minors prohibited); 609.66 (dangerous weapons); 609.665 (spring guns); 609.2335 (financial exploitation of a vulnerable adult); 609.234 (failure to report maltreatment of a vulnerable adult); 609.52 (theft); 609.27 (coercion); or an attempt or conspiracy to commit any of these offenses, as each of these offenses is defined in Minnesota Statutes; or an offense in any other state or country, the elements of which are substantially similar to the elements of any of the offenses listed in this clause; failure to make required reports under section 626.556, subdivision 3, or 626.557, subdivision 3, for incidents in which: (i) the final disposition under section 626.556 or 626.557 was substantiated maltreatment, and (ii) the maltreatment was recurring or serious; or substantiated serious or recurring maltreatment of a minor under section 626.556 or of a vulnerable adult under section 626.557 for which there is a

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preponderance of evidence that the maltreatment occurred, and that the subject was responsible for the maltreatment. For the purposes of this section, serious maltreatment means sexual abuse; maltreatment resulting in death; or maltreatment resulting in serious injury or harm which reasonably requires the care of a physician whether or not the care of a physician was sought, including; or abuse resulting in serious injury. For purposes of this section, abuse resulting in serious injury means: bruises, bites, skin laceration or tissue damage; fractures; dislocations; evidence of internal injuries; head injuries with loss of consciousness; extensive second-degree or third-degree burns and other burns for which complications are present; extensive second-degree or third-degree frostbite, and others for which complications are present; irreversible mobility or avulsion of teeth; injuries to the eyeball; ingestion of foreign substances and objects that are harmful; near drowning; and heat exhaustion or sunstroke. For purposes of this section, "care of a physician" is treatment received or ordered by a physician, but does not include diagnostic testing, assessment, or observation. For the purposes of this section, recurring maltreatment means more than one incident of maltreatment for which there is a preponderance of evidence that the maltreatment occurred, and that the subject was responsible for the maltreatment.

Sec. 8. Minnesota Statutes 1996, section 256.01, subdivision 12, is amended to read:

Subd. 12. **CHILD MORTALITY REVIEW PANEL.** (a) The commissioner shall establish a child mortality review panel for reviewing to review deaths of children in Minnesota, including deaths attributed to maltreatment or in which maltreatment may be a contributing cause and to review near fatalities as defined in section 626.556, subdivision 11d. The commissioners of health, children, families, and learning, and public safety and the attorney general shall each designate a representative to the child mortality review panel. Other panel members shall be appointed by the commissioner, including a board-certified pathologist and a physician who is a coroner or a medical examiner. The purpose of the panel shall be to make recommendations to the state and to county agencies for improving the child protection system, including modifications in statute, rule, policy, and procedure.

(b) The commissioner may require a county agency to establish a local child mortality review panel. The commissioner may establish procedures for conducting local reviews and may require that all professionals with knowledge of a child mortality case participate in the local review. In this section, "professional" means a person licensed to perform or a person performing a specific service in the child protective service system. "Professional" includes law enforcement personnel, social service agency attorneys, educators, and social service, health care, and mental health care providers.

(c) If the commissioner of human services has reason to believe that a child's death was caused by maltreatment or that maltreatment was a contributing cause, the commissioner has access to not public data under chapter 13 maintained by state agencies, statewide systems, or political subdivisions that are related to the child's death or circumstances surrounding the care of the child. The commissioner shall also have access to records of private hospitals as necessary to carry out the duties prescribed by this section. Access to data under this paragraph is limited to police investigative data; autopsy records and coroner or medical examiner investigative data; hospital, public health, or other medical records of the child; hospital and other medical records of the child's parent that relate to prenatal care; and records created by social service agencies that provided

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services to the child or family within three years preceding the child's death. A state agency, statewide system, or political subdivision shall provide the data upon request of the commissioner. Not public data may be shared with members of the state or local child mortality review panel in connection with an individual case.

(d) Notwithstanding the data's classification in the possession of any other agency, data acquired by a local or state child mortality review panel in the exercise of its duties is protected nonpublic or confidential data as defined in section 13.02, but may be disclosed as necessary to carry out the purposes of the review panel. The data is not subject to subpoena or discovery. The commissioner may disclose conclusions of the review panel, but shall not disclose data that was classified as confidential or private data on decedents, under section 13.10, or private, confidential, or protected nonpublic data in the disseminating agency, except that the commissioner may disclose local social service agency data as provided in section 626.556, subdivision 11d, on individual cases involving a fatality or near fatality of a person served by the local social service agency prior to the date of death.

(e) A person attending a child mortality review panel meeting shall not disclose what transpired at the meeting, except to carry out the purposes of the mortality review panel. The proceedings and records of the mortality review panel are protected nonpublic data as defined in section 13.02, subdivision 13, and are not subject to discovery or introduction into evidence in a civil or criminal action against a professional, the state or a county agency, arising out of the matters the panel is reviewing. Information, documents, and records otherwise available from other sources are not immune from discovery or use in a civil or criminal action solely because they were presented during proceedings of the review panel. A person who presented information before the review panel or who is a member of the panel shall not be prevented from testifying about matters within the person's knowledge. However, in a civil or criminal proceeding a person shall not be questioned about the person's presentation of information to the review panel or opinions formed by the person as a result of the review meetings.

Sec. 9. Minnesota Statutes 1996, section 256.01, is amended by adding a subdivision to read:

Subd. 15. CITIZEN REVIEW PANELS. (a) The commissioner shall establish a minimum of three citizen review panels to examine the policies and procedures of state and local welfare agencies to evaluate the extent to which the agencies are effectively discharging their child protection responsibilities. Local social service agencies shall cooperate and work with the citizen review panels. Where appropriate, the panels may examine specific cases to evaluate the effectiveness of child protection activities. The panels must examine the extent to which the state and local agencies are meeting the requirements of the federal Child Abuse Prevention and Treatment Act and the Reporting of Maltreatment of Minors Act. The commissioner may authorize mortality review panels or child protection teams to carry out the duties of a citizen review panel if membership meets or is expanded to meet the requirements of this section.

(b) The panel membership must include volunteers who broadly represent the community in which the panel is established, including members who have expertise in the prevention and treatment of child abuse and neglect, child protection advocates, and representatives of the councils of color and ombudsperson for families.

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(c) A citizen review panel has access to the following data for specific case review under this paragraph: police investigative data; autopsy records and coroner or medical examiner investigative data; hospital, public health, or other medical records of the child; hospital and other medical records of the child's parent that relate to prenatal care; records created by social service agencies that provided services to the child or family; and personnel data related to an employee's performance in discharging child protection responsibilities. A state agency, statewide system, or political subdivision shall provide the data upon request of the commissioner. Not public data may be shared with members of the state or local citizen review panel in connection with an individual case.

(d) Notwithstanding the data's classification in the possession of any other agency, data acquired by a local or state citizen review panel in the exercise of its duties are protected nonpublic or confidential data as defined in section 13.02, but may be disclosed as necessary to carry out the purposes of the review panel. The data are not subject to subpoena or discovery. The commissioner may disclose conclusions of the review panel, but may not disclose data on individuals that were classified as confidential or private data on individuals in the possession of the state agency, statewide system, or political subdivision from which the data were received, except that the commissioner may disclose local social service agency data as provided in section 626.556, subdivision 11d, on individual cases involving a fatality or near fatality of a person served by the local social service agency prior to the date of death.

(e) A person attending a citizen review panel meeting may not disclose what transpired at the meeting, except to carry out the purposes of the review panel. The proceedings and records of the review panel are protected nonpublic data as defined in section 13.02, subdivision 13, and are not subject to discovery or introduction into evidence in a civil or criminal action against a professional, the state, or county agency arising out of the matters the panel is reviewing. Information, documents, and records otherwise available from other sources are not immune from discovery or use in a civil or criminal action solely because they were presented during proceedings of the review panel. A person who presented information before the review panel or who is a member of the panel is not prevented from testifying about matters within the person's knowledge. However, in a civil or criminal proceeding, a person must not be questioned about the person's presentation of information to the review panel or opinions formed by the person as a result of the review panel meetings.

Sec. 10. Minnesota Statutes 1997 Supplement, section 256.82, subdivision 2, is amended to read:

Subd. 2. **FOSTER CARE MAINTENANCE PAYMENTS.** Notwithstanding subdivision 1, for the purposes of foster care maintenance payments under title IV-E of the federal Social Security Act, United States Code, title 42, sections 670 to 676, during the period beginning July 1, 1985, and ending December 31, 1985, the county paying the maintenance costs shall be reimbursed for the costs from those federal funds available for that purpose together with an amount of state funds equal to a percentage of the difference between the total cost and the federal funds made available for payment. This percentage shall not exceed the percentage specified in subdivision 1 for the aid to families with dependent children program. In the event that the state appropriation for this purpose is less than the state percentage set in subdivision 1, the reimbursement shall be ratably reduced to the county. Beginning January 1, 1986, for the purpose of foster care maintenance pay-

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ments under title IV-E of the Social Security Act, United States Code, title 42, sections 670 to 676, the county paying the maintenance costs must be reimbursed for the costs from the federal money available for the purpose. Beginning July 1, 1997, for the purposes of determining a child's eligibility under title IV-E of the Social Security Act, the placing agency shall use AFDC requirements in effect on ~~June 1, 1995~~ July 16, 1996.

Sec. 11. Minnesota Statutes 1997 Supplement, section 257.071, subdivision 1d, is amended to read:

Subd. 1d. **RELATIVE SEARCH; NATURE.** (a) Within six months after a child is initially placed in a residential facility, the local social service agency shall identify any relatives of the child and notify them of the need for a foster care home for the child and of the possibility of the need for a permanent out-of-home placement of the child, and ~~and~~. Relatives should also be notified that a decision not to be a placement resource at the beginning of the case may affect the relative's right to have relative being considered for placement of the child placed with that relative later. The relatives must be notified that they must keep the local social service agency informed of their current address in order to receive notice of any that a permanent placement hearing is being sought for the child. A relative who fails to provide a current address to the local social service agency forfeits the right to notice of the possibility of permanent placement.

(b) Unless relieved of this duty by the court because the child is placed with an appropriate relative who wishes to provide a permanent home for the child, when the agency determines that it is necessary to prepare for the permanent placement determination hearing, or in anticipation of filing a termination of parental rights petition, the agency shall send notice to the relatives, any adult with whom the child is currently residing, any adult with whom the child has resided for one year or longer in the past, and any adults who have maintained a relationship or exercised visitation with the child as identified in the agency case plan. The notice must state that a permanent home is sought for the child and that the individuals receiving the notice may indicate to the agency their interest in providing a permanent home. The notice must contain an advisory that if the relative chooses not to be a placement resource at the beginning of the case, this may affect the relative's rights to have the child placed with that relative permanently later on. The notice must state that within 30 days of receipt of the notice an individual receiving the notice must indicate to the agency the individual's interest in providing a permanent home for the child or that the individual may lose the opportunity to be considered for a permanent placement. This notice need not be sent if the child is placed with an appropriate relative who wishes to provide a permanent home for the child.

Sec. 12. Minnesota Statutes 1996, section 257.42, is amended to read:

257.42 APPROPRIATE PUBLIC AUTHORITY DEFINED.

The "appropriate public authorities" as used in article 3 of the interstate compact on the placement of children shall, with reference to this state, mean the Minnesota department commissioner of human services and said department. The commissioner of human services or the commissioner's delegate shall receive and act with reference to notices required by said article 3.

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Sec. 13. Minnesota Statutes 1996, section 257.43, is amended to read:

257.43 APPROPRIATE AUTHORITY IN RECEIVING STATE DEFINED.

As used in paragraph (a) of article 5 of the interstate compact on the placement of children, the phrase "appropriate authority in the receiving state" with reference to this state shall mean the commissioner of human services or the commissioner's delegate.

Sec. 14. Minnesota Statutes 1997 Supplement, section 257.85, subdivision 5, is amended to read:

Subd. 5. **RELATIVE CUSTODY ASSISTANCE AGREEMENT.** (a) A relative custody assistance agreement will not be effective, unless it is signed by the local agency and the relative custodian no later than 30 days after the date of the order establishing permanent legal and physical custody with the relative, except that a local agency may enter into a relative custody assistance agreement with a relative custodian more than 30 days after the date of the order if it certifies that the delay in entering the agreement was through no fault of the relative custodian. There must be a separate agreement for each child for whom the relative custodian is receiving relative custody assistance.

(b) Regardless of when the relative custody assistance agreement is signed by the local agency and relative custodian, the effective date of the agreement shall be the first day of the month following the date of the order establishing permanent legal and physical custody or the date that the last party signs the agreement, whichever occurs later.

(c) If MFIP-S is not the applicable program for a child at the time that a relative custody assistance agreement is entered on behalf of the child, when MFIP-S becomes the applicable program, if the relative custodian had been receiving custody assistance payments calculated based upon a different program, the amount of relative custody assistance payment under subdivision 7 shall be recalculated under the MFIP-S program.

(d) The relative custody assistance agreement shall be in a form specified by the commissioner and shall include provisions relating to the following:

- (1) the responsibilities of all parties to the agreement;
- (2) the payment terms, including the financial circumstances of the relative custodian, the needs of the child, the amount and calculation of the relative custody assistance payments, and that the amount of the payments shall be reevaluated annually;
- (3) the effective date of the agreement, which shall also be the anniversary date for the purpose of submitting the annual affidavit under subdivision 8;
- (4) that failure to submit the affidavit as required by subdivision 8 will be grounds for terminating the agreement;
- (5) the agreement's expected duration, which shall not extend beyond the child's eighteenth birthday;
- (6) any specific known circumstances that could cause the agreement or payments to be modified, reduced, or terminated and the relative custodian's appeal rights under subdivision 9;
- (7) that the relative custodian must notify the local agency within 30 days of any of the following:

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- (i) a change in the child's status;
 - (ii) a change in the relationship between the relative custodian and the child;
 - (iii) a change in composition or level of income of the relative custodian's family;
 - (iv) a change in eligibility or receipt of benefits under AFDC, MFIP-S, or other assistance program; and
 - (v) any other change that could affect eligibility for or amount of relative custody assistance;
- (8) that failure to provide notice of a change as required by clause (7) will be grounds for terminating the agreement;
- (9) that the amount of relative custody assistance is subject to the availability of state funds to reimburse the local agency making the payments;
- (10) that the relative custodian may choose to temporarily stop receiving payments under the agreement at any time by providing 30 days' notice to the local agency and may choose to begin receiving payments again by providing the same notice but any payments the relative custodian chooses not to receive are forfeit; and
- (11) that the local agency will continue to be responsible for making relative custody assistance payments under the agreement regardless of the relative custodian's place of residence.

Sec. 15. Minnesota Statutes 1997 Supplement, section 259.22, subdivision 4, is amended to read:

Subd. 4. **TIME FOR FILING PETITION.** A petition shall be filed not later than 24 12 months after a child is placed in a prospective adoptive home. If a petition is not filed by that time, the agency that placed the child, or, in a direct adoptive placement, the agency that is supervising the placement shall file with the district court in the county where the prospective adoptive parent resides a motion for an order and a report recommending one of the following:

(1) that the time for filing a petition be extended because of the child's special needs as defined under title IV-E of the Social Security Act, United States Code, title 42, section 673;

(2) that, based on a written plan for completing filing of the petition, including a specific timeline, to which the prospective adoptive parents have agreed, the time for filing a petition be extended long enough to complete the plan because such an extension is in the best interests of the child and additional time is needed for the child to adjust to the adoptive home; or

(3) that the child be removed from the prospective adoptive home.

The prospective adoptive parent must reimburse an agency for the cost of preparing and filing the motion and report under this section, unless the costs are reimbursed by the commissioner under section 259.67 or 259.73.

Sec. 16. Minnesota Statutes 1996, section 259.24, subdivision 1, is amended to read:

Subdivision 1. **EXCEPTIONS.** No child shall be adopted without the consent of the child's parents and the child's guardian, if there be one, except in the following instances:

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- (a) Consent shall not be required of a parent not entitled to notice of the proceedings.
- (b) Consent shall not be required of a parent who has abandoned the child, or of a parent who has lost custody of the child through a divorce decree or a decree of dissolution, and upon whom notice has been served as required by section 259.49.
- (c) Consent shall not be required of a parent whose parental rights to the child have been terminated by a juvenile court or who has lost custody of a child through a final commitment of the juvenile court or through a decree in a prior adoption proceeding.
- (d) If there be no parent or guardian qualified to consent to the adoption, the consent may be given by the commissioner.
- (e) The commissioner or agency having authority to place a child for adoption pursuant to section 259.25, subdivision 1, shall have the exclusive right to consent to the adoption of such child. Notwithstanding any rule to the contrary, the commissioner may delegate the right to consent to the adoption or separation of siblings, if it is in the child's best interest, to a local social services agency.

Sec. 17. Minnesota Statutes 1996, section 259.37, subdivision 2, is amended to read:

Subd. 2. DISCLOSURE TO BIRTH PARENTS AND ADOPTIVE PARENTS.

An agency shall provide a disclosure statement written in clear, plain language to be signed by the prospective adoptive parents and birth parents, except that in intercountry adoptions, the signatures of birth parents are not required. The disclosure statement must contain the following information:

- (1) fees charged to the adoptive parent, including any policy on sliding scale fees or fee waivers and an itemization of the amount that will be charged for the adoption study, counseling, postplacement services, family of origin searches, birth parent expenses authorized under section 259.55, or any other services;
- (2) timeline for the adoptive parent to make fee payments;
- (3) likelihood, given the circumstances of the prospective adoptive parent and any specific program to which the prospective adoptive parent is applying, that an adoptive placement may be made and the estimated length of time for making an adoptive placement. These estimates must be based on adoptive placements made with prospective parents in similar circumstances applying to a similar program with the agency during the immediately preceding three to five years. If an agency has not been in operation for at least three years, it must provide summary data based on whatever adoptive placements it has made and may include a statement about the kind of efforts it will make to achieve an adoptive placement, including a timetable it will follow in seeking a child. The estimates must include a statement that the agency cannot guarantee placement of a child or a time by which a child will be placed;
- (4) a statement of the services the agency will provide the birth and adoptive parents;
- (5) a statement prepared by the commissioner under section 259.39 that explains the child placement and adoption process and the respective legal rights and responsibilities of the birth parent and prospective adoptive parent during the process including a statement that the prospective adoptive parent is responsible for filing an adoption petition not later than 24 ~~12~~ months after the child is placed in the prospective adoptive home;

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(6) a statement regarding any information the agency may have about attorney referral services, or about obtaining assistance with completing legal requirements for an adoption; and

(7) an acknowledgment to be signed by the birth parent and prospective adoptive parent that they have received, read, and had the opportunity to ask questions of the agency about the contents of the disclosure statement.

Sec. 18. Minnesota Statutes 1997 Supplement, section 259.47, subdivision 3, is amended to read:

Subd. 3. **PREADOPTIVE CUSTODY ORDER.** (a) Before a child is placed in a prospective adoptive home by a birth parent or legal guardian, other than an agency, the placement must be approved by the district court in the county where the prospective adoptive parent resides. An order under this subdivision or subdivision 6 shall state that the prospective adoptive parent's right to custody of the child is subject to the birth parent's right to custody until the consents to the child's adoption become irrevocable. At the time of placement, prospective adoptive parents must have for the child qualifying existing coverage as defined in section 62L.02, subdivision 24, or other similar comprehensive health care coverage. The preadoptive custody order must include any agreement reached between the prospective adoptive parent and the birth parent regarding authority to make decisions for medical care of the child and responsibility for payment not provided by the adoptive parent's existing health care coverage. The prospective adoptive parent must meet the residence requirements of section 259.22, subdivision 1, and must file with the court an affidavit of intent to remain a resident of the state for at least three months after the child is placed in the prospective adoptive home. The prospective adoptive parent shall file with the court a notice of intent to file an adoption petition and submit a written motion seeking an order granting temporary preadoptive custody. The notice and motion required under this subdivision may be considered by the court ex parte, without a hearing. The prospective adoptive parent shall serve a copy of the notice and motion upon any parent whose consent is required under section 259.24 or who is named in the affidavit required under paragraph (b) if that person's mailing address is known. The motion may be filed up to 60 days before the placement is to be made and must include:

(1) the adoption study required under section 259.41;

(2) affidavits from the birth parents indicating their support of the motion, or, if there is no affidavit from the birth father, an affidavit from the birth mother under paragraph (b);

(3) an itemized statement of expenses that have been paid and an estimate of expenses that will be paid by the prospective adoptive parents to the birth parents, any agency, attorney, or other party in connection with the prospective adoption;

(4) the name of counsel for each party, if any;

(5) a statement that the birth parents:

(i) have provided the social and medical history required under section 259.43 to the prospective adoptive parent;

(ii) have received the written statement of their legal rights and responsibilities under section 259.39; and

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(iii) have been notified of their right to receive counseling under subdivision 4; and

(6) the name of the agency chosen by the adoptive parent to supervise the adoptive placement and complete the postplacement assessment required by section 259.53, subdivision 2.

The court shall review the expense statement submitted under this subdivision to determine whether payments made or to be made by the prospective adoptive parent are lawful and in accordance with section 259.55, subdivision 1.

(b) If the birth mother submits the affidavit required in paragraph (a), clause (2), but the birth father fails to do so, the birth mother must submit an additional affidavit that describes her good faith efforts or efforts made on her behalf to identify and locate the birth father for purposes of securing his consent. In the following circumstances the birth mother may instead submit an affidavit stating on which ground she is exempt from making efforts to identify and locate the father:

- (1) the child was conceived as the result of incest or rape;
- (2) efforts to locate the father by the affiant or anyone acting on the affiant's behalf could reasonably result in physical harm to the birth mother or child; or
- (3) efforts to locate the father by the affiant or anyone acting on the affiant's behalf could reasonably result in severe emotional distress of the birth mother or child.

A court shall consider the motion for temporary preadoptive custody within 30 days of receiving the motion or by the anticipated placement date stated in the motion, whichever comes sooner.

Sec. 19. Minnesota Statutes 1997 Supplement, section 259.58, is amended to read:

259.58 COMMUNICATION OR CONTACT AGREEMENTS.

Adoptive parents and a birth relative may enter an agreement regarding communication with or contact between an adopted minor, adoptive parents, and a birth relative under this section. An agreement may be entered between:

- (1) adoptive parents and a birth parent;
- (2) adoptive parents and a any other birth relative with whom the child resided before being adopted; or
- (2) (3) adoptive parents and any other birth relative if the child is adopted by a birth relative upon the death of both birth parents.

For purposes of this section, "birth relative" means a parent, stepparent, grandparent, brother, sister, uncle, or aunt of a minor adoptee. This relationship may be by blood or marriage. For an Indian child, birth relative includes members of the extended family as defined by the law or custom of the Indian child's tribe or, in the absence of laws or custom, nieces, nephews, or first or second cousins, as provided in the Indian Child Welfare Act, United States Code, title 25, section 1903.

(a) An agreement regarding communication with or contact between minor adoptees, adoptive parents, and a birth relative is not legally enforceable unless the terms of the agreement are contained in a written court order entered in accordance with this section.

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An order must be sought at the same time a petition for adoption is filed. The court shall not enter a proposed order unless the terms of the order have been approved in writing by the prospective adoptive parents, a birth relative who desires to be a party to the agreement, and, if the child is in the custody of or under the guardianship of an agency, a representative of the agency. An agreement under this section need not disclose the identity of the parties to be legally enforceable. The court shall not enter a proposed order unless the court finds that the communication or contact between the minor adoptee, the adoptive parents, and a birth relative as agreed upon and contained in the proposed order would be in the minor adoptee's best interests.

(b) Failure to comply with the terms of an agreed order regarding communication or contact that has been entered by the court under this section is not grounds for:

(1) setting aside an adoption decree; or

(2) revocation of a written consent to an adoption after that consent has become irrevocable.

(c) An agreed order entered under this section may be enforced by filing a petition or motion with the family court that includes a certified copy of the order granting the communication, contact, or visitation, but only if the petition or motion is accompanied by an affidavit that the parties have mediated or attempted to mediate any dispute under the agreement or that the parties agree to a proposed modification. The prevailing party may be awarded reasonable attorney's fees and costs. The court shall not modify an agreed order under this section unless it finds that the modification is necessary to serve the best interests of the minor adoptee, and:

(1) the modification is agreed to by the adoptive parent and the birth relative; or

(2) exceptional circumstances have arisen since the agreed order was entered that justify modification of the order.

Sec. 20. Minnesota Statutes 1997 Supplement, section 259.60, subdivision 2, is amended to read:

Subd. 2. **AMENDED BIRTH CERTIFICATE; PROCEDURE AND ORDER; DECREE RECOGNIZING ADOPTION.** (a) Under the procedures in paragraph (b), a person, whose adoption of a child under the laws of a foreign country is valid in this state under subdivision 1, may petition the district court in the county where the adoptive parent resides for a decree confirming and recognizing the adoption, changing the child's legal name, if requested in the petition, and for authorizing the commissioner of health to issue a new birth certificate for the child under section 144.218, subdivision 2.

(b) A court shall issue the decree and birth certificate described in paragraph (a) upon receipt of the following documents:

(1) a petition by the adoptive parent requesting that the court issue a Minnesota birth certificate, and stating that the adoptive parent completed adoption of the child under the laws of a foreign country and that the adoption is valid in this state under subdivision 1 and requesting that the court issue a decree confirming and recognizing the adoption, changing the child's legal name, if desired, and authorizing the commissioner of health to issue a new birth certificate for the child under section 144.218, subdivision 2. The petition must be in the form of a signed, sworn, and notarized statement;

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- (2) a copy of the child's original birth certificate, if available;
- (3) a copy of the final adoption certificate or equivalent as issued by the foreign jurisdiction;
- (4) a copy of the child's passport including the United States visa indicating IR-3 immigration status; and
- (5) certified English translations of any of the documents in clauses (2) to (4) that are not written in the English language.

(c) Upon issuing a decree under this section, the court shall forward to the commissioner of health and human services a copy of the decree. The court shall also complete and forward to the commissioner of health the certificate of adoption, unless another form has been specified by the commissioner of health.

Sec. 21. Minnesota Statutes 1996, section 259.67, subdivision 1, is amended to read:

Subdivision 1. **ADOPTION ASSISTANCE.** (a) The commissioner of human services shall enter into an adoption assistance agreement with an adoptive parent or parents who adopt a child who meets the eligibility requirements under title IV-E of the Social Security Act, United States Code, title 42, sections 670 to 679a, or who otherwise meets the requirements in subdivision 4.

(b) Notwithstanding any provision to the contrary, no child on whose behalf federal title IV-E adoption assistance payments are to be made may be placed in an adoptive home unless a criminal background check under section 259.41, subdivision 3, paragraph (b), has been completed on the prospective adoptive parents and no disqualifying condition exists. A disqualifying condition exists if:

(1) a criminal background check reveals a felony conviction for child abuse; for spousal abuse; for a crime against children (including child pornography); or for a crime involving violence, including rape, sexual assault, or homicide, but not including other physical assault or battery; or

(2) a criminal background check reveals a felony conviction within the past five years for physical assault, battery, or a drug-related offense.

Sec. 22. Minnesota Statutes 1996, section 260.011, subdivision 2, is amended to read:

Subd. 2. (a) The paramount consideration in all proceedings concerning a child alleged or found to be in need of protection or services is the health, safety, and best interests of the child. In proceedings involving an American Indian child, as defined in section 257.351, subdivision 6, the best interests of the child must be determined consistent with sections 257.35 to 257.3579 and the Indian Child Welfare Act, United States Code, title 25, sections 1901 to 1923. The purpose of the laws relating to juvenile courts is to secure for each child alleged or adjudicated in need of protection or services and under the jurisdiction of the court, the care and guidance, preferably in the child's own home, as will best serve the spiritual, emotional, mental, and physical welfare of the child; to provide judicial procedures which protect the welfare of the child; to preserve and strengthen the child's family ties whenever possible and in the child's best interests, removing the child from the custody of parents only when the child's welfare or safety cannot be adequately

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safeguarded without removal; and, when removal from the child's own family is necessary and in the child's best interests, to secure for the child custody, care and discipline as nearly as possible equivalent to that which should have been given by the parents.

(b) The purpose of the laws relating to termination of parental rights is to ensure that:

(1) reasonable efforts have been made by the social service agency to reunite the child with the child's parents in a placement that is safe and permanent; and

(2) if placement with the parents is not reasonably foreseeable, to secure for the child a safe and permanent placement, preferably with adoptive parents.

Nothing in this section requires reasonable efforts to be made in circumstances where the court has determined that the child has been subjected to egregious harm or the parental rights of the parent to a sibling have been involuntarily terminated.

The paramount consideration in all proceedings for the termination of parental rights is the best interests of the child. In proceedings involving an American Indian child, as defined in section 257.351, subdivision 6, the best interests of the child must be determined consistent with the Indian Child Welfare Act of 1978, United States Code, title 25, section 1901, et seq.

(c) The purpose of the laws relating to children alleged or adjudicated to be delinquent is to promote the public safety and reduce juvenile delinquency by maintaining the integrity of the substantive law prohibiting certain behavior and by developing individual responsibility for lawful behavior. This purpose should be pursued through means that are fair and just, that recognize the unique characteristics and needs of children, and that give children access to opportunities for personal and social growth.

(d) The laws relating to juvenile courts shall be liberally construed to carry out these purposes.

Sec. 23. Minnesota Statutes 1997 Supplement, section 260.012, is amended to read:

260.012 DUTY TO ENSURE PLACEMENT PREVENTION AND FAMILY REUNIFICATION; REASONABLE EFFORTS.

(a) If a child in need of protection or services is under the court's jurisdiction, the court shall ensure that reasonable efforts including culturally appropriate services by the social service agency are made to prevent placement or to eliminate the need for removal and to reunite the child with the child's family at the earliest possible time, consistent with the best interests, safety, and protection of the child. The court may, upon motion and hearing, order the cessation of reasonable efforts if the court finds that provision of services or further services for the purpose of rehabilitation and reunification is futile and therefore unreasonable under the circumstances. In determining reasonable efforts to be made with respect to a child and in making those reasonable efforts, the child's health and safety must be of paramount concern. Reasonable efforts are not required if the court determines that:

(1) a termination of parental rights petition has been filed stating a prima facie case that the parent has subjected the child to egregious harm as defined in section 260.015, subdivision 29, or the parental rights of the parent to a sibling have been terminated involuntarily; or

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(2) a determination not to proceed with a termination of parental rights petition on these grounds was made under section 260.221, subdivision 1b, paragraph (b), and a permanency hearing is held within 30 days of the determination.

In the case of an Indian child, in proceedings under sections 260.172, 260.191, and 260.221 the juvenile court must make findings and conclusions consistent with the Indian Child Welfare Act of 1978, United States Code, title 25, section 1901 et seq., as to the provision of active efforts. If a child is under the court's delinquency jurisdiction, it shall be the duty of the court to ensure that reasonable efforts are made to reunite the child with the child's family at the earliest possible time, consistent with the best interests of the child and the safety of the public.

(b) "Reasonable efforts" means the exercise of due diligence by the responsible social service agency to use appropriate and available services to meet the needs of the child and the child's family in order to prevent removal of the child from the child's family; or upon removal, services to eliminate the need for removal and reunite the family. Services may include those listed under section 256F.07, subdivision 3, and other appropriate services available in the community. The social service agency has the burden of demonstrating that it has made reasonable efforts or that provision of services or further services for the purpose of rehabilitation and reunification is futile and therefore unreasonable under the circumstances. Reunification of a surviving child with a parent is not required if the parent has been convicted of:

(1) a violation of, or an attempt or conspiracy to commit a violation of, sections 609.185 to 609.20; 609.222, subdivision 2; or 609.223 in regard to another child of the parent;

(2) a violation of section 609.222, subdivision 2; or 609.223, in regard to the surviving child; or

(3) a violation of, or an attempt or conspiracy to commit a violation of, United States Code, title 18, section 1111(a) or 1112(a), in regard to another child of the parent.

(c) The juvenile court, in proceedings under sections 260.172, 260.191, and 260.221 shall make findings and conclusions as to the provision of reasonable efforts. When determining whether reasonable efforts have been made, the court shall consider whether services to the child and family were:

- (1) relevant to the safety and protection of the child;
- (2) adequate to meet the needs of the child and family;
- (3) culturally appropriate;
- (4) available and accessible;
- (5) consistent and timely; and
- (6) realistic under the circumstances.

In the alternative, the court may determine that provision of services or further services for the purpose of rehabilitation is futile and therefore unreasonable under the circumstances or that reasonable efforts are not required as provided in paragraph (a).

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(d) This section does not prevent out-of-home placement for treatment of a child with a mental disability when the child's diagnostic assessment or individual treatment plan indicates that appropriate and necessary treatment cannot be effectively provided outside of a residential or inpatient treatment program.

(e) If continuation of reasonable efforts described in paragraph (b) is determined to be inconsistent with the permanency plan for the child, reasonable efforts must be made to place the child in a timely manner in accordance with the permanency plan and to complete whatever steps are necessary to finalize the permanency plan for the child.

(f) Reasonable efforts to place a child for adoption or in another permanent placement may be made concurrently with reasonable efforts as described in paragraphs (a) and (b).

Sec. 24. Minnesota Statutes 1997 Supplement, section 260.015, subdivision 2a, is amended to read:

Subd. 2a. **CHILD IN NEED OF PROTECTION OR SERVICES.** "Child in need of protection or services" means a child who is in need of protection or services because the child:

(1) is abandoned or without parent, guardian, or custodian;

(2)(i) has been a victim of physical or sexual abuse, (ii) resides with or has resided with a victim of domestic child abuse as defined in subdivision 24, (iii) resides with or would reside with a perpetrator of domestic child abuse or child abuse as defined in subdivision 28, or (iv) is a victim of emotional maltreatment as defined in subdivision 5a;

(3) is without necessary food, clothing, shelter, education, or other required care for the child's physical or mental health or morals because the child's parent, guardian, or custodian is unable or unwilling to provide that care;

(4) is without the special care made necessary by a physical, mental, or emotional condition because the child's parent, guardian, or custodian is unable or unwilling to provide that care;

(5) is medically neglected, which includes, but is not limited to, the withholding of medically indicated treatment from a disabled infant with a life-threatening condition. The term "withholding of medically indicated treatment" means the failure to respond to the infant's life-threatening conditions by providing treatment, including appropriate nutrition, hydration, and medication which, in the treating physician's or physicians' reasonable medical judgment, will be most likely to be effective in ameliorating or correcting all conditions, except that the term does not include the failure to provide treatment other than appropriate nutrition, hydration, or medication to an infant when, in the treating physician's or physicians' reasonable medical judgment:

(i) the infant is chronically and irreversibly comatose;

(ii) the provision of the treatment would merely prolong dying, not be effective in ameliorating or correcting all of the infant's life-threatening conditions, or otherwise be futile in terms of the survival of the infant; or

(iii) the provision of the treatment would be virtually futile in terms of the survival of the infant and the treatment itself under the circumstances would be inhumane;

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(6) is one whose parent, guardian, or other custodian for good cause desires to be relieved of the child's care and custody;

(7) has been placed for adoption or care in violation of law;

(8) is without proper parental care because of the emotional, mental, or physical disability, or state of immaturity of the child's parent, guardian, or other custodian;

(9) is one whose behavior, condition, or environment is such as to be injurious or dangerous to the child or others. An injurious or dangerous environment may include, but is not limited to, the exposure of a child to criminal activity in the child's home;

(10) has engaged in prostitution as defined in section 609.321, subdivision 9;

~~(10)~~ (11) has committed a delinquent act before becoming ten years old;

~~(11)~~ (12) is a runaway;

~~(12)~~ (13) is an habitual truant;

~~(13)~~ (14) has been found incompetent to proceed or has been found not guilty by reason of mental illness or mental deficiency in connection with a delinquency proceeding, a certification under section 260.125, an extended jurisdiction juvenile prosecution, or a proceeding involving a juvenile petty offense;

~~(14)~~ (15) is one whose custodial parent's parental rights to another child have been involuntarily terminated within the past five years; or

~~(15)~~ (16) has been found by the court to have committed domestic abuse perpetrated by a minor under Laws 1997, chapter 239, article 10, sections 2 to 26, has been ordered excluded from the child's parent's home by an order for protection/minor respondent, and the parent or guardian is either unwilling or unable to provide an alternative safe living arrangement for the child.

Sec. 25. Minnesota Statutes 1997 Supplement, section 260.015, subdivision 29, is amended to read:

Subd. 29. **EGREGIOUS HARM.** "Egregious harm" means the infliction of bodily harm to a child or neglect of a child which demonstrates a grossly inadequate ability to provide minimally adequate parental care. The egregious harm need not have occurred in the state or in the county where a termination of parental rights action is otherwise properly venued. Egregious harm includes, but is not limited to:

(1) conduct towards a child that constitutes a violation of sections 609.185 to 609.21, 609.222, subdivision 2, 609.223, or any other similar law of any other state;

(2) the infliction of "substantial bodily harm" to a child, as defined in section 609.02, subdivision 8;

(3) conduct towards a child that constitutes felony malicious punishment of a child under section 609.377;

(4) conduct towards a child that constitutes felony unreasonable restraint of a child under section 609.255, subdivision 3;

(5) conduct towards a child that constitutes felony neglect or endangerment of a child under section 609.378;

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(6) conduct towards a child that constitutes assault under section 609.221, 609.222, or 609.223;

(7) conduct towards a child that constitutes solicitation, inducement, or promotion of prostitution under section 609.322;

(8) conduct towards a child that constitutes receiving profit derived from prostitution under section 609.323; or

(9) conduct toward a child that constitutes a violation of murder or voluntary manslaughter as defined by United States Code, title 18, section 1111(a) or 1112(a); or

(10) conduct toward a child that constitutes aiding or abetting, attempting, conspiring, or soliciting to commit a murder or voluntary manslaughter that constitutes a violation of United States Code, title 18, section 1111(a) or 1112(a).

Sec. 26. Minnesota Statutes 1996, section 260.141, is amended by adding a subdivision to read:

Subd. 4. **NOTICE TO FOSTER PARENTS AND PREADOPTIVE PARENTS AND RELATIVES.** The foster parents, if any, of a child and any preadoptive parent or relative providing care for the child must be provided notice of and an opportunity to be heard in any review or hearing to be held with respect to the child. Any other relative may also request, and must be granted, a notice and the opportunity to be heard under this section. This subdivision does not require that a foster parent, preadoptive parent, or relative providing care for the child be made a party to a review or hearing solely on the basis of the notice and opportunity to be heard.

Sec. 27. Minnesota Statutes 1997 Supplement, section 260.161, subdivision 2, is amended to read:

Subd. 2. **PUBLIC INSPECTION OF RECORDS.** Except as otherwise provided in this section, and except for (a) Legal records arising from proceedings or portions of proceedings that are public under section 260.155, subdivision 1, are open to public inspection.

(b) The following records from proceedings or portions of proceedings involving a child in need of protection or services that are open to the public as authorized by supreme court order and court rules are accessible to the public unless the court determines that access should be restricted because of the intensely personal nature of the information:

- (1) the summons and petition;
- (2) affidavits of publication and service;
- (3) certificates of representation;
- (4) court orders;
- (5) hearing and trial notices, witness lists, and subpoenas;
- (6) motions and legal memoranda;
- (7) exhibits introduced at hearings or trial that are not inaccessible under paragraph (c);

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- (8) birth certificates; and
- (9) all other documents not listed as inaccessible to the public under paragraph (c).
- (c) The following records are not accessible to the public under paragraph (b):
 - (1) written, audiotaped, or videotaped information from the social service agency, except to the extent the information appears in the petition, court orders, or other documents that are accessible under paragraph (b);
 - (2) child protection intake or screening notes;
 - (3) documents identifying reporters of maltreatment, unless the names and other identifying information are redacted;
 - (4) guardian ad litem reports;
 - (5) victim statements and addresses and telephone numbers;
 - (6) documents identifying nonparty witnesses under the age of 18, unless the names and other identifying information are redacted;
 - (7) transcripts of testimony taken during closed hearing;
 - (8) fingerprinting materials;
 - (9) psychological, psychiatric, and chemical dependency evaluations;
 - (10) presentence evaluations of juveniles and probation reports;
 - (11) medical records and test results;
 - (12) reports issued by sexual predator programs;
 - (13) diversion records of juveniles; and
 - (14) any document which the court, upon its own motion or upon motion of a party, orders inaccessible to serve the best interests of the child.

In addition, records that are accessible to the public under paragraph (b) become inaccessible to the public if one year has elapsed since either the proceeding was dismissed or the court's jurisdiction over the matter was terminated.

(d) Except as otherwise provided by this section, none of the records of the juvenile court and none of the records relating to an appeal from a nonpublic juvenile court proceeding, except the written appellate opinion, shall be open to public inspection or their contents disclosed except (a) by order of a court, (b) as required by sections 245A.04, 611A.03, 611A.04, 611A.06, and 629.73, or (c) the name of a juvenile who is the subject of a delinquency petition shall be released to the victim of the alleged delinquent act upon the victim's request; unless it reasonably appears that the request is prompted by a desire on the part of the requester to engage in unlawful activities. The records of juvenile probation officers and county home schools are records of the court for the purposes of this subdivision. Court services data relating to delinquent acts that are contained in records of the juvenile court may be released as allowed under section 13.84, subdivision 5a. This subdivision applies to all proceedings under this chapter, including appeals from orders of the juvenile court, except that this subdivision does not apply to proceedings

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under section 260.255, 260.261, or 260.315 when the proceeding involves an adult defendant. The court shall maintain the confidentiality of adoption files and records in accordance with the provisions of laws relating to adoptions. In juvenile court proceedings any report or social history furnished to the court shall be open to inspection by the attorneys of record and the guardian ad litem a reasonable time before it is used in connection with any proceeding before the court.

(e) When a judge of a juvenile court, or duly authorized agent of the court, determines under a proceeding under this chapter that a child has violated a state or local law, ordinance, or regulation pertaining to the operation of a motor vehicle on streets and highways, except parking violations, the judge or agent shall immediately report the violation to the commissioner of public safety. The report must be made on a form provided by the department of public safety and must contain the information required under section 169.95.

Sec. 28. Minnesota Statutes 1996, section 260.172, subdivision 1, is amended to read:

Subdivision 1. **HEARING AND RELEASE REQUIREMENTS.** (a) If a child was taken into custody under section 260.165, subdivision 1, clause (a) or (c)(2), the court shall hold a hearing within 72 hours of the time the child was taken into custody, excluding Saturdays, Sundays, and holidays, to determine whether the child should continue in custody.

(b) In all other cases, the court shall hold a detention hearing:

(1) within 36 hours of the time the child was taken into custody, excluding Saturdays, Sundays, and holidays, if the child is being held at a juvenile secure detention facility or shelter care facility; or

(2) within 24 hours of the time the child was taken into custody, excluding Saturdays, Sundays, and holidays, if the child is being held at an adult jail or municipal lockup.

(c) Unless there is reason to believe that the child would endanger self or others, not return for a court hearing, run away from the child's parent, guardian, or custodian or otherwise not remain in the care or control of the person to whose lawful custody the child is released, or that the child's health or welfare would be immediately endangered, the child shall be released to the custody of a parent, guardian, custodian, or other suitable person, subject to reasonable conditions of release including, but not limited to, a requirement that the child undergo a chemical use assessment as provided in section 260.151, subdivision 1. In determining whether the child's health or welfare would be immediately endangered, the court shall consider whether the child would reside with a perpetrator of domestic child abuse. In a proceeding regarding a child in need of protection or services, the court, before determining whether a child should continue in custody, shall also make a determination, consistent with section 260.012 as to whether reasonable efforts, or in the case of an Indian child, active efforts, according to the Indian Child Welfare Act of 1978, United States Code, title 25, section 1912(d), were made to prevent placement or to reunite the child with the child's family, or that reasonable efforts were not possible. The court shall also determine whether there are available services that would prevent the need for further detention.

If the court finds the social services agency's preventive or reunification efforts have not been reasonable but further preventive or reunification efforts could not permit

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the child to safely remain at home, the court may nevertheless authorize or continue the removal of the child.

The court may determine at the detention hearing, or at any time prior to an adjudicatory hearing, that reasonable efforts are not required because the facts, if proved, will demonstrate that the parent has subjected the child to egregious harm as defined in section 260.015, subdivision 29, or the parental rights of the parent to a sibling of the child have been terminated involuntarily.

Sec. 29. Minnesota Statutes 1997 Supplement, section 260.191, subdivision 1, is amended to read:

Subdivision 1. **DISPOSITIONS.** (a) If the court finds that the child is in need of protection or services or neglected and in foster care, it shall enter an order making any of the following dispositions of the case:

(1) place the child under the protective supervision of the local social services agency or child-placing agency in the child's own home under conditions prescribed by the court directed to the correction of the child's need for protection or services;

(2) transfer legal custody to one of the following:

(i) a child-placing agency; or

(ii) the local social services agency.

In placing a child whose custody has been transferred under this paragraph, the agencies shall follow the order of preference stated in section 260.181, subdivision 3;

(3) if the child is in need of special treatment and care for reasons of physical or mental health, the court may order the child's parent, guardian, or custodian to provide it. If the parent, guardian, or custodian fails or is unable to provide this treatment or care, the court may order it provided. The court shall not transfer legal custody of the child for the purpose of obtaining special treatment or care solely because the parent is unable to provide the treatment or care. If the court's order for mental health treatment is based on a diagnosis made by a treatment professional, the court may order that the diagnosing professional not provide the treatment to the child if it finds that such an order is in the child's best interests; or

(4) if the court believes that the child has sufficient maturity and judgment and that it is in the best interests of the child, the court may order a child 16 years old or older to be allowed to live independently, either alone or with others as approved by the court under supervision the court considers appropriate, if the county board, after consultation with the court, has specifically authorized this dispositional alternative for a child.

(b) If the child was adjudicated in need of protection or services because the child is a runaway or habitual truant, the court may order any of the following dispositions in addition to or as alternatives to the dispositions authorized under paragraph (a):

(1) counsel the child or the child's parents, guardian, or custodian;

(2) place the child under the supervision of a probation officer or other suitable person in the child's own home under conditions prescribed by the court, including reasonable rules for the child's conduct and the conduct of the parents, guardian, or custodian,

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designed for the physical, mental, and moral well-being and behavior of the child; or with the consent of the commissioner of corrections, place the child in a group foster care facility which is under the commissioner's management and supervision;

(3) subject to the court's supervision, transfer legal custody of the child to one of the following:

(i) a reputable person of good moral character. No person may receive custody of two or more unrelated children unless licensed to operate a residential program under sections 245A.01 to 245A.16; or

(ii) a county probation officer for placement in a group foster home established under the direction of the juvenile court and licensed pursuant to section 241.021;

(4) require the child to pay a fine of up to \$100. The court shall order payment of the fine in a manner that will not impose undue financial hardship upon the child;

(5) require the child to participate in a community service project;

(6) order the child to undergo a chemical dependency evaluation and, if warranted by the evaluation, order participation by the child in a drug awareness program or an inpatient or outpatient chemical dependency treatment program;

(7) if the court believes that it is in the best interests of the child and of public safety that the child's driver's license or instruction permit be canceled, the court may order the commissioner of public safety to cancel the child's license or permit for any period up to the child's 18th birthday. If the child does not have a driver's license or permit, the court may order a denial of driving privileges for any period up to the child's 18th birthday. The court shall forward an order issued under this clause to the commissioner, who shall cancel the license or permit or deny driving privileges without a hearing for the period specified by the court. At any time before the expiration of the period of cancellation or denial, the court may, for good cause, order the commissioner of public safety to allow the child to apply for a license or permit, and the commissioner shall so authorize;

(8) order that the child's parent or legal guardian deliver the child to school at the beginning of each school day for a period of time specified by the court; or

(9) require the child to perform any other activities or participate in any other treatment programs deemed appropriate by the court.

To the extent practicable, the court shall enter a disposition order the same day it makes a finding that a child is in need of protection or services or neglected and in foster care, but in no event more than 15 days after the finding unless the court finds that the best interests of the child will be served by granting a delay. If the child was under eight years of age at the time the petition was filed, the disposition order must be entered within ten days of the finding and the court may not grant a delay unless good cause is shown and the court finds the best interests of the child will be served by the delay.

(c) If a child who is 14 years of age or older is adjudicated in need of protection or services because the child is a habitual truant and truancy procedures involving the child were previously dealt with by a school attendance review board or county attorney mediation program under section 260A.06 or 260A.07, the court shall order a cancellation or denial of driving privileges under paragraph (b), clause (7), for any period up to the child's 18th birthday.

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(d) In the case of a child adjudicated in need of protection or services because the child has committed domestic abuse and been ordered excluded from the child's parent's home, the court shall dismiss jurisdiction if the court, at any time, finds the parent is able or willing to provide an alternative safe living arrangement for the child, as defined in Laws 1997, chapter 239, article 10, section 2.

Sec. 30. Minnesota Statutes 1997 Supplement, section 260.191, subdivision 1a, is amended to read:

Subd. 1a. **WRITTEN FINDINGS.** Any order for a disposition authorized under this section shall contain written findings of fact to support the disposition ordered, and shall also set forth in writing the following information:

- (a) Why the best interests of the child are served by the disposition ordered;
- (b) What alternative dispositions were considered by the court and why such dispositions were not appropriate in the instant case;
- (c) How the court's disposition complies with the requirements of section 260.181, subdivision 3; and
- (d) Whether reasonable efforts consistent with section 260.012 were made to prevent or eliminate the necessity of the child's removal and to reunify the family after removal. The court's findings must include a brief description of what preventive and reunification efforts were made and why further efforts could not have prevented or eliminated the necessity of removal or that reasonable efforts were not required under section 260.012 or 260.172, subdivision 1.

If the court finds that the social services agency's preventive or reunification efforts have not been reasonable but that further preventive or reunification efforts could not permit the child to safely remain at home, the court may nevertheless authorize or continue the removal of the child.

Sec. 31. Minnesota Statutes 1997 Supplement, section 260.191, subdivision 3a, is amended to read:

Subd. 3a. **COURT REVIEW OF OUT-OF-HOME PLACEMENTS.** (a) If the court places a child in a residential facility, as defined in section 257.071, subdivision 1, the court shall review the out-of-home placement at least every six months to determine whether continued out-of-home placement is necessary and appropriate or whether the child should be returned home. The court shall review agency efforts pursuant to section 257.072, subdivision 1, and order that the efforts continue if the agency has failed to perform the duties under that section. The court shall review the case plan and may modify the case plan as provided under subdivisions 1e and 2. If the court orders continued out-of-home placement, the court shall notify the parents of the provisions of subdivision 3b.

(b) When the court determines that a permanent placement hearing is necessary because there is a likelihood that the child will not return to a parent's care, the court may authorize the agency with custody of the child to send the notice provided in this paragraph to any adult with whom the child is currently residing, any adult with whom the child has resided for one year or longer in the past, any adult who has maintained a relationship or exercised visitation with the child as identified in the agency case plan for the child or demonstrated an interest in the child, and any relative who has provided a current

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address to the local social service agency. This notice must not be provided to a parent whose parental rights to the child have been terminated under section 260.221, subdivision 1. The notice must state that a permanent home is sought for the child and that individuals receiving the notice may indicate to the agency within 30 days their interest in providing a permanent home section 257.071, subdivision 1d, paragraph (b), or may modify the requirements of the agency under section 257.071, subdivision 1d, paragraph (b), or may completely relieve the responsible social service agency of the requirements of section 257.071, subdivision 1d, paragraph (b), when the child is placed with an appropriate relative who wishes to provide a permanent home for the child. The actions ordered by the court under this section must be consistent with the best interests, safety, and welfare of the child.

Sec. 32. Minnesota Statutes 1997 Supplement, section 260.191, subdivision 3b, is amended to read:

Subd. 3b. REVIEW OF COURT ORDERED PLACEMENTS; PERMANENT PLACEMENT DETERMINATION. (a) The court shall conduct a hearing to determine the permanent status of a child not later than 12 months after the child is placed out of the home of the parent, except that if the child was under eight years of age at the time a petition that the child is in need of protection or services was filed, the hearing must be conducted no later than six months after the child is placed out of the home of the parents.

For purposes of this subdivision, the date of the child's placement out of the home of the parent is the earlier of the first court-ordered placement or the first court-approved placement under section 257.071, subdivision 3, of a child who had been in voluntary placement 60 days after the date on which the child has been voluntarily placed out of the home.

For purposes of this subdivision, 12 months is calculated as follows:

(1) during the pendency of a petition alleging that a child is in need of protection or services, all time periods when a child is placed out of the home of the parent are cumulated;

(2) if a child has been placed out of the home of the parent within the previous five years in connection with one or more prior petitions for a child in need of protection or services, the lengths of all prior time periods when the child was placed out of the home within the previous five years and under the current petition, are cumulated. If a child under this clause has been out of the home for 12 months or more, the court, if it is in the best interests of the child, may extend the total time the child may continue out of the home under the current petition up to an additional six months before making a permanency determination.

(b) Not later than ten days prior to this hearing, the responsible social service agency shall file pleadings to establish the basis for the permanent placement determination. Notice of the hearing and copies of the pleadings must be provided pursuant to section 260.141. If a termination of parental rights petition is filed before the date required for the permanency planning determination, no hearing need be conducted under this subdivision. The court shall determine whether the child is to be returned home or, if not, what permanent placement is consistent with the child's best interests. The "best interests of the child" means all relevant factors to be considered and evaluated.

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(c) At a hearing under this subdivision, if the child was under eight years of age at the time a petition that the child is in need of protection or services was filed, the court shall review the progress of the case and the case plan, including the provision of services. The court may order the local social service agency to show cause why it should not file a termination of parental rights petition. Cause may include, but is not limited to, the following conditions:

(1) the parents or guardians have maintained regular contact with the child, the parents are complying with the court-ordered case plan, and the child would benefit from continuing this relationship;

(2) grounds for termination under section 260.221 do not exist; or

(3) the permanent plan for the child is transfer of permanent legal and physical custody to a relative.

(d) If the child is not returned to the home, the dispositions available for permanent placement determination are:

(1) permanent legal and physical custody to a relative in the best interests of the child. In transferring permanent legal and physical custody to a relative, the juvenile court shall follow the standards and procedures applicable under chapter 257 or 518. An order establishing permanent legal or physical custody under this subdivision must be filed with the family court. A transfer of legal and physical custody includes responsibility for the protection, education, care, and control of the child and decision making on behalf of the child. The social service agency may petition on behalf of the proposed custodian;

(2) termination of parental rights and adoption; the social service agency shall file a petition for termination of parental rights under section 260.231 and all the requirements of sections 260.221 to 260.245 remain applicable. An adoption completed subsequent to a determination under this subdivision may include an agreement for communication or contact under section 259.58; or

(3) long-term foster care; transfer of legal custody and adoption are preferred permanency options for a child who cannot return home. The court may order a child into long-term foster care only if it finds that neither an award of legal and physical custody to a relative, nor termination of parental rights nor adoption is in the child's best interests. Further, the court may only order long-term foster care for the child under this section if it finds the following:

(i) the child has reached age 12 and reasonable efforts by the responsible social service agency have failed to locate an adoptive family for the child; or

(ii) the child is a sibling of a child described in clause (i) and the siblings have a significant positive relationship and are ordered into the same long-term foster care home; or

(4) foster care for a specified period of time may be ordered only if:

(i) the sole basis for an adjudication that a child is in need of protection or services is that the child is a runaway, is an habitual truant, or committed a delinquent act before age ten; and

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(ii) the court finds that foster care for a specified period of time is in the best interests of the child.

(d) In ordering a permanent placement of a child, the court must be governed by the best interests of the child, including a review of the relationship between the child and relatives and the child and other important persons with whom the child has resided or had significant contact.

(e) Once a permanent placement determination has been made and permanent placement has been established, further court reviews and dispositional hearings are only necessary if the placement is made under paragraph (c), clause (4), review is otherwise required by federal law, an adoption has not yet been finalized, or there is a disruption of the permanent or long-term placement.

(f) An order under this subdivision must include the following detailed findings:

(1) how the child's best interests are served by the order;

(2) the nature and extent of the responsible social service agency's reasonable efforts, or, in the case of an Indian child, active efforts, to reunify the child with the parent or parents;

(3) the parent's or parents' efforts and ability to use services to correct the conditions which led to the out-of-home placement;

(4) whether the conditions which led to the out-of-home placement have been corrected so that the child can return home; and

(5) if the child cannot be returned home, whether there is a substantial probability of the child being able to return home in the next six months.

(g) An order for permanent legal and physical custody of a child may be modified under sections 518.18 and 518.185. The social service agency is a party to the proceeding and must receive notice. An order for long-term foster care is reviewable upon motion and a showing by the parent of a substantial change in the parent's circumstances such that the parent could provide appropriate care for the child and that removal of the child from the child's permanent placement and the return to the parent's care would be in the best interest of the child.

Sec. 33. Minnesota Statutes 1996, section 260.221, as amended by Laws 1997, chapters 218, sections 10 and 11, and 239, article 6, section 30, is amended to read:

260.221 GROUNDS FOR TERMINATION OF PARENTAL RIGHTS.

Subdivision 1. **VOLUNTARY AND INVOLUNTARY.** The juvenile court may upon petition, terminate all rights of a parent to a child:

(a) with the written consent of a parent who for good cause desires to terminate parental rights; or

(b) if it finds that one or more of the following conditions exist:

(1) that the parent has abandoned the child; or

(2) that the parent has substantially, continuously, or repeatedly refused or neglected to comply with the duties imposed upon that parent by the parent and child relationship,

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including but not limited to providing the child with necessary food, clothing, shelter, education, and other care and control necessary for the child's physical, mental, or emotional health and development, if the parent is physically and financially able, and reasonable efforts by the social service agency have failed to correct the conditions that formed the basis of the petition; or

(3) that a parent has been ordered to contribute to the support of the child or financially aid in the child's birth and has continuously failed to do so without good cause. This clause shall not be construed to state a grounds for termination of parental rights of a non-custodial parent if that parent has not been ordered to or cannot financially contribute to the support of the child or aid in the child's birth; or

(4) that a parent is palpably unfit to be a party to the parent and child relationship because of a consistent pattern of specific conduct before the child or of specific conditions directly relating to the parent and child relationship either of which are determined by the court to be of a duration or nature that renders the parent unable, for the reasonably foreseeable future, to care appropriately for the ongoing physical, mental, or emotional needs of the child. It is presumed that a parent is palpably unfit to be a party to the parent and child relationship upon a showing that:

(i) the child was adjudicated in need of protection or services due to circumstances described in section 260.015, subdivision 2a, clause (1), (2), (3), (5), or (8); and

(ii) the parent's parental rights to one or more other children were involuntarily terminated under clause (1), (2), (4), or (7), or under clause (5) if the child was initially determined to be in need of protection or services due to circumstances described in section 260.015, subdivision 2a, clause (1), (2), (3), (5), or (8); or

(5) that following upon a determination of neglect or dependency, or of a child's need for protection or services, reasonable efforts; under the direction of the court, have failed to correct the conditions leading to the determination. It is presumed that reasonable efforts under this clause have failed upon a showing that:

(i) a child has resided out of the parental home under court order for a cumulative period of more than one year within a five-year period following an adjudication of dependency, neglect, need for protection or services under section 260.015, subdivision 2a, clause (1), (2), (3), (6), (8), or (9), or neglected and in foster care, and an order for disposition under section 260.191, including adoption of the case plan required by section 257.071;

(ii) conditions leading to the determination will not be corrected within the reasonably foreseeable future. It is presumed that conditions leading to a child's out-of-home placement will not be corrected in the reasonably foreseeable future upon a showing that the parent or parents have not substantially complied with the court's orders and a reasonable case plan, and the conditions which led to the out-of-home placement have not been corrected; and

(iii) reasonable efforts have been made by the social service agency to rehabilitate the parent and reunite the family.

This clause does not prohibit the termination of parental rights prior to one year after a child has been placed out of the home.

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It is also presumed that reasonable efforts have failed under this clause upon a showing that:

(i) the parent has been diagnosed as chemically dependent by a professional certified to make the diagnosis;

(ii) the parent has been required by a case plan to participate in a chemical dependency treatment program;

(iii) the treatment programs offered to the parent were culturally, linguistically, and clinically appropriate;

(iv) the parent has either failed two or more times to successfully complete a treatment program or has refused at two or more separate meetings with a caseworker to participate in a treatment program; and

(v) the parent continues to abuse chemicals.

Provided, that this presumption applies only to parents required by a case plan to participate in a chemical dependency treatment program on or after July 1, 1990; or

(6) that a child has experienced egregious harm in the parent's care which is of a nature, duration, or chronicity that indicates a lack of regard for the child's well-being, such that a reasonable person would believe it contrary to the best interest of the child or of any child to be in the parent's care; or

(7) that in the case of a child born to a mother who was not married to the child's father when the child was conceived nor when the child was born the person is not entitled to notice of an adoption hearing under section 259.49 and the person has not registered with the putative fathers' adoption registry under section 259.52; or

(8) that the child is neglected and in foster care; or

(9) that the parent has been convicted of a crime listed in section 260.012, paragraph (b), clauses (1) to (3).

In an action involving an American Indian child, sections 257.35 to 257.3579 and the Indian Child Welfare Act, United States Code, title 25, sections 1901 to 1923, control to the extent that the provisions of this section are inconsistent with those laws.

Subd. 1a. **EVIDENCE OF ABANDONMENT.** For purposes of subdivision 1, paragraph (b), clause (1):

(a) Abandonment is presumed when:

(1) the parent has had no contact with the child on a regular basis and not demonstrated consistent interest in the child's well-being for six months; and

(2) the social service agency has made reasonable efforts to facilitate contact, unless the parent establishes that an extreme financial or physical hardship or treatment for mental disability or chemical dependency or other good cause prevented the parent from making contact with the child. This presumption does not apply to children whose custody has been determined under chapter 257 or 518. The court is not prohibited from finding abandonment in the absence of this presumption; or

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(2) the child is an infant under two years of age and has been deserted by the parent under circumstances that show an intent not to return to care for the child.

(b) The following are prima facie evidence of abandonment where adoption proceedings are pending and there has been a showing that the person was not entitled to notice of an adoption proceeding under section 259.49:

(1) failure to register with the putative fathers' adoption registry under section 259.52; or

(2) if the person registered with the putative fathers' adoption registry under section 259.52:

(i) filing a denial of paternity within 30 days of receipt of notice under section 259.52, subdivision 8;

(ii) failing to timely file an intent to claim parental rights with entry of appearance form within 30 days of receipt of notice under section 259.52, subdivision 10; or

(iii) timely filing an intent to claim parental rights with entry of appearance form within 30 days of receipt of notice under section 259.52, subdivision 10, but failing to initiate a paternity action within 30 days of receiving the putative fathers' adoption registry notice where there has been no showing of good cause for the delay.

Subd. 1b. REQUIRED TERMINATION OF PARENTAL RIGHTS: (a) The county attorney shall file a termination of parental rights petition within 30 days of a child's placement in out-of-home care if the child has been subjected to egregious harm as defined in section 260.015, subdivision 29, is the sibling of another child of the parent who was subjected to egregious harm, or is an abandoned infant as defined in subdivision 1a, paragraph (a), clause (2). The local social services agency shall concurrently identify, recruit, process, and approve an adoptive family for the child. If a termination of parental rights petition has been filed by another party the local social services agency shall be joined as a party to the petition. If criminal charges have been filed against a parent arising out of the conduct alleged to constitute egregious harm, the county attorney shall determine which matter should proceed to trial first, consistent with the best interests of the child and subject to the defendant's right to a speedy trial.

(b) This requirement does not apply if the county attorney determines and files with the court its determination that a transfer of permanent legal and physical custody to a relative is in the best interests of the child or there is a compelling reason documented by the local social services agency that filing the petition would not be in the best interests of the child.

Subd. 1c. CURRENT FOSTER CARE CHILDREN. The county attorney shall file a termination of parental rights petition or other permanent placement proceeding under section 260.191, subdivision 3b, for all children determined to be in need of protection or services who are placed in out-of-home care for reasons other than care or treatment of the child's disability, and who are in out-of-home placement on the day following final enactment of this section, and have been in out-of-home care for 15 of the most recent 22 months.

Subd. 2. ADOPTIVE PARENT. For purposes of subdivision 1, clause (a), an adoptive parent may not terminate parental rights to an adopted child for a reason that would

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not apply to a birth parent seeking termination of parental rights to a child under subdivision 1, clause (a).

Subd. 3. **WHEN PRIOR FINDING REQUIRED.** For purposes of subdivision 1, clause (b), no prior judicial finding of dependency, neglect, need for protection or services, or neglected and in foster care is required, except as provided in subdivision 1, clause (b), item (5).

Subd. 4. **BEST INTERESTS OF CHILD PARAMOUNT.** In any proceeding under this section, the best interests of the child must be the paramount consideration, provided that the conditions in subdivision 1, clause (a), or at least one condition in subdivision 1, clause (b), are found by the court. In proceedings involving an American Indian child, as defined in section 257.351, subdivision 6, the best interests of the child must be determined consistent with the Indian Child Welfare Act of 1978, United States Code, title 25, section 1901, et seq. Where the interests of parent and child conflict, the interests of the child are paramount.

Subd. 5. **FINDINGS REGARDING REASONABLE EFFORTS.** In any proceeding under this section, the court shall make specific findings:

(1) regarding the nature and extent of efforts made by the social service agency to rehabilitate the parent and reunite the family;

(2) that provision of services or further services for the purpose of rehabilitation and reunification is futile and therefore unreasonable under the circumstances; or

(3) that reasonable efforts at reunification ~~is~~ are not required ~~because the parent has been convicted of a crime listed in section 260.012, paragraph (b), clauses (1) to (3) as provided under section 260.012.~~

Sec. 34. Minnesota Statutes 1997 Supplement, section 260.241, subdivision 3, is amended to read:

Subd. 3. **ORDER; RETENTION OF JURISDICTION.** (a) A certified copy of the findings and the order terminating parental rights, and a summary of the court's information concerning the child shall be furnished by the court to the commissioner or the agency to which guardianship is transferred. The orders shall be on a document separate from the findings. The court shall furnish the individual to whom guardianship is transferred a copy of the order terminating parental rights.

(b) The court shall retain jurisdiction in a case where adoption is the intended permanent placement disposition. The guardian ad litem and counsel for the child shall continue on the case until an adoption decree is entered. A hearing must be held every 90 days following termination of parental rights for the court to review progress toward an adoptive placement and the specific recruitment efforts the agency has taken to find an adoptive family or other placement living arrangement for the child and to finalize the adoption or other permanency plan.

(c) The court shall retain jurisdiction in a case where long-term foster care is the permanent disposition. The guardian ad litem and counsel for the child must be dismissed from the case on the effective date of the permanent placement order. However, the foster parent and the child, if of sufficient age, must be informed how they may contact a guardian ad litem if the matter is subsequently returned to court.

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Sec. 35. Minnesota Statutes 1996, section 626.556, is amended by adding a subdivision to read:

Subd. 11d. **DISCLOSURE IN CHILD FATALITY OR NEAR FATALITY CASES.** (a) The definitions in this paragraph apply to this section.

(1) "Child fatality" means the death of a child from suspected abuse, neglect, or maltreatment.

(2) "Near fatality" means a case in which a physician determines that a child is in serious or critical condition as the result of sickness or injury caused by suspected abuse, neglect, or maltreatment.

(3) "Findings and information" means a written summary described in paragraph (c) of actions taken or services rendered by a local social services agency following receipt of a report.

(b) Notwithstanding any other provision of law and subject to this subdivision, a public agency shall disclose to the public, upon request, the findings and information related to a child fatality or near fatality if:

(1) a person is criminally charged with having caused the child fatality or near fatality; or

(2) a county attorney certifies that a person would have been charged with having caused the child fatality or near fatality but for that person's death.

(c) Findings and information disclosed under this subdivision consist of a written summary that includes any of the following information the agency is able to provide:

(1) the dates, outcomes, and results of any actions taken or services rendered;

(2) the results of any review of the state child mortality review panel, a local child mortality review panel, a local community child protection team, or any public agency; and

(3) confirmation of the receipt of all reports, accepted or not accepted, by the local welfare agency for assessment of suspected child abuse, neglect, or maltreatment, including confirmation that investigations were conducted, the results of the investigations, a description of the conduct of the most recent investigation and the services rendered, and a statement of the basis for the agency's determination.

(d) Nothing in this subdivision authorizes access to the private data in the custody of a local social services agency, or the disclosure to the public of the records or content of any psychiatric, psychological, or therapeutic evaluations, or the disclosure of information that would reveal the identities of persons who provided information related to suspected abuse, neglect, or maltreatment of the child.

(e) A person whose request is denied may apply to the appropriate court for an order compelling disclosure of all or part of the findings and information of the public agency. The application must set forth, with reasonable particularity, factors supporting the application. The court has jurisdiction to issue these orders. Actions under this section must be set down for immediate hearing, and subsequent proceedings in those actions must be given priority by the appellate courts.

New language is indicated by underline, deletions by strikeout.

(f) A public agency or its employees acting in good faith in disclosing or declining to disclose information under this section are immune from criminal or civil liability that might otherwise be incurred or imposed for that action.

Sec. 36. EFFECTIVE DATE.

Sections 1 to 18, and 20 to 35 are effective the day following final enactment. Section 19 is effective retroactive to July 1, 1997, and applies to communication or contact agreements entered into on or after that date.

ARTICLE 10

HEALTH DATA REPORTING

Section 1. Minnesota Statutes 1996, section 145.411, is amended by adding a subdivision to read:

Subd. 6. COMMISSIONER. "Commissioner" means the commissioner of health.

Sec. 2. [145.4131] RECORDING AND REPORTING ABORTION DATA.

Subdivision 1. FORMS. (a) Within 90 days of the effective date of this section, the commissioner shall prepare a reporting form for use by physicians or facilities performing abortions. A copy of this section shall be attached to the form. A physician or facility performing an abortion shall obtain a form from the commissioner.

(b) The form shall require the following information:

(1) the number of abortions performed by the physician in the previous calendar year, reported by month;

(2) the method used for each abortion;

(3) the approximate gestational age expressed in one of the following increments:

(i) less than nine weeks;

(ii) nine to ten weeks;

(iii) 11 to 12 weeks;

(iv) 13 to 15 weeks;

(v) 16 to 20 weeks;

(vi) 21 to 24 weeks;

(vii) 25 to 30 weeks;

(viii) 31 to 36 weeks; or

(ix) 37 weeks to term;

(4) the age of the woman at the time the abortion was performed;

New language is indicated by underline, deletions by strikeout.

- (5) the specific reason for the abortion, including, but not limited to, the following:
- (i) the pregnancy was a result of rape;
 - (ii) the pregnancy was a result of incest;
 - (iii) economic reasons;
 - (iv) the woman does not want children at this time;
 - (v) the woman's emotional health is at stake;
 - (vi) the woman's physical health is at stake;
 - (vii) the woman will suffer substantial and irreversible impairment of a major bodily function if the pregnancy continues;
 - (viii) the pregnancy resulted in fetal anomalies; or
 - (ix) unknown or the woman refused to answer;
- (6) the number of prior induced abortions;
- (7) the number of prior spontaneous abortions;
- (8) whether the abortion was paid for by:
- (i) private coverage;
 - (ii) public assistance health coverage; or
 - (iii) self-pay;
- (9) whether coverage was under:
- (i) a fee-for-service plan;
 - (ii) a capitated private plan; or
 - (iii) other;
- (10) complications, if any, for each abortion and for the aftermath of each abortion. Space for a description of any complications shall be available on the form; and
- (11) the medical specialty of the physician performing the abortion.

Subd. 2. **SUBMISSION.** A physician performing an abortion or a facility at which an abortion is performed shall complete and submit the form to the commissioner no later than April 1 for abortions performed in the previous calendar year. The annual report to the commissioner shall include the methods used to dispose of fetal tissue and remains.

Subd. 3. **ADDITIONAL REPORTING.** Nothing in this section shall be construed to preclude the voluntary or required submission of other reports or forms regarding abortions.

Sec. 3. [145.4132] RECORDING AND REPORTING ABORTION COMPLICATION DATA.

Subdivision 1. **FORMS.** (a) Within 90 days of the effective date of this section, the commissioner shall prepare an abortion complication reporting form for all physicians licensed and practicing in the state. A copy of this section shall be attached to the form.

New language is indicated by underline, deletions by strikeout.

(b) The board of medical practice shall ensure that the abortion complication reporting form is distributed:

(1) to all physicians licensed to practice in the state, within 120 days after the effective date of this section and by December 1 of each subsequent year; and

(2) to a physician who is newly licensed to practice in the state, at the same time as official notification to the physician that the physician is so licensed.

Subd. 2. REQUIRED REPORTING. A physician licensed and practicing in the state who knowingly encounters an illness or injury that, in the physician's medical judgment, is related to an induced abortion or the facility where the illness or injury is encountered shall complete and submit an abortion complication reporting form to the commissioner.

Subd. 3. SUBMISSION. A physician or facility required to submit an abortion complication reporting form to the commissioner shall do so as soon as practicable after the encounter with the abortion related illness or injury.

Subd. 4. ADDITIONAL REPORTING. Nothing in this section shall be construed to preclude the voluntary or required submission of other reports or forms regarding abortion complications.

Sec. 4. [145.4133] REPORTING OUT-OF-STATE ABORTIONS.

The commissioner of human services shall report to the commissioner by April 1 each year the following information regarding abortions paid for with state funds and performed out of state in the previous calendar year:

(1) the total number of abortions performed out of state and partially or fully paid for with state funds through the medical assistance, general assistance medical care, or MinnesotaCare program, or any other program;

(2) the total amount of state funds used to pay for the abortions and expenses incidental to the abortions; and

(3) the gestational age at the time of abortion.

Sec. 5. [145.4134] COMMISSIONER'S PUBLIC REPORT.

(a) By July 1 of each year, except for 1998 and 1999 information, the commissioner shall issue a public report providing statistics for the previous calendar year compiled from the data submitted under sections 145.4131 to 145.4133. For 1998 and 1999 information, the report shall be issued October 1, 2000. Each report shall provide the statistics for all previous calendar years, adjusted to reflect any additional information from late or corrected reports. The commissioner shall ensure that none of the information included in the public reports can reasonably lead to identification of an individual having performed or having had an abortion. All data included on the forms under sections 145.4131 to 145.4133 must be included in the public report except that the commissioner shall maintain as confidential, data which alone or in combination may constitute information from which an individual having performed or having had an abortion may be identified using epidemiologic principles. The commissioner shall submit the report to the senate health and family security committee and the house health and human services committee.

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(b) The commissioner may, by rules adopted under chapter 14, alter the submission dates established under sections 145.4131 to 145.4133 for administrative convenience, fiscal savings, or other valid reason, provided that physicians or facilities and the commissioner of human services submit the required information once each year and the commissioner issues a report once each year.

Sec. 6. [145.4135] ENFORCEMENT; PENALTIES.

(a) If the commissioner finds that a physician or facility has failed to submit the required form under section 145.4131 within 60 days following the due date, the commissioner shall notify the physician or facility that the form is late. A physician or facility who fails to submit the required form under section 145.4131 within 30 days following notification from the commissioner that a report is late is subject to a late fee of \$500 for each 30-day period, or portion thereof, that the form is overdue. If a physician or facility required to report under this section does not submit a report, or submits only an incomplete report, more than one year following the due date, the commissioner may take action to fine the physician or facility or may bring an action to require that the physician or facility be directed by a court of competent jurisdiction to submit a complete report within a period stated by court order or be subject to sanctions for civil contempt. Notwithstanding section 13.39 to the contrary, action taken by the commissioner to enforce the provision of this section shall be treated as private if the data related to this action, alone or in combination, may constitute information from which an individual having performed or having had an abortion may be identified using epidemiologic principles.

(b) If the commissioner fails to issue the public report required under section 145.4134 or fails in any way to enforce this section, a group of 100 or more citizens of the state may seek an injunction in a court of competent jurisdiction against the commissioner requiring that a complete report be issued within a period stated by court order or requiring that enforcement action be taken.

(c) A physician or facility reporting in good faith and exercising due care shall have immunity from civil, criminal, or administrative liability that might otherwise result from reporting. A physician who knowingly or recklessly submits a false report under this section is guilty of a misdemeanor.

(d) The commissioner may take reasonable steps to ensure compliance with sections 145.4131 to 145.4133 and to verify data provided, including but not limited to, inspection of places where abortions are performed in accordance with chapter 14.

(e) The commissioner shall develop recommendations on appropriate penalties and methods of enforcement for physicians or facilities who fail to submit the report required under section 145.4132, submit an incomplete report, or submit a late report. The commissioner shall also assess the effectiveness of the enforcement methods and penalties provided in paragraph (a) and shall recommend appropriate changes, if any. These recommendations shall be reported to the chairs of the senate health and family security committee and the house health and human services committee by November 15, 1998.

Sec. 7. [145.4136] SEVERABILITY.

If any one or more provision, section, subdivision, sentence, clause, phrase, or word in sections 145.4131 to 145.4135, or the application thereof to any person or circumstance is found to be unconstitutional, the same is hereby declared to be severable and the

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balance of sections 145.4131 to 145.4135 shall remain effective notwithstanding such unconstitutionality. The legislature hereby declares that it would have passed sections 145.4131 to 145.4135, and each provision, section, subdivision, sentence, clause, phrase, or word thereof, irrespective of the fact that any one or more provision, section, subdivision, sentence, clause, phrase, or word be declared unconstitutional.

Presented to the governor April 10, 1998

Signed by the governor April 21, 1998, 9:40 a.m.

CHAPTER 408—S.F.No. 3396

An act relating to legislative enactments; correcting miscellaneous noncontroversial oversights, inconsistencies, ambiguities, unintended results, and technical errors; amending Minnesota Statutes 1996, sections 62A.65, subdivision 5, as amended; 115C.08, subdivision 3; and 120.1701, subdivision 17, as amended; Minnesota Statutes 1997 Supplement, sections 241.015, as amended; 268.07, subdivision 2, as amended; Laws 1998, chapter 262, section 13, by adding a subdivision; Laws 1998, chapter 293, section 3; Laws 1998, chapter 299, section 15, subdivision 1; Laws 1998, chapter 319, section 2, subdivisions 2 and 7; Laws 1998, chapter 367, article 2, section 30, subdivision 3; article 2, section 31; article 2, section 34; article 7, section 15; article 11, section 27; House File 3840, article 8, section 44, subdivisions 1, 2, and 7; article 9, section 2, subdivision 2; article 11, section 23; Senate File 161, article 1, section 3; Senate File 3298, article 1, section 2; Senate File 3345, article 9, section 25; Senate File 3346, article 8, section 15; Senate File 3354, section 32; proposing coding for new law in Minnesota Statutes, chapter 241.

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

Section 1. Minnesota Statutes 1996, section 115C.08, subdivision 3, is amended to read:

Subd. 3. **PETROLEUM TANK RELEASE CLEANUP FEE.** A petroleum tank release cleanup fee is imposed on the use of tanks that contain petroleum products defined in section 296.01. On products other than gasoline, the fee must be paid in the manner provided in section 296.141 by the first licensed distributor receiving the product in Minnesota, as defined in section 296.01. When the product is gasoline, the distributor responsible for payment of the gasoline tax is also responsible for payment of the petroleum tank cleanup fee. The fee must be imposed as required under subdivision 3 2, at a rate of \$20 per 1,000 gallons of petroleum products, rounded to the nearest 1,000 gallons. A distributor who fails to pay the fee imposed under this section is subject to the penalties provided in section 296.15.

Sec. 2. **CORRECTION 1.** Laws 1998, chapter 262, section 13, is amended by adding a subdivision to read:

Subd. 1a. **SECTION 9.** Section 9 is effective August 1, 1998, and applies to the estate of a person dying on or after that date.

Sec. 3. **CORRECTION 2.** Minnesota Statutes 1997 Supplement, section 268.07, subdivision 2, as amended by Laws 1998, chapter 265, section 23, is amended to read:

Subd. 2. **WEEKLY BENEFIT AMOUNT AND MAXIMUM AMOUNT OF BENEFITS.** (a) To establish a reemployment insurance account, a claimant must have:

New language is indicated by underline, deletions by strikeout.