CHAPTER 292—H.F.No. 719

An act relating to the organization and operation of state government; appropriating money for human services, jobs and training, corrections, health, human rights, housing finance, and other purposes with certain conditions; amending Minnesota Statutes 1990, sections 3.922, subdivisions 3 and 8; 3.9223, subdivision 1; 3.9225, subdivision 1; 3.9226, subdivision 1; 3.98, subdivision 1; 3.982; 13.46, subdivision 2; 15.46; 103I.235; 116C.04, by adding a subdivision; 136A.121, subdivision 2; 136A.162; 144.335, subdivision 1; 144.871, subdivisions 2 and 7; 144.873, subdivision 1; 144.874, subdivisions 1, 2, 3, and by adding subdivisions; 144A.071, subdivision 3, and by adding a subdivision; 144A.10, subdivision 4; 144A.31; 144A.46, subdivisions 1 and 4; 144A.49; 144A.51, subdivision 5; 144A.53, subdivision 1; 145.924; 145.925, by adding a subdivision; 148B.01, subdivision 7; 148B.03; 148B.04, subdivisions 3 and 4; 148B.05, subdivision 1; 148B.06, subdivisions 1 and 3; 148B.07; 148B.08; 148B.12; 148B.13; 148B.17; 148B.18, subdivision 10; 148B.23, subdivision 1; 148B.33, subdivision 1; 148B.38, subdivision 3; 157.031, subdivisions 2, 3, 4, and 9; 171.29, subdivision 2; 176.104, subdivision 1; 198.007; 214.04, subdivision 3; 237.70, subdivision 7; 241.022; 244.16; 245.461, subdivision 3, and by adding a subdivision; 245.462, subdivisions 6 and 18; 245.465; 245.4711, by adding a subdivision; 245.472, subdivision 2, and by adding a subdivision; 245.473, by adding subdivisions; 245.484; 245.487, subdivision 4, and by adding a subdivision; 245.4871, subdivisions 27, 31, and by adding a subdivision; 245.4873, subdivision 6; 245.4874; 245.4881, subdivision 1; 245.4882, by adding subdivisions; 245.4884, subdivision 1; 245.4885, subdivisions 1, 2, and by adding a subdivision; 245.697, subdivision 1; 246.18, subdivision 4, and by adding a subdivision; 246.23; 246.64, subdivision 3; 251.011, subdivisions 3 and 4a; 252.24, by adding a subdivision; 252.27, subdivisions 1a and 2a; 252.275; 252.28, subdivisions 1, 3, and by adding a subdivision; 252.32; 252.46, subdivisions 3, 6, 14, and by adding a subdivision; 252.478, subdivisions 1 and 3; 252.50, subdivision 2; 253.015, subdivision 2; 253C.01, subdivisions 1 and 2; 254A.17, subdivision 3; 254B.04, subdivision 1; 254B.05, by adding a subdivision; 256.01, subdivisions 2, 11, and by adding a subdivision; 256.025, subdivisions 1, 2, 3, and 4; 256.031; 256.032; 256.033; 256.034; 256.035; 256.036, subdivisions 1, 2, 4, and 5; 256.045, subdivision 10; 256.482, subdivision 1; 256.736, subdivision 3a; 256.82, subdivision 1; 256.871, subdivision 6; 256.935, subdivision 1; 256.936, by adding a subdivision; 256.9365, subdivisions 1 and 3; 256.9685, subdivision 1; 256.9686, subdivisions 1 and 6; 256.969, subdivisions 1, 2, 2c, 3a, and 6a; 256.9695, subdivision 1; 256.98, by adding a subdivision; 256.983; 256B.031, subdivision 4, and by adding a subdivision; 256B.04, subdivision 16; 256B.055, subdivisions 10 and 12; 256B.057, subdivisions 1, 2, 3, 4, and by adding a subdivision; 256B.0575; 256B.0625, subdivisions 2, 4, 7, 13, 17, 19, 20, 24, 25, 28, 30, and by adding subdivisions; 256B.0627; 256B.064, subdivision 2; 256B.0641, by adding a subdivision; 256B.08, by adding a subdivision; 256B.092; 256B.093; 256B.19, subdivision 1, and by adding subdivisions; 256B.431, subdivisions 2l, 3e, 3f, and by adding subdivisions; 256B.48, subdivision 1; 256B.49, by adding a subdivision; 256B.491, by adding a subdivision; 256B.50, subdivision 1d; 256B.501, subdivisions 8, 11, and by adding a subdivision; 256B.64; 256C.24, subdivision 2; 256C.25; 256D.03, subdivisions 2, 2a, 3, and 4; 256D.05, subdivisions 1, 2, 6, and by adding a subdivision; 256D.051, subdivisions 1, 1a, 2, 3, 3a, 6, and 8; 256D.052, subdivisions 3 and 4; 256D.06, subdivision 1b; 256D.07; 256D.10; 256D.101, subdivisions 1 and 3; 256D.111; 256D.36, subdivision 1; 256D.44, by adding a subdivision; 256F.01; 256F.02; 256F.03, subdivision 5; 256F.04; 256F.05; 256F.06; 256F.07, subdivisions 1, 2, and 3; 256H.02; 256H.03; 256H.05; 256H.08; 256H.15, subdivisions 1, 2, and by adding a subdivision; 256H.18; 256H.20, subdivision 3a; 256H.21, subdivision 10; 256H.22, subdivision 2, and by adding a subdivision; 256I.04, by adding a subdivision; 256I.05, subdivision 2, and by adding subdivisions; 257.071, subdivision 1a; 257.352, subdivision 2; 257.57, subdivision 2; 260.165, by adding a subdivision; 261.035; 268.022, subdivision 2; 268.39; 268.914; 268.975, subdivision 3, and by adding a subdivision; 268.977; 268.98; 268A.03; 268A.06, by adding a subdivision; 270A.04, subdivision 2; 270A.08, subdivision 2; 273.1398, subdivision 1; 299A.21, subdivision 6; 299A.23, subdivision 2; 299A.27; 393.07, subdivisions 10 and 10a; 401.13; 462A.02, subdivision 13; 462A.03, subdivisions 10, 13, 16, and by adding a subdivision; 462A.05, subdivisions 14, 20, and by adding subdivisions; 462A.08, subdivision 2; 462A.21, subdivisions 4k, 12a, 14, and by adding a subdivision; 462A.22, subdivision 9; 462A.222, subdivision 3; 471.705, subdivision 1; 474A.048, subdivision 2; 518.551, subdivision 5, and by adding subdivisions; 518.64; 609.52, by adding a subdivision;

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631.425, subdivisions 3 and 7; 638.04; 638.05; 638.06; 643.29, subdivision 1; Laws 1987, chapter 404, section 28, subdivision 1; Laws 1988, chapter 689, article 2, section 256, subdivision 1; Laws 1989, chapters 290, article 1, section 3, subdivision 2; and 335, article 1, section 27, subdivision 1, as amended; proposing coding for new law in Minnesota Statutes, chapters 144; 148B; 214; 241; 245; 252; 256; 256B; 256D; 256H; 257; 462A; proposing coding for new law as Minnesota Statutes, chapter 144B; repealing Minnesota Statutes 1990, sections 144A.31, subdivisions 2 and 3; 148B.01, subdivisions 2, 5, and 6; 148B.02; 148B.16; 148B.171; 148B.40; 148B.41; 148B.42; 148B.43; 148B.44; 148B.45; 148B.46; 148B.47; 148B.48; 157.031, subdivision 5; 245.476, subdivisions 1, 2, and 3; 246.18, subdivisions 3 and 3a; 252.275, subdivision 2; 256.032, subdivisions 5 and 9; 256.035, subdivisions 6 and 7; 256.036, subdivision 10; 256B.0625, subdivisions 6 and 19; 256B.0627, subdivision 3; 256B.091; 256B.431, subdivision 6; 256B.71, subdivision 5; 256D.051, subdivisions 1b, 3c, and 16; 256D.09, subdivision 4; 256D.101, subdivision 2; 256H.25; 256H.26; 268A.05, subdivision 2; 462A.05, subdivisions 28 and 29; and Laws 1990, chapter 568, article 6, section 4.

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

ARTICLE 1

APPROPRIATIONS

Section 1. **HUMAN RESOURCES; 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 act, to be available for the fiscal years indicated for each purpose. The figures "1992" and "1993" where used in this act, mean that the appropriation or appropriations listed under them are available for the year ending June 30, 1992, or June 30, 1993, respectively.

SUMMARY BY FUND

	1992	1993	TOTAL
General	$1,786,990,000	$1,894,841,000	$3,681,831,000
State Government Special Revenue	6,314,000	6,462,000	12,776,000
Metropolitan Landfill	168,000	168,000	336,000
Trunk Highway	1,487,000	1,486,000	2,973,000
Total	1,794,959,000	1,902,957,000	3,697,916,000

	APPROPRIATIONS Available for the Year Ending June 30	
	1992	1993
Sec. 2. COMMISSIONER OF HUMAN SERVICES		
Subdivision 1. Appropriation by Fund		
General Fund	1,496,147,000	1,596,183,000
The amounts that may be spent from this appropriation for each program and activity are more specifically described in the following subdivisions.		

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Federal money received in excess of the estimates shown in the 1991-1993 department of human services budget document reduces the state appropriation by the amount of the excess receipts, unless otherwise directed by the governor, after consulting with the legislative advisory commission.

For the biennium ending June 30, 1993, federal receipts as shown in the biennial budget document to be used for financing activities, programs, and projects under the supervision and jurisdiction of the commissioner must be credited to and become a part of the appropriations provided for in this section.

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

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

Effective the day following final enactment, the commissioner may transfer unencumbered appropriation balances for fiscal year 1991 among the aid to

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families with dependent children, general assistance, general assistance medical care, medical assistance, Minnesota supplemental aid, and work readiness programs with the approval of the commissioner of finance after notification of the chairs of the health and human services divisions of the senate finance committee and the house appropriations committee.

For the biennium ending June 30, 1993, information system project appropriations for development and federal receipts for the alien verification entitlement system must be deposited in the special systems account authorized in Minnesota Statutes, section 256.014. Money appropriated for computer projects approved by the Information Policy Office, funded by the legislature, and approved by the commissioner of finance may be transferred from one project to another and from development to operations as the commissioner considers necessary. Any unexpended balance in the appropriation for these projects does not cancel in the first year but is available for the second year of the biennium.

Subd. 2. Human Services Administration

12,194,000	11,665,000

Subd. 3. Legal and Intergovernmental Programs

4,351,000	4,340,000

Subd. 4. Economic Support and Transition Services for Families and Individuals

255,051,000	253,960,000

During the biennium ending June 30, 1993, the commissioner of human services shall provide supplementary grants not to exceed $200,000 a year for aid to families with dependent children

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and include the following costs in determining the amount of the supplementary grants: major home repairs; repair of major home appliances; utility recaps; supplementary dietary needs not covered by medical assistance; and replacement of essential household furnishings and essential major appliances.

For the biennium ending June 30, 1993, any federal money remaining from receipt of state legalization impact assistance grants, after reimbursing the department of education for actual expenditures, must be deposited in the aid to families with dependent children account.

The money appropriated from federal child care funds received by the department of human services and allocated to the Minnesota early childhood care and education council for the biennium ending June 30, 1993, for general operation of the council is to enable the council to provide coordination, training outreach, and technical assistance to child care providers.

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

Money appropriated for fiscal year 1991 for general assistance may be used to reimburse fiscal year 1990 and fiscal year 1991 county refugee cash assistance expenditures that were not reimbursed by the federal government, to the extent that unreimbursed refugee cash assistance payments do not exceed $140,000.

Chisago and Isanti counties shall be

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added to the list of counties in which the commissioner shall require establishment and operation of fraud prevention investigation programs.

By January 1, 1993, the commissioner shall report to the legislature on the fraud prevention investigation projects. The report shall include a comparison of the effectiveness of the fraud prevention investigation projects with other proposals to reduce fraud in public income assistance programs, including client reporting requirements.

Money appropriated for the AFDC child care program and the basic sliding fee program for the first year does not cancel but is available for the second year. Money carried forward does not become part of the base level funding for these programs for purposes of the 1993-1995 biennial budget.

For the biennium ending June 30, 1993, federal food stamp employment and training funds received for the work readiness program are appropriated to the commissioner to reimburse counties for work readiness service expenditures.

For the biennium ending June 30, 1993, federal job opportunity and basic skills (JOBS) funds received for direct employment services provided to refugees and immigrants is appropriated to the commissioner to provide bicultural employment service case managers to STRIDE-eligible refugees and immigrants. The commissioner of human services shall review expenditures of bilingual case management funds at the end of the third quarter of the second year of the biennium and may reallocate unencumbered funds to those counties that can demonstrate a need for additional funds. Funds shall be reallocated according to the same formula used initially to allocate funds to counties.

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By October 1, 1991, the commissioner shall submit to the secretary of health and human services an amendment to the state JOBS plan to secure federal reimbursement for child care for AFDC caretakers who are not eligible for STRIDE, but who are engaged in education or training or job search. The state plan amendment shall provide that the activities required of a non-STRIDE caretaker and the administrative services provided are the minimum necessary to secure federal reimbursement for child care assistance. Upon federal approval of the amendment, the commissioner shall submit to the legislature a proposal to transfer money from the basic sliding fee child care program to fund the state share of child care services under the state plan amendment.

Any balance remaining in the first year for the Minnesota family investment plan appropriation does not cancel but is available for the second year of the biennium.

Any balance remaining in the first year for the fraud prevention initiative appropriation does not cancel but is available for the second year of the biennium.

Any balance remaining in the first year for the job opportunities and basic skills (JOBS) automated system appropriation does not cancel but is available for the second year of the biennium.

For the biennium ending June 30, 1993, the commissioner of jobs and training shall certify as STRIDE employment and training service providers under Minnesota Statutes, section 268.871, the providers who provided services under the AFDC self-employment demonstration project. The commissioner of human services shall seek federal

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authority to renew or extend the waivers that are necessary to continue the demonstration project.

For the child support enforcement activity, during the biennium ending June 30, 1993, money received from the counties for providing data processing services must be deposited in that activity's account. The money is appropriated to the commissioner for the purposes of the child support enforcement activity.

A county, or the commissioner of human services with the consent of affected counties, may contract with the commissioner of revenue to collect child support obligations. The county and the commissioner of human services may furnish the data necessary for the collections to the commissioner of revenue. The commissioner of revenue is subject to the same laws governing the data that apply to the commissioner of human services and the county. The county or the commissioner of human services may provide an advance payment to the commissioner of revenue for collection services, to be repaid out of subsequent collections.

For the biennium ending June 30, 1993, federal money received for the operating costs of the statewide MAXIS automated eligibility information system is appropriated to the commissioner to pay for the development and operation of the MAXIS system and the counties' share of the operating costs.

Notwithstanding Minnesota Statutes, section 237.701, subdivision 1, the reimbursement of telephone assistance plan administrative expenses incurred shall not exceed $422,000 in the first year of the biennium.

Subd. 5. Economic Support and Services to Elderly

24,776,000	30,082,000

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The increased funding to the area agencies on aging shall be distributed by the agencies to nutrition programs serving counties where congregate and home delivered meals were locally financed prior to participation in the nutrition program of the Older Americans Act. Supplemental funds for affected areas may be awarded in amounts up to the level of prior county financial participation less any local match as required by the Older Americans Act.

The Minnesota board on aging shall appoint an advisory task force consisting of Indian elders and representatives from the area agencies on aging, counties, and other interested parties to make recommendations on how Indian elder access to services can be improved. Compensation, terms, and removal of members shall be as provided in Minnesota Statutes, section 15.059. The Minnesota board on aging shall report its recommendations to the legislature by February 1, 1992.

For the biennium ending June 30, 1993, any money allocated to the alternative care grants program that is not spent for the purposes indicated does not cancel but shall be transferred to the medical assistance account.

Subd. 6. Services to Special Needs Adults

121,283,000 124,166,000

Money is appropriated from the mental health special project account for adults with mental illness from across the state, for a camping program which utilizes the BWCA and is cooperatively sponsored by client advocacy, mental health treatment, and outdoor recreation agencies.

Money is appropriated from the mental health special projects fund for grants to

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two nonprofit charitable mental health self-help groups. One grant shall be used to provide support services to people with major depression. The other grant shall provide employability support services to people with mental illness delivered by people who have or have had a mental illness.

All of the fees paid to the commissioner for interpreter referral services for people with hearing impairments shall be used for direct client referral activities. None of the fees shall be used to pay for state agency administrative and support costs.

For the biennium ending June 30, 1993, if a facility's residents continue to be served in the same location, the commissioner of human services may continue the operating cost payment rate, including any program operating cost adjustments and special operating costs, of an intermediate care facility for persons with mental retardation under receivership pursuant to Minnesota Statutes, section 245A.12 or 245A.13, beyond the receivership period in order that this portion of the payment rate remain in effect for one full calendar year plus the following nine months. The allowable property- related costs of the previous operator before the receivership shall be the basis for establishing the property- related payment rate for rate periods following the end of the receivership period.

During the biennium ending June 30, 1993, the commissioner may transfer money from rule 12 residential program grants to rule 14 housing support program grants. Funds shall be transferred only if agreement is reached between the participating county and rule 12 provider volunteering to convert to rule 14 services. The commissioner shall

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consider past utilization of the residential program in determining which counties to include in the transferred housing support funding.

Any unspent money appropriated in the first year for the nonentitlement portion of the consolidated chemical dependency treatment fund shall be carried forward to the second year of the biennium for that purpose.

Money appropriated in fiscal year 1992 for the Dakota county mental health pilot planning grant is available until spent.

By January 31, 1992, the commissioner of human services shall present to the legislature a report, prepared in cooperation with the commissioner of health, containing recommendations on the standards and procedures to be used in the licensing or credentialing of chemical dependency professionals. In preparing this report, the commissioners shall consult with an advisory group that includes a representative of each of the boards established under Minnesota Statutes, chapter 148B and at least six individuals representing chemical dependency professionals and service providers.

Of the funds appropriated above the base level for family preservation grants for the biennium ending June 30, 1993, 45 percent must be provided to counties for purposes of providing bonus incentives for early intervention services under Minnesota Statutes, section 256F.05, subdivision 4a.

The amount of money from the consolidated chemical dependency treatment fund that, on April 1, 1991, the department of human services projected would be received by the regional treat-

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ment center chemical dependency units each year of the biennium is transferred from the consolidated chemical dependency treatment fund to the appropriation for the regional treatment centers to fund the chemical dependency units. * **(The preceding paragraph beginning "The amount" was vetoed by the governor.)**

The regional treatment centers are not required to repay any advances received in fiscal years 1990 and 1991 from the consolidated chemical dependency treatment fund in accordance with the provisions of Minnesota Statutes, section 246.18, subdivision 3, for chemical dependency services delivered under Minnesota Statutes, sections 254B.01 to 254B.09.

The commissioner of human services, after consultation with professional treatment experts, service providers, and the families of victims, shall develop recommendations on special residential and other treatment programs for persons suffering from Prader-Willi syndrome. A report with the recommendations shall be provided to the legislature by January 15, 1992.

Notwithstanding Minnesota Statutes, section 256I.04 or any other law to the contrary, the commissioner shall allow up to eight additional general assistance or Minnesota supplemental aid negotiated rate facility beds for adult foster homes licensed under Minnesota Rules, parts 9555.5105 to 9555.6265, provided the beds serve persons with developmental disabilities and are located in Todd county. Agreements for new beds are subject to the approval of the commissioner.

Subd. 7. Services to Special Needs Children

15,167,000 17,075,000

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The department of human services shall develop recommended standards for counties to use when conducting child protection investigations of child care providers. The standards, while maintaining the safety of children as a first priority, shall also ensure that child care providers under investigation are accorded adequate due process protections. The agency shall develop the recommendations through a process of public hearings and report back to the legislature by January 1992.

Money appropriated for child care incentive grants in the first year does not cancel but is available for the second year of the biennium.

Money is appropriated each year to provide a grant to the New Chance demonstration project that provides comprehensive services to young AFDC recipients who became pregnant as teenagers and dropped out of high school. The commissioner of human services shall provide an annual report on the progress of the demonstration project, including specific data on participant outcomes in comparison to a control group that received no services. The commissioner shall also include recommendations on whether strategies or methods that have proven successful in the demonstration project should be incorporated into the STRIDE employment program for AFDC recipients.

Subd. 8. State-Operated Residential Care For Special Needs Populations

240,717,000 236,416,000

During the biennium ending June 30, 1993, the commissioner may determine the need for conversion of a state-operated home- and community-based service program to an intermediate care facility for persons with mental retarda-

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tion if the conversion will produce a net savings to the state general fund and the persons receiving home- and community-based services choose to receive services in an intermediate care facility for persons with mental retardation. After the commissioner has determined the need to convert the program, the commissioner of health shall certify the program as an intermediate care facility for persons with mental retardation if the program meets applicable certification standards. Notwithstanding the provisions of Minnesota Statutes, section 246.18, receipts collected for state-operated community-based services are appropriated to the commissioner and are dedicated to the operation of state-operated community-based services which are converted in this section or which were authorized in Laws 1988, chapter 689, article 1, section 2, subdivision 5. Any balance remaining in this account at the end of the fiscal year does not cancel and is available for the second year of the biennium. The commissioner may, upon approval of the governor after consultation with the legislative advisory commission, transfer funds from the Minnesota supplemental aid program to the medical assistance program to fund services converted under this section.

Receipts received for the state-operated community services program are appropriated to the commissioner for that purpose.

During the biennium ending June 30, 1993, the commissioner of human services shall establish an on-site child care facility at the Ah-Gwah-Ching state nursing home. State employees must receive priority for child care services at the Ah-Gwah-Ching site. The commissioner shall contract with a nonprofit child care provider by August 1, 1991,

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that can demonstrate knowledge of the child care needs at the site and that has a commitment to maximizing the salaries and benefits of its direct child care workers. The commissioner shall provide support to the center, including renovation expenses to meet and maintain all relevant building codes and ongoing building expenses including rent, maintenance, and utilities. The commissioner shall consult with the commissioner of administration regarding the establishment and operation of the on-site program. The child care contractor chosen by the commissioner shall become accredited by the National Academy of Early Childhood Programs within one year of beginning operation. The commissioner shall report to the chairs of the human resources division of the house appropriations committee and the senate finance committee on the status of the Ah-Gwah-Ching child care center by September 1, 1991.

During the biennium ending June 30, 1993, regional treatment center and state-operated nursing home employees, except temporary or emergency employees, affected by changes in the department of human services delivery system must receive, along with other options, priority consideration in order to transfer to vacant or newly created positions at the Minneapolis and Hastings veterans homes and at facilities operated by the commissioner of corrections. The veterans homes board, in cooperation with the commissioners of human services and corrections, shall develop procedures to facilitate these transfers.

Transfer of facilities at Faribault RTC: The legislature recognizes that the orderly transfer of some buildings at the Faribault regional treatment center from the department of human services to the department of corrections is nec-

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essary in order to develop a shared campus and to abide by legislated policies concerning the future of the regional treatment center. If the transfer of the infirmary, the skilled nursing facility, the Osage, Willow, or Birch buildings, or any other building on the campus of the Faribault regional treatment center requires the transfer of developmentally disabled residents to community residential facilities, the commissioner of human services shall accomplish this transfer according to the following schedule:

(1) the commissioner of human services shall maintain the 35 skilled nursing facility beds for developmentally disabled residents and an infirmary at the Faribault regional treatment center;

(2) the transfer of the hospital building at the Faribault regional treatment center to the department of corrections may take place only after alternative, state-operated, skilled nursing facility and infirmary space has been developed for residents on the campus of the Faribault regional treatment center;

(3) the transfer of the Osage facility to the department of corrections may not occur before December 31, 1992. Residents affected by the transfer of the Osage building shall not be transferred to another regional treatment center or state nursing home but must either be housed at the Faribault regional treatment center or placed in appropriate community-based facilities. At least 60 percent of the community-based facility beds to which affected regional center residents are transferred must be state-operated community services (SOCS) beds;

(4) the transfer of the Willow and Birch facilities to the department of correc-

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tions must not occur before June 30, 1993. Residents affected by the transfer of the Willow or Birch facilities shall not be transferred to another regional treatment center or state nursing home but must either be housed at the Faribault regional treatment center or placed in appropriate community-based facilities. At least 60 percent of the community-based facility beds to which affected regional treatment center residents are transferred must be state-operated community services (SOCS) beds.

Notwithstanding Minnesota Statutes, section 144A.071, the commissioner of health shall license and certify nursing home beds to be operated by the commissioner of human services in new or existing buildings if the following conditions are met: (1) the number of licensed and certified beds shall not exceed the number of beds that were operated by the commissioner of human services at the Oak Terrace nursing home; and (2) the beds will be located as follows: 105 at Brainerd in addition to the existing 28 beds at Brainerd; 70 beds at Cambridge; 85 beds at Fergus Falls; and up to 62 additional beds as needed at these or other regional treatment centers.

Any portion of the appropriation to remodel, set up, and operate state nursing home beds at the Fergus Falls and Cambridge regional treatment centers and state nursing home beds and security hospital beds at the Brainerd regional treatment center that is not spent in fiscal year 1992 does not cancel and shall be available for fiscal year 1993.

For the biennium ending June 30, 1993, savings realized from holding vacancies open at the regional treatment centers

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may only be used to pay negotiated salary increases for regional treatment center employees. The commissioner shall hold positions vacant in the general professional, supervisory, and managerial units at the regional treatment centers for the purpose of funding negotiated salary increases. Positions in other units shall not be held vacant for this purpose.

The appropriation for fiscal 1992 to improve property at regional treatment centers and state nursing homes to prepare the property for lease does not cancel but is available for fiscal 1993. For the biennium ending June 30, 1993, money collected as rent under Minnesota Statutes, section 16B.24, subdivision 5, for state property at any of the regional treatment centers or state nursing homes administered by the commissioner of human services is dedicated to the facility generating the rental income and is appropriated for the express purpose of maintaining the property. Any balance remaining at the end of the fiscal year shall not and is available until expended. * **(The preceding paragraph beginning "The appropriation" was vetoed by the governor.)**

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

For purposes of restructuring the chemical dependency and developmental disabilities programs at the regional treat-

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ment centers during the biennium ending June 30, 1993, any regional treatment center employee whose position is to be eliminated shall be afforded the options provided in applicable collective bargaining agreements. Provided there is no conflict with any collective bargaining agreement, any regional treatment center position reduction must only be accomplished through mitigation, attrition, transfer, and other measures as provided in state or applicable collective bargaining agreements and Minnesota Statutes, section 252.50, subdivision 11, and not through layoff. However, if the commissioner proceeds with construction of 10 additional state-operated community residences for persons with developmental disabilities and 84 additional state nursing home beds during the biennium ending June 30, 1993, and begins siting and constructing 24 additional state-operated community residential facilities for persons with developmental disabilities, then the commissioner may use a mitigated layoff procedure to reduce unnecessary staff at the regional treatment centers, as negotiated with respective collective bargaining agents. Affected employees must be offered alternative employment, severance pay, retraining, transfers, and other options that do not conflict with collective bargaining agreements. All of the 24 additional state-operated community facilities shall be sited within a reasonable distance of a regional treatment center. Community facilities shall be allocated to these sites based on the proportionate number of developmentally disabled clients that have been discharged from the area regional treatment center in the period 1980 to 1990.

The commissioner shall consolidate both program and support functions at

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each of the regional centers and state nursing homes to ensure efficient and effective space utilization that is consistent with applicable licensing and certification standards. The commissioner may transfer residents and positions between the regional center and state nursing home system as necessary to promote the most efficient use of available state buildings. Surplus buildings shall be reported to the commissioner of administration for appropriate disposition according to Minnesota Statutes, section 16B.24.

Any unencumbered balances in special equipment and repairs and betterments remaining in the first year do not cancel but are available for the second year of the biennium.

Subd. 9. Health Care for Families and Individuals

822,608,000 918,479,000

For the biennium ending June 30, 1993, medical assistance and general assistance medical care payments for mental health services provided by masters-prepared mental health practitioners and practitioners licensed at the masters level, except services provided by community mental health centers, shall be 65 percent of the rate paid to doctoral-prepared practitioners.

Notwithstanding Minnesota Statutes, section 252.46, subdivision 3, the commissioner shall increase reimbursement rates for day training and habilitation services by two percent, effective January 1, 1992.

Notwithstanding Minnesota Statutes, section 252.46, subdivision 12, payment rates established by a county board to be paid to a vendor for day training and habilitation services after July 1, 1993, must be determined under permanent rule adopted by the commissioner.

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By October 1, 1991, the drug formulary committee shall review legend and nonlegend drug classes and advise the commissioner of formulary changes and prior authorization requirements necessary to provide a $1,300,000 savings in medical assistance and general assistance medical care drug expenditures for the biennium ending June 30, 1993.

The drug formulary committee shall review the department of human services drug utilization review program and drug utilization review programs that are available from other vendors to determine which program best ensures the appropriate use of pharmaceutical products for quality medical care for persons in the medical assistance, GAMC, and children's health plan programs. The committee shall report its findings to the commissioner by December 31, 1991.

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

Implementation of the reduced rate for therapy services provided by a physical or occupational therapy assistant, to 65 percent of the rate paid for services provided by a physical or occupational therapist, will be implemented in conjunction with the department's complete therapy code conversion project, or January 1, 1992, whichever occurs first.

For the biennium ending June 30, 1993, all receipts for services provided by

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community health clinics operated by the department of human services in accordance with Minnesota Statutes, sections 256B.04, subdivision 2, and 256B.0625, subdivision 4, and as enrolled medical assistance providers under Minnesota Rules, part 9505.0255, shall be dedicated to the commissioner of human services for operation and expansion of the clinics. Any balances remaining in the clinic accounts at the end of the first year do not cancel but are available until spent.

Notwithstanding Minnesota Statutes, section 13.03, subdivision 5, the rate setting computer program except the edits and screens for nursing home payment rates is not trade secret information and is public data not on individuals. If a person requests this data, the commissioner of human services shall require the requesting person to pay no more than the actual costs of searching for and retrieving the data, including the cost of employee time, and for making, certifying, compiling, and electronically transmitting the copies of the data or the data, but may not charge for separating public data from not public data.

Notwithstanding Minnesota Statutes, section 256B.0641, and Minnesota Rules, part 9505.0465, the commissioner of human services shall not be required to recover nonallowable federal medical assistance payments made between October 1, 1986, and December 31, 1988, from nursing facilities declared on January 1, 1989, as institutions for mental diseases.

Notwithstanding Minnesota Statutes, section 256B.431 or any other provision, the commissioner of human services shall postpone the seventh year catch-up reappraisals until the ninth

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year after the initial appraisal of all nursing homes.

Up to $260,000 of the appropriation for administration of the medical assistance provider surcharge program may be used in fiscal year 1991 to implement computer system changes necessary to begin operation on July 1, 1991.

The nonfederal share of the costs of case management services provided to persons with mental retardation or related conditions relocated from nursing homes as required by federal law and receiving home and community-based services funded through the waiver granted under section 1915(c)(7)(B) of the Social Security Act shall be provided from state-appropriated medical assistance grant funds for the biennium ending June 30, 1993. The division of cost is subject to Minnesota Statutes, section 256B.19, and the services are included as covered programs and services under Minnesota Statutes, section 256.025, subdivision 2.

For the biennium ending June 30, 1993, the money transferred from the special project account created in Minnesota Statutes, section 256.01, subdivision 2, paragraph (15), to the attorney general is for costs incurred in the resolution of long-term care appeals.

Money is appropriated the first year for a regional demonstration project under Minnesota Statutes, section 256B.73, to provide health coverage to uninsured persons. The commissioner shall contract with the coalition formed for the nine counties named in Minnesota Statutes, section 256B.73, subdivision 2. * **(The preceding paragraph beginning "Money" was vetoed by the governor.)**

The commissioner shall postpone the

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implementation of the new client based reimbursement system for the program operating cost payment rates as provided in Minnesota Statutes, section 256B.501, subdivision 3g, until October 1, 1993. Each facility's interdisciplinary team shall continue to assess each new admission to the facility. The quality assurance and review teams in the department of health shall continue to assess all residents annually. The quality assurance and review teams and the interdisciplinary team shall assess all residents using a uniform assessment instrument developed by the commissioner and the ICF-MR reimbursement and quality assurance and review manual. Beginning with the reporting year which ends December 31, 1991, the commissioner shall annually collect client statistical data based on assessments performed by the quality assurance and review teams and by the interdisciplinary team on annual cost reports submitted by the facility and may use this data in the calculation of program operating cost payment rates after October 1, 1993.

Recoveries obtained by the provider appeals unit shall be dedicated to the medical assistance account during the biennium ending June 30, 1993.

The commissioner shall study the need for enhanced reimbursement for the special Huntington's disease unit at Metro Health Care and shall make recommendations to the legislature by January 1, 1992.

Sec. 3. OMBUDSMAN FOR MENTAL HEALTH AND MENTAL RETARDATION	1,033,000	1,031,000
Sec. 4. VETERANS NURSING HOMES BOARD	24,363,000	26,330,000

The amounts that may be spent from

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this appropriation for each program are more specifically described in the following subdivisions.

Subdivision 1. Veterans Nursing Homes

23,811,000 25,929,000

Any unencumbered balances in the first year do not cancel but are available for the second year of the biennium within the programs overseen by the veterans homes board of directors.

Notwithstanding Laws 1989, chapter 282, article 1, section 12, for the biennium ending June 30, 1991, the veterans homes and the veterans nursing homes board, with the approval of the commissioner of finance, may transfer money to the object of expenditure "personal services" in order to pay workers' compensation costs.

The systemwide reductions shall be prorated against the appropriations for the veterans nursing homes board and the facilities operated by the board.

For the biennium ending June 30, 1993, the veterans homes board of directors may transfer unencumbered appropriation balances and positions from Luverne and Silver Bay nursing homes among all programs.

For the biennium ending June 30, 1993, the board may set costs of care at the Silver Bay and Luverne facilities based on costs of average skilled nursing care provided to residents of the Minneapolis veterans home.

Until June 30, 1993, the commissioner of health shall not apply the provisions of Minnesota Statutes, section 144.55, subdivision 6, paragraph (b), to the Minnesota veterans home at Hastings.

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The department of health shall not reduce the licensed bed capacity for the Minneapolis veterans home for the biennium ending June 30, 1993, in lieu of presentation to the legislature of building needs and options by the veterans nursing homes board.

Any funds encumbered for use in repairing building 6 are available for unrestricted use in the fiscal year 1991 operations for the Minneapolis veterans home.

Subd. 2. Veterans Nursing Homes Board
552,000 401,000

The veterans nursing homes board and the department of veterans affairs shall review current alternatives to long-term care for veterans and report to the legislature by February 15, 1992, with their review and proposals to enhance the availability and use of these options by veterans. This study must be done with existing resources.

For the biennium ending June 30, 1991, the veterans nursing homes board, with the approval of the commissioner of finance, may transfer seven positions and unencumbered appropriation balances between the veterans nursing homes and the veterans nursing homes board.

Sec. 5. COMMISSIONER OF JOBS AND TRAINING 36,170,000 35,307,000

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

Subdivision 1. Rehabilitation Services
18,923,000 18,923,000

For the biennium ending June 30, 1993, at least 35 percent in the first year and

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38 percent in the second year of the vocational rehabilitation activity budget must be directed toward grants, which are budgeted as aid to individuals and local assistance categories of expense.

The amount of the appropriation for vocational rehabilitation services that is designated for mental illness demonstration grants may be used for innovative programs to serve persons with serious and persistent mental illness, but only if this use of the money will satisfy federal maintenance of effort requirements. If this use will not satisfy the maintenance of effort requirements, the money must be added to the base appropriation for vocational rehabilitation services.

The commissioner of jobs and training shall develop a plan for staffing adjustments and organizational restructuring in the vocational rehabilitation activity. The goal of the plan must be to lower administrative costs and redirect resources to direct services to clients. The commissioner shall present the plan to the legislature by February 15, 1992.

Money is appropriated to be directed toward developing a plan for rehabilitation services programs provided by the state departments of jobs and training and human services. The plan shall be directed toward the goals of supporting the delivery of services to citizens with disabilities through a single point of entry at the community level, allowing greater consumer control, and ensuring greater coordination of services among the public and private agencies currently involved in providing services. The development of this plan shall be done in cooperation with centers for independent living. * **(The preceding paragraph beginning "Money" was vetoed by the governor.)**

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The money appropriated for a rehabilitation special project grant is transferred to the commissioner of labor and industry along with the workers' compensation program of the rehabilitation services division of the department of jobs and training, as provided in article 10. * **(The preceding paragraph beginning "The money" was vetoed by the governor.)**

Subd. 2. Services for the Blind

3,636,000 3,626,000

This appropriation may be supplemented by funds provided by the Friends of the Communication Center, for support of Services for the Blind's Communication Center which serves all blind and visually handicapped Minnesotans. The commissioner shall report to the legislature on a biennial basis the funds provided by the Friends of the Communication Center.

Subd. 3. Economic Opportunity Office

8,539,000 8,537,000

For the biennium ending June 30, 1993, the commissioner shall transfer to the community services block grant program ten percent of the money received under the low-income home energy assistance block grant in each year of the biennium and shall spend all of the transferred money during the year of the transfer or the year following the transfer. Up to 3.75 percent of the transferred money may be used by the commissioner for administrative purposes.

For the biennium ending June 30, 1993, the commissioner shall transfer to the low-income home weatherization program at least five percent of money received under the low-income home energy assistance block grant in each year of the biennium and shall spend all

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of the transferred money during the year of the transfer or the year following the transfer. Up to 1.63 percent of the transferred money may be used by the commissioner for administrative purposes.

For the biennium ending June 30, 1993, no more than 1.63 percent of money remaining under the low-income home energy assistance program after transfers to the community services block grant program and the weatherization program may be used by the commissioner for administrative purposes.

For the biennium ending June 30, 1993, discretionary money from the community services block grant program (regular) must be used to supplement the appropriation for local storage, transportation, processing, and distribution of United States Department of Agriculture surplus commodities to the extent supplemental funding is required. Any remaining money must be allocated to state-designated and state-recognized community action agencies, Indian reservations, and the Minnesota migrant council.

The state appropriation for the temporary emergency food assistance program may be used to meet the federal match requirements.

Subd. 4. Employment and Training
5,072,000 4,221,000

Of the money appropriated for the summer youth employment programs for fiscal year 1992, $750,000 is immediately available. Any remaining balance of the immediately available money is available for the year in which it is appropriated. If the appropriation for either year of the biennium is insufficient, money may be transferred from the appropriation for the other year.

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Notwithstanding Minnesota Statutes, section 268.022, subdivision 2, the commissioner of finance shall transfer in each year of the biennium ending June 30, 1993, from the dislocated worker fund to the general fund $5 million of the money collected through the special assessment established in Minnesota Statutes, section 268.022, subdivision 1.

MEED service providers may retain 75 percent of outstanding payback funds they collect to be used for the cost of collection and for program closeout activities without regard to existing cost category requirements. MEED service providers may continue to operate the program until all activities are closed out, financial reports are finalized, and participants are terminated.

For the biennium ending June 30, 1993, the commissioner shall hold harmless the allocations to any program receiving funding for the displaced homemaker program that would be reduced due to any change in funding formula. In the event of increased appropriations, increases may be used in accordance with a needs-based formula.

Sec. 6. COMMISSIONER OF CORRECTIONS 162,057,000 168,978,000

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

Positions and administrative money may be transferred within the department of corrections as the commissioner considers necessary, upon the advance approval of the commissioner of finance.

Any unencumbered balances remaining from fiscal year 1992 do not cancel but are available for the second year of the biennium.

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For the biennium ending June 30, 1993, the commissioner of corrections may, with the approval of the commissioner of finance and upon notification of the chairs of the human resources division of the house appropriations committee and the human development division of the senate finance committee, transfer funds to or from salaries.

For the biennium ending June 30, 1993, and notwithstanding Minnesota Statutes, section 243.51, the commissioner of corrections may enter into agreements with the appropriate officials of any state, political subdivision, or the United States, for housing prisoners in Minnesota correctional facilities. Money received under the agreements is appropriated to the commissioner for correctional purposes.

The commissioner of corrections may transfer to the commissioner of human services unencumbered funds from fiscal year 1991 to accomplish the conversion of the Faribault regional treatment center to a shared campus with the department of corrections for a medium security correctional facility. The commissioner of corrections may use any additional unencumbered funds from fiscal year 1991 to renovate buildings at Faribault for the correctional facility. These funds do not cancel but are available to the commissioners of corrections and human services for both years of the biennium.

Subdivision 1. Correctional Institutions
111,632,000 118,292,000

Subd. 2. Community Services
40,043,000 40,329,000

The commissioner of finance shall adjust the base for the county probation reimbursement program, described in Minnesota Statutes, section 260.311,

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subdivision 5, to a level that allows the state to maintain a 50 percent reimbursement level to counties for the biennium beginning July 1, 1993.

During the biennium ending June 30, 1993, whenever offenders are assigned for the purpose of work under agreement with a state department or agency, local unit of government, or other government subdivision, the state department or agency, local unit of government, or other government subdivision must certify to the appropriate bargaining agent that the work performed by inmates will not result in the displacement of currently employed workers or workers on seasonal layoff or layoff from a substantially equivalent position, including partial displacement such as reduction in hours of nonovertime work, wages, or other employment benefits.

Notwithstanding Minnesota Statutes, section 609.105 or any other provision of law to the contrary, a felony offender sentenced in a community corrections act county may not be committed to the custody of the commissioner of corrections under an executed sentence of imprisonment if the time remaining in the offender's sentence, minus credit for prior imprisonment, is 60 days or less unless the offender's sentence was presumptively executed under the sentencing guidelines. Notwithstanding any provision of law to the contrary, these offenders may be sentenced to imprisonment in a local jail or workhouse. This does not apply to offenders whose sentences were executed at the time of sentencing and to offenders whose sentences were executed after revocation of a stayed felony sentence.

Subd. 3. Management Services 10,382,000 10,357,000

Sec. 7. SENTENCING GUIDELINES COMMISSION 248,000 254,000

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Sec. 8. CORRECTIONS OMBUDSMAN	419,000	441,000
Sec. 9. COMMISSIONER OF HEALTH		
Subdivision 1. Appropriation by Fund		
General Fund	47,610,000	47,337,000
Metropolitan Landfill Contingency Fund	168,000	168,000
State Government Special Revenue Fund	455,000	513,000
Trunk Highway Fund	1,487,000	1,486,000

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

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

The commissioner of health, with the approval of the commissioner of finance, may transfer appropriated funds between fiscal years and from supply and expense categories to the salary account in order to avoid layoffs.

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

Subd. 2. Protective Health Services	
General Fund	
16,064,000	16,218,000
Metropolitan Landfill Contingency Fund	
146,000	146,000
Subd. 3. Health Delivery Systems	
General Fund	
27,544,000	27,068,000
State Government Special Revenue Fund	
455,000	513,000
Trunk Highway Fund	
1,401,000	1,400,000

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

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

Minnesota Rules, parts 4655.1070 to 4655.1098, as in effect on September 1, 1989, are adopted as an emergency rule of the department of health. The commissioner of health shall publish in the State Register a notice of intent to adopt Minnesota Rules, parts 4655.1070 to 4655.1098 [Emergency]. The same notice shall be mailed to all persons registered with the agency to receive notice of any rulemaking proceedings. The emergency rule is exempt from the requirements of Minnesota Statutes, sections 14.32 to 14.35, and shall take effect five working days after publication in the State Register. Those rules shall govern the process for granting exceptions to the moratorium on nursing homes under Minnesota Statutes, section 144A.073, during the biennium.

In the event that Minnesota is required to comply with the provision in the federal maternal and child health block grant law, which requires 30 percent of the allocation to be spent on primary services for children, federal funds allocated to the commissioner of health under Minnesota Statutes, section 145.882, subdivision 2, may be transferred to the commissioner of human

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services for the purchase of primary services for children covered by the children's health plan. The commissioner of human services shall transfer an equal amount of the money appropriated for the children's health plan to the commissioner of health to assure access to quality child health services under Minnesota Statutes, section 145.88.

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

During the biennium ending June 30, 1993, and notwithstanding Minnesota Statutes, section 144A.48, subdivision 2, clause (9), the commissioner of health may issue a hospice license to a free-standing residential facility that was registered and was providing hospice services as of March 1, 1990, if that facility is licensed as a board and lodging facility, provides services to no more than six residents, meets group R, division 3 occupancy requirements and meets the fire protection provisions of chapter 21 of the 1985 Life Safety Code, NFPA 101, of the National Fire Protection Association, for facilities housing persons with impractical evacuation capabilities. Continued licensure as a hospice must be contingent on the facility's compliance with the department of health rules for hospices and for residential care facilities upon adoption of those rules.

The commissioner shall fund a statewide family planning hotline grant and shall allocate remaining family planning special project grant funds to eight regions according to a needs-based distribution formula.

The funding for family planning special project grants shall be awarded through

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the criteria established in Minnesota Rules. Notwithstanding any rule to the contrary, an organization shall not be excluded or reduced in priority for funding because the organization does not make available, directly or through referral, all methods of contraceptives for reasons of conscience. The commissioner of health shall develop procedures for establishing a conscience clause in the grant application process.

For the purpose of conducting a comprehensive review of nursing home licensure laws and regulations the commissioner may assess a licensing fee surcharge on nursing home beds and boarding care beds for which an initial or renewal license is issued during fiscal year 1992 and fiscal year 1993. The surcharge shall be $2.12 per bed in fiscal 1992 and $2.73 per bed in fiscal 1993. The surcharge shall not continue beyond fiscal 1993.

Subd. 4. Health Support Services

General Fund	4,002,000	4,051,000
Metropolitan Landfill Contingency Fund	22,000	22,000
Trunk Highway Fund	86,000	86,000

Sec. 10. HEALTH-RELATED BOARDS

Subdivision 1. Total Appropriation		
State Government Special Revenue Fund	5,859,000	5,949,000

Fees generated by the health-related licensing boards or the commissioner of health under Minnesota Statutes, section 214.06, must be credited to the health occupations licensing account within the state government special revenue fund.

The commissioner of finance shall not

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permit the allotment, encumbrance, or expenditure of money appropriated in this section in excess of the anticipated biennial revenues from fees collected by the boards. Neither this provision nor Minnesota Statutes, section 214.06, applies to transfers from the general contingent account, if the amount transferred does not exceed the amount of surplus revenue accumulated by the transferee during the previous five years.		
Unless otherwise designated, all appropriations in this section are from the state government special revenue fund.		
Subd. 2. Board of Chiropractic Examiners	283,000	291,000
Subd. 3. Board of Dentistry	586,000	586,000
Subd. 4. Board of Medical Examiners	1,958,000	1,951,000
For the biennium ending June 30, 1993, fees set by the board of medical examiners pursuant to Minnesota Statutes, section 214.06, must be fixed by rule. The procedure for noncontroversial rules in Minnesota Statutes, sections 14.22 to 14.28 may be used except that, notwithstanding the requirements of Minnesota Statutes, section 14.22, paragraph (3), no public hearing may be held. The notice of intention to adopt the rules must state that no hearing will be held. This procedure may be used only when the total fees estimated for the biennium do not exceed the sum of direct appropriations, indirect costs, transfers in, and salary supplements for that purpose. A public hearing is required for adjustments of fees spent under open appropriations of dedicated receipts.		
Subd. 5. Board of Nursing	1,375,000	1,412,000
Subd. 6. Board of Examiners for Nursing Home Administrators	165,000	193,000
Subd. 7. Board of Optometry	69,000	71,000
Subd. 8. Board of Pharmacy	544,000	599,000

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Deficiency: $16,000 is appropriated for fiscal year 1991 to the board of pharmacy from the state government special revenue fund.		
Subd. 9. Board of Podiatry	28,000	28,000
Subd. 10. Board of Psychology	237,000	206,000
Deficiency: $30,000 is appropriated for fiscal year 1991 to the board of psychology from the state government special revenue fund.		
Subd. 11. Board of Marriage and Family Therapy	94,000	94,000
Subd. 12. Board of Social Work	410,000	410,000
Subd. 13. Board of Veterinary Medicine	110,000	108,000
Sec. 11. COUNCIL ON DISABILITY	568,000	583,000
Sec. 12. COUNCIL ON BLACK MINNESOTANS	195,000	200,000
Sec. 13. COUNCIL ON AFFAIRS OF SPANISH-SPEAKING PEOPLE	213,000	220,000
During the biennium ending June 30, 1993, council publications may contain advertising. Funds derived from advertising are appropriated to the council for purposes of council publications.		
For the biennium ending June 30, 1993, the council shall report to the legislature on the revenues and expenditures from advertising by February 15 each year.		
Sec. 14. COUNCIL ON ASIAN-PACIFIC MINNESOTANS	170,000	174,000
Sec. 15. INDIAN AFFAIRS COUNCIL	444,000	455,000
For the biennium ending June 30, 1993, federal money received for the Indian affairs council is appropriated to the council and added to this appropriation.		
Sec. 16. COMMISSIONER OF HUMAN RIGHTS	3,194,000	3,189,000

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The department of human rights may not be charged by the attorney general for legal representation on behalf of complaining parties who have filed a charge of discrimination with the department. This provision is effective retroactive to July 1, 1989. The department does not have an obligation to pay for any services rendered by the attorney general since July 1, 1985, in excess of the amounts already paid for those services.

Sec. 17. COMMISSIONER OF HOUSING FINANCE AGENCY

Subdivision 1. Total Appropriation Approved Complement - 140	14,159,000	14,159,000

Spending limit on cost of general administration of agency programs:

1992	1993
8,305,000	8,686,000

This appropriation is for transfer to the housing development fund for the programs specified in the working documents of the conferees.

Money is appropriated from the housing development fund to be used to provide housing for chronic chemically dependent adults under Minnesota Statutes, section 462A.05, subdivision 20. Money is appropriated from the housing development fund to be used to make planning grants to nonprofit organizations to develop coordinated training and housing programs for homeless adults under Minnesota Statutes, section 462A.05, subdivision 20.

Any state appropriations used to meet match requirements under Title II of the National Affordable Housing Act of 1990, Public Law Number 101-625, 104 Stat. 4079, must be repaid, to the extent required by federal law, to the HOME Investment Trust Fund established by

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the department of housing and urban development pursuant to Title II of the National Affordable Housing Act of 1990 for the state of Minnesota or for the appropriate participating jurisdiction.

State appropriations to the Minnesota housing finance agency may be granted by the agency to cities or nonprofit organizations to the extent necessary to meet match requirements under Title II of the National Affordable Housing Act of 1990, Public Law Number 101-625, 104 Stat. 4079, provided that other program requirements are met.

Sec. 18. ALLOCATIONS

All appropriations in this article shall be allocated according to the working documents of the conferees.

Sec. 19. CARRYOVER LIMITATION

None of the appropriations in this act which are allowed to be carried forward from fiscal year 1992 to fiscal year 1993 shall become part of the base level funding for the 1993-1995 biennial budget.

Sec. 20. UNCODIFIED LANGUAGE

All uncodified language contained in this article expires on June 30, 1993, unless a different expiration is explicit.

Sec. 21. TRANSFERS

Subdivision 1. Approval Required

Transfers may be made by the commissioners of human services, corrections, jobs and training, health, human rights, and housing finance, the councils listed in sections 11 to 15, and the veterans nursing homes board to salary accounts and unencumbered salary money may be transferred to the next fiscal year in order to avoid layoffs with the advance approval of the commissioner of finance

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and upon notification of the chairs of the health and human services divisions of the senate finance committee and the house appropriations committee. Amounts transferred to fiscal 1993 shall not increase the base funding level for the 1994-1995 appropriation. The commissioners and the board shall not transfer money to or from the object of expenditure "grants and aid" without the written approval of the governor after consulting with the legislative advisory commission, except for transfers in the services for the blind and rehabilitation services programs, which may be made with the approval of the commissioner of finance.

Subd. 2. Transfers of Unencumbered Appropriations

For the biennium ending June 30, 1993, the commissioners of human services, human rights, corrections, health, and jobs and training, the housing finance agency, the councils listed in sections 11 to 15, and the veterans nursing homes board, by direction of the governor after consulting with the legislative advisory commission, may transfer unencumbered appropriation balances and positions among all programs.

Sec. 22. PROJECT LABOR

For the biennium ending June 30, 1993, wages for project labor may be paid by the commissioners of human services and corrections out of repairs and betterment funds if the individual is to be engaged in a construction project or repair project of a short-term and nonrecurring nature. Compensation for project labor shall be based on the prevailing wage rates, as defined in Minnesota Statutes, section 177.42, subdivision 6. Project laborers are excluded from the provisions of Minnesota Statutes, sections 43A.22 to 43A.30, and

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shall not be eligible for state-paid insurance and benefits.

Sec. 23. PROVISIONS

For the biennium ending June 30, 1993, money appropriated to the commissioner of corrections, the commissioner of human services, and the veterans nursing homes board in this act for the purchase of provisions within the item "current expense" must be used solely for that purpose. Money provided and not used for purchase of provisions must be canceled into the fund from which appropriated, except that money provided and not used for the purchase of provisions because of population decreases may be transferred and used for the purchase of medical and hospital supplies with the written approval of the governor after consulting with the legislative advisory commission.

The allowance for food may be adjusted annually according to the United States Department of Labor, Bureau of Labor Statistics publication, producer price index, with the approval of the commissioner of finance. Adjustments for fiscal year 1992 and fiscal year 1993 must be based on the June 1991 and June 1992 producer price index respectively, but the adjustment must be prorated if the wholesale food price index adjustment would require money in excess of this appropriation.

Sec. 24. SALES, LEASES AND TRANSFERS

The commissioner of human services shall not sell, lease, or otherwise transfer the ownership, management, or operation of a state-operated community-based group home or other state operated community facility authorized and funded by the legislature.

Sec. 25. EFFECTIVE DATE

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Section 24 is effective the day following final enactment.

ARTICLE 2

HEALTH DEPARTMENT

Section 1. Minnesota Statutes 1990, section 15.46, is amended to read:

15.46 PREVENTIVE HEALTH SERVICES FOR STATE EMPLOYEES.

The commissioner of the department of employee relations may establish and operate a program of preventive health services for state employees, and shall provide such staff, equipment, and facilities as are necessary therefor. The commissioner shall develop these services in accordance with the accepted practices of and standards for occupational preventive health services in the state of Minnesota. Specific services shall be directed to the work environment and to the health of the employee in relation to the job. The commissioner shall cooperate with the department of health as well as other private and public community agencies providing health, safety, employment, and welfare services. A county may establish and operate a program of preventive health and employee recognition services for county employees and may provide necessary staff, equipment, and facilities and may expend funds as necessary to achieve the objectives of the program.

Sec. 2. Minnesota Statutes 1990, section 103I.235, is amended to read:

103I.235 SALE OF PROPERTY WHERE WELLS ARE LOCATED.

Subdivision 1. **DISCLOSURE OF WELLS TO BUYER.** (a) Before signing an agreement to sell or transfer real property, the seller must disclose in writing to the buyer information about the status and location of all known wells on the property, by delivering to the buyer either a statement by the seller that the seller does not know of any wells on the property, or a disclosure statement indicating the legal description and county, and a map drawn from available information showing the location of each well to the extent practicable. In the disclosure statement, the seller must indicate, for each well, whether the well is in use, not in use, or sealed.

(b) At the time of closing of the sale, the disclosure statement information and the quartile, section, township, and range in which each well is located must be provided on a well disclosure certificate signed by the seller or a person authorized to act on behalf of the seller. ~~A well certificate need not be provided If the closing occurs before November 1, 1990, or~~ the seller does not know of any wells on the property ~~and~~, a well disclosure certificate is not required; however, the deed or other instrument of conveyance ~~contains~~ must contain the statement: "The Seller certifies that the Seller does not know of any wells on the described real property."

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If a deed is given pursuant to a contract for deed, the well disclosure certificate required by this subdivision shall be signed by the buyer or a person authorized to act on behalf of the buyer. If the buyer knows of no wells on the property, a well disclosure certificate is not required; however, the deed or other instrument of conveyance must contain the statement: "The purchaser certifies the purchaser does not know of any wells on the property."

(c) This subdivision does not apply to the sale, exchange, or transfer of real property:

(1) that consists solely of a sale or transfer of severed mineral interests; or

(2) that consists of an individual condominium unit as described in chapters 515 and 515A.

(d) For an area owned in common under chapter 515 or 515A the association or other responsible person must report to the commissioner by January 1, 1992, the location and status of all wells in the common area. The association or other responsible person must notify the commissioner within 30 days of any change in the reported status of wells.

~~(c)~~ (e) If the seller fails to provide a required well disclosure certificate, the buyer, or a person authorized to act on behalf of the buyer, may sign a well disclosure certificate based on the information provided on the disclosure statement required by this section or based on other available information.

~~(d)~~ (f) A county recorder or registrar of titles may not record a deed or other instrument of conveyance dated after October 31, 1990, for which a certificate of value is required under section 272.115, or any deed or other instrument of conveyance dated after October 31, 1990, from a governmental body exempt from the payment of state deed tax, unless the deed or other instrument of conveyance either contains the statement "The Seller certifies that the Seller does not know of any wells on the described real property," or is accompanied by the well disclosure certificate required by this subdivision. The county recorder or registrar of titles shall note on each deed or other instrument of conveyance accompanied by a well disclosure certificate that the well disclosure certificate was received. The well disclosure certificate shall not be filed or recorded in the records maintained by the county recorder or registrar of titles. The county recorder or registrar of titles shall transmit the well disclosure certificate to the commissioner of health within 15 days after receiving the well disclosure certificate. The commissioner shall maintain the well disclosure certificate for at least six years. The commissioner may store the certificate as an electronic image. A copy of that image shall be as valid as the original. The commissioner shall charge the buyer of the property a fee of $10 for the processing of the well disclosure certificate.

~~(e)~~ (g) The commissioner in consultation with county recorders shall prescribe the form for a well disclosure certificate and provide well disclosure certificate forms to county recorders and registrars of titles and other interested persons.

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~~(f)~~ (h) Failure to comply with a requirement of this subdivision does not impair:

(1) the validity of a deed or other instrument of conveyance as between the parties to the deed or instrument or as to any other person who otherwise would be bound by the deed or instrument; or

(2) the record, as notice, of any deed or other instrument of conveyance accepted for filing or recording contrary to the provisions of this subdivision.

Subd. 2. **LIABILITY FOR FAILURE TO DISCLOSE.** Unless the buyer and seller agree to the contrary, in writing, before the closing of the sale, a seller who fails to disclose the existence or known status of a well at the time of sale and knew or had reason to know of the existence or known status of the well, is liable to the buyer for costs relating to sealing of the well and reasonable attorney fees for collection of costs from the seller, if the action is commenced within six years after the date the buyer closed the purchase of the real property where the well is located.

Sec. 3. Minnesota Statutes 1990, section 144.335, subdivision 1, is amended to read:

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

(a) "Patient" means a natural person who has received health care services from a provider for treatment or examination of a medical, psychiatric, or mental condition, the surviving spouse and parents of a deceased patient, or a person the patient designates in writing as a representative. Except for minors who have received health care services pursuant to sections 144.341 to 144.347, in the case of a minor, patient includes a parent or guardian, or a person acting as a parent or guardian in the absence of a parent or guardian.

(b) "Provider" means (1) any person who furnishes health care services and is licensed to furnish the services pursuant to chapter 147, 148, 148B, 150A, 151, or 153; (2) a home care provider licensed under section 144A.46; ~~and~~ (3) a health care facility licensed pursuant to this chapter or chapter 144A; and (4) an unlicensed mental health practitioner regulated pursuant to sections 148B.60 to 148B.71.

Sec. 4. **[144.401] COMMUNITY PREVENTION GRANTS.**

Subdivision 1. **GRANTS MAY BE AWARDED TO COMMUNITY HEALTH BOARDS AND INDIAN RESERVATIONS.** Within the limits of funding provided by the legislature, the federal government, or public or private grants, the commissioner shall award grants to community health boards and the federally recognized Indian reservations to plan, develop, and implement community alcohol and drug use and abuse prevention programs. To be considered for a grant, a health board or Indian reservation must submit an application to the commissioner of health that includes a description of the planning process

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used, a description of community needs and existing resources, a description of the program activities to be implemented with grant money, and a list of the agencies and organizations with whom the board or Indian reservation intends to contract.

Subd. 2. **LOCAL PLANNING REQUIREMENTS.** To be eligible for a prevention grant, a community health board or Indian reservation must conduct a communitywide planning process that allows full participation of all agencies, organizations, and individuals interested in alcohol and drug use and abuse issues. This process must include at least an assessment of community needs, an inventory of existing resources, identification of prevention program activities that will be implemented, and a description of how the program will work collaboratively with programs in existence. A health board may comply with the planning requirements of this subdivision by expanding the community needs assessment process used to develop its community health plan under section 145A.10, subdivision 5.

Subd. 3. **USE OF GRANT MONEY.** Grant money may be used to plan, develop, and implement communitywide primary prevention programs relating to alcohol and other drug use and abuse. Programs may include specific components to address related health risk behaviors involving use of tobacco, poor nutrition, limited exercise or physical activity, and behaviors that create a risk of serious injury. Grantees may contract with other agencies and organizations to implement the program activities identified in the grant application. Special consideration for contracts must be given to local agencies and organizations with previous successful experience conducting alcohol and other drug prevention programs. Grant money must not be used for alcohol and other drug testing, treatment, or law enforcement activities. Grant money must not be used to supplant or replace funding provided from other sources.

Subd. 4. **LOCAL MATCH.** Prevention grant money provided by the commissioner must not exceed 75 percent of the estimated cost of the eligible prevention program activities for the fiscal year for which the grant is awarded. Local funding of the remainder of the costs may be provided from the sources specified in section 145A.13, subdivision 2, paragraph (a).

Subd. 5. **TRANSFER OF FUNDS.** Federal money provided to the commissioner of education for community prevention grants through the federal Drug Free Schools and Communities Act is transferred to the commissioner of health for prevention grants under this section.

Sec. 5. **[144.661] DEFINITIONS.**

Subdivision 1. **APPLICABILITY.** For purposes of sections 144.661 to 144.665, the following terms have the meanings given them.

Subd. 2. **TRAUMATIC BRAIN INJURY.** "Traumatic brain injury" means a sudden insult or damage to the brain or its coverings caused by an external physical force which may produce a diminished or altered state of consciousness and which results in the following disabilities:

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(1) impairment of cognitive or mental abilities;

(2) impairment of physical functioning; or

(3) disturbance of behavioral or emotional functioning.

These disabilities may be temporary or permanent and may result in partial or total loss of function. "Traumatic brain injury" does not include injuries of a degenerative or congenital nature.

Subd. 3. **SPINAL CORD INJURY.** "Spinal cord injury" means an injury that occurs as a result of trauma which may involve spinal vertebral fracture and where the injured person suffers an acute, traumatic lesion of neural elements in the spinal canal, resulting in any degree of temporary or permanent sensory deficit, motor deficit, or bladder or bowel dysfunction. "Spinal cord injury" does not include intervertebral disc disease.

Sec. 6. **[144.662] TRAUMATIC BRAIN INJURY AND SPINAL CORD INJURY REGISTRY; PURPOSE.**

The commissioner of health shall establish and maintain a central registry of persons who sustain traumatic brain injury or spinal cord injury. The purpose of the registry is to:

(1) collect information to facilitate the development of injury prevention, treatment, and rehabilitation programs; and

(2) ensure the provision to persons with traumatic brain injury or spinal cord injury of information regarding appropriate public or private agencies that provide rehabilitative services so that injured persons may obtain needed services to alleviate injuries and avoid secondary problems, such as mental illness and chemical dependency.

Sec. 7. **[144.663] DUTY TO REPORT.**

Subdivision 1. **ESTABLISHMENT OF REPORTING SYSTEM.** The commissioner shall design and establish a reporting system which designates either the treating hospital, medical facility, or physician to report to the department within a reasonable period of time after the identification of a person with traumatic brain injury or spinal cord injury. The consent of the injured person is not required.

Subd. 2. **INFORMATION.** The report must be submitted on forms provided by the department and must include the following information:

(1) the name, age, and residence of the injured person;

(2) the date and cause of the injury;

(3) the initial diagnosis; and

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(4) other information required by the commissioner.

Subd. 3. **REPORTING WITHOUT LIABILITY.** The furnishing of information required by the commissioner shall not subject any person or facility required to report to any action for damages or other relief, provided that the person or facility is acting in good faith.

Sec. 8. **[144.664] DUTIES OF COMMISSIONER.**

Subdivision 1. **STUDIES.** The commissioner shall collect injury incidence information, analyze the information, and conduct special studies regarding traumatic brain injury and spinal cord injury.

Subd. 2. **PROVISION OF DATA.** The commissioner shall provide summary registry data to public and private entities to conduct studies using data collected by the registry. The commissioner may charge a fee under section 13.03, subdivision 3, for all out-of-pocket expenses associated with the provision of data or data analysis.

Subd. 3. **NOTIFICATION.** Within five days of receiving a report of traumatic brain injury or spinal cord injury, the commissioner shall notify the commissioner of jobs and training. The notification shall include the person's name and other identifying information.

Subd. 4. **REVIEW COMMITTEE.** The commissioner shall establish a committee to assist the commissioner in the adoption of rules under subdivision 5 and in the review of registry activities. The committee expires as provided in section 15.059, subdivision 5.

Subd. 5. **RULES.** The commissioner shall adopt rules to administer the registry, collect information, and distribute data. The rules must include, but are not limited to, the following:

(1) the specific ICD-9 procedure codes included in the definitions of "traumatic brain injury" and "spinal cord injury";

(2) the type of data to be reported;

(3) standards for reporting specific types of data;

(4) the persons and facilities required to report and the time period in which reports must be submitted;

(5) criteria relating to the use of registry data by public and private entities engaged in research; and

(6) specification of fees to be charged under section 13.03, subdivision 3, for out-of-pocket expenses.

Sec. 9. **[144.665] TRAUMATIC BRAIN INJURY AND SPINAL CORD INJURY DATA.**

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Data on individuals collected by the commissioner of health under sections 144.662 to 144.664 or provided to the commissioner of jobs and training under section 144.664 are private data on individuals as defined in section 13.02, subdivision 12, and may be used only for the purposes set forth in sections 144.662 to 144.664 in accordance with the rules adopted by the commissioner.

Sec. 10. Minnesota Statutes 1990, section 144A.46, subdivision 1, is amended to read:

Subdivision 1. **LICENSE REQUIRED.** (a) A home care provider may not operate in the state without a current license issued by the commissioner of health.

(b) Within ten days after receiving an application for a license, the commissioner shall acknowledge receipt of the application in writing. The acknowledgment must indicate whether the application appears to be complete or whether additional information is required before the application will be considered complete. Within 90 days after receiving a complete application, the commissioner shall either grant or deny the license. If an applicant is not granted or denied a license within 90 days after submitting a complete application, the license must be deemed granted. An applicant whose license has been deemed granted must provide written notice to the commissioner before providing a home care service.

(c) Each application for a home care provider license, or for a renewal of a license, shall be accompanied by a fee to be set by the commissioner under section 144.122, except that the commissioner shall not charge a licensure fee to a home care provider operated by a statutory or home rule charter city, county, town, or other governmental entity.

Sec. 11. Minnesota Statutes 1990, section 144A.49, is amended to read:

144A.49 **TEMPORARY PROCEDURES.**

For purposes of this section, "home care providers" shall mean the providers described in section 144A.43, subdivision 4, including hospice programs described in section 144A.48. Home care providers are exempt from the licensure requirement in section 144A.46, subdivision 1, until 90 days after the effective date of the licensure rules. Beginning July 1, 1987, no home care provider, as defined in section 144A.43, subdivision 4, except a provider exempt from licensure under section 144A.46, subdivision 2, may provide home care services in this state without registering with the commissioner. A home care provider is registered with the commissioner when the commissioner has received in writing the provider's name; the name of its parent corporation or sponsoring organization, if any; the street address and telephone number of its principal place of business; the street address and telephone number of its principal place of business in Minnesota; the counties in Minnesota in which it may render services; the street address and telephone number of all other offices in Minnesota; and the name, educational background, and ten-year employment history of the per-

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son responsible for the management of the agency. A registration fee must be submitted with the application for registration, except that the commissioner shall not collect a registration fee from a home care provider operated by a statutory or home rule charter city, county, town, or other governmental entity. The fee must be established pursuant to section 144.122 and must be based on a consideration of the following factors: the number of clients served by the home care provider, the number of employees, the number of services offered, and annual revenues of the provider. The registration is effective until 90 days after licensure rules are effective. In order to maintain its registration and provide services in Minnesota, a home care provider must comply with section 144A.44 and comply with requests for information under section 144A.47. A registered home care provider is subject to sections 144A.51 to 144A.54. Registration under this section does not exempt a home care provider from the licensure and other requirements later adopted by the commissioner.

Within 90 days after the effective date of the licensure rules under section 144A.45, the commissioner of health shall issue provisional licenses to all home care providers registered with the department as of that date. The provisional license shall be valid until superseded by a license issued under section 144A.46 or for a period of one year, whichever is shorter. Applications for licensure as a home care provider received on or after the effective date of the home care licensure rules, shall be issued under section 144A.46, subdivision 1.

Sec. 12. Minnesota Statutes 1990, section 144A.51, subdivision 5, is amended to read:

Subd. 5. "Health facility" means a facility or that part of a facility which is required to be licensed pursuant to sections 144.50 to 144.58, ~~and~~ a facility or that part of a facility which is required to be licensed under any law of this state which provides for the licensure of nursing homes, and a residential care home licensed under sections 144B.10 to 144B.17.

Sec. 13. Minnesota Statutes 1990, section 144A.53, subdivision 1, is amended to read:

Subdivision 1. **POWERS.** The director may:

(a) Promulgate by rule, pursuant to chapter 14, and within the limits set forth in subdivision 2, the methods by which complaints against health facilities, health care providers, home care providers, or administrative agencies are to be made, reviewed, investigated, and acted upon; provided, however, that a fee may not be charged for filing a complaint.

(b) Recommend legislation and changes in rules to the state commissioner of health, legislature, governor, administrative agencies or the federal government.

(c) Investigate, upon a complaint or upon initiative of the director, any action or failure to act by a health care provider, home care provider, or a health facility.

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(d) Request and receive access to relevant information, records, incident reports, or documents in the possession of an administrative agency, a health care provider, a home care provider, or a health facility, and issue investigative subpoenas to individuals and facilities for oral information and written information, including privileged information which the director deems necessary for the discharge of responsibilities. For purposes of investigation and securing information to determine violations, the director need not present a release, waiver, or consent of an individual. The identities of patients or residents must be kept private as defined by section 13.02, subdivision 12.

(e) Enter and inspect, at any time, a health facility and be permitted to interview staff; provided that the director shall not unduly interfere with or disturb the provision of care and services within the facility or the activities of a patient or resident unless the patient or resident consents.

(f) Issue a correction order pursuant to section 144.653 or any other law which provides for the issuance of correction orders to health ~~care~~ facilities or home care provider, or under section 144A.45. A facility's refusal to cooperate in providing lawfully requested information may also be grounds for a correction order.

(g) Recommend the certification or decertification of health facilities pursuant to Title XVIII or XIX of the United States Social Security Act.

(h) Assist patients or residents of health facilities in the enforcement of their rights under Minnesota law.

(i) Work with administrative agencies, health facilities, home care providers, and health care providers and organizations representing consumers on programs designed to provide information about health facilities to the public and to health facility residents.

Sec. 14. **[144B.01] DEFINITIONS.**

Subdivision 1. **SCOPE.** As used in sections 144B.01 to 144B.17, the following terms have the meanings given them in this section.

Subd. 2. **ADULT.** "Adult" means a person who has attained the age of 18 years.

Subd. 3. **COMMISSIONER.** "Commissioner" means the commissioner of health or the commissioner's designee.

Subd. 4. **DEPARTMENT.** "Department" means the Minnesota department of health.

Subd. 5. **RESIDENTIAL CARE HOME OR HOME.** "Residential care home" or "home" means an establishment with a minimum of five beds, where adult residents are provided sleeping accommodations and two or more meals per day and where supportive services are provided or offered to all residents by the facility. A "residential care home" does not include:

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(1) a board and lodging establishment licensed under chapter 157 and also licensed by the commissioner of human services under chapter 245A;

(2) a boarding care home or a supervised living facility licensed under chapter 144;

(3) a home care provider licensed under chapter 144A; and

(4) any housing arrangement which consists of apartments containing a separate kitchen or kitchen equipment that will allow residents to prepare meals and where supportive services may be provided, on an individual basis, to residents in their living units either by the management of the residential care home or by home care providers under contract with the home's management.

Subd. 6. **SUPPORTIVE SERVICES.** "Supportive services" means the provision of supervision and minimal assistance with independent living skills. Supportive services include assistance with transportation, arranging for meetings and appointments, arranging for medical and social services, help with laundry, managing money, and personal shopping assistance. In addition, supportive services include, if needed, assistance with walking, grooming, dressing, eating, bathing, toileting, and providing reminders to residents to take medications. Supportive services also include other health-related support services identified by the commissioner in rule.

Sec. 15. **[144B.02] LICENSE REQUIRED.**

No person, partnership, association, or corporation, nor any state, county, or local governmental units, nor any division, department, board, or agency shall establish, operate, conduct, or maintain in the state any residential care home without first obtaining a license as required in sections 144B.01 to 144B.17. No person or entity shall advertise a home providing services required to be licensed under sections 144B.01 to 144B.17 without first obtaining a license. A violation of this section is a misdemeanor punishable by a fine of not more than $300. The commissioner may seek an injunction in the district court against the continuing operation of the unlicensed home. Proceedings for securing an injunction may be brought by the attorney general or by the appropriate county attorney. The sanctions in this section do not restrict other available sanctions.

Sec. 16. **[144B.03] LICENSE APPLICATION.**

Subdivision 1. **LICENSE PROCEDURES.** The commissioner shall by rule establish forms and procedures for processing residential care home license applications. An application for a residential care home license shall include:

(1) the name and address of the licensee and the manager of the home to be licensed;

(2) the address of the home; and

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(3) any other relevant information which the commissioner by rule may determine is necessary to properly evaluate an application for license.

An applicant for licensure which is a corporation shall submit copies of its articles of incorporation and bylaws and any amendments as they occur, together with the names and addresses of its officers and directors. An applicant for licensure which is a foreign corporation shall furnish the commissioner with a copy of its certificate of authority to do business in this state. The application of a corporation, association, or a governmental unit or instrumentality shall be signed by at least two officers or managing agents of that entity.

Subd. 2. **AGENTS IDENTIFIED.** Each application for a residential care home license or for renewal of a residential care home license shall specify one or more individuals or employees as agents:

(1) who shall be responsible for dealing with the commissioner on all matters provided for in sections 144B.01 to 144B.17; and

(2) on whom personal service of all notices and orders shall be made, and who shall be authorized to accept service on behalf of the licensee.

Notwithstanding any law to the contrary, personal service on the designated person or persons named in an application shall be deemed to be service on the licensee, and it shall not be a defense to any action arising, that personal service was not made on each individual. The designation of one or more individuals pursuant to this subdivision shall not affect the legal responsibility of the licensee under sections 144B.01 to 144B.17.

Sec. 17. **[144B.04] FEES.**

Each application for a license to operate a residential care home, or for a renewal of license, shall be accompanied by a fee established by the commissioner according to section 144.122. No fee shall be refunded. The fee established must include an amount necessary to recover, over a five-year period, the commissioner's direct expenditures for adoption of the residential care home rules.

Sec. 18. **[144B.05] QUALIFICATIONS FOR LICENSE.**

Subdivision 1. **COMPLIANCE REQUIRED.** No license shall be issued to a home unless the commissioner of health determines that the home complies with the requirements of this chapter.

Subd. 2. **APPLICATION REQUIRED.** The applicant for a license under sections 144B.01 to 144B.17 must comply with the application requirements specified by section 144B.03.

Subd. 3. **HEALTH; SAFETY STANDARDS.** The home must meet the minimum health, safety, comfort, and well-being standards prescribed by the

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rules of the commissioner with respect to the construction, equipment, maintenance, and operation of a residential care home.

Subd. 4. **LICENSURE CONDITIONS OR LIMITATIONS.** The commissioner may attach to the license any conditions or limitations necessary to assure compliance with the laws or rules governing the operation of the home or to protect the health, safety, comfort, or well-being of the residents. A condition or limitation may be attached to the license when first issued, when renewed, or during the course of the licensure year. The commissioner shall adopt rules governing the procedures for issuing conditions or limitations.

Sec. 19. **[144B.06] LICENSE RENEWAL.**

Unless the license is suspended or revoked according to section 144B.08, a residential care home license is effective for one year from the date of its issuance. The commissioner shall by rule establish forms and procedures for the processing of license renewals. The commissioner shall approve a license renewal application if the home continues to satisfy the requirements, standards, and conditions of sections 144B.01 to 144B.17, and the rules adopted under those sections.

Sec. 20. **[144B.07] TRANSFERABILITY OF LICENSE.**

Subdivision 1. **TRANSFERS PROHIBITED; CHANGE OF OWNERSHIP.** A license shall be issued only for the premise identified in the application for license and may not be transferred or assigned to another party. Prior to any change of licensee of a home, the prospective licensee must apply for a license according to subdivision 2. "Change of licensee" means a transfer of the legal responsibility to operate the home to a different individual or entity.

Subd. 2. **NOTIFICATION.** At least 60 days prior to the final change of license, the prospective licensee shall notify the department of the intended change of licensee and shall file an application for a license. The original licensee shall notify the department of the intended change at least 90 days prior to the change. The original licensee remains responsible for the operation of the home until the date a new license is issued by the department. The original licensee is liable for all penalties assessed against the home and for all violations occurring prior to the transfer of operation. The commissioner may not issue a license to the prospective licensee if, at the time of the requested transfer, there are any uncorrected violations of sections 144B.01 to 144B.17 or rules adopted under those sections unless the commissioner determines that the violations will not create an imminent risk of harm to the residents and that the prospective licensee has submitted an acceptable plan of correction to the commissioner.

Sec. 21. **[144B.08] LICENSE SUSPENSION, REVOCATION, OR REFUSAL TO ISSUE; HEARING; RELICENSING.**

Subdivision 1. **PROCEEDINGS.** The commissioner may institute proceedings to suspend or revoke a residential care home license, or may refuse to grant or renew the license of a residential care home if any action by a licensee or employee of the residential care home:

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(1) violates any of the provisions of sections 144B.01 to 144B.17, or the rules adopted under those sections;

(2) permits, aids, or abets the commission of any illegal act in the residential care home or relating to the operation of the home;

(3) performs any act contrary to the welfare of the residential care home; or

(4) obtains, or attempts to obtain, a license by fraudulent means or misrepresentation.

Subd. 2. **HEARING.** No residential care home license may be suspended or revoked, and renewal may not be denied, without a hearing held as a contested case in accordance with chapter 14. If the individual designated under section 144B.03, subdivision 2, as an agent to accept service on behalf of the licensee has been notified by the commissioner that the home will not receive an initial license or that a license renewal has been denied, the licensee or a legal representative on behalf of the residential care home may request and receive a hearing on the denial. This hearing shall be held as a contested case in accordance with chapter 14.

Subd. 3. **MANDATORY REVOCATION OR REFUSAL TO ISSUE A LICENSE.** Notwithstanding subdivision 2, the commissioner shall revoke or refuse to issue a residential care home license if the applicant, licensee, or manager of the licensed home is convicted of a felony or gross misdemeanor that is punishable by a term of imprisonment of not more than 90 days and that relates to operation of the residential care home or directly affects resident safety or care. The commissioner shall notify the residential care home 30 days before the date of revocation.

Subd. 4. **RELICENSING.** If a residential care home license is revoked, a new application for license may be considered by the commissioner when the conditions upon which revocation was based have been corrected and satisfactory evidence of this fact has been furnished to the commissioner. A new license may be granted after an inspection has been made and the home has been found to comply with all provisions of sections 144B.01 to 144B.17, and the rules adopted under those sections.

Sec. 22. **[144B.09] RULES.**

The commissioner shall establish by rule minimum standards for the construction, maintenance, equipping, and operation of residential care homes. To the extent possible, the rules shall assure the health, safety, comfort, and well-being of residential care home residents. The rules shall include, but not be limited to the following provisions:

(1) the supportive services that can be provided;

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(2) special service permit requirements for medication or other supportive services;

(3) staffing requirements;

(4) training and qualifications of staff;

(5) criteria for admission and continued stay of a resident;

(6) resident rights;

(7) fire safety and physical plant requirements that are based on the size of the home, and the resident's ability to ambulate, taking into consideration the need for differing standards for existing physical plants and for new construction; and

(8) procedures for granting variances or waivers from the rules.

Sec. 23. **[144B.10] INSPECTIONS; ENFORCEMENT.**

Subdivision 1. **ENFORCEMENT.** The department is the exclusive state agency charged with the responsibility and duty of inspecting all homes required to be licensed under sections 144B.01 to 144B.17. The commissioner shall enforce its rules subject only to the authority of the department of public safety respecting the enforcement of fire and safety standards in licensed residential care homes.

Subd. 2. **PERIODIC INSPECTION.** (a) All homes required to be licensed under sections 144B.01 to 144B.17 shall be periodically inspected by the commissioner to ensure compliance with rules and standards. Inspections shall occur at different times throughout the calendar year.

(b) Within the limits of the resources available to the commissioner, the commissioner shall conduct inspections and reinspections with a frequency and in a manner calculated to produce the greatest benefit to residents. In performing this function, the commissioner may devote proportionately more resources to the inspection of those homes in which conditions present the most serious concerns with respect to resident health, safety, comfort, and well-being, including: (1) change in ownership; (2) frequent change in management or staff; (3) complaints about care, safety, or rights; (4) previous inspections or reinspections which have resulted in correction orders related to care, safety, or rights; and (5) indictment of persons involved in ownership or operation of the home for alleged criminal activity.

(c) A home that does not have any of the conditions in paragraph (b) or any other condition established by the commissioner that poses a risk to resident care, safety, or rights shall be inspected once every two years.

Subd. 3. **AUTHORITY.** The commissioner may request and must be given access to relevant information, records, incident reports, or other documents in the possession of a home if the commissioner considers them necessary for the

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discharge of responsibilities. For the purposes of inspections and securing information to determine compliance with the licensure laws and rules, the commissioner need not present a release, waiver, or consent of the individual. The identities of patients or residents must be kept private as defined by section 13.02, subdivision 12.

Subd. 4. **INSPECTIONS WITHOUT NOTICE.** No prior notice shall be given of an inspection or reinspection conducted under this section.

Subd. 5. **CORRECTION ORDERS.** Whenever a duly authorized representative of the commissioner determines that a home is not in compliance with the provisions of this chapter or the rules adopted under it, a correction order shall be issued to the home. The correction order shall state the deficiency, cite the specific law or rule violated, and specify the time allowed for correction.

Subd. 6. **REINSPECTIONS; FINES.** If, upon reinspection, it is found that the home has not corrected deficiencies specified in the correction order, a notice of noncompliance shall be issued stating all deficiencies not corrected. Unless a hearing is requested under subdivision 8, the home shall forfeit to the state, within 15 days after receiving the notice of noncompliance, up to $1,000 for each deficiency not corrected. For each subsequent reinspection, the home may be fined an additional amount for each deficiency which has not been corrected. All forfeitures shall be paid into the general fund. The commissioner shall adopt by rule a schedule of fines applicable for each type of uncorrected deficiency.

Subd. 7. **RECOVERY.** Any unpaid forfeitures may be recovered by the attorney general.

Subd. 8. **HEARINGS.** A licensee is entitled to a hearing on any notice of noncompliance provided that the licensee makes a written request within 15 days after receiving the notice of noncompliance. Failure to request a hearing shall result in the forfeiture of a penalty as determined by the commissioner according to subdivision 6. During the hearing and review process a request for a hearing shall operate as a stay of the payment of any forfeiture provided for in this section. The hearing shall be conducted as a contested case proceeding under the provisions of chapter 14.

Subd. 9. **RECORDS OF INSPECTIONS.** After each inspection or reinspection required or authorized by this section, the commissioner shall, by certified mail, send copies of any correction order or notice of noncompliance to the home. A copy of each correction order and notice of noncompliance shall be kept on file at the home and shall be made available for viewing by any person upon request.

Subd. 10. **POWERS NOT LIMITED.** Nothing in this section shall be construed to limit the powers granted to the commissioner in this chapter.

Sec. 24. **[144B.11] INJUNCTIVE RELIEF; SUBPOENAS.**

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Subdivision 1. **INJUNCTIVE RELIEF.** In addition to any other remedy provided by law, the commissioner may bring an action in the district court in Ramsey or Hennepin county or in the district in which a home is located to enjoin the licensee or an employee of the home from illegally engaging in activities regulated by sections 144B.01 to 144B.17. A temporary restraining order may be granted by the court in the proceeding if continued activity by the licensee or employee would create an imminent risk of harm to a resident of the facility.

Subd. 2. **SUBPOENAS.** In all matters pending before the commissioner under sections 144B.01 to 144B.17, the commissioner shall have the power to issue subpoenas, and to compel the attendance of witnesses and the production of all necessary papers, books, records, documents, and other evidentiary material. Any person failing or refusing to appear or testify regarding any matter about which that person may be lawfully questioned or refusing to produce any papers, books, records, documents, or evidentiary materials in the matter to be heard, after having been required by order of the commissioner or by a subpoena of the commissioner to do so may, upon application by the commissioner to the district court in any district, be ordered by the court to comply with the subpoena or order. The commissioner may issue subpoenas and may administer oaths to witnesses, or take their affirmation. Depositions may be taken within or without the state in the manner provided by law for the taking of depositions in civil actions, with the same fees and mileage and in the same manner as prescribed by law for process issued out of the district court of this state. Fees and mileage and other costs for persons subpoenaed by the commissioner shall be paid in the same manner as for proceedings in district court.

Sec. 25. **[144B.12] PLACEMENT OF A MONITOR.**

Subdivision 1. **AUTHORITY.** The commissioner may place a person to act as a monitor in a residential care home when the commissioner determines that violations of this chapter, or the rules adopted under it, require extended surveillance to enforce compliance or to protect the health, safety, or welfare of the residents.

Subd. 2. **DUTIES OF THE MONITOR.** The monitor shall observe the operation of the home, provide advice to the home on methods of complying with state law and rules, where documented deficiencies for the regulations exist, and periodically shall submit a written report to the commissioner on the ways in which the home meets or fails to meet state rules.

Subd. 3. **SELECTION OF THE MONITOR.** The commissioner may select as monitor an employee of the department or may contract with any other individual to serve as a monitor. The commissioner shall publish a notice in the State Register that requests proposals from individuals who wish to be considered for placement as monitors and that sets forth the criteria for selecting individuals as monitors. The commissioner shall maintain a list of individuals who

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are not employees of the department who are interested in serving as monitors. The commissioner may contract with those individuals determined to be qualified.

Subd. 4. **PAYMENT OF THE MONITOR.** A residential care home in which a monitor is placed shall pay to the department the actual costs associated with the placement, unless the payment would create an undue hardship for the home.

Sec. 26. **[144B.13] FREEDOM FROM ABUSE AND NEGLECT.**

Residents shall be free from abuse and neglect as defined in section 626.557, subdivision 2. The commissioner shall by rule develop procedures for the reporting of alleged incidents of abuse or neglect in residential care homes. The office of health facility complaints shall investigate reports of alleged abuse or neglect according to sections 144A.51 to 144A.54.

Sec. 27. **[144B.14] CESSATION OF OPERATIONS.**

If a residential care home voluntarily plans to cease operations or to curtail operations to the extent that relocation of residents is necessary, the licensee of the home shall notify the commissioner at least 90 days prior to the scheduled cessation or curtailment. The commissioner shall cooperate with and advise the licensee of the home in the resettlement of residents. Failure to comply with this section shall be subject to the issuance of a correction order and fine under section 144B.10.

Sec. 28. **[144B.15] HUMAN SERVICES LICENSURE EXCLUSION.**

Notwithstanding section 245A.03, subdivision 2, board and lodging establishments licensed by the commissioner and registered under section 157.031, subdivision 2, that provide services for five or more persons whose primary diagnosis is mental illness and who have refused a residential program offered by a county agency are exempt from licensure under sections 245A.01 to 245A.16, until one year after the residential care home licensure rules required under sections 144B.01 to 144B.17 are adopted by the commissioner of health. At that time, these establishments shall be licensed under sections 245A.01 to 245A.16, or as residential care homes.

Sec. 29. **[144B.16] TRANSITIONAL PERIOD.**

Except as provided for in section 157.031, subdivision 4, the requirement to obtain a residential care home license is effective as of the effective date of the rules adopted by the commissioner. Until that time, board and lodging establishments that are required to be registered under the provisions of section 157.031 shall continue to meet the requirements contained in that section.

Sec. 30. **[144B.17] ADVISORY WORK GROUP.**

The commissioner shall convene a work group to advise, consult with, and

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make recommendations to the commissioner regarding the development of rules required under sections 144B.01 to 144B.16. The work group must include consumers and providers of the services described in sections 144B.01 to 144B.16 and other interested parties.

Sec. 31. Minnesota Statutes 1990, section 145.924, is amended to read:

145.924 **AIDS PREVENTION GRANTS.**

(a) The commissioner may award grants to boards of health as defined in section 145A.02, subdivision 2, state agencies, state councils, or nonprofit corporations to provide evaluation and counseling services to populations at risk for acquiring human immunodeficiency virus infection, including, but not limited to, minorities, adolescents, intravenous drug users, and homosexual men.

(b) The commissioner may award grants to agencies experienced in providing services to communities of color, for the design of innovative outreach and education programs for targeted groups within the community who may be at risk of acquiring the human immunodeficiency virus infection, including intravenous drug users and their partners, adolescents, gay and bisexual individuals and women. Grants shall be awarded on a request for proposal basis and shall include funds for administrative costs. Priority for grants shall be given to agencies or organizations that have experience in providing service to the particular community which the grantee proposes to serve; that have policymakers representative of the targeted population; that have experience in dealing with issues relating to HIV/AIDS; and that have the capacity to deal effectively with persons of differing sexual orientations. For purposes of this paragraph, the "communities of color" are: the American-Indian community; the Hispanic community; the African-American community; and the Asian-Pacific community.

Sec. 32. Minnesota Statutes 1990, section 145.925, is amended by adding a subdivision to read:

Subd. 9. Notwithstanding any rules to the contrary, including rules proposed in the State Register on April 1, 1991, the commissioner, in allocating grant funds for family planning special projects, shall not limit the total amount of funds that can be allocated to an organization that has submitted applications from more than one region, except that no more than $75,000 may be allocated to any grantee within a single region. For two or more organizations who have submitted a joint application, that limit is $75,000 for each organization. This subdivision does not affect any procedure established in rule for allocating special project money to the different regions. The commissioner shall revise the rules for family planning special project grants so that they conform to the requirements of this subdivision. In adopting these revisions, the commissioner is not subject to the rulemaking provisions of chapter 14, but is bound by section 14.38, subdivision 7.

Sec. 33. Minnesota Statutes 1990, section 148B.01, subdivision 7, is amended to read:

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Subd. 7. ~~REGULATED INDIVIDUAL~~ LICENSEE. "~~Regulated individual~~ Licensee" means a person licensed by the board of social work or the board of marriage and family therapy~~, or required to file with the board of unlicensed mental health service providers~~.

Sec. 34. Minnesota Statutes 1990, section 148B.03, is amended to read:

148B.03 **APPLICABILITY.**

Sections 148B.04 to 148B.17 apply to ~~all of the social work and mental health boards~~ the board of social work and the board of marriage and family therapy, and the ~~regulated individuals~~ licensees within their respective jurisdictions, unless superseded by an inconsistent law that relates specifically to a particular board.

Sec. 35. Minnesota Statutes 1990, section 148B.04, subdivision 3, is amended to read:

Subd. 3. **INFORMATION ON ~~ADVERSE~~ DISCIPLINARY ACTIONS.** If a board imposes disciplinary measures or takes ~~adverse~~ disciplinary action of any kind, the name and business address of the ~~regulated individual~~ licensee, the nature of the misconduct, and the action taken by the board are public data.

Sec. 36. Minnesota Statutes 1990, section 148B.04, subdivision 4, is amended to read:

Subd. 4. **EXCHANGE OF INFORMATION.** The boards shall exchange information with other boards, agencies, or departments within the state, as required under section 214.10, subdivision 8, paragraph (d)~~, and may release information in the reports required under section 148B.02~~.

Sec. 37. Minnesota Statutes 1990, section 148B.05, subdivision 1, is amended to read:

Subdivision 1. ~~ADVERSE~~ DISCIPLINARY **ACTION BY A BOARD.** A suspension, revocation, condition, limitation, qualification, or restriction of ~~a regulated~~ an individual's license~~, filing,~~ or right to practice is in effect pending determination of an appeal unless the court, upon petition and for good cause shown, orders otherwise. The right to provide services is automatically suspended if (1) a guardian of the person of a ~~regulated individual~~ licensee is appointed by order of a probate court pursuant to sections 525.54 to 525.61, for reasons other than the minority of the ~~individual~~ licensee, or (2) the ~~individual~~ licensee is committed by order of a probate court pursuant to chapter 253B or sections 526.09 to 526.11. The right to provide services remains suspended until the ~~individual~~ licensee is restored to capacity by a court and, upon petition by the ~~individual~~ licensee, the suspension is terminated by the board after a hearing. In its discretion, a board may restore and reissue permission to provide services, but as a condition thereof may impose any disciplinary or corrective measure that it might originally have imposed.

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Sec. 38. Minnesota Statutes 1990, section 148B.06, subdivision 1, is amended to read:

Subdivision 1. **CERTIFICATE REQUIRED.** A board may not issue or renew a ~~filing~~ license if the commissioner of revenue notifies the board and the ~~regulated individual~~ licensee or applicant for a license ~~or filing~~ that the ~~individual~~ licensee or applicant owes the state delinquent taxes in the amount of $500 or more. A board may issue or renew a license or filing only if the commissioner of revenue issues a tax clearance certificate and the commissioner of revenue or the ~~individual~~ licensee or applicant forwards a copy of the clearance to the board. The commissioner of revenue may issue a clearance certificate only if the ~~individual~~ licensee or applicant does not owe the state any uncontested delinquent taxes. For purposes of this section, "taxes" means all taxes payable to the commissioner of revenue, including penalties and interest due on those taxes. "Delinquent taxes" do not include a tax liability if (i) an administrative or court action that contests the amount or validity of the liability has been filed or served, (ii) the appeal period to contest the tax liability has not expired, or (iii) the ~~regulated individual~~ licensee or applicant has entered into a payment agreement to pay the liability and is current with the payments.

Sec. 39. Minnesota Statutes 1990, section 148B.06, subdivision 3, is amended to read:

Subd. 3. **INFORMATION REQUIRED.** The boards shall require all ~~regulated individuals~~ licensees or applicants to provide their social security number and Minnesota business identification number on all license ~~or filing~~ applications. Upon request of the commissioner of revenue, the board of social work and the board of marriage and family therapy must provide to the commissioner of revenue a list of all ~~regulated individuals~~ licensees and applicants, including the name and address, social security number, and business identification number. The commissioner of revenue may request a list of the ~~individuals~~ licensees and applicants no more than once each calendar year.

Sec. 40. Minnesota Statutes 1990, section 148B.07, is amended to read:

148B.07 **REPORTING OBLIGATIONS.**

Subdivision 1. **PERMISSION TO REPORT.** A person who has knowledge of any conduct constituting grounds for ~~discipline or adverse~~ disciplinary action relating to licensure or ~~filing~~ unlicensed practice under this chapter may report the violation to the appropriate board.

Subd. 2. **INSTITUTIONS.** A state agency, political subdivision, agency of a local unit of government, private agency, hospital, clinic, prepaid medical plan, or other health care institution or organization located in this state shall report to the appropriate board any action taken by the agency, institution, or organization or any of its administrators or medical or other committees to revoke, suspend, restrict, or condition a ~~regulated individual's~~ licensee's privilege to practice or treat patients or clients in the institution, or as part of the

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organization, any denial of privileges, or any other ~~adverse action or~~ disciplinary action for conduct that might constitute grounds for ~~adverse action or~~ disciplinary action by a board under this chapter. The institution or organization shall also report the resignation of any ~~regulated individuals~~ licensees prior to the conclusion of any disciplinary ~~or adverse~~ action proceeding for conduct that might constitute grounds for disciplinary ~~or adverse~~ action under this chapter, or prior to the commencement of formal charges but after the ~~individual~~ licensee had knowledge that formal charges were contemplated or in preparation.

Subd. 3. **PROFESSIONAL SOCIETIES.** A state or local professional society for ~~regulated individuals~~ licensees shall report to the appropriate board any termination, revocation, or suspension of membership or any other disciplinary ~~or adverse~~ action taken against a ~~regulated individual~~ licensee. If the society has received a complaint that might be grounds for discipline under this chapter against a member on which it has not taken any disciplinary ~~or adverse~~ action, the society shall report the complaint and the reason why it has not taken action on it or shall direct the complainant to the appropriate board.

Subd. 4. ~~**REGULATED INDIVIDUALS AND**~~ **LICENSED PROFESSIONALS.** A ~~regulated individual or a~~ licensed health professional shall report to the appropriate board personal knowledge of any conduct that the ~~regulated individual or~~ licensed health professional reasonably believes constitutes grounds for disciplinary ~~or adverse~~ action under this chapter by any ~~regulated individual~~ licensee, including conduct indicating that the ~~individual~~ licensee may be medically incompetent, or may be medically or physically unable to engage safely in the provision of services. If the information was obtained in the course of a client relationship, the client is another ~~regulated individual~~ licensee, and the treating individual successfully counsels the other individual to limit or withdraw from practice to the extent required by the impairment, the board may deem this limitation of or withdrawal from practice to be sufficient disciplinary action.

Subd. 5. **INSURERS.** Four times each year as prescribed by a board, each insurer authorized to sell insurance described in section 60A.06, subdivision 1, clause (13), and providing professional liability insurance to ~~regulated individuals~~ licensees, or the medical joint underwriting association under chapter 62F, shall submit to the appropriate board a report concerning the ~~regulated individuals~~ licensees against whom malpractice settlements or awards have been made to the plaintiff. The report must contain at least the following information:

(1) the total number of malpractice settlements or awards made ~~to the plaintiff~~;

(2) the date the malpractice settlements or awards ~~to the plaintiff~~ were made;

(3) the allegations contained in the claim or complaint leading to the settlements or awards made ~~to the plaintiff~~;

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(4) the dollar amount of each malpractice settlement or award;

(5) the regular address of the practice of the ~~regulated individual~~ licensee against whom an award was made or with whom a settlement was made; and

(6) the name of the ~~regulated individual~~ licensee against whom an award was made or with whom a settlement was made.

The insurance company shall, in addition to the above information, report to the board any information it possesses that tends to substantiate a charge that a ~~regulated individual~~ licensee may have engaged in conduct violating this chapter.

Subd. 6. **COURTS.** The court administrator of district court or any other court of competent jurisdiction shall report to the board any judgment or other determination of the court that adjudges or includes a finding that a ~~regulated individual~~ licensee is mentally ill, mentally incompetent, guilty of a felony, guilty of a violation of federal or state narcotics laws or controlled substances act, or guilty of an abuse or fraud under Medicare or Medicaid; or that appoints a guardian of the ~~regulated individual~~ licensee pursuant to sections 525.54 to 525.61 or commits a ~~regulated individual~~ licensee pursuant to chapter 253B or sections 526.09 to 526.11.

Subd. 7. **SELF-REPORTING.** A ~~regulated individual~~ licensee shall report to the appropriate board or to the office of mental health practice any personal action that would require that a report be filed ~~with the board~~ by any person, health care facility, business, or organization pursuant to subdivisions 2 to 6.

Subd. 8. **DEADLINES; FORMS.** Reports required by subdivisions 2 to 7 must be submitted not later than 30 days after the occurrence of the reportable event or transaction. The boards and the office of mental health practice may provide forms for the submission of reports required by this section, may require that reports be submitted on the forms provided, and may adopt rules necessary to assure prompt and accurate reporting.

Subd. 9. **SUBPOENAS.** The boards and the office of mental health practice may issue subpoenas for the production of any reports required by subdivisions 2 to 7 or any related documents.

Sec. 41. Minnesota Statutes 1990, section 148B.08, is amended to read:

148B.08 **IMMUNITY.**

Subdivision 1. **REPORTING.** Any person, health care facility, business, or organization is immune from civil liability or criminal prosecution for submitting a report ~~to a board~~ under section 148B.07 or for otherwise reporting ~~to the board~~ violations or alleged violations of this chapter. All the reports are confidential and absolutely privileged communications.

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Subd. 2. **INVESTIGATION.** Members of the boards of social work~~,~~ and marriage and family therapy~~, and unlicensed mental health professionals,~~ and persons employed by the ~~office~~ boards or engaged in the investigation of violations and in the preparation and management of charges of violations of this chapter on behalf of the ~~office or~~ boards, are immune from civil liability and criminal prosecution for any actions, transactions, or publications in the execution of, or relating to, their duties under this chapter.

Sec. 42. Minnesota Statutes 1990, section 148B.12, is amended to read:

148B.12 **MALPRACTICE HISTORY.**

Subdivision 1. **SUBMISSION.** ~~Regulated individuals~~ Licensees or applicants for licensure who have previously practiced in another state shall submit with their ~~filing or~~ application the following information:

(1) number, date, and disposition of any malpractice settlement or award made ~~to the plaintiff or other claimant~~ relating to the quality of services provided by the ~~regulated individual~~ licensee or applicant; and

(2) number, date, and disposition of any civil litigations or arbitrations relating to the quality of services provided by the ~~regulated individual~~ licensee or applicant in which the party complaining against the ~~individual~~ licensee or applicant prevailed or otherwise received a favorable decision or order.

Subd. 2. **BOARD ACTION.** The board shall give due consideration to the information submitted under this section. A ~~regulated individual~~ licensee or applicant for licensure who willfully submits incorrect information is subject to disciplinary action under this chapter.

Sec. 43. Minnesota Statutes 1990, section 148B.13, is amended to read:

148B.13 **PUBLICATION OF DISCIPLINARY ACTIONS.**

At least annually, each board shall publish and release to the public a description of all disciplinary measures or ~~adverse~~ actions taken by the board. The publication must include, for each disciplinary measure or ~~adverse~~ action taken, the name and business address of the ~~regulated individual~~ licensee, the nature of the misconduct, and the measure or action taken by the board.

Sec. 44. Minnesota Statutes 1990, section 148B.17, is amended to read:

148B.17 **FEES.**

Each board shall by rule establish fees, including late fees, for licenses ~~or filings~~ and renewals so that the total fees collected by the board will as closely as possible equal anticipated expenditures during the fiscal biennium, as provided in section 16A.128~~, plus the prorated costs of the office of social work and mental health boards~~. Fees must be credited to accounts in the special revenue fund.

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Sec. 45. **[148B.175] COMPLAINTS; INVESTIGATION AND HEARING.**

Subdivision 1. **DISCOVERY; SUBPOENAS.** In all matters relating to its lawful regulatory activities, a board may issue subpoenas and compel the attendance of witnesses and the production of all necessary papers, books, records, documents, and other evidentiary material. Any person failing or refusing to appear to testify regarding any matter about which the person may be lawfully questioned or failing to produce any papers, books, records, documents, or other evidentiary materials in the matter to be heard, after having been required by order of the board or by a subpoena of the board to do so may, upon application to the district court in any district, be ordered to comply with the subpoena or order. Any board member may administer oaths to witnesses or take their affirmation. Depositions may be taken within or without the state in the manner provided by law for the taking of depositions in civil actions. A subpoena or other process or paper may be served upon a person it names anywhere within the state by any officer authorized to serve subpoenas or other process or paper in civil actions in the same manner as prescribed by law for service of process issued out of the district court of this state.

Subd. 2. **CLASSIFICATION OF DATA.** The board shall maintain any records, other than client records, obtained as part of an investigation, as investigative data under section 13.41. Client records are classified as private under chapter 13, and must be protected as such in the records of the board and in administrative or judicial proceeding unless the client authorizes the board in writing to make public the identity of the client or a portion or all of the client's records.

Subd. 3. **EXAMINATION.** If a board has probable cause to believe that an applicant or licensee has engaged in conduct prohibited by section 214.10, it may issue an order directing the applicant or licensee to submit to a mental or physical examination or chemical dependency evaluation. For the purpose of this section, every applicant or licensee is considered to have consented to submit to a mental or physical examination or chemical dependency evaluation when ordered to do so in writing by the board and to have waived all objections to the admissibility of the examiner's or evaluator's testimony or reports on the grounds that the testimony or reports constitute a privileged communication.

Subd. 4. **FAILURE TO SUBMIT TO AN EXAMINATION.** Failure to submit to an examination or evaluation when ordered, unless the failure was due to circumstances beyond the control of the applicant or licensee, constitutes an admission that the applicant or licensee violated section 214.10, based on the factual specifications in the examination or evaluation order, and may result in an application being denied or a default and final disciplinary order being entered after a contested case hearing. The only issues to be determined at the hearing are whether the designated board member had probable cause to issue the examination or evaluation order and whether the failure to submit was due to circumstances beyond the control of the applicant or licensee. Neither the record of a proceeding under this subdivision nor the orders entered by the

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board are admissible, subject to subpoena, or to be used against the applicant or licensee in a proceeding in which the board is not a party or decision maker. Information obtained under this subdivision is classified as private under chapter 13 and the orders issued by a board as the result of an applicant or licensee to submit to an examination or evaluation are classified as public.

Subd. 5. **ACCESS TO DATA AND RECORDS.** In addition to ordering a physical or mental examination or chemical dependency evaluation and notwithstanding section 13.42, 144.651, 595.02, or any other law limiting access to medical or other health records, a board may obtain data and health records relating to an applicant or licensee without the applicant's or licensee's consent if the board has probable cause to believe that an applicant or licensee has engaged in conduct prohibited by section 214.10. An applicant, licensee, insurance company, health care facility, provider as defined in section 144.335, subdivision 1, paragraph (b), or government agency shall comply with any written request of the board under this subdivision and is not liable in any action for damages for releasing the data requested by the board if the data are released in accordance with a written request made under this subdivision, unless the information is false and the person or entity giving the information knew or had reason to know that the information was false. Information on individuals obtained under this section is investigative data under section 13.41.

Subd. 6. **FORMS OF DISCIPLINARY ACTION.** When grounds for disciplinary action exist under section 214.10, or statute or rule enforced by the board, it may take one or more of the following disciplinary actions:

(1) deny the right to practice;

(2) revoke the right to practice;

(3) suspend the right to practice;

(4) impose limitations on the practice of the licensee;

(5) impose conditions on the practice of the licensee;

(6) impose a civil penalty not exceeding $10,000 for each separate violation, the amount of the civil penalty to be fixed so as to deprive the licensee of any economic advantage gained by reason of the violation charged, or to discourage repeated violations;

(7) impose a fee to reimburse the board for all or part of the cost of the proceedings resulting in disciplinary action including, but not limited to, the amount paid by the board for services from the office of administrative hearings, attorney fees, court reporters, witnesses, reproduction of records, board members' per diem compensation, board staff time, and expense incurred by board members and staff;

(8) censure or reprimand the licensee; or

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(9) take any other action justified by the facts of the case.

Subd. 7. **TEMPORARY SUSPENSION.** In addition to any other remedy provided by law, the board may, acting through its designated board member and without a hearing, temporarily suspend the right of a licensee to practice if the board member finds that the licensee has violated a statute or rule that the board is empowered to enforce and that continued practice by the licensee would create a serious risk of harm to others. The suspension is in effect upon service of a written order on the licensee specifying the statute or rule violated. The order remains in effect until the board issues a final order in the matter after a hearing or upon agreement between the board and the licensee. Service of the order is effective if the order is served on the licensee or counsel of record personally or by first class mail to the most recent address provided to the board for the licensee or the counsel of record. Within ten days of service of the order, the board shall hold a hearing before its own members on the sole issue of whether there is a reasonable basis to continue, modify, or lift the suspension. Evidence presented by the board or licensee may be in affidavit form only. The licensee or the counsel of record may appear for oral argument. Within five working days after the hearing, the board shall issue its order and, if the suspension is continued, schedule a contested case hearing within 45 days after issuance of the order. The administrative law judge shall issue a report within 30 days after closing of the contested case hearing record. The board shall issue a final order within 30 days after receipt of that report.

Subd. 8. **AUTOMATIC SUSPENSION.** The right to practice is automatically suspended if (1) a guardian of a licensee is appointed by order of a probate court under sections 525.54 to 525.61, or (2) the licensee is committed by order of a probate court pursuant to chapter 253B or sections 526.09 to 526.11. The right to practice remains suspended until the licensee is restored to capacity by a court and, upon petition by the licensee, the suspension is terminated by the board after a hearing or upon agreement between the board and the licensee.

Subd. 9. **ADDITIONAL REMEDIES.** The board may in its own name issue a cease and desist order to stop a person from engaging in an unauthorized practice or violating or threatening to violate a statute, rule, or order which the board has issued or is empowered to enforce. The cease and desist order must state the reason for its issuance and give notice of the person's right to request a hearing under sections 14.57 to 14.62. If, within 15 days of service of the order, the subject of the order fails to request a hearing in writing, the order is the final order of the board and is not reviewable by a court or agency.

A hearing must be initiated by the board not later than 30 days from the date of the board's receipt of a written hearing request. Within 30 days of receipt of the administrative law judge's report, the board shall issue a final order modifying, vacating, or making permanent the cease and desist order as the facts require. The final order remains in effect until modified or vacated by the board.

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When a request for a stay accompanies a timely hearing request, the board may, in its discretion, grant the stay. If the board does not grant a requested stay, it shall refer the request to the office of administrative hearings within three working days of receipt of the request. Within ten days after receiving the request from the board, an administrative law judge shall issue a recommendation to grant or deny the stay. The board shall grant or deny the stay within five days of receiving the administrative law judge's recommendation.

In the event of noncompliance with a cease and desist order, the board may institute a proceeding in Ramsey county district court to obtain injunctive relief or other appropriate relief, including a civil penalty payable to the board not exceeding $10,000 for each separate violation.

Subd. 10. **INJUNCTIVE RELIEF.** In addition to any other remedy provided by law, including the issuance of a cease and desist order under subdivision 1, a board may in its own name bring an action in Ramsey county district court for injunctive relief to restrain any unauthorized practice or violation or threatened violation of any statute, rule, or order which the board is empowered to regulate, enforce, or issue. A temporary restraining order must be granted in the proceeding if continued activity by a licensee would create a serious risk of harm to others. The board need not show irreparable harm.

Subd. 11. **ADDITIONAL POWERS.** The issuance of a cease and desist order or injunctive relief granted under this section does not relieve a licensee from criminal prosecution by a competent authority or from disciplinary action by the board. Nothing in this section limits the board's authority to seek injunctive relief under section 214.11.

Sec. 46. Minnesota Statutes 1990, section 148B.18, subdivision 10, is amended to read:

Subd. 10. **QUALIFIED MENTAL HEALTH PROFESSIONAL.** "Qualified mental health professional" means a psychiatrist, board-certified or eligible for board certification, and licensed under chapter 147; a psychologist licensed under sections 148.88 to 148.98; an independent clinical social worker who has the qualifications in section 148B.21, subdivision 6; ~~or~~ a psychiatric registered nurse with a master's degree from an accredited school of nursing, licensed under section 148.211, with at least two years of postmaster's supervised experience in direct clinical practice; or a marriage and family therapist who is licensed under sections 148B.29 to 148B.39.

Sec. 47. Minnesota Statutes 1990, section 148B.23, subdivision 1, is amended to read:

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

(1) for a licensed social worker, if the board determines that the applicant

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has received a baccalaureate degree from an accredited program of social work, or that the applicant has at least a baccalaureate degree from an accredited college or university and two years in full-time employment or 4,000 hours of experience in the supervised practice of social work within the five years before July 1, 1989, or within a longer time period as specified by the board;

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

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

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

(b) During the period beginning August 1, 1991, and ending September 30, 1991, the board shall issue a license without examination to an applicant who was licensed as a school social worker by the board of teaching between July 1, 1987, and July 1, 1989. To qualify for a license under this paragraph, the applicant must:

(1) provide evidence, as determined by the board, of meeting all other licensure requirements under paragraph (a);

(2) provide evidence, as determined by the board, of practicing social work between July 1, 1987, and July 1, 1989, at the level of licensure being applied for;

(3) provide verification, on a form provided by the board, that the license held with the board of teaching was in good standing while licensed under their jurisdiction; and

(4) provide a completed application, including all information required in this paragraph, by September 30, 1991.

(c) The board shall allow an applicant who became licensed as a school

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social worker by the board of teaching between July 1, 1989, and July 1, 1990, to take the social work licensure examination and, upon passing the examination, to receive a license. To qualify for a license under this paragraph, the applicant must:

(1) take and pass one of the next two regularly scheduled social work licensure examinations administered after the effective date of this paragraph;

(2) provide verification, on a form provided by the board, that the license held with the board of teaching is in good standing; and

(3) provide a completed application, including all information required in this paragraph, by the board's examination application deadline for the February 1992 licensure examination.

Sec. 48. Minnesota Statutes 1990, section 148B.33, subdivision 1, is amended to read:

Subdivision 1. **DOCUMENTARY EVIDENCE OF QUALIFICATIONS.** An applicant for a license shall furnish evidence that the applicant:

(1) has attained the age of majority;

(2) is of good moral character;

(3) is a citizen of the United States, or is lawfully entitled to remain and work in the United States;

(4) has at least two years of supervised postgraduate experience in marriage and family ~~counseling~~ therapy satisfactory to the board;

(5)(i) has completed a master's or doctoral degree in marriage and family therapy from a program in a regionally accredited educational institution or from a program accredited by the commissioner on accreditations for marriage and family therapy education of the American association for marriage and family ~~therapists~~ therapy; or (ii) has completed a master's or doctoral degree from a regionally accredited educational institution in a related field for which the course work is considered by the board to be equivalent to that provided in clause (5)(i);

(6) will agree to conduct all professional activities as a licensed marriage and family ~~counselor~~ therapist in accordance with a code of ethics for marriage and family therapists to be adopted by the board; and

(7) has passed an examination approved by the board by rule.

Sec. 49. Minnesota Statutes 1990, section 148B.38, subdivision 3, is amended to read:

Subd. 3. **FEDERALLY RECOGNIZED TRIBES AND PRIVATE NONPROFIT AGENCIES WITH A MINORITY FOCUS.** The licensure of marriage

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and family therapists who are employed by federally recognized tribes and private nonprofit agency marriage and family therapists, whose primary service focus addresses ethnic minority populations and who are themselves members of ethnic minority populations within said agencies, shall be voluntary for a period of five years at which time the legislature will review the need for mandatory licensure for all marriage and family therapists under this subdivision.

Sec. 50. **[148B.60] DEFINITIONS.**

Subdivision 1. **TERMS.** As used in sections 148B.60 to 148B.71, the following terms have the meanings given them in this section.

Subd. 2. **OFFICE OF MENTAL HEALTH PRACTICE OR OFFICE.** "Office of mental health practice" or "office" means the office of mental health practice established in section 148B.61.

Subd. 3. **UNLICENSED MENTAL HEALTH PRACTITIONER OR PRACTITIONER.** "Unlicensed mental health practitioner" or "practitioner" means a person who provides or purports to provide, for remuneration, mental health services as defined in subdivision 4. It does not include persons licensed by the board of medical examiners under chapter 147; the board of nursing under sections 148.171 to 148.285; the board of psychology under sections 148.88 to 148.98; the board of social work under sections 148B.18 to 148B.28; the board of marriage and family therapy under sections 148B.29 to 148B.39; or another licensing board if the person is practicing within the scope of the license; or members of the clergy who are providing pastoral services in the context of performing and fulfilling the salaried duties and obligations required of a member of the clergy by a religious congregation. For the purposes of complaint investigation or disciplinary action relating to an individual practitioner, the term includes: (1) hospital and nursing home social workers exempt from licensure by the board of social work under section 148B.28, subdivision 6, including hospital and nursing home social workers acting within the scope of their employment by the hospital or nursing home; (2) persons employed by a program licensed by the commissioner of human services who are acting as mental health practitioners within the scope of their employment; (3) persons employed by a program licensed by the commissioner of human services who are providing chemical dependency counseling services; persons who are providing chemical dependency counseling services in private practice; and (4) clergy who are providing mental health services that are equivalent to those defined in subdivision 4.

Subd. 4. **MENTAL HEALTH SERVICES.** "Mental health services" means psychotherapy and the professional assessment, treatment, or counseling of another person for a cognitive, behavioral, emotional, social, or mental condition, symptom, or dysfunction, including intrapersonal or interpersonal dysfunctions. The term does not include pastoral services provided by members of the clergy to members of a religious congregation in the context of performing and fulfilling the salaried duties and obligations required of a member of the clergy by that religious congregation.

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Subd. 5. **MENTAL HEALTH CLIENT OR CLIENT.** "Mental health client" or "client" means a person who receives or pays for the services of a mental health practitioner.

Subd. 6. **MENTAL HEALTH PRACTITIONER ADVISORY COUNCIL OR COUNCIL.** "Mental health practitioner advisory council" or "council" means the mental health practitioner advisory council established in section 148B.62.

Subd. 7. **COMMISSIONER.** "Commissioner" means the commissioner of health or the commissioner's designee.

Subd. 8. **DISCIPLINARY ACTION.** "Disciplinary action" means an adverse action taken by the commissioner against an unlicensed mental health practitioner relating to the person's right to provide mental health services.

Sec. 51. **[148B.61] OFFICE OF MENTAL HEALTH PRACTICE.**

Subdivision 1. **CREATION.** The office of mental health practice is created in the department of health to investigate complaints and take and enforce disciplinary actions against all unlicensed mental health practitioners for violations of prohibited conduct, as defined in section 148B.68. The office shall also serve as a clearinghouse on mental health services and both licensed and unlicensed mental health professionals, through the dissemination of objective information to consumers and through the development and performance of public education activities, including outreach, regarding the provision of mental health services and both licensed and unlicensed mental health professionals who provide these services.

Subd. 2. **RULEMAKING.** The commissioner of health shall adopt rules necessary to implement, administer, or enforce provisions of sections 148B.60 to 148B.71 pursuant to chapter 14. The commissioner may not adopt rules that restrict or prohibit persons from providing mental health services on the basis of education, training, experience, or supervision. The commissioner may consult with the mental health practitioner advisory council, established in section 148B.62, during the rulemaking process. Rules adopted pursuant to this authority are exempt from section 14.115.

Subd. 3. **EMERGENCY RULES.** The commissioner may adopt emergency rules under sections 14.29 to 14.385 to carry out the provisions of sections 148B.60 to 148B.71.

Sec. 52. **[148B.62] MENTAL HEALTH PRACTITIONER ADVISORY COUNCIL.**

Subdivision 1. **CREATION.** The mental health practitioner advisory council is created to serve in an advisory capacity to the commissioner of health and staff of the office of mental health practice in the development of rules and procedures necessary to enforce sections 148B.60 to 148B.71 and in the enforcement of section 148B.68 on prohibited conduct and sections 148B.69 and

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148B.70 on disciplinary action and remedies for violations of prohibited conduct. The council shall also serve in an advisory capacity in the development of public education materials and activities, including outreach activities.

Subd. 2. **COMPOSITION.** The advisory council consists of nine members, including six individuals who are providing mental health services and three public members, as defined in section 214.02. The initial appointments of the first members of the council must include at least four members who were members of the board of unlicensed mental health service providers on June 30, 1991.

Subd. 3. **APPOINTMENT.** Members of the advisory council are appointed by the commissioner of health and serve pursuant to requirements under section 15.059. Members are appointed to serve terms of four years.

Subd. 4. **COUNCIL ADMINISTRATION.** Members of the council shall elect from among its members a chair and a vice-chair to serve for one year or until a successor is elected and qualifies.

Sec. 53. **[148B.63] REPORTING OBLIGATIONS.**

Subdivision 1. **PERMISSION TO REPORT.** A person who has knowledge of any conduct constituting grounds for disciplinary action relating to unlicensed practice under this chapter may report the violation to the office of mental health practice.

Subd. 2. **INSTITUTIONS.** A state agency, political subdivision, agency of a local unit of government, private agency, hospital, clinic, prepaid medical plan, or other health care institution or organization located in this state shall report to the office of mental health practice any action taken by the agency, institution, or organization or any of its administrators or medical or other committees to revoke, suspend, restrict, or condition an unlicensed mental health practitioner's privilege to practice or treat patients or clients in the institution, or as part of the organization, any denial of privileges, or any other disciplinary action for conduct that might constitute grounds for disciplinary action by the office under this chapter. The institution, organization, or governmental entity shall also report the resignation of any unlicensed mental health practitioners prior to the conclusion of any disciplinary action proceeding for conduct that might constitute grounds for disciplinary action under this chapter, or prior to the commencement of formal charges but after the practitioner had knowledge that formal charges were contemplated or were being prepared.

Subd. 3. **PROFESSIONAL SOCIETIES.** A state or local professional society for unlicensed mental health practitioners shall report to the office of mental health practice any termination, revocation, or suspension of membership or any other disciplinary action taken against an unlicensed practitioner. If the society has received a complaint that might be grounds for discipline under this chapter against a member on which it has not taken any disciplinary action, the society shall report the complaint and the reason why it has not taken action on it or shall direct the complainant to the office of mental health practice.

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Subd. 4. **LICENSED PROFESSIONALS.** A licensed health professional shall report to the office of mental health practice personal knowledge of any conduct that the licensed health professional reasonably believes constitutes grounds for disciplinary action under this chapter by any unlicensed mental health practitioner, including conduct indicating that the individual may be medically incompetent, or may be medically or physically unable to engage safely in the provision of services. If the information was obtained in the course of a client relationship, the client is an unlicensed mental health practitioner, and the treating individual successfully counsels the other practitioner to limit or withdraw from practice to the extent required by the impairment, the office may deem this limitation of or withdrawal from practice to be sufficient disciplinary action.

Subd. 5. **INSURERS.** Four times each year as prescribed by the commissioner, each insurer authorized to sell insurance described in section 60A.06, subdivision 1, clause (13), and providing professional liability insurance to unlicensed mental health practitioners or the medical joint underwriting association under chapter 62F, shall submit to the office of mental health practice a report concerning the unlicensed mental health practitioners against whom malpractice settlements or awards have been made. The response must contain at least the following information:

(1) the total number of malpractice settlements or awards made;

(2) the date the malpractice settlements or awards were made;

(3) the allegations contained in the claim or complaint leading to the settlements or awards made;

(4) the dollar amount of each malpractice settlement or award;

(5) the regular address of the practice of the unlicensed practitioner against whom an award was made or with whom a settlement was made; and

(6) the name of the unlicensed practitioner against whom an award was made or with whom a settlement was made.

The insurance company shall, in addition to the above information, submit to the office of mental health practice any information, records, and files, including clients' charts and records, it possesses that tend to substantiate a charge that an unlicensed mental health practitioner may have engaged in conduct violating this chapter.

Subd. 6. **COURTS.** The court administrator of district court or any other court of competent jurisdiction shall report to the office of mental health practice any judgment or other determination of the court that adjudges or includes a finding that an unlicensed mental health practitioner is mentally ill, mentally incompetent, guilty of a felony, guilty of a violation of federal or state narcotics

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laws or controlled substances act, or guilty of abuse or fraud under Medicare or Medicaid; or that appoints a guardian of the unlicensed mental health practitioner under sections 525.54 to 525.61 or commits an unlicensed mental practitioner under chapter 253B or sections 526.09 to 526.11.

Subd. 7. **SELF-REPORTING.** An unlicensed mental health practitioner shall report to the office of mental health practice any personal action that would require that a report be filed with the office by any person, health care facility, business, or organization pursuant to subdivisions 2 to 5. The practitioner shall also report the revocation, suspension, restriction, limitation, or other disciplinary action against the mental health practitioner's license, certificate, registration, or right of practice in another state or jurisdiction, for offenses that would be subject to disciplinary action in this state and also report the filing of charges regarding the practitioner's license, certificate, registration, or right of practice in another state or jurisdiction.

Subd. 8. **DEADLINES; FORMS.** Reports required by subdivisions 2 to 7 must be submitted not later than 30 days after the reporter learns of the occurrence of the reportable event or transaction. The office of mental health practice may provide forms for the submission of reports required by this section, may require that reports be submitted on the forms provided, and may adopt rules necessary to assure prompt and accurate reporting.

Sec. 54. **[148B.64] IMMUNITY.**

Subdivision 1. **REPORTING.** Any person, health care facility, business, or organization is immune from civil liability or criminal prosecution for submitting a report to the office of mental health practice, for otherwise reporting to the office violations or alleged violations of this chapter, or for cooperating with an investigation of a report, except as provided in this subdivision. Any person who knowingly or recklessly makes a false report is liable in a civil suit for any actual damages suffered by the person or persons so reported and for any punitive damages set by the court or jury. An action requires clear and convincing evidence that the defendant made the statement with knowledge of falsity or with reckless disregard for its truth or falsity. The report or statement or any statement made in cooperation with an investigation or as part of a disciplinary proceeding is privileged except in an action brought under this subdivision.

Subd. 2. **INVESTIGATION.** The commissioner and employees of the department of health, members of the advisory council on mental health practice, and other persons engaged in the investigation of violations and in the preparation, presentation, and management of and testimony pertaining to charges of violations of this chapter are absolutely immune from civil liability and criminal prosecution for any actions, transactions, or publications in the execution of, or relating to, their duties under this chapter.

Sec. 55. **[148B.65] DISCIPLINARY RECORD ON JUDICIAL REVIEW.**

Upon judicial review of any disciplinary action taken by the commissioner under this chapter, the reviewing court shall seal the administrative record,

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except for the commissioner's final decision, and shall not make the administrative record available to the public.

Sec. 56. **[148B.66] PROFESSIONAL COOPERATION.**

Subdivision 1. **COOPERATION.** An unlicensed mental health practitioner who is the subject of an investigation, or who is questioned in connection with an investigation, by or on behalf of the office of mental health practice shall cooperate fully with the investigation. Cooperation includes responding fully and promptly to any question raised by or on behalf of the office relating to the subject of the investigation and providing copies of client records, as reasonably requested by the office, to assist the office in its investigation, and appearing at conferences or hearings scheduled by the commissioner. If the office does not have a written consent from a client permitting access to the client's records, the unlicensed mental health practitioner shall delete any data in the record that identifies the client before providing it to the board. The office shall maintain any records obtained pursuant to this section as investigative data pursuant to section 13.41. If an unlicensed mental health practitioner refuses to give testimony or produce any documents, books, records, or correspondence on the basis of the fifth amendment to the Constitution of the United States, the commissioner may compel the unlicensed mental health practitioner to provide the testimony or information; however, the testimony or evidence may not be used against the practitioner in any criminal proceeding. Challenges to requests of the office may be brought before the appropriate agency or court.

Subd. 2. **CLASSIFICATION OF DATA.** The commissioner shall maintain any records, other than client records, obtained as part of an investigation, as investigative data under section 13.41. Client records are classified as private under chapter 13 and must be protected as such in the records of the office and in any administrative or judicial proceeding unless the client authorizes the office in writing to make public the identity of the client or a portion or all of the client's records.

Sec. 57. **[148B.67] PROFESSIONAL ACCOUNTABILITY.**

The office of mental health practice shall maintain and keep current a file containing the reports and complaints filed against unlicensed mental health practitioners within the commissioner's jurisdiction. Each complaint filed with the office must be investigated. If the files maintained by the office show that a malpractice settlement or award has been made against an unlicensed mental health practitioner, as reported by insurers under section 148B.63, subdivision 5, the commissioner may authorize a review of the practitioner's practice by the staff of the office of mental health practice.

Sec. 58. **[148B.68] PROHIBITED CONDUCT.**

Subdivision 1. **PROHIBITED CONDUCT.** The commissioner may impose disciplinary action as described in section 148B.69 against any unlicensed mental health practitioner. The following conduct is prohibited and is grounds for disciplinary action:

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(a) Conviction of a crime, including a finding or verdict of guilt, an admission of guilt, or a no contest plea, in any court in Minnesota or any other jurisdiction in the United States, reasonably related to the provision of mental health services. Conviction, as used in this subdivision, includes a conviction of an offense which, if committed in this state, would be deemed a felony or gross misdemeanor without regard to its designation elsewhere, or a criminal proceeding where a finding or verdict of guilty is made or returned but the adjudication of guilt is either withheld or not entered.

(b) Conviction of crimes against persons. For purposes of this chapter, a crime against a person means violations of the following: sections 609.185; 609.19; 609.195; 609.20; 609.205; 609.21; 609.215; 609.221; 609.222; 609.223; 609.224; 609.23; 609.231; 609.235; 609.24; 609.245; 609.25; 609.255; 609.26, subdivision 1, clause (1) or (2); 609.265; 609.342; 609.343; 609.344; 609.345; 609.365; 609.498, subdivision 1; 609.50, clause (1); 609.561; 609.562; and 609.595.

(c) Failure to comply with the self-reporting requirements of section 148B.63, subdivision 6.

(d) Engaging in sexual contact with a client or former client as defined in section 148A.01, or engaging in contact that may be reasonably interpreted by a client as sexual, or engaging in any verbal behavior that is seductive or sexually demeaning to the patient, or engaging in sexual exploitation of a client or former client.

(e) Advertising that is false, fraudulent, deceptive, or misleading.

(f) Conduct likely to deceive, defraud, or harm the public; or demonstrating a willful or careless disregard for the health, welfare, or safety of a client; or any other practice that may create unnecessary danger to any client's life, health, or safety, in any of which cases, proof of actual injury need not be established.

(g) Adjudication as mentally incompetent, or as a person who has a psychopathic personality as defined in section 526.09, or who is dangerous to self, or adjudication pursuant to chapter 253B, as chemically dependent, mentally ill, mentally retarded, or mentally ill and dangerous to the public.

(h) Inability to provide mental health services with reasonable safety to clients.

(i) The habitual overindulgence in the use of or the dependence on intoxicating liquors.

(j) Improper or unauthorized personal or other use of any legend drugs as defined in chapter 151, any chemicals as defined in chapter 151, or any controlled substance as defined in chapter 152.

(k) Revealing a communication from, or relating to, a client except when otherwise required or permitted by law.

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(l) Failure to comply with a client's request made under section 144.335, or to furnish a client record or report required by law.

(m) Splitting fees or promising to pay a portion of a fee to any other professional other than for services rendered by the other professional to the client.

(n) Engaging in abusive or fraudulent billing practices, including violations of the federal Medicare and Medicaid laws or state medical assistance laws.

(o) Failure to make reports as required by section 148B.63, or cooperate with an investigation of the office.

(p) Obtaining money, property, or services from a client, other than reasonable fees for services provided to the client, through the use of undue influence, harassment, duress, deception, or fraud.

(q) Undertaking or continuing a professional relationship with a client in which the objectivity of the professional would be impaired.

(r) Failure to provide the client with a copy of the client bill of rights or violation of any provision of the client bill of rights.

(s) Violating any order issued by the commissioner.

(t) Failure to comply with sections 148B.60 to 148B.71, and the rules adopted under those sections.

(u) Failure to comply with any additional disciplinary grounds established by the commissioner by rule.

Subd. 2. **EVIDENCE.** In disciplinary actions alleging a violation of subdivision 1, paragraph (a), (b), (c), or (g), a copy of the judgment or proceeding under the seal of the court administrator or of the administrative agency that entered the same is admissible into evidence without further authentication and constitutes prima facie evidence of its contents.

Subd. 3. **EXAMINATION; ACCESS TO MEDICAL DATA.** (a) If the commissioner has probable cause to believe that an unlicensed mental health practitioner has engaged in conduct prohibited by subdivision 1, paragraph (g), (h), (i), or (j), the commissioner may issue an order directing the practitioner to submit to a mental or physical examination or chemical dependency evaluation. For the purpose of this subdivision, every unlicensed mental health practitioner is deemed to have consented to submit to a mental or physical examination or chemical dependency evaluation when ordered to do so in writing by the commissioner of health and further to have waived all objections to the admissibility of the testimony or examination reports of the health care provider performing the examination or evaluation on the grounds that the same constitute a privileged communication. Failure of an unlicensed mental health practitioner to submit to an examination or evaluation when ordered, unless the failure was due to circumstances beyond the practitioner's control, constitutes an admission

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that the unlicensed mental health practitioner violated subdivision 1, paragraph (g), (h), (i), or (j), based on the factual specifications in the examination or evaluation order and may result in a default and final disciplinary order being entered after a contested case hearing. An unlicensed mental health practitioner affected under this paragraph shall at reasonable intervals be given an opportunity to demonstrate that the practitioner can resume the provision of mental health services with reasonable safety to clients. In any proceeding under this paragraph, neither the record of proceedings nor the orders entered by the commissioner shall be used against a mental health practitioner in any other proceeding.

(b) In addition to ordering a physical or mental examination or chemical dependency evaluation, the commissioner may, notwithstanding section 13.42, 144.651, 595.02, or any other law limiting access to medical or other health data, obtain medical data and health records relating to an unlicensed mental health practitioner without the practitioner's consent if the commissioner has probable cause to believe that a practitioner has engaged in conduct prohibited by subdivision 1, paragraph (g), (h), (i), or (j). The medical data may be requested from a health care professional, as defined in section 144.335, subdivision 1, paragraph (b), an insurance company, or a government agency, including the department of human services. A health care professional, insurance company, or government agency shall comply with any written request of the commissioner under this subdivision and is not liable in any action for damages for releasing the data requested by the commissioner if the data are released pursuant to a written request under this subdivision, unless the information is false and the person or organization giving the information knew, or had reason to believe, the information was false. Information obtained under this subdivision is private data under section 13.41.

Sec. 59. **[148B.69] DISCIPLINARY ACTIONS.**

Subdivision 1. **FORMS OF DISCIPLINARY ACTION.** When the commissioner finds that an unlicensed mental health practitioner has violated a provision or provisions of this chapter, the commissioner may take one or more of the following actions, only against the individual practitioner:

(1) revoke the right to practice;

(2) suspend the right to practice;

(3) impose limitations or conditions on the practitioner's provision of mental health services, the imposition of rehabilitation requirements, or the requirement of practice under supervision;

(4) impose a civil penalty not exceeding $10,000 for each separate violation, the amount of the civil penalty to be fixed so as to deprive the practitioner of any economic advantage gained by reason of the violation charged or to reimburse the office of mental health practice for all costs of the investigation and proceeding;

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(5) order the practitioner to provide unremunerated professional service under supervision at a designated public hospital, clinic, or other health care institution;

(6) censure or reprimand the practitioner;

(7) impose a fee on the practitioner to reimburse the office for all or part of the cost of the proceedings resulting in disciplinary action including, but not limited to, the amount paid by the office for services from the office of administrative hearings, attorney fees, court reports, witnesses, reproduction of records, advisory council members' per diem compensation, staff time, and expense incurred by advisory council members and staff of the office of mental health practice; or

(8) any other action justified by the case.

Subd. 2. **DISCOVERY; SUBPOENAS.** In all matters relating to the lawful activities of the office of mental health practice, the commissioner of health may issue subpoenas and compel the attendance of witnesses and the production of all necessary papers, books, records, documents, and other evidentiary material. Any person failing or refusing to appear or testify regarding any matter about which the person may be lawfully questioned or failing to produce any papers, books, records, documents, or other evidentiary materials in the matter to be heard, after having been required by order of the commissioner or by a subpoena of the commissioner to do so may, upon application to the district court in any district, be ordered to comply with the order or subpoena. The commissioner of health may administer oaths to witnesses or take their affirmation. Depositions may be taken within or without the state in the manner provided by law for the taking of depositions in civil actions. A subpoena or other process or paper may be served upon a person it names anywhere within the state by any officer authorized to serve subpoenas or other process or paper in civil actions, in the same manner as prescribed by law for service of process issued out of the district court of this state.

Subd. 3. **REINSTATEMENT.** The commissioner may at the commissioner's discretion reinstate the right to practice and may impose any disciplinary measure listed under subdivision 1.

Subd. 4. **TEMPORARY SUSPENSION.** In addition to any other remedy provided by law, the commissioner may, acting through a person to whom the commissioner has delegated this authority and without a hearing, temporarily suspend the right of an unlicensed mental health practitioner to practice if the commissioner's delegate finds that the practitioner has violated a statute or rule that the commissioner is empowered to enforce and continued practice by the practitioner would create a serious risk of harm to others. The suspension is in effect upon service of a written order on the practitioner specifying the statute or rule violated. The order remains in effect until the commissioner issues a

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final order in the matter after a hearing or upon agreement between the commissioner and the practitioner. Service of the order is effective if the order is served on the practitioner or counsel of record personally or by first class mail. Within ten days of service of the order, the commissioner shall hold a hearing on the sole issue of whether there is a reasonable basis to continue, modify, or lift the suspension. Evidence presented by the office or practitioner shall be in affidavit form only. The practitioner or the counsel of record may appear for oral argument. Within five working days after the hearing, the commissioner shall issue the commissioner's order and, if the suspension is continued, schedule a contested case hearing within 45 days after issuance of the order. The administrative law judge shall issue a report within 30 days after closing of the contested case hearing record. The commissioner shall issue a final order within 30 days after receipt of that report.

Subd. 5. **AUTOMATIC SUSPENSION.** The right to practice is automatically suspended if (1) a guardian of an unlicensed mental health practitioner is appointed by order of a probate court under sections 525.54 to 525.61, or (2) the practitioner is committed by order of a probate court pursuant to chapter 253B or sections 526.09 to 526.11. The right to practice remains suspended until the practitioner is restored to capacity by a court and, upon petition by the practitioner, the suspension is terminated by the commissioner after a hearing or upon agreement between the commissioner and the practitioner.

Subd. 6. **PUBLIC EMPLOYEES.** Notwithstanding subdivision 1, the commissioner must not take disciplinary action against an employee of the state or a political subdivision of the state. If, after an investigation conducted in compliance with and with the authority granted under sections 148B.60 to 148B.71, the commissioner determines that the employee violated a provision or provisions of this chapter, the commissioner shall report to the employee's employer the commissioner's findings and the actions the commissioner recommends that the employer take. The commissioner's recommendations are not binding on the employer.

Sec. 60. **[148B.70] ADDITIONAL REMEDIES.**

Subdivision 1. **CEASE AND DESIST.** The commissioner of health may issue a cease and desist order to stop a person from violating or threatening to violate a statute, rule, or order which the office of mental health practice has issued or is empowered to enforce. The cease and desist order must state the reason for its issuance and give notice of the person's right to request a hearing under sections 14.57 to 14.62. If, within 15 days of service of the order, the subject of the order fails to request a hearing in writing, the order is the final order of the commissioner and is not reviewable by a court or agency.

A hearing must be initiated by the office of mental health practice not later than 30 days from the date of the office's receipt of a written hearing request. Within 30 days of receipt of the administrative law judge's report, the commissioner shall issue a final order modifying, vacating, or making permanent the

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cease and desist order as the facts require. The final order remains in effect until modified or vacated by the commissioner.

When a request for a stay accompanies a timely hearing request, the commissioner may, in the commissioner's discretion, grant the stay. If the commissioner does not grant a requested stay, the commissioner shall refer the request to the office of administrative hearings within three working days of receipt of the request. Within ten days after receiving the request from the commissioner, an administrative law judge shall issue a recommendation to grant or deny the stay. The commissioner shall grant or deny the stay within five days of receiving the administrative law judge's recommendation.

In the event of noncompliance with a cease and desist order, the commissioner may institute a proceeding in Hennepin county district court to obtain injunctive relief or other appropriate relief, including a civil penalty payable to the office of mental health practice not exceeding $10,000 for each separate violation.

Subd. 2. **INJUNCTIVE RELIEF.** In addition to any other remedy provided by law, including the issuance of a cease and desist order under subdivision 1, the commissioner may in the commissioner's own name bring an action in Hennepin county district court for injunctive relief to restrain an unlicensed mental health practitioner from a violation or threatened violation of any statute, rule, or order which the commissioner is empowered to regulate, enforce, or issue. A temporary restraining order must be granted in the proceeding if continued activity by a practitioner would create a serious risk of harm to others. The commissioner need not show irreparable harm.

Subd. 3. **ADDITIONAL POWERS.** The issuance of a cease and desist order or injunctive relief granted under this section does not relieve a practitioner from criminal prosecution by a competent authority or from disciplinary action by the commissioner.

Sec. 61. **[148B.71] MENTAL HEALTH CLIENT BILL OF RIGHTS.**

Subdivision 1. **SCOPE.** All unlicensed mental health practitioners other than those providing services in a facility regulated under section 144.651 or a government agency shall provide to each client prior to providing treatment a written copy of the mental health client bill of rights. A copy must also be posted in a prominent location in the office of the mental health practitioner. Reasonable accommodations shall be made for those clients who cannot read or who have communication impairments and those who do not read or speak English. The mental health client bill of rights shall include the following:

(a) the name, title, business address, and telephone number of the practitioner;

(b) the degrees, training, experience, or other qualifications of the practitioner, followed by the following statement in bold print:

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"THE STATE OF MINNESOTA HAS NOT ADOPTED UNIFORM EDUCATIONAL AND TRAINING STANDARDS FOR ALL MENTAL HEALTH PRACTITIONERS. THIS STATEMENT OF CREDENTIALS IS FOR INFORMATION PURPOSES ONLY."

(c) the name, business address, and telephone number of the practitioner's supervisor, if any;

(d) notice that a client has the right to file a complaint with the practitioner's supervisor, if any, and the procedure for filing complaints;

(e) the name, address, and telephone number of the office of mental health practice and notice that a client may file complaints with the office;

(f) the practitioner's fees per unit of service, the practitioner's method of billing for such fees, the names of any insurance companies that have agreed to reimburse the practitioner, or health maintenance organizations with whom the practitioner contracts to provide service, whether the practitioner accepts Medicare, medical assistance, or general assistance medical care, and whether the practitioner is willing to accept partial payment, or to waive payment, and in what circumstances;

(g) a statement that the client has a right to reasonable notice of changes in services or charges;

(h) a brief summary, in plain language, of the theoretical approach used by the practitioner in treating patients;

(i) notice that the client has a right to complete and current information concerning the practitioner's assessment and recommended course of treatment, including the expected duration of treatment;

(j) a statement that clients may expect courteous treatment and to be free from verbal, physical, or sexual abuse by the practitioner;

(k) a statement that client records and transactions with the practitioner are confidential, unless release of these records is authorized in writing by the client, or otherwise provided by law;

(l) a statement of the client's right to be allowed access to records and written information from records in accordance with section 144.335;

(m) a statement that other services may be available in the community, including where information concerning services is available;

(n) a statement that the client has the right to choose freely among available practitioners, and to change practitioners after services have begun, within the limits of health insurance, medical assistance, or other health programs;

(o) a statement that the client has a right to coordinated transfer when there will be a change in the provider of services;

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(p) a statement that the client may refuse services or treatment, unless otherwise provided by law; and

(q) a statement that the client may assert the client's rights without retaliation.

Subd. 2. **ACKNOWLEDGMENT BY CLIENT.** Prior to the provision of any service, the client must sign a written statement attesting that the client has received the client bill of rights.

Sec. 62. **[148B.72] EXPENSES.**

The expenses of administering the office of mental health practice under sections 148B.60 to 148B.71 must be recovered by transferring to the commissioner a portion of the surplus of the fees collected by the health-related licensing boards and by assessing a fee surcharge on the indirect costs charged to each health-related licensing board. At the end of each biennium, the commissioner of finance shall identify the amount of any surplus remaining in the state government special revenue fund of the license fees collected by the health-related licensing boards. The commissioner of finance shall also determine a reasonable amount of the surplus that must remain in the state government special revenue fund as a cash flow reserve. Any surplus remaining in the account in excess of the cash flow reserve that is attributable to health-related licensing board collections must be transferred to the commissioner of health for the office of mental health practice for the next biennium, not to exceed the amount of the legislative appropriation for the office. At the end of each biennium, the commissioner of health shall determine the amount of the health-related licensing board surcharge for the next biennium that must be assessed in order to cover the costs of administering the office of mental health practice, after deducting the amount of any surplus transferred from the state government special revenue fund. The fee surcharge must be based on a percentage of the indirect costs charged to each health-related licensing board. The total amount collected through the surcharge must not exceed the amount of the legislative appropriation from the state government special revenue fund minus any surplus transferred from the special revenue fund, except that the commissioner may recover the costs of initial rulemaking and other one-time expenses over a four-year period. The commissioner of health and the commissioner of finance shall determine the amount of the surcharge without adopting rules.

Sec. 63. Minnesota Statutes 1990, section 157.031, subdivision 2, is amended to read:

Subd. 2. **REGISTRATION.** A board and lodging establishment that provides supportive services or health supervision services must register with the commissioner by September 1, 1989. The registration must include the name, address, and telephone number of the establishment, the types of services that are being provided, a description of the residents being served, the type and qualifications of staff in the facility, and other information that is necessary to identify the needs of the residents and the types of services that are being pro-

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vided. The commissioner shall develop and furnish to the board and lodging establishment the necessary form for submitting the registration. The requirement for registration is effective until the ~~special license~~ rules required by ~~subdivision 5~~ sections 144B.01 to 144B.17 are effective.

Sec. 64. Minnesota Statutes 1990, section 157.031, subdivision 3, is amended to read:

Subd. 3. **RESTRICTION ON THE PROVISION OF SERVICES.** Effective September 1, 1989, and until one year after the rules required under ~~subdivision 5~~ sections 144B.01 to 144B.17 are adopted, a board and lodging establishment registered under subdivision 2 may provide health supervision services only if a licensed nurse is on site in the facility for at least four hours a week to provide supervision and health monitoring of the residents. A board and lodging facility that admits or retains residents using wheelchairs or walkers must have the necessary clearances from the office of the state fire marshal.

Sec. 65. Minnesota Statutes 1990, section 157.031, subdivision 4, is amended to read:

Subd. 4. ~~**SPECIAL LICENSE**~~ **RESIDENTIAL CARE HOME LICENSE REQUIRED.** Upon adoption of the rules required by ~~subdivision 5~~ sections 144B.01 to 144B.17, a board and lodging establishment registered under subdivision 2, that provides either supportive care or health supervision services must obtain a ~~special~~ residential care home license from the commissioner within one year from the adoption of those rules. ~~The special license is required until rules resulting from the recommendations made in accordance with Laws 1989, chapter 282, article 2, section 213, are implemented.~~

Sec. 66. Minnesota Statutes 1990, section 157.031, subdivision 9, is amended to read:

Subd. 9. **VIOLATIONS.** The commissioner may revoke ~~both the special service license, when issued, and~~ the establishment license, if the establishment is found to be in violation of this section. Violation of this section is a gross misdemeanor.

Sec. 67. Minnesota Statutes 1990, section 214.04, subdivision 3, is amended to read:

Subd. 3. The executive director of each health-related board and the executive secretary of each non-health-related board shall be the chief administrative officer for the board but shall not be a member of the board. The executive director or executive secretary shall maintain the records of the board, account for all fees received by it, supervise and direct employees servicing the board, and perform other services as directed by the board. The executive directors, executive secretaries, and other employees of the following boards shall be hired by the board, and the executive directors or executive secretaries shall be in the unclassified civil service, except as provided in this subdivision:

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(1) dentistry;

(2) medical examiners;

(3) nursing;

(4) pharmacy;

(5) accountancy;

(6) architecture, engineering, land surveying, and landscape architecture;

(7) barber examiners;

(8) cosmetology;

(9) electricity;

(10) teaching;

(11) peace officer standards and training;

(12) social work; and

(13) marriage and family therapy;

~~(14) unlicensed mental health service providers; and~~

~~(15) office of social work and mental health boards~~.

The executive directors or executive secretaries serving the boards are hired by those boards and are in the unclassified civil service, except for part-time executive directors or executive secretaries, who are not required to be in the unclassified service. Boards not requiring full-time executive directors or executive secretaries may employ them on a part-time basis. To the extent practicable, the sharing of part-time executive directors or executive secretaries by boards being serviced by the same department is encouraged. Persons providing services to those boards not listed in this subdivision, except executive directors or executive secretaries of the boards and employees of the attorney general, are classified civil service employees of the department servicing the board. To the extent practicable, the commissioner shall ensure that staff services are shared by the boards being serviced by the department. If necessary, a board may hire part-time, temporary employees to administer and grade examinations.

Sec. 68. Minnesota Statutes 1990, section 256I.04, is amended by adding a subdivision to read:

Subd. 3. **MORATORIUM ON THE DEVELOPMENT OF NEGOTIATED RATE BEDS.** County agencies shall not enter into agreements for new general assistance or Minnesota supplemental aid negotiated rate beds except: (1) for adult foster homes licensed by the commissioner of human services under

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Minnesota Rules, parts 9555.5105 to 9555.6265; (2) for facilities licensed under Minnesota Rules, parts 9525.0215 to 9525.0355, provided the facility is needed to meet the census reduction targets for persons with mental retardation or related conditions at regional treatment centers; (3) to ensure compliance with the federal Omnibus Budget Reconciliation Act alternative disposition plan requirements for inappropriately placed persons with mental retardation or related conditions or mental illness; or (4) for up to five handicapped accessible beds in a facility that serves primarily persons with a mental illness or chemical dependency that began construction to add space for the new beds before April 1, 1991, and will complete construction or remodeling by December 1, 1991.

Sec. 69. Minnesota Statutes 1990, section 268A.03, is amended to read:

268A.03 **POWERS AND DUTIES.**

The commissioner shall:

(a) certify the rehabilitation facilities to offer extended employment programs, grant funds to the extended employment programs, and perform the duties as specified in section 268A.09;

(b) provide vocational rehabilitation services to persons with disabilities in accordance with the state plan for vocational rehabilitation. These services include but are not limited to: diagnostic and related services incidental to determination of eligibility for services to be provided, including medical diagnosis and vocational diagnosis; vocational counseling, training and instruction, including personal adjustment training; physical restoration, including corrective surgery, therapeutic treatment, hospitalization and prosthetic and orthotic devices, all of which shall be obtained from appropriate established agencies; transportation; occupational and business licenses or permits, customary tools and equipment; maintenance; books, supplies, and training materials; initial stocks and supplies; placement; on-the-job skill training and time-limited postemployment services leading to supported employment; acquisition of vending stands or other equipment, initial stocks and supplies for small business enterprises; supervision and management of small business enterprises, merchandising programs, or services rendered by severely disabled persons. Persons with a disability are entitled to free choice of vendor for any medical, dental, prosthetic, or orthotic services provided under this paragraph;

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

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

(e) maintain a contractual or regulatory relationship with the United States as authorized by the Social Security Act, as amended. Under this relationship,

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the state will undertake to make determinations referred to in those public laws with respect to all individuals in Minnesota, or with respect to a class or classes of individuals in this state that is designated in the agreement at the state's request. It is the purpose of this relationship to permit the citizens of this state to obtain all benefits available under federal law;

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

(g) conduct research and demonstration projects; provide training and instruction, including establishment and maintenance of research fellowships and traineeships, along with all necessary stipends and allowances; disseminate information to persons with a disability and the general public; and provide technical assistance relating to vocational rehabilitation and independent living;

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

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

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

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

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

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

(n) adopt, amend, suspend, or repeal rules necessary to implement or make specific programs that the commissioner by sections 268A.01 to 268A.10 is empowered to administer; and

(o) contact any person with traumatic brain injury or spinal cord injury reported by the commissioner of health under section 144.664, subdivision 3,

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and notify the person, or the person's parent or guardian if the person is a minor or is mentally incompetent, of services available to the person, eligibility requirements and application procedures for public programs, and other information the commissioner believes may be helpful to the person to make appropriate use of available rehabilitation services.

Sec. 70. **TRANSFER OF JURISDICTION FOR DISCIPLINARY ACTIONS TAKEN AGAINST UNLICENSED MENTAL HEALTH PRACTITIONERS.**

Subdivision 1. **COOPERATION.** During the transition period prior to the sunset of the board of unlicensed mental health service providers and the establishment of the office of mental health practice on July 1, 1991, members of the board, staff persons employed by the board, and the office of social work and mental health boards shall provide all necessary assistance to the office of the attorney general to complete as many investigations and disciplinary actions on pending complaints as possible prior to the sunset of the board. The board members and staff of the board of unlicensed mental health service providers and the office of social work and mental health boards shall consult with and offer all necessary assistance to the commissioner of health in transferring pending complaints to the office of mental health practice and in implementing all other aspects of Minnesota Statutes, sections 148B.60 to 148B.71. Actions must be undertaken to ensure that complaints and investigations against unlicensed mental health practitioners pending before the board continue to receive attention during the transition period. As of July 1, 1991, jurisdiction of all open complaints still pending before the board as of June 30, 1991, is transferred to the commissioner of health who has the right to proceed on them under the authority granted to the commissioner in Minnesota Statutes, sections 148B.60 to 148B.71. Jurisdiction of all new complaints brought against unlicensed mental health practitioners on or after July 1, 1991, rests with the office of mental health practice, established under Minnesota Statutes, section 148B.61. The transfer of records, pending complaints, and other data shall be completed no later than June 30, 1991.

Subd. 2. **TRANSFER OF RULES.** The rules adopted by the board of unlicensed mental health service providers are transferred to the commissioner of health and must be used by the office of mental health practice until the commissioner adopts new rules.

Subd. 3. **TRANSFER OF POWERS AND DUTIES.** The powers and duties of the board of unlicensed mental health service providers are transferred to the commissioner of health pursuant to Minnesota Statutes, section 15.039, effective July 1, 1991.

Sec. 71. **FILING FEES NONREFUNDABLE.**

Filing fees paid to the board of unlicensed mental health service providers by unlicensed mental health service providers prior to June 30, 1991, are nonrefundable. Any balance held by the board of unlicensed mental health service providers as of June 30, 1991, shall be transferred to the department of health

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for the operation of the office of mental health practice no later than June 30, 1991.

Sec. 72. **TRANSFER OF DATA AND RECORDS.**

By June 30, 1992, the board of unlicensed mental health service providers shall transfer to the office of mental health practice all data and records obtained by the board as investigative data under Minnesota Statutes, section 148B.09, subdivision 1, and all other data gathered by the board.

Sec. 73. **REPORT TO THE LEGISLATURE.**

By February 1, 1992, the commissioner shall report to the legislature on the implementation of Minnesota Statutes, sections 144B.01 to 144B.16. This report must include a description of the provisions included in rules required under those sections and an estimate of the expected fiscal impact to the state of adopting those rules.

Sec. 74. **REVISOR INSTRUCTION.**

In the next edition of Minnesota Statutes, the revisor shall delete the terms "individual," "individuals," "regulated individual," "regulated individuals," and "regulated individual's" wherever found in Minnesota Statutes, sections 148B.04, subdivision 3; 148B.05, subdivision 2; 148B.06, subdivision 2; 148B.07, subdivisions 2, 3, 5, and 6; 148B.09; 148B.11; 148B.13; and 148B.15, and insert the term "licensee," "licensees," or "licensee's" as appropriate.

Sec. 75. **REPEALER.**

Subdivision 1. **RESIDENTIAL CARE HOMES.** Minnesota Statutes 1990, section 157.031, subdivision 5, is repealed effective the day following final enactment.

Subd. 2. **UNLICENSED MENTAL HEALTH PRACTITIONERS.** Minnesota Statutes 1990, sections 148B.01, subdivisions 2, 5, and 6; 148B.02; 148B.16; 148B.171; 148B.40; 148B.41; 148B.42; 148B.43; 148B.44; 148B.45; 148B.46; 148B.47; and 148B.48, are repealed effective July 1, 1991.

Sec. 76. **EFFECTIVE DATES.**

Sections 14 to 25, 27 to 30, 47, 63 to 66, 68, and 70 to 73 are effective the day after final enactment. Sections 12, 13, and 26 are effective upon the effective date of rules adopted by the commissioner of health for licensure of residential care homes.

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ARTICLE 3

MISCELLANEOUS SOCIAL SERVICES PROGRAMS

Section 1. Minnesota Statutes 1990, section 3.922, subdivision 3, is amended to read:

Subd. 3. **COMPENSATION; EXPENSES; EXPIRATION.** Compensation of nonlegislator members is as provided in section 15.059. Expenses of the council shall be approved by two of any three members of the council designated by the council and then be paid in the same manner as other state expenses. The executive secretary shall inform the commissioner of finance in writing of the names of the persons authorized to approve expenses. ~~The council expires on June 30, 1993.~~

Sec. 2. Minnesota Statutes 1990, section 3.922, subdivision 8, is amended to read:

Subd. 8. **ADVISORY COUNCIL.** An advisory council on urban Indians is created to advise the board on the unique problems and concerns of Minnesota Indians who reside in urban areas of the state. The council shall be appointed by the board and consist of five Indians residing in the vicinity of Minneapolis, St. Paul, and Duluth. At least one member of the council shall be a resident of each city. The terms, compensation, and removal of members are as provided in section 15.059. ~~The council expires on June 30, 1993.~~

Sec. 3. Minnesota Statutes 1990, section 3.9223, subdivision 1, is amended to read:

Subdivision 1. **MEMBERSHIP.** A state council on affairs of Spanish-speaking people is created to consist of seven members appointed by the governor. The demographic composition of the council members shall accurately reflect the demographic composition of Minnesota's Spanish-speaking community, including migrant workers, as determined by the state demographer. Membership, terms, removal of members and filling of vacancies are as provided in section 15.0575. Compensation of members is as provided in section 15.059, subdivision 3. The council shall annually elect from its membership a chair and other officers it deems necessary. ~~The council expires on June 30, 1993.~~

Sec. 4. Minnesota Statutes 1990, section 3.9225, subdivision 1, is amended to read:

Subdivision 1. **CREATION.** A state council on Black Minnesotans is created to consist of seven members appointed by the governor. The members of the council shall be broadly representative of the Black community of the state and include at least three males and at least three females. Membership terms, compensation, removal of members, and filling of vacancies for nonlegislative members are as provided in section 15.059. Two members of the house of representatives appointed by the speaker and two members of the senate appointed

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by the subcommittee on committees of the committee on rules and administration shall serve as ex officio, nonvoting members of the council. The council shall annually elect from its membership a chair and other officers it deems necessary. ~~The council expires on June 30, 1993.~~

Sec. 5. Minnesota Statutes 1990, section 3.9226, subdivision 1, is amended to read:

Subdivision 1. **CREATION.** The state council on Asian-Pacific Minnesotans consists of 15 members. Eleven members are appointed by the governor and must be broadly representative of the Asian-Pacific community of the state. Terms, compensation, removal, and filling of vacancies for appointed members are as provided in section 15.059. Two members of the house of representatives appointed under the rules of the house of representatives and two members of the senate appointed under the rules of the senate shall serve as nonvoting members of the council. The council shall annually elect from its membership a chair and other officers it deems necessary. ~~The council expires on June 30, 1993.~~

Sec. 6. Minnesota Statutes 1990, 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.

(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.

(9) Act as coordinating referral and informational center on requests for service for newly arrived immigrants coming to Minnesota.

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(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 proposed comprehensive plan, including estimated project costs and the proposed order establishing the waiver, shall be filed with the secretary of the senate and chief clerk of the house of representatives at least 60 days prior to its effective date.

(b) 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.

(c) A comprehensive plan, including estimated project costs, shall be approved by the legislative advisory commission and filed with the commissioner of administration.

(13) In accordance with 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, 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 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 and medical assis-

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tance 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 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 ~~$400,000~~ $1,000,000. When the balance in the account exceeds ~~$400,000~~ $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 pursuant 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.

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(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 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.

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Sec. 7. Minnesota Statutes 1990, section 256.482, subdivision 1, is amended to read:

Subdivision 1. **ESTABLISHMENT; MEMBERS.** There is hereby established the council on disability which shall consist of 21 members appointed by the governor. Members shall be appointed from the general public and from organizations which provide services for persons who have a disability. A majority of council members shall be persons with a disability or parents or guardians of persons with a disability. There shall be at least one member of the council appointed from each of the state development regions. The commissioners of the departments of education, human services, health, jobs and training, and human rights and the directors of the division of rehabilitation services and state services for the blind or their designees shall serve as ex officio members of the council without vote. In addition, the council may appoint ex officio members from other bureaus, divisions, or sections of state departments which are directly concerned with the provision of services to persons with a disability.

Notwithstanding the provisions of section 15.059, each member of the council appointed by the governor shall serve a three-year term and until a successor is appointed and qualified. The compensation and removal of all members shall be as provided in section 15.059. The governor shall appoint a chair of the council from among the members appointed from the general public or who are persons with a disability or their parents or guardians. Vacancies shall be filled by the authority for the remainder of the unexpired term. ~~The council expires on June 30, 1993.~~

Sec. 8. Minnesota Statutes 1990, section 256C.24, subdivision 2, is amended to read:

Subd. 2. **RESPONSIBILITIES.** The regional service center shall:

(a) serve as the central entry point for hearing impaired persons in need of human services and make referrals to the services needed;

(b) employ staff trained to work with hearing impaired persons;

(c) provide to all hearing impaired persons access to interpreter services which are necessary to help them obtain human services;

(d) ~~assist the central interpreter referral agency with local and regional interpreter referrals;~~

~~(e)~~ implement a plan to provide loan equipment and resource materials to hearing impaired persons; and

~~(f)~~ (e) cooperate with responsible departments and administrative authorities to provide access for hearing impaired persons to services provided by state, county, and regional agencies.

Sec. 9. Minnesota Statutes 1990, section 256C.25, is amended to read:

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256C.25 **INTERPRETER SERVICES.**

Subdivision 1. **ESTABLISHMENT.** The commissioner of human services shall ~~supervise the development and implementation of a~~ maintain and coordinate statewide interpreter referral ~~service~~ services for use by any public or private agency or individual in the state. ~~The commissioner of human services shall~~ Within the seven-county metro area, the commissioner shall contract for these services; outside the metro area, the commissioner shall directly coordinate these services but may contract with an appropriate agency to provide this ~~centralized~~ service. The commissioner may collect a $3 fee per referral for interpreter referral services and the actual costs of interpreter services provided by department staff. Fees and payments collected shall be deposited in the general fund. The $3 referral fee shall not be collected from state agencies or local units of government or hearing-impaired consumers or interpreters.

Subd. 2. **DUTIES.** ~~The central~~ Interpreter referral ~~agency shall~~ services must include:

(a) ~~Establish and maintain a~~ statewide access to interpreter referral ~~service~~ services, ~~maintain statistics related to interpreter referral services, and maintain~~ coordinated with the regional service centers;

(b) maintenance of a statewide directory of qualified interpreters;

~~(b) Cooperate with the regional service centers in providing interpreter referral service; and~~

(c) ~~Cooperate~~ assessment of the present and projected supply and demand for interpreter services statewide; and

(d) coordination with the regional service centers on projects to train interpreters and advocate for and evaluate interpreter services.

Sec. 10. Minnesota Statutes 1990, section 256F.01, is amended to read:

256F.01 **PUBLIC POLICY.**

~~It is the policy of this~~ The public policy of this state is to assure that all children, regardless of minority racial or ethnic heritage, ~~are entitled to~~ live in families that offer a safe, permanent relationship with nurturing parents or caretakers ~~and have~~. To help assure children the opportunity to establish lifetime relationships~~. To help assure this opportunity~~, public social services must be directed toward ~~accomplishment of the following purposes~~:

(1) preventing the unnecessary separation of children from their families by identifying family problems, assisting families in resolving their problems, and preventing breakup of the family if ~~the prevention of child removal~~ it is desirable and possible;

(2) restoring to their families children who have been removed, by continuing to provide services to the reunited child and the families;

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(3) placing children in suitable adoptive homes, in cases where restoration to the biological family is not possible or appropriate; and

(4) assuring adequate care of children away from their homes, in cases where the child cannot be returned home or cannot be placed for adoption.

Sec. 11. Minnesota Statutes 1990, section 256F.02, is amended to read:

256F.02 **CITATION.**

Sections 256F.01 to 256F.07 may be cited as the "~~permanency planning grants to counties~~ Minnesota family preservation act."

Sec. 12. Minnesota Statutes 1990, section 256F.03, subdivision 5, is amended to read:

Subd. 5. **FAMILY-BASED SERVICES.** "Family-based services" means ~~intensive family-centered services to families primarily in their own home and for a limited time.~~ one or more of the services described in paragraphs (a) to (f) provided to families primarily in their own home for a limited time. Family-based services eligible for funding under the family preservation act are the services described in paragraphs (a) to (f).

(a) **CRISIS SERVICES.** "Crisis services" means professional services provided within 24 hours of referral to alleviate a family crisis and to offer an alternative to placing a child outside the family home. The services are intensive and time limited. The service may offer transition to other appropriate community-based services.

(b) **COUNSELING SERVICES.** "Counseling services" means professional family counseling provided to alleviate individual and family dysfunction; provide an alternative to placing a child outside the family home; or permit a child to return home. The duration, frequency, and intensity of the service is determined in the individual or family service plan.

(c) **LIFE MANAGEMENT SKILLS SERVICES.** "Life management skills services" means paraprofessional services that teach family members skills in such areas as parenting, budgeting, home management, and communication. The goal is to strengthen family skills as an alternative to placing a child outside the family home or to permit a child to return home. A social worker shall coordinate these services within the family case plan.

(d) **CASE COORDINATION SERVICES.** "Case coordination services" means professional services provided to an individual, family, or caretaker as an alternative to placing a child outside the family home, to permit a child to return home, or to stabilize the long-term or permanent placement of a child. Coordinated services are provided directly, are arranged, or are monitored to meet the needs of a child and family. The duration, frequency, and intensity of services is determined in the individual or family service plan.

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(e) **MENTAL HEALTH SERVICES.** "Mental health services" means the professional services defined in section 245.4871, subdivision 31.

(f) **EARLY INTERVENTION SERVICES.** "Early intervention services" means family-based intervention services designed to help at-risk families avoid crisis situations.

Sec. 13. Minnesota Statutes 1990, section 256F.04, is amended to read:

256F.04 **DUTIES OF COMMISSIONER OF HUMAN SERVICES.**

Subdivision 1. **GRANT PROGRAM.** The commissioner shall establish a statewide ~~permanency planning~~ family preservation grant program to assist counties in providing placement prevention and family reunification services.

Subd. 2. **FORMS AND INSTRUCTIONS.** The commissioner shall provide necessary forms and instructions to the counties for their community social services plan, as required in section 256E.09, that incorporate the permanency plan format and information necessary to apply for a ~~permanency planning~~ family preservation grant. ~~For calendar year 1986, the local social services agency shall submit an amendment to their approved biennial community social services plan using the forms and instructions provided by the commissioner. Beginning January 1, 1986, the biennial community social services plan must include the permanency plan.~~

Subd. 3. **MONITORING.** The commissioner shall design and implement methods for monitoring the delivery and evaluating the effectiveness of placement prevention and family reunification services ~~including family-based services within the state according to section 256E.05, subdivision 3, paragraph (c). An evaluation report describing program implementation, client outcomes, cost, and the effectiveness of those services in relation to measurable objectives and performance criteria to keep families unified and minimize the use of out-of-home placements for children must be prepared by the commissioner for the period from January 1, 1986 through June 30, 1988.~~ The commissioner shall monitor the provision of family-based services, conduct evaluations, and prepare and submit biannual reports to the legislature.

Subd. 4. **TRAINING.** The commissioner shall provide training on family-based services.

Sec. 14. Minnesota Statutes 1990, section 256F.05, is amended to read:

256F.05 **DISTRIBUTION OF GRANTS.**

Subd. 2. **MONEY AVAILABLE.** Money appropriated for ~~permanency planning~~ family preservation grants to counties, together with an amount as determined by the commissioner of title IV-B funds distributed to Minnesota according to the Social Security Act, United States Code, title 42, section 621,

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must be distributed to counties on a calendar year basis according to the formula in subdivision 3.

Subd. 2a. **DISTRIBUTION OF FUNDS.** Additional federal funds received by the commissioner, under title IV-E of the Social Security Act, as a direct result of revenue enhancement activities initiated subsequent to January 1, 1991, shall be allocated to counties. One-half of the allocation is for family preservation services under this chapter to be allocated as follows:

(1) 50 percent based on a county's title IV-E earnings for family preservation services under this chapter during the previous calendar year; and

(2) 50 percent based on the formula set forth in subdivision 3.

Subd. 3. **FORMULA.** The amount of money ~~distributed~~ allocated to counties under subdivision 2 must be based on the following two factors:

(1) the population of the county under age 19 years as compared to the state as a whole as determined by the most recent data from the state demographer's office; and

(2) the county's percentage share of the number of minority children in substitute care as determined by the most recent department of human services annual report on children in foster care.

The amount of money allocated according to formula factor (1) must not be less than 90 percent of the total ~~distributed~~ allocated under subdivision 2.

Subd. 4. **PAYMENTS.** The commissioner shall make grant payments to each county whose biennial community social services plan includes a permanency plan under section 256F.04, subdivision 2. The payment must be made in four installments per year. The commissioner may certify the payments for the first three months of a calendar year. Subsequent payments must be made on ~~April 30~~ May 15, ~~July 30~~ August 15, and ~~October 30~~ November 15, of each calendar year. When an amount of title IV-B funds as determined by the commissioner is made available, it shall be reimbursed to counties on ~~October 30~~ November 15.

Subd. 4a. **SPECIAL INCENTIVE BONUS FOR EARLY INTERVENTION SERVICES.** In addition to the funds which are provided to counties under subdivision 2 and distributed according to the formula in subdivision 3, the commissioner, in consultation with persons knowledgeable in child abuse and neglect early intervention, shall, within the limits of appropriations made specifically for this purpose, and as part of each quarterly payment made under subdivision 4, provide an incentive bonus payment to counties as provided in this subdivision. If a county, in submitting its application for funds under this section for a given calendar year, notifies the commissioner that the county will be increasing the amount of funds that will be allocated for counseling services under section 256F.03, subdivision 5, paragraph (b); life management skills

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under section 256F.03, subdivision 5, paragraph (c); and early intervention family-based services under section 256F.03, subdivision 5, paragraph (f), above the amount allocated in the previous calendar year, the commissioner shall provide the county with a bonus equal to 50 percent of the increased county allocation for the early intervention services. If funds are insufficient to provide the full 50 percent bonus to all eligible counties, the funds shall be allocated proportionately. A county may not reduce the amount of permanency planning grant funds which it makes available for other services, in order to earn the bonus incentive. The special incentive bonus is subject to retroactive settle-up based on the actual county allocation.

Subd. 5. **INAPPROPRIATE EXPENDITURES.** ~~Permanency planning~~ Family preservation grant money must not be used for:

(1) child day care necessary solely because of the employment or training to prepare for employment, of a parent or other relative with whom the child is living;

(2) residential facility payments;

(3) adoption assistance payments;

(4) public assistance payments for aid to families with dependent children, supplemental aid, medical assistance, general assistance, general assistance medical care, or community health services authorized by sections 145A.09 to 145A.13; or

(5) administrative costs for local social services agency public assistance staff.

Subd. 6. **TERMINATION OF GRANT.** A grant may be reduced or terminated by the commissioner when the county agency has failed to comply with the terms of the grant or sections 256F.01 to 256F.07.

Subd. 7. **TRANSFER OF FUNDS.** Notwithstanding subdivision 1, the commissioner may transfer money from the appropriation for ~~permanency planning~~ family preservation grants to counties into the subsidized adoption account when a deficit in the subsidized adoption program occurs. The amount of the transfer must not exceed five percent of the appropriation for ~~permanency planning~~ family preservation grants to counties.

Subd. 8. **GRANTS FOR FAMILY-BASED CRISIS SERVICES.** Within the limits of appropriations made for this purpose, the commissioner may award grants for the families first program, including section 256F.08, to be distributed on a calendar year basis to counties to provide programs for family-based crisis services defined in section 256F.03, subdivision 5. The commissioner shall ask counties to present proposals for the funding and shall award grants for the funding on a competitive basis. Beginning January 1, 1993, the state share of the costs of the programs shall be 75 percent and the county share, 25 percent.

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Sec. 15. Minnesota Statutes 1990, section 256F.06, is amended to read:

256F.06 **DUTIES OF COUNTY BOARDS.**

Subdivision 1. **RESPONSIBILITIES.** A county board may, alone or in combination with other county boards, apply for a ~~permanency planning~~ family preservation grant as provided in section 256F.04, subdivision 2. Upon approval of the ~~permanency planning~~ family preservation grant, the county board may contract for or directly provide ~~placement prevention and family reunification services~~ family-based services.

Subd. 2. **USES OF GRANTS.** The grant must be used exclusively ~~for placement prevention, family reunification services and training~~ for family-based ~~service and permanency planning~~ services. The grant may not be used as a match for other federal money or to meet the requirements of section 256E.06, subdivision 5.

Subd. 3. **DESCRIPTION OF FAMILY-BASED SERVICE.** When a county board elects to provide family-based service as a part of its permanency plan, its written description of family-based service must include the number of families to be served in each caseload, the provider of the service, the planned frequency of contacts with the families, and the maximum length of time family-based service will be provided to families.

Subd. 4. **REPORTING.** The commissioner shall specify requirements for reports, including quarterly fiscal reports, according to section 256.01, subdivision 2, paragraph (17). The reports must include:

(1) a detailed statement of expenses attributable to the grant during the preceding quarter; and

(2) a statement of the expenditure of money for ~~placement prevention and family reunification~~ family-based services by the county during the preceding quarter, including the number of clients served and the expenditures, by client, for each service provided.

Sec. 16. Minnesota Statutes 1990, section 256F.07, subdivision 1, is amended to read:

Subdivision 1. **PREPLACEMENT REVIEW.** Each county board shall establish a preplacement procedure to review each request for substitute care placement and determine if appropriate community resources have been utilized before making a substitute care placement. Emergency placements shall be reviewed to determine services necessary to allow a child to return home. Placements shall be reviewed for compliance with the minority family heritage act, sections 257.072 and 259.255; the Minnesota minority family preservation act, section 260.181, subdivision 3; the Minnesota Indian family preservation act, sections 257.35 to 257.356; and the Indian Child Welfare Act of 1978, United States Code, title 25, part 1901.

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Sec. 17. Minnesota Statutes 1990, section 256F.07, subdivision 2, is amended to read:

Subd. 2. **PROCEDURE FOR PLACEMENT.** When the preplacement review has determined that a substitute care placement is required because the child is in imminent risk of abuse or neglect; or requires treatment of an emotional disorder, chemical dependency, or mental retardation; the agency shall determine the level of care most appropriate to meet the child's needs in the least restrictive setting and in closest proximity to the child's family; and estimate the length of time of the placement, project a placement goal, and provide a statement of the anticipated outcome of the placement.

Placements must be in compliance with the minority family heritage act, sections 257.071 and 259.255; the Minnesota minority family preservation act, section 260.181, subdivision 3; the Minnesota Indian family preservation act, sections 257.35 to 257.356; and the Indian Child Welfare Act of 1978, United States Code, title 25, part 1901.

Sec. 18. Minnesota Statutes 1990, section 256F.07, subdivision 3, is amended to read:

Subd. 3. **TYPES OF SERVICES.** Placement prevention and family reunification services include:

~~(1) family-based service;~~

~~(2) individual and family counseling;~~

~~(3) crisis intervention and crisis counseling;~~

~~(4) day care;~~

~~(5) 24-hour emergency caretaker and homemaker services;~~

~~(6) emergency shelter care up to 30 days in 12 months;~~

~~(7) access to emergency financial assistance;~~

~~(8) arrangements to provide temporary respite care to the family for up to 72 hours consecutively or 30 days in 12 months; and~~

~~(9) transportation services to the child and parents in order to prevent placement or accomplish reunification of the family~~ family-based services as defined in section 256F.03, subdivision 5.

Family-based services must be coordinated with additional services identified and funded in the county social service act plan to provide a comprehensive placement prevention and family reunification services program.

Sec. 19. Minnesota Statutes 1990, section 257.071, subdivision 1a, is amended to read:

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Subd. 1a. **PROTECTION OF HERITAGE OR BACKGROUND.** The authorized child placing agency shall ensure that the child's best interests are met by giving due consideration of the child's race or ethnic heritage in making a family foster care placement. The authorized child placing agency shall place a child, released by court order or by voluntary release by the parent or parents, in a family foster home selected by following the preferences described in section 260.181, subdivision 3. In instances where a child from a family of color is placed in a family foster home of a different racial or ethnic background, the local social service agency shall review the placement after 30 days and each 30 days thereafter for the first six months to determine if there is another available placement that would better satisfy the requirements of this subdivision.

Sec. 20. **[257.0755] OFFICE OF OMBUDSPERSON; CREATION; QUALIFICATIONS; FUNCTION.**

An ombudsperson for families shall be appointed to operate independently but under the auspices of each of the following groups: the Indian Affairs Council, the Spanish-Speaking Affairs Council, the Council on Black Minnesotans, and the Council on Asian-Pacific Minnesotans. Each of these groups shall select its own ombudsperson subject to final approval by the advisory board established under section 257.0768. Each ombudsperson shall serve at the pleasure of the advisory board, shall be in the unclassified service, shall be selected without regard to political affiliation, and shall be a person highly competent and qualified to analyze questions of law, administration, and public policy regarding the protection and placement of children from families of color. In addition, the ombudsperson must be experienced in dealing with communities of color and knowledgeable about the needs of those communities. No individual may serve as ombudsperson while holding any other public office. The ombudsperson shall have the authority to investigate decisions, acts, and other matters of an agency, program, or facility providing protection or placement services to children of color.

Sec. 21. **[257.076] DEFINITIONS.**

Subdivision 1. **SCOPE.** For the purposes of sections 257.0755 to 257.0768, the following terms shall have the meanings given them in this section.

Subd. 2. **AGENCY.** "Agency" means the divisions, officials, or employees of the state departments of human services and health and local district courts or a designated county social service agency as defined in section 256G.02, subdivision 7, engaged in providing child protection and placement services for children. "Agency" also means any individual, service, or program providing child protection or placement services in coordination with or under contract to any other entity specified in this subdivision.

Subd. 3. **COMMUNITIES OF COLOR.** "Communities of color" means the following: American Indian, Hispanic-Latino, Asian-Pacific, African, and African-American communities.

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Subd. 4. **COMPADRAZGO.** "Compadrazgo" is a kinship institution within the Hispanic-Latino community used as a means of parenting and caring for children from birth to adulthood.

Subd. 5. **FAMILY OF COLOR.** "Family of color" means any family with a child under the age of 18 who is identified by one or both parents or another trusted adult to be of American Indian, Hispanic-Latino, Asian-Pacific, African, or African-American descent.

Subd. 6. **FACILITY.** "Facility" means any entity required to be licensed under chapter 245A.

Subd. 7. **TRUSTED ADULT.** "Trusted adult" means an individual recognized by the child's parent or legal guardian, the child's community, or both, as speaking for the child's best interest. The term includes compadrazgo and other individuals with a kinship or community relationship with the child.

Sec. 22. **[257.0761] ORGANIZATION OF OFFICE OF OMBUDSPERSON.**

Subdivision 1. **STAFF; UNCLASSIFIED STATUS; RETIREMENT.** The ombudsperson for each group specified in section 257.0755 may select, appoint, and compensate out of available funds the assistants and employees as deemed necessary to discharge responsibilities. All employees, except the secretarial and clerical staff, shall serve at the pleasure of the ombudsperson in the unclassified service. The ombudsperson and full-time staff shall be members of the Minnesota state retirement association.

Subd. 2. **DELEGATION TO STAFF.** The ombudsperson may delegate to staff members any of the ombudsperson's authority or duties except the duty of formally making recommendations to an administrative agency or reports to the office of the governor, or to the legislature.

Sec. 23. **[257.0762] DUTIES AND POWERS.**

Subdivision 1. **DUTIES.** (a) Each ombudsperson shall monitor agency compliance with all laws governing child protection and placement, as they impact on children of color. In particular, the ombudsperson shall monitor agency compliance with sections 256F.07, subdivision 3a; 256F.08; 257.072; 257.075; 257.35 to 257.3579; and 260.181, subdivision 3.

(b) The ombudsperson shall work with local state courts to ensure that:

(1) court officials, public policymakers, and service providers are trained in cultural diversity. The ombudsperson shall document and monitor court activities in order to heighten awareness of diverse belief systems and family relationships;

(2) experts from the appropriate community of color including tribal advocates are used as court advocates and are consulted in placement decisions that involve children of color;

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(3) guardians ad litem and other individuals from communities of color are recruited, trained, and used in court proceedings to advocate on behalf of children of color; and

(4) training programs for bilingual workers are provided.

Subd. 2. **POWERS.** In carrying out the duties in subdivision 1, each ombudsperson has the power to:

(1) prescribe the methods by which complaints are to be made, reviewed, and acted upon;

(2) determine the scope and manner of investigations to be made;

(3) investigate, upon a complaint or upon personal initiative, any action of any agency;

(4) request and be given access to any information in the possession of any agency deemed necessary for the discharge of responsibilities. The ombudsperson is authorized to set reasonable deadlines within which an agency must respond to requests for information. Data obtained from any agency under this clause shall retain the classification which it had under section 13.02 and shall be maintained and disseminated by the ombudsperson according to chapter 13;

(5) examine the records and documents of an agency;

(6) enter and inspect, during normal business hours, premises within the control of an agency; and

(7) subpoena any agency personnel to appear, testify, or produce documentary or other evidence which the ombudsperson deems relevant to a matter under inquiry, and may petition the appropriate state court to seek enforcement with the subpoena; provided, however, that any witness at a hearing or before an investigation as herein provided, shall possess the same privileges reserved to such a witness in the courts or under the laws of this state. The ombudsperson may compel nonagency individuals to testify or produce evidence according to procedures developed by the advisory board.

Sec. 24. **[257.0763] MATTERS APPROPRIATE FOR REVIEW.**

(a) In selecting matters for review, an ombudsperson should give particular attention to actions of an agency, facility, or program that:

(1) may be contrary to law or rule;

(2) may be unreasonable, unfair, oppressive, or inconsistent with a policy or order of an agency, facility, or program;

(3) may result in abuse or neglect of a child;

(4) may disregard the rights of a child or other individual served by an agency or facility; or

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(5) may be unclear or inadequately explained, when reasons should have been revealed.

(b) An ombudsperson shall, in selecting matters for review, inform other interested agencies in order to avoid duplicating other investigations or regulatory efforts, including activities undertaken by a tribal organization under the authority of sections 257.35 to 257.3579.

Sec. 25. **[257.0764] COMPLAINTS.**

An ombudsperson may receive a complaint from any source concerning an action of an agency, facility, or program. After completing a review, the ombudsperson shall inform the complainant, agency, facility, or program. Services to a child shall not be unfavorably altered as a result of an investigation or complaint. An agency, facility, or program shall not retaliate or take adverse action, as defined in section 626.556, subdivision 4a, paragraph (c), against an individual who, in good faith, makes a complaint or assists in an investigation.

Sec. 26. **[257.0765] RECOMMENDATIONS TO AGENCY.**

(a) If, after reviewing a complaint or conducting an investigation and considering the response of an agency, facility, or program and any other pertinent material, the ombudsperson determines that the complaint has merit or the investigation reveals a problem, the ombudsperson may recommend that the agency, facility, or program:

(1) consider the matter further;

(2) modify or cancel its actions;

(3) alter a rule, order, or internal policy;

(4) explain more fully the action in question; or

(5) take other action as authorized under section 257.0762.

(b) At the ombudsperson's request, the agency, facility, or program shall, within a reasonable time, inform the ombudsperson about the action taken on the recommendation or the reasons for not complying with it.

Sec. 27. **[257.0766] RECOMMENDATIONS AND PUBLIC REPORTS.**

Subdivision 1. **SPECIFIC REPORTS.** An ombudsperson may send conclusions and suggestions concerning any matter reviewed to the governor and shall provide copies of all reports to the advisory board and to the groups specified in section 257.0768, subdivision 1. Before making public a conclusion or recommendation that expressly or implicitly criticizes an agency, facility, program, or any person, the ombudsperson shall inform the governor and the affected agency, facility, program, or person concerning the conclusion or recommendation. When sending a conclusion or recommendation to the governor that is adverse to an agency, facility, program, or any person, the ombudsperson shall

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include any statement of reasonable length made by that agency, facility, program, or person in defense or mitigation of the ombudsperson's conclusion or recommendation.

Subd. 2. **GENERAL REPORTS.** In addition to whatever conclusions or recommendations the ombudsperson may make to the governor on an ad hoc basis, the ombudsperson shall at the end of each year report to the governor concerning the exercise of the ombudsperson's functions during the preceding year.

Sec. 28. **[257.0767] CIVIL ACTIONS.**

The ombudsperson and designees are not civilly liable for any action taken under sections 257.0755 to 257.0768 if the action was taken in good faith, was within the scope of the ombudsperson's authority, and did not constitute willful or reckless misconduct.

Sec. 29. **[257.0768] OMBUDSPERSON'S ADVISORY COMMITTEE.**

Subdivision 1. **MEMBERSHIP.** The appointment of each ombudsperson is subject to approval by an advisory committee consisting of no more than 17 members. Members of the advisory committee shall be appointed by the following groups: the Indian Affairs Council; the Spanish-Speaking Affairs Council; the Council on Black Minnesotans; and the Council on Asian-Pacific Minnesotans. The committee shall provide advice and counsel to each ombudsperson.

Subd. 2. **COMPENSATION; CHAIR.** Members do not receive compensation but are entitled to receive reimbursement for reasonable and necessary expenses incurred. The members shall designate four rotating chairpersons to serve annually at the pleasure of the members.

Subd. 3. **MEETINGS.** The committee shall meet at least four times a year at the request of its chair or the ombudspersons.

Subd. 4. **DUTIES.** The committee shall advise and assist the ombudspersons in selecting matters for attention; developing policies, plans, and programs to carry out the ombudspersons' functions and powers; establishing protocols for working with the communities of color; developing procedures for the ombudspersons' use of the subpoena power to compel testimony and evidence from nonagency individuals; and making reports and recommendations for changes designed to improve standards of competence, efficiency, justice, and protection of rights. The committee shall function as an advisory body.

Subd. 5. **TERMS, COMPENSATION, REMOVAL, AND EXPIRATION.** The membership terms, compensation, and removal of members of the committee and the filling of membership vacancies are governed by section 15.0575.

Sec. 30. **[257.0769] FUNDING FOR THE OMBUDSPERSON PROGRAM.**

(a) Money is appropriated from the special fund authorized by section

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256.01, subdivision 2, clause (15), to the Indian Affairs Council for the purposes of sections 257.0755 to 257.0768.

(b) Money is appropriated from the special fund authorized by section 256.01, subdivision 2, clause (15), to the Spanish-speaking Affairs Council for the purposes of sections 257.0755 to 257.0768.

(c) Money is appropriated from the special fund authorized by section 256.01, subdivision 2, clause (15), to the Council of Black Minnesotans for the purposes of sections 257.0755 to 257.0768.

(d) Money is appropriated from the special fund authorized by section 256.01, subdivision 2, clause (15), to the Council on Asian-Pacific Minnesotans for the purposes of sections 257.0755 to 257.0768.

Sec. 31. Minnesota Statutes 1990, section 257.352, subdivision 2, is amended to read:

Subd. 2. **AGENCY NOTICE OF POTENTIAL OUT-OF-HOME PLACEMENT.** When a local social service agency or private child placing agency determines that an Indian child is in a dependent or other condition that could lead to an out-of-home placement and requires the continued involvement of the agency with the child for a period in excess of 30 days, the agency shall send notice of the condition and of the initial steps taken to remedy it to the Indian child's tribal social service agency within seven days of the determination. At this and any subsequent stage of its involvement with an Indian child, the agency shall, upon request, give the tribal social service agency full cooperation including access to all files concerning the child. If the files contain confidential or private data, the agency may require execution of an agreement with the tribal social service agency that the tribal social service agency shall maintain the data according to statutory provisions applicable to the data. This subdivision applies whenever the court transfers legal custody of an Indian child under section 260.185, subdivision 1, paragraph (c), clause (1), (2), or (3) following an adjudication for a misdemeanor-level delinquent act.

Sec. 32. Minnesota Statutes 1990, section 261.035, is amended to read:

261.035 **BURIAL AT EXPENSE OF COUNTY.**

When a person dies in any county without apparent means to provide for burial and without relatives of sufficient ability to procure the burial, the county board shall first investigate to determine whether the person who has died has contracted for any prepaid burial arrangements. If such arrangements have been made, the county shall authorize burial in accord with the written instructions of the deceased. If it is determined that the person did not leave sufficient means to defray the necessary expenses of burial, nor any relatives therein of sufficient ability to procure the burial, the county board shall cause a decent burial or cremation of the person's remains to be made at the expense of the county. Cremation shall not be used for persons who are known to be opposed to cremation because of religious affiliation or belief.

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Sec. 33. Minnesota Statutes 1990, section 268.022, subdivision 2, is amended to read:

Subd. 2. **DISBURSEMENT OF SPECIAL ASSESSMENT FUNDS.** (a) The money collected under this section shall be deposited in the state treasury and credited to a dedicated fund to provide for the dislocated worker programs established under sections 268.975 to 268.98; including vocational guidance, training, placement, and job development.

(b) All money in the dedicated fund is appropriated to the commissioner who must act as the fiscal agent for the money and must disburse the money for the purposes of this section, not allowing the money to be used for any other obligation of the state. All money in the dedicated fund shall be deposited, administered, and disbursed in the same manner and under the same conditions and requirements as are provided by law for the other dedicated funds in the state treasury, except that all interest or net income resulting from the investment or deposit of money in the fund shall accrue to the fund for the purposes of the fund.

(c) No more than five percent of the dedicated funds collected in each fiscal year may be used by the department of jobs and training for its administrative costs.

(d) The dedicated funds, less amounts under paragraph (c), must be allocated as follows:

(1) 50 percent to be allocated according to paragraph (e) to the substate grantees under subchapter III of the Job Training Partnership Act, United States Code, title 29, section 1661a in proportion to each substate area's share of the federal allocated funds, to be used to assist dislocated workers under the standards in section 268.98;

(2) 50 percent to fund specific programs proposed under the state plan request for proposal process and recommended by the governor's job training council. This fund shall be used for state plan request for proposal programs addressing plant closings or layoffs regardless of size; and

(3) in fiscal years 1991, 1992, and 1993, any amounts transferred to the general fund or obligated before the effective date of this section shall be excluded from the calculation under this paragraph.

(e) In the event that a substate grantee has obligated 100 percent of its formula allocated federal funds under subchapter III of the Job Training Partnership Act, United States Code, title 29, section 1651 et seq., and has demonstrated appropriate use of the funds to the governor's job training council, the substate grantee may request and the commissioner shall provide additional funds to the substate area in an amount equal to the federal formula allocated funds. When a substate grantee has obligated 100 percent of the additional funds provided under this section, and has demonstrated appropriate use of the funds

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to the governor's job training council, the substate grantee may request and the commissioner shall provide further additional funds in amounts equal to the federal formula allocated funds until the substate area receives its proportionate share of funds under paragraph (d), clause (1).

(f) By December 31 of each fiscal year each substate grantee and the governor's job training council shall report to the commissioner on the extent to which funds under this section are committed and the anticipated demand for funds for the remainder of the fiscal year. The commissioner shall reallocate those funds that the substate grantees and the council do not anticipate expending for the remainder of the fiscal year to be available for requests from other substate grantees or other dislocated worker projects proposed to the governor's job training council which demonstrate a need for additional funding.

(g) Due to the anticipated quarterly variations in the amounts collected under this section, the amounts allocated under paragraph (d) must be based on collections for each quarter. Any amount collected in the final two quarters of the fiscal year, but not allocated, obligated or expended in the fiscal year, shall be available for allocation, obligation and expenditure in the following fiscal year.

Sec. 34. Minnesota Statutes 1990, section 268.914, is amended to read:

268.914 **DISTRIBUTION OF APPROPRIATION.**

Subdivision 1. **STATE SUPPLEMENT FOR FEDERAL GRANTEES.** (a) The commissioner of jobs and training shall distribute money appropriated for that purpose to head start program grantees to expand services to additional low-income children. Money must be allocated to each project head start grantee in existence on the effective date of Laws 1989, chapter 282. Migrant and Indian reservation grantees must be initially allocated money based on the grantees' share of federal funds. The remaining money must be initially allocated to the remaining local agencies based equally on the agencies' share of federal funds and on the proportion of eligible children in the agencies' service area who are not currently being served. A head start grantee must be funded at a per child rate equal to its contracted, federally funded base level for program accounts 20 to 26 at the start of the fiscal year. The commissioner may provide additional funding to grantees for start-up costs incurred by grantees due to the increased number of children to be served. Before paying money to the grantees, the commissioner shall notify each grantee of its initial allocation, how the money must be used, and the number of low-income children that must be served with the allocation. Each grantee must notify the commissioner of the number of additional low-income children it will be able to serve. For any grantee that cannot serve additional children to its full allocation, the commissioner shall reduce the allocation proportionately. Money available after the initial allocations are reduced must be redistributed to eligible grantees.

(b) Up to 11 percent of the funds appropriated annually may be used to provide grants to local head start agencies to provide funds for innovative programs

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designed either to target head start resources to particular at-risk groups of children or to provide services in addition to those currently allowable under federal head start regulations. The commissioner shall award funds for innovative programs under this paragraph on a competitive basis.

Subd. 2. **SERVICE EXPANSION GRANTS.** One-third of any biennial increase in the state appropriations for head start programs shall be allocated by the commissioner of jobs and training, under a request for proposal system, to existing head start grantees for service expansion.

Priority for state-funded service expansion grants must be given to applicants who propose to:

(1) coordinate or co-locate the services through an existing community-based, family-oriented program such as a family resource center;

(2) minimize the amount of state funding that is needed for initial construction or remodeling costs by using an existing facility, by sharing a facility with a school or other program, or by obtaining contributions for these costs from private or local sources;

(3) reduce the costs and time of transportation by enabling children to attend a program closer to their home communities;

(4) increase services in an area where less than 15 percent of eligible children are enrolled; and

(5) expand programs within a city where no center-based program exists.

The additional funds provided to a grantee under this subdivision shall be considered part of the grantees funding base for future formula allocations of state or federal funds.

Sec. 35. Minnesota Statutes 1990, section 268.975, subdivision 3, is amended to read:

Subd. 3. **DISLOCATED WORKER.** "Dislocated worker" means an individual who:

(1) has been terminated or who has received a notice of termination ~~of~~ from employment ~~as a result of a plant closing or any substantial layoff at a plant, facility, or enterprise located in the state,~~ is eligible for or has exhausted entitlement to unemployment compensation, and is unlikely to return to the previous industry or occupation;

(2) ~~was a resident of the state at the time~~ has been terminated or has received a notice of termination of employment ~~or at the time of receiving the notification of termination of employment~~ as a result of any plant closing or any substantial layoff at a plant, facility, or enterprise; ~~and~~

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(3) ~~is eligible for or has exhausted unemployment compensation and is unlikely to return to the previous industry or occupation~~ has been long-term unemployed and has limited opportunities for employment or reemployment in the same or a similar occupation in the area in which the individual resides, including older individuals who may have substantial barriers to employment by reason of age;

(4) has been self-employed, including farmers and ranchers, and is unemployed as a result of general economic conditions in the community in which the individual resides or because of natural disasters, subject to rules to be adopted by the commissioner; or

(5) has been terminated or who has received a notice of termination from employment with a public or nonprofit employer.

A dislocated worker must have been working in Minnesota at the time employment ceased.

Sec. 36. Minnesota Statutes 1990, section 268.975, is amended by adding a subdivision to read:

Subd. 3a. **ADDITIONAL DISLOCATED WORKER.** "Additional dislocated worker" means an individual who was a full-time homemaker for a substantial number of years and derived the substantial share of his or her support from:

(1) a spouse and no longer receives such support due to the death, divorce, permanent disability of, or permanent separation from the spouse; or

(2) public assistance on account of dependents in the home and no longer receives such support.

An additional dislocated worker must have resided in Minnesota at the time the support ceased.

Sec. 37. Minnesota Statutes 1990, section 268.977, is amended to read:

268.977 **RAPID RESPONSE PROGRAM.**

Subdivision 1. **PROGRAM ESTABLISHMENT.** (a) The commissioner shall establish a rapid response program to (1) assist employees, employers, business organizations or associations, labor organizations, local government units, and community organizations to quickly and effectively respond to announced or actual plant closings and substantial layoffs and (2) assist dislocated workers and additional dislocated workers. Grant recipients and substate grantees may, but shall not be required to, subcontract with the department for readjustment services.

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(b) The program must include or address at least the following:

(1) within five working days after becoming aware of an announced or actual plant closing or substantial layoff, establish on-site contact with the employer, employees, labor organizations if there is one representing the employees, and leaders of the local government units and community organizations to provide coordination of efforts to formulate a communitywide response to the plant closing or substantial layoff, provide information on the public and private service and programs that might be available, inform the affected parties of the prefeasibility study grants under section 268.978, and collect any information required by the commissioner to assist in responding to the plant closing or substantial layoff;

(2) provide ongoing technical assistance to employers, employees, business organizations or associations, labor organizations, local government units, and community organizations to assist them in reacting to or developing responses to plant closings or substantial layoffs;

(3) establish and administer the prefeasibility study grant program under section 268.978 to provide an initial assessment of the feasibility of alternatives to plant closings or substantial layoffs;

(4) work with employment and training service providers, employers, business organizations or associations, labor organizations, local government units, dislocated workers, and community organizations in providing training, education, community support service, job search programs, job clubs, and other services to address the needs of potential or actual dislocated workers;

(5) coordinate with providers of economic development related financial and technical assistance services so that communities that are experiencing plant closings or substantial layoffs have immediate access to economic development related services; ~~and~~

(6) collect and make available information on programs that might assist dislocated workers and the communities affected by plant closings or substantial layoffs; and

(7) when they can be provided without adversely affecting delivery of services to all dislocated workers, the services under clause (4) shall be available to additional dislocated workers as defined in section 268.975, subdivision 3a.

Subd. 2. **APPLICABILITY.** ~~Notwithstanding section 268.975, subdivisions 6 and 8, the commissioner may waive the threshold requirements for finding a plant closing or substantial layoff in special cases where the governor's job training council recommends waiver to the commissioner following a finding by the council that the number of workers dislocated as a result of a plant closing or substantial layoff would have a substantial impact on the community or labor market where the closure or layoff occurs and, in the absence of intervention through the rapid response program, would overwhelm the capacity of other~~

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~~programs to provide effective assistance.~~ A proposal for a program recommended for funding by the governor's job training council shall not be denied based upon the increased funding and resources of substate areas.

Sec. 38. Minnesota Statutes 1990, section 268.98, is amended to read:

268.98 **PERFORMANCE STANDARDS.**

(a) The commissioner shall establish performance standards for the programs and activities administered or funded through the rapid response program under section 268.977. The commissioner may use existing federal performance standards or, if the commissioner determines that the federal standards are inadequate or not suitable, may formulate new performance standards to ensure that the programs and activities of the rapid response program are effectively administered.

(b) Not less than 20 percent of the funds expended under this section must be used to provide needs-related payments and other supportive services as those terms are used in subchapter III of the Job Training Partnership Act, United States Code, title 29, section 1661d(b). This requirement does not apply to the extent that a program proposal requests less than 20 percent of such funds. At the end of the fiscal year, each substate grantee and each grant recipient shall report to the commissioner on the types of services funded under this paragraph and the amounts expended for such services. By January 15 of each year, the commissioner shall provide a summary report to the legislature.

Sec. 39. Minnesota Statutes 1990, section 268A.06, is amended by adding a subdivision to read:

Subd. 3. **REHABILITATION FACILITIES: SALARY ADJUSTMENTS; GRANTS.** The commissioner shall increase grants, for the fiscal year beginning July 1, 1991, for each rehabilitation facility by a salary adjustment figured by multiplying the total salaries, payroll taxes, and fringe benefits for personnel below top management by three percent. All increased revenue produced by this calculation must be used for salary and related costs of personnel in positions below top management. The commissioner shall ensure that all increased revenue produced by this calculation is used for salary and related costs of personnel in positions below top management.

Sec. 40. **LAND CONVEYANCE TO CITY OF CAMBRIDGE.**

Notwithstanding Minnesota Statutes, sections 94.09 to 94.16; for the purposes of this section and Laws 1990, chapter 610, article 1, section 12, subdivision 5; on behalf of the Cambridge regional human services center; and in cooperation with the city of Cambridge, the commissioner of administration may transfer to the city of Cambridge the real properties, consisting of 68 acres, more or less, described as follows:

Government Lot 2, Section 6, Township 35, Range 23, Isanti county, Minnesota.

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ALSO: that part of the West Half of the Northeast Quarter, that part of the East Half of the Northwest Quarter, that part of Government Lot 4, and that part of Government Lot 5, all in Section 5, Township 35, Range 23, Isanti county, Minnesota, described jointly as follows:

Commencing at the intersection of the North line of the said Section 5 and the center line of state trunk highway No. 65 as laid out and constructed, said point being 786.27 feet West from the northeast corner of said Section 5; thence South 15 degrees 39 minutes 50 seconds West, along the center line of said state trunk highway No. 65 and the tangent line of a curve to the right, a distance of 573.03 feet; thence on a bearing of West, a distance of 80.63 feet to a point to be hereinafter known as point "A", said point being the intersection of the westerly right-of-way line of said state trunk highway No. 65 with a line drawn parallel with and distant 50 feet South, as measured at right angles thereto, from the center line of state highway No. 293, as laid out and constructed; thence continuing on a bearing of West and parallel with the center line of said state highway No. 293, said center line being parallel with the North line of said Section 5, a distance of 1484.50 feet to a point to be hereinafter known as point "B"; thence on a bearing of South, a distance of 714.00 feet; thence on a bearing of West, a distance of 545.64 feet; thence North 6 degrees 13 minutes 06 seconds East, a distance of 591.12 feet to the point of beginning of the land to be herein described; thence South 6 degrees 13 minutes 06 seconds West, retracing the last described course, a distance of 591.12 feet; thence on a bearing of East, a distance of 545.64 feet; thence on a bearing of South, a distance of 70.57 feet; thence South 89 degrees 15 minutes 02 seconds West, a distance of 957.32 feet; thence South 1 degree 37 minutes 42 seconds East, a distance of 133.27 feet to the south line of the North 102.5 feet of the Southeast Quarter of Northwest Quarter of Section 5, as measured along the west line of said Southeast Quarter of Northwest Quarter; thence South 89 degrees 24 minutes 15 seconds West, along said south line, a distance of 2040.05 feet to the west line of said Section 5; thence northerly, along said west line of Section 5 to the southerly shoreline of the Rum River; thence easterly and northeasterly along the southerly and southeasterly shoreline of the Rum River to the north line of the Northwest Quarter of said Section 5; thence North 89 degrees 47 minutes 10 seconds East, along said north line of the Northwest Quarter of Section 5 to a point distant 646.00 feet west of the northeast corner of said Northwest Quarter of Section 5, as measured along the north line of said Northwest Quarter; thence South 0 degrees 03 minutes 35 seconds East, a distance of 134.02 feet; thence North 89 degrees 56 minutes 25 seconds East, a

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distance of 238.29 feet to the westerly line of an easement for highway purposes for state highway No. 293, by Transfer of Custodial Control, dated June 15, 1959; thence South 0 degrees 04 minutes 00 seconds East, along said westerly line, a distance of 7.77 feet; thence southeasterly along a tangential curve in the westerly line of said easement for highway purposes, said curve is concave to the northeast, radius 381.10 feet, central angle 58 degrees 44 minutes 37 seconds, 390.73 feet to the point of intersection with a line that bears North 30 degrees 00 minutes 00 seconds East from the point of beginning; thence South 30 degrees 00 minutes 00 seconds West, along said line, a distance of 240.68 feet to the point of beginning.

That part of Lot 30 of Auditor's Subdivision No. 9, Isanti county, Minnesota, described as follows:

Commencing at the East quarter corner of Section 32, Township 36, Range 23, Isanti county, Minnesota; thence South 89 degrees 44 minutes 35 seconds West, assumed bearing, along the east-west quarter line of said Section 32, a distance of 2251.43 feet; thence South 1 degree 48 minutes 40 seconds East, a distance of 344.47 feet to the south line of Lot 30 of Auditor's Subdivision No. 9; thence South 89 degrees 35 minutes 05 seconds West along said south line, a distance of 205.34 feet to the west line of the East 1098 feet of said Lot 30 and the point of beginning of the parcel to be herein described; thence continuing South 89 degrees 35 minutes 05 seconds West along the south line of said Lot 30, a distance of 534.66 feet; thence North 45 degrees 24 minutes 55 seconds West, a distance of 180 feet, more or less, to the shoreline of the Rum River; thence northeasterly along said shoreline, a distance of 252 feet, more or less, to the east-west quarter line of said Section 32; thence North 89 degrees 44 minutes 35 seconds East along said east-west quarter line, a distance of 524 feet, more or less, to the west line of the East 1098 feet of said Lot 30; thence South 2 degrees 40 minutes 50 seconds East along said west line, a distance of 345.21 feet to the point of beginning.

That part of the North half of the Northeast Quarter and that part of the Northeast Quarter of the Northwest Quarter, both in said Section 5, lying northerly of the following described line "C" and lying southerly of a line drawn parallel with and distant 32 feet northerly of said line "C" (as measured at right angles to said line "C"). Said line "C" is described as follows:

Beginning at the previously described point "A"; thence on a bearing of West, a distance of 1484.50 feet to the previously described point "B"; thence continuing on a bearing of West, a distance of 164.52 feet to a point to be hereinafter known as point "D".

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The northerly line of the strip of land described herein is to extend easterly to terminate on the westerly right-of-way line of said state trunk highway No. 65.

That part of the Northeast Quarter of the Northwest Quarter of said Section 5, lying northerly of the following described line "E" and lying southerly of a line drawn parallel with and distant 27 feet northerly of said line "E" (as measured at right angles to said line "E"). Said line "E" is described as follows:

Beginning at the previously described point "D", said point is on a curve, the tangent of said curve bears East from said point; thence westerly, along said curve, concave to the north, radius 408.10 feet, central angle 31 degrees 02 minutes 09 seconds, a distance of 221.06 feet and there terminating.

All of the land described herein is subject to easements, restrictions and reservations of record, if any.

In accordance with this section and Laws 1990, chapter 610, article 1, section 12, subdivision 5, the department of human services and the city may attach to the transfer the conditions that they agree are appropriate, including conditions that relate to water and sewer service at the center and in the city. If the transfer requires the conveyance of any interest in real estate, the attorney general shall prepare appropriate instruments of conveyance. The deeds to convey the properties must contain a clause that the property will revert to the state if the property ceases to be used for a public purpose.

The city of Cambridge shall use the land to preserve flood plain open space, to construct a wastewater treatment facility, to construct a trail system, to access the regional treatment center cemetery, to access existing infrastructure, and other public purposes. Economic development is a public purpose within the meaning of the term in Laws 1990, chapter 610, article 1, section 12, subdivision 5, and sales or conveyances to private parties shall be deemed as economic development. Property conveyed by the state under this section shall not revert to the state if it is conveyed or otherwise encumbered by the city as part of a city economic development activity. The appropriation in Laws 1990, chapter 610, article 1, section 12, subdivision 5, expires upon the accomplishment or abandonment of its purpose and the purposes of this section.

Sec. 41. **REPEALER.**

Laws 1990, chapter 568, article 6, section 4, is repealed effective the day following final enactment.

Sec. 42. **EFFECTIVE DATE.**

Sections 35 to 37 are effective the day following final enactment.

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ARTICLE 4

HEALTH CARE

Section 1. Minnesota Statutes 1990, section 144A.071, subdivision 3, is amended to read:

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

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

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

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

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

(e) to license nursing home beds in a facility that has submitted either a completed licensure application or a written request for licensure to the commis-

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

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

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

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

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

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

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

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

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

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

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

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(k) to license nursing home beds in a hospital facility that are relocated from a different hospital facility under common ownership or affiliation, provided: (1) the nursing home beds are not certified for participation in the medical assistance program; and (2) the relocation of nursing home beds under this clause should not exceed a radius of six miles;

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

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

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

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

(p) to certify and license as nursing home beds boarding care beds in a certified boarding care facility if the beds meet the standards for nursing home licensure and if the cost of any remodeling of the facility does not exceed ten percent of the appraised value of the facility or $200,000, whichever is less. If boarding care beds are licensed as nursing home beds, the number of boarding care beds in the facility must not increase in the future. The provisions contained in sec-

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tion 144A.073 regarding the upgrading of the facilities do not apply to facilities that satisfy these requirements;

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

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

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

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

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

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Sec. 2. Minnesota Statutes 1990, section 144A.071, is amended by adding a subdivision to read:

Subd. 3a. **CERTIFICATION OF LICENSED BEDS IN A CERTIFIED FACILITY.** Nothing in this section prohibits the commissioner of health from certifying licensed nursing home beds in a facility certified for medical assistance provided that these beds meet the certification requirements and the facility enters into a written agreement with the commissioner of human services specifying that medical assistance reimbursement shall not be requested for a greater number of residents than the facility had medical assistance certified beds on April 1, 1991.

Sec. 3. Minnesota Statutes 1990, section 144A.10, subdivision 4, is amended to read:

Subd. 4. **CORRECTION ORDERS.** Whenever a duly authorized representative of the commissioner of health finds upon inspection of a nursing home, that the facility or a controlling person or an employee of the facility is not in compliance with sections 144.651, 144A.01 to 144A.16, or 626.557 or the rules promulgated thereunder, a correction order shall be issued to the facility. The correction order shall state the deficiency, cite the specific rule or statute violated, state the suggested method of correction, and specify the time allowed for correction. If the commissioner finds that the nursing home had uncorrected or repeated violations which create a risk to resident care, safety, or rights, the commissioner shall notify the commissioner of human services who shall ~~(1) review reimbursement to the nursing home to determine the extent to which the state has paid for substandard care and, (2) furnish the findings and disposition to the commissioner of health within 30 days of notification~~ require the facility to use any efficiency incentive payments received under section 256B.431, subdivision 2b, paragraph (d), to correct the violations and shall require the facility to forfeit incentive payments for failure to correct the violations as provided in section 256B.431, subdivision 2p. The forfeiture shall not apply to correction orders issued for physical plant deficiencies.

Sec. 4. Minnesota Statutes 1990, section 245.465, is amended to read:

245.465 **DUTIES OF COUNTY BOARD.**

Subdivision 1. The county board in each county shall use its share of mental health and community social service act funds allocated by the commissioner according to a biennial local mental health service proposal approved by the commissioner. The county board must:

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

(2) provide for case management services to adults with serious and persistent mental illness in accordance with sections 245.462, subdivisions 3 and 4; 245.4711; and 245.486;

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

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

(5) assure that mental health professionals, mental health practitioners, and case managers employed by or under contract with the county to provide mental health services have experience and training in working with adults with mental illness.

Subd. 2. **RESIDENTIAL AND COMMUNITY SUPPORT PROGRAMS FOR PERSONS WITH MENTAL ILLNESS: SALARY ADJUSTMENTS PER DIEM.** In establishing, operating, or contracting for the provision of programs licensed under Minnesota Rules, parts 9520.0500 to 9520.0690 and programs funded under Minnesota Rules, parts 9535.0100 to 9535.1600, for the fiscal year beginning July 1, 1991, a county board's contract must reflect increased salaries by multiplying the total salaries, payroll taxes, and fringe benefits related to personnel below top management by three percent. This increase shall remain in the base for purposes of wage determination in future contract years. County boards shall verify in writing to the commissioner that each program has complied with this requirement. If a county board determines that a program has not complied with this requirement for a specific contract period, the county board shall reduce the program's payment rates for the next contract period to reflect the amount of money not spent appropriately. The commissioner shall modify reporting requirements for programs and counties as necessary to monitor compliance with this provision.

Sec. 5. Minnesota Statutes 1990, section 246.23, is amended to read:

246.23 **PERSONS ADMISSIBLE TO REGIONAL TREATMENT CENTERS.**

Subdivision 1. **RESIDENCE.** No person who has not a settlement in a county, as defined in section 256D.18, shall be admitted to a regional treatment center for persons with mental illness, mental retardation, or chemical dependency, except that the commissioner of human services may authorize admission thereto when the residence cannot be ascertained, or when the circumstances in the judgment of the commissioner make it advisable. ~~Except for emergency admissions under sections 253B.05 and 253B.11, or when authorized by the commissioner, a chemical dependency program must not admit a chemically dependent person unless the cost of services will be paid for by private money or nongovernmental third-party payments, the person has been placed by a county or a federally recognized tribal unit that is responsible for payment, or the regional treatment center obtains approval of the admission from the county financially responsible for the person. The commissioner shall maintain and enhance cooperative and effective relationships between counties and regional treatment centers and between the various regional treatment center chemical dependency programs. In carrying out this responsibility. The commissioner~~

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~~shall maintain a regionally based, state administered system of chemical dependency programs.~~ When application is made to a judge of probate for admission to any of the regional treatment centers above named for admission thereto, if the judge finds that the person for whom application is made has not such residence, or that residence cannot be ascertained, the judge shall so report to the commissioner; and may recommend that such person be admitted notwithstanding, giving reasons therefor. The commissioner of human services shall thereupon investigate the question of residence and, if the commissioner finds that such person has not such residence and has a legal residence in another state or country, the commissioner may cause the person to be returned thereto at the expense of this state.

Subd. 2. **CHEMICAL DEPENDENCY TREATMENT.** The commissioner shall maintain a regionally based, state-administered system of chemical dependency programs. Counties may refer individuals who are eligible for services under chapter 254B to the chemical dependency units in the regional treatment centers. A 15 percent county share of the per diem cost of treatment is required for individuals served within the treatment capacity funded by direct legislative appropriation. By July 1, 1991, the commissioner shall establish criteria for admission to the chemical dependency units that will maximize federal and private funding sources, fully utilize the regional treatment center capacity, and make state-funded treatment capacity available to counties on an equitable basis. The admission criteria may be adopted without rulemaking. Existing rules governing placements under chapters 254A and 254B do not apply to admissions to the capacity funded by direct appropriation. Private and third-party collections and payments are appropriated to the commissioner for the operation of the chemical dependency units. In addition to the chemical dependency treatment capacity funded by direct legislative appropriation, the regional treatment centers may provide treatment to additional individuals whose treatment is paid for out of the chemical dependency consolidated treatment fund under chapter 254B, in which case placement rules adopted under chapter 254B apply, or through other nonstate payment sources.

Sec. 6. Minnesota Statutes 1990, section 246.64, subdivision 3, is amended to read:

Subd. 3. **RESPONSIBILITIES OF COMMISSIONER.** The commissioner shall credit all receipts from billings for rates set in subdivision 1, except those credited according to subdivision 2, to the chemical dependency fund. This money must not be used for a regional treatment center activity that is not a chemical dependency service or an allocation of expenditures that are included in the base for computation of the rates under subdivision 1. The commissioner may expand chemical dependency services so long as expenditures are recovered by patient fees, transfer of funds, or supplementary appropriations. The commissioner may expand or reduce chemical dependency staff complement as long as expenditures are recovered by patient fees, transfer of funds, or supplementary appropriations. ~~An increase or decrease in chemical dependency staff shall not result in an increase or decrease in staff in any facility or unit not providing~~

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~~chemical dependency services.~~ Notwithstanding chapters 176 and 268, the commissioner shall provide for the self-insurance of regional treatment center chemical dependency programs for the costs of unemployment compensation and workers' compensation claims. The commissioner shall provide a biennial report to the chairs of the senate finance subcommittee on health and human services, the house of representatives human services division of appropriations, and the senate and house of representatives health and human services committees.

Sec. 7. Minnesota Statutes 1990, section 252.24, is amended by adding a subdivision to read:

Subd. 5. **DAC'S: SALARY ADJUSTMENT PER DIEM.** The commissioner shall approve a two percent increase in the payment rates for day training and habilitation services vendors effective July 1, 1991. All revenue generated shall be used by vendors to increase salaries, fringe benefits, and payroll taxes by at least three percent for personnel below top management. County boards shall amend contracts with vendors to require that all revenue generated by this provision is expended on salary increases to staff below top management. County boards shall verify in writing to the commissioner that each vendor has complied with this requirement. If a county board determines that a vendor has not complied with this requirement for a specific contract period, the county board shall reduce the vendor's payment rates for the next contract period to reflect the amount of money not spent appropriately. The commissioner shall modify reporting requirements for vendors and counties as necessary to monitor compliance with this provision.

Each county agency shall report to the commissioner by July 30, 1991, its actual social service day training and habilitation expenditures for calendar year 1990. The commissioner shall allocate the day habilitation service CSSA appropriation made available for this purpose to county agencies in proportion to these expenditures.

Sec. 8. Minnesota Statutes 1990, section 252.275, is amended by adding a subdivision to read:

Subd. 10. **SILS: SALARY ADJUSTMENTS; RATES.** In establishing, operating, or contracting for the provision of semi-independent living services, for the fiscal year beginning July 1, 1991, a county board must contract at rates to pay for increased salaries by multiplying the total salaries, payroll taxes, and fringe benefits related to personnel below top management by three percent. Any maximum rate limit shall be adjusted to provide for this provision. The state shall provide counties with proper reimbursement to cover these increased costs. County boards shall verify in writing to the commissioner that each semi-independent living service provider has complied with this requirement. If a county board determines that a semi-independent living service provider has not complied with this requirement for a specific contract period, the county board shall reduce the provider's payment rates for the next contract period to reflect the amount of money not spent appropriately. The commissioner shall modify

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reporting requirements for providers and counties as necessary to monitor compliance with this provision.

Sec. 9. Minnesota Statutes 1990, section 252.46, subdivision 3, is amended to read:

Subd. 3. **RATE MAXIMUM.** Unless a variance is granted under subdivision 6, the maximum payment rates for each vendor for a calendar year must be equal to the payment rates approved by the commissioner for that vendor in effect December 1 of the previous calendar year increased by no more than the projected percentage change in the urban consumer price index, all items, published by the United States Department of Labor, for the upcoming calendar year over the current calendar year. The commissioner shall not provide an annual inflation adjustment for the biennium ending June 30, 1993.

Sec. 10. Minnesota Statutes 1990, section 252.46, subdivision 6, is amended to read:

Subd. 6. **VARIANCES.** A variance from the minimum or maximum payment rates in subdivisions 2 and 3 may be granted by the commissioner when the vendor requests and the county board submits to the commissioner a written variance request with the recommended payment rates. The commissioner shall develop by October 1, 1989, a uniform format for submission of documentation for the variance requests. This format shall be used by each vendor requesting a variance. The form shall be developed by the commissioner and shall be reviewed by representatives of advocacy and provider groups and counties. A variance may be utilized for costs associated with compliance with state administrative rules, compliance with court orders, capital costs required for continued licensure, increased insurance costs, start-up and conversion costs for supported employment, direct service staff salaries and benefits, and transportation. The county board shall review all vendors' payment rates that are ten or more than ten percent lower than the statewide median payment rates. If the county determines that the payment rates do not provide sufficient revenue to the vendor for authorized service delivery the county must recommend a variance under this section. When the county board contracts for increased services from any vendor for some or all individuals receiving services from the vendor, the county board shall review the vendor's payment rates to determine whether the increase requires that a variance to the minimum rates be recommended under this section to reflect the vendor's lower per unit fixed costs. The written variance request must include documentation that all the following criteria have been met:

(1) The commissioner and the county board have both conducted a review and have identified a need for a change in the payment rates and recommended an effective date for the change in the rate.

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

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(3) The proposed changes are necessary to demonstrate compliance with minimum licensing standards~~, or to provide community-integrated and supported employment services after a change in the vendor's existing services has been approved as provided in section 252.28~~.

(4) The vendor documents that the changes cannot be achieved by reallocating current staff or by reallocating financial resources.

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

(6) The county board submits a description of the nature and cost of the proposed changes, and how the county will monitor the use of money by the vendor to make necessary changes in services.

(7) The county board's recommended payment rates do not exceed 125 percent of the current calendar year's statewide median payment rates.

The commissioner shall have 60 calendar days from the date of the receipt of the complete request to accept or reject it, or the request shall be deemed to have been granted. If the commissioner rejects the request, the commissioner shall state in writing the specific objections to the request and the reasons for its rejection.

Sec. 11. Minnesota Statutes 1990, section 252.46, subdivision 14, is amended to read:

Subd. 14. **PILOT STUDY.** The commissioner may initiate a pilot payment rate system under section 252.47. The pilot project may establish training and demonstration sites. The pilot payment rate system must include actual transfers of funds, not simulated transfers. The pilot payment rate system may involve ~~up to four counties and four~~ vendors representing different geographic regions and rates of reimbursement. Participation in the pilot project is voluntary. Selection of participants by the commissioner is based on the vendor's submission of a complete application form provided by the commissioner. The application must include letters of agreement from the host county, counties of financial responsibility, and residential service providers. Evaluation of the pilot project must include consideration of the effectiveness of procedures governing establishment of equitable payment rates. Implementation of the pilot payment rate system is contingent upon federal approval and systems feasibility. The policies and procedures governing administration, participation, evaluation, service utilization, and payment for services under the pilot payment rate system are not subject to the rulemaking requirements of chapter 14.

Sec. 12. Minnesota Statutes 1990, section 252.478, subdivision 1, is amended to read:

Subdivision 1. **ESTABLISHMENT OF ~~PROGRAM~~ METRO TRANS-**

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PORTATION SUPPORT GRANTS. The commissioner of human services shall establish and operate a metro transportation support grants program to provide reimbursement for client transportation by metro mobility, or cost-effective alternatives, to day training and habilitation services for which client transportation is a required and funded component, and to maximize use of federal funds for this reimbursement. A metro transportation support grants account shall be established in the department of human services chart of accounts.

Sec. 13. Minnesota Statutes 1990, section 252.478, subdivision 3, is amended to read:

Subd. 3. **COUNTY SHARE.** The county share of the metro transportation support grants program costs will be distributed by the department to all metropolitan counties from the metro transportation support grants account. For state fiscal year 1991, the funds transferred from the regional transit board to this account shall be distributed to: Ramsey county, 48 percent; Hennepin county, 46 percent; Dakota county, five percent; and Anoka county, one percent. For subsequent fiscal years, funds shall be distributed annually based on each county's percentage of total expenses incurred for trips provided on metro mobility to and from day training and habilitation services during the preceding 12-month period. in amounts not to exceed those received by the counties and used for increased expenses incurred for trips provided on metro mobility during fiscal year 1991. Counties must recommend decreases to the payment rates for vendors whose transportation costs decrease with use of cost-effective alternatives. Counties should deposit these funds into the program accounts that will incur the transportation expenses.

Sec. 14. Minnesota Statutes 1990, section 254B.04, subdivision 1, is amended to read:

Subdivision 1. **ELIGIBILITY.** (a) Persons eligible for benefits under Code of Federal Regulations, title 25, part 20, persons eligible for medical assistance benefits under sections 256B.055 and 256B.056 or who meet the income standards of section 256B.056, subdivision 4, and persons eligible for general assistance medical care under section 256D.03, subdivision 3, are entitled to chemical dependency fund services. State money appropriated for this paragraph must be placed in a separate account established for this purpose.

(b) A person not entitled to services under paragraph (a), but with family income that is less than 60 percent of the state median income for a family of like size and composition, shall be eligible to receive chemical dependency fund services within the limit of funds available after persons entitled to services under paragraph (a) have been served. A county may spend money from its own sources to serve persons under this paragraph. State money appropriated for this paragraph must be placed in a separate account established for this purpose.

(c) Persons whose income is between 60 percent and 115 percent of the state median income shall be eligible for chemical dependency services on a sliding

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fee basis, within the limit of funds available, after persons entitled to services under paragraph (a) and persons eligible for services under paragraph (b) have been served. Persons eligible under this paragraph must contribute to the cost of services according to the sliding fee scale established under subdivision 3. A county may spend money from its own sources to provide services to persons under this paragraph. State money appropriated for this paragraph must be placed in a separate account established for this purpose.

Sec. 15. Minnesota Statutes 1990, section 254B.05, is amended by adding a subdivision to read:

Subd. 4. **REGIONAL TREATMENT CENTERS.** Regional treatment center chemical dependency treatment units are eligible vendors. The commissioner may expand the capacity of chemical dependency treatment units beyond the capacity funded by direct legislative appropriation to serve individuals who are referred for treatment by counties and whose treatment will be paid for with a county's allocation under section 254B.02 or other funding sources.

Sec. 16. Minnesota Statutes 1990, section 256.045, subdivision 10, is amended to read:

Subd. 10. **PAYMENTS PENDING APPEAL.** If the commissioner of human services or district court orders monthly assistance or aid or services paid or provided in any proceeding under this section, it shall be paid or provided pending appeal to the commissioner of human services, district court, court of appeals, or supreme court. The human services referee may order the local human services agency to reduce or terminate medical assistance or general assistance medical care to a recipient before a final order is issued under this section if: (1) the human services referee determines at the hearing that the sole issue on appeal is one of a change in state or federal law; and (2) the commissioner or the local agency notifies the recipient before the action. The state or county agency has a claim for food stamps ~~and~~, cash payments, medical assistance, and general assistance medical care made to or on behalf of a recipient or former recipient while an appeal is pending if the recipient or former recipient is determined ineligible for the food stamps ~~and~~, cash payments, medical assistance, or general assistance medical care as a result of the appeal, except for medical assistance and general assistance medical care made on behalf of a recipient pursuant to a court order.

Sec. 17. Minnesota Statutes 1990, section 256.936, is amended by adding a subdivision to read:

Subd. 5. **APPEALS.** If the commissioner suspends, reduces, or terminates eligibility for the children's health plan, or services provided under the children's health plan, the commissioner must provide notification according to the laws and rules governing the medical assistance program. A children's health plan applicant or enrollee aggrieved by a determination of the commissioner has the right to appeal the determination according to section 256.045.

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Sec. 18. Minnesota Statutes 1990, section 256.9365, subdivision 1, is amended to read:

Subdivision 1. **PROGRAM ESTABLISHED.** The commissioner of human services shall establish a program to pay private health plan premiums for persons who have contracted human immunodeficiency virus (HIV) to enable them to continue coverage under a group or individual health plan. If a person is determined to be eligible under subdivision 2, the commissioner shall: (1) pay the eligible person's group plan ~~continuation coverage~~ premium for ~~18 months after termination of employment, or~~ the period of continuation coverage provided in the Consolidated Omnibus Budget Reconciliation Act of 1985; or (2) pay the eligible person's individual plan premium for 24 months ~~after initial application~~.

Sec. 19. Minnesota Statutes 1990, section 256.9365, subdivision 3, is amended to read:

Subd. 3. **RULES.** The commissioner shall establish rules as necessary to implement the program. Special requirements for the payment of individual plan premiums under subdivision 2, clause (5), must be designed to ensure that the state cost of paying an individual plan premium over a two-year period does not exceed the estimated state cost that would otherwise be incurred in the medical assistance or general assistance medical care program.

Sec. 20. **[256.656] DEPOSITS INTO THE GENERAL FUND.**

All money collected under section 256.9657 shall be deposited in the general fund and is appropriated to the commissioner of human services for the purposes of section 256B.74. Deposits do not cancel and are available until expended.

Sec. 21. **[256.9657] PROVIDER SURCHARGES.**

Subdivision 1. **NURSING FACILITY LICENSE SURCHARGE.** Effective July 1, 1991, each nursing facility subject to the reimbursement principles in Minnesota Rules, parts 9549.0010 to 9549.0080, shall pay to the commissioner an annual surcharge according to the schedule in subdivision 4. The surcharge shall be calculated as $500 per bed licensed on the previous April 1.

Subd. 2. **HOSPITAL SURCHARGE.** (a) Effective July 1, 1991, each Minnesota and local trade area hospital except facilities of the federal Indian Health Service and regional treatment centers shall pay to the medical assistance account a surcharge equal to ten percent of medical assistance payments issued to that provider for inpatient services according to the schedule in subdivision 4. Medicare crossovers and indigent care payments paid under section 256B.74 are excluded from the amount of medical assistance payments issued.

(b) Effective July 1, 1991, each Minnesota and local trade area hospital except facilities of the federal Indian Health Service and regional treatment cen-

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ters shall pay to the medical assistance account a surcharge equal to five percent of medical assistance payments issued to that provider for outpatient services according to the schedule in subdivision 4. Medicare crossovers are excluded from the amount of medical assistance payments issued.

Subd. 3. **HEALTH PLAN SURCHARGE.** Effective July 1, 1991, each health plan under contract with the commissioner shall pay to the commissioner a surcharge equal to the equivalent value of the surcharges described in subdivision 2 for each medical assistance rate cell payment according to the schedule in subdivision 4. The surcharge for each quarter or month of a fiscal year shall be calculated based on the payments due in September of the same fiscal year under subdivision 2.

Subd. 4. **PAYMENTS INTO THE ACCOUNT.** Payments to the commissioner under subdivision 1 must be paid in monthly installments due on the 15th of the month beginning August 15, 1991. The monthly payment must be equal to the annual surcharge divided by 12. Payments to the commissioner under subdivisions 2 and 3 must be paid as follows: the first payment is a quarterly payment due September 15, 1991, with subsequent payments due monthly on the fifteenth of each month. The September 15, 1991, payment under subdivisions 2 and 3 shall be determined by taking the amount of medical assistance payments issued to each provider in the calendar quarter beginning six months prior to the quarter in which the payment is due multiplied by the percentage surcharge for each provider. The subsequent monthly payments shall be determined by taking the amount of medical assistance payments issued to each provider in the month beginning six months prior to the month in which the payment is due multiplied by the percentage surcharge for each provider.

Subd. 5. **NOT ALLOWABLE COST.** Provider payments to the commissioner under this section are not an allowable cost for purposes of the medical assistance program.

Subd. 6. **NOTICE; APPEALS.** At least 30 days prior to the date the payment is due, the commissioner shall give each provider a written notice of each payment due. A provider may request a contested case hearing under chapter 14 within 30 days of receipt of the notice. The decision of the commissioner regarding the amount due stands until the appeal is decided. The provider shall pay the contested payment at the time of appeal with settle-up at the time of appeal resolution.

Subd. 7. **ENFORCEMENT.** The commissioner shall bring action in district court to collect provider payments due under subdivisions 1 to 3 that are more than 30 days in arrears.

Sec. 22. Minnesota Statutes 1990, 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

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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. 23. Minnesota Statutes 1990, section 256.9686, subdivision 1, is amended to read:

Subdivision 1. **SCOPE.** For purposes of this section and sections ~~256.9685,~~ 256.969, and 256.9695, the following terms and phrases have the meanings given.

Sec. 24. Minnesota Statutes 1990, section 256.9686, subdivision 6, is amended to read:

Subd. 6. **HOSPITAL.** "Hospital" means a facility licensed under sections 144.50 to 144.58 ~~or~~, an out-of-state facility licensed to provide acute care under the requirements of that state in which it is located, or an Indian health service facility designated to provide acute care by the federal government.

Sec. 25. Minnesota Statutes 1990, section 256.969, subdivision 1, is amended to read:

Subdivision 1. **HOSPITAL COST INDEX.** The hospital cost index shall be obtained from an independent source and shall represent a weighted average of historical, as limited to statutory maximums, and projected cost change estimates determined for expense categories to include wages and salaries, employee benefits, medical and professional fees, raw food, utilities, insurance including malpractice insurance, and other applicable expenses as determined by the commissioner. The index shall reflect Minnesota cost category weights. Individual indices shall be specific to Minnesota if the commissioner determines that sufficient accuracy of the hospital cost index is achieved. The hospital cost index shall be used to adjust the base year operating payment rate through the rate year on an annually compounded basis. Notwithstanding section 256.9695, subdivision 3, paragraph (c), the hospital cost index shall not be effective under the general assistance medical care program for admissions occurring during the biennium ending June 30, 1993.

Sec. 26. Minnesota Statutes 1990, section 256.969, subdivision 2, is amended to read:

Subd. 2. **DIAGNOSTIC CATEGORIES.** The commissioner shall use to the extent possible existing diagnostic classification systems, including the system used by the Medicare program to determine the relative values of inpatient

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services and case mix indices. The commissioner may combine diagnostic classifications into diagnostic categories and may establish separate categories and numbers of categories based on program eligibility or hospital peer group. Relative values shall be recalculated when the base year is changed ~~and shall not be determined on a hospital specific basis~~. Relative value determinations shall include paid claims for admissions during each hospital's base year. The commissioner may extend the time period forward to obtain sufficiently valid information to establish relative values. Relative value determinations shall not include property cost data, Medicare crossover data, and data ~~from the transferring hospital~~ on admissions that are paid a per day transfer ~~discharges, except data on transfer discharges with a burn diagnostic classification or data on transfer discharges for the patient's convenience that have been reported by the hospital to the commissioner by the October 1 preceding the~~ rate ~~year~~ under subdivision 13. The computation of the base year cost per admission must include identified outlier cases and their weighted costs up to the point that they become outlier cases, but must exclude costs recognized in outlier payments beyond that point. The commissioner may recategorize the diagnostic classifications and recalculate relative values and case mix indices to reflect actual hospital practices, the specific character of specialty hospitals, or to reduce variances within the diagnostic categories after notice in the State Register and a 30-day comment period.

Sec. 27. Minnesota Statutes 1990, section 256.969, subdivision 2c, is amended to read:

Subd. 2c. **PROPERTY PAYMENT RATES.** For each hospital's first two consecutive fiscal years beginning on or after July 1, 1988, the commissioner shall limit the annual increase in property payment rates for depreciation, rents and leases, and interest expense to the annual growth in the hospital cost index derived from the methodology in effect on the day before July 1, 1989. When computing budgeted and settlement property payment rates, the commissioner shall use the annual increase in the hospital cost index forecasted by Data Resources, Inc., consistent with the quarter of the hospital's fiscal year end. For admissions occurring on or after the rate year beginning January 1, 1991, the commissioner shall obtain property data from an updated base year and establish property payment rates per admission for each hospital. Property payment rates shall be derived from data from the same base year that is used to establish operating payment rates. The property information shall include cost categories not subject to the hospital cost index and shall reflect the cost-finding methods and allowable costs of the Medicare program ~~in effect during the base year~~. The base year property payment ~~rate per admission~~ rates shall be adjusted for ~~positive percentage change differences~~ increases in the ~~net book value of hospital~~ property ~~and equipment~~ cost by increasing the base year property payment rate ~~per admission~~ 85 percent of the percentage change from the base year through the ~~most recent~~ year ~~ending prior to the rate year~~ for which ~~required information is available~~ a Medicare cost report has been submitted to the Medicare program and filed with the department by the October 1 before the rate year. ~~The percentage change shall be derived from equivalent audited information in both~~

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

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~~years and shall be adjusted to account for changes in generally accepted accounting principles, reclassification of assets, allocations to nonhospital areas, and fiscal years.~~ The ~~cost, audit, and charge data used to establish~~ property rates shall only reflect inpatient services covered by medical assistance ~~and shall not include operating cost information. To be eligible for the property payment rate per admission adjustment, the hospital must provide the necessary information to the commissioner, in a format specified by the commissioner, by the October 1 preceding the rate year.~~ The commissioner shall adjust rates for the rate year beginning January 1, 1991, to ensure that all hospitals are subject to the hospital cost index limitation for two complete years.

Sec. 28. Minnesota Statutes 1990, section 256.969, subdivision 3a, is amended to read:

Subd. 3a. **PAYMENTS.** Acute care hospital billings under the medical assistance program must not be submitted until the recipient is discharged. However, the commissioner shall establish monthly interim payments for inpatient hospitals that have individual patient lengths of stay over 30 days regardless of diagnostic category. To establish interim rates, the commissioner is exempt from the requirements of chapter 14. Medical assistance reimbursement for treatment of mental illness shall be reimbursed based on diagnostic classifications. The commissioner may selectively contract with hospitals for services within the diagnostic categories relating to mental illness and chemical dependency under competitive bidding when reasonable geographic access by recipients can be assured. No physician shall be denied the privilege of treating a recipient required to use a hospital under contract with the commissioner, as long as the physician meets credentialing standards of the individual hospital. Individual hospital payments established under this section and sections 256.9685, 256.9686, and 256.9695, in addition to third party and recipient liability, for ~~admissions~~ discharges occurring during the rate year shall not exceed, in aggregate, the charges for the medical assistance covered inpatient services paid for the same period of time to the hospital. This payment limitation ~~is not applicable and~~ shall ~~not~~ be calculated ~~to include~~ separately for medical assistance and general assistance medical care services. The limitation on general assistance medical care shall be effective for admissions occurring on or after July 1, 1991. Services that have rates established under subdivision 6a, paragraph (a), clause (5) or (6), must be limited separately from other services. After consulting with the affected hospitals, the commissioner may consider related hospitals one entity and may merge the payment rates while maintaining separate provider numbers. The operating and property base rates per admission or per day shall be derived from the best Medicare and claims data available when rates are established. The commissioner shall determine the best Medicare and claims data, taking into consideration variables of recency of the data, audit disposition, settlement status, and the ability to set rates in a timely manner. The commissioner shall notify hospitals of payment rates by December 1 of the year preceding the rate year. The rate setting data must reflect the admissions data used to establish relative values. Base year changes from 1981 to the base year established for the rate year beginning January 1, 1991, and for subsequent rate

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years, shall not be limited to the limits ending June 30, 1987, on the maximum rate of increase under subdivision 1. The commissioner may adjust base year cost, relative value, and case mix index data to exclude the costs of services that have been discontinued by the October 1 of the year preceding the rate year or that are paid separately from inpatient services. Inpatient stays that encompass portions of two or more rate years shall have payments established based on payment rates in effect at the time of admission unless the date of admission preceded the rate year in effect by six months or more. In this case, operating payment rates for services rendered during the rate year in effect and established based on the date of admission shall be adjusted to the rate year in effect by the hospital cost index.

Sec. 29. Minnesota Statutes 1990, section 256.969, subdivision 6a, is amended to read:

Subd. 6a. **SPECIAL CONSIDERATIONS.** ~~(a)~~ In determining the payment rates, the commissioner shall consider whether the ~~following~~ circumstances in subdivisions 7 to 14 exist~~:~~.

~~(1)~~ Subd. 7. **MINIMAL MEDICAL ASSISTANCE USE.** Minnesota hospitals with 30 or fewer annualized admissions of Minnesota medical assistance recipients in the base year, excluding Medicare crossover admissions, may have the base year operating rates, as adjusted by the case mix index, and property payment rates established at the 70th percentile of hospitals in the peer group in effect during the base year as established by the Minnesota department of health for use by the rate review program. Rates within a peer group shall be adjusted for differences in fiscal years and outlier percentage payments before establishing the 70th percentile. The operating payment rate portion of the 70th percentile shall be adjusted by the hospital cost index. To have rates established under this paragraph, the hospital must notify the commissioner in writing by November 1 of the year preceding the rate year. ~~This paragraph shall be applied to all payment rates of the affected hospital.~~

~~(2)~~ Subd. 8. **UNUSUAL COST OR LENGTH OF STAY EXPERIENCE.** The commissioner shall establish day and cost outlier thresholds for each diagnostic category established under subdivision 2 at two standard deviations beyond the ~~geometric~~ mean length of stay or allowable cost. Payment for the days and cost beyond the outlier threshold shall be in addition to the operating and property payment rates per admission established under subdivisions 2, 2b, and 2c. Payment for outliers shall be at 70 percent of the allowable operating cost ~~calculated by dividing the operating payment rate per admission~~, after adjustment by the case mix index, hospital cost index, relative values and the disproportionate population adjustment~~, by the arithmetic mean length of stay for the diagnostic category~~. The outlier threshold for neonatal and burn diagnostic categories shall be established at one standard deviation beyond the ~~geometric~~ mean length of stay or allowable cost, and payment shall be at 90 percent of allowable operating cost calculated in the same manner as other outliers. A hospital may choose an alternative ~~percentage~~ to the 70 percent outlier payment ~~to~~

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that is at a minimum of 60 percent and a maximum of 80 percent if the commissioner is notified in writing of the request by October 1 of the year preceding the rate year. The chosen percentage applies to all diagnostic categories except burns and neonates. The percentage of allowable cost that is unrecognized by the outlier payment shall be added back to the base year operating payment rate per admission. Cost outliers shall be calculated using hospital specific allowable cost data. If a stay is both a day and a cost outlier, outlier payments shall be based on the higher outlier payment.

~~(3)~~ Subd. 9. **DISPROPORTIONATE NUMBERS OF LOW-INCOME PATIENTS SERVED.** For admissions occurring on or after July 1, 1989, the medical assistance disproportionate population adjustment shall comply with federal law at fully implemented rates. The commissioner may establish a separate disproportionate population operating payment rate adjustment under the general assistance medical care program. ~~For admissions occurring on or after the rate year beginning January 1, 1991, the disproportionate population adjustment shall be derived from base year Medicare cost report data and may be adjusted by data reflecting actual claims paid by the department.~~

~~(4)~~ Subd. 10. **SEPARATE BILLING BY CERTIFIED REGISTERED NURSE ANESTHETISTS.** Hospitals may exclude certified registered nurse anesthetist costs from the operating payment rate as allowed by section 256B.0625, subdivision 11. To be eligible, a hospital must notify the commissioner in writing by October 1 of the year preceding the rate year of the request to exclude certified registered nurse anesthetist costs. The hospital must agree that all hospital claims for the cost and charges of certified registered nurse anesthetist services will not be included as part of the rates for inpatient services provided during the rate year. In this case, the operating payment rate shall be adjusted to exclude the cost of certified registered nurse anesthetist services. Payments made through separate claims for certified registered nurse anesthetist services shall not be paid directly through the hospital provider number or indirectly by the certified registered nurse anesthetist to the hospital or related organizations.

For admissions occurring on or after July 1, 1991, and until the expiration date of section 256.9695, subdivision 3, services of certified registered nurse anesthetists provided on an inpatient basis may be paid as allowed by section 256B.0625, subdivision 11, when the hospital's base year did not include the cost of these services. To be eligible, a hospital must notify the commissioner in writing by July 1, 1991, of the request and must comply with all other requirements of this subdivision.

~~(5)~~ Subd. 11. **SPECIAL RATES.** The commissioner may establish special rate-setting methodologies, including a per day operating and property payment system, for hospice, ventilator dependent, and other services on a hospital and recipient specific basis taking into consideration such variables as federal designation, program size, and admission from a medical assistance waiver or home care program. The data and rate calculation method shall conform to the

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requirements of ~~paragraph (7)~~ subdivision 13, except that rates shall not be standardized by the case mix index or adjusted by relative values and hospice rates shall not exceed the amount allowed under federal law ~~and payment shall be secondary to any other medical assistance hospice program~~. Rates and payments established under this ~~paragraph~~ subdivision must meet the requirements of section 256.9685, subdivisions 1 and 2~~, and must not exceed payments that would otherwise be made to a hospital in total for rate year admissions under subdivisions 2, 2b, 2c, 3, 4, 5, and 6~~. The cost and charges used to establish rates shall only reflect inpatient medical assistance covered services. Hospital and claims data that are used to establish rates under this ~~paragraph~~ subdivision shall not be used to establish payments or relative values under subdivisions 2, 2b, 2c, ~~3, 4, 5~~ 3a, 4a, 5a, and ~~6~~ 7 to 14.

~~(6)~~ Subd. 12. **REHABILITATION DISTINCT PARTS.** Units of hospitals that are recognized as rehabilitation distinct parts by the Medicare program shall have separate provider numbers under the medical assistance program for rate establishment and billing purposes only. These units shall also have operating and property payment rates and the disproportionate population adjustment, if allowed by federal law, established separately from other inpatient hospital services~~, based on the methods of subdivisions 2, 2b, 2c, 3, 4, 5, and 6~~. The commissioner may establish separate relative values under subdivision 2 for rehabilitation hospitals and distinct parts as defined by the Medicare program. For individual hospitals that did not have separate medical assistance rehabilitation provider numbers or rehabilitation distinct parts in the base year, hospitals shall provide the information needed to separate rehabilitation distinct part cost and claims data from other inpatient service data.

~~(7)~~ Subd. 13. **NEONATAL TRANSFERS.** For admissions occurring on or after July 1, 1989, neonatal diagnostic category transfers shall have operating and property payment rates established at receiving hospitals which have neonatal intensive care units on a per day payment system that is based on the cost finding methods and allowable costs of the Medicare program during the base year. Other neonatal diagnostic category transfers shall have rates established according to ~~paragraph (8)~~ subdivision 14. The rate per day for the neonatal service setting within the hospital shall be determined by dividing base year neonatal allowable costs by neonatal patient days. The operating payment rate portion of the rate shall be adjusted by the hospital cost index and the disproportionate population adjustment. For admissions occurring after the transition period specified in section 256.9695, subdivision 3, the operating payment rate portion of the rate shall be standardized by the case mix index and adjusted by relative values. The cost and charges used to establish rates shall only reflect inpatient services covered by medical assistance. Hospital and claims data used to establish rates under this ~~paragraph~~ subdivision shall not be used to establish ~~payments or relative values~~ rates under subdivisions 2, 2b, 2c, ~~3, 4, 5~~ 3a, 4a, 5a, and ~~6~~ 7 to 14.

~~(8)~~ Subd. 14. **TRANSFERS.** Except as provided in ~~paragraphs (5)~~ subdivisions 11 and ~~(7)~~ 13, operating and property payment rates for admissions that

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result in transfers and transfers shall be established on a per day payment system. The per day payment rate shall be the sum of the adjusted operating and property payment rates determined ~~in~~ under this subdivision and subdivisions 2, 2b ~~and~~, 2c, 3a, 4a, 5a, and 7 to 12, divided by the arithmetic mean length of stay for the diagnostic category. Each admission that results in a transfer and each transfer is considered a separate admission to each hospital, and the total of the admission and transfer payments to each hospital must not exceed the total per admission payment that would otherwise be made to each hospital under ~~paragraph (2) and~~ this subdivision and subdivisions 2, 2b ~~and~~, 2c, 3a, 4a, 5a, and 7 to 13.

~~(b)~~ Subd. 15. **ROUTINE SERVICE COST LIMITATION; APPLICABILITY.** The computation of each hospital's payment rate and the relative values of the diagnostic categories are not subject to the routine service cost limitation imposed under the Medicare program.

~~(c)~~ Subd. 16. **INDIAN HEALTH SERVICE FACILITIES.** Indian health service facilities are exempt from the rate establishment methods required by this section and shall be reimbursed at ~~the facility's usual and customary~~ charges ~~to the general public~~ as limited to the amount allowed under federal law. This exemption is not effective for payments under general assistance medical care.

~~(d)~~ Subd. 17. **OUT-OF-STATE HOSPITALS IN LOCAL TRADE AREAS.** ~~Except as provided in paragraph (a), clauses (1) and (3),~~ Out-of-state hospitals that are located within a Minnesota local trade area 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. 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 ~~paragraph~~ subdivision until required by rule. Hospitals affected by this ~~paragraph~~ 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 ~~paragraph~~ 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 ~~paragraph~~ subdivision at least 90 days before the start of the hospital's fiscal year.

~~(e)~~ Subd. 18. **OUT-OF-STATE HOSPITALS OUTSIDE LOCAL TRADE AREAS.** Hospitals that are not located within Minnesota or a Minnesota local trade area shall have operating and property rates established at the average of statewide and local trade area rates or, at the commissioner's discretion, at an amount negotiated by the commissioner. Relative values shall not include data from hospitals that have rates established under this ~~paragraph~~ subdivision. Payments, including third party and recipient liability, established under this ~~paragraph~~ subdivision may not exceed the charges on a claim specific basis for inpatient services that are covered by medical assistance.

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~~(f)~~ Subd. 19. **METABOLIC DISORDER TESTING OF MEDICAL ASSISTANCE RECIPIENTS.** Medical assistance inpatient payment rates must include the cost incurred by hospitals to pay the department of health for metabolic disorder testing of newborns who are medical assistance recipients, if the cost is not recognized by another payment source.

~~(g)~~ Subd. 20. **INCREASES IN MEDICAL ASSISTANCE INPATIENT PAYMENTS; CONDITIONS.** (a) Medical assistance inpatient payments shall increase 20 percent for inpatient hospital originally paid admissions, excluding Medicare crossovers, that occurred between July 1, 1988, and December 31, 1990, if: (i) the hospital had 100 or fewer Minnesota medical assistance annualized paid admissions, excluding Medicare crossovers, that were paid by March 1, 1988, for the period January 1, 1987, to June 30, 1987; (ii) the hospital had 100 or fewer licensed beds on March 1, 1988; (iii) the hospital is located in Minnesota; and (iv) the hospital is not located in a city of the first class as defined in section 410.01. For this paragraph, medical assistance does not include general assistance medical care.

~~(h)~~ (b) Medical assistance inpatient payments shall increase 15 percent for inpatient hospital originally paid admissions, excluding Medicare crossovers, that occurred between July 1, 1988, and December 31, 1990, if: (i) the hospital had more than 100 but fewer than 250 Minnesota medical assistance annualized paid admissions, excluding Medicare crossovers, that were paid by March 1, 1988, for the period January 1, 1987, to June 30, 1987; (ii) the hospital had 100 or fewer licensed beds on March 1, 1988; (iii) the hospital is located in Minnesota; and (iv) the hospital is not located in a city of the first class as defined in section 410.01. For this paragraph, medical assistance does not include general assistance medical care.

~~(i)~~ Subd. 21. **MENTAL HEALTH OR CHEMICAL DEPENDENCY ADMISSIONS; RATES.** Admissions occurring on or after July 1, 1990, that are classified to a diagnostic category of mental health or chemical dependency shall have rates established according to the methods of ~~paragraph (a), clause (8)~~ subdivision 14, except the per day rate shall be multiplied by a factor of 2, provided that the total of the per day rates shall not exceed the per admission rate. This methodology shall also apply when a hold or commitment is ordered by the court for the days that inpatient hospital services are medically necessary. Stays which are medically necessary for inpatient hospital services and covered by medical assistance shall not be billable to any other governmental entity. Medical necessity shall be determined under criteria established to meet the requirements of section 256B.04, subdivision 15, or 256D.03, subdivision 7, paragraph (b).

Sec. 30. Minnesota Statutes 1990, section 256.9695, subdivision 1, is amended to read:

Subdivision 1. **APPEALS.** A hospital may appeal a decision arising from the application of standards or methods under section 256.9685, 256.9686, or

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256.969, if an appeal would result in a change to the hospital's payment rate or payments. Both overpayments and underpayments that result from the submission of appeals shall be implemented. Regardless of any appeal outcome, relative values shall not be recalculated. The appeal shall be heard by an administrative law judge according to sections ~~14.48~~ 14.57 to ~~14.56~~ 14.62, or upon agreement by both parties, according to a modified appeals procedure established by the commissioner and the office of administrative hearings. In any proceeding under this section, the appealing party must demonstrate by a preponderance of the evidence that the commissioner's determination is incorrect or not according to law.

(a) To appeal a payment rate or payment determination or a determination made from base year information, the hospital shall file a written appeal request to the commissioner within 60 days of the date the payment rate determination was mailed. The appeal request shall specify: (i) the disputed items; (ii) the authority in federal or state statute or rule upon which the hospital relies for each disputed item; and (iii) the name and address of the person to contact regarding the appeal. ~~A change to a payment rate or payments that results from a successful appeal to the Medicare program of the base year information establishing rates for the rate year beginning in 1991 and after is a prospective adjustment to subsequent rate years.~~ After December 31, 1990, payment rates shall not be adjusted for appeals of base year information that affect years prior to the rate year beginning January 1, 1991. Facts to be considered in any appeal of base year information are limited to those in existence at the time the payment rates of the first rate year were established from the base year information. In the case of Medicare settled appeals, the 60-day appeal period shall begin on the mailing date of the notice by the Medicare program or the date the medical assistance payment rate determination notice is mailed, whichever is later.

(b) To appeal a payment rate or payment change that results from a difference in case mix between the base year and a rate year, the procedures and requirements of paragraph (a) apply. However, the appeal must be filed with the commissioner within 120 days after the end of a rate year. A case mix appeal must apply to the cost of services to all medical assistance patients that received inpatient services from the hospital during the rate year appealed.

Sec. 31. Minnesota Statutes 1990, section 256B.031, subdivision 4, is amended to read:

Subd. 4. **PREPAID HEALTH PLAN RATES.** For payments made during calendar year 1988, the monthly maximum allowable rate established by the commissioner of human services for payment to prepaid health plans must not exceed 90 percent of the projected average monthly per capita fee-for-service medical assistance costs for state fiscal year 1988 for recipients of aid to families with dependent children. The base year for projecting the average monthly per capita fee-for-service medical assistance costs is state fiscal year 1986. A maximum allowable per capita rate must be established collectively for Anoka, Carver, Dakota, Hennepin, Ramsey, St. Louis, Scott, and Washington counties. A

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separate maximum allowable per capita rate must be established collectively for all other counties. The maximum allowable per capita rate may be adjusted to reflect utilization differences among eligible classes of recipients. For payments made during calendar year 1989, the maximum allowable rate must be calculated in the same way as 1988 rates, except the base year is state fiscal year 1987. For payments made during calendar year 1990 and later years, the commissioner shall ~~contract~~ consult with an independent actuary ~~to establish~~ in establishing prepayment rates, but shall retain final control over the rate methodology. Rates established for prepaid health plans must be based on the services that the prepaid health plan provides under contract with the commissioner.

Sec. 32. Minnesota Statutes 1990, section 256B.031, is amended by adding a subdivision to read:

Subd. 11. **LIMITATION ON REIMBURSEMENT TO PROVIDERS NOT AFFILIATED WITH A PREPAID HEALTH PLAN.** A prepaid health plan may limit any reimbursement it may be required to pay to providers not employed by or under contract with the prepaid health plan to the medical assistance rates for medical assistance enrollees, and the general assistance medical care rates for general assistance medical care enrollees, paid by the commissioner of human services to providers for services to recipients not enrolled in a prepaid health plan.

Sec. 33. Minnesota Statutes 1990, section 256B.055, subdivision 10, is amended to read:

Subd. 10. **INFANTS.** Medical assistance may be paid for an infant less than one year of age ~~born on or after October 1, 1984~~, whose mother was eligible for and receiving medical assistance at the time of birth and who remains in the mother's household or who is in a family with countable income that is equal to or less than the income standard established under section 256B.057, subdivision 1. ~~Eligibility under this subdivision is concurrent with the mother's and does not depend on the father's income except as the income affects the mother's eligibility.~~

Sec. 34. Minnesota Statutes 1990, section 256B.055, subdivision 12, is amended to read:

Subd. 12. **DISABLED CHILDREN.** (a) A person is eligible for medical assistance if the person is under age 19 and qualifies as a disabled individual under United States Code, title 42, section 1382c(a), and would be eligible for medical assistance under the state plan if residing in a medical institution, and who requires a level of care provided in a hospital, skilled nursing facility, intermediate care facility, or intermediate care facility for persons with mental retardation or related conditions, for whom home care is appropriate, provided that the cost to medical assistance for home care services is not more than the amount that medical assistance would pay for appropriate institutional care.

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(b) For purposes of this subdivision, "hospital" means an acute care institution as defined in section 144.696, subdivision 3, licensed pursuant to sections 144.50 to 144.58, which is appropriate if a person is technology dependent or has a chronic health condition which requires frequent intervention by a health care professional to avoid death.

(c) For purposes of this subdivision, "skilled nursing facility" and "intermediate care facility" means a facility which provides nursing care as defined in section 144A.01, subdivision 5, licensed pursuant to sections 144A.02 to 144A.10, which is appropriate if a person is in active restorative treatment; is in need of special treatments provided or supervised by a licensed nurse; or has unpredictable episodes of active disease processes requiring immediate judgment by a licensed nurse.

(d) For purposes of this subdivision, "intermediate care facility for the mentally retarded" or "ICF/MR" means a program licensed to provide services to persons with mental retardation under section 252.28, and chapter 245A, and a physical plant licensed as a supervised living facility under chapter 144, which together are certified by the Minnesota department of health as meeting the standards in Code of Federal Regulations, title 42, part 483, for an intermediate care facility which provides services for persons with mental retardation or persons with related conditions who require 24-hour supervision and active treatment for medical, behavioral, or habilitation needs.

(e) For purposes of this subdivision, a person "requires a level of care provided in a hospital, skilled nursing facility, intermediate care facility, or intermediate care facility for persons with mental retardation or related conditions" if the person requires 24-hour supervision because the person exhibits suicidal or homicidal ideation or behavior, psychosomatic disorders or somatopsychic disorders that may become life threatening, severe socially unacceptable behavior associated with psychiatric disorder, psychosis or severe developmental problems requiring continuous skilled observation, or disabling symptoms that do not respond to office-centered outpatient treatment.

The determination of the level of care needed by the child shall be made by the commissioner based on information supplied to the commissioner by the case manager if the child has one, the parent or guardian, the child's physician or physicians or, if available, the screening information obtained under section 256B.092.

Sec. 35. Minnesota Statutes 1990, section 256B.057, subdivision 1, is amended to read:

Subdivision 1. **PREGNANT WOMEN AND INFANTS.** An infant less than one year of age or a pregnant woman who has written verification of a positive pregnancy test from a physician or licensed registered nurse, is eligible for medical assistance if countable family income is equal to or less than 185 percent of the federal poverty guideline for the same family size. Eligibility for a pregnant woman or infant less than one year of age under this subdivision must

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be determined without regard to asset standards established in section 256B.056, subdivision 3. ~~Adjustments in the income limits due to annual changes in the federal poverty guidelines shall be implemented the first day of July following publication of the changes.~~

An infant born on or after January 1, 1991, to a woman who was eligible for and receiving medical assistance on the date of the child's birth shall continue to be eligible for medical assistance without redetermination until the child's first birthday, as long as the child remains in the woman's household.

Sec. 36. Minnesota Statutes 1990, section 256B.057, subdivision 2, is amended to read:

Subd. 2. **CHILDREN.** A child one through five years of age in a family whose countable income is less than 133 percent of the federal poverty guidelines for the same family size, is eligible for medical assistance. A child six through ~~seven~~ 18 years of age, who was born after September 30, 1983, in a family whose countable income is less than 100 percent of the federal poverty guidelines for the same family size is eligible for medical assistance. Eligibility for children under this subdivision must be determined without regard to asset standards established in section 256B.056, subdivision 3. ~~Adjustments in the income limits due to annual changes in the federal poverty guidelines shall be implemented the first day of July following publication of the changes.~~

Sec. 37. Minnesota Statutes 1990, section 256B.057, subdivision 3, is amended to read:

Subd. 3. **QUALIFIED MEDICARE BENEFICIARIES.** A person who is entitled to Part A Medicare benefits, whose income is equal to or less than 85 percent of the federal poverty guidelines, and whose assets are no more than twice the asset limit used to determine eligibility for the supplemental security income program, is eligible for medical assistance reimbursement of Part A and Part B premiums, Part A and Part B coinsurance and deductibles, and cost-effective premiums for enrollment with a health maintenance organization or a competitive medical plan under section 1876 of the Social Security Act. The income limit shall be increased to 90 percent of the federal poverty guidelines on January 1, 1990; and to ~~95~~ 100 percent on January 1, 1991; ~~and to 100 percent on January 1, 1992~~. Reimbursement of the Medicare coinsurance and deductibles, when added to the amount paid by Medicare, must not exceed the total rate the provider would have received for the same service or services if the person were a medical assistance recipient with Medicare coverage. ~~Adjustments in the income limits due to annual changes in the federal poverty guidelines shall be implemented the first day of July following publication of the changes.~~ Increases in benefits under Title II of the Social Security Act shall not be counted as income for purposes of this subdivision until the first day of the second full month following publication of the change in the federal poverty guidelines.

Sec. 38. Minnesota Statutes 1990, section 256B.057, subdivision 4, is amended to read:

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Subd. 4. **QUALIFIED WORKING DISABLED ADULTS.** A person who is entitled to Medicare Part A benefits under section 1818A of the Social Security Act; whose income does not exceed 200 percent of the federal poverty guidelines for the applicable family size; whose nonexempt assets do not exceed twice the maximum amount allowable under the supplemental security income program, according to family size; and who is not otherwise eligible for medical assistance, is eligible for medical assistance reimbursement of the Medicare Part A premium. ~~Adjustments in the income limits due to annual changes in the federal poverty guidelines shall be implemented the first day of July following publication of the changes.~~

Sec. 39. Minnesota Statutes 1990, section 256B.057, is amended by adding a subdivision to read:

Subd. 6. **DISABLED WIDOWS AND WIDOWERS.** A person who is at least 50 years old who is entitled to disabled widow's or widower's benefits under United States Code, title 42, section 402(e) or (f), who is not entitled to Medicare Part A, and who received supplemental security income or Minnesota supplemental aid in the month before the month the widow's or widower's benefits began, is eligible for medical assistance as long as the person would be entitled to supplemental security income or Minnesota supplemental aid in the absence of the widow's or widower's benefits.

Sec. 40. Minnesota Statutes 1990, section 256B.0575, is amended to read:

256B.0575 **AVAILABILITY OF INCOME FOR INSTITUTIONALIZED PERSONS.**

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

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

(1) the personal needs allowance under section 256B.35 or, for a veteran who does not have a spouse or child, the amount of his or her veteran's pension not exceeding $90 per month;

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

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

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

(5) a monthly allowance for children under age 18 which, together with the

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net income of the children, would provide income equal to the medical assistance standard for families and children according to section 256B.056, subdivision 4, for a family size that includes only the minor children. This deduction applies only if the children do not live with the community spouse and only if the children resided with the institutionalized person immediately prior to admission;

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

(7) reparations payments made by the Federal Republic of Germany; and

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

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

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

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

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

(3) if one of the following circumstances apply:

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

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

For purposes of this paragraph, a person is determined to be residing in a licensed nursing home, regional treatment center, or medical institution if the person is expected to remain for a period of one full calendar month or more.

Sec. 41. Minnesota Statutes 1990, section 256B.0625, subdivision 4, is amended to read:

Subd. 4. **OUTPATIENT AND PHYSICIAN-DIRECTED CLINIC SER-**

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VICES. Medical assistance covers outpatient hospital or physician-directed clinic services. The physician-directed clinic staff shall include at least two physicians and all services shall be provided under the direct supervision of a physician. Hospital outpatient departments are subject to the same limitations and reimbursements as other enrolled vendors for all services, except initial triage, emergency services, and services not provided or immediately available in clinics, physicians' offices, or by other enrolled providers. ~~A second medical opinion is required before reimbursement for elective surgeries requiring a second opinion. The commissioner shall publish in the State Register a list of elective surgeries that require a second medical opinion before reimbursement and the criteria and standards for deciding whether an elective surgery should require a second surgical opinion. The list and the criteria and standards are not subject to the requirements of sections 14.001 to 14.69. The commissioner's decision whether a second medical opinion is required, made in accordance with rules governing that decision, is not subject to administrative appeal.~~ "Emergency services" means those medical services required for the immediate diagnosis and treatment of medical conditions that, if not immediately diagnosed and treated, could lead to serious physical or mental disability or death or are necessary to alleviate severe pain. Neither the hospital, its employees, nor any physician or dentist, shall be liable in any action arising out of a determination not to render emergency services or care if reasonable care is exercised in determining the condition of the person, or in determining the appropriateness of the facilities, or the qualifications and availability of personnel to render these services consistent with this section.

Sec. 42. Minnesota Statutes 1990, section 256B.0625, is amended by adding a subdivision to read:

Subd. 4a. **SECOND MEDICAL OPINION FOR SURGERY.** Certain surgeries require a second medical opinion to confirm the necessity of the procedure, in order for reimbursement to be made. The commissioner shall publish in the State Register a list of surgeries that require a second medical opinion and the criteria and standards for deciding whether a surgery should require a second medical opinion. The list and the criteria and standards are not subject to the requirements of sections 14.01 to 14.69. The commissioner's decision about whether a second medical opinion is required, made according to rules governing that decision, is not subject to administrative appeal.

Sec. 43. Minnesota Statutes 1990, section 256B.0625, subdivision 13, is amended to read:

Subd. 13. **DRUGS.** (a) Medical assistance covers drugs if prescribed by a licensed practitioner and dispensed by a licensed pharmacist, or by a physician enrolled in the medical assistance program as a dispensing physician. The commissioner shall designate a formulary committee to advise the commissioner on the names of drugs for which payment is made, recommend a system for reimbursing providers on a set fee or charge basis rather than the present system, and develop methods encouraging use of generic drugs when they are less expensive

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and equally effective as trademark drugs. The commissioner shall appoint the formulary committee members no later than 30 days following July 1, 1981. The formulary committee shall consist of nine members, four of whom shall be physicians who are not employed by the department of human services, and a majority of whose practice is for persons paying privately or through health insurance, three of whom shall be pharmacists who are not employed by the department of human services, and a majority of whose practice is for persons paying privately or through health insurance, a consumer representative, and a nursing home representative. Committee members shall serve two-year terms and shall serve without compensation. The commissioner ~~may~~ shall establish a drug formulary. Its establishment and publication shall not be subject to the requirements of the administrative procedure act, but the formulary committee shall review and comment on the formulary contents. The formulary committee shall review and recommend drugs which require prior authorization. Prior authorization may be required by the commissioner~~, with the consent of the drug formulary committee,~~ before certain formulary drugs are eligible for payment. The formulary shall not include: drugs or products for which there is no federal funding; over-the-counter drugs, except for antacids, acetaminophen, family planning products, aspirin, insulin, products for the treatment of lice, and vitamins for children under the age of seven and pregnant or nursing women; or any other over-the-counter drug identified by the commissioner, in consultation with the ~~appropriate professional consultants under contract with or employed by the state agency,~~ drug formulary committee as necessary, appropriate and cost effective for the treatment of certain specified chronic diseases, conditions or disorders, and this determination shall not be subject to the requirements of chapter 14, the administrative procedure act; nutritional products, except for those products needed for treatment of phenylketonuria, hyperlysinemia, maple syrup urine disease, a combined allergy to human milk, cow milk, and soy formula, or any other childhood or adult diseases, conditions, or disorders identified by the commissioner as requiring a similarly necessary nutritional product; anorectics; and drugs for which medical value has not been established. Separate payment shall not be made for nutritional products for residents of long-term care facilities; payment for dietary requirements is a component of the per diem rate paid to these facilities. Payment to drug vendors shall not be modified before the formulary is established except that the commissioner shall not permit payment for any drugs which may not by law be included in the formulary, and the commissioner's determination shall not be subject to chapter 14, the administrative procedure act. The commissioner shall publish conditions for prohibiting payment for specific drugs after considering the formulary committee's recommendations.

(b) The basis for determining the amount of payment shall be the lower of the actual acquisition costs of the drugs plus a fixed dispensing fee established by the commissioner, the maximum allowable cost set by the federal government or by the commissioner plus the fixed dispensing fee or the usual and customary price charged to the public. Actual acquisition cost includes quantity and other special discounts except time and cash discounts. The actual acquisition

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cost of a drug may be estimated by the commissioner. The maximum allowable cost of a multisource drug may be set by the commissioner and it shall be comparable to, but no higher than, the maximum amount paid by other third party payors in this state who have maximum allowable cost programs. Establishment of the amount of payment for drugs shall not be subject to the requirements of the administrative procedure act. An additional dispensing fee of $.30 may be added to the dispensing fee paid to pharmacists for legend drug prescriptions dispensed to residents of long-term care facilities when a unit dose blister card system, approved by the department, is used. Under this type of dispensing system, the pharmacist must dispense a 30-day supply of drug. The National Drug Code (NDC) from the drug container used to fill the blister card must be identified on the claim to the department. The unit dose blister card containing the drug must meet the packaging standards set forth in Minnesota Rules, part 6800.2700, that govern the return of unused drugs to the pharmacy for reuse. The pharmacy provider will be required to credit the department for the actual acquisition cost of all unused drugs that are eligible for reuse. Over-the-counter medications must be dispensed in the manufacturer's unopened package. The commissioner may permit the drug clozapine to be dispensed in a quantity that is less than a 30-day supply. Whenever a generically equivalent product is available, payment shall be on the basis of the actual acquisition cost of the generic drug, unless the prescriber specifically indicates "dispense as written - brand necessary" on the prescription as required by section 151.21, subdivision 2. Implementation of any change in the fixed dispensing fee that has not been subject to the administrative procedure act is limited to not more than 180 days, unless, during that time, the commissioner initiates rulemaking through the administrative procedure act.

Sec. 44. Minnesota Statutes 1990, section 256B.0625, subdivision 17, is amended to read:

Subd. 17. **TRANSPORTATION COSTS.** (a) Medical assistance covers transportation costs incurred solely for obtaining emergency medical care or transportation costs incurred by nonambulatory persons in obtaining emergency or nonemergency medical care when paid directly to an ambulance company, common carrier, or other recognized providers of transportation services. For the purpose of this subdivision, a person who is incapable of transport by taxicab or bus shall be considered to be nonambulatory.

(b) Medical assistance covers special transportation, as defined in Minnesota Rules, part 9505.0315, subpart 1, item F, if the provider receives and maintains a current physician's order by the recipient's attending physician. The commissioner shall establish maximum medical assistance reimbursement rates for special transportation services for persons who need a wheelchair lift van or stretcher-equipped vehicle and for those who do not need a wheelchair lift van or stretcher-equipped vehicle. The average of these two rates must not exceed $12.50 for the base rate and $1 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

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provided to persons who need a wheelchair lift van or stretcher-equipped vehicle.

Sec. 45. Minnesota Statutes 1990, section 256B.0625, subdivision 19, is amended to read:

Subd. 19. **PERSONAL CARE ASSISTANTS.** Medical assistance covers personal care assistant services provided by an individual, not a relative, who is qualified to provide the services, where the services are prescribed by a physician in accordance with a plan of treatment and are supervised by a registered nurse. Payments to personal care assistants shall be adjusted annually to reflect changes in the cost of living or of providing services by the average annual adjustment granted to vendors such as nursing homes and home health agencies. The commissioner shall not provide an annual inflation adjustment for the fiscal year ending June 30, 1993.

Sec. 46. Minnesota Statutes 1990, section 256B.0625, subdivision 24, is amended to read:

Subd. 24. **OTHER MEDICAL OR REMEDIAL CARE.** Medical assistance covers any other medical or remedial care licensed and recognized under state law unless otherwise prohibited by law, except licensed chemical dependency treatment programs or primary treatment or extended care treatment units in hospitals that are covered under ~~Laws 1986, chapter 394, sections 8 to 20~~ chapter 254B. The commissioner shall include chemical dependency services in the state medical assistance plan for federal reporting purposes, but payment must be made under ~~Laws 1986, chapter 394, sections 8 to 20~~ chapter 254B. The commissioner shall publish in the State Register a list of elective surgeries that require a second medical opinion before medical assistance reimbursement, and the criteria and standards for deciding whether an elective surgery should require a second medical opinion. The list and criteria and standards are not subject to the requirements of sections 14.01 to 14.69.

Sec. 47. Minnesota Statutes 1990, section 256B.0625, subdivision 25, is amended to read:

Subd. 25. ~~**SECOND OPINION OR**~~ **PRIOR AUTHORIZATION REQUIRED.** The commissioner shall publish in the State Register a list of health services that require prior authorization, as well as the criteria and standards used to select health services on the list. The list and the criteria and standards used to formulate it are not subject to the requirements of sections 14.001 to 14.69. The commissioner's decision whether prior authorization is required for a health service ~~or a second medical opinion is required for an elective surgery~~ is not subject to administrative appeal.

Sec. 48. Minnesota Statutes 1990, section 256B.0625, subdivision 28, is amended to read:

Subd. 28. **CERTIFIED ~~PEDIATRIC OR FAMILY~~ NURSE PRACTI-**

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TIONER SERVICES. Medical assistance covers services performed by a certified pediatric nurse practitioner ~~or~~, a certified family nurse practitioner, a certified adult nurse practitioner, or a certified geriatric nurse practitioner in independent practice, if the services are otherwise covered under this chapter as a physician service, and if the service is within the scope of practice of the nurse practitioner's license as a registered nurse, as defined in section 148.171.

Sec. 49. Minnesota Statutes 1990, section 256B.0625, subdivision 30, is amended to read:

Subd. 30. **OTHER CLINIC SERVICES.** (a) Medical assistance covers rural health clinic services, federally qualified health center services, ~~and~~ nonprofit community health clinic services, public health clinic services, and the services of a clinic meeting the criteria established in rule by the commissioner. Rural health clinic services and federally qualified health center services mean services defined in United States Code, title 42, section 1396d(a)(2)(B) and (C). Payment for rural health clinic and federally qualified health center services shall be made according to applicable federal law and regulation.

(b) A federally qualified health center that is beginning initial operation shall submit an estimate of budgeted costs and visits for the initial reporting period in the form and detail required by the commissioner. A federally qualified health center that is already in operation shall submit an initial report using actual costs and visits for the initial reporting period. Within 90 days of the end of its reporting period, a federally qualified health center shall submit, in the form and detail required by the commissioner, a report of its operations, including allowable costs actually incurred for the period and the actual number of visits for services furnished during the period, and other information required by the commissioner. Federally qualified health centers that file Medicare cost reports shall provide the commissioner with a copy of the most recent Medicare cost report filed with the Medicare program intermediary for the reporting year which support the costs claimed on their cost report to the state.

Sec. 50. Minnesota Statutes 1990, section 256B.08, is amended by adding a subdivision to read:

Subd. 3. **OUTREACH LOCATIONS.** The local agency must establish locations, other than those used to process applications for cash assistance, to receive and perform initial processing of applications for pregnant women and children who want medical assistance only. At a minimum, these locations must be in federally qualified health centers and in hospitals that receive disproportionate share adjustments under section 256.969, subdivision 8, except that hospitals located outside of this state that receive the disproportionate share adjustment are not included. Initial processing of the application need not include a final determination of eligibility. Local agencies shall designate a person or persons within the agency who will receive the applications taken at an outreach location and the local agency will be responsible for timely determination of eligibility.

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Sec. 51. Minnesota Statutes 1990, section 256B.19, subdivision 1, is amended to read:

Subdivision 1. **DIVISION OF COST.** The ~~cost~~ state and county share of medical assistance ~~paid by each county of financial responsibility~~ costs not paid by federal funds shall be ~~borne~~ as follows:

(1) ninety percent ~~of the expense of assistance not paid by federal funds available for that purpose shall be paid by the~~ state funds and ten percent ~~shall be paid by the~~ county ~~of financial responsibility~~ funds, unless otherwise provided below;

(2) beginning January 1, 1992, 50 percent state funds and 50 percent county funds for the cost of placement of severely emotionally disturbed children in regional treatment centers.

For counties that participate in a Medicaid demonstration project under sections 256B.69 and 256B.71, the division of the nonfederal share of medical assistance expenses for payments made to prepaid health plans or for payments made to health maintenance organizations in the form of prepaid capitation payments, this division of medical assistance expenses shall be 95 percent by the state and five percent by the county of financial responsibility.

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

In counties where prepaid health plans are under contract to the commissioner to provide services to medical assistance recipients, the cost of court ordered treatment ordered without consulting the prepaid health plan that does not include diagnostic evaluation, recommendation, and referral for treatment by the prepaid health plan is the responsibility of the county of financial responsibility.

Sec. 52. Minnesota Statutes 1990, section 256B.19, is amended by adding a subdivision to read:

Subd. 1a. **STATE REIMBURSEMENT OF COUNTIES.** Beginning July 1, 1991, the state will reimburse counties according to the payment schedule in section 256.025 for the county share of costs incurred under this subdivision on and after January 1, 1991, except for costs described in subdivision 1, clause (2). Payment to counties under this subdivision is subject to the provisions of section 256.017.

Sec. 53. Minnesota Statutes 1990, section 256B.19, is amended by adding a subdivision to read:

Subd. 2c. **OBLIGATION OF LOCAL AGENCY TO INVESTIGATE AND DETERMINE ELIGIBILITY FOR MEDICAL ASSISTANCE.** (a) When the

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commissioner receives information that indicates that a general assistance medical care recipient or children's health plan enrollee may be eligible for medical assistance, the commissioner may notify the appropriate local agency of that fact. The local agency must investigate eligibility for medical assistance and take appropriate action and notify the commissioner of that action within 90 days from the date notice is issued. If the person is eligible for medical assistance, the local agency must find eligibility retroactively to the date on which the person met all eligibility requirements.

(b) When a prepaid health plan under a contract with the state to provide medical assistance services notifies the commissioner that an infant has been or will be born to an enrollee under the contract, the commissioner may notify the appropriate local agency of that fact. The local agency must investigate eligibility for medical assistance for the infant, take appropriate action, and notify the commissioner of that action within 90 days from the date notice is issued. If the infant would have been eligible on the date of birth, the local agency must establish eligibility retroactively to that month.

(c) For general assistance medical care recipients and children's health plan enrollees, if the local agency fails to comply with paragraph (a), the local agency is responsible for the entire cost of general assistance medical care or children's health plan services provided from the date the commissioner issues the notice until the date the local agency takes appropriate action on the case and notifies the commissioner of the action. For infants, if the local agency fails to comply with paragraph (b), the commissioner may determine eligibility for medical assistance for the infant for a period of two months, and the local agency shall be responsible for the entire cost of medical assistance services provided for that infant, in addition to a fee of $100 for processing the case. The commissioner shall deduct any obligation incurred under this paragraph from the amount due to the local agency under subdivision 1.

Sec. 54. Minnesota Statutes 1990, section 256B.431, subdivision 2l, is amended to read:

Subd. 2l. **INFLATION ADJUSTMENTS AFTER JULY 1, 1990.** (a) For rate years beginning on or after July 1, 1990, the forecasted composite price index for a nursing home's allowable operating cost per diems shall be determined using Data Resources, Inc., forecast for change in the Nursing Home Market Basket. The commissioner of human services shall use the indices as forecasted by Data Resources, Inc., in the fourth quarter of the calendar year preceding the rate year.

(b) For rate years beginning on or after July 1, 1992, the commissioner shall index the prior year's operating cost limits by the percentage change in the Data Resources, Inc., nursing home market basket between the midpoint of the current reporting year and the midpoint of the previous reporting year. The commissioner shall use the indices as forecasted by Data Resources, Inc., in the fourth quarter of the calendar year preceding the rate year.

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Sec. 55. Minnesota Statutes 1990, section 256B.431, is amended by adding a subdivision to read:

Subd. 2m. **NURSING HOMES SPECIALIZING IN THE TREATMENT OF HUNTINGTON'S DISEASE.** For the rate year beginning July 1, 1991, the commissioner shall reimburse nursing homes that specialize in the treatment of Huntington's disease using the case mix per diem limit that applies to nursing homes licensed under the department of human services' rules governing residential services for physically handicapped persons to establish rates for up to 35 persons with Huntington's disease. For purposes of this subdivision, a nursing home specializes in the treatment of Huntington's disease if more than 25 percent of its licensed capacity is used for residents with Huntington's disease.

Sec. 56. Minnesota Statutes 1990, section 256B.431, is amended by adding a subdivision to read:

Subd. 2n. **EFFICIENCY INCENTIVE REDUCTIONS FOR SUBSTANDARD CARE.** For rate years beginning on or after July 1, 1991, the efficiency incentive established under subdivision 2b, paragraph (d), shall be reduced or eliminated for nursing homes determined by the commissioner of health under section 144A.10, subdivision 4, to have uncorrected or repeated violations which create a risk to resident care, safety, or rights, except for uncorrected or repeated violations relating to a facility's physical plant. Upon being notified by the commissioner of health of uncorrected or repeated violations, the commissioner of human services shall require the nursing home to use efficiency incentive payments to correct the violations. The commissioner of human services shall require the nursing home to forfeit efficiency incentive payments for failure to correct the violations. Any forfeiture shall be limited to the amount necessary to correct the violation.

Sec. 57. Minnesota Statutes 1990, section 256B.431, is amended by adding a subdivision to read:

Subd. 2o. **SPECIAL PAYMENT RATES FOR SHORT-STAY NURSING HOMES.** Notwithstanding contrary provisions of this section and rules adopted by the commissioner, for the rate year beginning July 1, 1992, a nursing home whose average length of stay for the rate year beginning July 1, 1991, is less than 180 days must be reimbursed for allowable costs up to 125 percent of the total care-related limit and 105 percent of the other-operating-cost limit for hospital-attached nursing facilities. The nursing home continues to receive this rate even if the home's average length of stay is more than 180 days in the rate year subsequent to the rate year beginning July 1, 1991.

Sec. 58. Minnesota Statutes 1990, section 256B.431, subdivision 3e, is amended to read:

Subd. 3e. **HOSPITAL-ATTACHED CONVALESCENT AND NURSING CARE FACILITIES.** If a nonprofit or community-operated hospital and attached convalescent and nursing care facility suspend operation of the hospi-

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tal, the surviving nursing care facility must be allowed to continue its status as a hospital-attached convalescent and nursing care facility for reimbursement purposes in ~~three~~ five subsequent rate years. In the fourth year the facility shall receive 60 percent of the difference between the hospital-attached limit and the freestanding nursing facility limit, and in the fifth year the facility shall receive 30 percent of the difference.

Sec. 59. Minnesota Statutes 1990, 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 Survey of Current Business.

Sec. 60. Minnesota Statutes 1990, section 256B.431, is amended by adding a subdivision to read:

Subd. 12. **INTERIM PROPERTY-RELATED PAYMENT RATES.** For the rate period July 1, 1991, to June 30, 1993, the commissioner shall continue the property-related payment rate in effect on June 30, 1991, for each nursing facility, except as provided in section 256B.431, subdivision 3i, paragraphs (f) and (g), and subdivision 11, except that:

(1) A chain organization consisting of 28 nursing facilities which has a majority of owners beyond the retirement age of 62 and that has a change in ownership or reorganization of provider entity between July 1, 1991, and June 30, 1993, or until the property reimbursement system is changed, shall receive the property-related payment rate in effect at the time of the sale or reorganization. This exception is not effective until the commissioner has received approval of its state plan from the federal government; and

(2) If the property-related payment rate in effect on June 30, 1991, is later adjusted by the commissioner, the property-related payment rate for the rate period July 1, 1991, to July 1, 1993, shall also be adjusted correspondingly.

Sec. 61. Minnesota Statutes 1990, section 256B.49, is amended by adding a subdivision to read:

Subd. 4. **INFLATION ADJUSTMENT.** For the biennium ending June 30,

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1993, the commissioner of human services shall not provide an annual inflation adjustment for home and community-based waivered services, except as provided in section 256B.491, subdivision 3, and except that the commissioner shall provide an inflation adjustment for the community alternatives for disabled individuals (CADI) and community alternative care (CAC) waivered services programs for the fiscal year beginning July 1, 1991.

Sec. 62. Minnesota Statutes 1990, section 256B.491, is amended by adding a subdivision to read:

Subd. 3. **WAIVERED SERVICES; SALARY ADJUSTMENTS.** For the fiscal year beginning July 1, 1991, the commissioner of human services shall increase the statewide reimbursement rates for home and community-based waivered services for persons with developmental disabilities to reflect a three percent increase in salaries, payroll taxes, and fringe benefits of personnel below top management employed by agencies under contract with the county board to provide these services. The specific rate increase made available to county boards shall be calculated based on the estimated portion of the fiscal year 1991 reimbursement rate that is attributable to these costs. County boards shall verify in writing to the commissioner that each waivered service provider has complied with this requirement. If a county board determines that a waivered service provider has not complied with this requirement for a specific contract period, the county board shall reduce the provider's payment rates for the next contract period to reflect the amount of money not spent appropriately. The commissioner shall modify reporting requirements for vendors and counties as necessary to monitor compliance with this provision.

Sec. 63. Minnesota Statutes 1990, section 256B.50, subdivision 1d, is amended to read:

Subd. 1d. **EXPEDITED APPEAL REVIEW PROCESS.** (a) Within 120 days of the date an appeal is due according to subdivision 1b, the department shall review an appealed adjustment equal to or less than $100 annually per licensed bed of the provider, make a determination concerning the adjustment, and notify the provider of the determination. Except as allowed in paragraph (g), this review does not apply to an appeal of an adjustment made to, or proposed on, an amount already paid to the provider. In this subdivision, an adjustment is each separate disallowance, allocation, or adjustment of a cost item or part of a cost item as submitted by a provider according to forms required by the commissioner.

(b) For an item on which the provider disagrees with the results of the determination of the department made under paragraph (a), the provider may, within 60 days of the date of the review notice, file with both the office of administrative hearings and the department its written argument and documents, information, or affidavits in support of its appeal. If the provider fails to make ~~a submission~~ timely submissions in accordance with this paragraph, the department's determinations on the disputed items must be upheld.

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(c) Within 60 days of the date the department received the provider's submission under paragraph (b), the department may file with the office of administrative hearings and serve upon the provider its written argument and documents, information, and affidavits in support of its determination. If the department fails to make a submission in accordance with this paragraph, the administrative law judge shall proceed pursuant to paragraph (d) based on the provider's submission.

(d) Upon receipt by the office of administrative hearings of the department's submission made under paragraph (c) or upon the expiration of the 60-day filing period, whichever is earlier, the chief administrative law judge shall assign the matter to an administrative law judge. The administrative law judge shall consider the submissions of the parties and all relevant rules, statutes, and case law. The administrative law judge may request additional argument from the parties if it is deemed necessary to reach a final decision, but shall not allow witnesses to be presented or discovery to be made in the proceeding. Within 60 days of receipt by the office of administrative hearings of the department's submission or the expiration of the 60-day filing period in paragraph (c), whichever is earlier, the administrative law judge shall make a final decision on the items in issue, and shall notify the provider and the department by first-class mail of the decision on each item. The decision of the administrative law judge is the final administrative decision, is not appealable, and does not create legal precedent, except that the department may make an adjustment contrary to the decision of the administrative law judge based upon a subsequent cost report amendment or field audit that reveals information relating to the adjustment that was not known to the department at the time of the final decision.

(e) For a disputed item otherwise subject to the review set forth in this subdivision, the department and the provider may mutually agree to bypass the expedited review process and proceed to a contested case hearing at any time prior to the time for the department's submission under paragraph (c).

(f) When the department determines that ~~the appeals of two or more providers otherwise~~ an appeal item subject to the review set forth in this subdivision ~~present~~ presents the same or substantially the same adjustment~~,~~ presented in another appeal filed pursuant to this chapter, the department may remove the disputed items from the review in this subdivision, and the disputed items shall proceed in accordance with subdivision 1c. The department's decision to remove the appealed adjustments to contested case proceeding is final and is not reviewable.

(g) For a disputed item otherwise subject to the review in this subdivision, the department or a provider may petition the chief administrative law judge to issue an order allowing the petitioning party to bypass the expedited review process. If the petition is granted, the disputed item must proceed in accordance with subdivision 1c. In making the determination, the chief administrative law judge shall consider the potential impact and precedential and monetary value of the disputed item. A petition for removal to contested case hearing must be

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filed with the chief administrative law judge and the opposing party on or before the date on which its submission is due under paragraph (b) or (c). Within 20 days of receipt of the petition, the opposing party may submit its argument opposing the petition. Within 20 days of receipt of the argument opposing the petition, or if no argument is received, within 20 days of the date on which the argument was due, the chief administrative law judge shall issue a decision granting or denying the petition. If the petition is denied, the petitioning party has 60 days from the date of the denial to make a submission under paragraph (b) or (c).

(h) The department and a provider may mutually agree to use the procedures set forth in this subdivision for any disputed item not otherwise subject to this subdivision.

(i) Nothing shall prevent either party from making its submissions and arguments under this subdivision through a person who is not an attorney.

(j) This subdivision applies to all appeals for rate years beginning after June 30, 1988.

Sec. 64. Minnesota Statutes 1990, section 256B.501, subdivision 8, is amended to read:

Subd. 8. **PAYMENT FOR PERSONS WITH SPECIAL NEEDS.** The commissioner shall establish by December 31, 1983, procedures to be followed by the counties to seek authorization from the commissioner for medical assistance reimbursement for very dependent persons with special needs in an amount in excess of the rates allowed pursuant to subdivisions 2 and 4, including rates established under section 252.46 when they apply to services provided to residents of intermediate care facilities for persons with mental retardation or related conditions, and procedures to be followed for rate limitation exemptions for intermediate care facilities for persons with mental retardation or related conditions. No excess payment ~~or limitation exemption~~ approved by the commissioner after June 30, 1991, shall be authorized unless ~~the need for the service is documented in the individual service plan of the person or persons to be served, the type and duration of the services needed are stated, and there is a basis for estimated cost of the services.~~:

(1) the need for specific level of service is documented in the individual service plan of the person to be served;

(2) the level of service needed can be provided within the rates established under section 252.46 and Minnesota Rules, parts 9553.0010 to 9553.0080, without a rate exception within 12 months;

(3) staff hours beyond those available under the rates established under section 252.46 and Minnesota Rules, parts 9553.0010 to 9553.0080, necessary to deliver services do not exceed 720 hours within six months;

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(4) there is a basis for the estimated cost of services;

(5) the provider requesting the exception documents that current per diem rates are insufficient to support needed services;

(6) estimated costs, when added to the costs of current medical assistance-funded residential and day training and habilitation services and calculated as a per diem, do not exceed the per diem established for the regional treatment centers for persons with mental retardation and related conditions on July 1, 1990, indexed annually by the urban consumer price index, all items, published by the United States Department of Labor, for the next fiscal year over the current fiscal year;

(7) any contingencies for an approval as outlined in writing by the commissioner are met; and

(8) any commissioner orders for use of preferred providers are met.

The commissioner shall evaluate the services provided pursuant to this subdivision through program and fiscal audits.

The commissioner may terminate the rate exception at any time under any of the conditions outlined in Minnesota Rules, part 9510.1120, subpart 3, for county termination, or by reason of information obtained through program and fiscal audits which indicate the criteria outlined in this subdivision have not been, or are no longer being, met.

The commissioner may approve no more than two consecutive six-month rate exceptions for an eligible client whose first application for funding occurs after June 30, 1991.

Sec. 65. Minnesota Statutes 1990, section 256B.501, subdivision 11, is amended to read:

Subd. 11. **INVESTMENT PER BED LIMITS, INTEREST EXPENSE LIMITATIONS, AND ARMS-LENGTH LEASES.** (a) The provisions of Minnesota Rules, part 9553.0075, except as modified under this subdivision, shall apply to newly constructed or established facilities that are certified for medical assistance on or after May 1, 1990.

(b) For purposes of establishing payment rates under this subdivision and Minnesota Rules, parts 9553.0010 to 9553.0080, the term "newly constructed or newly established" means a facility (1) for which a need determination has been approved by the commissioner under sections 252.28 and 252.291; (2) whose program is newly licensed under Minnesota Rules, parts 9525.0215 to 9525.0355, and certified under Code of Federal Regulations, title 42, section 442.400, et seq.; and (3) that is part of a proposal that meets the requirements of section 252.291, subdivision 2, paragraph (2). The term does not include a facility for which a need determination was granted solely for other reasons such as the relocation of a facility; a change in the facility's name, program, number of

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beds, type of beds, or ownership; or the sale of a facility, unless the relocation of a facility to one or more service sites is the result of a closure of a facility under section 252.292, in which case clause (3) shall not apply. The term does include a facility that converts more than 50 percent of its licensed beds from class A to class B residential or class B institutional to serve persons discharged from state regional treatment centers on or after May 1, 1990, in which case clause (3) does not apply.

(c) Newly constructed or newly established facilities that are certified for medical assistance on or after May 1, 1990, shall be allowed the capital asset investment per bed limits as provided in clauses (1) to (4).

(1) The 1990 calendar year investment per bed limit for a facility's land must not exceed $5,700 per bed for newly constructed or newly established facilities in Hennepin, Ramsey, Anoka, Washington, Dakota, Scott, Carver, Chisago, Isanti, Wright, Benton, Sherburne, Stearns, St. Louis, Clay, and Olmsted counties, and must not exceed $3,000 per bed for newly constructed or newly established facilities in other counties.

(2) The 1990 calendar year investment per bed limit for a facility's depreciable capital assets must not exceed $44,800 for class B residential beds, and $45,200 for class B institutional beds.

(3) The investment per bed limit in clause (2) must not be used in determining the three-year average percentage increase adjustment in Minnesota Rules, part 9553.0060, subpart 1, item C, subitem (4), for facilities that were newly constructed or newly established before May 1, 1990.

(4) The investment per bed limits in clause (2) and Minnesota Rules, part 9553.0060, subpart 1, item C, subitem (2) shall be adjusted annually beginning January 1, 1991, and each January 1 following, as provided in Minnesota Rules, part 9553.0060, subpart 1, item C, subitem (2), except that the index utilized will be the Bureau of the Census: Composite fixed-weighted price index as published in the Survey of Current Business.

(d) A newly constructed or newly established facility's interest expense limitation as provided for in Minnesota Rules, part 9553.0060, subpart 3, item F, on capital debt for capital assets acquired during the interim or settle-up period, shall be increased by 2.5 percentage points for each full .25 percentage points that the facility's interest rate on its mortgage is below the maximum interest rate as established in Minnesota Rules, part 9553.0060, subpart 2, item A, subitem (2). For all following rate periods, the interest expense limitation on capital debt in Minnesota Rules, part 9553.0060, subpart 3, item F, shall apply to the facility's capital assets acquired, leased, or constructed after the interim or settle-up period. If a newly constructed or newly established facility is acquired by the state, the limitations of this paragraph and Minnesota Rules, part 9553.0060, subpart 3, item F, shall not apply.

(e) If a newly constructed or newly established facility is leased with an

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arms-length lease as provided for in Minnesota Rules, part 9553.0060, subpart 7, the lease agreement shall be subject to the following conditions:

(1) the term of the lease, including option periods, must not be less than 20 years;

(2) the maximum interest rate used in determining the present value of the lease must not exceed the lesser of the interest rate limitation in Minnesota Rules, part 9553.0060, subpart 2, item A, subitem (2), or 16 percent; and

(3) the residual value used in determining the net present value of the lease must be established using the provisions of Minnesota Rules, part 9553.0060.

(f) All leases of the physical plant of an intermediate care facility for the mentally retarded shall contain a clause that requires the owner to give the commissioner notice of any requests or orders to vacate the premises 90 days before such vacation of the premises is to take place. In the case of unlawful detainer actions, the owner shall notify the commissioner within three days of notice of an unlawful detainer action being served upon the tenant. The only exception to this notice requirement is in the case of emergencies where immediate vacation of the premises is necessary to assure the safety and welfare of the residents. In such an emergency situation, the owner shall give the commissioner notice of the request to vacate at the time the owner of the property is aware that the vacating of the premises is necessary. This section applies to all leases entered into after May 1, 1990. Rentals set in leases entered into after that date that do not contain this clause are not allowable costs for purposes of medical assistance reimbursement.

(g) A newly constructed or newly established facility's preopening costs are subject to the provisions of Minnesota Rules, part 9553.0035, subpart 12, and must be limited to only those costs incurred during one of the following periods, whichever is shorter:

(1) between the date the commissioner approves the facility's need determination and 30 days before the date the facility is certified for medical assistance; or

(2) the 12-month period immediately preceding the 30 days before the date the facility is certified for medical assistance.

(h) The development of any newly constructed or newly established facility as defined in this subdivision and projected to be operational after July 1, 1991, by the commissioner of human services shall be delayed until July 1, 1993, except for those facilities authorized by the commissioner as a result of a closure of a facility according to section 252.292 prior to January 1, 1991, or those facilities developed as a result of a receivership of a facility according to section 245A.12. This paragraph does not apply to state-operated community facilities authorized in section 252.50.

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Sec. 66. Minnesota Statutes 1990, section 256B.501, is amended by adding a subdivision to read:

Subd. 12. **ICF/MR SALARY ADJUSTMENTS.** For the rate period beginning January 1, 1992, and ending September 30, 1993, the commissioner shall add the appropriate salary adjustment cost per diem calculated in paragraphs (a) to (d) to the total operating cost payment rate of each facility. The salary adjustment cost per diem must be determined as follows:

(a) **COMPUTATION AND REVIEW GUIDELINES.** Except as provided in paragraph (c), 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 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 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, as the base year for the salary adjustment per diem computation. For the purpose of each year's 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 year 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, each facility shall receive a salary adjustment cost per diem equal to its salary adjustment costs multiplied by 1-1/2 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

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commissioner must review and determine the amount of change in salary adjustment costs in each of the above reporting years over the base year. In the case of each review, 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 that reporting year 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 each year following the reporting years subject to review. If the salary adjustment cost per diem for the reporting year 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 year being reviewed. Written notice of the amount subject to recovery must be given by the commissioner following each reporting year reviewed. Interest charges must be assessed by the commissioner after the 120th day of that notice at the same interest rate the commissioner assesses for other balance outstanding.

Sec. 67. **[256B.74] SPECIAL PAYMENTS.**

Subdivision 1. **HOSPITAL REIMBURSEMENT.** (a) Effective for admissions occurring on or after July 1, 1991, the commissioner shall make an indigent care payment to Minnesota and local trade area hospitals except facilities of the federal Indian Health Service and regional treatment centers, in addition to all other payment to hospitals for inpatient services. The indigent care payment shall be ten percent of the amount of medical assistance payments issued to that provider for inpatient services in a given calendar quarter or month, excluding indigent care payments paid under this section, divided by the number of related admissions, or patient days if applicable, and multiplying the result by 111 percent. The indigent care payment is added to each admission, or patient day if applicable, occurring (1) in the second calendar quarter beginning after the quarter on which the September 15, 1991, indigent care payment amount is based and (2) in the month beginning six months after the month on which the subsequent monthly indigent care payment amount is based. Medicare crossovers are excluded from indigent care payments and from the payments and admissions on which the indigent care payment is based. The commissioner may issue indigent care payments as disproportionate population adjustments for eligible hospitals.

(b) Effective for services rendered on or after July 1, 1991, the commissioner shall reimburse outpatient hospital facility fees at 80 percent of calendar

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year 1990 submitted charges, not to exceed the medicare upper payment limit. Services excepted from this payment methodology are emergency room facility fees, clinic facility fees, and those services for which there is a federal maximum allowable payment.

Subd. 2. **PHYSICIAN REIMBURSEMENT.** The commissioner shall make payments for physician services rendered on or after July 1, 1992, as follows:

(a) Payments for level one Health Care Finance Administration's common procedural coding system (HCPCS) codes titled "office and other outpatient medical services," "preventive medicine new and established patient," "delivery, antepartum and postpartum care," caesarean delivery, and pharmacologic management provided to psychiatric patients and HCPCS level three codes for enhanced services for prenatal high risk shall be calculated at the lower of (1) submitted charges, or (2) the median charges in 1989 minus 20 percent. If the median minus 20 percent results in a decrease to rates in effect June 30, 1991, for obstetrical and prenatal services, the rate on those codes in effect on June 30, 1991, shall be increased by an additional five percent.

(b) Payments for level one HCPCS codes titled "critical care" initial or subsequent visits only shall be calculated at the lower of (1) submitted charges, or (2) the median charges in 1989 minus 30 percent.

(c) Payments for all other services shall be calculated at the lower of (1) submitted charges, or (2) the median charges in 1989 minus 40 percent.

(d) In addition to the payment rates in paragraphs (a) to (c), rates for obstetrical services shall be adjusted by the ten percent increase in Laws 1989, chapter 689, article 1, section 2, subdivision 5, and rates for obstetrical and pediatric services shall be adjusted by the 15 percent increase in Laws 1990, chapter 568, article 1, section 2, subdivision 7.

Subd. 3. **NURSING FACILITY REIMBURSEMENT.** For rate years beginning on or after July 1, 1991, the commissioner shall reimburse nursing facilities participating in the medical assistance program as follows:

(1) a capital allowance of $1.44 per resident day shall be paid. For a licensed provider with an operating lease on the nursing facility, the capital equipment allowance shall not be the property of the lessor but shall be the property of the licensed provider for the duration of the operating lease or any renewal or extension of the operating lease; and

(2) the maximum efficiency incentive per diem payment established annually under section 256B.431, subdivision 2b, paragraph (d), shall be increased to $2.10 effective July 1, 1991, and $2.20 effective July 1, 1992.

Subd. 4. **PERSONAL NEEDS ALLOWANCE.** The commissioner shall provide cost of living increases in the personal needs allowance under section 256B.35, subdivision 1.

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Subd. 5. **DENTISTS.** The commissioner shall increase reimbursement to dentists for services rendered on or after July 1, 1992, by 20 percent for preventative services and five percent for all other services.

Subd. 6. **HEALTH PLANS.** Effective for services rendered after July 1, 1991, the commissioner shall adjust the monthly medical assistance capitation rate cell established in contract by the amount necessary to accommodate the equivalent value of the reimbursement increase established under subdivisions 1, 2, and 5.

Subd. 7. **ADMINISTRATIVE COST.** The commissioner may expend up to $1,700,000 for the administrative costs associated with sections 256.9657 and 256B.74.

Subd. 8. **CONTINGENT ON FEDERAL FINANCIAL PARTICIPATION.** The provisions of this section and section 256.9657 apply only as long as federal financial participation under Title XIX of the Social Security Act is available for medical assistance payments made under this section. In the event federal financial participation is denied for payments under this section, the commissioner shall discontinue collections from providers under section 256.9657, eliminate payments to providers and recipients under this section, and implement the contingent budget reductions in section 77, effective immediately.

Subd. 9. **NO ADJUSTMENTS WHILE FEES IN EFFECT.** The commissioner shall not adjust the payments under this section as long as the surcharges under section 256.9657 remain in effect. The commissioner shall report to the legislature when submitting the budget forecast regarding the amount of actual and anticipated surcharge collections and provider payments. The report must include recommendations for improving the operation of this section and section 256.9657, including any changes in surcharges or payments necessary to ensure that payments under this section do not exceed collections under section 256.9657.

Subd. 10. **IMPLEMENTATION; RULEMAKING.** The commissioner shall implement sections 256.9657 and 256B.74 on July 1, 1991, without complying with the rulemaking requirements of the administrative procedure act. The commissioner shall begin to adopt emergency rules to implement this article within 30 days, and may adopt permanent rules to implement this article. Emergency and permanent rules adopted to implement this article supersede any provisions adopted under the exemption from rulemaking requirements in this section.

Sec. 68. Minnesota Statutes 1990, 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 age 18 or older and who is not eligible for medical assistance under chapter 256B, including eligibility for medical assistance based on a spend-down of excess income according to section 256B.056, subdivision 5, and:

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(1) who is receiving assistance under section 256D.05 or 256D.051 ~~and is not eligible for medical assistance under chapter 256B including eligibility for medical assistance based on a spend-down of excess income according to section 256B.056, subdivision 5~~; or

(2)(i) who is a resident of Minnesota; and whose equity in assets is not in excess of $1,000 per assistance unit. Exempt assets, the reduction of excess assets, and the waiver of excess assets must conform to the medical assistance program in chapter 256B; and

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

(3) ~~who is over age 18 and~~ who would be eligible for medical assistance except that the person resides in a facility that is determined by the commissioner or the federal health care financing administration to be an institution for mental diseases.

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

(c) General assistance medical care ~~may be paid for a person, regardless of age, who~~ 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, ~~if~~ and the person is a recipient of general assistance medical care at the time the person is detained by law or admitted on a criminal hold order and as long as the person continues to meet other eligibility requirements of this subdivision.

(d) General assistance medical care is not available for applicants or recipi-

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ents who do not cooperate with the county agency to meet the requirements of medical assistance.

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

Sec. 69. Minnesota Statutes 1990, section 256D.03, subdivision 4, is amended to read:

Subd. 4. **GENERAL ASSISTANCE MEDICAL CARE; SERVICES.** (a) ~~Reimbursement under the general assistance medical care program shall be limited to the following categories of service~~ For a person who is eligible under subdivision 3, paragraph (a), clause (3), general assistance medical care covers:

(1) inpatient hospital ~~care,~~ services;

(2) outpatient hospital ~~care,~~ 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~~,~~;

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(8) prosthetic devices~~;~~;

(9) laboratory and X-ray services~~;~~;

(10) physician's services~~;~~;

(11) medical transportation~~;~~;

(12) chiropractic services as covered under the medical assistance program~~;~~;

(13) podiatric services~~; and~~;

(14) dental ~~care. In addition, payments of state aid shall be made for:~~ services;

~~(1)~~ (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;

~~(2)~~ (16) day treatment services for mental illness provided under contract with the county board;

~~(3)~~ (17) prescribed medications for persons who have been diagnosed as mentally ill as necessary to prevent more restrictive institutionalization;

~~(4)~~ (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~~;

~~(5)~~ (19) psychological services, medical supplies and equipment, and Medicare premiums, coinsurance and deductible payments ~~for a person who would be eligible for medical assistance except that the person resides in an institution for mental diseases~~; and

~~(6)~~ (20) medical equipment not specifically listed in this paragraph when the use of the equipment will prevent the need for costlier services that are reimbursable under this subdivision.

(b) For a recipient who is eligible under subdivision 3, paragraph (a), clause (1) or (2), general assistance medical care covers the services listed in paragraph (a) with the exception of special transportation services.

~~(b)~~ (c) In order to contain costs, the commissioner of human services shall select vendors of medical care who can provide the most economical care consistent with high medical standards and shall where possible contract with organizations on a prepaid capitation basis to provide these services. The commissioner shall consider proposals by counties and vendors for prepaid health plans, competitive bidding programs, block grants, or other vendor payment mechanisms designed to provide services in an economical manner or to control utilization, with safeguards to ensure that necessary services are provided. Before implementing prepaid programs in counties with a county operated or affiliated public teaching hospital or a hospital or clinic operated by the University of

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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 ~~contract~~ consult with an independent actuary ~~to establish~~ in establishing prepayment rates, but shall retain final control over the rate methodology.

~~(c)~~ (d) The commissioner of human services may reduce payments provided under sections 256D.01 to 256D.21 and 261.23 in order to remain within the amount appropriated for general assistance medical care, within the following restrictions.

For the period July 1, 1985, to December 31, 1985, reductions below the cost per service unit allowable under section 256.966, are permitted only as follows: payments for inpatient and outpatient hospital care provided in response to a primary diagnosis of chemical dependency or mental illness may be reduced no more than 30 percent; payments for all other inpatient hospital care may be reduced no more than 20 percent. Reductions below the payments allowable under general assistance medical care for the remaining general assistance medical care services allowable under this subdivision may be reduced no more than ten percent.

For the period January 1, 1986, to December 31, 1986, reductions below the cost per service unit allowable under section 256.966 are permitted only as follows: payments for inpatient and outpatient hospital care provided in response to a primary diagnosis of chemical dependency or mental illness may be reduced no more than 20 percent; payments for all other inpatient hospital care may be reduced no more than 15 percent. Reductions below the payments allowable under general assistance medical care for the remaining general assistance medical care services allowable under this subdivision may be reduced no more than five percent.

For the period January 1, 1987, to June 30, 1987, reductions below the cost per service unit allowable under section 256.966 are permitted only as follows: payments for inpatient and outpatient hospital care provided in response to a primary diagnosis of chemical dependency or mental illness may be reduced no more than 15 percent; payments for all other inpatient hospital care may be reduced no more than ten percent. Reductions below the payments allowable under medical assistance for the remaining general assistance medical care services allowable under this subdivision may be reduced no more than five percent.

For the period July 1, 1987, to June 30, 1988, reductions below the cost per

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service unit allowable under section 256.966 are permitted only as follows: payments for inpatient and outpatient hospital care provided in response to a primary diagnosis of chemical dependency or mental illness may be reduced no more than 15 percent; payments for all other inpatient hospital care may be reduced no more than five percent. Reductions below the payments allowable under medical assistance for the remaining general assistance medical care services allowable under this subdivision may be reduced no more than five percent.

For the period July 1, 1988, to June 30, 1989, reductions below the cost per service unit allowable under section 256.966 are permitted only as follows: payments for inpatient and outpatient hospital care provided in response to a primary diagnosis of chemical dependency or mental illness may be reduced no more than 15 percent; payments for all other inpatient hospital care may not be reduced. Reductions below the payments allowable under medical assistance for the remaining general assistance medical care services allowable under this subdivision may be reduced no more than five percent.

There shall be no copayment required of any recipient of benefits for any services provided under this subdivision. A hospital receiving a reduced payment as a result of this section may apply the unpaid balance toward satisfaction of the hospital's bad debts.

~~(d)~~ (e) Any county may, from its own resources, provide medical payments for which state payments are not made.

~~(e)~~ (f) Chemical dependency services that are reimbursed under ~~Laws 1986, chapter 394, sections 8 to 20,~~ chapter 254B must not be reimbursed under general assistance medical care.

~~(f)~~ (g) The maximum payment for new vendors enrolled in the general assistance medical care program after the base year shall be determined from the average usual and customary charge of the same vendor type enrolled in the base year.

~~(g)~~ (h) The conditions of payment for services under this subdivision are the same as the conditions specified in rules adopted under chapter 256B governing the medical assistance program, unless otherwise provided by statute or rule.

Sec. 70. Minnesota Statutes 1990, section 256D.06, subdivision 1b, is amended to read:

Subd. 1b. **EARNED INCOME SAVINGS ACCOUNT.** In addition to the $50 disregard required under subdivision 1, the county agency shall disregard an additional earned income up to a maximum of $150 per month for: (1) persons residing in facilities licensed under Minnesota Rules, parts 9520.0500 to 9520.0690 and 9530.2500 to 9530.4000, and for whom discharge and work are part of a treatment plan ~~and for;~~ (2) persons living in supervised apartments with services funded under Minnesota Rules, parts 9535.0100 to 9535.1600, and

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for whom discharge and work are part of a treatment plan; and (3) persons residing in a negotiated rate residence, as that term is defined in section 256I.03, subdivision 3, for whom the county agency has approved a discharge plan which includes work. The additional amount disregarded must be placed in a separate savings account by the eligible individual, to be used upon discharge from the residential facility into the community. A maximum of $1,000, including interest, of the money in the savings account must be excluded from the resource limits established by section 256D.08, subdivision 1, clause (1). Amounts in that account in excess of $1,000 must be applied to the resident's cost of care. If excluded money is removed from the savings account by the eligible individual at any time before the individual is discharged from the facility into the community, the money is income to the individual in the month of receipt and a resource in subsequent months. If an eligible individual moves from a community facility to an inpatient hospital setting, the separate savings account is an excluded asset for up to 18 months. During that time, amounts that accumulate in excess of the $1,000 savings limit must be applied to the patient's cost of care. If the patient continues to be hospitalized at the conclusion of the 18-month period, the entire account must be applied to the patient's cost of care.

Sec. 71. Minnesota Statutes 1990, section 256I.05, is amended by adding a subdivision to read:

Subd. 1a. **LOWER MAXIMUM RATE.** The maximum monthly rate for a general assistance or Minnesota supplemental aid negotiated rate residence that enters into an initial negotiated rate agreement with a county agency on or after June 1, 1989, may not exceed 90 percent of the maximum rate established under subdivision 1. This is effective until June 30, 1993, or until the statewide system authorized under subdivision 6 is established, whichever occurs first.

Sec. 72. Minnesota Statutes 1990, section 256I.05, is amended by adding a subdivision to read:

Subd. 1b. **RATES FOR UNCERTIFIED BOARDING CARE HOMES.** Effective July 1, 1992, the maximum rate for a boarding care home not certified to receive medical assistance is equal to 65 percent of the average nursing home level "A" rate in effect for the geographic area in which the boarding care home is located, except that a facility's rate must not be reduced by more than ten percent for the year ending June 30, 1992. This is effective until June 30, 1993. A noncertified boarding care home licensed under Minnesota Rules, parts 9520.0500 to 9520.0690, is exempt from this rate limit. The commissioner shall study the numbers of facilities and residents that will be affected by the limit in this subdivision, the number of facilities likely to close because of the limit, the available alternatives for affected residents, methods of relocating or securing alternative placements for residents, and other effects of the limit. The commissioner shall provide a report to the legislature by January 1, 1992, on the commissioner's findings and recommendations relating to the rate limit.

Sec. 73. Minnesota Statutes 1990, section 256I.05, subdivision 2, is amended to read:

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Subd. 2. **MONTHLY RATES; EXEMPTIONS.** (a) The maximum negotiated 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. For residences in this clause that have less than five percent of their licensed boarding care capacity reimbursed by the medical assistance program, rate increases shall be provided according to section 256B.431, subdivision 4, paragraph (c).

(b) The maximum negotiated rate does not apply to a residence that on August 1, 1984, was licensed by the commissioner of human services under Minnesota Rules, parts 9525.0520 to 9525.0660, but funded as a negotiated rate residence under general assistance or Minnesota supplemental aid. Rate increases for these residences are subject to the provisions of subdivision 7.

(c) ~~The following residences are exempt from the limit on negotiated rates and must be reimbursed for documented actual costs, until an alternative reimbursement system covering services excluding room and board maintenance services is developed by the commissioner:~~

~~(1) a residence that is not certified to participate in the medical assistance program, that was licensed as a boarding care facility by March 1, 1985, and does not receive supplemental program funding under Minnesota Rules, parts 9535.2000 to 9535.3000 or 9553.0010 to 9553.0080;~~

~~(2)~~ The maximum negotiated rate does not apply to a residence certified to participate in the medical assistance program, licensed as a boarding care facility or a nursing home, and declared to be an institution for mental disease by January 1, 1989. Effective January 1, 1989, the ~~actual documented cost~~ rate for these residences is the individual's appropriate medical assistance case mix rate ~~until the commissioner develops a comprehensive system of rates and payments for persons in all negotiated rate residences~~. The exclusion from the rate limit for residences under this clause ~~expires July 1, 1991~~ continues until June 30, 1992. The commissioner of human services, in consultation with the counties in which these residences are located, shall review the status of each certified nursing home and board and care facility declared to be an institution for mental disease. This review shall include the cost effectiveness of continued payment for residents through general assistance or Minnesota supplemental aid; the appropriateness of placement of general assistance or supplemental aid clients in these facilities; the effects of Public Law Number 100-203 on these facilities; and the role of these facilities in the mental health service delivery system. The commissioner shall make recommendations to the legislature by January 1, 1990, regarding the need to continue the exclusion of these facilities from the negotiated rate maximum and the future role of these facilities in serving persons with mental illness.

(d) The commissioner of human services shall take the following action in relation to certified boarding care facilities and nursing homes that have been

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declared institutions for mental diseases, excluding those facilities exempt under paragraph (a):

(1) All mental health and placement screenings and diagnostic assessments required under the federal Omnibus Budget Reconciliation Act (OBRA) must be completed by July 1, 1991, for all residents in institutions for mental diseases admitted before June 1, 1991. Residents determined to need relocation under the preadmission screening and annual resident review must be relocated to a more appropriate placement in accordance with the timelines established in the state's alternative disposition plan.

(2) By October 1, 1991, all institutions for mental diseases must be reviewed again by the commissioner to determine if they are still institutions for mental diseases, and the commissioner shall immediately revoke a declaration that a facility is an institution for mental diseases if the commissioner determines that the facility is not an institution for mental diseases.

(3) The commissioner shall provide to institutions for mental diseases training in the criteria used in assessing residents for determination of institutions for mental diseases status and the numbers of residents in each category.

(4) For facilities whose status as an institution for mental diseases is not revoked by the commissioner by October 1, 1991, a facility-specific plan must be developed by the commissioner and the facility, in consultation with the appropriate consumer groups, to offer alternative services to enough residents by July 1, 1992, to allow the commissioner to revoke the facility's status as an institution for mental diseases.

Sec. 74. Minnesota Statutes 1990, section 256I.05, is amended by adding a subdivision to read:

Subd. 7a. **RATE INCREASES FOR THE 1991-1993 BIENNIUM.** For the biennium ending June 30, 1993, no inflationary increases shall be provided in rates for negotiated rate settings under subdivision 7.

Sec. 75. **REGULATORY REVIEW.**

The commissioner of health shall study the regulation of long-term care facilities and report to the legislature by January 15, 1992, with any recommendations for changes in the current regulatory structure. The study must address at least the following issues:

(1) the possibility of unifying the federal and state enforcement systems;

(2) the effectiveness of existing enforcement tools;

(3) the appropriateness of current licensure standards; and

(4) alternative mechanisms for dispute resolution.

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Sec. 76. **NURSING HOME FINANCIAL PERFORMANCE MONITORING.**

The commissioners of health and human services shall recommend to the legislature by January 15, 1992, a system to monitor the financial performance of nursing homes on an ongoing basis. The system may provide for the inclusion of nursing homes in the health care cost information act of 1984 or for another method to obtain, analyze, and report financial data. The system must be coordinated with existing nursing home financial reporting requirements and must provide for periodic reports to the legislature on the financial condition of nursing homes.

Sec. 77. **CONTINGENT BUDGET REDUCTIONS.**

Subdivision 1. **CONTINGENT MEDICAL ASSISTANCE PROVIDER REDUCTIONS.** This section is effective only if federal financial participation under Title XIX of the Social Security Act is not available for payments under Minnesota Statutes, section 256B.74. This section is effective on the date the commissioner of human services receives an official denial of federal financial participation or an official communication from the federal government stating that federal financial participation will not be available, or on the effective date of a federal law that specifically prohibits federal financial participation.

Subd. 2. **HOSPITAL PEER GROUPS.** (a) For admissions occurring after the transition period specified in Minnesota Statutes, section 256.9695, subdivision 3, operating payment rates of each hospital shall be limited to the operating payment rates within its peer group so that the statewide operating payment level is reduced by 4.5 percent. For subsequent rate years, the limits shall be adjusted by the hospital cost index. The commissioner shall contract for the development of criteria for and the establishment of the peer groups. Peer groups must be established based on variables that affect medical assistance cost such as scope and intensity of services, acuity of patients, location, and capacity. Rates shall be standardized by the case mix index and adjusted, if applicable, for the variable outlier percentage. The peer groups may exclude and have separate limits or be standardized for operating cost differences that are not common to all hospitals in order to establish a minimum number of groups. The criteria and establishment of the peer groups is not subject to the requirements of Minnesota Statutes, chapter 14, the administrative procedure act.

(b) The commissioner shall not implement section 67, subdivision 1, paragraph (b).

Subd. 3. **MEDICAL ASSISTANCE COVERAGE OF DENTAL SERVICES.** Notwithstanding Minnesota Statutes, section 256B.0625, subdivision 9, medical assistance only covers dental services for children under age 18, and dental services not to exceed $150 annually for adults. The commissioner shall not implement section 67, subdivision 5.

Subd. 4. **MEDICAL ASSISTANCE COVERAGE OF SPECIAL TRANSPORTATION.** For medical assistance coverage of special transportation under Minnesota Statutes, section 256B.0625, subdivision 17, the commissioner of human services shall establish maximum medical assistance reimbursement rates for special transportation services for persons who need a wheelchair lift van or stretcher-equipped vehicle and for those who do not need a wheelchair lift van or stretcher-equipped vehicle. The average of these two rates must not exceed $12.50 for the base rate and 60 cents per mile.

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Subd. 5. **NURSING HOME WORKERS' COMPENSATION COSTS.** Notwithstanding contrary provisions of Minnesota Statutes, section 256B.431, in determining medical assistance payments to nursing facilities, the commissioner must reduce the workers' compensation cost during the reporting year for each nursing facility to account for any savings in workers' compensation costs that result from actions of the 1991 legislature for the purposes of computing the payment rates for the rate year beginning July 1, 1991, and for the first nine months of the rate year beginning July 1, 1992. For any nursing facility that cannot separately report the workers' compensation costs, the commissioner shall determine the amount of the workers' compensation costs to be reduced by identifying the nursing facility's portion of total workers' compensation costs by applying the individual Medicare stepdowns which the nursing facility used to allocate its payroll taxes and fringe benefits and multiplying that amount by 16 percent.

Subd. 6. **NURSING HOME COST LIMITS.** (a) **NURSING HOME RATES.** The provisions in paragraphs (b) to (e) apply to medical assistance payments to nursing facilities and supersede any inconsistent provisions in Minnesota Statutes, section 256B.431.

(b) **OTHER OPERATING COST LIMITS.** For the rate year beginning July 1, 1991, the commissioner, in conjunction with the rebasing for the reporting year September 30, 1990, shall establish the other operating cost limits in Minnesota Rules, part 9549.0055, subpart 2, item E, at 108 percent of the median of the array of allowable historical other operating cost per diems. The limits must be established according to Minnesota Statutes, section 256B.431, subdivision 2b, paragraph (d). For rate years beginning on or after July 1, 1992, the adjusted other operating cost limits must be indexed as in subdivision 2l.

(c) **CARE-RELATED OPERATING COST LIMITS.** For the rate year beginning July 1, 1991, the commissioner, in conjunction with the rebasing for the reporting year September 30, 1990, shall establish the care-related operating cost limits in Minnesota Rules, part 9549.0055, subpart 2, items A and B, at 122 percent of the median of the array of the allowable historical case mix operating cost standardized per diems and the allowable historical other care-related operating cost per diems. The limits must be established according to Minnesota Statutes, section 256B.431, subdivision 2b, paragraph (d). For rate years beginning on or after July 1, 1992, the adjusted care-related limits must be indexed as in Minnesota Statutes, section 256B.431, subdivision 2l.

(d) **ADMINISTRATIVE COST LIMITS.** For rate years beginning on or after July 1, 1991, the cost limitation for costs in the general and administrative cost category in Minnesota Rules, part 9549.0055, subpart 2, item D, shall be modified as in clauses (1) to (4):

(1) the percentage limitation for nursing homes with 60 or fewer licensed beds shall be 14 percent;

(2) the percentage limitation for nursing homes with 61 to 100 licensed beds shall be 13 percent;

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(3) the percentage limitation for nursing homes with 101 to 200 licensed beds shall be 12 percent; and

(4) the percentage limitation for nursing homes with more than 200 licensed beds shall be 11 percent.

(e) **EFFICIENCY INCENTIVE.** For rate years beginning on or after July 1, 1991, a nursing home's maximum efficiency incentive shall be $1.

Subd. 7. **NURSING HOME PROPERTY COSTS.** (a) The provisions of paragraphs (b) to (d) apply to medical assistance payments to nursing facilities and supersede any inconsistent provisions of Minnesota Statutes, section 256B.431.

(b) For the rate year beginning July 1, 1991, the property-related payment rate for a nursing home classified as a group A nursing home under Minnesota Statutes, section 256B.431, subdivision 3i, shall be the lesser of the nursing home's property-related payment rate in effect on July 1, 1990; or the sum of 115 percent of the nursing home's allowable principal and interest expense, plus its equipment allowance multiplied by the resident days for the reporting year ending September 30, 1990, divided by the nursing home's capacity days as determined under Minnesota Rules, part 9549.0060, subpart 11, as modified by Minnesota Statutes, section 256B.431, subdivision 3f, paragraph (c); but not less than the lesser of $3.25 or the nursing home's July 1, 1990, property-related payment rate.

(c) For the rate year beginning July 1, 1991, a nursing home classified as a group B nursing home under Minnesota Statutes, section 256B.431, subdivision 3i, shall receive the greater of 90 percent of its property-related payment rate in effect on July 1, 1990; or the sum of 115 percent of the nursing home's allowable principal and interest expense, plus its equipment allowance multiplied by the resident days for the reporting year ending September 30, 1990, divided by the nursing home's capacity days as determined under Minnesota Rules, part 9549.0060, subpart 11, as modified by Minnesota Statutes, section 256B.431, subdivision 3f, paragraph (c); except that the nursing home's property-related payment rate must not exceed the property-related payment rate in effect on July 1, 1990.

(d) For the rate year beginning July 1, 1991, a nursing home classified as a group C nursing home under Minnesota Statutes, section 256B.431, subdivision 3i, shall receive the greater of 85 percent of its property-related payment rate in effect on July 1, 1990; or the sum of 115 percent of the nursing home's allowable principal and interest expense, plus its equipment allowance multiplied by the resident days for the reporting year ending September 30, 1990, divided by the nursing home's capacity days as determined under Minnesota Rules, part 9549.0060, subpart 11, as modified by Minnesota Statutes, section 256B.431, subdivision 3f, paragraph (c); except that the nursing home's property-related payment rate must not exceed the property-related payment rate in effect on July 1, 1990.

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Subd. 8. **PERSONAL NEEDS ALLOWANCE INFLATION.** Notwithstanding Minnesota Statutes, section 256B.35, subdivision 1, no increase for inflation may be provided to the personal needs allowance for persons receiving medical assistance.

Subd. 9. **NURSING HOME MORATORIUM EXCEPTIONS.** The commissioner of health shall not authorize exceptions to the nursing home moratorium under Minnesota Statutes, section 144A.073.

Subd. 10. **NURSING HOMES TREATING HUNTINGTON'S.** The commissioner shall not implement section 55.

Subd. 11. **EXTENSION OF HOSPITAL-ATTACHED STATUS.** The commissioner shall not implement section 58.

Subd. 12. **EFFICIENCY INCENTIVE INCREASE.** The commissioner shall not implement section 67, subdivision 3, clause (2).

Subd. 13. **ICF/MR WORKERS' COMPENSATION.** The commissioner shall adjust reimbursement rates for intermediate care facilities for persons with mental retardation and related conditions to account for any savings in workers' compensation costs that results from actions of the 1991 legislature.

Subd. 14. **ICF/MR EFFICIENCY INCENTIVE.** The commissioner shall reduce the maximum efficiency incentive for intermediate care facilities for persons with mental retardation to $1.

Subd. 15. **INFLATION ADJUSTMENTS.** The commissioner shall not provide inflationary increases for fiscal year 1992 for the medical assistance alternative care grants program, the community alternatives for disabled individuals (CADI) program, the community alternative care (CAC) waiver, and for personal care attendant and private duty nursing services.

Subd. 16. **DAY TRAINING INFLATION.** The commissioner shall not provide the two percent inflation adjustment authorized under article 1 for day training and habilitation services for the fiscal year beginning July 1, 1991.

Subd. 17. **CHIROPRACTIC SERVICES.** The commissioner shall limit chiropractic services under medical assistance to 18 visits per year.

Subd. 18. **PHYSICIAN REIMBURSEMENT.** The commissioner shall not implement section 67, subdivision 2.

Subd. 19. **MASTERS-LEVEL PSYCHOLOGISTS.** The commissioner shall reimburse masters-prepared mental health practitioners and practitioners licensed at the masters level providing services through community mental health centers at 65 percent of the level for doctoral-prepared practitioners.

Subd. 20. **GENERAL ASSISTANCE MEDICAL CARE.** The commissioner shall:

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(1) reduce retroactive eligibility for general assistance medical care recipients who are not residents of institutions for mental diseases from three months to one month;

(2) limit coverage for over the counter drugs for general assistance medical care recipients residing in institutions for mental diseases to insulin, aspirin, antacids, products for the treatment of lice, and acetaminophen, and limit coverage for dental services to $150 a year; and

(3) establish the following coverage limitations for general assistance medical care recipients who are not residents in institutions for mental diseases:

(i) chiropractic services, vision care, podiatry services, allergy testing, special transportation, case management for persons with serious and persistent mental illness, and Medicare premiums, coinsurance, and deductibles are not covered;

(ii) audiology, occupational therapy, and speech therapy are not covered, regardless of provider type;

(iii) physical therapy is limited to five treatment modalities, regardless of provider type;

(iv) services of a Medicare-certified rehabilitation agency, except physical therapy services under item (iii), are not covered;

(v) coverage for dental services is limited to $100 annually;

(vi) coverage for physician services is limited to 14 physician visits;

(vii) coverage for mental health therapy, including psychological services and diagnostic services is limited to ten hours annually. For purposes of this clause, two hours of group therapy count as one hour;

(viii) coverage for legend drugs is limited to those prescribed by a physician and contained in a general assistance medical care drug formulary established by the commissioner in the manner used to establish and publish the formulary in section 256B.0625, subdivision 13;

(ix) outpatient hospital services are covered to the extent otherwise provided under this paragraph; and

(x) for an emergency room visit that does not result in an inpatient admission, reimbursement for the emergency room visit shall be reduced by $5 and the hospital may collect that amount from the recipient. The hospital may not deny services to the recipient for failure to pay the copayment amount.

Contracts with prepaid health plans to provide health care services to recipients of general assistance medical care may include, without limitation, the services set forth in clause (3), items (iii), (v), (vi), (viii), and (x). The commissioner

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may seek a waiver according to Minnesota Statutes, section 62D.30, in order to execute contracts for the benefit package in this subdivision.

Subd. 21. **REIMBURSEMENT FOR SHORT STAY FACILITIES.** The commissioner shall not implement section 57.

Sec. 78. **INSTRUCTION TO REVISOR.**

In each section of Minnesota Statutes referred to in column A, the revisor of statutes shall delete the reference in column B and insert the reference in column C. The revisor shall also correct any cross-references to Minnesota Statutes, section 256.969, subdivision 6a, that appear in Minnesota Rules.

Column A	Column B	Column C
256.969, subd. 3a	256.969, subd. 6a, paragraph (a), clause (5) or (6)	256.969, subds. 10 and 11
256.9695, subd. 3	256.969, subd. 6a, paragraph (a), clause (3)	256.969, subd. 8
256.9695, subd. 3, paragraph (a)	256.969, subd. 6a, paragraph (a), clauses (1), (2), (4), (5), (6), and (8)	256.969, subds. 7, 9, 10, 11, and 13
256.9695, subd. 3, paragraph (a)	256.969, subd. 6a, paragraph (a), clause (7), and paragraph (i)	256.969, subds. 12 and 20
256.9695, subd. 3, paragraph (c)	256.969, subd. 6a, paragraphs (g) and (h)	256.969, subd. 19, paragraphs (a) and (b)

Sec. 79. **REPEALER.**

Subdivision 1. **CONTINGENT MEDICAL ASSISTANCE REDUCTIONS.** Section 77 is repealed effective July 1, 1993.

Subd. 2. **REGIONAL TREATMENT CENTER CHEMICAL DEPENDENCY UNIT FUNDING.** Minnesota Statutes 1990, section 246.18, subdivisions 3 and 3a, are repealed.

Sec. 80. **EFFECTIVE DATES.**

Subdivision 1. **SPECIAL CATEGORIES OF ELIGIBILITY.** (a) Those portions of sections 35, 36, and 38 regarding publication of federal poverty guidelines are effective retroactive to the date the 1991 change in the federal poverty guidelines became effective.

(b) Sections 37 and 39 are effective retroactive to January 1, 1991.

Subd. 2. **ADMISSION CRITERIA.** That portion of section 5 requiring the commissioner of human services to establish criteria for admission to chemical dependency units is effective the day following final enactment.

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Subd. 3. **AVAILABILITY OF INCOME.** The deduction for reparation payments in section 40 is effective retroactive to January 1, 1991. The deduction for veterans pensions in section 40 is effective the month in which the Veteran's Administration implements the change at section 8003 of the Omnibus Budget Reconciliation Act of 1990.

Subd. 4. **HOSPITAL-ATTACHED CONVALESCENT AND NURSING CARE FACILITIES.** Section 58 takes effect the day after its final enactment and applies to facilities whose attached hospitals suspend operation before or after its effective date.

Subd. 5. **FEDERALLY QUALIFIED HEALTH CENTER.** Section 49, paragraph (b), is effective retroactive to July 1, 1990.

ARTICLE 5

ASSISTANCE PAYMENTS

Section 1. Minnesota Statutes 1990, section 13.46, subdivision 2, is amended to read:

Subd. 2. **GENERAL.** (a) Unless the data is summary data or a statute specifically provides a different classification, data on individuals collected, maintained, used, or disseminated by the welfare system is private data on individuals, and shall not be disclosed except:

(1) pursuant to section 13.05;

(2) pursuant to court order;

(3) pursuant to a statute specifically authorizing access to the private data;

(4) to an agent of the welfare system, including a law enforcement person, attorney, or investigator acting for it in the investigation or prosecution of a criminal or civil proceeding relating to the administration of a program;

(5) to personnel of the welfare system who require the data to determine eligibility, amount of assistance, and the need to provide services of additional programs to the individual;

(6) to administer federal funds or programs;

(7) between personnel of the welfare system working in the same program;

(8) the amounts of cash public assistance and relief paid to welfare recipients in this state, including their names and social security numbers, upon request by the department of revenue to administer the property tax refund law, supplemental housing allowance, and the income tax;

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(9) to the Minnesota department of jobs and training for the purpose of monitoring the eligibility of the data subject for unemployment compensation, for any employment or training program administered, supervised, or certified by that agency, or for the purpose of administering any rehabilitation program, whether alone or in conjunction with the welfare system, and to verify receipt of energy assistance for the telephone assistance plan;

(10) to appropriate parties in connection with an emergency if knowledge of the information is necessary to protect the health or safety of the individual or other individuals or persons;

(11) data maintained by residential facilities as defined in section 245A.02 may be disclosed to the protection and advocacy system established in this state pursuant to Part C of Public Law Number 98-527 to protect the legal and human rights of persons with mental retardation or other related conditions who live in residential facilities for these persons if the protection and advocacy system receives a complaint by or on behalf of that person and the person does not have a legal guardian or the state or a designee of the state is the legal guardian of the person; ~~or~~

(12) to the county medical examiner or the county coroner for identifying or locating relatives or friends of a deceased person; or

(13) data on a child support obligor who makes payments to the public agency may be disclosed to the higher education coordinating board to the extent necessary to determine eligibility under section 136A.121, subdivision 2, clause (5).

(b) Mental health data shall be treated as provided in subdivisions 7, 8, and 9, but is not subject to the access provisions of subdivision 10, paragraph (b).

Sec. 2. Minnesota Statutes 1990, section 136A.121, subdivision 2, is amended to read:

Subd. 2. **ELIGIBILITY FOR GRANTS.** An applicant is eligible to be considered for a grant, regardless of the applicant's sex, creed, race, color, national origin, or ancestry, under sections 136A.095 to 136A.131 if the board finds that the applicant:

(1) is a resident of the state of Minnesota;

(2) is a graduate of a secondary school or its equivalent, or is 17 years of age or over, and has met all requirements for admission as a student to an eligible college or technical college of choice as defined in sections 136A.095 to 136A.131;

(3) has met the financial need criteria established in Minnesota Rules; ~~and~~

(4) is not in default, as defined by the board, of any federal or state student educational loan; and

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(5) is not more than 30 days in arrears for any child support payments owed to a public agency responsible for child support enforcement or, if the applicant is more than 30 days in arrears, is complying with a payment plan for arrearages.

The director and the commissioner of human services shall develop procedures to implement clause (5).

Sec. 3. Minnesota Statutes 1990, section 136A.162, is amended to read:

136A.162 **CLASSIFICATION OF DATA.**

All data on applicants for financial assistance collected and used by the higher education coordinating board for student financial aid programs administered by that board shall be classified as private data on individuals under section 13.02, subdivision 12. Exceptions to this classification are that:

(a) the names and addresses of program recipients or participants are public data; ~~and~~

(b) data on applicants may be disclosed to the commissioner of human services to the extent necessary to determine eligibility under section 136A.121, subdivision 2, clause (5); and

~~(b)~~ (c) the following data collected in the Minnesota supplemental loan program under section 136A.1701 may be disclosed to a consumer credit reporting agency only if the borrower and the cosigner give informed consent, according to section 13.05, subdivision 4, at the time of application for a loan:

(1) the lender-assigned borrower identification number;

(2) the name and address of borrower;

(3) the name and address of cosigner;

(4) the date the account is opened;

(5) the outstanding account balance;

(6) the dollar amount past due;

(7) the number of payments past due;

(8) the number of late payments in previous 12 months;

(9) the type of account;

(10) the responsibility for the account; and

(11) the status or remarks code.

Sec. 4. **[214.101] CHILD SUPPORT; SUSPENSION OF LICENSE.**

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Subdivision 1. **COURT ORDER; HEARING ON SUSPENSION.** If a licensing board receives an order from a court under section 518.551, subdivision 12, dealing with suspension of a license of a person found by the court to be in arrears in child support payments, the board shall, within 30 days of receipt of the court order, provide notice to the licensee and hold a hearing. If the board finds that the person is licensed by the board and evidence of full payment of arrearages found to be due by the court is not presented at the hearing, the board shall suspend the license unless it determines that probation is appropriate under subdivision 2. The only issues to be determined by the board are whether the person named in the court order is a licensee, whether the arrearages have been paid, and whether suspension or probation is appropriate. The board may not consider evidence with respect to the appropriateness of the court order or the ability of the person to comply with the order. The board may not lift the suspension until the licensee files with the board proof showing that the licensee is current in child support payments.

Subd. 2. **PROBATION.** If the board determines that the suspension of the license would create an extreme hardship to either the licensee or to persons whom the licensee serves, the board may, in lieu of suspension, allow the licensee to continue to practice the occupation on probation. Probation must be conditioned upon full compliance with the court order that referred the matter to the board. The probation period may not exceed two years, and the terms of probation must provide for automatic suspension of the license if the licensee does not provide monthly proof to the board of full compliance with the court order that referred the matter to the board or a further court order if the original order is modified by the court.

Subd. 3. **REVOCATION OR REINSTATEMENT OF PROBATION.** If the licensee has a modification petition pending before the court, the board may, without a hearing, defer a revocation of probation and institution of suspension until receipt of the court's ruling on the modification order. A licensee who was placed on probation and then automatically suspended may be automatically reinstated upon providing proof to the board that the licensee is currently in compliance with the court order.

Subd. 4. **VERIFICATION OF PAYMENTS.** Before a board may terminate probation, remove a suspension, issue, or renew a license of a person who has been suspended or placed on probation under this section, it shall contact the court that referred the matter to the board to determine that the applicant is not in arrears for child support. The board may not issue or renew a license until the applicant proves to the board's satisfaction that the applicant is current in support payments.

Subd. 5. **APPLICATION.** This section applies to support obligations ordered by any state, territory, or district of the United States.

Sec. 5. Minnesota Statutes 1990, section 237.70, subdivision 7, is amended to read:

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Subd. 7. **ADMINISTRATION.** The telephone assistance plan must be administered jointly by the commission, the department of human services, and the telephone companies in accordance with the following guidelines:

(a) The commission and the department of human services shall develop an application form that must be completed by the subscriber for the purpose of certifying eligibility for telephone assistance plan credits to the ~~telephone companies~~ department of human services. The application must contain the applicant's social security number. ~~Applications without~~ Applicants who refuse to provide a social security number will be denied telephone assistance plan credits. The application form must include provisions for the applicant to show the name of the applicant's telephone company. The application must also advise the applicant to submit the required proof of age or disability, and income and must provide examples of acceptable proof. The application must state that failure to submit proof with the application will result in the applicant being found ineligible. Each telephone company shall annually mail a notice of the availability of the telephone assistance plan to each residential subscriber in a regular billing and shall mail the application form to customers when requested.

The notice must state the following:

YOU MAY BE ELIGIBLE FOR ASSISTANCE IN PAYING YOUR TELEPHONE BILL IF ~~YOU MEET CERTAIN HOUSEHOLD INCOME LIMITS, AND~~ YOU ARE 65 YEARS OF AGE OR OLDER OR ARE DISABLED AND IF YOU MEET CERTAIN HOUSEHOLD INCOME LIMITS. FOR MORE INFORMATION OR AN APPLICATION FORM PLEASE CONTACT .....

(b) The department of human services shall determine the eligibility for telephone assistance plan credits at least annually according to the criteria contained in subdivision 4a.

(c) ~~Each telephone company shall provide telephone assistance plan credits against monthly charges in the earliest possible month following receipt of an application form and shall continue to provide credits unless notified that the subscriber is ineligible. The company shall cease granting credits at the earliest possible billing cycle when notified by the department of human services that the subscriber is ineligible.~~ An application may be made by the subscriber, the subscriber's spouse, or a person authorized by the subscriber to act on the subscriber's behalf. On completing the application certifying that the statutory criteria for eligibility are satisfied, the applicant must return the application to an office of the department of human services specially designated to process telephone assistance plan applications. On receiving a completed application from an applicant, the department of human services shall determine the applicant's eligibility or ineligibility within 120 days. If the department fails to do so, it shall within three working days provide written notice to the applicant's telephone company that the company shall provide telephone assistance plan credits against monthly charges in the earliest possible month following receipt of the written notice. The applicant must receive telephone assistance plan credits until the earliest possible month following the company's receipt of notice from the department that the applicant is ineligible.

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If the department of human services determines that an applicant is not eligible to receive telephone assistance plan credits, it shall notify the applicant within ten working days of that determination.

Within ten working days of determining that an applicant is eligible to receive telephone assistance plan credits, the department of human services shall provide written notification to the telephone company that serves the applicant. The notice must include the applicant's name, address, and telephone number.

Each telephone company shall provide telephone assistance plan credits against monthly charges in the earliest possible month following receipt of notice from the department of human services.

By December 31 of each year, the department of human services shall redetermine eligibility of each person receiving telephone assistance plan credits, as required in paragraph (b). The department of human services shall submit an annual report to the legislature and the commission by January 15 of each year showing that the department has determined the eligibility for telephone assistance plan credits of each person receiving the credits or explaining why the determination has not been made and showing how and when the determination will be completed.

If the department of human services determines that a current recipient of telephone assistance plan credits is not eligible to receive the credits, it shall notify, in writing, the recipient within ten working days and the telephone company serving the recipient within 20 working days of the determination. The notice must include the recipient's name, address, and telephone number.

Each telephone company shall remove telephone assistance plan credits against monthly charges in the earliest possible month following receipt of notice from the department of human services.

Each telephone company that disconnects a subscriber receiving the telephone assistance plan credit shall report the disconnection to the department of human services. The reports must be submitted monthly, identifying the subscribers disconnected. Telephone companies that do not disconnect a subscriber receiving the telephone assistance plan credit are not required to report.

If the telephone assistance plan credit is not itemized on the subscriber's monthly charges bill for local telephone service, the telephone company must notify the subscriber of the approval for the telephone assistance plan credit.

(d) The commission shall serve as the coordinator of the telephone assistance plan and be reimbursed for its administrative expenses from the surcharge revenue pool. As the coordinator, the commission shall:

(1) establish a uniform statewide surcharge in accordance with subdivision 6;

(2) establish a uniform statewide level of telephone assistance plan credit

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that each telephone company shall extend to each eligible household in its service area;

(3) require each telephone company to account to the commission on a periodic basis for surcharge revenues collected by the company, expenses incurred by the company, not to include expenses of collecting surcharges, and credits extended by the company under the telephone assistance plan;

(4) require each telephone company to remit surcharge revenues to the department of administration for deposit in the fund; and

(5) remit to each telephone company from the surcharge revenue pool the amount necessary to compensate the company for expenses, not including expenses of collecting the surcharges, and telephone assistance plan credits. When it appears that the revenue generated by the maximum surcharge permitted under subdivision 6 will be inadequate to fund any particular established level of telephone assistance plan credits, the commission shall reduce the credits to a level that can be adequately funded by the maximum surcharge. Similarly, the commission may increase the level of the telephone assistance plan credit that is available or reduce the surcharge to a level and for a period of time that will prevent an unreasonable overcollection of surcharge revenues.

(e) Each telephone company shall maintain adequate records of surcharge revenues, expenses, and credits related to the telephone assistance plan and shall, as part of its annual report or separately, provide the commission and the department of public service with a financial report of its experience under the telephone assistance plan for the previous year. That report must also be adequate to satisfy the reporting requirements of the federal matching plan.

(f) The department of public service shall investigate complaints against telephone companies with regard to the telephone assistance plan and shall report the results of its investigation to the commission.

Sec. 6. Minnesota Statutes 1990, section 256.01, subdivision 11, is amended to read:

Subd. 11. **CENTRALIZED DISBURSEMENT SYSTEM.** The state agency may establish a system for the centralized disbursement of ~~(1) assistance payments to recipients of aid to families with dependent children, (2) emergency assistance payments to needy families with dependent children as defined in Minnesota Statutes 1976, section 256.12, and (3) the benefit documents for food stamp recipients~~ food coupons, assistance payments, and related documents. ~~The state agency shall adopt rules and set guidelines for the operation of the statewide system. If required by federal law or regulations promulgated thereunder, or by state law, or by rule of the state agency, each county shall pay to the state treasurer that portion of assistance for which the county is responsible.~~ Benefits shall be issued by the state or county and funded under this section according to section 256.025, subdivision 3, and subject to section 256.017.

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

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Sec. 7. Minnesota Statutes 1990, section 256.01 is amended by adding a subdivision to read:

Subd. 11a. **CONTRACTING WITH FINANCIAL INSTITUTIONS.** The state agency may contract with banks or other financial institutions to provide services associated with the processing of public assistance checks and may pay a service fee for these services, provided the fee charged does not exceed the fee charged to other customers of the institution for similar services.

Sec. 8. **[256.023] ONE HUNDRED PERCENT COUNTY ASSISTANCE.**

The commissioner of human services may maintain client records and issue public assistance benefits that are over state and federal standards or that are not required by state or federal law, providing the cost of benefits is paid by the counties to the department of human services. Payment methods for this section shall be according to section 256.025, subdivision 3.

Sec. 9. Minnesota Statutes 1990, section 256.025, subdivision 1, is amended to read:

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

(b) "Base amount" means the calendar year 1990 county share of county agency expenditures for all of the programs specified in subdivision 2.

(c) "County agency expenditure" means the total expenditure or cost incurred by the county of financial responsibility for the benefits and services for each of the programs specified in subdivision 2. The term includes the federal, state, and county share of costs for programs in which there is federal financial participation. For programs in which there is no federal financial participation, the term includes the state and county share of costs. The term excludes county administrative costs, unless otherwise specified.

(d) "Nonfederal share" means the sum of state and county shares of costs of the programs specified in subdivision 2.

(e) The "county share of county agency expenditures growth amount" is the amount by which the county share of county agency expenditures in calendar years 1991 to ~~1997~~ 2000 has increased over the base amount.

Sec. 10. Minnesota Statutes 1990, section 256.025, subdivision 3, is amended to read:

Subd. 3. **PAYMENT METHODS.** ~~The state shall pay counties, according to the reporting cycle established by the commissioner, all federal funds available for the services and benefits distributed under subdivision 2 together with an amount of state funds equal to the state share of expenditures, except as provided for in section 256.017.~~ (a) Beginning July 1, 1991, the state will reimburse counties for the county share of county agency expenditures for benefits and ser-

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vices distributed under subdivision 2 and funded by the human services account established under section 273.1392~~.~~, except as follows:

(1) beginning July 1, 1992, the county shall pay 25 percent of the costs of the growth in emergency general assistance payments which exceed expenditures during the base year of calendar year 1990;

(2) beginning July 1, 1992, the county shall pay 25 percent of the costs of the growth in eligible general assistance negotiated rate payments which exceed expenditures during the base year of calendar year 1990;

(3) beginning July 1, 1992, the county shall pay 15 percent of the costs of the growth in Minnesota supplemental aid negotiated rate payments made which exceed expenditures during the base year of calendar year 1990;

(4) beginning July 1, 1992, the county shall pay 50 percent of the nonfederal portion of the growth in emergency assistance payments made which exceed expenditures during the base year of calendar year 1990.

(b) Payments under subdivision 4 are only for client benefits and services distributed under subdivision 2 and do not include reimbursement for county administrative expenses.

(c) The state and the county agencies shall pay for assistance programs as follows:

(1) Where the state issues payments for the programs, the county shall monthly advance to the state, as required by the department of human services, the portion of program costs not met by federal and state funds. The advance shall be an estimate that is based on actual expenditures from the prior period and that is sufficient to compensate for the county share of disbursements as well as state and federal shares of recoveries;

(2) Where the county agencies issue payments for the programs, the state shall monthly advance to counties all federal funds available for those programs together with an amount of state funds equal to the state share of expenditures; and

(3) Payments made under this paragraph are subject to section 256.017. Adjustment of any overestimate or underestimate in advances shall be made by the state agency in any succeeding month.

Sec. 11. Minnesota Statutes 1990, section 256.025, subdivision 4, is amended to read:

Subd. 4. **PAYMENT SCHEDULE.** Except as provided for in subdivision 3, beginning July 1, 1991, the state will reimburse counties, according to the following payment schedule, for the county share of county agency expenditures for the programs specified in subdivision 2.

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(a) Beginning July 1, 1991, the state will reimburse or pay the county share of county agency expenditures according to the reporting cycle as established by the commissioner, for the programs identified in subdivision 2. Payments for the period of January 1 through July 31, for calendar years 1991, 1992, and 1993 shall be made on or before July 10 in each of those years. Payments for the period August through December for calendar years 1991, 1992, and 1993 shall be made on or before the third of each month thereafter through December 31 in each of those years.

(b) Payment for 1/24 of the base amount and the January 1994 county share of county agency expenditures growth amount for the programs identified in subdivision 2 shall be made on or before January 3, 1994. For the period of February 1, 1994, through July 31, 1994, payment of the base amount shall be made on or before July 10, 1994, and payment of the growth amount over the base amount shall be made on or before the third of each month. Payments for the period August 1994 through December 1994 shall be made on or before the third of each month thereafter through December 31, 1994.

(c) Payment for the county share of county agency expenditures during January 1995 shall be made on or before January 3, 1995. Payment for 1/24 of the base amount and the February 1995 county share of county agency expenditures growth amount for the programs identified in subdivision 2 shall be made on or before February 3, 1995. For the period of March 1, 1995, through July 31, 1995, payment of the base amount shall be made on or before July 10, 1995, and payment of the growth amount over the base amount shall be made on or before the third of each month. Payments for the period August 1995 through December 1995 shall be made on or before the third of each month thereafter through December 31, 1995.

(d) Monthly payments for the county share of county agency expenditures from January 1996 through February 1996 shall be made on or before the third of each month through February 1996. Payment for 1/24 of the base amount and the March 1996 county share of county agency expenditures growth amount for the programs identified in subdivision 2 shall be made on or before March 1996. For the period of April 1, 1996, through July 31, 1996, payment of the base amount shall be made on or before July 10, 1996, and payment of the growth amount over the base amount shall be made on or before the third of each month. Payments for the period August 1996 through December 1996 shall be made on or before the third of each month thereafter through December 31, 1996.

(e) Monthly payments for the county share of county agency expenditures from January 1997 through March 1997 shall be made on or before the third of each month through March 1997. Payment for 1/24 of the base amount and the April 1997 county share of county agency expenditures growth amount for the programs identified in subdivision 2 shall be made on or before April 3, 1997. For the period of May 1, 1997, through July 31, 1997, payment of the base amount shall be made on or before July 10, 1997, and payment of the growth

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amount over the base amount shall be made on or before the third of each month. Payments for the period August 1997 through December 1997 shall be made on or before the third of each month thereafter through December 31, 1997.

(f) Monthly payments for the county share of county agency expenditures from January 1998 through April 1998 shall be made on or before the third of each month through April 1998. Payment for 1/24 of the base amount and the May 1998 county share of county agency expenditures growth amount for the programs identified in subdivision 2 shall be made on or before May 3, 1998. For the period of June 1, 1998, through July 31, 1998, payment of the base amount shall be made on or before July 10, 1998, and payment of the growth amount over the base amount shall be made on or before the third of each month. Payments for the period August 1998 through December 1998 shall be made on or before the third of each month thereafter through December 31, 1998.

(g) Monthly payments for the county share of county agency expenditures from January 1999 through May 1999 shall be made on or before the third of each month through May 1999. Payment for 1/24 of the base amount and the June 1999 county share of county agency expenditures growth amount for the programs identified in subdivision 2 shall be made on or before June 3, 1999. For the period of June 1, 1999, through July 31, 1999, payment shall be made on or before July 10, 1999. Payments for the period August 1999 through December 1999 shall be made on or before the third of each month thereafter through December 31, 1999.

(h) Effective January 1, 2000, monthly payments for the county share of county agency expenditures shall be made subsequent to the first of each month.

Payments under this subdivision are subject to the provisions of section 256.017.

Sec. 12. Minnesota Statutes 1990, section 256.031, is amended to read:

256.031 **MINNESOTA FAMILY INVESTMENT PLAN.**

Subdivision 1. **CITATION.** Sections 256.031 to ~~256.036~~ 256.0361 may be cited as the Minnesota family investment plan.

Subd. 2. **LEGISLATIVE FINDINGS.** The legislature recognizes the need to fundamentally change the way government supports families. The legislature finds that many features of the current system of public assistance do not help families carry out their two basic functions: the economic support of the family unit and the care and nurturing of children. The legislature recognizes that the Minnesota family investment plan is an investment strategy that will support and strengthen the family's social and financial functions. This investment in families will provide long-term benefits through stronger and more independent families.

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Subd. 3. **AUTHORIZATION FOR THE DEMONSTRATION.** (a) The commissioner of human services, in consultation with the commissioners of education, finance, jobs and training, health, and planning, and the ~~directors~~ director of the higher education coordinating board ~~and the office of jobs policy~~, is authorized to proceed with the planning and designing of the Minnesota family investment plan and to implement the plan to test policies, methods, and cost impact on an experimental basis by using field trials. The commissioner, under the authority in section 256.01, subdivision 2, shall implement the plan according to sections 256.031 to ~~256.033 describe the basic principles of the program. Sections 256.034 to 256.036 provide a basis for congressional action. Using sections 256.031 to 256.036, the commissioner shall seek congressional authority to implement the program in field trials After obtaining congressional authority to implement the Minnesota family investment plan in field trials, the commissioner shall request specific appropriations from the legislature to implement field trials~~ 256.0361 and Public Law Numbers 101-202 and 101-239, section 8015, as amended. If major and unpredicted costs to the program occur, the commissioner may take corrective action consistent with Public Law Numbers 101-202 and 101-239, which may include termination of the program. Before taking such corrective action, the commissioner shall consult with the chairs of the senate health and human services committee, the house health and human services committee, the health and human services division of the senate finance committee and the human resources division of the house appropriations committee, or, if the legislature is not in session, consult with the legislative advisory commission.

(b) The field trials ~~must~~ shall be conducted as permitted under federal law, for as many years as necessary, and in different geographical settings, to provide reliable instruction about the desirability of expanding the program statewide.

(c) The commissioner shall select the counties which shall serve as field trial or control sites based on criteria which ensure reliable evaluation of the program.

(d) The commissioner is authorized to determine the number of families and characteristics of subgroups to be included in the evaluation.

(i) A family that applies for or is currently receiving financial assistance from aid to families with dependent children; family general assistance or work readiness; or food stamps may be assigned by the commissioner to an experimental or a control group for the purposes of evaluating the family investment plan. Families assigned to an experimental group receive benefits and services through the family investment plan. Families assigned to a control group receive benefits and services through existing programs. A family may not select the group to which it is assigned. Once assigned to a group, a family must remain in that group for the duration of the project.

(ii) To evaluate the effectiveness of the family investment plan, the commissioner may designate a subgroup of families from the experimental group who

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shall be exempt from section 256.035, subdivision 1, and shall not receive case management services under section 256.035, subdivision 6a. Families are eligible for services under section 256.736 to the same extent as families receiving AFDC.

Subd. 4. **GOALS OF THE MINNESOTA FAMILY INVESTMENT PLAN.** The commissioner shall design the program to meet the following goals:

(1) to support families' transition to financial independence by emphasizing options, removing barriers to work and education, providing necessary support services, and building a supportive network of education, employment and training, health, social, counseling, and family-based services;

(2) to allow resources to be more effectively and efficiently focused on investing in families by removing the complexity of current rules and procedures and consolidating public assistance programs;

(3) to prevent long-term dependence on public assistance through paternity establishment, child support enforcement, emphasis on education and training, and early intervention with minor parents; and

(4) to provide families with an opportunity to increase their living standard by rewarding efforts aimed at transition to employment and by allowing families to keep a greater portion of earnings when they become employed.

Subd. 5. **FEDERAL WAIVERS.** ~~The commissioner of human services shall seek authority from Congress to implement the Minnesota family investment plan on a demonstration basis. If necessary~~ In accordance with sections 256.031 to 256.0361 and federal laws authorizing the program, the commissioner shall seek waivers of ~~compliance with~~ federal requirements ~~for~~ of: ~~aid to families with dependent children under~~ United States Code, title 42, ~~sections~~ section 601 ~~to 679a, as amended; medical assistance under United States Code, title 42, sections 1396 to 1396s, as amended; food stamps under~~ et seq., and United States Code, title 7, ~~sections~~ section 2011 ~~to 2030, as amended; and other federal requirements that would inhibit implementation of~~ et seq., needed to implement the Minnesota family investment plan in a manner consistent with the goals and objectives of the program. The commissioner shall seek terms from the federal government that are consistent with the goals of the Minnesota family investment plan. The commissioner shall also seek terms from the federal government that will maximize federal financial participation so that the extra costs to the state of implementing the program are minimized, to the extent that those terms are consistent with the goals of the Minnesota family investment plan. An agreement with the federal government under this section shall provide that the agreements may be canceled by the state or federal government upon ~~six months'~~ 180 days' notice or immediately upon mutual agreement. If the ~~agreements are~~ agreement is canceled, families which cease receiving assistance under the Minnesota family investment plan who are eligible for the aid to families with dependent children, general assistance, medical assistance, general assistance medical care, ~~and~~ or the food stamp ~~programs~~ program must be placed with their consent on ~~those~~ the programs for which they are eligible.

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Sec. 13. Minnesota Statutes 1990, section 256.032, is amended to read:

256.032 **DEFINITIONS.**

Subdivision 1. **SCOPE OF DEFINITIONS.** The terms used in sections 256.031 to ~~256.036~~ 256.0361 have the meanings given them unless otherwise provided or indicated by the context.

Subd. 1a. **ASSISTANCE UNIT.** (a) "Assistance unit" means the following individuals when they are living together: a minor child; the minor child's blood-related siblings; and the minor child's natural and adoptive parents. The income and assets of members of the assistance unit must be considered in determining eligibility for the family investment plan.

(b) A nonparental caregiver, as defined in subdivision 2, may elect to be included in the assistance unit. A nonparental caregiver who does not elect to be included under this paragraph must apply for assistance with the minor child.

(c) A stepparent of the minor child may elect to be included in the assistance unit. If the stepparent does not choose to be included, the county agency shall not count the stepparent's resources or income, if the stepparent's income is less than 275 percent of the federal poverty guidelines for a family of one. If the stepparent's income is more than 275 percent of the federal poverty guidelines for a family of one and the stepparent does not choose to be included, the county agency shall not count the stepparent's resources, but shall count the stepparent's income in accordance with section 256.033, subdivision 2, clause (5).

(d) A stepsibling of the minor child may elect to be included in the assistance unit.

(e) A parent of a minor caregiver may elect to be included in the minor caregiver's assistance unit. If the parent of the minor caregiver does not choose to be included, the county agency shall not count the resources of the parent of the minor caregiver, but shall count the income of the parent of the minor caregiver, in accordance with section 256.033, subdivision 2, clause (5).

Subd. 2. **CAREGIVER.** "Caregiver" means a minor child's natural or adoptive parent or parents who live in the home with the minor child. For purposes 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 do not reside in the same home: grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, first cousin, nephew, niece, persons of preceding generations as denoted by prefixes of "great" or "great-great," or a spouse of any person named in the above groups even after the marriage ends by death or divorce.

Subd. 3. **CASE MANAGEMENT.** "Case management" means the assess-

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ment of family needs ~~and~~, the development of the employability plan and family support agreement, and the coordination of services necessary to support the family in its social and economic roles, ~~in addition to the services described in~~ according to section ~~256.736~~ 256.035, subdivision ~~11~~ 6a.

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

~~Subd. 5. CONTRACT. "Contract" means a family self-sufficiency plan, described in section 256.035, subdivision 7, based on the case manager's assessment of the family's needs and abilities and developed, together with a parental caregiver, by a county agency or its designee.~~

Subd. 5a. **COUNTY AGENCY.** "County agency" means the agency designated by the county board to implement financial assistance for current programs and for the Minnesota family investment plan and the agency responsible for enforcement of child support collection.

Subd. 5b. **COUNTY BOARD.** "County board" means the county board of commissioners; a county welfare board as defined in chapter 393; a board established under the joint powers act, section 471.59; or a human services board under chapter 402.

Subd. 6. **DEPARTMENT.** "Department" means the department of human services.

Subd. 6a. **EMPLOYABILITY PLAN.** "Employability plan" means the plan developed by the case manager and the caregiver according to section 256.035, subdivision 6b, which meets the requirements for an employability development plan under section 256.736, subdivision 10, paragraph (a), clause (15).

Subd. 7. **FAMILY.** ~~For purposes of determining eligibility for this program,~~ "Family" includes the following individuals who live together: a minor child or a group of minor children related to each other as siblings, half siblings, stepsiblings, or adopted siblings, together with their natural or adoptive parents, or their caregiver as defined in subdivision 2. "Family" also includes a pregnant woman in the third trimester of pregnancy with no children.

Subd. 7a. **FAMILY SUPPORT AGREEMENT.** "Family support agreement" means the agreement developed by the case manager and the caregiver under section 256.035, subdivision 6c.

Subd. 8. **FAMILY WAGE LEVEL.** "Family wage level" means 120 percent of the transitional standard, as defined in subdivision 13.

Subd. 8a. **MINOR CHILD.** "Minor child" means a child who is living in the same home of a parent or other caregiver, who is in financial need, and who 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 a secondary level course of vocational or technical training designed to fit students for gainful employment before reaching age 19.

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~~Subd. 9. ORIENTATION. "Orientation" means a presentation that meets the requirements of section 256.736, subdivision 10a, provides information to caregivers about the Minnesota family investment plan, and encourages parental caregivers to engage in activities that will stabilize the family and lead to self-sufficiency.~~

Subd. 10. **PROGRAM.** "Program" means the Minnesota family investment plan.

Subd. 11. **SIGNIFICANT CHANGE.** "Significant change" means a change ~~of ten percent or $50, whichever is less, in monthly gross family earned income, or a change in family composition~~ in income available to the family so that the sum of the income and the grant for the current month would be less than the transitional standard as defined in subdivision 13.

Subd. 11a. **SUITABLE EMPLOYMENT.** "Suitable employment" has the meaning given in section 256.736, subdivision 1a, paragraph (h).

Subd. 12. **TRANSITIONAL STATUS.** "Transitional status" means the status of caregivers who are independently pursuing self-sufficiency or caregivers who are complying with the terms of a ~~contract~~ family support agreement with a county ~~agency or its designee~~.

Subd. 13. **TRANSITIONAL STANDARD.** "Transitional standard" means the sum of the AFDC standard of assistance and the full cash value of food stamps for a family of the same size and composition in effect ~~when~~ for the remainder of the state during implementation of the Minnesota family investment plan ~~begins~~ field trials. This standard applies only to families in which the parental caregiver is in transitional status and to families in which the caregiver is exempt from ~~having a contract or is exempt from~~ developing or has good cause for not complying with the terms of the ~~contract~~ family support agreement. Full cash value of food stamps is the amount of the cash value of food stamps to which a family of a given size would be entitled for a month, determined by assuming unearned income equal to the AFDC standard for a family of that size and composition and subtracting the standard deduction and maximum shelter deduction from gross family income, as allowed under the Food Stamp Act of 1977, as amended, and Public Law Number 100-435. The assistance standard for a family consisting of a pregnant woman in the third trimester of pregnancy with no children must equal the assistance standard for one adult and one child.

Sec. 14. Minnesota Statutes 1990, section 256.033, is amended to read:

256.033 **ELIGIBILITY FOR THE MINNESOTA FAMILY INVESTMENT PLAN.**

Subdivision 1. **ELIGIBILITY CONDITIONS.** (a) A family is ~~eligible for and~~ entitled to assistance under the Minnesota family investment plan if:

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(1) ~~the family's net income, after deducting an amount to cover taxes and actual dependent care costs up to the maximum disregarded under United States Code, title 42, section 602(a)(8)(A)(iii), does not exceed the applicable standard of assistance for that family as defined under section 256.032, subdivision 13; and~~ the family meets the definition of assistance unit under section 256.032, subdivision 1a;

(2) the family's ~~nonexcluded~~ resources not excluded under subdivision 3 do not exceed $2,000.~~;~~

(3) the family can verify citizenship or lawful resident alien status;

(4) the family provides or applies for a social security number for each member of the family receiving assistance under the family investment plan; and

(5) the family assigns child support collection to the county agency.

(b) A family is eligible for the family investment plan if the net income is less than the transitional standard as defined in section 256.032, subdivision 13, for that size and composition of family. In determining available net income, the provisions in subdivision 2 shall apply.

(c) Upon application, a family is initially eligible for the family investment plan if the family's gross income does not exceed the applicable transitional standard of assistance for that family as defined under section 256.032, subdivision 13, after deducting:

(1) 18 percent to cover taxes;

(2) actual dependent care costs up to the maximum disregarded under United States Code, title 42, section 602(a)(8)(A)(iii); and

(3) $50 of child support collected in that month.

(d) A family can remain eligible for the program if:

(1) it meets the conditions in section 256.035, subdivision 4; and

(2) its income is below the transitional standard in section 256.032, subdivision 13, allowing for income exclusions in subdivision 2 and after applying the family investment plan treatment of earnings under section 256.035, subdivision 4.

Subd. 2. **DETERMINATION OF FAMILY INCOME.** The aid to families with dependent children income exclusions listed in Code of Federal Regulations, title 45, sections 233.20(a)(3) and 233.20(a)(4), must be used when determining a family's available income, except that:

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~~(1) the disregard of the first $75 of gross earned income is replaced with a single disregard described in section 256.035, subdivision 4, paragraph (a);~~

~~(2)~~ all earned income of a minor child receiving assistance through the Minnesota family investment plan is excluded when the child is attending school at least half-time;

~~(3)~~ (2) all earned income tax credit payments received by the family as a refund of federal income taxes or made as advance payments are excluded in accordance with United States Code, title 42, section 602(a)(8)(A)(viii);

~~(4)~~ (3) educational grants and loans as provided in section 256.74, subdivision 1, clause (2), are excluded; ~~and~~

~~(5)~~ (4) all other income listed in Minnesota Rules, part 9500.2380, subpart 2, is excluded~~.~~; and

(5) when determining income available from members of the family who do not elect to be included in the assistance unit under section 256.032, subdivision 1a, paragraphs (c) and (e), the county agency shall count the remaining income after disregarding:

(i) the first 18 percent of the excluded family member's gross earned income;

(ii) an amount for the support of the stepparent and any other individuals whom the stepparent claims as dependents for determining federal personal income tax liability and who live in the same household but whose needs are not considered in determining eligibility for assistance under sections 256.031 to 256.033. The amount equals the transitional standard in section 256.032, subdivision 13, for a family of the same size and composition;

(iii) amounts the stepparent actually paid to individuals not living in the same household but whom the stepparent claims as dependents for determining federal personal income tax liability; and

(iv) alimony or child support, or both, paid by the stepparent for individuals not living in the same household.

Subd. 3. **DETERMINATION OF FAMILY RESOURCES.** When determining a family's resources, the following are excluded:

(1) the family's home, together with ~~the~~ surrounding property that does not exceed ten acres and that is not separated from the home by intervening property owned by others;

(2) one burial plot for each family member;

(3) one prepaid burial contract with an equity value of no more than $1,500 for each member of the family;

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(4) licensed automobiles, trucks, or vans up to a total equity value of $4,500;

(5) ~~the value of~~ personal property needed to produce earned income, including tools, implements, farm animals, and inventory;

(6) the entire equity value of a motor vehicle determined to be necessary for the operation of a self-employment business; and

(7) clothing, necessary household furniture, equipment, and other basic maintenance items essential for daily living.

Subd. 4. **TREATMENT OF SSI AND MSA.** The monthly benefits and any other income received through the supplemental security income or Minnesota supplemental aid ~~programs~~ program and any real or personal property of ~~a person receiving~~ an assistance unit member who receives supplemental security income or Minnesota supplemental aid must be excluded in determining the family's eligibility for the Minnesota family investment plan and the amount of assistance. In determining the amount of assistance to be paid to the family, the needs of the person receiving supplemental security income or Minnesota supplemental aid must not be taken into account.

Subd. 5. **ABILITY TO APPLY FOR FOOD STAMPS.** A family that is ineligible for assistance through the Minnesota family investment plan due to income or resources may apply for, and if eligible receive, benefits under the food stamp program.

Sec. 15. Minnesota Statutes 1990, section 256.034, is amended to read:

256.034 **PROGRAM SIMPLIFICATION.**

Subdivision 1. **CONSOLIDATION OF TYPES OF ASSISTANCE.** Under the Minnesota family investment plan, assistance previously provided to families through the AFDC, food stamp, and general assistance programs must be combined into a single cash assistance program. ~~If~~ As authorized by Congress, families receiving assistance through the Minnesota family investment plan are automatically eligible for and entitled to medical assistance under chapter 256B. Federal, state, and local funds that would otherwise be allocated for assistance to families under the AFDC, food stamp, and general assistance programs must be transferred to the Minnesota family investment plan. The provisions of the Minnesota family investment plan prevail over any provisions of sections 256.72 to 256.87 or 256D.01 to 256D.21 and any rules implementing those sections with which they are irreconcilable. The food stamp, general assistance, and work readiness programs for single persons and couples who are not responsible for the care of children are not replaced by the Minnesota family investment plan.

Subd. 2. **COUPON OPTION.** Families have the option to receive a ~~portion of their assistance~~ standardized amount of assistance as described in Public Law Number 101-202, section 22(a)(3)(D), designated by the commissioner, in the form of food coupons or vendor payments.

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Subd. 3. **MODIFICATION OF ELIGIBILITY TESTS.** (a) A needy family is eligible and entitled to receive assistance under the program even if its children are not found to be deprived of parental support or care by reason of death, continued absence from the home, physical or mental incapacity of a parent, or unemployment of a parent, provided the family's income and resources do not exceed the eligibility requirements in section 256.033. In addition, a ~~family member~~ caregiver who is in the assistance unit who is physically and mentally fit, who is between the ages of 18 and 60 years, who is enrolled at least half time in an institution of higher education, and whose family income and resources do not exceed the eligibility requirements in section 256.033, is eligible for assistance under the Minnesota family investment plan even if the conditions for eligibility as prescribed under the federal Food Stamp Act of 1977, as amended, are not met.

(b) An applicant for, or a person receiving, assistance under the Minnesota family investment plan is considered to have assigned to the public agency responsible for child support enforcement at the time of application all rights to child support, health care benefits coverage, and maintenance from any other person the applicant may have in the applicant's own behalf or on behalf of any other family member for whom application is made under the Minnesota family investment plan. The provisions of section 256.74, subdivision 5, govern the assignment. An applicant for, or a person receiving, assistance under the Minnesota family investment plan shall cooperate with the efforts of the county agency to collect child and spousal support. The county agency is entitled to any child support and maintenance received by or on behalf of the person receiving assistance or another member of the family for which the person receiving assistance is responsible. Failure by an applicant or a person receiving assistance to cooperate with the efforts of the county agency to collect child and spousal support without good cause must be sanctioned according to section 256.035, subdivision 3.

(c) An applicant for, or a person receiving, assistance under the Minnesota family investment plan is not required to comply with the employment and training requirements prescribed under sections 256.736, subdivisions 3, 3a, and 14; and 256D.05, subdivision 1; section 402(a)(19) of the Social Security Act; the federal Food Stamp Act of 1977, as amended; Public Law Number 100-485; or any other state or federal employment and training program, unless and to the extent compliance is specifically required in a ~~contract~~ family support agreement with the county agency or its designee.

Subd. 4. **SIMPLIFICATION OF BUDGETING PROCEDURES.** The monthly amount of assistance provided by the Minnesota family investment plan must be calculated ~~on a prospective basis~~ by taking into account actual income or circumstances that existed in a previous month and other relevant information to predict income and circumstances for the next month or months. When a family has a significant change in circumstances, the budgeting cycle must be interrupted and the amount of assistance for the payment month must be based on the county agency's best estimate of the family's income and cir-

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cumstances for that month. Families may be required to report their income monthly, but income may be averaged over a period of more than one month.

Subd. 5. **SIMPLIFICATION OF VERIFICATION PROCEDURES.** Verification procedures must be reduced to the minimum that is workable and consistent with the goals and requirements of the Minnesota family investment plan as determined by the commissioner.

Sec. 16. Minnesota Statutes 1990, section 256.035, is amended to read:

256.035 **INCOME SUPPORT AND TRANSITION.**

Subdivision 1. **EXPECTATIONS.** All families eligible for assistance under the family investment plan are expected to be in transitional status as defined in section 256.032, subdivision 12. To be considered in transitional status, families must meet the following expectations:

(a) For a family headed by a single adult ~~parent~~ parental caregiver, the expectation is that the ~~parent~~ parental caregiver will independently pursue self-sufficiency until the family has received assistance for 24 months within the preceding 36 months. Beginning with the 25th month of assistance, the parent must be developing or ~~have a contract and comply~~ complying with the terms of the ~~contract with the county agency or its designee~~ family support agreement.

(b) For a family with a minor ~~parent~~ parental caregiver or a family whose parental caregiver is 18 or 19 years of age and does not have a high school diploma or its equivalent, the expectation is that, concurrent with the receipt of assistance, the ~~minor parent~~ parental caregiver must be developing or ~~have a contract with the county agency~~ complying with a family support agreement. The terms of the ~~contract~~ family support agreement must include compliance with section 256.736, subdivision 3b. However, if the assistance unit does not comply with section 256.736, subdivision 3b, the sanctions in subdivision 3 apply.

(c) For a family with two adult ~~parents~~ parental caregivers, the expectation is that at least one ~~or both parents~~ parent will independently pursue self-sufficiency until the family has received assistance for six months within the preceding 12 months. Beginning with the seventh month of assistance, one parent must be developing or ~~have a contract and comply~~ complying with the terms of the ~~contract with the county agency or its designee~~ family support agreement.

Subd. 2. **EXEMPTIONS.** (a) A caregiver is exempt from the requirement of developing ~~a contract~~ and complying with the terms of the ~~contract developed with the county agency~~ family support agreement, or engaging in transitional activities, if:

(1) the caregiver is not the natural or adoptive parent of a minor child; or

(2) ~~in the case of a parental caregiver, the county agency determines that:~~

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~~(i) individual circumstances prevent compliance;~~

~~(ii) support services necessary to enable compliance are not available;~~

~~(iii) activities identified in the contract are not available; or~~

~~(iv) a parental caregiver is willing to accept suitable employment but employment is not available.~~ the caregiver is exempt under United States Code, title 7, section 2031(c)(1)(A)(B)(C)(D)(E) or (F);

(b) A parental caregiver exempt under paragraph (a), clause (2), may meet with a case manager and develop an employability plan if the parental caregiver fits one of the categories of expectations in subdivision 1, and may receive support services including child care if needed to participate in activities identified in the employability plan.

Subd. 2a. **GOOD CAUSE.** The county agency shall not impose the sanction in subdivision 3 if it determines that the parental caregiver has good cause for not meeting the expectations of developing and complying with the terms of a family support agreement developed with the county agency. Good cause exists when:

(1) needed child care is not available;

(2) the job does not meet the definition of suitable employment in section 256.032, subdivision 11a;

(3) the parental caregiver is ill or injured;

(4) a family member is ill and needs care by the parental caregiver that prevents the parental caregiver from complying with the family support agreement;

(5) the parental caregiver is unable to secure the necessary transportation;

(6) the parental caregiver is in an emergency situation which prevents compliance with the family support agreement;

(7) the schedule of compliance with the family support agreement conflicts with judicial proceedings;

(8) the parental caregiver is already participating in acceptable activities;

(9) the family support agreement requires an educational program for a parent under age 20, but the educational program is not offered in the school district;

(10) activities identified in the family support agreement are not available;

(11) the parental caregiver is willing to accept suitable employment as defined in section 256.032, subdivision 11a, but employment is not available; or

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(12) the parental caregiver documents other verifiable impediments to compliance with the family support agreement beyond the parental caregiver's control.

Subd. 3. **SANCTIONS.** A family whose parental caregiver is not exempt from the expectations in subdivision 1 and who is not complying with those expectations by developing or complying with the family support agreement must have assistance reduced by a value equal to ten percent of the transitional standard as defined in section 256.032, subdivision 13. This reduction is effective with the month following the finding of noncompliance and continues until the beginning of the month after failure to comply ceases. The county ~~agency~~ must ~~notify~~ provide written notice to the parental caregiver of its intent to implement this sanction and the opportunity to have a conciliation conference, upon request, before the ~~sanctions are~~ sanction is implemented. Implementation of the sanction shall be postponed pending resolution of the conciliation conference under section 256.036, subdivision 5, or hearing under section 256.045.

Subd. 4. **TREATMENT OF INCOME FOR THE PURPOSES OF CONTINUED ELIGIBILITY.** To help families during their transition from the Minnesota family investment plan to self-sufficiency, the following income supports are available:

(a) The $30 and one-third and ~~$75~~ $90 disregards allowed under section 256.74, subdivision 1, and the 20 percent earned income deduction allowed under the federal Food Stamp Act of 1977, as amended, are replaced with a single disregard of not less than 35 percent of gross earned income to cover taxes and other work-related expenses and to reward the earning of income. This single disregard is available for the entire time a family receives assistance through the Minnesota family investment plan.

(b) The dependent care deduction, as prescribed under section 256.74, subdivision 1, and United States Code, title 7, section 2014(e), is replaced for families with earned income who need assistance with dependent care with an entitlement to a dependent care subsidy from money ~~earmarked~~ appropriated for the Minnesota family investment plan.

(c) The family wage level, as defined in section 256.032, subdivision 8, allows families to supplement earned income with assistance received through the Minnesota family investment plan. If, after earnings are adjusted according to the disregard described in paragraph (a), earnings have raised family income to a level equal to or greater than the family wage level, the amount of assistance received through the Minnesota family investment plan must be reduced.

(d) The first $50 of any timely support payment for a month received by the public agency responsible for child support enforcement shall be paid to the family and disregarded in determining eligibility and the amount of assistance in accordance with United States Code, title 42, sections 602(a)(8)(A)(vi) and 657(b)(1). This paragraph applies regardless of whether the caregiver is in transitional status, is exempt from ~~having~~ developing or complying with the terms of

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a ~~contract~~ family support agreement, or has had a sanction imposed under subdivision 3.

Subd. 5. **ORIENTATION.** ~~All caregivers receiving assistance through the Minnesota family investment plan must attend orientation~~ The county agency must provide orientation which supplies information to caregivers about the Minnesota family investment plan, and must encourage parental caregivers to engage in activities to stabilize the family and lead to employment and self-support.

~~Subd. 6. CONTRACT. (a) To receive the transitional standard of assistance, a single adult parent who is a member of a family that has received assistance through the Minnesota family investment plan for 24 months within the preceding 36 months, a minor parent receiving assistance through the Minnesota family investment plan, and one parent in a two-parent family that has received assistance through the Minnesota family investment plan for six months within the preceding 12 months, must comply with the terms of a contract with the county agency or its designee unless exempt under subdivision 2. Case management must be provided to a caregiver who is a parent to assist the caregiver in meeting established goals and to monitor the caregiver's progress toward achieving those goals. The parental caregiver and the county agency must finalize the contract as soon as possible, but in any event within a reasonable period of time after the deadline specified in subdivision 1, paragraph (a), (b), or (c), whichever applies.~~

~~(b) A contract must identify the parental caregiver's employment goal and explain what steps the family must take to pursue self-sufficiency. Activities may include:~~

~~(1) orientation;~~

~~(2) employment;~~

~~(3) employment and training services as defined under section 256.736, subdivision 1a, paragraph (d);~~

~~(4) preemployment activities;~~

~~(5) participation in an educational program leading to a high school or general equivalency diploma and post-secondary education programs, excluding postbaccalaureate degrees as provided in section 256.736, subdivision 1a, paragraph (d);~~

~~(6) case management;~~

~~(7) social services; or~~

~~(8) other programs or services leading to self-sufficiency.~~

~~The contract must also identify the services that the county agency will provide to the family that the family needs to enable the parental caregiver to comply~~

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~~with the contract, including support services such as transportation and child care.~~

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

(b) Case managers shall provide the following services:

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

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

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

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

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

(c) Case management may continue for up to six months following the caregiver's achievement of employment goals.

Subd. 6b. **EMPLOYABILITY PLAN.** (a) The case manager shall develop an employability plan with the caregiver according to this subdivision and section 256.736, subdivision 11, paragraph (a), clause (2), which will be based on the assessment in subdivision 6a of the caregiver's needs, interests, and abilities.

(b) An employability plan must identify the caregiver's employment goal or goals and explain what steps the family must take to pursue self-sufficiency.

(c) Activities in the employability plan may include preemployment activities such as: programs, activities, and services related to job training and job placement. These preemployment activities may include, based on availability and resources, participation in dislocated worker services, chemical dependency treatment, mental health services, self-esteem enhancement activities, peer group networks, displaced homemaker programs, education programs leading toward the employment goal, parenting education, and other programs to help the fami-

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lies reach their employment goals and enhance their ability to care for their children.

Subd. 6c. **FAMILY SUPPORT AGREEMENT.** (a) The family support agreement is the enforceable component of the employability plan as described in subdivision 6b and section 256.736, subdivision 10, paragraph (a), clause (15). A parental caregiver's failure to comply with any part of the family support agreement without good cause as provided in subdivision 2a is subject to sanction as provided in subdivision 3.

(b) A family support agreement must identify the parental caregiver's employment goal or goals and outline the steps which the parental caregiver and case manager mutually determined are necessary to achieve each goal. Activities are limited to:

(1) employment;

(2) employment and training activities; or

(3) education up to a baccalaureate degree.

(c) A family support agreement shall include only those activities described in paragraph (b). Social services or activities, such as mental health or chemical dependency services, parenting education, or budget management, can be included in the employability plan and not in the family support agreement and are not subject to a sanction under subdivision 3.

(d) For a parental caregiver whose employability plan is composed entirely of services described in paragraph (c), the family support agreement shall designate a date for reassessment of the activities needed to reach the parental caregiver's employment goal and this date shall be considered as the content of the family support agreement. The parental caregiver and case manager shall meet at least semiannually to review and revise the family support agreement.

(e) The family support agreement must identify the services that the county agency will provide to the family to enable the parental caregiver to comply with the family support agreement, including support services such as transportation and child care.

(f) The family support agreement must state the parental caregiver's obligations and the conditions under which the county agency will recommend a sanction be applied to the grant and withdraw the services.

(g) The family support agreement will specify a date for completion of activities leading to the employment goal.

(h) The family support agreement must be signed and dated by the case manager and parental caregiver. In all cases, the case manager must assist the parental caregiver in reviewing and understanding the family support agreement and must assist the caregiver in setting realistic goals in the agreement which are

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consistent with the ultimate goal of financial support for the caregiver's family. The case manager must inform the caregiver of the right to seek conciliation as provided in subdivision 6e.

(i) The caregiver may revise the family support agreement with the case manager when good cause indicates revision is warranted. Revisions for reasons other than good cause to employment goals or steps toward self-support may be made in the first six months after the signing of the family support agreement with the approval of the case manager. After that, the revision must be approved by the case management supervisor or other persons responsible for review of case management decisions.

Subd. 6d. **LENGTH OF JOB SEARCH.** When the family support agreement specifies a date when job search should begin, the parental caregiver must participate in employment search activities. If, after three months of search, the parental caregiver does not find a job that is consistent with the parental caregiver's employment goal, the parent must accept any suitable employment. The search may be extended for up to three months if the parental caregiver seeks and needs additional job search assistance.

Subd. 6e. **CONCILIATION.** A conciliation procedure shall be available as provided in section 256.736, subdivision 11, paragraph (c). The conciliation conference will be available to parental caregivers who cannot reach agreement with the case manager about the contents or interpretation of the family support agreement, or who have received a notice of intent to implement a sanction as required under subdivision 3. Implementation of the sanction will be postponed pending the outcome of conciliation. The conciliation conference will be facilitated by a neutral mediator, and the goal will be to achieve mutual agreement between the parental caregiver and case manager. The conciliation conference is an optional procedure preceding the hearing process under section 256.045.

~~Subd. 7. **EMPLOYMENT BONUS.** A family leaving the program as a result of increased earnings through employment is entitled to an employment bonus. This bonus is a one-time cash incentive, not more than the family's monthly payment standard, to cover initial expenses incurred by the family leaving the Minnesota family investment plan.~~

Subd. 8. **CHILD CARE.** The commissioner shall ensure that each Minnesota family investment plan caregiver who is ~~a parent in transitional status~~ employed or is developing or is engaged in activities identified in an employability plan under subdivision 6b and who needs assistance with child care costs to ~~independently pursue self-sufficiency~~ be employed or to develop or comply with the terms of ~~a contract with the county agency~~ an employability plan receives a child care subsidy through child care money ~~earmarked~~ appropriated for the Minnesota family investment plan. The subsidy must cover all actual child care costs for eligible hours up to the maximum rate allowed under ~~sections~~ section 256H.15 ~~and 256H.16~~. A caregiver who is ~~a parent~~ in the assistance unit who leaves the program as a result of increased earnings from employment and who

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needs child care assistance to remain employed is entitled to extended child care assistance as provided under United States Code, title 42, section 602(g)(1)(A)(ii) on a copayment basis.

Subd. 9. **HEALTH CARE.** A family leaving the program as a result of increased earnings from employment is eligible for extended medical assistance as provided under Public Law Number 100-485, section 303, as amended and Public Law Number 101-239, section 8015(b)(7).

Sec. 17. Minnesota Statutes 1990, section 256.036, subdivision 1, is amended to read:

Subdivision 1. **SUPPORT SERVICES.** If assistance with child care or transportation is necessary to enable a parental caregiver ~~who is a parent~~ to work, obtain training or education, attend orientation, or comply with the terms of a ~~contract~~ family support agreement with the county agency, and the county agency determines that child care or transportation is not available, the family's applicable standard of assistance continues to be the transitional standard.

Sec. 18. Minnesota Statutes 1990, section 256.036, subdivision 2, is amended to read:

Subd. 2. **VOLUNTEERS.** For caregivers receiving assistance under the Minnesota family investment plan who are not currently employed but who are independently pursuing self-sufficiency, case management ~~and~~, support services ~~other than~~, and child care are available to the extent that resources permit. A caregiver who volunteers is not subject to a sanction under section 256.035, subdivision 3.

Sec. 19. Minnesota Statutes 1990, section 256.036, subdivision 4, is amended to read:

Subd. 4. **TIMELY ASSISTANCE.** Applications must be processed in a timely manner according to the processing standards of the federal Food Stamp Act of 1977, as amended, and no later than 30 days following the date of application, unless the county agency has requested information that the applicant has not yet supplied. Financial assistance must be provided ~~on no less than a~~ at least monthly ~~basis~~ to eligible families.

Sec. 20. Minnesota Statutes 1990, section 256.036, subdivision 5, is amended to read:

Subd. 5. **DUE PROCESS.** Any family that applies for or receives assistance under the Minnesota family investment plan whose application for assistance is denied or not acted upon with reasonable promptness, or whose assistance is suspended, reduced, terminated, or claimed to have been incorrectly paid, is entitled, upon request, to a hearing under section 256.045. A parental caregiver may request a conciliation conference, as provided under section ~~256.736~~ 256.035, ~~subdivisions 4a and 11~~ subdivision 6e, when the caregiver dis-

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putes the ~~contents~~ terms of a ~~contract~~ family support agreement developed under the Minnesota family investment plan or disputes a decision regarding failure or refusal to ~~cooperate~~ comply with the terms of a ~~contract~~ family support agreement. The disputes are not subject to administrative review under section 256.045, unless they result in a denial, suspension, reduction, or termination, and the parental caregiver complies with section 256.045. A caregiver need not request a conciliation conference to request a hearing according to section 256.045.

Sec. 21. **[256.0361] FIELD TRIAL OPERATION.**

Subdivision 1. **LOCAL PLAN.** A county that is selected to serve as a field trial or control site shall carry out the activities necessary to perform the evaluation for the duration of the field trials.

Subd. 2. **FINANCIAL REIMBURSEMENT.** (a) Up to the limit of the state appropriation, a county selected by the commissioner to serve as a field trial or a control site for the Minnesota family investment plan shall be reimbursed by the state for the nonfederal share of administrative costs that were incurred during the development, implementation, and operation of the program and that exceed the administrative costs that would have been incurred in the absence of the program.

(b) Minnesota family investment plan assistance is included as covered programs and services under section 256.025, subdivision 2.

Sec. 22. Minnesota Statutes 1990, section 256.736, subdivision 3a, is amended to read:

Subd. 3a. **PARTICIPATION.** (a) Except as provided under paragraphs (b) and (c), participation in employment and training services under this section is limited to the following recipients:

(1) caretakers who are required to participate in a job search under subdivision 14;

(2) custodial parents who are subject to the school attendance or case management participation requirements under subdivision 3b;

(3) caretakers whose participation in employment and training services began prior to May 1, 1990, if the caretaker's AFDC eligibility has not been interrupted for 30 days or more and the caretaker's employability development plan has not been completed;

(4) recipients who are members of a family in which the youngest child is within two years of being ineligible for AFDC due to age;

(5) ~~effective September 1, 1990,~~ custodial parents under the age of ~~22~~ 24 who: (i) have not completed a high school education and who, at the time of application for AFDC, were not enrolled in high school or in a high school

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equivalency program; or (ii) have had little or no work experience in the preceding year;

(6) recipients who have received AFDC for ~~48~~ 36 or more months out of the last 60 months;

(7) recipients who are participants in the self-employment investment demonstration project under section 268.95; and

(8) recipients who participate in the new chance research and demonstration project under contract with the department of human services.

(b) If the commissioner determines that participation of persons listed in paragraph (a) in employment and training services is insufficient either to meet federal performance targets or to fully utilize funds appropriated under this section, the commissioner may, after notifying the chairs of the senate and house health and human services committees, the health and human services division of the senate finance committee, and the health and human services division of the house appropriations committee, permit additional groups of recipients to participate until the next meeting of the legislative advisory commission, after which the additional groups may continue to enroll for participation unless the legislative advisory commission disapproves the continued enrollment. The commissioner shall allow participation of additional groups in the following order only as needed to meet performance targets or fully utilize funding for employment and training services under this section:

(1) ~~recipients who have received at least 42 months of AFDC out of the previous 60 months;~~

~~(2) custodial parents under the age of 24 who meet the criteria in paragraph (a), clause (5), subclause (i) or (ii);~~

~~(3) recipients who have received at least 36 months of AFDC out of the previous 60 months;~~

~~(4)~~ recipients who have received 24 or more months of AFDC out of the previous 48 months; and

~~(5)~~ (2) recipients who have not completed a high school education or a high school equivalency program.

(c) To the extent of money appropriated specifically for this paragraph, the commissioner may permit AFDC caretakers who are not eligible for participation in employment and training services under the provisions of paragraph (a) or (b) to participate. Money must be allocated to county agencies based on the county's percentage of participants statewide in services under this section in the prior calendar year. ~~Counties must provide equal or greater services to participants enrolled under this paragraph, as measured in average per client expenditures, as provided to other participants in employment and training services under this section.~~ Caretakers must be selected on a first-come, first-served basis

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from a waiting list of caretakers who volunteer to participate. The commissioner may, on a quarterly basis, reallocate unused allocations to county agencies that have sufficient volunteers. If funding under this paragraph is discontinued in future fiscal years, caretakers who began participating under this paragraph must be deemed eligible under paragraph (a), clause (3).

Sec. 23. Minnesota Statutes 1990, section 256.82, subdivision 1, is amended to read:

Subdivision 1. ~~MONTHLY~~ DIVISION OF COSTS AND PAYMENTS. Based upon estimates submitted by the county agency to the state agency, which shall state the estimated required expenditures for the succeeding month, upon the direction of the state agency, payment shall be made monthly in advance by the state to the counties of all federal funds available for that purpose for such succeeding month. The state share of the nonfederal portion of county agency expenditures shall be 85 percent and the county share shall be 15 percent. ~~Payments to counties for costs incurred shall include an amount of state funds equal to 85 percent of the difference between the total estimated cost and the federal funds so available for payments made.~~ Benefits shall be issued to recipients by the state or county and funded according to section 256.025, subdivision 3, subject to provisions of section 256.017. Beginning July 1, 1991, the state will reimburse counties according to the payment schedule in section 256.025 for the county share of county agency expenditures under this subdivision from January 1, 1991, on. Payment to counties under this subdivision is subject to the provisions of section 256.017. Adjustment of any overestimate or underestimate made by any county shall be paid upon the direction of the state agency in any succeeding month.

Sec. 24. Minnesota Statutes 1990, section 256.871, subdivision 6, is amended to read:

Subd. 6. REPORTS OF ESTIMATED EXPENDITURES; PAYMENTS. The county agency shall submit to the state agency reports required under section 256.01, subdivision 2, paragraph (17). Fiscal reports shall estimate expenditures for each succeeding month in such form as required by the state agency. ~~Payment shall be made monthly in advance by the state agency to the counties, of federal funds available for that purpose for each succeeding month. The state share of the nonfederal portion of county agency expenditures shall be ten percent and the county share shall be 90 percent. Payments to counties for costs incurred shall include an amount of state funds equal to ten percent of the difference between the total estimated cost and the federal funds available.~~ The state share of the nonfederal portion of eligible expenditures shall be ten percent and the county share shall be 90 percent. Benefits shall be issued to recipients by the state or county and funded according to section 256.025, subdivision 3, subject to provisions of section 256.017. Beginning July 1, 1991, the state will reimburse counties according to the payment schedule set forth in section 256.025 for the county share of county agency expenditures made under this subdivision from January 1, 1991, on. Payment ~~to counties~~ under this subdivision is subject

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to the provisions of section 256.017. Adjustment of any overestimate or underestimate made by any county shall be paid upon the direction of the state agency in any succeeding month.

Sec. 25. Minnesota Statutes 1990, section 256.935, subdivision 1, is amended to read:

Subdivision 1. On the death of any person receiving public assistance through aid to dependent children, the county agency shall pay an amount for funeral expenses not exceeding $370 and actual cemetery charges. No funeral expenses shall be paid if the estate of the deceased is sufficient to pay such expenses or if the children, or spouse, who were legally responsible for the support of the deceased while living, are able to pay such expenses; provided, that the additional payment or donation of the cost of cemetery lot, interment, religious service, or for the transportation of the body into or out of the community in which the deceased resided, shall not limit payment by the county agency as herein authorized. Freedom of choice in the selection of a funeral director shall be granted to persons lawfully authorized to make arrangements for the burial of any such deceased recipient. In determining the sufficiency of such estate, due regard shall be had for the nature and marketability of the assets of the estate. The county agency may grant funeral expenses where the sale would cause undue loss to the estate. Any amount paid for funeral expenses shall be a prior claim against the estate, as provided in section 524.3-805, and any amount recovered shall be reimbursed to the agency which paid the expenses. The commissioner shall specify requirements for reports, including fiscal reports, according to section 256.01, subdivision 2, paragraph (17). The state share of county agency expenditures shall be 50 percent and the county share shall be 50 percent. ~~The state shall reimburse the county for 50 percent of county agency expenditures made for funeral expenses.~~ Benefits shall be issued to recipients by the state or county and funded according to section 256.025, subdivision 3, subject to provisions of section 256.017.

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

Sec. 26. Minnesota Statutes 1990, section 256.98, is amended by adding a subdivision to read:

Subd. 8. **DISQUALIFICATION FROM PROGRAM.** Any person found to be guilty of wrongfully obtaining assistance by a federal or state court, in either the aid to families with dependent children program or the food stamp program, shall be disqualified from that program. The needs of that individual shall not be taken into consideration in determining the grant level for that assistance unit:

(1) for six months after the first conviction;

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(2) for 12 months after the second conviction; and

(3) permanently after the third or subsequent conviction.

Any period for which sanctions are imposed is effective, without possibility of administrative stay, until the findings upon which the sanctions were imposed are reversed by a court of competent jurisdiction. The period for which sanctions are imposed is not subject to review. The sanctions provided under this subdivision are in addition to, and not in substitution for, any other sanctions that may be provided for by law for the offense involved. When the disqualified individual is a caretaker relative, the remainder of the aid to families with dependent children grant payable to the other eligible assistance unit members must be provided in the form of protective payments. These payments may be made to the disqualified individual only if, after reasonable efforts, the county agency documents that it cannot locate an appropriate protective payee. Protective payments must continue until the disqualification period ends.

Sec. 27. Minnesota Statutes 1990, section 256.983, is amended to read:

256.983 **FRAUD PREVENTION INVESTIGATIONS.**

Subdivision 1. **PROGRAMS ESTABLISHED.** ~~(a) Within the limits of available appropriations, and to the extent either required or authorized by applicable federal regulations, the commissioner of human services shall select and fund not less than four pilot projects for a two-year period to test the effectiveness of fraud prevention investigations conducted at the point of application for assistance. County agencies must be selected to be involved in the pilot projects based on their response to requests for proposals issued by the commissioner. One of the county agencies selected must be located in either Hennepin or Ramsey county, one must be from a county in the seven-county metropolitan area other than Hennepin and Ramsey counties, and two must be located outside the metropolitan area.~~

~~(b) If proposals are not submitted, the commissioner may select the county agencies to be involved. The county agencies must be selected from the locations described in paragraph (a).~~ Within the limits of available appropriations, and to the extent required or authorized by applicable federal regulations, the commissioner of human services shall require the establishment of fraud prevention investigation programs in the seven counties participating in the fraud prevention investigation pilot project established under Laws 1989, chapter 282, article 5, section 41, and in 11 additional Minnesota counties with the largest aid to families with dependent children program caseloads as of July 1, 1991. If funds are sufficient, the commissioner may also extend fraud prevention investigation programs to other counties that have welfare fraud control programs already in place based on enhanced funding contracts covering the fraud investigation function.

Subd. 2. **COUNTY PROPOSALS.** Each participating county agency shall develop and submit an annual staffing and funding proposal to the commis-

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sioner no later than April 30 of each year. Each proposal shall include, but not be limited to, the staffing and funding of the fraud prevention investigation program, a job description for investigators involved in the fraud prevention investigation program, and the organizational structure of the county agency unit, training programs for case workers, and the operational requirements which may be directed by the commissioner. The proposal shall be approved, to include any changes directed or negotiated by the commissioner, no later than June 30 of each year.

Subd. 3. **DEPARTMENT RESPONSIBILITIES.** The commissioner shall establish training programs which shall be attended by all investigative and supervisory staff of the involved county agencies. The commissioner shall also develop the necessary operational guidelines, forms, and reporting mechanisms, which shall be used by the involved county agencies.

Subd. 4. **FUNDING.** Every involved county agency shall either have in place or obtain an approved contract which meets all federal requirements necessary to obtain enhanced federal funding for its welfare fraud control and fraud prevention investigation programs. County agency reimbursement shall be made through the settlement provisions applicable to the aid to families with dependent children and food stamp programs.

Sec. 28. **[256.984] DECLARATION AND PENALTY.**

Subdivision 1. **DECLARATION.** Every application for food stamps under chapter 393 shall be in writing or reduced to writing as prescribed by the state agency and shall contain the following declaration which shall be signed by the applicant:

> "I declare under the penalties of perjury that this application has been examined by me and to the best of my knowledge is a true and correct statement of every material point. I understand that a person convicted of perjury may be sentenced to imprisonment of not more than five years or to payment of a fine of not more than $10,000, or both."

Subd. 2. **PENALTY.** Any person who willfully and falsely makes the declaration in subdivision 1 is guilty of perjury and shall be subject to the penalties prescribed in section 609.48.

Sec. 29. Minnesota Statutes 1990, section 256B.064, subdivision 2, is amended to read:

Subd. 2. The commissioner shall determine monetary amounts to be recovered and the sanction to be imposed upon a vendor of medical care for conduct described by subdivision 1a. Neither a monetary recovery nor a sanction will be sought by the commissioner without prior notice and an opportunity for a hearing, pursuant to chapter 14, on the commissioner's proposed action, provided that the commissioner may suspend or reduce payment to a vendor of medical

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care, except a nursing home or convalescent care facility, prior to the hearing if in the commissioner's opinion that action is necessary to protect the public welfare and the interests of the program.

Upon receipt of a notice that a monetary recovery or sanction is to be imposed, a vendor may request a contested case, as defined in section 14.02, subdivision 3, by filing with the commissioner a written request of appeal. The appeal request must be received by the commissioner no later than 30 days after the date the notification of monetary recovery or sanction was mailed to the vendor. The appeal request must specify:

(1) each disputed item, the reason for the dispute, and an estimate of the dollar amount involved for each disputed item;

(2) the computation that the vendor believes is correct;

(3) the authority in statute or rule upon which the vendor relies for each disputed item;

(4) the name and address of the person or entity with whom contacts may be made regarding the appeal; and

(5) other information required by the commissioner.

Sec. 30. Minnesota Statutes 1990, section 256D.03, subdivision 2, is amended to read:

Subd. 2. After December 31, 1980, state aid shall be paid ~~to county agencies~~ for 75 percent of all general assistance and work readiness grants up to the standards of sections 256D.01, subdivision 1a, and 256D.051, and according to procedures established by the commissioner, except as provided for under section 256.017 ~~and except that, until January 1, 1991, state aid is reduced to 65 percent of all work readiness assistance if the county agency does not make occupational or vocational literacy training available and accessible to recipients who are eligible for assistance under section 256D.051~~. Benefits shall be issued to recipients by the state or county and funded according to section 256.025, subdivision 3.

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

Sec. 31. Minnesota Statutes 1990, section 256D.03, subdivision 2a, is amended to read:

Subd. 2a. **COUNTY AGENCY OPTIONS.** Any county agency may, from its own resources, make payments of general assistance and work readiness assistance: (a) at a standard higher than that established by the commissioner without reference to the standards of section 256D.01, subdivision 1; or (b) to per-

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sons not meeting the eligibility standards set forth in section 256D.05, subdivision 1, or 256D.051 but for whom the aid would further the purposes established in the general assistance or work readiness program in accordance with rules adopted by the commissioner pursuant to the administrative procedure act. The Minnesota department of human services may maintain client records and issue these payments, providing the cost of benefits is paid by the counties to the department of human services in accordance with sections 256.01 and 256.025, subdivision 3.

Sec. 32. Minnesota Statutes 1990, section 256D.05, subdivision 1, is amended to read:

Subdivision 1. **ELIGIBILITY.** (a) Each person or family whose income and resources are less than the standard of assistance established by the commissioner and who is a resident of the state shall be eligible for and entitled to general assistance if the person or family is:

(1) a person who is suffering from a professionally certified permanent or temporary illness, injury, or incapacity which is expected to continue for more than 30 days and which prevents the person from obtaining or retaining employment;

(2) a person whose presence in the home on a substantially continuous basis is required because of the professionally certified illness, injury, incapacity, or the age of another member of the household;

(3) a person who has been placed in, and is residing in, a licensed or certified facility for purposes of physical or mental health or rehabilitation, or in an approved chemical dependency domiciliary facility, if the placement is based on illness or incapacity and is pursuant to a plan developed or approved by the county agency through its director or designated representative;

(4) a person who resides in a shelter facility described in subdivision 3;

(5) a person not described in clause (1) or (3) who is diagnosed by a licensed physician, licensed psychologist, or other qualified professional, as mentally retarded or mentally ill, and that condition prevents the person from obtaining or retaining employment;

(6) ~~a person who has an application pending for the social security disability program or the program of supplemental security income for the aged, blind, and disabled, provided that within 60 days of the initial denial of the application by the social security administration, the person produces medical evidence in support of the person's application; or a person who has been terminated from either program and has an appeal from that termination pending. A person whose benefits are terminated for failure to produce any medical evidence within 60 days of the denial of the application, is eligible as soon as medical evidence in support of the application for the social security disability program or the program of supplemental security income for the aged, blind, and disabled is~~

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~~produced. Except for a person whose application is based in whole or in part on mental illness or chemical dependency, a person whose application for either program is denied and who does not pursue an appeal is eligible under this paragraph based on a new application only if the new application concerns a different disability or alleges new or aggravated symptoms of the original disability~~ a person who has an application pending for, or is appealing termination of benefits from, the social security disability program or the program of supplemental security income for the aged, blind, and disabled, provided the person has a professionally certified permanent or temporary illness, injury, or incapacity which is expected to continue for more than 30 days and which prevents the person from obtaining or retaining employment;

(7) a person who is unable to obtain or retain employment because advanced age significantly affects the person's ability to seek or engage in substantial work;

(8) a person who ~~has been assessed by a qualified professional or a vocational specialist as not being likely to obtain permanent employment. The assessment must consider the recipient's age, physical and mental health, education, trainability, prior work experience, and the local labor market;~~ , following participation in the work readiness program, completion of an individualized employability assessment by the work readiness service provider, and consultation between the county agency and the work readiness service provider, the county agency determines is not employable. For purposes of this item, a person is considered employable if the county agency determines that there exist positions of employment in the local labor market, regardless of the current availability of openings for those positions, that the person is capable of performing. Eligibility under this category must be reassessed at least annually by the county agency and must be based upon the results of a new individualized employability assessment completed by the work readiness service provider. The recipient shall, if otherwise eligible, continue to receive general assistance while the annual individualized employability assessment is completed by the work readiness service provider, rather than receive work readiness payments under section 256D.051. Subsequent eligibility for general assistance is dependent upon the county agency determining, following consultation with the work readiness service provider, that the person is not employable, or the person meeting the requirements of another general assistance category of eligibility;

(9) a person who is determined by the county agency, in accordance with emergency and permanent rules adopted by the commissioner, to be learning disabled, provided that if a rehabilitation plan for the person is developed or approved by the county agency, the person is following the plan;

(10) a child under the age of 18 who is not living with a parent, stepparent, or legal custodian, but only if: the child is legally emancipated or living with an adult with the consent of an agency acting as a legal custodian; the child is at least 16 years of age and the general assistance grant is approved by the director of the county agency or a designated representative as a component of a social

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services case plan for the child; or the child is living with an adult with the consent of the child's legal custodian and the county agency. For purposes of this clause, "legally emancipated" means a person under the age of 18 years who: (i) has been married; (ii) is on active duty in the uniformed services of the United States; (iii) has been emancipated by a court of competent jurisdiction; or (iv) is otherwise considered emancipated under Minnesota law, and for whom county social services has not determined that a social services case plan is necessary, for reasons other than that the child has failed or refuses to cooperate with the county agency in developing the plan;

(11) a woman in the last trimester of pregnancy who does not qualify for aid to families with dependent children. A woman who is in the last trimester of pregnancy who is currently receiving aid to families with dependent children may be granted emergency general assistance to meet emergency needs;

(12) a person ~~whose need for general assistance will not exceed 30 days~~ who is eligible for displaced homemaker services, programs, or assistance under section 268.96, but only if that person is enrolled as a full-time student;

(13) a person who lives more than two hours round-trip traveling time from any potential suitable employment; and

(14) a person who is involved with protective or court-ordered services that prevent the applicant or recipient from working at least four hours per day~~.~~; and

(15) a family as defined in section 256D.02, subdivision 5, which is ineligible for the aid to families with dependent children program. If all children in the family are six years of age or older, or if suitable child care is available for children under age six at no cost to the family, all the adult members of the family must register for and cooperate in the work readiness program under section 256D.051. If one or more of the children is under the age of six and suitable child care is not available without cost to the family, all the adult members except one adult member must register for and cooperate with the work readiness program under section 256D.051. The adult member who must participate in the work readiness program is the one having earned the greater of the incomes, excluding in-kind income, during the 24-month period immediately preceding the month of application for assistance. When there are no earnings or when earnings are identical for each adult, the applicant must designate the adult who must participate in work readiness and that designation must not be transferred or changed after program eligibility is determined as long as program eligibility continues without an interruption of 30 days or more. The adult members required to register for and cooperate with the work readiness program are not eligible for financial assistance under section 256D.051, except as provided in section 256D.051, subdivision 6, and shall be included in the general assistance grant. If an adult member fails to cooperate with requirements of section 256D.051, the local agency shall not take that member's needs into account in making the grant determination as provided by the termination provisions of section 256D.051, subdivision 1a, paragraph (b). The time limits of section 256D.051, subdivision 1, do not apply to persons eligible under this clause.

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(b) Persons or families who are not state residents but who are otherwise eligible for general assistance may receive emergency general assistance to meet emergency needs.

(c) As a condition of eligibility under paragraph (a), clauses (1), (3), (5), (8), and (9), the recipient must complete an interim assistance agreement and must apply for other maintenance benefits as specified in section 256D.06, subdivision 5, and must comply with efforts to determine the recipient's eligibility for those other maintenance benefits.

(d) The burden of providing documentation for a county agency to use to verify eligibility for general assistance or work readiness is upon the applicant or recipient. The county agency shall use documents already in its possession to verify eligibility, and shall help the applicant or recipient obtain other existing verification necessary to determine eligibility which the applicant or recipient does not have and is unable to obtain.

Sec. 33. Minnesota Statutes 1990, section 256D.05, subdivision 2, is amended to read:

Subd. 2. **USE OF FEDERAL FUNDS.** Notwithstanding any law to the contrary, if any person otherwise eligible for general assistance would, but for state statutory restriction or limitation, be eligible for a funded federally aided assistance program providing benefits equal to or greater than those of general assistance, the person shall be eligible for that federally aided program and ineligible for general assistance; provided, however, that (a) nothing in this section shall be construed to extend eligibility for federally aided programs to persons not otherwise eligible for general assistance; (b) this section shall not be effective to the extent that federal law or regulation require new eligibility for federal programs to persons not otherwise eligible for general assistance; and (c) nothing in this section shall deny general assistance to a person otherwise eligible who is determined ineligible for a substitute federally aided program.

Sec. 34. Minnesota Statutes 1990, section 256D.05, subdivision 6, is amended to read:

Subd. 6. **ASSISTANCE FOR PERSONS WITHOUT A VERIFIED RESIDENCE.** (a) For applicants or recipients of general assistance, emergency general assistance, or work readiness assistance who do not have a verified residence address, the county agency may provide assistance using one or more of the following methods:

(1) the county agency may provide assistance in the form of vouchers or vendor payments and provide separate vouchers or vendor payments for food, shelter, and other needs;

(2) the county agency may divide the monthly assistance standard into weekly payments, whether in cash or by voucher or vendor payment; ~~or, if actual need is greater than the standards of assistance established under section~~

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~~256D.01, subdivision 1a, issue assistance based on actual need~~. Nothing in this clause prevents the county agency from issuing voucher or vendor payments for emergency general assistance in an amount less than the standards of assistance; and

(3) the county agency may determine eligibility and provide assistance on a weekly basis. Weekly assistance can be issued in cash or by voucher or vendor payment and can be determined either on the basis of actual need or by prorating the monthly assistance standard.

(b) An individual may verify a residence address by providing a driver's license; a state identification card; a statement by the landlord, apartment manager, or homeowner verifying that the individual is residing at the address; or other written documentation approved by the commissioner.

(c) Notwithstanding the provisions of section 256D.06, subdivision 1, if the county agency elects to provide assistance on a weekly payment basis, the agency may not provide assistance for a period during which no need is claimed by the individual unless the individual has good cause for failing to claim need. The individual must be notified, each time weekly assistance is provided, that subsequent weekly assistance will not be issued unless the individual claims need. The advance notice required under section 256D.10 does not apply to weekly assistance ~~issued under this paragraph~~ that is withheld because the individual failed to claim need without good cause.

(d) The county agency may not issue assistance on a weekly basis to an applicant or recipient who has professionally certified mental illness or mental retardation or a related condition, or to an assistance unit that includes minor children, unless requested by the assistance unit.

Sec. 35. Minnesota Statutes 1990, section 256D.05, is amended by adding a subdivision to read:

Subd. 7. **INELIGIBILITY FOR GENERAL ASSISTANCE.** No person disqualified from any federally aided assistance program shall be eligible for general assistance during the period covered by the disqualification sanction.

Sec. 36. Minnesota Statutes 1990, section 256D.051, subdivision 1, is amended to read:

Subdivision 1. **WORK REGISTRATION.** (a) ~~A person, family, or married couple~~ Except as provided in this subdivision, persons who are residents of the state and whose income and resources are less than the standard of assistance established by the commissioner, but who are not categorically eligible under section 256D.05, subdivision 1, are eligible for the work readiness program for a maximum period of five consecutive calendar months during any 12 consecutive calendar month period, subject to the provisions of paragraph (d), subdivision 3, and section 256D.052, subdivision 4. The person's five-month eligibility period begins on the first day of the calendar month following the date of appli-

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cation for assistance or following the date all eligibility factors are met, whichever is later, and ends on the last day of the fifth consecutive calendar month, whether or not the person has received benefits for all five months. The person is not eligible to receive work readiness benefits during the seven calendar months immediately following the five-month eligibility period; however, the person may voluntarily continue to participate in work readiness services for up to three additional consecutive months immediately following the last month of benefits to complete the provisions of the person's employability development plan. Prior to terminating work readiness assistance the county agency must advise the person of his or her eligibility for general assistance medical care and must assess the person's eligibility for general assistance under section 256D.05 to the extent possible, using information in the case file, and determine the person's eligibility for general assistance. A determination that the person is not eligible for general assistance must be stated in the notice of termination of work readiness benefits.

(b) Persons, families, and married couples who are not state residents but who are otherwise eligible for work readiness assistance may receive emergency assistance to meet emergency needs.

(c) Except for family members who must participate in work readiness services under the provisions of section 256D.05, subdivision 1, clause (14), any person who would be defined for purposes of the food stamp program as being enrolled at least half-time in an institution of higher education is ineligible for the work readiness program.

(d) Notwithstanding the provisions of sections 256.045 and 256D.10, during the pendency of an appeal, work readiness payments and services shall not continue to a person who appeals the termination of benefits due to exhaustion of the period of eligibility specified in paragraph (a) or (d).

Sec. 37. Minnesota Statutes 1990, section 256D.051, subdivision 1a, is amended to read:

Subd. 1a. **WORK READINESS PAYMENTS.** (a) Except as provided in this subdivision, grants of work readiness shall be determined using the standards of assistance, exclusions, disregards, and procedures which are used in the general assistance program. Work readiness shall be granted in an amount that, when added to the nonexempt income actually available to the assistance unit, the total amount equals the applicable standard of assistance.

(b) ~~Work readiness payments must be provided to persons determined eligible for the work readiness program as provided in this subdivision except when the special payment provisions in subdivision 1b are utilized. The initial payment must be prorated to provide assistance for the period beginning with the date the completed application is received by the county agency or the date the assistance unit meets all work readiness eligibility factors, whichever is later, and ending on the final day of that month. The amount of the first payment must be determined by dividing the number of days to be covered under the payment by the number of days in the month, to determine the percentage of days in the~~

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~~month that are covered by the payment, and multiplying the monthly payment amount by this percentage. Subsequent payments must be paid monthly on the first day of each month.~~ Except as provided in section 256D.05, subdivision 6, work readiness assistance must be paid on the first day of each month.

At the time the county agency notifies the assistance unit that it is eligible for family general assistance or work readiness assistance and by the first day of each month of services, the county agency must inform all mandatory registrants in the assistance unit that they must ~~attend an orientation within 30 days~~ comply with all work readiness requirements that month, and that work readiness eligibility will end at the end of the month ~~in which the orientation is scheduled~~ unless the registrants ~~attend orientation~~ comply with work readiness requirements specified in the notice. A registrant who fails, without good cause, to comply with requirements during this time period, including attendance at orientation, will lose family general assistance or work readiness eligibility without notice under section 256D.101, subdivision 1, paragraph (b). The registrant shall, however, be sent a notice~~, on or before the date that~~ no later than five days after eligibility ends, which informs the registrant that family general assistance or work readiness eligibility has ended in accordance with this section for failure to comply with work readiness requirements. The notice shall set forth the factual basis for such determination and ~~advises~~ advise the registrant of the right to reinstate eligibility upon a showing of good cause for the failure to meet the requirements. Subsequent assistance must not be issued unless the person completes an application, is determined eligible, and ~~attends an orientation~~ complies with the work readiness requirements that had not been complied with, or demonstrates that the person had good cause for failing to comply with the requirement. The time during which the person is ineligible under these provisions is counted as part of the person's period of eligibility under subdivision 1.

(c) Notwithstanding the provisions of section 256D.01, subdivision 1a, paragraph (d), when one member of a married couple has exhausted the five months of work readiness eligibility in a 12-month period and the other member has one or more months of eligibility remaining within the same 12-month period, the standard of assistance applicable to the member who remains eligible is the first adult standard in the aid to families with dependent children program.

(d) Notwithstanding sections 256.045 and 256D.10, during the pendency of an appeal, work readiness payments and services shall not continue to a person who appeals the termination of benefits under paragraph (b).

Sec. 38. Minnesota Statutes 1990, section 256D.051, subdivision 2, is amended to read:

Subd. 2. **COUNTY AGENCY DUTIES.** (a) The county agency shall provide to registrants a work readiness program. The work readiness program must include:

(1) orientation to the work readiness program;

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(2) an individualized employability assessment and an individualized employability development plan that includes assessment of literacy, ability to communicate in the English language, ~~eligibility for displaced homemaker services under section 268.96,~~ educational and employment history, and that estimates the length of time it will take the registrant to obtain employment. The employability assessment and development plan must be completed in consultation with the registrant, must assess the registrant's assets, barriers, and strengths, and must identify steps necessary to overcome barriers to employment. A copy of the employability development plan must be provided to the registrant;

(3) referral to available accredited remedial or skills training programs designed to address registrant's barriers to employment;

(4) referral to available programs including the Minnesota employment and economic development program;

(5) a job search program, including job seeking skills training; and

(6) other activities, to the extent of available resources designed by the county agency to prepare the registrant for permanent employment.

The work readiness program may include a public sector or nonprofit work experience component only if the component is established according to section 268.90.

In order to allow time for job search, the county agency may not require an individual to participate in the work readiness program for more than 32 hours a week. The county agency shall require an individual to spend at least eight hours a week in job search or other work readiness program activities.

(b) The county agency shall prepare an annual plan for the operation of its work readiness program. The plan must be submitted to and approved by the commissioner of jobs and training. The plan must include:

(1) a description of the services to be offered by the county agency;

(2) a plan to coordinate the activities of all public entities providing employment-related services in order to avoid duplication of effort and to provide services more efficiently;

(3) a description of the factors that will be taken into account when determining a client's employability development plan; ~~and~~

(4) provisions to assure that applicants and recipients are evaluated for eligibility for general assistance prior to termination from the work readiness program; and

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(5) provisions to ensure that the county agency's employment and training service provider provides each recipient with an orientation, employability assessment, and employability development plan as specified in paragraph (a), clauses (1) and (2), within 30 days of the recipient's application for assistance.

Sec. 39. Minnesota Statutes 1990, section 256D.051, subdivision 3, is amended to read:

Subd. 3. **REGISTRANT DUTIES.** In order to receive work readiness assistance, a registrant shall: (1) cooperate with the county agency in all aspects of the work readiness program; (2) accept any suitable employment, including employment offered through the job training partnership act, ~~Minnesota employment and economic development act,~~ and other employment and training options; and (3) participate in work readiness activities assigned by the county agency. The county agency may terminate assistance to a registrant who fails to cooperate in the work readiness program, as provided in subdivision ~~3e~~ 1a.

Sec. 40. Minnesota Statutes 1990, section 256D.051, subdivision 3a, is amended to read:

Subd. 3a. **PERSONS REQUIRED TO REGISTER FOR AND PARTICIPATE IN THE WORK READINESS PROGRAM.** Each person in a work readiness assistance unit who is 18 years old or older must register for and participate in the work readiness program. A ~~child~~ person in the assistance unit who is at least 16 years old but less than 19 years old and who is not a full-time secondary school student is required to register and participate. A student who was enrolled as a full-time student during the last school term must be considered a full-time student during summers and school holidays. ~~If an assistance unit includes children under age six and suitable child care is not available at no cost to the family, one adult member of the assistance unit is exempt from registration for and participation in the work readiness program. The county agency shall designate the adult who must register. The registrant must be the adult who is the principal wage earner, having earned the greater of the incomes, except for income received in-kind, during the 24 months immediately preceding the month of application for assistance. When there are no earnings or when earnings are identical for each parent, the applicant must designate the principal wage earner, and that designation must not be transferred after program eligibility is determined as long as assistance continues without interruption.~~

Sec. 41. Minnesota Statutes 1990, section 256D.051, subdivision 6, is amended to read:

Subd. 6. **SERVICE COSTS.** The commissioner shall reimburse 92 percent of county agency expenditures for providing work readiness services including direct participation expenses and administrative costs, except as provided in section 256.017; ~~and reimbursement from the state appropriation must not exceed an average of $260 each year for each registrant who has completed an employ-~~

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~~ment development plan for direct expenses incurred by the registrant for transportation, clothes, and tools necessary for employment. Beginning July 1, 1991, the state will reimburse counties, up to the limit of state appropriations, according to the payment schedule in section 256.025 for the county share of costs incurred under this subdivision from January 1, 1991, on.~~ State work readiness funds shall be used only to pay the county agency's and work readiness service provider's actual costs of providing participant support services, direct program services, and program administrative costs for persons who participate in work readiness services. Beginning January 1, 1991, the average reimbursable cost per recipient must not exceed $283 annually. Beginning July 1, 1991, the average annual reimbursable cost for providing work readiness services to a recipient for whom an individualized employability development plan is not completed must not exceed $60 for the work readiness services, and $223 for necessary recipient support services such as transportation or child care needed to participate in work readiness services. If an individualized employability development plan has been completed, the annual reimbursable cost for providing work readiness services must not exceed $283 for all services and costs necessary to implement the plan, including the costs of training, employment search assistance, placement, work experience, on-the-job training, other appropriate activities, the administrative and program costs incurred in providing these services, and necessary recipient support services such as tools, clothing, and transportation needed to participate in work readiness services. Beginning July 1, 1991, the state will reimburse counties, up to the limit of state appropriations, according to the payment schedule in section 256.025 for the county share of costs incurred under this subdivision on or after January 1, 1991. Payment to counties under this subdivision is subject to the provisions of section 256.017. ~~After paying direct expenses as needed by individual registrants, the county agency may use any remaining money to provide additional services as needed by any registrant including employability assessments and employability development plans, education, orientation, employment search assistance, placement, other work experience, on-the-job training, and other appropriate activities and the administrative costs incurred providing these services.~~

Sec. 42. Minnesota Statutes 1990, section 256D.051, subdivision 8, is amended to read:

Subd. 8. **VOLUNTARY QUIT.** A person who is required to participate in work readiness services is not eligible for general assistance or work readiness payments or services if, without good cause, the person refuses a legitimate offer of, or quits, suitable employment within 60 days before the date of application. A person who is required to participate in work readiness services and, without good cause, voluntarily quits suitable employment or refuses a legitimate offer of suitable employment while receiving general assistance or work readiness payments or services shall be terminated from the general assistance or work readiness program ~~and disqualified for two months according to rules adopted by the commissioner~~ as specified in subdivision 1a.

Sec. 43. Minnesota Statutes 1990, section 256D.052, subdivision 3, is amended to read:

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Subd. 3. **SERVICES PROVIDED.** Within the limits of the state appropriation the county agency must provide ~~child care and~~ transportation to enable people to participate in literacy training under this section. The state shall reimburse county agencies for the costs of providing transportation under this section up to the amount of the state appropriation. Counties must make every effort to ensure that child care is available as needed by recipients who are pursuing literacy training.

Sec. 44. Minnesota Statutes 1990, section 256D.052, subdivision 4, is amended to read:

Subd. 4. **PAYMENT OF WORK READINESS.** The county agency must provide assistance under section 256D.051 to persons who:

(1) participate in a literacy program assigned under subdivision 2. To "participate" means to attend regular classes, complete assignments, and make progress toward literacy goals; or

(2) are not assigned to literacy training because there is no program available or accessible to them.

Notwithstanding contrary provisions of section 256D.051, subdivision 1, a person eligible for assistance under this section is eligible for assistance for a maximum period of seven consecutive calendar months during any 12 consecutive calendar month period, subject to section 256D.051, subdivision 1, paragraph (d). Work readiness payments may be terminated for persons who fail to attend the orientation and participate in the assessment and development of the employment development plan.

Sec. 45. **[256D.065] GENERAL ASSISTANCE AND WORK READINESS PAYMENTS FOR NEW RESIDENTS.**

Notwithstanding any other provisions of sections 256D.01 to 256D.21, otherwise eligible applicants without minor children, who have been residing in the state less than six months, shall be granted general assistance and work readiness payments in an amount that, when added to the nonexempt income actually available to the applicant, shall equal 60 percent of the amount that the applicant would be eligible to receive under section 256D.06, subdivision 1. A person may receive benefits in excess of this amount, equal to the lesser of the benefits actually received in the last state of residence or the maximum benefits allowable under section 256D.06, subdivision 1. To receive the higher benefit amount, the person must provide verification of the amount of assistance received in the last state of residence. Nonexempt income is the income considered available under Minnesota Rules, parts 9500.1200 to 9500.1270.

Sec. 46. Minnesota Statutes 1990, section 256D.07, is amended to read:

256D.07 **TIME OF PAYMENT OF ASSISTANCE.**

An applicant for general assistance or general assistance medical care autho-

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rized by section 256D.03, subdivision 3, shall be deemed eligible if the application and the verification of the statement on that application demonstrate that the applicant is within the eligibility criteria established by sections 256D.01 to 256D.21 and any applicable rules of the commissioner. Any person requesting general assistance or general assistance medical care shall be permitted by the county agency to make an application for assistance as soon as administratively possible and in no event later than the fourth day following the date on which assistance is first requested, and no county agency shall require that a person requesting assistance appear at the offices of the county agency more than once prior to the date on which the person is permitted to make the application. The application shall be in writing in the manner and upon the form prescribed by the commissioner and attested to by the oath of the applicant or in lieu thereof shall contain the following declaration which shall be signed by the applicant: "I declare that this application has been examined by me and to the best of my knowledge and belief is a true and correct statement of every material point." On the date that general assistance is first requested, the county agency shall inquire and determine whether the person requesting assistance is in immediate need of food, shelter, clothing, assistance for necessary transportation, or other emergency assistance pursuant to section 256D.06, subdivision 2. A person in need of emergency assistance shall be granted emergency assistance immediately, and necessary emergency assistance shall continue ~~until either the person is determined to be ineligible for general assistance or the first grant of general assistance is paid to the person~~ for up to 30 days following the date of application. A determination of an applicant's eligibility for general assistance shall be made by the county agency as soon as the required verifications are received by the county agency and in no event later than 30 days following the date that the application is made. Any verifications required of the applicant shall be reasonable, and the commissioner shall by rule establish reasonable verifications. General assistance shall be granted to an eligible applicant without the necessity of first securing action by the board of the county agency. The first month's grant must be computed to cover the time period starting with the date a signed application form is received by the county agency or from the date that the applicant meets all eligibility factors, whichever occurs later. ~~The first grant may be reduced by the amount of emergency general assistance provided to the applicant.~~

If upon verification and due investigation it appears that the applicant provided false information and the false information materially affected the applicant's eligibility for general assistance or general assistance medical care provided pursuant to section 256D.03, subdivision 3, or the amount of the applicant's general assistance grant, the county agency may refer the matter to the county attorney. The county attorney may commence a criminal prosecution or a civil action for the recovery of any general assistance wrongfully received, or both.

Sec. 47. Minnesota Statutes 1990, section 256D.10, is amended to read:

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

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

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

Sec. 48. Minnesota Statutes 1990, section 256D.101, subdivision 1, is amended to read:

Subdivision 1. **NOTICE REQUIREMENTS.** (a) At the time a registrant is registered for the work readiness program, and ~~at least every 30 days~~ on the first day of each month of services after that, the county agency shall provide, in advance, a clear, written description of the specific tasks and assigned duties ~~the registrant~~ which the mandatory registrant must complete to receive general assistance or work readiness pay. The notice must explain that the registrant will be terminated from the work readiness program ~~unless the registrant has completed the specific tasks and assigned duties. The notice must inform the registrant that~~ at the end of the month if the registrant fails without good cause to comply with work readiness requirements ~~more than once every six months, the registrant will be terminated from the work readiness program and disqualified from receiving assistance for one month if it is the registrant's first disqualification within the preceding six months, or for two months if the registrant has been previously disqualified within the preceding six months,~~ and must include the name, location, and telephone number of a person or persons the registrant may contact to discuss the registrant's work readiness compliance obligations.

(b) ~~If after the initial certification period the county agency determines that a registrant has failed to comply with work readiness requirements, the county agency shall notify the registrant of the determination. Notice must be hand delivered or mailed to the registrant within three days after the agency makes the determination but no later than the date work readiness pay was scheduled to be paid.~~ For a recipient who has failed to provide the county agency with a mailing address, the recipient must be assigned a schedule by which a recipient is to visit the agency to pick up any notices. For a recipient without a mailing address, notices must be deemed delivered on the date of the registrant's next scheduled visit with the county agency. ~~The notification shall be in writing and shall state the facts that support the county agency's determination. For the first time in a six-month period that the registrant has failed without good cause to comply with program requirements, the notification shall inform the registrant that the registrant may lose eligibility for work readiness pay and must specify the particular actions that must be taken by the registrant to achieve compliance and reinstate work readiness payments. The notice must state that the recipient must take the specified actions by a date certain, which must be at least five~~

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~~working days following the date the notification is mailed or delivered to the registrant; must explain the ramifications of the registrant's failure to take the required actions by the specified date; and must advise the registrant that the registrant may request and have a conference with the county agency to discuss the notification. A registrant who fails without good cause to comply with requirements of the program more than once in a six-month period must be notified of termination.~~

Sec. 49. Minnesota Statutes 1990, section 256D.101, subdivision 3, is amended to read:

Subd. 3. **BENEFITS AFTER NOTIFICATION.** Assistance payments otherwise due to the registrant under section 256D.051 may not be paid after the notification required in subdivision 1 has been provided to the registrant unless, before the date stated in the notification, the registrant takes the specified action necessary to achieve compliance ~~or, within five days after the effective date stated in the notice, files an appeal of the grant reduction, suspension, or termination. If, by the required date, the registrant does take the specified action necessary to achieve compliance, both the notification required by subdivision 1 and the notice required by subdivision 2 shall be canceled and all benefits due to the registrant shall be paid promptly. If, by the required date, the registrant files an appeal of the grant termination, benefits otherwise due to the registrant shall be continued pending the outcome of the appeal. An appeal of a proposed termination shall be brought under section 256.045, except that the timelines specified in this section shall apply, notwithstanding the requirements of section 256.045, subdivision 3~~. Appeals of ~~proposed~~ terminations from the work readiness program shall be heard within 30 days of the date that the appeal was filed.

Sec. 50. Minnesota Statutes 1990, section 256D.111, is amended to read:

256D.111 **REGISTRATION FOR WORK; ~~DISQUALIFICATION~~ TERMINATION.**

Subd. 5. **RULEMAKING.** The commissioner shall adopt rules and is authorized to adopt emergency rules:

(a) providing for ~~the disqualification~~ termination from the receipt of general assistance or work readiness assistance for a recipient who has been determined to have failed to comply with work requirements or the requirements of the work readiness program;

(b) providing for the use of vouchers or vendor payments with respect to the family of a ~~disqualified~~ recipient terminated for failure to comply with requirements of the work readiness program; and

(c) providing that at the time of the approval of an application for assistance, the county agency gives to the recipient a written notice in plain and easily understood language describing the recipient's job registration, search, and acceptance obligations, and the disqualification that will be imposed for a failure to comply with those obligations.

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Sec. 51. Minnesota Statutes 1990, section 256D.36, subdivision 1, is amended to read:

Subdivision 1. **STATE PARTICIPATION.** (a) **ELIGIBILITY.** Commencing January 1, 1974, the commissioner shall certify to each county agency the names of all county residents who were eligible for and did receive aid during December, 1973, pursuant to a categorical aid program of old age assistance, aid to the blind, or aid to the disabled. The amount of supplemental aid for each individual eligible under this section shall be calculated according to the formula in title II, section 212(a) (3) of Public Law Number 93-66, as amended.

(b) **DIVISION COSTS.** From and after January 1, 1980, until January 1, 1981, the state shall pay 70 percent and the county shall pay 30 percent of the supplemental aid calculated for each county resident certified under this section who is an applicant for or recipient of supplemental security income. After December 31, 1980, the state share of aid paid shall be 85 percent and the county share shall be 15 percent. ~~The amount of supplemental aid for each individual eligible under this section shall be calculated according to the formula in title II, section 212 (a) (3) of Public Law Number 93-66, as amended.~~ Benefits shall be issued to recipients by the state or county and funded according to section 256.025, subdivision 3, subject to provisions of section 256.017.

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

Sec. 52. Minnesota Statutes 1990, section 256H.02, is amended to read:

256H.02 **DUTIES OF COMMISSIONER.**

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. 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 under the AFDC employment special needs program in section 256.736, subdivision 8, and other programs that provide federal reimbursement for child care services for recipients of aid

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to families with dependent children who are in education, training, job search, or other activities allowed under those programs. Money appropriated under this section must be coordinated with the AFDC employment special needs program and other 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 ~~the AFDC employment special needs program or other~~ programs that provide federal reimbursement for child care services. The counties shall use the federal money to expand child care services ~~to AFDC recipients~~. The commissioner may adopt rules under chapter 14 to implement and coordinate federal program requirements.

Sec. 53. Minnesota Statutes 1990, section 256H.03, is amended to read:

256H.03 **BASIC SLIDING FEE PROGRAM.**

Subdivision 1. ~~**COUNTIES**~~ **ALLOCATION PERIOD; NOTICE OF ALLOCATION.** When the commissioner notifies county and human service boards of the forms and instructions they are to follow in the development of their biennial community social services plans required under section 256E.08, the commissioner shall also notify county and human services boards of their estimated child care fund program allocation for the two years covered by the plan. By June 1 of each year, the commissioner shall notify all counties of their final child care fund program allocation.

Subd. 1a. **WAITING LIST.** Each county that receives funds under this section ~~and section 256H.05~~ must keep a written record and report to the commissioner the number of eligible families who have applied for a child care subsidy or have requested child care assistance. Counties shall perform a cursory determination of eligibility when a family requests information about child care assistance. A family that appears to be eligible must be put on a waiting list if funds are not immediately available. The waiting list must identify students in need of child care. When money is available counties shall expedite the processing of student applications during key enrollment periods.

Subd. 2. **ALLOCATION; LIMITATIONS.** From July 1, 1991, through June 30, 1992, the commissioner shall allocate the money appropriated under the child care fund for the basic sliding fee program and shall allocate those funds between the metropolitan area, comprising the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington, and the area outside the metropolitan area as follows:

(1) 50 percent of the money shall be allocated among the counties on the basis of the number of families below the poverty level, as determined from the most recent census or special census; and

(2) 50 percent of the money shall be allocated among the counties on the basis of the counties' portion of the AFDC caseload for the preceding state fiscal year.

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If, under the preceding formula, either the seven-county metropolitan area consisting of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington counties or the area consisting of counties outside the seven-county metropolitan area is allocated more than 55 percent of the basic sliding fee funds, each county's allocation in that area shall be proportionally reduced until the total for the area is no more than 55 percent of the basic sliding fee funds. The amount of the allocations proportionally reduced shall be used to proportionally increase each county's allocation in the other area.

Subd. 2a. **ELIGIBLE RECIPIENTS.** Families that meet the eligibility requirements under sections 256H.10, except AFDC recipients and transition year families, and 256H.11 are eligible for child care assistance under the basic sliding fee program. From July 1, 1990, to June 30, 1991, a county may not accept new applications for the basic sliding fee program unless the county can demonstrate that its state money expenditures for the basic sliding fee program for this period will not exceed 95 percent of the county's allocation of state money for the fiscal year ending June 30, 1990. As basic sliding fee program money becomes available to serve new families, eligible families whose benefits were terminated during the fiscal year ending June 30, 1990, for reasons other than loss of eligibility shall be reinstated. Families enrolled in the basic sliding fee program as of July 1, 1990, shall be continued until they are no longer eligible. Counties shall make vendor payments to the child care provider or pay the parent directly for eligible child care expenses on a reimbursement basis.

Subd. 2b. **FUNDING PRIORITY.** (a) First priority for child care assistance under the basic sliding fee program must be given to eligible non-AFDC families who do not have a high school or general equivalency diploma or who need remedial and basic skill courses in order to pursue employment or to pursue education leading to employment. Within this priority, the following subpriorities must be used:

(1) child care needs of minor parents;

(2) child care needs of parents under 21 years of age; and

(3) child care needs of other parents within the priority group described in this paragraph.

(b) Second priority must be given to ~~all other~~ parents who ~~are eligible for the basic sliding fee program~~ have completed their AFDC transition year.

Subd. 3. **REVIEW OF USE OF FUNDS; REALLOCATION.** After each quarter, the commissioner shall review the use of basic sliding fee program ~~and AFDC child care program~~ allocations by county. The commissioner may reallocate unexpended or unencumbered money among those counties who have expended their full allocation. Any unexpended money from the first year of the biennium may be carried forward to the second year of the biennium.

Subd. 4. **ALLOCATION FORMULA.** Beginning July 1, 1992, the basic sliding fee funds shall be allocated according to the following formula:

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(a) One-half of the funds shall be allocated in proportion to each county's total expenditures for the basic sliding fee child care program reported during the 12-month period ending on December 31 of the preceding state fiscal year.

(b) One-fourth of the funds shall be allocated based on the number of children under age 13 in each county who are enrolled in general assistance medical care, medical assistance, and the children's health plan on July 1, of each year.

(c) One-fourth of the funds shall be allocated based on the number of children under age 13 who reside in each county, from the most recent estimates of the state demographer.

Subd. 5. **FORMULA LIMITATION.** The amounts computed under subdivision 4 shall be subject to the following limitation. No county shall be allocated an amount less than its guaranteed floor as provided in subdivision 6. If the amount allocated to a county under subdivision 4 would be less that its guaranteed floor, the shortage shall be recovered proportionally from all counties which would be allocated more than their guaranteed floor.

Subd. 6. **GUARANTEED FLOOR.** (a) Each county's guaranteed floor shall equal the lesser of:

(1) the county's original allocation in the preceding state fiscal year; or

(2) 110 percent of the county's basic sliding fee child care program state earnings for the 12-month period ending on December 31 of the preceding state fiscal year. For purposes of this clause, "state earnings" means the reported nonfederal share of direct child care expenditures adjusted for the 15 percent required county match and seven percent administration limit.

(b) When the amount of funds available for allocation is less than the amount available in the previous year, each county's previous year allocation shall be reduced in proportion to the reduction in the statewide funding, for the purpose of establishing the guaranteed floor.

Sec. 54. **[256H.035] FEDERAL AT-RISK CHILD CARE PROGRAM.**

Subdivision 1. **COMMISSIONER TO ADMINISTER PROGRAM.** The commissioner of human services is authorized and directed to receive, administer, and expend funds available under the at-risk child care program under Public Law Number 101-508 (1).

Subd. 2. **RULEMAKING AUTHORITY.** The commissioner may adopt rules under chapter 14 to administer the at-risk child care program.

Sec. 55. Minnesota Statutes 1990, section 256H.05, is amended to read:

256H.05 **AFDC CHILD CARE PROGRAM.**

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Subd. 1b. **ELIGIBLE RECIPIENTS.** Families eligible for guaranteed child care assistance under the AFDC child care program are:

(1) persons receiving services under section 256.736;

(2) AFDC recipients who are employed; ~~and~~

(3) persons who are members of transition year families under section 256H.01, subdivision 16; and

(4) members of the control group for the STRIDE evaluation conducted by the Manpower Demonstration Research Corporation.

Subd. 1c. ~~**FUNDING**~~ **WAITING LIST PRIORITY.** AFDC recipients must be put on a waiting list for the basic sliding fee program when they leave AFDC due to their earned income.

Subd. 2. **COOPERATION WITH OTHER PROGRAMS.** The county shall develop cooperative agreements with the employment and training service provider for coordination of child care funding with employment, training, and education programs for all AFDC recipients who receive services under section 256.736. The cooperative agreement shall specify that individuals receiving employment, training, and education services under an employability plan from the employment and training service provider shall be guaranteed child care assistance from the county responsible for the current employability development plan.

Subd. 3. **CONTRACTS; OTHER USES ALLOWED.** Counties may contract for administration of the program or may arrange for or contract for child care funds to be used by other appropriate programs, in accordance with this section and as permitted by federal law and regulations.

Subd. 5. **FEDERAL REIMBURSEMENT.** Counties shall maximize their federal reimbursement under Public Law Number 100-485 or other federal reimbursement programs for money spent for persons ~~listed in this section~~ eligible under this chapter. The commissioner shall allocate any federal earnings to the county to be used to expand child care services under ~~these sections~~ this chapter.

Sec. 56. **[256H.055] FEDERAL CHILD CARE AND DEVELOPMENT BLOCK GRANT.**

Subdivision 1. **COMMISSIONER TO ADMINISTER BLOCK GRANT.** The commissioner of human services is authorized and directed to receive, administer, and expend child care funds available under the child care and development block grant authorized under Public Number 101-508 (2).

Subd. 2. **RULEMAKING AUTHORITY.** The commissioner may adopt rules under chapter 14 to administer the child care development block grant program.

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Sec. 57. Minnesota Statutes 1990, section 256H.08, is amended to read:

256H.08 **USE OF MONEY.**

Money for persons listed in sections 256H.03, subdivision 2a, and 256H.05, subdivision 1b, shall be used to reduce the costs of child care for students, including the costs of child care for students while employed if enrolled in an eligible education program at the same time and making satisfactory progress towards completion of the program. Counties may not limit the duration of child care subsidies for a person in an employment or educational program, except when the person is found to be ineligible under the child care fund eligibility standards. Any limitation must be based on a person's employability plan in the case of an AFDC recipient, and county policies included in the child care allocation plan. Time limitations for child care assistance, as specified in Minnesota Rules, parts 9565.5000 to 9565.5200, do not apply to basic or remedial educational programs needed to prepare for post-secondary education or employment. These programs include: high school, general equivalency diploma, and English as a second language. Programs exempt from this time limit must not run concurrently with a post-secondary program. Financially eligible students who have received child care assistance for one academic year shall be provided child care assistance in the following academic year if funds allocated under sections 256H.03 and 256H.05 are available. If an AFDC recipient who is receiving AFDC child care assistance under this chapter moves to another county ~~as authorized in their employability plan~~, continues to participate in educational or training programs authorized in their employability development plans, and continues to be eligible for AFDC child care assistance under this chapter, the AFDC caretaker must receive continued child care assistance from the county responsible for their current employability development plan, without interruption.

Sec. 58. Minnesota Statutes 1990, section 256H.15, subdivision 1, is amended to read:

Subdivision 1. **SUBSIDY RESTRICTIONS.** (a) Until June 30, 1991, the maximum child care rate is determined under this paragraph. The county board may limit the subsidy allowed by setting a maximum on the provider child care rate that the county shall subsidize. The maximum rate set by any county shall not be lower than 110 percent or higher than 125 percent of the median rate in that county for like care arrangements for all types of care, including special needs and handicapped care, as determined by the commissioner. If the county sets a maximum rate, it must pay the provider's rate for each child receiving a subsidy, up to the maximum rate set by the county. If a county does not set a maximum provider rate, it shall pay the provider's rate for every child in care. The maximum state payment is 125 percent of the median provider rate. If the county has not set a maximum provider rate and the provider rate is greater than 125 percent of the median provider rate in the county, the county shall pay the amount in excess of 125 percent of the median provider rate from county funding sources. The county shall pay the provider's full charges for every child

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in care up to the maximum established. The commissioner shall determine the maximum rate for each type of care, including special needs and handicapped care.

(b) Effective July 1, 1991, the maximum rate paid for child care assistance under the child care fund is the maximum rate eligible for federal reimbursement except ~~as~~ that a provider receiving reimbursement under paragraph (a) as of January 1, 1991, shall be paid at a rate no less than the rate of reimbursement received under that paragraph. A rate which includes a provider bonus paid under subdivision 2 or a special needs rate paid under subdivision 3 may be in excess of the maximum rate allowed under this subdivision ~~2~~. The department of human services shall monitor the effect of this paragraph on provider rates. The county shall pay the provider's full charges for every child in care up to the maximum established. The commissioner shall determine the maximum rate for each type of care, including special needs and handicapped care.

(c) When the provider charge is greater than the maximum provider rate allowed, the parent is responsible for payment of the difference in the rates in addition to any family copayment fee.

Sec. 59. Minnesota Statutes 1990, section 256H.15, subdivision 2, is amended to read:

Subd. 2. **PROVIDER RATE BONUS FOR ACCREDITATION.** Currently accredited child care centers shall be paid a ten percent bonus above the maximum rate established in subdivision 1, up to the actual provider rate. A family day care provider shall be paid a ten percent bonus above the maximum rate established in subdivision 1, if the provider holds a current early childhood development credential approved by the commissioner, up to the actual provider rate. For purposes of this subdivision, "accredited" means accredited by the National Association for the Education of Young Children.

Sec. 60. Minnesota Statutes 1990, section 256H.15, is amended by adding a subdivision to read:

Subd. 4. **RATES CHARGED TO PUBLICLY SUBSIDIZED FAMILIES.** Child care providers receiving reimbursement under chapter 256H may not charge a rate to clients receiving assistance under chapter 256H that is higher than the private, full-paying client rate.

Sec. 61. Minnesota Statutes 1990, section 256H.18, is amended to read:

256H.18 **ADMINISTRATIVE EXPENSES.**

~~A county may not use more than~~ The commissioner shall use up to seven percent of ~~its allocation~~ the state funds appropriated for the Basic Sliding Fee program for payments to counties for administrative expenses ~~under the basic sliding fee program~~. The commissioner shall use up to ten percent of federal funds for payments to counties for administrative expenses.

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Sec. 62. **[256H.195] MINNESOTA EARLY CHILDHOOD CARE AND EDUCATION COUNCIL.**

Subdivision 1. **ESTABLISHMENT; MEMBERS.** The Minnesota early childhood care and education council shall consist of 19 members appointed by the governor. Members must represent the following groups and organizations: parents, family child care providers, child care center providers, private foundations, corporate executives, small business owners, and public school districts. The council membership also includes the commissioners of human services, jobs and training, education, and health; a representative of the higher education coordinating board; a representative of the Minnesota headstart association; representatives of two Minnesota counties; three members from child care resource and referral programs, one of whom shall be from a county-operated resource and referral, one of whom shall be from a rural location, and one of whom shall be from the metropolitan area; and a community group representative. The governor shall consult with the councils established under sections 3.922, 3.9223, 3.9225, and 3.9226, representing the communities of color, to ensure that membership of the council is representative of all racial minority groups. In addition to the 19 members appointed by the governor, two members of the senate shall be appointed by the president of the senate and two members of the house of representatives shall be appointed by the speaker of the house to serve as ex officio members of the council. Membership terms, compensation, and removal of members are governed by section 15.059, except that the council shall not expire as required by that section.

Subd. 2. **EXECUTIVE DIRECTOR; STAFF.** The council shall select an executive director of the council by a vote of a majority of all council members. The executive director is in the unclassified service and shall provide administrative support for the council and provide administrative leadership to implement council mandates, policies, and objectives. The executive director shall employ and direct other staff.

Subd. 3. **DUTIES AND POWERS.** The council has the following duties and powers:

(1) develop a biennial plan for early childhood care and education in the state;

(2) take a leadership role in developing its recommendations in conjunction with the recommendations of other state agencies on the state budget for early childhood care and education;

(3) apply for and receive state money and public and private grant money;

(4) participate in and facilitate the development of interagency agreements on early childhood care and education issues;

(5) review state agency policies on early childhood care and education issues so that they do not conflict;

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(6) advocate for an effective and coordinated early childhood care and education system with state agencies and programs;

(7) study the need for child care funding for special populations whose needs are not being met by current programs;

(8) ensure that the early childhood care and education system reflects community diversity;

(9) be responsible for advocating policies and funding for early childhood care and education; and

(10) provide a report to the legislature on January 1 of every odd-numbered year, containing a description of the activities and the work plan of the council and any legislative recommendations developed by the council.

Sec. 63. **[256H.196] REGIONAL CHILD CARE RESOURCE AND REFERRAL PROGRAMS.**

Subdivision 1. **ESTABLISHMENT.** Existing child care resource and referral programs shall become the regional child care resource and referral programs provided they are in compliance with other provisions of this chapter.

Subd. 2. **DUTIES.** The regional resource and referral program shall have the duties specified in section 256H.20. In addition, the regional program shall be responsible for establishing new or collaborating with existing community-based committees such as interagency early intervention committees or neighborhood groups to advocate for child care needs in the community as well as serve as important local resources for children and their families.

Sec. 64. Minnesota Statutes 1990, section 256H.20, subdivision 3a, is amended to read:

Subd. 3a. **GRANT REQUIREMENTS AND PRIORITY.** Priority for awarding resource and referral grants shall be given in the following order:

(1) start up resource and referral programs in areas of the state where they do not exist; and

(2) improve resource and referral programs.

Resource and referral programs shall meet the following requirements:

(a) Each program shall identify all existing child care services through information provided by all relevant public and private agencies in the areas of service, and shall develop a resource file of the services which shall be maintained and updated at least quarterly. These services must include family day care homes; public and private day care programs; full-time and part-time programs; infant, preschool, and extended care programs; and programs for school age children.

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The resource file must include: the type of program, hours of program service, ages of children served, fees, location of the program, eligibility requirements for enrollment, special needs services, and transportation available to the program. The file may also include program information and special program features.

(b) Each resource and referral program shall establish a referral process which responds to parental need for information and which fully recognizes confidentiality rights of parents. The referral process must afford parents maximum access to all referral information. This access must include telephone referral available for no less than 20 hours per week.

Each child care resource and referral agency shall publicize its services through popular media sources, agencies, employers, and other appropriate methods.

(c) Each resource and referral program shall maintain ongoing documentation of requests for service. All child care resource and referral agencies must maintain documentation of the number of calls and contacts to the child care information and referral agency or component. A resource and referral program shall collect and maintain the following information:

(1) ages of children served;

(2) time category of child care request for each child;

(3) special time category, such as nights, weekends, and swing shift; and

(4) reason that the child care is needed.

(d) Each resource and referral program shall make available the following information as an educational aid to parents:

(1) information on aspects of evaluating the quality and suitability of child care services, including licensing regulation, financial assistance available, child abuse reporting procedures, appropriate child development information;

(2) information on available parent, early childhood, and family education programs in the community.

(e) On or after one year of operation a resource and referral program shall provide technical assistance to employers and existing and potential providers of all types of child care services. This assistance shall include:

(1) information on all aspects of initiating new child care services including licensing, zoning, program and budget development, and assistance in finding information from other sources;

(2) information and resources which help existing child care providers to maximize their ability to serve the children and parents of their community;

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(3) dissemination of information on current public issues affecting the local and state delivery of child care services;

(4) facilitation of communication between existing child care providers and child-related services in the community served;

(5) recruitment of licensed providers; and

(6) options, and the benefits available to employers utilizing the various options, to expand child care services to employees.

Services prescribed by this section must be designed to maximize parental choice in the selection of child care and to facilitate the maintenance and development of child care services and resources.

(f) Child care resource and referral information must be provided to all persons requesting services and to all types of child care providers and employers.

(g) Public or private entities may apply to the commissioner for funding. ~~The maximum amount of money which may be awarded to any entity for the provision of service under this subdivision is $60,000 per year.~~ A local match of up to 25 percent is required.

Subd. 4. **APPLICATION; RULES.** Applicants for grants under subdivision 1 shall apply on a form provided by the commissioner. Applications for grants using funds received by the state pursuant to subdivision 2 shall include assurances that federal requirements have been met. The commissioner may adopt ~~emergency rules and shall adopt permanent~~ rules as necessary to implement this section.

Sec. 65. Minnesota Statutes 1990, section 256H.21, subdivision 10, is amended to read:

Subd. 10. **RESOURCE AND REFERRAL PROGRAM.** "Resource and referral program" means a program that provides information to parents, including referrals and coordination of community child care resources for parents and public or private providers of care. It also means the agency with the duties specified in sections 256H.196 and 256H.20. Services may include parent education, technical assistance for providers, staff development programs, and referrals to social services.

Sec. 66. Minnesota Statutes 1990, section 256H.22, subdivision 2, is amended to read:

Subd. 2. **DISTRIBUTION OF FUNDS.** (a) The commissioner shall allocate grant money appropriated for child care service development among the development regions designated by the governor under section 462.385, as follows:

(1) 50 percent of the child care service development grant appropriation shall be allocated to the metropolitan economic development region; and

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(2) 50 percent of the child care service development grant appropriation shall be allocated to economic development regions other than the metropolitan economic development region.

(b) The following formulas shall be used to allocate grant appropriations among the economic development regions:

(1) 50 percent of the funds shall be allocated in proportion to the ratio of children under 12 years of age in each economic development region to the total number of children under 12 years of age in all economic development regions; and

(2) 50 percent of the funds shall be allocated in proportion to the ratio of children under 12 years of age in each economic development region to the number of licensed child care spaces currently available in each economic development region.

(c) Out of the amount allocated for each economic development region, the commissioner shall award grants based on the recommendation of the grant review advisory task force. In addition, the commissioner shall award no more than 75 percent of the money either to child care facilities for the purpose of facility improvement or interim financing or to child care workers for staff training expenses.

(d) Any funds unobligated may be used by the commissioner to award grants to proposals that received funding recommendations by the advisory task force but were not awarded due to insufficient funds.

(e) The commissioner may allocate grants under this section for a two-year period and may carry forward funds from the first year as necessary.

Sec. 67. Minnesota Statutes 1990, section 256H.22, is amended by adding a subdivision to read:

Subd. 3a. **DISTRIBUTION OF FUNDS FOR CHILD CARE RESOURCE AND REFERRAL PROGRAMS.** The commissioner shall allocate funds appropriated for child care resource and referral services considering the following factors for each economic development region served by the child care resource and referral agency:

(1) the number of children under 13 years of age needing child care in the service area;

(2) the geographic area served by the agency;

(3) the ratio of children under 13 years of age needing care to the number of licensed spaces in the service area;

(4) the number of licensed child care providers and extended day school age child care programs in the service area; and

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(5) other related factors determined by the commissioner.

Sec. 68. **[256H.225] ASSISTANCE TO CHILD CARE CENTERS AND PROVIDERS.**

The commissioner shall work with the early childhood care and education council and with the resource and referral programs to develop tools to assist child care centers and family child care providers to obtain accreditation and certification and to achieve improved pay for child care workers.

Sec. 69. Minnesota Statutes 1990, section 257.57, subdivision 2, is amended to read:

Subd. 2. The child, the mother, or personal representative of the child, the public authority chargeable by law with the support of the child, the personal representative or a parent of the mother if the mother has died or is a minor, a man alleged or alleging himself to be the father, or the personal representative or a parent of the alleged father if the alleged father has died or is a minor may bring an action:

(1) at any time for the purpose of declaring the existence of the father and child relationship presumed under section 257.55, subdivision 1, clause (d) ~~or~~, (e), or (f), or the nonexistence of the father and child relationship presumed under clause (d) of that subdivision; ~~or~~

(2) for the purpose of declaring the nonexistence of the father and child relationship presumed under section 257.55, subdivision 1, clause (e) only if the action is brought within three years after the date of the execution of the declaration; or

(3) for the purpose of declaring the nonexistence of the father and child relationship presumed under section 257.55, subdivision 1, paragraph (f), only if the action is brought within three years after the party bringing the action, or the party's attorney of record, has been provided the blood test results.

Sec. 70. Minnesota Statutes 1990, section 260.165, is amended by adding a subdivision to read:

Subd. 3. **NOTICE TO PARENT OR CUSTODIAN.** Whenever a peace officer takes a child into custody for shelter care placement pursuant to subdivision 1; section 260.135, subdivision 5; or section 260.145, the officer shall give the parent or custodian of the child a list of names, addresses, and telephone numbers of social service agencies that offer child welfare services. If the parent or custodian was not present when the child was removed from the residence, the list shall be left with an adult on the premises or left in a conspicuous place on the premises if no adult is present. If the officer has reason to believe the parent or custodian is not able to read and understand English, the officer must provide a list that is written in the language of the parent or custodian. The list shall be prepared by the commissioner of human services. The commissioner shall pre-

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pare lists for each county and provide each county with copies of the list without charge. The list shall be reviewed annually by the commissioner and updated if it is no longer accurate. Neither the commissioner nor any peace officer or the officer's employer shall be liable to any person for mistakes or omissions in the list. The list does not constitute a promise that any agency listed will in fact assist the parent or custodian.

Sec. 71. Minnesota Statutes 1990, section 270A.04, subdivision 2, is amended to read:

Subd. 2. Any debt owed to a claimant agency shall be submitted by the agency for collection under the procedure established by sections 270A.01 to 270A.12 unless (a) an alternative means of collection is pending and the debtor is complying with the terms of alternative means of collection, except that this limitation does not apply to debts owed resulting from a default in payment of child support or maintenance, (b) the collection attempt would result in a loss of federal funds, or (c) the agency is unable to supply the department with the necessary identifying information required by subdivision 3 or rules promulgated by the commissioner, or (d) the debt is barred by section 541.05.

Sec. 72. Minnesota Statutes 1990, section 270A.08, subdivision 2, is amended to read:

Subd. 2. (a) This written notice shall clearly and with specificity set forth the basis for the claim to the refund including the name of the benefit program involved if the debt arises from a public assistance grant and the dates on which the debt was incurred and, further, shall advise the debtor of the claimant agency's intention to request setoff of the refund against the debt.

(b) The notice will also advise the debtor that any debt incurred more than six years from the date of the notice to the commissioner under section 270A.07, except for debts owed resulting from a default in payment of child support or maintenance, must not be setoff against a refund and will advise the debtor of the right to contest the validity of the claim at a hearing. The debtor must assert this right by written request to the claimant agency, which request the agency must receive within 45 days of the mailing date of the original notice or of the corrected notice, as required by subdivision 1. If the debtor has not received the notice, the 45 days shall not commence until the debtor has received actual notice. The debtor shall have the burden of showing no notice and shall be entitled to a hearing on the issue of notice as well as on the merits.

Sec. 73. Minnesota Statutes 1990, section 393.07, subdivision 10, is amended to read:

Subd. 10. **FEDERAL FOOD STAMP PROGRAM.** (a) The county welfare board shall establish and administer the food stamp program pursuant to rules of the commissioner of human services, the supervision of the commissioner as specified in section 256.01, and all federal laws and regulations. The commissioner of human services shall monitor food stamp program delivery on an

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ongoing basis to ensure that each county complies with federal laws and regulations. Program requirements to be monitored include, but are not limited to, number of applications, number of approvals, number of cases pending, length of time required to process each application and deliver benefits, number of applicants eligible for expedited issuance, length of time required to process and deliver expedited issuance, number of terminations and reasons for terminations, client profiles by age, household composition and income level and sources, and the use of phone certification and home visits. The commissioner shall determine the county-by-county and statewide participation rate. ~~The commissioner shall report on the monitoring activities on a county-by-county basis in a report presented to the legislature by July 1 each year. This monitoring activity shall be separate from the management evaluation survey sample required under federal regulations.~~

(b) On July 1 of each year, the commissioner of human services shall determine a statewide and county-by-county food stamp program participation rate. The commissioner may designate a different agency to administer the food stamp program in a county if the agency administering the program fails to increase the food stamp program participation rate among families or eligible individuals, or comply with all federal laws and regulations governing the food stamp program. The commissioner shall review agency performance annually to determine compliance with this paragraph.

(c) A person who commits any of the following acts has violated section 256.98 and is subject to both the criminal and civil penalties provided under that section:

(1) Obtains or attempts to obtain, or aids or abets any person to obtain by means of a willfully false statement or representation, or intentional concealment of a material fact, food stamps to which the person is not entitled or in an amount greater than that to which that person is entitled; or

(2) Presents or causes to be presented, coupons for payment or redemption knowing them to have been received, transferred or used in a manner contrary to existing state or federal law; or

(3) Willfully uses or transfers food stamp coupons or authorization to purchase cards in any manner contrary to existing state or federal law.

Sec. 74. Minnesota Statutes 1990, section 393.07, subdivision 10a, is amended to read:

Subd. 10a. **EXPEDITED ISSUANCE OF FOOD STAMPS.** The commissioner of human services shall continually monitor the expedited issuance of food stamp benefits to ensure that each county complies with federal regulations and that households eligible for expedited issuance of food stamps are identified, processed, and certified within the time frames prescribed in federal regulations. ~~By July 1 each year the commissioner of human services shall present a report to the governor and the legislature regarding its monitoring of expedited~~

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~~issuance and the degree of compliance with federal regulations on a county-by-county basis.~~

County food stamp offices shall screen and issue food stamps to applicants on the day of application. Applicants who meet the federal criteria for expedited issuance and have an immediate need for food assistance shall receive either:

(1) a manual Authorization to Participate (ATP) card; or

(2) the immediate issuance of food stamp coupons.

The local food stamp agency shall conspicuously post in each food stamp office a notice of the availability of and the procedure for applying for expedited issuance and verbally advise each applicant of the availability of the expedited process.

Sec. 75. Minnesota Statutes 1990, section 518.551, subdivision 5, is amended to read:

Subd. 5. **NOTICE TO PUBLIC AUTHORITY; GUIDELINES.** (a) The petitioner shall notify the public authority of all proceedings for dissolution, legal separation, determination of parentage or for the custody of a child, if either party is receiving aid to families with dependent children or applies for it subsequent to the commencement of the proceeding. After receipt of the notice, the court shall set child support as provided in this subdivision. The court may order either or both parents owing a duty of support to a child of the marriage to pay an amount reasonable or necessary for the child's support, without regard to marital misconduct. The court shall approve a child support ~~agreement~~ stipulation of the parties if each party is represented by independent counsel, unless the ~~agreement is not in the interest of justice~~ stipulation does not meet the conditions of paragraph (h). In other cases the court shall determine and order child support in a specific dollar amount in accordance with the guidelines and the other factors set forth in paragraph (b) and any departure therefrom.

The court shall derive a specific dollar amount by multiplying the obligor's net income by the percentage indicated by the following guidelines:

Net Income Per Month of Obligor	Number of Children						
	1	2	3	4	5	6	7 or more
$400 and Below	Order based on the ability of the obligor to provide support at these income levels, or at higher levels, if the obligor has the earning ability.						
$401 - 500	14%	17%	20%	22%	24%	26%	28%
$501 - 550	15%	18%	21%	24%	26%	28%	30%
$551 - 600	16%	19%	22%	25%	28%	30%	32%
$601 - 650	17%	21%	24%	27%	29%	32%	34%

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$651 - 700	18%	22%	25%	28%	31%	34%	36%
$701 - 750	19%	23%	27%	30%	33%	36%	38%
$751 - 800	20%	24%	28%	31%	35%	38%	40%
$801 - 850	21%	25%	29%	33%	36%	40%	42%
$851 - 900	22%	27%	31%	34%	38%	41%	44%
$901 - 950	23%	28%	32%	36%	40%	43%	46%
$951 - 1000	24%	29%	34%	38%	41%	45%	48%
$1001- 4000	25%	30%	35%	39%	43%	47%	50%

Guidelines for support for an obligor with a monthly income of $4,001 or more shall be the same dollar amounts as provided for in the guidelines for an obligor with a monthly income of $4,000.

Net Income defined as:

Total monthly income less	*(i) Federal Income Tax *(ii) State Income Tax (iii) Social Security Deductions (iv) Reasonable Pension Deductions
*Standard Deductions apply- use of tax tables recommended	(v) Union Dues (vi) Cost of Dependent Health Insurance Coverage (vii) Cost of Individual or Group Health/Hospitalization Coverage or an Amount for Actual Medical Expenses (viii) A Child Support or Maintenance Order that is Currently Being Paid.

"Net income" does not include:

(1) the income of the obligor's spouse, but does include in-kind payments received by the obligor in the course of employment, self-employment, or operation of a business if the payments reduce the obligor's living expenses; or

(2) compensation received by a party for employment in excess of a 40-hour work week, provided that:

~~(a)~~ (i) support is nonetheless ordered in an amount at least equal to the guidelines amount based on income not excluded under this clause; and

~~(b)~~ (ii) the party demonstrates, and the court finds, that:

~~(i)~~ (A) the excess employment began after the filing of the petition for dissolution;

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~~(ii)~~ (B) the excess employment reflects an increase in the work schedule or hours worked over that of the two years immediately preceding the filing of the petition;

~~(iii)~~ (C) the excess employment is voluntary and not a condition of employment;

~~(iv)~~ (D) the excess employment is in the nature of additional, part-time or overtime employment compensable by the hour or fraction of an hour; and

~~(v)~~ (E) the party's compensation structure has not been changed for the purpose of affecting a support or maintenance obligation.

(b) In addition to the child support guidelines, the court shall take into consideration the following factors in setting or modifying child support:

(1) all earnings, income, and resources of the parents, including real and personal property, but excluding income from excess employment of the obligor or obligee that meets the criteria of paragraph (a), clause (2)~~(b)~~ (ii);

(2) the financial needs and resources, physical and emotional condition, and educational needs of the child or children to be supported;

(3) the standards of living the child would have enjoyed had the marriage not been dissolved, but recognizing that the parents now have separate households;

(4) the amount of the aid to families with dependent children grant for the child or children;

(5) which parent receives the income taxation dependency exemption and what financial benefit the parent receives from it; and

(6) the parents' debts as provided in paragraph (c).

(c) In establishing or modifying a support obligation, the court may consider debts owed to private creditors, but only if:

(1) the right to support has not been assigned under section 256.74;

(2) the court determines that the debt was reasonably incurred for necessary support of the child or parent or for the necessary generation of income. If the debt was incurred for the necessary generation of income, the court shall consider only the amount of debt that is essential to the continuing generation of income; and

(3) the party requesting a departure produces a sworn schedule of the debts, with supporting documentation, showing goods or services purchased, the recipient of them, the amount of the original debt, the outstanding balance, the monthly payment, and the number of months until the debt will be fully paid.

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(d) Any schedule prepared under paragraph (c), clause (3), shall contain a statement that the debt will be fully paid after the number of months shown in the schedule, barring emergencies beyond the party's control.

(e) Any further departure below the guidelines that is based on a consideration of debts owed to private creditors shall not exceed 18 months in duration, after which the support shall increase automatically to the level ordered by the court. Nothing in this section shall be construed to prohibit one or more step increases in support to reflect debt retirement during the 18-month period.

(f) Where payment of debt is ordered pursuant to this section, the payment shall be ordered to be in the nature of child support.

~~(d)~~ (g) Nothing shall preclude the court from receiving evidence on the above factors to determine if the guidelines should be exceeded or modified in a particular case.

~~(e) The above guidelines are binding in each case unless the court makes express findings of fact as to the reason for departure below or above the guidelines.~~ (h) The guidelines in this subdivision are a rebuttable presumption and shall be used in all cases when establishing or modifying child support. If the court does not deviate from the guidelines, the court shall make written findings concerning the amount of the obligor's income used as the basis for the guidelines calculation and any other significant evidentiary factors affecting the determination of child support. If the court deviates from the guidelines, the court shall make written findings giving the reasons for the deviation and shall specifically address the criteria in paragraph (b) and how the deviation serves the best interest of the child. The provisions of this paragraph apply whether or not the parties are each represented by independent counsel and have entered into a written agreement. The court shall review stipulations presented to it for conformity to the guidelines and the court is not required to conduct a hearing, but the parties shall provide the documentation of earnings required under subdivision 5b.

Sec. 76. Minnesota Statutes 1990, section 518.551, is amended by adding a subdivision to read:

Subd. 5b. **DETERMINATION OF INCOME.** (a) The parties shall timely serve and file documentation of earnings and income. When there is a prehearing conference, the court must receive the documentation of income at least ten days prior to the prehearing conference. Documentation of earnings and income also includes, but is not limited to, pay stubs for the most recent three months, employer statements, or statement of receipts and expenses if self-employed. Documentation of earnings and income also includes copies of each parent's most recent federal tax returns, including W-2 forms, 1099 forms, unemployment compensation statements, workers' compensation statements, and all other documents evidencing income as received that provide verification of income over a longer period.

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(b) If a parent under the jurisdiction of the court does not appear at a court hearing after proper notice of the time and place of the hearing, the court shall set income for that parent based on credible evidence before the court or in accordance with paragraph (c). Credible evidence may include documentation of current or recent income, testimony of the other parent concerning recent earnings and income levels, and the parent's wage reports filed with the Minnesota department of jobs and training under section 268.121.

(c) If the court finds that a parent is voluntarily unemployed or underemployed, child support shall be calculated based on a determination of imputed income. A parent is not considered voluntarily unemployed or underemployed upon a showing by the parent that the unemployment or underemployment: (1) is temporary and will ultimately lead to an increase in income; or (2) represents a bona fide career change that outweighs the adverse effect of that parent's diminished income on the child. Imputed income means the estimated earning ability of a parent based on the parent's prior earnings history, education, and job skills, and on availability of jobs within the community for an individual with the parent's qualifications. If the court is unable to determine or estimate the earning ability of a parent, the court may calculate child support based on full-time employment of 40 hours per week at the federal minimum wage or the Minnesota minimum wage, whichever is higher. If a parent is physically or mentally incapacitated, it shall be presumed that the parent is not voluntarily unemployed or underemployed.

Sec. 77. Minnesota Statutes 1990, section 518.551, is amended by adding a subdivision to read:

Subd. 5c. **CHILD SUPPORT GUIDELINES TO BE REVIEWED EVERY FOUR YEARS.** No later than 1994 and every four years after that, the department of human services shall conduct a review of the child support guidelines.

Sec. 78. Minnesota Statutes 1990, section 518.551, is amended by adding a subdivision to read:

Subd. 12. **OCCUPATIONAL LICENSE SUSPENSION.** Upon petition of an obligee or public agency responsible for child support enforcement, if the court finds that the obligor is or may be licensed by a licensing board listed in section 214.01 and the obligor is in arrears in court-ordered child support payments, the court may direct the licensing board to conduct a hearing under section 214.101 concerning suspension of the obligor's license. If the obligor is a licensed attorney, the court may report the matter to the lawyers professional responsibility board for appropriate action in accordance with the rules of professional conduct. The remedy under this subdivision is in addition to any other enforcement remedy available to the court.

Sec. 79. Minnesota Statutes 1990, section 518.64, is amended to read:

518.64 **MODIFICATION OF ORDERS OR DECREES.**

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Subdivision 1. After an order for maintenance or support money, temporary or permanent, or for the appointment of trustees to receive property awarded as maintenance or support money, the court may from time to time, on ~~petition~~ motion of either of the parties, a copy of which is served on the public authority responsible for child support enforcement if payments are made through it, or on ~~petition~~ motion of the public authority responsible for support enforcement, modify the order respecting the amount of maintenance or support money, and the payment of it, and also respecting the appropriation and payment of the principal and income of property held in trust, and may make an order respecting these matters which it might have made in the original proceeding, except as herein otherwise provided.

Subd. 2. **MODIFICATION.** (a) The terms of ~~a decree~~ an order respecting maintenance or support may be modified upon a showing of one or more of the following: (1) substantially increased or decreased earnings of a party; (2) substantially increased or decreased need of a party or the child or children that are the subject of these proceedings; (3) receipt of assistance under sections 256.72 to 256.87; or (4) a change in the cost of living for either party as measured by the federal bureau of statistics, any of which makes the terms unreasonable and unfair.

The terms of a current support order shall be rebuttably presumed to be unreasonable and unfair if the application of the child support guidelines in section 518.551, subdivision 5, to the current circumstances of the parties results in a calculated court order that is at least 20 percent and at least $50 per month higher or lower than the current support order.

(b) On a motion for modification of maintenance, the court shall apply, in addition to all other relevant factors, the factors for an award of maintenance under section 518.552 that exist at the time of the motion. On a motion for modification of support, the court:

(1) shall ~~take into consideration the needs of the children~~ apply section 518.551, subdivision 5, and shall not consider the financial circumstances of each party's spouse, if any; and

(2) shall not consider compensation received by a party for employment in excess of a 40-hour work week, provided that the party demonstrates, and the court finds, that:

(i) the excess employment began after entry of the existing support order;

(ii) the excess employment is voluntary and not a condition of employment;

(iii) the excess employment is in the nature of additional, part-time employment, or overtime employment compensable by the hour or fractions of an hour;

(iv) the party's compensation structure has not been changed for the purpose of affecting a support or maintenance obligation;

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(v) in the case of an obligor, current child support payments are at least equal to the guidelines amount based on income not excluded under this clause; and

(vi) in the case of an obligor who is in arrears in child support payments to the obligee, any net income from excess employment must be used to pay the arrearages until the arrearages are paid in full.

(c) A modification of support or maintenance may be made retroactive only with respect to any period during which the petitioning party has pending a motion for modification but only from the date of service of notice of the motion on the responding party and on the public authority if public assistance is being furnished or the county attorney is the attorney of record. However, modification may be applied to an earlier period if the court makes express findings that the party seeking modification was precluded from serving a motion by reason of a significant physical or mental disability ~~or~~, a material misrepresentation of another party, or fraud upon the court and that the party seeking modification, when no longer precluded, promptly served a motion.

(d) Except for an award of the right of occupancy of the homestead, provided in section 518.63, all divisions of real and personal property provided by section 518.58 shall be final, and may be revoked or modified only where the court finds the existence of conditions that justify reopening a judgment under the laws of this state, including motions under section 518.145, subdivision 2. The court may impose a lien or charge on the divided property at any time while the property, or subsequently acquired property, is owned by the parties or either of them, for the payment of maintenance or support money, or may sequester the property as is provided by section 518.24.

Subd. 3. Unless otherwise agreed in writing or expressly provided in the decree, the obligation to pay future maintenance is terminated upon the death of either party or the remarriage of the party receiving maintenance.

Subd. 4. Unless otherwise agreed in writing or expressly provided in the ~~decree~~ order, provisions for the support of a child are terminated by emancipation of the child but not by the death of a parent obligated to support the child. When a parent obligated to pay support dies, the amount of support may be modified, revoked, or commuted to a lump sum payment, to the extent just and appropriate in the circumstances.

Subd. 5. **FORM.** The department of human services shall prepare and make available to courts, obligors and persons to whom child support is owed a form to be submitted by the obligor or the person to whom child support is owed in support of a motion for a modification of an order ~~pursuant to this section or section 256.87~~ for support or maintenance. The rulemaking provisions of chapter 14 shall not apply to the preparation of the form.

Subd. 6. **EXPEDITED PROCEDURE.** (a) The public authority may seek a modification of the child support order in accordance with the rules of civil procedure or under the expedited procedures in this subdivision.

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(b) The public authority may serve the following documents upon the obligor either by certified mail or in the manner provided for service of a summons under the rules of civil procedure:

(i) a notice of its application for modification of the obligor's support order stating the amount and effective date of the proposed modification which date shall be no sooner than 30 days from the date of service;

(ii) an affidavit setting out the basis for the modification under subdivision 2, including evidence of the current income of the parties;

(iii) any other documents the public authority intends to file with the court in support of the modification;

(iv) the proposed order;

(v) notice to the obligor that if the obligor fails to move the court and request a hearing on the issue of modification of the support order within 30 days of service of the notice of application for modification, the public authority will likely obtain an order, ex parte, modifying the support order; and

(vi) an explanation to the obligor of how a hearing can be requested, together with a motion for review form that the obligor can complete and file with the court to request a hearing.

(c) If the obligor moves the court for a hearing, any modification must be stayed until the court has had the opportunity to determine the issue. Any modification ordered by the court is effective on the date set out in the notice of application for modification, but no earlier than 30 days following the date the obligor was served.

(d) If the obligor fails to move the court for hearing within 30 days of service of the notice, the public authority shall file with the court a copy of the notice served on the obligor as well as all documents served on the obligor, proof of service, and a proposed order modifying support.

(e) If, following judicial review, the court determines that the procedures provided for in this subdivision have been followed and the requested modification is appropriate, the order shall be signed ex parte and entered.

(f) Failure of the court to enter an order under this subdivision does not prejudice the right of the public authority or either party to seek modification in accordance with the rules of civil procedure.

(g) The supreme court shall develop standard forms for the notice of application of modification of the support order, the supporting affidavit, the obligor's responsive motion, and proposed order granting the modification.

Sec. 80. Minnesota Statutes 1990, section 609.52, is amended by adding a subdivision to read:

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Subd. 4. **WRONGFULLY OBTAINED PUBLIC ASSISTANCE; CONSIDERATION OF DISQUALIFICATION.** When determining the sentence for a person convicted of theft by wrongfully obtaining public assistance, as defined in section 256.98, subdivision 1, the court shall consider the fact that, under section 256.98, subdivision 8, the person will be disqualified from receiving public assistance as a result of the person's conviction.

Sec. 81. **STUDY.**

The commissioner of human services shall monitor the families who are unable to get child care subsidies through the basic sliding fee program after completing their year of transition child care and shall report findings to the legislature by January 1, 1993. The report shall include, but not be limited to, the following data on these families: the total number losing child care and the counties in which they live, the length of time for each family to reach the top of the waiting list, the number of families returning to AFDC while they are waiting for child care, and, if available, the type of child care arrangements made by families who lost child care subsidies.

Sec. 82. **REPEALERS; PLAN.**

Subdivision 1. **FAMILY INVESTMENT PLAN.** Minnesota Statutes 1990, sections 256.032, subdivisions 5 and 9; 256.035, subdivisions 6 and 7; and 256.036, subdivision 10, are repealed.

Subd. 2. **GENERAL ASSISTANCE WORK READINESS.** Minnesota Statutes 1990, sections 256D.051, subdivisions 1b, 3c, and 16; 256D.09, subdivision 4; and 256D.101, subdivision 2, are repealed.

Subd. 3. **CHILD CARE.** Minnesota Statutes 1990, sections 256H.25 and 256H.26; and Laws 1989, chapter 282, article 5, section 130, are repealed.

Sec. 83. **INSTRUCTION TO THE REVISOR.**

In the next edition of Minnesota Statutes, the revisor of statutes shall renumber Minnesota Statutes, section 256.035, subdivision 4, as Minnesota Statutes, section 256.033, subdivision 1a.

Sec. 84. **FUNDS ALLOCATION; FEDERAL CHILD CARE FUNDS.**

The commissioner shall consult with and consider the recommendations of the early childhood care and education council for the use of federal funds received for child care purposes. After public hearing on the matter, the commissioner shall develop a state plan for expenditure of the federal funds, to include allocation of federal funds for the Minnesota early childhood care and education council for the biennium ending June 30, 1993. Legislative hearings on the provisions of this section and sections 17; 32, subdivision 2b; 47 to 49; 52 to 55; 58; 59; 70; and 71 constitute a public hearing as required by this section and by federal law.

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Sec. 85. **EFFECTIVE DATES.**

Subdivision 1. **MINNESOTA FAMILY INVESTMENT PLAN.** Sections 12 to 21; 82, subdivision 1; and 83 are effective July 1, 1991, only for purposes of planning and securing federal waivers. Actual implementation of the program is delayed until specifically authorized during the biennium beginning July 1, 1993.

Subd. 2. **PUBLIC ASSISTANCE FRAUD.** Sections 26 and 80 are effective July 1, 1991, and apply to assistance wrongfully obtained after that date. Sections 27, subdivision 2; and 29 are effective the day following final enactment.

Subd. 3. **OTHER ASSISTANCE PROVISIONS.** Sections 6 to 10, 22 to 25, 30, 31, and 51 are effective the day after final enactment, except as indicated in section 9.

Subd. 4. **CHILD SUPPORT.** Sections 4 and 78 are effective May 1, 1992. Sections 75 and 77 are effective June 1, 1991. Sections 1 to 3 are effective January 1, 1992.

ARTICLE 6

MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES

Section 1. Minnesota Statutes 1990, section 245.461, subdivision 3, is amended to read:

Subd. 3. **REPORT.** By February 15, 1988, and annually after that until February 15, ~~1990~~ 1994, the commissioner shall report to the legislature on all steps taken and recommendations for full implementation of sections 245.461 to 245.486 and on additional resources needed to further implement those sections.

Sec. 2. Minnesota Statutes 1990, section 245.461, is amended by adding a subdivision to read:

Subd. 5. **FUNDING FROM THE FEDERAL GOVERNMENT AND OTHER SOURCES.** The commissioner shall seek and apply for federal and other nonstate, nonlocal government funding for the mental health services specified in sections 245.461 to 245.486, in order to maximize nonstate, nonlocal dollars for these services.

Sec. 3. Minnesota Statutes 1990, section 245.462, subdivision 6, is amended to read:

Subd. 6. **COMMUNITY SUPPORT SERVICES PROGRAM.** "Community support services program" means services, other than inpatient or residential treatment services, provided or coordinated by an identified program and staff under the clinical supervision of a mental health professional designed

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to help adults with serious and persistent mental illness to function and remain in the community. A community support services program includes:

(1) client outreach,

(2) medication monitoring,

(3) assistance in independent living skills,

(4) development of employability and work-related opportunities,

(5) crisis assistance,

(6) psychosocial rehabilitation,

(7) help in applying for government benefits, and

(8) ~~the development, identification, and monitoring of living arrangements~~ housing support services.

The community support services program must be coordinated with the case management services specified in section 245.4711.

Sec. 4. Minnesota Statutes 1990, section 245.462, subdivision 18, is amended to read:

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

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

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

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

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

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

Sec. 5. Minnesota Statutes 1990, section 245.4711, is amended by adding a subdivision to read:

Subd. 9. **REVISION OF RULES.** (a) The commissioner, by July 1, 1992, shall revise existing rules governing case management services, in order to:

(1) make improvements in rule flexibility;

(2) establish a comprehensive coordination of services;

(3) require case managers to arrange for standardized assessments of side effects related to the administration of psychotropic medication;

(4) establish a reasonable caseload limit for case managers;

(5) provide reimbursement for transportation costs for case managers; and

(6) review the eligibility criteria for case management services covered by medical assistance.

(b) Until rule amendments are adopted under paragraph (a), in-county travel by case managers is reimbursable under the medical assistance program subject to the six-hour limit on case management services.

Sec. 6. Minnesota Statutes 1990, section 245.472, subdivision 2, is amended to read:

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

Sec. 7. Minnesota Statutes 1990, section 245.472, is amended by adding a subdivision to read:

Subd. 4. **ADMISSION, CONTINUED STAY, AND DISCHARGE CRITERIA.** No later than January 1, 1992, the county board shall ensure that placement decisions for residential services are based on the clinical needs of the adult. The county board shall ensure that each entity under contract with the county to provide residential treatment services has admission, continued stay,

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discharge criteria and discharge planning criteria as part of the contract. Contracts shall specify specific responsibilities between the county and service providers to ensure comprehensive planning and continuity of care between needed services according to data privacy requirements. All contracts for the provision of residential services must include provisions guaranteeing clients the right to appeal under section 245.477 and to be advised of their appeal rights.

Sec. 8. Minnesota Statutes 1990, section 245.473, is amended by adding a subdivision to read:

Subd. 3. **ADMISSION, CONTINUED STAY, AND DISCHARGE CRITERIA.** No later than January 1, 1992, the county board shall ensure that placement decisions for acute care inpatient services are based on the clinical needs of the adult. The county board shall ensure that each entity under contract with the county to provide acute care hospital treatment services has admission, continued stay, discharge criteria and discharge planning criteria as part of the contract. Contracts shall specify specific responsibilities between the county and service providers to ensure comprehensive planning and continuity of care between needed services according to data privacy requirements. All contracts for the provision of acute care hospital inpatient treatment services must include provisions guaranteeing clients the right to appeal under section 245.477 and to be advised of their appeal rights.

Sec. 9. Minnesota Statutes 1990, section 245.473, is amended by adding a subdivision to read:

Subd. 4. **INDIVIDUAL PLACEMENT AGREEMENT.** Except for services reimbursed under chapters 256B and 256D, the county board shall enter into an individual placement agreement with a provider of acute care hospital inpatient treatment services to an adult eligible for services under this section. The agreement must specify the payment rate and the terms and conditions of county payment for the placement.

Sec. 10. Minnesota Statutes 1990, section 245.484, is amended to read:

245.484 **RULES.**

The commissioner shall adopt emergency rules to govern implementation of case management services for eligible children in section 245.4881 and professional home-based family treatment services for medical assistance eligible children, in section 245.4884, subdivision 3, by January 1, 1992, and must adopt permanent rules by January 1, 1993.

The commissioner shall adopt permanent rules as necessary to carry out sections 245.461 to 245.486 and ~~Laws 1989, chapter 282, article 4, sections 1 to 53~~ 245.487 to 245.4887. The commissioner shall reassign agency staff as necessary to meet this deadline.

Sec. 11. Minnesota Statutes 1990, section 245.487, subdivision 4, is amended to read:

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Subd. 4. **IMPLEMENTATION.** (a) The commissioner shall begin implementing sections 245.487 to 245.4887 by February 15, 1990, and shall fully implement sections 245.487 to 245.4887 by ~~January~~ July 1, ~~1992~~ 1993.

(b) Annually until February 15, ~~1992~~ 1994, the commissioner shall report to the legislature on all steps taken and recommendations for full implementation of sections 245.487 to 245.4887 and on additional resources needed to further implement those sections. The report shall include information on county and state progress in identifying the needs of cultural and racial minorities and in using special mental health consultants to meet these needs.

Sec. 12. Minnesota Statutes 1990, section 245.487, is amended by adding a subdivision to read:

Subd. 6. **FUNDING FROM THE FEDERAL GOVERNMENT AND OTHER SOURCES.** The commissioner shall seek and apply for federal and other nonstate, nonlocal government funding for mental health services specified in sections 245.487 to 245.4887, in order to maximize nonstate, nonlocal dollars for these services.

Sec. 13. Minnesota Statutes 1990, section 245.4871, subdivision 27, is amended to read:

Subd. 27. **MENTAL HEALTH PROFESSIONAL.** "Mental health professional" means a person providing clinical services in the diagnosis and treatment of children's emotional disorders. A mental health professional must have training and experience in working with children consistent with the age group to which the mental health professional is assigned. A mental health professional must be qualified in at least one of the following ways:

(1) in psychiatric nursing, the mental health professional must be a registered nurse who is licensed under sections 148.171 to 148.285 and who is certified as a clinical specialist in child and adolescent psychiatric or mental health nursing by the American nurses association or who has a master's degree in nursing or one of the behavioral sciences or related fields from an accredited college or university or its equivalent, with at least 4,000 hours of post-master's supervised experience in the delivery of clinical services in the treatment of mental illness;

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

(3) in psychology, the mental health professional must be a psychologist licensed under sections 148.88 to 148.98 who has stated to the board of psychology competencies in the diagnosis and treatment of mental disorders;

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(4) in psychiatry, the mental health professional must be a physician licensed under chapter 147 and certified by the American board of psychiatry and neurology or eligible for board certification in psychiatry; or

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

Sec. 14. Minnesota Statutes 1990, section 245.4871, subdivision 31, is amended to read:

Subd. 31. **PROFESSIONAL HOME-BASED FAMILY TREATMENT.** "Professional home-based family treatment" means intensive mental health services provided to children because of an emotional disturbance (1) who are at risk of out-of-home placement; (2) who are in out-of-home placement; or (3) who are returning from out-of-home placement ~~because of an emotional disturbance~~. Services are provided to the child and the child's family primarily in the child's home environment ~~or other location.~~ Services may also be provided in the child's school, child care setting, or other community setting appropriate to the child. ~~Examples of appropriate locations include, but are not limited to, the child's school, day care center, home, and any other living arrangement of the child.~~ Services must be provided on an individual family basis, must be child-oriented and family-oriented, and must be designed using information from diagnostic and functional assessments to meet the specific mental health needs of the child and the child's family. Examples of services ~~include family and~~ are: (1) individual therapy ~~and~~; (2) family therapy; (3) client outreach; (4) assistance in developing individual living skills ~~training and~~; (5) assistance in developing parenting skills necessary to address the needs of the child; (6) assistance with leisure and recreational services; (7) crisis assistance, including crisis respite care and arranging for crisis placement; and (8) assistance in locating respite and child care. Services must be coordinated with other ~~service providers~~ services provided to the child and family.

Sec. 15. Minnesota Statutes 1990, section 245.4871, is amended by adding a subdivision to read:

Subd. 33a. **SPECIAL MENTAL HEALTH CONSULTANT.** "Special mental health consultant" is a mental health practitioner or professional with special expertise in treating children from a particular cultural or racial minority group.

Sec. 16. Minnesota Statutes 1990, section 245.4873, subdivision 6, is amended to read:

Subd. 6. **PRIORITIES.** By January 1, 1992, the commissioner shall require that each of the treatment services and management activities described in sections 245.487 to 245.4887 be developed for children with emotional disturbances within available resources based on the following ranked priorities.

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The commissioner shall reassign agency staff and use consultants as necessary to meet this deadline:

(1) the provision of locally available mental health emergency services;

(2) the provision of locally available mental health services to all children with severe emotional disturbance;

(3) the provision of early identification and intervention services to children who are at risk of needing or who need mental health services;

(4) the provision of specialized mental health services regionally available to meet the special needs of all children with severe emotional disturbance, and all children with emotional disturbances;

(5) the provision of locally available services to children with emotional disturbances; and

(6) the provision of education and preventive mental health services.

Sec. 17. Minnesota Statutes 1990, section 245.4874, is amended to read:

245.4874 **DUTIES OF COUNTY BOARD.**

The county board in each county shall use its share of mental health and community social service act funds allocated by the commissioner according to a biennial local children's mental health service proposal required under section 245.4887, and approved by the commissioner. The county board must:

(1) develop a system of affordable and locally available children's mental health services according to sections 245.487 to 245.4887;

(2) assure that parents and providers in the county receive information about how to gain access to services provided according to sections 245.487 to 245.4887;

(3) coordinate the delivery of children's mental health services with services provided by social services, education, corrections, health, and vocational agencies to improve the availability of mental health services to children and the cost effectiveness of their delivery;

(4) assure that mental health services delivered according to sections 245.487 to 245.4887 are delivered expeditiously and are appropriate to the child's diagnostic assessment and individual treatment plan;

(5) provide the community with information about predictors and symptoms of emotional disturbances and how to access children's mental health services according to sections 245.4877 and 245.4878;

(6) provide for case management services to each child with severe emotional disturbance according to sections 245.486; 245.4871, subdivisions 3 and 4; and 245.4881, subdivisions 1, 3, and 5;

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(7) provide for screening of each child under section 245.4885 upon admission to a residential treatment facility, acute care hospital inpatient treatment, or informal admission to a regional treatment center;

(8) prudently administer grants and purchase-of-service contracts that the county board determines are necessary to fulfill its responsibilities under sections 245.487 to 245.4887;

(9) assure that mental health professionals, mental health practitioners, and case managers employed by or under contract to the county to provide mental health services are qualified under section 245.4871; ~~and~~

(10) assure that children's mental health services are coordinated with adult mental health services specified in sections 245.461 to 245.486 so that a continuum of mental health services is available to serve persons with mental illness, regardless of the person's age; and

(11) assure that special mental health consultants are used as necessary to assist the county board in assessing and providing appropriate treatment for children of cultural or racial minority heritage.

Sec. 18. Minnesota Statutes 1990, section 245.4881, subdivision 1, is amended to read:

Subdivision 1. **AVAILABILITY OF CASE MANAGEMENT SERVICES.**

(a) By ~~July~~ April 1, ~~1991~~ 1992, the county board shall provide case management services for each child with severe emotional disturbance who is a resident of the county and the child's family who request or consent to the services. Staffing ratios must be sufficient to serve the needs of the clients. The case manager must meet the requirements in section 245.4871, subdivision 4.

(b) Except as permitted by law and the commissioner under demonstration projects, case management services provided to children with severe emotional disturbance eligible for medical assistance must be billed to the medical assistance program under sections 256B.02, subdivision 8, and 256B.0625.

Sec. 19. Minnesota Statutes 1990, section 245.4882, is amended by adding a subdivision to read:

Subd. 4. **ADMISSION, CONTINUED STAY, AND DISCHARGE CRITERIA.** No later than January 1, 1992, the county board shall ensure that placement decisions for residential treatment services are based on the clinical needs of the child. The county board shall ensure that each entity under contract to provide residential treatment services has admission, continued stay, discharge criteria and discharge planning criteria as part of the contract. Contracts shall specify specific responsibilities between the county and service providers to ensure comprehensive planning and continuity of care between needed services according to data privacy requirements. The county board shall ensure that, at least ten days prior to discharge, the operator of the residential treatment facility

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shall provide written notification of the discharge to the child's parent or caretaker, the local education agency in which the child is enrolled, and the receiving education agency to which the child will be transferred upon discharge. When the child has an individual education plan, the notice shall include a copy of the individual education plan. All contracts for the provision of residential services must include provisions guaranteeing clients the right to appeal under section 245.4886 and to be advised of their appeal rights.

Sec. 20. Minnesota Statutes 1990, section 245.4882, is amended by adding a subdivision to read:

Subd. 5. **SPECIALIZED RESIDENTIAL TREATMENT SERVICES.** The commissioner of human services shall establish or contract for specialized residential treatment services for children. The services shall be designed for children with emotional disturbance who exhibit violent or destructive behavior and for whom local treatment services are not feasible due to the small number of children statewide who need the services and the specialized nature of the services required. The services shall be located in community settings. If no appropriate services are available in Minnesota or within the geographical area in which the residents of the county normally do business, the commissioner is responsible for 50 percent of the nonfederal costs of out-of-state treatment of children for whom no appropriate resources are available in Minnesota. Counties are eligible to receive enhanced state funding under this section only if they have established juvenile screening teams under section 260.151, subdivision 3.

Sec. 21. Minnesota Statutes 1990, section 245.4883, is amended by adding a subdivision to read:

Subd. 3. **ADMISSION, CONTINUED STAY, AND DISCHARGE CRITERIA.** No later than January 1, 1992, the county board shall ensure that placement decisions for acute care hospital inpatient treatment services are based on the clinical needs of the child and, if appropriate, the child's family. The county board shall ensure that each entity under contract with the county to provide acute care hospital treatment services has admission, continued stay, discharge criteria and discharge planning criteria as part of the contract. Contracts should specify the specific responsibilities between the county and service providers to ensure comprehensive planning and continuity of care between needed services according to data privacy requirements. All contracts for the provision of acute care hospital inpatient treatment services must include provisions guaranteeing clients the right to appeal under section 245.4886 and to be advised of their appeal rights.

Sec. 22. Minnesota Statutes 1990, section 245.4884, subdivision 1, is amended to read:

Subdivision 1. **AVAILABILITY OF FAMILY COMMUNITY SUPPORT SERVICES.** By July 1, 1991, county boards must provide or contract for sufficient family community support services within the county to meet the needs of each child with severe emotional disturbance who resides in the county and the

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child's family. Children or their parents may be required to pay a fee in accordance with section 245.481.

Family community support services must be designed to improve the ability of children with severe emotional disturbance to:

(1) ~~handle~~ manage basic activities of daily living;

(2) ~~improve functioning~~ function appropriately in home, school, and community settings;

(3) participate in leisure time or community youth activities;

(4) set goals and plans;

(5) reside with the family in the community;

(6) participate in after-school and summer activities;

(7) make a smooth transition among mental health and education services provided to children; and

(8) make a smooth transition into the adult mental health system as appropriate.

In addition, family community support services must be designed to improve overall family functioning if clinically appropriate to the child's needs, and to reduce the need for and use of placements more intensive, costly, or restrictive both in the number of admissions and lengths of stay than indicated by the child's diagnostic assessment.

Sec. 23. Minnesota Statutes 1990, section 245.4885, subdivision 1, is amended to read:

Subdivision 1. **SCREENING REQUIRED.** The county board shall, ~~upon~~ prior to admission, except in the case of emergency admission, screen all children ~~admitted~~ referred for treatment of severe emotional disturbance to a residential treatment facility~~, an acute care hospital,~~ or informally admitted to a regional treatment center if public funds are used to pay for the services. The county board shall also screen all children admitted to an acute care hospital for treatment of severe emotional disturbance if public funds other than reimbursement under chapters 256B and 256D are used to pay for the services. If a child is admitted to a residential treatment facility or acute care hospital for emergency treatment ~~of emotional disturbance~~ or held for emergency care by a regional treatment center under section 253B.05, subdivision 1, screening must occur within ~~five~~ three working days of admission. Screening shall determine whether the proposed treatment:

(1) is necessary;

(2) is appropriate to the child's individual treatment needs;

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(3) cannot be effectively provided in the child's home; and

(4) provides a length of stay as short as possible consistent with the individual child's need.

Screening shall include both a diagnostic assessment and a functional assessment which evaluates family, school, and community living situations. If a diagnostic assessment or functional assessment has been completed by a mental health professional within 180 days, a new diagnostic or functional assessment need not be completed unless in the opinion of the current treating mental health professional the child's mental health status has changed markedly since the assessment was completed. The child's parent shall be notified if an assessment will not be completed and of the reasons. A copy of the notice shall be placed in the child's file. Recommendations developed as part of the screening process shall include specific community services needed by the child and, if appropriate, the child's family, and shall indicate whether or not these services are available and accessible to the child and family.

During the screening process, the child, child's family, or child's legal representative, as appropriate, must be informed of the child's eligibility for case management services and family community support services and that an individual family community support plan is being developed by the case manager, if assigned.

Screening shall be in compliance with section 256F.07 or 257.071, whichever applies. Wherever possible, the parent shall be consulted in the screening process, unless clinically inappropriate.

The screening process, and placement decision, and recommendations for mental health services must be documented in the child's record.

An alternate review process may be approved by the commissioner if the county board demonstrates that an alternate review process has been established by the county board and the times of review, persons responsible for the review, and review criteria are comparable to the standards in clauses (1) to ~~(5)~~ (4).

Sec. 24. Minnesota Statutes 1990, section 245.4885, subdivision 2, is amended to read:

Subd. 2. **QUALIFICATIONS.** No later than July 1, 1991, screening of children for residential and inpatient services must be conducted by a mental health professional. Where appropriate and available, special mental health consultants must participate in the screening. Mental health professionals providing screening for inpatient and residential services must not be financially affiliated with any acute care inpatient hospital, residential treatment facility, or regional treatment center. The commissioner may waive this requirement for mental health professional participation after July 1, 1991, if the county documents that:

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(1) mental health professionals or mental health practitioners are unavailable to provide this service; and

(2) services are provided by a designated person with training in human services who receives clinical supervision from a mental health professional.

Sec. 25. Minnesota Statutes 1990, section 245.4885, is amended by adding a subdivision to read:

Subd. 5. **SUMMARY DATA COLLECTION.** The county board shall annually collect summary information on the number of children screened, the age and racial or ethnic background of the children, the presenting problem, and the screening recommendations. The county shall include information on the degree to which these recommendations are followed and the reasons for not following recommendations. Summary data shall be available to the public and shall be used by the county board and local children's advisory council to identify needed service development.

Sec. 26. **[245.4886] CHILDREN'S COMMUNITY-BASED MENTAL HEALTH FUND.**

Subdivision 1. **STATEWIDE PROGRAM; ESTABLISHMENT.** The commissioner shall establish a statewide program to assist counties in providing services to children with severe emotional disturbance as defined in section 245.4871, subdivision 15, and their families. Services must be designed to help each child to function and remain with the child's family in the community. The commissioner shall make grants to counties to establish, operate, or contract with private providers to provide the following services in the following order of priority when these cannot be reimbursed under section 256B.0625:

(1) family community support services including crisis placement and crisis respite care as specified in section 245.4871, subdivision 17;

(2) case management services as specified in section 245.4871, subdivision 3;

(3) day treatment services as specified in section 245.4871, subdivision 10;

(4) professional home-based family treatment as specified in section 245.4871, subdivision 31; and

(5) therapeutic support of foster care as specified in section 245.4871, subdivision 34.

Funding appropriated beginning July 1, 1991, must be used by county boards to provide family community support services and case management services. Additional services shall be provided in the order of priority as identified in this subdivision.

Subd. 2. **GRANT APPLICATION AND REPORTING REQUIREMENTS.**

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To apply for a grant a county board shall submit an application and budget for the use of the money in the form specified by the commissioner. The commissioner shall make grants only to counties whose applications and budgets are approved by the commissioner. In awarding grants, the commissioner shall give priority to those counties whose applications indicate plans to collaborate in the development, funding, and delivery of services with other agencies in the local system of care. The commissioner may adopt emergency and permanent rules to govern grant applications, approval of applications, allocation of grants, and maintenance of financial statements by grant recipients and may establish grant requirements for the fiscal year ending June 30, 1992, without adopting rules. The commissioner shall specify requirements for reports, including quarterly fiscal reports, according to section 256.01, subdivision 2, paragraph (17). The commissioner shall require collection of data and periodic reports which the commissioner deems necessary to demonstrate the effectiveness of each service in realizing the stated purpose as specified for family community support in section 245.4884, subdivision 1; therapeutic support of foster care in section 245.4884, subdivision 4; professional home-based family treatment in section 245.4884, subdivision 3; day treatment in section 245.4884, subdivision 2; and case management in section 245.4881.

Sec. 27. Minnesota Statutes 1990, section 245.697, subdivision 1, is amended to read:

Subdivision 1. **CREATION.** A state advisory council on mental health is created. The council must have 30 members appointed by the governor in accordance with federal requirements. The council must be composed of:

(1) the assistant commissioner of mental health for the department of human services;

(2) a representative of the department of human services responsible for the medical assistance program;

(3) one member of each of the four core mental health professional disciplines (psychiatry, psychology, social work, nursing);

(4) one representative from each of the following advocacy groups: mental health association of Minnesota, Minnesota alliance for the mentally ill, and Minnesota mental health law project;

(5) providers of mental health services;

(6) consumers of mental health services;

(7) family members of persons with mental illnesses;

(8) legislators;

(9) social service agency directors;

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(10) county commissioners; and

(11) other members reflecting a broad range of community interests, as the United States Secretary of Health and Human Services may prescribe by regulation or as may be selected by the governor.

The council shall select a chair. Terms, compensation, and removal of members and filling of vacancies are governed by section 15.059. The council does not expire as provided in section 15.059. The commissioner of human services shall provide staff support and supplies to the council.

Sec. 28. Minnesota Statutes 1990, section 246.18, subdivision 4, is amended to read:

Subd. 4. **COLLECTIONS DEPOSITED IN MEDICAL ASSISTANCE ACCOUNT.** Except as provided in ~~subdivision~~ subdivisions 2 and 5, all receipts from collection efforts for the regional treatment centers, state nursing homes, and other state facilities as defined in section 246.50, subdivision 3, must be deposited in the medical assistance account and are appropriated for that purpose. The commissioner shall ensure that the departmental financial reporting systems and internal accounting procedures comply with federal standards for reimbursement for program and administrative expenditures and fulfill the purpose of this paragraph.

Sec. 29. Minnesota Statutes 1990, section 246.18, is amended by adding a subdivision to read:

Subd. 5. **FUNDED DEPRECIATION ACCOUNTS FOR STATE-OPERATED, COMMUNITY-BASED PROGRAMS.** Separate interest-bearing funded depreciation accounts shall be established in the state treasury for state-operated, community-based programs meeting the definition of a facility in Minnesota Rules, part 9553.0020, subpart 19, or a vendor in section 252.41, subdivision 9. As payments for state-operated community-based services are received by the commissioner, the portion of the payment rate representing allowable depreciation expense and the capital debt reduction allowance shall be deposited in the state treasury and credited to the separate interest-bearing accounts as dedicated receipts with unused funds carried over to the next fiscal year. Funds within these funded depreciation accounts are appropriated to the commissioner of human services for the purchase or replacement of capital assets or payment of capitalized repairs for each respective program. These accounts will satisfy the requirements of Minnesota Rules, part 9553.0060, subparts 1, item E, and 5.

Sec. 30. Minnesota Statutes 1990, section 251.011, subdivision 3, is amended to read:

Subd. 3. **AH-GWAH-CHING ~~NURSING HOME~~ CENTER.** When tuberculosis treatment is discontinued at Ah-Gwah-Ching that facility may be used by the commissioner of human services for the care of geriatric patients, and shall be known as the Ah-Gwah-Ching ~~Nursing Home~~ Center.

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Sec. 31. Minnesota Statutes 1990, section 251.011, subdivision 4a, is amended to read:

Subd. 4a. **NURSING HOME BEDS AT REGIONAL TREATMENT CENTERS.** The commissioner shall operate the following number of nursing home beds at regional treatment centers in addition to current capacity: at Brainerd, 105 beds; at Cambridge, 70 beds; and at Fergus Falls, 85 beds. The commissioner may operate nursing home beds at other regional treatment centers as necessary to provide an appropriate level of care for persons served at those centers. The commissioner shall develop the regional treatment center nursing home beds authorized in the worksheets of the house appropriations and senate finance committees. The commissioner shall finance the purchase or construction of the nursing home beds with the Minnesota housing finance agency. The commissioner shall make payments through the department of administration to the Minnesota housing finance agency in repayment of mortgage loans granted for the purposes of this section.

Sec. 32. Minnesota Statutes 1990, section 252.27, subdivision 1a, is amended to read:

Subd. 1a. **DEFINITIONS.** A person has a "related condition" if that person has a severe, chronic disability that ~~is~~ meets all of the following conditions: (a) is attributable to cerebral palsy, epilepsy, autism, Prader-Willi syndrome, or any other condition, other than mental illness, found to be closely related to mental retardation because the condition results in impairment of general intellectual functioning or adaptive behavior similar to that of persons with mental retardation ~~or~~ and requires treatment or services similar to those required for persons with mental retardation; (b) is manifested before the person reaches 22 years of age; (c) is likely to continue indefinitely; and ~~(c)~~ (d) results in substantial functional limitations in three or more of the following areas of major life activity: (1) self-care, (2) understanding and use of language, (3) learning, (4) mobility, (5) self-direction, ~~or~~ (6) capacity for independent living. For the purposes of this section, a child has an "emotional handicap" if the child has a psychiatric or other emotional disorder which substantially impairs the child's mental health and requires 24-hour treatment or supervision.

Sec. 33. Minnesota Statutes 1990, section 252.27, subdivision 2a, is amended to read:

Subd. 2a. **CONTRIBUTION AMOUNT.** (a) The natural or adoptive parents of a minor child, including a child determined eligible for medical assistance without consideration of parental income, must contribute monthly to the cost of services, unless the child is married or has been married, parental rights have been terminated, or the child's adoption is subsidized according to section 259.40 or through title IV-E of the Social Security Act.

(b) The parental contribution ~~equals the following percentage of that portion of~~ shall be computed by applying to the adjusted gross income of the natural or adoptive parents that exceeds 200 percent of the federal poverty guidelines for the applicable household size, the following schedule of rates:

~~Adjusted Gross Income~~	~~Percentage contribution exceeding 200 percent of poverty~~
~~Under $49,999~~	~~10~~
~~$50,000 to $59,999~~	~~12~~

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~~$60,000 to $74,999 14~~
~~$75,000 or more 15~~

(1) on the amount of adjusted gross income over 200 percent of poverty, but not over $50,000, ten percent;

(2) on the amount of adjusted gross income over 200 percent of poverty and over $50,000 but not over $60,000, 12 percent;

(3) on the amount of adjusted gross income over 200 percent of poverty, and over $60,000 but not over $75,000, 14 percent; and

(4) on all adjusted gross income amounts over 200 percent of poverty, and over $75,000, 15 percent.

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

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

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

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

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

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

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

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

Sec. 34. Minnesota Statutes 1990, section 252.275, is amended to read:

252.275 SEMI-INDEPENDENT LIVING SERVICES FOR PERSONS WITH MENTAL RETARDATION OR RELATED CONDITIONS.

Subdivision 1. **PROGRAM.** The commissioner of human services shall establish a statewide program to ~~assist counties in reducing the utilization of intermediate care services in state hospitals and in community residential facilities, including nursing homes,~~ provide support for persons with mental retardation or related conditions to live as independently as possible in the community. An objective of the program is to reduce unnecessary use of intermediate care facilities for persons with mental retardation or related conditions and home and community-based services. The commissioner shall ~~make grants to~~ reimburse county boards ~~to establish, operate, or contract~~ for the provision of semi-independent living services licensed by the commissioner pursuant to sections 245A.01 to 245A.16 and 252.28, and for the provision of one-time living allowances to secure and furnish a home for a person who will receive semi-independent living services under this section, if other public funds are not available for the allowance.

For the purposes of this section, "semi-independent living services" means training and assistance in managing money, preparing meals, shopping, maintaining personal appearance and hygiene, and other activities which are needed to maintain and improve an adult with mental retardation or a related condition's capability to live in the community. Eligible persons must be age 18 or older, must need less than a 24-hour plan of care, and must be unable to function independently without semi-independent living services.

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Semi-independent living services costs and one-time living allowance costs may be paid directly by the county, or may be paid by the recipient with a voucher or cash issued by the county.

Subd. 1a. **SERVICE REQUIREMENTS.** The methods, materials, and settings used to provide semi-independent living services to a person must be designed to:

(1) increase the person's independence in performing tasks and activities by teaching skills that reduce dependence on caregivers;

(2) provide training in an environment where the skill being taught is typically used;

(3) increase the person's opportunities to interact with nondisabled individuals who are not paid caregivers;

(4) increase the person's opportunities to use community resources and participate in community activities, including recreational, cultural, and educational resources, stores, restaurants, religious services, and public transportation;

(5) increase the person's opportunities to develop decision-making skills and to make informed choices in all aspects of daily living, including:

(i) selection of service providers;

(ii) goals and methods;

(iii) location and decor of residence;

(iv) roommates;

(v) daily routines;

(vi) leisure activities; and

(vii) personal possessions;

(6) provide daily schedules, routines, environments and interactions similar to those of nondisabled individuals of the same chronological age; and

(7) comply with section 245.825, subdivision 1.

~~Subd. 2. **APPLICATION; CRITERIA.** To apply for a grant, a county board shall submit an application and budget for use of grant money in the form specified by the commissioner. The commissioner shall make grants only to counties whose applications and budgets or portions thereof are approved by the commissioner.~~

Subd. 3. **REIMBURSEMENT.** ~~On or before September 1 of each year, the~~

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~~commissioner shall allocate available funds to the counties which have approved plans and budgets. The commissioner shall disburse the funds on a quarterly basis during the fiscal year to reimburse counties for costs incurred in providing services to individual clients in accordance with the approved plans and budgets.~~ Counties shall be reimbursed for all expenditures made pursuant to subdivision 1 at a rate of 70 percent, up to the allocation determined pursuant to subdivisions 4, 4a, and 4b. However, the commissioner shall not reimburse costs of services for any person if the costs exceed the state share of the average medical assistance costs for services provided by intermediate care facilities for a person with mental retardation or a related condition for the same fiscal year, and shall not reimburse costs of a one-time living allowance for any person if the costs exceed $1,500 in a state fiscal year. For the biennium ending June 30, 1993, the commissioner shall not reimburse costs in excess of the 85th percentile of hourly service costs based upon the cost information supplied to the legislature in the proposed budget for the biennium. The commissioner may make payments to each county in quarterly installments. The commissioner may certify an advance of up to 25 percent of the allocation. Subsequent payments shall be made on a reimbursement basis for reported expenditures and may be adjusted for anticipated spending patterns.

Subd. 4. **FORMULA.** ~~From the appropriations made available for this program, the commissioner shall allocate grants under this section to finance up to 95 percent of each county's approved budget for semi-independent living services for persons with mental retardation or related conditions. The commissioner shall not approve budgeted costs for services for any person which exceed the state share of the average medical assistance costs for services provided by intermediate care facilities for a person with mental retardation or a related condition for the same fiscal year.~~ Effective January 1, 1992, the commissioner shall allocate funds on a calendar year basis. For calendar year 1992, funds shall be allocated based on each county's portion of the statewide reimbursement received under this section for state fiscal year 1991. For subsequent calendar years, funds shall be allocated based on each county's portion of the statewide expenditures eligible for reimbursement under this section during the 12 months ending on June 30 of the preceding calendar year.

If the legislature appropriates funds for special purposes, the commissioner may allocate the funds based on proposals submitted by the counties to the commissioner in a format prescribed by the commissioner. Nothing in this ~~subdivision~~ section prevents a county from using other funds to pay for additional costs of semi-independent living services.

~~As of July 1, 1987, the commissioner shall allocate funds and reimburse county costs for persons approved for funding. The commissioner shall proportionally allocate funds to counties based on the approved budgeted costs for persons approved for funding. The commissioner shall adjust county grants based on actual approved expenditures and shall reallocate funds to the extent necessary. The commissioner may set aside up to two percent of the appropriations to fund county demonstration projects that improve the efficiency and effectiveness of semi-independent living services.~~

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Subd. 4a. **FORMULA LIMITATION.** For calendar year 1993 and all subsequent years, the amounts computed pursuant to subdivision 4 shall be subject to the following limitation: no county shall be allocated an amount less than its guaranteed floor as provided in subdivision 4b. If the amount allocated to any county pursuant to subdivision 4 would be less than its guaranteed floor, the shortage shall be recovered proportionally from all counties which would be allocated more than their guaranteed floor.

Subd. 4b. **GUARANTEED FLOOR.** Each county with an original allocation for the preceding year that is equal to or less than the guaranteed floor minimum index shall have a guaranteed floor equal to its original allocation for the preceding year. Each county with an original allocation for the preceding year that is greater than the guaranteed floor minimum index shall have a guaranteed floor equal to the lesser of clause (1) or (2):

(1) the county's original allocation for the preceding year; or

(2) 70 percent of the county's reported expenditures eligible for reimbursement during the 12 months ending on June 30 of the preceding calendar year.

For calendar year 1993, the guaranteed floor minimum index shall be $20,000. For each subsequent year, the index shall be adjusted by the projected change in the average value in the United States Department of Labor Bureau of Labor Statistics consumer price index (all urban) for that year.

When the amount of funds available for allocation is less than the amount available in the previous year, each county's previous year allocation shall be reduced in proportion to the reduction in the statewide funding, to establish each county's guaranteed floor.

Subd. 4c. **REVIEW OF FUNDS; REALLOCATION.** After each quarter, the commissioner shall review county program expenditures. The commissioner may reallocate unexpended money at any time among those counties which have earned their full allocation.

Subd. 5. **DISPLACED HOSPITAL WORKERS.** Providers of semi-independent living services shall make reasonable efforts to hire qualified employees of ~~state hospital~~ regional treatment center mental retardation units who have been displaced by reorganization, closure, or consolidation of ~~state hospital~~ regional treatment center mental retardation units.

Subd. 6. **RULES.** The commissioner ~~shall~~ may adopt emergency and permanent rules in accordance with chapter 14 to govern ~~grant applications, criteria for approval of applications,~~ allocation ~~of grants, and maintenance of program and financial statements by grant recipients,~~ reimbursement, and compliance.

Subd. 7. **REPORTS.** The commissioner shall specify requirements for reports, including quarterly fiscal and annual program reports, according to section 256.01, subdivision 2, paragraph (17).

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Subd. 8. **USE OF FEDERAL FUNDS.** The commissioner shall make every reasonable effort to maximize the use of federal funds for semi-independent living services.

Subd. 9. **COMPLIANCE.** If a county board or provider under contract with a county board to provide semi-independent living services does not comply with this section and the rules adopted by the commissioner of human services under this section, including the reporting requirements, the commissioner may recover, suspend, or withhold payments.

Sec. 35. Minnesota Statutes 1990, section 252.28, subdivision 1, is amended to read:

Subdivision 1. **DETERMINATIONS; BIENNIAL REDETERMINATIONS.** In conjunction with the appropriate county boards, the commissioner of human services shall determine, and shall redetermine biennially, the need, location, size, and program of public and private residential services and day ~~care facilities and~~ training and habilitation services for ~~children and adults~~ persons with mental retardation or related conditions. This subdivision does not apply to semi-independent living services and residential-based habilitation services provided to four or fewer persons at a single site funded as home and community-based services.

Sec. 36. Minnesota Statutes 1990, section 252.28, subdivision 3, is amended to read:

Subd. 3. **LICENSING DETERMINATIONS.** (1) No new license shall be granted pursuant to this section when the issuance of the license would substantially contribute to an excessive concentration of community residential facilities within any town, municipality or county of the state.

(2) In determining whether a license shall be issued pursuant to this subdivision, the commissioner of human services shall specifically consider the population, size, land use plan, availability of community services and the number and size of existing public and private community residential facilities in the town, municipality or county in which a licensee seeks to operate a residence. Under no circumstances may the commissioner newly license any facility pursuant to this section except as provided in section 245A.11. The commissioner of human services shall establish uniform rules to implement the provisions of this subdivision.

(3) Licenses for community facilities and services shall be issued pursuant to section 245.821.

(4) No new license shall be granted for a residential program that provides home and community-based waivered services to more than four individuals at a site, except as authorized by the commissioner for emergency situations that

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would result in the placement of individuals into regional treatment centers. Such licenses shall not exceed 24 months.

(5) The commissioner shall not approve a determination of need application that requests that an existing residential program license under Minnesota Rules, parts 9525.0215 to 9525.0355 be modified in a manner that would result in the issuance of two or more licenses for the same residential program at the same location.

Sec. 37. Minnesota Statutes 1990, section 252.28, is amended by adding a subdivision to read:

Subd. 5. **APPEALS.** A county may appeal a determination of need, size, location, or program according to chapter 14. Notice of appeals must be provided to the commissioner within 30 days after the receipt of the commissioner's determination.

Sec. 38. **[252.293] EMERGENCY RELOCATIONS.**

Subdivision 1. **EMERGENCY TRANSFERS.** In emergency situations, the commissioner of human services may order the relocation of existing intermediate care facility for persons with mental retardation or related conditions beds, transfer residents, and establish an interim payment rate under the procedures contained in Minnesota Rules, part 9553.0075, for up to two years, as necessary to ensure the replacement of the original services for the residents. The payment rate must be based on projected costs and is subject to settle up. An emergency situation exists when it appears to the commissioner of human services that the health, safety, or welfare of residents may be in jeopardy due to imminent or actual loss of use of the physical plant or damage to the physical plant making it temporarily or permanently uninhabitable. The subsequent rate for a facility providing services for the same resident following the temporary emergency situation must be based upon the costs incurred during the interim period if the residents are permanently placed in the same facility. If the residents need to be relocated for permanent placements, the temporary emergency location must close and the procedures for establishing rates for newly constructed or newly established facilities must be followed. This provision regarding emergency situations does not apply to facilities placed in receivership by the commissioner of human services under section 245A.12 or 245A.13, or facilities that have rates set under section 252.292, subdivision 4, or to relocations of residents to existing facilities.

Subd. 2. **APPROVAL OF TEMPORARY LOCATIONS.** The commissioner of human services shall notify the commissioner of health of the existence of the emergency and the decision to order the relocation of residents. This notice shall also identify the temporary location or locations selected by the commissioner of human services for the relocation of the residents. Notwithstanding the provisions of section 252.291, the commissioner of health may license and certify the temporary location or locations as an intermediate care facility for persons with mental retardation or related conditions if the location complies with the applicable state rules and federal regulations. The facility from which the residents were relocated shall not be used to house residents until the commissioner of

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human services authorizes the return of residents to the facility and the commissioner of health verifies that the facility complies with the applicable state and federal regulations. If the temporary location closes under the provisions of subdivision 1, the license and certification of the temporary location is voided. The voiding of the license and certification shall not be considered as a suspension, revocation, or nonrenewal of the license or as an involuntary decertification of the facility.

Sec. 39. Minnesota Statutes 1990, section 252.32, is amended to read:

252.32 **FAMILY ~~SUBSIDY~~ SUPPORT PROGRAM.**

Subdivision 1. **PROGRAM ESTABLISHED; ~~APPLICATION~~.** In accordance with state policy established in section 256F.01 that all children are entitled to live in families that offer safe, nurturing, permanent relationships, and that public services be directed toward preventing the unnecessary separation of children from their families, and because many families who have children with mental retardation or related conditions have special needs and expenses that other families do not have, the commissioner of human services shall establish a program to ~~provide subsidies to families to enable them to care for their dependents with handicaps in their own home~~ assist families who have dependents with mental retardation or related conditions living in their home. The program shall make support grants available to the families.

Subd. 1a. **SUPPORT GRANTS.** ~~This program~~ (a) Provision of support grants must be limited to families who require support and whose dependents are under the age of 22 and ~~who are mentally retarded or~~ who have mental retardation or who have a related condition and ~~otherwise would require or be eligible for placement in a licensed residential facility as set forth in section 245A.02, subdivision 6~~ who have been determined by a screening team established under section 256B.092 to require the level of care provided by an intermediate care facility for persons with mental retardation or related conditions. Families who are receiving home and community-based waivered services are not eligible for support grants. Families whose annual adjusted gross income is $60,000 or more are not eligible for support grants except in cases where extreme hardship is demonstrated. Beginning in state fiscal year 1994, the commissioner shall adjust the income ceiling annually to reflect the projected change in the average value in the United States Department of Labor Bureau of Labor Statistics consumer price index (all urban) for that year.

(b) Support grants may be made available as monthly subsidy grants and lump sum grants.

(c) Support grants may be issued in the form of cash, voucher, and direct county payment to a vendor.

(d) Applications for the ~~subsidy~~ support grant shall be made by the county social service agency to the department of human services. The application shall specify the needs of the family, the form of the grant requested by the family, and how the ~~subsidy will be used~~ family intends to use the support grant and recommendations of the county.

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(e) Families who were receiving subsidies on the date of implementation of the $60,000 income limit in paragraph (a) continue to be eligible for a family support grant until December 31, 1991, if all other eligibility criteria are met. After December 31, 1991, these families are eligible for a grant in the amount of one-half the grant they would otherwise receive, for as long as they remain eligible under other eligibility criteria.

Subd. 2. **INDIVIDUAL SERVICE PLAN.** Before a support grant is issued, an individual service plan for the dependent as required by section 256E.08 and the rules adopted thereunder, or an individual service plan as requested by the family and defined in 256B.092, shall be developed by the county social service agency and agreed upon by the parents. A transitional plan shall be developed for the dependent when the dependent turns age 17 in order to assure an orderly transition to other services when the family terminates services from this program and to assure that an application is made for supplemental security income and other benefits.

Subd. 3. ~~**SUBSIDY**~~ **AMOUNT OF SUPPORT GRANT; USE.** ~~Subsidy~~ Support grant amounts shall be determined by the commissioner of human services. ~~The subsidy may be used to cover the costs of special equipment, special clothing or diets, related transportation, therapy, medications, respite care, medical care, diagnostic assessments, modifications to the home and vehicle, and other services or items that assist the family and dependent.~~ Each service and item purchased with a support grant must:

(1) be over and above the normal costs of caring for the dependent if the dependent did not have a disability;

(2) be directly attributable to the dependent's disabling condition; and

(3) enable the family to delay or prevent the out-of-home placement of the dependent.

The design and delivery of services and items purchased under this section must suit the dependent's chronological age and be provided in the least restrictive environment possible, consistent with the needs identified in the individual service plan.

Items and services purchased with support grants must be those for which there are no other public or private funds available to the family. Fees assessed to parents for health or human services that are funded by federal, state, or county dollars are not reimbursable through this program.

The maximum monthly amount shall be $250 per eligible dependent, or $3,000 per eligible dependent per state fiscal year, within the limits of available funds. During fiscal year 1992 and 1993, the maximum monthly grant awarded to families who are eligible for medical assistance shall be $200, except in cases where extreme hardship is demonstrated. The commissioner may consider the ~~child's~~ dependent's supplemental security income in determining the amount

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of the ~~subsidy~~ support grant. A variance may be granted by the commissioner to exceed ~~$250~~ $3,000 per state fiscal year per eligible dependent for emergency circumstances in cases where exceptional resources of the family are required to meet the health, welfare-safety needs of the child~~, for a period not to exceed 90 days per fiscal year~~. The commissioner may set aside ~~one~~ up to five percent of the appropriation to fund emergency situations.

Subd. 3a. **REPORTS AND REIMBURSEMENT.** The commissioner shall specify requirements for quarterly fiscal and annual program reports according to section 256.01, subdivision 2, paragraph (17). Program reports shall include data which will enable the commissioner to evaluate program effectiveness and to audit compliance. The commissioner shall reimburse county costs on a quarterly basis.

Subd. 3b. **FEDERAL FUNDS.** The commissioner and the counties shall make every reasonable effort to maximize the use of federal funds for family supports.

Subd. 3c. **COUNTY BOARD RESPONSIBILITIES.** County boards receiving funds under this section shall:

(1) determine the needs of families for services in accordance with section 256B.092 or 256E.08 and any rules adopted under those sections;

(2) determine the eligibility of all persons proposed for program participation;

(3) recommend for approval all items and services to be reimbursed and inform families of the commissioner's approval decision;

(4) issue support grants directly to, or on behalf of, eligible families;

(5) inform recipients of their right to appeal under subdivision 3e;

(6) submit quarterly financial reports under subdivision 3b; and

(7) coordinate services with other programs offered by the county.

Subd. 3d. **APPEALS.** The denial, suspension, or termination of services under this program may be appealed by a recipient or application under section 256.045, subdivision 3.

Subd. 4. **RULEMAKING.** The commissioner shall amend permanent rules to govern ~~subsidy~~ grant applications under this section, criteria for approval, and other areas necessary to implement this program.

Subd. 5. **COMPLIANCE.** If a county board or grantee does not comply with this section and the rules adopted by the commissioner of human services, the commissioner may recover, suspend, or withhold payments.

Sec. 40. Minnesota Statutes 1990, section 252.46, is amended by adding a subdivision to read:

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Subd. 15. **FOR-PROFIT ORGANIZATIONS.** Notwithstanding the requirement in section 252.41, subdivision 9, that vendors be nonprofit entities, the commissioner may approve up to 15 for-profit individuals, corporations, partnerships, voluntary associations, or other organizations to provide day training and habilitation services for the purposes of studying the impacts that for-profit vendors have on the delivery, quality, and costs of day training and habilitation services.

Sec. 41. Minnesota Statutes 1990, section 252.50, subdivision 2, is amended to read:

Subd. 2. **AUTHORIZATION TO BUILD OR PURCHASE.** Within the limits of available appropriations, the commissioner may build, purchase, or lease suitable buildings for state-operated, community-based programs. The commissioner must develop the state-operated community residential facilities authorized in the worksheets of the house appropriations and senate finance committees. The commissioner shall finance the purchase or construction of state-operated, community-based facilities with the Minnesota housing finance agency. The commissioner shall make payments through the department of administration to the Minnesota housing finance agency in repayment of mortgage loans granted for the purposes of this section. Programs must be adaptable to the needs of persons with mental retardation or related conditions and residential programs must be homelike.

Sec. 42. Minnesota Statutes 1990, section 253.015, subdivision 2, is amended to read:

Subd. 2. **PLAN FOR NEEDED REGIONAL TREATMENT CENTER SERVICES.** (a) By January 30, 1990, the commissioner shall develop and submit to the legislature a plan to implement a program for persons in southeastern Minnesota who are mentally ill.

(b) By January 1, 1990, the commissioner shall develop a plan to establish a comprehensive brain injury treatment program at the Faribault regional center site to meet the needs of people with brain injuries in Minnesota. The program shall provide postacute, community integration and family support services for people with brain injuries which have resulted in behavior, cognitive, emotional, communicative and mobility impairments or deficits. The plan shall include development of a brain injury residential unit, a functional evaluation outpatient clinic and an adaptive equipment center within the outpatient clinic. Health care services already available at the regional center or from the Faribault community must be utilized, and the plan shall include provisions and cost estimates for capital improvements, staff retraining, and program start-up costs.

(c) By January 1, 1990, the commissioner shall develop a plan to establish 35 auxiliary beds at Brainerd regional treatment center for the Minnesota security hospital. The commissioner shall develop secure beds for mentally ill persons as authorized in the worksheets of the house appropriations and senate finance committees. The commissioner shall finance the purchase or construction of

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these beds with the Minnesota housing finance agency. The commissioner shall make payments through the department of administration to the Minnesota housing finance agency in repayment of mortgage loans granted for the purposes of this section.

Sec. 43. Minnesota Statutes 1990, section 253C.01, subdivision 1, is amended to read:

Subdivision 1. **DEFINITION.** As used in this section, "residential program" means (1) a ~~freestanding primary treatment program or~~ hospital-based primary treatment program that provides residential treatment to ~~chemically dependent or mentally ill~~ minors with emotional disturbance as defined by the comprehensive children's mental health act in sections 245.487 to 245.4888, or (2) a facility licensed by the state under Minnesota Rules, parts 9545.0900 to 9545.1090, to provide services ~~for emotionally disturbed~~ to minors on a 24-hour basis.

Sec. 44. Minnesota Statutes 1990, section 253C.01, subdivision 2, is amended to read:

Subd. 2. ~~**ANNUAL REPORT**~~ **INFORMATION REQUIRED.** Beginning June 1, 1986, each residential program shall collect the information listed in this subdivision. Each residential program shall ~~file a report no later than December 31, 1986, containing the information collected as of that date. Thereafter, each residential program shall prepare an annual report for the year ending June 30 of each year and file the report no later than December 31 of each year. Hospital-based primary treatment programs shall file the report with the commissioner of health~~ provide the required information annually on a date to be determined by the commissioner of human services. All ~~other~~ residential programs shall ~~file the~~ report ~~with~~ to the commissioner of human services. The summary reports on each program are public data and must contain at least the following information for the period covered by the report:

(1) number of minors admitted to the program;

(2) number of minors discharged from the program;

(3) ~~primary diagnoses of each admitted minor~~ number of minors served during the reporting period;

(4) number of minors who remained in residence for less than 30 days;

(5) number of minors who remained in residence for between 30 and 60 days;

(6) number of minors who remained in residence for more than 60 days;

(7) average length of stay of minors in the program;

(8) number of minors who have received psychotropic medications as part of treatment in the program;

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(9) age, race, and sex of each minor admitted to the program;

(10) ~~copy of written notices, forms, and other procedures being used to advise minors and their parents of their rights;~~

~~(11)~~ number of minors admitted ~~or presently in residence~~ who have previously had residential treatment;

~~(12)~~ (11) number of minors discharged who are on private pay or third-party reimbursement payment and number who are receiving government funds for treatment;

~~(13) criteria for admission and continued stay~~ (12) the county of residence of discharged minors;

~~(14)~~ (13) number of admitted minors whose admission is court-ordered; and

~~(15)~~ (14) number of beds on a locked unit and number of beds on an unlocked unit.

~~The information required by this subdivision must be separately stated for chemically dependent, mentally ill, and emotionally disturbed minors as defined by the residential programs.~~

Sec. 45. Minnesota Statutes 1990, section 256B.0625, subdivision 20, is amended to read:

Subd. 20. **MENTAL ILLNESS CASE MANAGEMENT.** To the extent authorized by rule of the state agency, medical assistance covers case management services to persons with serious and persistent mental illness or subject to federal approval, children with severe emotional disturbance.

Sec. 46. Minnesota Statutes 1990, section 256B.0641, is amended by adding a subdivision to read:

Subd. 3. **FACILITY IN RECEIVERSHIP.** Subdivision 2 does not apply to the change of ownership of a facility to a nonrelated organization while the facility to be sold, transferred or reorganized is in receivership under section 245A.12 or 245A.13, and the commissioner during the receivership has not determined the need to place residents of the facility into a newly constructed or newly established facility. Nothing in this subdivision limits the liability of a former owner.

Sec. 47. Minnesota Statutes 1990, section 256B.092, is amended to read:

256B.092 **CASE MANAGEMENT OF PERSONS WITH MENTAL RETARDATION OR RELATED CONDITIONS.**

Subdivision 1. **COUNTY OF FINANCIAL RESPONSIBILITY; DUTIES.** Before any services shall be rendered to persons with mental retardation or related conditions who are in need of social service and medical assistance, the

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county of financial responsibility shall conduct or arrange for a diagnostic evaluation in order to determine whether the person ~~is~~ has or may ~~be mentally retarded~~ have mental retardation or has or may have a related condition. If the county of financial responsibility determines that the person has mental retardation or a related condition, the county shall inform the person of case management services available under this section. Except as provided in subdivision 1g or 4b, if a ~~client~~ person is diagnosed as ~~mentally retarded~~ having mental retardation or ~~as having~~ a related condition, ~~that~~ the county ~~must~~ of financial responsibility shall conduct or arrange for a needs assessment, develop or arrange for an individual service plan, provide or arrange for ongoing case management services at the level identified in the individual service plan, provide or arrange for case management administration, and authorize ~~placement for~~ services identified in the person's individual service plan developed according to subdivision 1b. Diagnostic information, obtained by other providers or agencies, may be used to meet the diagnosis requirements of this section. Nothing in this section shall be construed as requiring: (1) assessment in areas agreed to as unnecessary by the case manager and the person, or the person's legal guardian or conservator, or the parent if the person is a minor, or (2) assessments in areas where there has been a functional assessment completed in the previous 12 months for which the case manager and the person or person's guardian or conservator, or the parent if the person is a minor, agree that further assessment is not necessary. For persons under state guardianship, the case manager shall seek authorization from the public guardianship office for waiving any assessment requirements. Assessments related to health, safety, and protection of the person for the purpose of identifying service type, amount, and frequency or assessments required to authorize services may not be waived. To the extent possible, for wards of the commissioner the county shall consider the opinions of the parent of the person with mental retardation or a related condition when developing the person's individual service plan. If the county of financial responsibility places a ~~client~~ person in another county for services, the placement shall be made in cooperation with the ~~host~~ county ~~of service~~ where services are provided, according to subdivision 8a, and arrangements shall be made between the two counties for ongoing social service, including annual reviews of the ~~client's~~ person's individual service plan. The ~~host~~ county where services are provided may not make changes in the person's service plan without approval by the county of financial responsibility.

Subd. 1a. **CASE MANAGEMENT ADMINISTRATION AND SERVICES.** ~~Case management services are limited to diagnosis, assessment of the individual's service needs, development of an individual service plan, specification of methods for providing services, and the evaluation and monitoring of the services identified in the plan.~~

(a) The administrative functions of case management provided to or arranged for a person include:

(1) intake;

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(2) diagnosis;

(3) screening;

(4) service authorization;

(5) review of eligibility for services; and

(6) responding to requests for conciliation conferences and appeals according to section 256.045 made by the person, the person's legal guardian or conservator, or the parent if the person is a minor.

(b) Case management service activities provided to or arranged for a person include:

(1) development of the individual service plan;

(2) informing the individual or the individual's legal guardian or conservator, or parent if the person is a minor, of service options;

(3) assisting the person in the identification of potential providers;

(4) assisting the person to access services;

(5) coordination of services;

(6) evaluation and monitoring of the services identified in the plan; and

(7) annual reviews of service plans.

(c) Case management administration and service activities that are provided to the person with mental retardation or a related condition shall be provided directly by county agencies or under contract.

Subd. 1b. **INDIVIDUAL SERVICE PLAN.** The individual service plan must:

(1) include the results of ~~the diagnosis and~~ the assessment information on the person's need for service, including identification of service needs that will be or that are met by the person's relatives, friends, and others, as well as community services used by the general public;

(2) identify the person's preferences for services as stated by the person, the person's legal guardian or conservator, or the parent if the person is a minor;

(3) identify long- and short-range goals ~~and objectives~~ for the ~~client,~~

~~(3)~~ person;

(4) identify specific services and the amount and frequency of the services to be provided to the ~~client,~~

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~~(4)~~ person based on assessed needs, preferences, and available resources. The individual service plan shall also specify other services the person needs that are not available;

(5) identify the need for an ~~habilitation component of the~~ individual program plan~~, and~~

~~(5) identify and coordinate methodologies to carry out the goals and objectives.~~ to be developed by the provider according to the respective state and federal licensing and certification standards, and additional assessments to be completed or arranged by the provider after service initiation;

(6) identify provider responsibilities to implement and make recommendations for modification to the individual service plan;

(7) include notice of the right to request a conciliation conference or a hearing under section 256.045;

(8) be agreed upon and signed by the person, the person's legal guardian or conservator, or the parent if the person is a minor, and the authorized county representative;

(9) be reviewed by a health professional if the person has overriding medical needs that impact the delivery of services; and

(10) be completed on forms approved by the commissioner, including forms developed for interagency planning such as transition and individual family service plans.

~~Subd. 1c. FISCAL LIMITATIONS. Subdivision 1 shall not be construed as requiring expenditure of money not available to county agencies for services to persons with, or who might have, mental retardation or related conditions, except for:~~

~~(1) services specifically required by federal law or state statute such as case management and day training and habilitation services; and~~

~~(2) services identified in the person's individual service plan as services that the county will provide until the person's individual service plan is amended.~~

~~Subd. 1d. COUNTY REQUIREMENTS. Before a county denies, reduces, or terminates a service to an individual due to fiscal limitations, the county agency must show that money is not available for services to persons with mental retardation or related conditions and that good faith efforts have been made to identify needs and obtain available funds. The county agency must show this by documenting that the following actions have been taken:~~

~~(1) the county case manager has identified the person's service needs and~~

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~~the actions that will be taken to develop or obtain those services in the person's individual service plan and action that will be taken to prevent abuse or neglect as defined in sections 626.556, subdivision 2, paragraphs (a), (c), and (d), and 626.557, subdivision 2, paragraphs (d) and (e);~~

~~(2) prior to the admission of a person to a regional treatment center program for persons with developmental disabilities, the county agency made efforts to secure community-based alternatives. If these alternatives were rejected in favor of a regional treatment center placement, the county agency must also document the reasons why they were rejected; and~~

~~(3) the county agency has made a request for state funds or new capacity for services to meet the individual's unmet needs, since those needs have been identified in the person's individual service plan.~~

Subd. 1e. **COORDINATION, EVALUATION, AND MONITORING OF SERVICES IDENTIFIED IN THE INDIVIDUAL SERVICE PLAN.** (a) If the individual service plan identifies the need for individual program plans for authorized services, the case manager shall assure that individual program plans are developed by the providers according to clauses (2) to (5). The providers shall assure that the individual program plans:

(1) are developed according to the respective state and federal licensing and certification requirements;

(2) are designed to achieve the goals of the individual service plan;

(3) are consistent with other aspects of the individual service plan;

(4) assure the health and safety of the person; and

(5) are developed with consistent and coordinated approaches to services among the various service providers.

(b) The case manager shall monitor the provision of services:

(1) to assure that the individual service plan is being followed according to paragraph (a);

(2) to identify any changes or modifications that might be needed in the individual service plan, including changes resulting from recommendations of current service providers;

(3) to determine if the person's legal rights are protected, and if not, notify the person's legal guardian or conservator, or the parent if the person is a minor, protection services, or licensing agencies as appropriate; and

(4) to determine if the person, the person's legal guardian or conservator, or the parent if the person is a minor, is satisfied with the services provided.

(c) If the provider fails to develop or carry out the individual program plan according to paragraph (a), the case manager shall notify the person's legal

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guardian or conservator, or the parent if the person is a minor, the provider, the respective licensing and certification agencies, and the county board where the services are being provided. In addition, the case manager shall identify other steps needed to assure the person receives the services identified in the individual service plan.

Subd. ~~1e.~~ 1f. **COUNTY WAITING LIST.** The county agency shall maintain a waiting list of persons with developmental disabilities specifying the services needed but not provided. This waiting list shall be used by county agencies to assist them in developing needed services or amending their community social services plan as required in section 256E.09, subdivision 1.

Subd. 1g. **CONDITIONS NOT REQUIRING DEVELOPMENT OF INDIVIDUAL SERVICE PLAN.** Unless otherwise required by federal law, the county agency is not required to complete an individual service plan as defined in subdivision 1b for:

(1) persons whose families are requesting respite care as a single service for their family member who resides with them, or whose families are requesting only a family subsidy grant and are not requesting purchase or arrangement of other habilitative or social services; and

(2) persons with mental retardation or related conditions, living independently without authorized services or receiving funding for services at a rehabilitation facility as defined in section 268A.01, subdivision 6, and not in need of or requesting additional services.

Subd. 2. **MEDICAL ASSISTANCE.** To assure quality case management to those ~~county clients~~ persons who are eligible for medical assistance, the commissioner shall, upon request ~~by the county board~~:

(a) provide consultation on the case management process;

(b) assist county agencies in the screening and annual reviews of clients review process to assure that appropriate levels of service are provided to persons;

(c) provide consultation on service planning and development of services with appropriate options;

(d) provide training and technical assistance to county case managers; and

(e) authorize payment for medical assistance services according to chapter 256B and rules implementing it.

Subd. 3. **AUTHORIZATION AND TERMINATION OF SERVICES.** County agency case managers, under rules of the commissioner, shall authorize and terminate services of community and ~~state hospital~~ regional treatment center providers ~~in accordance with~~ according to individual service plans. Services provided to persons with mental retardation or related conditions may only be

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authorized and terminated by case managers according to (1) rules of the commissioner and (2) the individual service plan as defined in subdivision 1b. Medical assistance services not needed shall not be authorized by county agencies ~~nor~~ or funded by the commissioner. When purchasing or arranging for unlicensed respite care services for persons with overriding health needs, the county agency shall seek the advice of a health care professional in assessing provider staff training needs and skills necessary to meet the medical needs of the person.

Subd. 4. ~~ALTERNATIVE~~ **HOME AND COMMUNITY-BASED SERVICES FOR PERSONS WITH MENTAL RETARDATION OR RELATED CONDITIONS.** The commissioner shall make payments to ~~county boards~~ approved vendors participating in the medical assistance program to pay costs of providing ~~alternative~~ home and community-based services, including case management service activities provided as an approved home and community-based service, to medical assistance eligible persons with mental retardation or related conditions who have been screened under subdivision 7 and according to federal requirements. Payments for home and community-based services shall not exceed amounts authorized by the county of financial responsibility. For specifically identified former residents of regional treatment centers and nursing facilities, the commissioner shall be responsible for authorizing payments and payment limits under the appropriate home and community-based service program. Payment is available under this subdivision only for persons who, if not provided these services, would require the level of care provided in an intermediate care facility for persons with mental retardation or related conditions.

Subd. 4a. **DEMONSTRATION PROJECTS.** The commissioner may waive state rules governing home and community-based services in order to demonstrate other methods of administering these services and to improve efficiency and responsiveness to individual needs of persons with mental retardation or related conditions, notwithstanding section 14.05, subdivision 4. All demonstration projects approved by the commissioner must comply with state laws and federal regulations, must remain within the fiscal limitations of the home and community-based services program for persons with mental retardation or related conditions, and must assure the health and safety of the persons receiving services according to section 256E.08, subdivision 1.

Subd. 4b. **CASE MANAGEMENT FOR PERSONS RECEIVING HOME AND COMMUNITY-BASED SERVICES.** Persons authorized for and receiving home and community-based services may select from vendors of case management which have provider agreements with the state to provide home and community-based case management service activities. This subdivision becomes effective July 1, 1992, only if the state agency is unable to secure federal approval for limiting choice of case management vendors to the county of financial responsibility.

Subd. 5. **FEDERAL WAIVERS.** The commissioner shall apply for any federal waivers necessary to secure, to the extent allowed by law, federal financial participation under United States Code, title 42, sections 1396 ~~to 1396p~~ et seq.,

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as amended ~~through December 31, 1987~~, for the provision of services to persons who, in the absence of the services, would need the level of care provided in a ~~state hospital~~ regional treatment center or a community intermediate care facility for persons with mental retardation or related conditions. The commissioner may seek amendments to the waivers or apply for additional waivers under United States Code, title 42, sections 1396 ~~to 1396p~~ et seq., as amended ~~through December 31, 1987~~, to contain costs. The commissioner shall ensure that payment for the cost of providing home and community-based alternative services under the federal waiver plan shall not exceed the cost of intermediate care services including day training and habilitation services that would have been provided without the waivered services.

Subd. 6. **RULES.** The commissioner shall adopt emergency and permanent rules to establish required controls, documentation, and reporting of services provided in order to assure proper administration of the approved waiver plan, and to establish policy and procedures to reduce duplicative efforts and unnecessary paperwork on the part of case managers.

Subd. 7. **SCREENING TEAMS ~~ESTABLISHED~~.** ~~(a) Each county agency shall establish a screening team which, under the direction of the county case manager, shall make an evaluation of need for home and community-based services of persons who are entitled to the level of care provided by an intermediate care facility for persons with mental retardation or related conditions or for whom there is a reasonable indication that they might require the level of care provided by an intermediate care facility.~~ For persons with mental retardation or a related condition, screening teams shall be established which shall evaluate the need for the level of care provided by residential-based habilitation services, residential services, training and habilitation services, and nursing facility services. The evaluation shall address whether home and community-based services are appropriate for persons who are at risk of placement in an intermediate care facility for persons with mental retardation or related conditions, or for whom there is reasonable indication that they might require this level of care. The screening team shall make an evaluation of need within 15 working days of the date that the assessment is completed or within 60 working days of a request for service by a person with mental retardation or related conditions, whichever is the earlier, and within five working days of an emergency admission of ~~an individual~~ a person to an intermediate care facility for persons with mental retardation or related conditions. The screening team shall consist of the case manager for persons with mental retardation or related conditions, the ~~client~~ person, ~~a parent or~~ the person's legal guardian or conservator, or the parent if the person is a minor, and a qualified mental retardation professional, as defined in the Code of Federal Regulations, title 42, section 483.430, as amended through June 3, 1988. The case manager may also act as the qualified mental retardation professional if the case manager meets the federal definition. County social service agencies may contract with a public or private agency or individual who is not a service provider for the person for the public guardianship representation required by the screening or individual service ~~and habilitation~~ planning process. The contract shall be limited to public guardianship representation for the

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screening and individual service ~~and habilitation~~ planning activities. The contract shall require compliance with the commissioner's instructions and may be for paid or voluntary services. For ~~individuals~~ persons determined to have overriding health care needs, a registered nurse must be designated as either the case manager or the qualified mental retardation professional. The case manager shall consult with the ~~client's~~ person's physician, other health professionals or other ~~persons~~ individuals as necessary to make this evaluation. The case manager, with the concurrence of the ~~client or the client's~~ person, the person's legal ~~representative~~ guardian or conservator, or the parent if the person is a minor, may invite other ~~persons~~ individuals to attend meetings of the screening team. No member of the screening team shall have any direct or indirect service provider interest in the case. Nothing in this section shall be construed as requiring the screening team meeting to be separate from the service planning meeting.

~~(b) In addition to the requirements of paragraph (a), the following conditions apply to the discharge of persons with mental retardation or a related condition from a regional treatment center:~~

~~(1) For a person under public guardianship, at least two weeks prior to each screening team meeting the case manager must notify in writing parents, near relatives, and the ombudsman established under section 245.92 or a designee, and invite them to attend. The notice to parents and near relatives must include: (i) notice of the provisions of section 252A.03, subdivision 4, regarding assistance to persons interested in assuming private guardianship; (ii) notice of the rights of parents and near relatives to object to a proposed discharge by requesting a review as provided in clause (7); and (iii) information about advocacy services available to assist parents and near relatives of persons with mental retardation or related conditions. In the case of an emergency screening meeting, the notice must be provided as far in advance as practicable.~~

~~(2) Prior to the discharge, a screening must be conducted under subdivision 8 and a plan developed under subdivision 1a. For a person under public guardianship, the county shall encourage parents and near relatives to participate in the screening team meeting. The screening team shall consider the opinions of parents and near relatives in making its recommendations. The screening team shall determine that the services outlined in the plan are available in the community before recommending a discharge. The case manager shall provide a copy of the plan to the person, legal representative, parents, near relatives, the ombudsman established under section 245.92, and the protection and advocacy system established under United States Code, title 42, section 6042, at least 30 days prior to the date the proposed discharge is to occur. The information provided to parents and near relatives must include notice of the rights of parents and near relatives to object to a proposed discharge by requesting a review as provided in clause (7). If a discharge occurs, the case manager and a staff person from the regional treatment center from which the person was discharged must conduct a monitoring visit as required in Minnesota Rules, part 9525.0115, within 90 days of discharge and provide an evaluation within 15 days of the visit to the person, legal representative, parents, near relatives, ombudsman, and~~

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~~the protection and advocacy system established under United States Code, title 42, section 6042.~~

~~(3) In order for a discharge or transfer from a regional treatment center to be approved, the concurrence of a majority of the screening team members is required. The screening team shall determine that the services outlined in the discharge plan are available and accessible in the community before the person is discharged. The recommendation of the screening team cannot be changed except by subsequent action of the team and is binding on the county and on the commissioner. If the commissioner or the county determines that the decision of the screening team is not in the best interests of the person, the commissioner or the county may seek judicial review of the screening team recommendation. A person or legal representative may appeal under section 256.045, subdivision 3 or 4a.~~

~~(4) For persons who have overriding health care needs or behaviors that cause injury to self or others, or cause damage to property that is an immediate threat to the physical safety of the person or others, the following additional conditions must be met:~~

~~(i) For a person with overriding health care needs, either a registered nurse or a licensed physician shall review the proposed community services to assure that the medical needs of the person have been planned for adequately. For purposes of this paragraph, "overriding health care needs" means a medical condition that requires daily clinical monitoring by a licensed registered nurse.~~

~~(ii) For a person with behaviors that cause injury to self or others, or cause damage to property that is an immediate threat to the physical safety of the person or others, a qualified mental retardation professional, as defined in paragraph (a), shall review the proposed community services to assure that the behavioral needs of the person have been planned for adequately. The qualified mental retardation professional must have at least one year of experience in the areas of assessment, planning, implementation, and monitoring of individual habilitation plans that have used behavior intervention techniques.~~

~~(5) No person with mental retardation or a related condition may be discharged from a regional treatment center before an appropriate community placement is available to receive the person.~~

~~(6) Effective July 1, 1991, a resident of a regional treatment center may not be discharged to a community intermediate care facility with a licensed capacity of more than 15 beds. Effective July 1, 1993, a resident of a regional treatment center may not be discharged to a community intermediate care facility with a licensed capacity of more than ten beds.~~

~~(7) If the person, legal representative, parent, or near relative of the person proposed to be discharged from a regional treatment center objects to the proposed discharge, the individual who objects to the discharge may request a review under section 256.045, subdivision 4a, and may request reimbursement as allowed under section 256.045. The person must not be transferred from a~~

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~~regional treatment center while a review or appeal is pending. Within 30 days of the request for a review, the local agency shall conduct a conciliation conference and inform the individual who requested the review in writing of the action the local agency plans to take. The conciliation conference must be conducted in a manner consistent with section 256.045, subdivision 4a. A person, legal representative, parent, or near relative of the person proposed to be discharged who is not satisfied with the results of the conciliation conference may submit to the commissioner a written request for a hearing before a state human services referee under section 256.045, subdivision 4a. The person, legal representative, parent, or near relative of the person proposed to be discharged may appeal the order to the district court of the county responsible for furnishing assistance by serving a written copy of a notice of appeal on the commissioner and any adverse party of record within 30 days after the day the commissioner issued the order and by filing the original notice and proof of service with the court administrator of the district court. Judicial review must proceed under section 256.045, subdivisions 7 to 10. For a person under public guardianship, the ombudsman established under section 245.92 may object to a proposed discharge by requesting a review or hearing or by appealing to district court as provided in this clause. The person must not be transferred from a regional treatment center while a conciliation conference or appeal of the discharge is pending.~~

Subd. 8. **SCREENING TEAM DUTIES.** The screening team shall:

(a) review diagnostic data;

(b) review health, social, and developmental assessment data using a uniform screening tool specified by the commissioner;

(c) identify the level of services appropriate to maintain the person in the most normal and least restrictive setting that is consistent with the person's treatment needs;

(d) identify other noninstitutional public assistance or social service that may prevent or delay long-term residential placement;

(e) assess whether a ~~client~~ person is in need of long-term residential care;

(f) make recommendations regarding placement and payment for: (1) social service or public assistance support, or both, to maintain a ~~client~~ person in the ~~client's~~ person's own home or other place of residence; (2) training and habilitation service, vocational rehabilitation, and employment training activities; (3) community residential placement; (4) regional treatment center placement; or (5) a home and community-based service alternative to community residential placement or ~~state hospital~~ regional treatment center placement;

(g) evaluate the availability, location, and quality of the services listed in paragraph (f), including the impact of placement alternatives on the ~~client's~~ person's ability to maintain or improve existing patterns of contact and involvement with parents and other family members;

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(h) identify the cost implications of recommendations in paragraph (f);

(i) make recommendations to a court as may be needed to assist the court in making ~~commitments~~ decisions regarding commitment of ~~mentally retarded~~ persons with mental retardation; and

(j) inform ~~clients~~ the person and the person's legal guardian or conservator, or the parent if the person is a minor, that appeal may be made to the commissioner pursuant to section 256.045.

Subd. 8a. **COUNTY CONCURRENCE.** (a) When a person has been screened and authorized for services in an intermediate care facility for persons with mental retardation or related conditions or for home and community-based services for persons with mental retardation or related conditions, the case manager shall assist that person in identifying a service provider who is able to meet the needs of the person according to the person's individual service plan. If the identified service is to be provided in a county other than the county of financial responsibility, the county of financial responsibility shall request concurrence of the county where the person is requesting to receive the identified services. The county of service may refuse to concur if:

(1) it can demonstrate that the provider is unable to provide the services identified in the person's individual service plan as services that are needed and are to be provided;

(2) in the case of an intermediate care facility for persons with mental retardation or related conditions, there has been no authorization for admission by the admission review team as required in section 256B.0926; or

(3) in the case of home and community-based services for persons with mental retardation or related conditions, the county of service can demonstrate that the prospective provider has failed to substantially comply with the terms of a past contract or has had a prior contract terminated within the last 12 months for failure to provide adequate services, or has received a notice of intent to terminate the contract.

(b) The county of service shall notify the county of financial responsibility of concurrence or refusal to concur no later than 20 working days following receipt of the written request. Unless other mutually acceptable arrangements are made by the involved county agencies, the county of financial responsibility is responsible for costs of social services and the costs associated with the development and maintenance of the placement. The county of service may request that the county of financial responsibility purchase case management services from the county of service or from a contracted provider of case management when the county of financial responsibility is not providing case management as defined in section 256B.092 and rules adopted under that section, unless other mutually acceptable arrangements are made by the involved county agencies. Standards for payment limits under this section may be established by the commissioner. Financial disputes between counties shall be resolved as provided in section 256G.09.

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Subd. 9. **REIMBURSEMENT.** Payment for services shall not be provided to a service provider for any ~~recipient~~ person placed in an intermediate care facility for persons with mental retardation or related conditions prior to the ~~recipient~~ person being screened by the screening team. The commissioner shall not deny reimbursement for: (a) ~~an individual~~ a person admitted to an intermediate care facility for persons with mental retardation or related conditions who is assessed to need long-term supportive services, if long-term supportive services other than intermediate care are not available in that community; (b) any ~~individual~~ person admitted to an intermediate care facility for persons with mental retardation or related conditions under emergency circumstances; (c) any eligible ~~individual~~ person placed in the intermediate care facility for persons with mental retardation or related conditions pending an appeal of the screening team's decision; or (d) any medical assistance recipient when, after full discussion of all appropriate alternatives including those that are expected to be less costly than intermediate care for persons with mental retardation or related conditions, the ~~individual~~ person or the ~~individual's~~ person's legal ~~representative~~ guardian or conservator, or the parent if the person is a minor, insists on intermediate care placement. The screening team shall provide documentation that the most cost effective alternatives available were offered to this individual or the individual's legal ~~representative~~ guardian or conservator.

Subd. 10. **ADMISSION OF PERSONS TO AND DISCHARGE OF PERSONS FROM REGIONAL TREATMENT CENTERS.** (a) Prior to the admission of a person to a regional treatment center program for persons with mental retardation, the case manager shall make efforts to secure community-based alternatives. If these alternatives are rejected by the person, the person's legal guardian or conservator, or the county agency in favor of a regional treatment center placement, the case manager shall document the reasons why the alternatives were rejected.

(b) When discharge of a person from a regional treatment center to a community-based service is proposed, the case manager shall convene the screening team and in addition to members of the team identified in subdivision 7, the case manager shall invite to the meeting the person's parents and near relatives, and the ombudsman established under section 245.92 if the person is under public guardianship. The meeting shall be convened at a time and place that allows for participation of all team members and invited individuals who choose to attend. The notice of the meeting shall inform the person's parents and near relatives about the screening team process, and their right to request a review if they object to the discharge, and shall provide the names and functions of advocacy organizations, and information relating to assistance available to individuals interested in establishing private guardianships under the provisions of section 252A.03. The screening team meeting shall be conducted according to subdivisions 7 and 8. Discharge of the person shall not go forward without consensus of the screening team.

(c) The results of the screening team meeting and individual service plan developed according to subdivision 1b shall be used by the interdisciplinary

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team assembled in accordance with Code of Federal Regulations, title 42, section 483.440, to evaluate and make recommended modifications to the individual service plan as proposed. The individual service plan shall specify postplacement monitoring to be done by the case manager according to section 253B.15, subdivision 1a.

(d) Notice of the meeting of the interdisciplinary team assembled in accordance with Code of Federal Regulations, title 42, section 483.440, shall be sent to all team members 15 days prior to the meeting, along with a copy of the proposed individual service plan. The case manager shall request that proposed providers visit the person and observe the person's program at the regional treatment center prior to the discharge. Whenever possible, preplacement visits by the person to proposed service sites should also be scheduled in advance of the meeting. Members of the interdisciplinary team assembled for the purpose of discharge planning shall include but not be limited to the case manager, the person, the person's legal guardian or conservator, parents and near relatives, the person's advocate, representatives of proposed community service providers, representatives of the regional treatment center residential and training and habilitation services, a registered nurse if the person has overriding medical needs that impact the delivery of services, and a qualified mental retardation professional specializing in behavior management if the person to be discharged has behaviors that may result in injury to self or others. The case manager may also invite other service providers who have expertise in an area related to specific service needs of the person to be discharged.

(e) The interdisciplinary team shall review the proposed plan to assure that it identifies service needs, availability of services, including support services, and the proposed providers' abilities to meet the service needs identified in the person's individual service plan. The interdisciplinary team shall review the most recent licensing reports of the proposed providers and corrective action taken by the proposed provider, if required. The interdisciplinary team shall review the current individual program plans for the person and agree to an interim individual program plan to be followed for the first 30 days in the person's new living arrangement. The interdisciplinary team may suggest revisions to the service plan, and all team suggestions shall be documented. If the person is to be discharged to a community intermediate care facility for persons with mental retardation or related conditions, the team shall give preference to facilities with a licensed capacity of 15 or fewer beds. Thirty days prior to the date of discharge, the case manager shall send a final copy of the service plan to all invited members of the team, the ombudsman, if the person is under public guardianship, and the advocacy system established under United States Code, title 42, section 6042.

(f) No discharge shall take place until disputes are resolved under section 256.045, subdivision 4a, or until a review by the commissioner is completed upon request of the chief executive officer or program director of the regional treatment center, or the county agency. For persons under public guardianship, the ombudsman may request a review or hearing under section 256.045. Notifi-

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cation schedules required under this subdivision may be waived by members of the team when judged urgent and with agreement of the parents or near relatives participating as members of the interdisciplinary team.

Sec. 48. **[256B.0926] ADMISSION REVIEW TEAM FOR ADMISSIONS TO INTERMEDIATE CARE FACILITIES FOR PERSONS WITH MENTAL RETARDATION OR RELATED CONDITIONS.**

Subdivision 1. **DEFINITIONS.** (a) For purposes of this section, the following terms have the meanings given them in this subdivision.

(b) "Provider" means a provider of community-based intermediate care facility services for persons with mental retardation or related conditions.

(c) "Facility" means a community-based intermediate care facility for persons with mental retardation or related conditions.

(d) "Person" means a person with mental retardation or related conditions who is applying for admission to an intermediate care facility for persons with mental retardation or related conditions.

Subd. 2. **ADMISSION REVIEW TEAM; RESPONSIBILITIES; COMPOSITION.** (a) Before a person is admitted to a facility, an admission review team must assure that the provider can meet the needs of the person as identified in the person's individual service plan required under section 256B.092, subdivision 1.

(b) The admission review team must be assembled pursuant to Code of Federal Regulations, title 42, section 483.440(b)(2). The composition of the admission review team must meet the definition of an interdisciplinary team in Code of Federal Regulations, title 42, section 483.440. In addition, the admission review team must meet any conditions agreed to by the provider and the county where services are to be provided.

(c) The county in which the facility is located may establish an admission review team which includes at least the following:

(1) a qualified mental retardation professional, as defined in Code of Federal Regulations, title 42, section 483.440;

(2) a representative of the county in which the provider is located;

(3) at least one professional representing one of the following professions: nursing, psychology, physical therapy, or occupational therapy; and

(4) a representative of the provider.

If the county in which the facility is located does not establish an admission review team, the provider shall establish a team whose composition meets the definition of an interdisciplinary team in Code of Federal Regulations, title 42,

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section 483.440. The provider shall invite a representative of the county agency where the facility is located to be a member of the admission review team.

Subd. 3. **FACTORS TO BE CONSIDERED FOR ADMISSION.** (a) The determination of the team to admit a person to the facility must include, but is not limited to, consideration of the following:

(1) the preferences of the person and the person's guardian or family for services of an intermediate care facility for persons with mental retardation or related conditions;

(2) the ability of the provider to meet the needs of the person according to the person's individual service plan and the admission criteria established by the provider;

(3) the availability of a bed in the facility and of nonresidential services required by the person as specified in the person's individual service plan; and

(4) the need of the person for the services in the facility to prevent placement of the person in a more restrictive setting.

(b) When there is more than one qualified person applying for admission to the facility, the admission review team shall determine which applicant shall be offered services first, using the criteria established in this subdivision. The admission review team shall document the factors that resulted in the decision to offer services to one qualified person over another. In cases of emergency, a review of the admission by the admission review team must occur within the first 14 days of placement.

Subd. 4. **INFORMATION FROM PROVIDER.** The provider must establish admission criteria based on the level of service that can be provided to persons seeking admission to that facility and must provide the admission review team with the following information:

(1) a copy of the admission and level of care criteria adopted by the provider; and

(2) a written description of the services that are available to the person seeking admission, including day services, professional support services, emergency services, available direct care staffing, supervisory and administrative supports, quality assurance systems, and criteria established by the provider for discharging persons from the facility.

Subd. 5. **ESTABLISHMENT OF ADMISSION REVIEW TEAM; NOTICE TO PROVIDER.** When a county agency decides to establish admission review teams for the intermediate care facilities for persons with mental retardation or related conditions located in the county, the county agency shall notify the providers of the county agency's intent at least 60 days prior to establishing the teams.

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Sec. 49. Minnesota Statutes 1990, section 256B.431, is amended by adding a subdivision to read:

Subd. 2p. **DOWNSIZING OF NURSING FACILITIES THAT ARE INSTITUTIONS FOR MENTAL DISEASE.** (a) The provisions of this subdivision apply to a nursing facility that is an institution for mental disease and that has less than 23 licensed beds. A nursing facility that meets these conditions may reduce its total number of licensed beds to 16 licensed beds by July 1, 1992, by notifying the commissioner of health of the reduction by April 1, 1992. If the nursing facility elects to reduce its licensed beds to 16, the commissioner of health shall approve that request effective on the date of request.

(b) The commissioner of human services must be notified by the nursing facility of the reduction in licensed beds by April 4, 1992, and that notice must include a copy of the request for reduction submitted to the commissioner of health.

(c) For the rate year beginning July 1, 1992, the commissioner shall establish the operating cost payment rates for a nursing facility that has reduced its licensed bed capacity under this subdivision by taking into account paragraphs (1) and (2).

(1) The commissioner must reduce the nursing facility's nurse's aide, orderly, and attendant salaries account and the food expense account for the reporting year ending September 30, 1991, by 50 percent of the percentage change in licensed beds.

(2) The commissioner shall adjust the nursing facility's resident days and standardized resident days for the reporting year ending September 30, 1991, as in clauses (i) and (ii).

(i) Resident days shall be the lesser of the nursing facility's actual resident days for that reporting year or 5,840.

(ii) Standardized resident days shall be the lesser of the nursing facility's actual standardized resident days or the nursing facility's case mix score for that reporting year times 5,840.

(d) For the rate year beginning July 1, 1993, the commissioner shall establish the operating cost payment rates for a nursing facility that has reduced its licensed bed capacity under this subdivision by taking into account paragraphs (1) and (2).

(1) The commissioner must reduce the nursing facility's account for the nurse's aide, orderly, and attendant salaries, and its account for food expense for the reporting year ending September 30, 1992, by 37.5 percent of the percentage change in licensed beds.

(2) The commissioner shall adjust the nursing facility's resident days and standardized resident days for the reporting year ending September 30, 1992, as in clauses (i) and (ii).

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(i) Resident days shall be the lesser of the nursing facility's actual resident days for that reporting year or 5,840.

(ii) Standardized resident days shall be the lesser of the nursing facility's actual standardized resident days or the nursing facility's case mix score for that reporting year times 5,840.

(e) If a nursing facility reduces its total number of licensed beds before June 28, 1991, by notifying the commissioner of health by that date, the dates and computations in this subdivision shall be accelerated by one year.

(f) A nursing facility eligible under this subdivision may use the notification date and the date on which the licensed beds are reduced for purposes of applying the provisions in section 256B.431, subdivision 3a, paragraph (d), clause (2).

Sec. 50. Minnesota Statutes 1990, section 256B.431, is amended by adding a subdivision to read:

Subd. 2q. **NEGOTIATED RATE CAP EXEMPTION.** A nursing facility which requests, after January 1991, that its boarding care beds be decertified from participation in the medical assistance program, is not eligible for the exception to the negotiated rate cap in section 256I.05, subdivision 2, paragraph (c), clause (1).

Sec. 51. Minnesota Statutes 1990, section 256I.05, is amended by adding a subdivision to read:

Subd. 10. **FOSTER CARE.** Beginning July 1, 1992, the negotiated rate of a residence licensed as a foster home is limited to the rate set for room and board costs provided the foster home is not the license holder's primary residence, or the license holder is not the primary caregiver to persons receiving services in the negotiated rate residence, and federal funding is available to pay for the cost of other necessary services. For the purpose of this section, room and board costs mean costs of providing food and shelter for eligible persons, and includes the directly identifiable costs of:

(1) normal and special diet, food preparation and food services;

(2) providing linen, bedding, laundering, and laundry supplies;

(3) housekeeping, including cleaning and lavatory supplies;

(4) maintenance and operation of the residence and grounds, including fuel, utilities, supplies, and equipment;

(5) the allocation of salaries related to these areas; and

(6) the lease or mortgage payment, property tax and insurance, furnishings and appliances.

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Sec. 52. Minnesota Statutes 1990, section 462A.03, subdivision 13, is amended to read:

Subd. 13. "Eligible mortgagor" means a nonprofit or cooperative housing corporation~~;~~; the department of administration for the purpose of developing nursing home beds under section 251.011, community-based programs as defined in sections 252.50 and 253.28, or secure beds for mentally ill persons under section 253.015, subdivision 2, paragraph (c); a limited profit entity or a builder as defined by the agency in its rules, which sponsors or constructs residential housing as defined in subdivision 7~~;~~; or a natural person of low or moderate income, except that the return to a limited dividend entity shall not exceed ten percent of the capital contribution of the investors or such lesser percentage as the agency shall establish in its rules~~;~~, provided that residual receipts funds of a limited dividend entity may be used for agency-approved, housing-related investments owned by the limited dividend entity without regard to the limitation on returns. Owners of existing residential housing occupied by renters shall be eligible for rehabilitation loans, only if, as a condition to the issuance of the loan, the owner agrees to conditions established by the agency in its rules relating to rental or other matters that will insure that the housing will be occupied by persons and families of low or moderate income. The agency shall require by rules that the owner give preference to those persons of low or moderate income who occupied the residential housing at the time of application for the loan.

Sec. 53. **DEMONSTRATION PROJECTS.**

The commissioner shall demonstrate the development of family foster care services for persons with developmental disabilities in order to achieve regional treatment center census reduction or to develop alternative placements for persons inappropriately placed in nursing homes. For all persons participating in this demonstration that receive services funded by the enhanced waivered services fund, the costs of waivered services shall not exceed an average of $120 per person per day in fiscal year 1993. The commissioner shall demonstrate a family choice option for 100 persons with developmental disabilities and their families in fiscal year 1992 and for 200 persons and their families in fiscal year 1993. For all persons authorized by the commissioner to receive services under the family choice option, the cost of services funded by the Title XIX home- and community-based waiver are limited to an average of $35 per person per day in fiscal year 1992 with annual cost adjustments as authorized by the legislature.

Sec. 54. **RULE REVISION.**

The commissioner must revise Minnesota Rules, parts 9545.0900 to 9545.1090, which govern facilities that provide residential services for children with emotional handicaps. The rule revisions must be adopted within 12 months of the effective date of this section.

Sec. 55. **JOINT LEGISLATIVE STUDY OF RESIDENTIAL PLACEMENT FOR CHILDREN WITH SPECIAL MENTAL HEALTH NEEDS.**

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A joint legislative committee composed of members of the house and senate shall hold interim hearings to study the need for specialized residential treatment programs for all children with emotional disturbance, particularly those who exhibit violent or destructive behavior and for whom local treatment programs are not feasible due to the small number of children who need the services and the specialized nature of the services required. The joint committee shall be appointed under the rules of the house and senate and shall be drawn from membership of the health and human services and judiciary committees in both houses, and the house human resources division of appropriations and the health and human services division of the senate finance committee. The committee shall solicit information from representatives of the commissioners of the departments of human services, corrections, education, and health; from the children's mental health advisory committee; from representatives of mental health advocacy organizations, counties, service providers, the juvenile court system, and other interest groups. The committee shall solicit information on the estimated number of children who need specialized services and the extent to which these children are now being served in other states, and shall make recommendations for action that is needed to develop resources within Minnesota and any cost-containment initiatives necessary for efficient use of these resources. The joint committee shall report back to the full legislature by December 1, 1991, with its findings and recommendations, including recommendations on additional mechanisms by which the commissioner shall approve out-of-state placements of children for whom the commissioner is responsible for payment of a portion of specialized treatment costs.

Sec. 56. **PILOT PROJECT FOR MENTAL HEALTH SERVICES DELIVERY SYSTEM.**

(a) Upon adoption of a resolution by the Dakota county board of commissioners, a pilot project shall be established to design and plan a mental health services delivery system that would reduce the number of commitments to regional treatment centers and improve service delivery to mentally ill persons. Dakota county will provide in-kind staff resources to study the monetary feasibility of implementing the plan, to match the appropriation of grant funds from the legislature.

(b) The pilot project will seek to maximize local community-based living and treatment alternatives for Dakota county residents who have serious and persistent mental illness, and to create a system by which residents committed for treatment pursuant to Minnesota Statutes, chapter 253B, would be committed to community facilities and programs.

(c) The pilot project will offer services that are more accessible and community-based and provide better coordination and linkage to other services and resources in the community or county than those that are currently provided.

(d) The pilot project will be implemented July 1, 1991. The planning process for implementation will continue during the 1992 fiscal year. The planning

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process will require that new services be developed, existing services be modified, and numerous legislative proposals be developed for presentation to the legislature in 1992. * **(Section 56 was vetoed by the governor.)**

Sec. 57. **CHILDREN'S MENTAL HEALTH FUNDING.**

Subdivision 1. **STATEWIDE TASK FORCE.** The commissioner of human services shall convene a task force to study the feasibility of establishing an integrated children's mental health fund. The task force shall consist of mental health professionals, county social services personnel, service providers, advocates, and parents of children who have experienced episodes of emotional disturbance. The task force shall also include representatives of the children's mental health subcommittee of the state advisory council and local coordinating councils established under Minnesota Statutes, sections 245.487 to 245.4887. The task force shall include the commissioners of education, health, and human services; two members of the senate; and two members of the house of representatives. The task force shall examine all possible county, state, and federal sources of funds for children's mental health with a view to designing an integrated children's mental health fund, improving methods of coordinating and maximizing all funding sources, and increasing federal funding. Programs to be examined shall include, but not be limited to, the following: medical assistance, title IV-E of the social security act, title XX social service programs, chemical dependency programs, education and special education programs, and, for children with a dual diagnosis, programs for the developmentally disabled. The task force may consult with experts in the field, as necessary. The task force shall make a preliminary report and recommendations on local coordination of funding sources by January 1, 1992, to facilitate the development of local protocols and procedures under subdivision 2. The task force shall submit a final report to the legislature by January 1, 1993, with its findings and recommendations.

Subd. 2. **DEVELOPMENT OF LOCAL PROTOCOLS AND PROCEDURES.** (a) By January 1, 1992, each local children's mental health coordinating council established under Minnesota Statutes, section 245.4875, subdivision 6, shall establish a task force to develop recommended protocols and procedures that will ensure that the planning, case management, and delivery of services for children with severe emotional disturbance are coordinated and make the most efficient and cost-effective use of available funding. The task force must include, at a minimum, representatives of local school districts and county medical assistance and mental health staff. The protocols and procedures must be designed to:

(1) ensure that services to children are driven by the children's needs, rather than by the availability or source of funding for services;

(2) ensure that planning for services, case management, service delivery, and payment for services involves coordination of all affected agencies, providers, and funding sources; and

(2) maximize available funding by making full use of all available funding, including medical assistance.

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(b) By October 1, 1992, each council shall make recommendations to the statewide task force established under subdivision 1 regarding the feasibility and desirability of methods of consolidating or pooling funding sources to ensure that services are tailored to the specific needs of each child and to allow greater flexibility in paying for services.

(c) By October 1, 1992, each local coordinating council shall report to the commissioner of human services the council's findings and the recommended protocols and procedures. The council shall also recommend legislative changes or rule changes that will improve local coordination and further maximize available funding.

Subd. 3. **FINAL REPORT.** By February 15, 1993, the commissioner of human services shall provide a report to the legislature that describes the reports and recommendations of the statewide task force under subdivision 1 and of the local coordinating councils under subdivision 2, and provides the commissioner's recommendations for legislation or other needed changes.

Sec. 58. **INSTRUCTION TO REVISOR.**

Subdivision 1. **RENUMBERING.** The revisor of statutes shall renumber Minnesota Statutes, section 245.4886 as section 245.4887 and Minnesota Statutes, section 245.4887 as section 245.4888, and shall correct all relevant cross-references in Minnesota Statutes and Minnesota Rules.

Subd. 2. **INDIVIDUAL HABILITATION PLAN.** The revisor of statutes shall delete references to "individual habilitation plan" wherever appearing in Minnesota Statutes, chapters 252 and 252A, and sections 120.17 and 256.045.

Subd. 3. **INSTRUCTION TO REVISOR.** In the next edition of Minnesota Statutes, the revisor of statutes is directed to change the words "Ah-Gwah-Ching Nursing Home" wherever they appear to "Ah-Gwah-Ching Center".

Sec. 59. **REPEALER.**

Subdivision 1. Minnesota Statutes 1990, section 245.476, subdivisions 1, 2, and 3, are repealed.

Subd. 2. Minnesota Statutes 1990, section 252.275, subdivision 2, is repealed effective January 1, 1992.

Sec. 61. **EFFECTIVE DATE.**

Subdivision 1. Sections 5 and 10 are effective the day following final enactment.

Subd. 2. Section 20 is effective July 1, 1993.

Subd. 3. Section 32 is effective January 1, 1992.

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

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Subd. 4. Section 48 is effective September 30, 1991.

ARTICLE 7

ALTERNATIVE CARE/SAIL

Section 1. Minnesota Statutes 1990, section 144A.31, is amended to read:

144A.31 **INTERAGENCY ~~BOARD FOR QUALITY ASSURANCE~~ LONG-TERM CARE PLANNING COMMITTEE.**

Subdivision 1. **INTERAGENCY ~~BOARD~~ LONG-TERM CARE PLANNING COMMITTEE.** The commissioners of health and human services shall establish, by July 1, 1983, an interagency ~~board~~ committee of managerial employees of their respective departments who are knowledgeable and employed in the areas of long-term care, geriatric care, community services for the elderly, long-term care facility inspection, or quality of care assurance. The number of interagency ~~board~~ committee members shall not exceed ~~eight~~ twelve; ~~three~~ four members each to represent the commissioners of health and human services and one member each to represent the commissioners of state planning ~~and~~, housing finance, finance, and the chair of the Minnesota board on aging. ~~The board shall identify long-term care issues requiring coordinated interagency policies and shall conduct analyses, coordinate policy development, and make recommendations to the commissioners for effective implementation of these policies.~~ The commissioner of human services and the commissioner of health or their designees shall annually alternate chairing and convening the ~~board~~ committee. The ~~board~~ committee may utilize the expertise and time of other individuals employed by ~~either~~ each department as needed. The ~~board~~ committee may recommend that the commissioners contract for services as needed. The ~~board~~ committee shall meet as often as necessary to accomplish its duties, but at least quarterly. The ~~board~~ committee shall establish procedures, including public hearings, for allowing regular opportunities for input from ~~residents, nursing homes~~ consumers of long-term care services, advocates, trade associations, facility administrators, county agency administrators, and other interested persons.

~~Subd. 2. INSPECTIONS. No later than January 1, 1988, the board shall develop and recommend implementation and enforcement of an effective system to ensure quality of care in each nursing home in the state. Quality of care includes evaluating, using the resident's care plan, whether the resident's ability to function is optimized and should not be measured solely by the number or amount of services provided.~~

~~The board shall assist the commissioner of health in developing methods to ensure that inspections and reinspections of nursing homes are conducted with a frequency and in a manner calculated to most effectively and appropriately fulfill its quality assurance responsibilities and achieve the greatest benefit to nursing home residents. The board shall identify and recommend criteria and methods for identifying those nursing homes that present the most serious concerns with respect to resident health, treatment, comfort, safety, and well-being. The~~

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~~commissioner of health shall require a higher frequency and extent of inspections with respect to those nursing homes that present the most serious concerns with respect to resident health, treatment, comfort, safety, and well-being. These concerns include but are not limited to: complaints about care, safety, or rights; situations where previous inspections or reinspections have resulted in correction orders related to care, safety, or rights; instances of frequent change in administration in excess of normal turnover rates; and situations where persons involved in ownership or administration of the nursing home have been convicted of engaging in criminal activity. A nursing home that presents none of these concerns or any other concern or condition recommended by the board and established by the commissioner that poses a risk to resident care, safety, or rights shall be inspected once every two years for compliance with key requirements as determined by the board.~~

~~The board shall develop and recommend to the commissioners mechanisms beyond the inspection process to protect resident care, safety, and rights, including but not limited to coordination with the office of health facility complaints and the nursing home ombudsman program.~~

~~Subd. 3. METHODS FOR DETERMINING RESIDENT CARE NEEDS. The board shall develop and recommend to the commissioners definitions for levels of care and methods for determining resident care needs for implementation on July 1, 1985, in order to adjust payments for resident care based on the mix of resident needs in a nursing home. The methods for determining resident care needs shall include assessments of ability to perform activities of daily living and assessments of medical and therapeutic needs.~~

Subd. 2a. **DUTIES.** The interagency committee shall identify long-term care issues requiring coordinated interagency policies and shall conduct analyses, coordinate policy development, and make recommendations to the commissioners for effective implementation of these policies. The committee shall refine state long-term goals, establish performance indicators, and develop other methods or measures to evaluate program performance, including client outcomes. The committee shall review the effectiveness of programs in meeting their objectives.

The committee shall also:

(1) facilitate the development of regional and local bodies to plan and coordinate regional and local services;

(2) recommend a single regional or local point of access for persons seeking information on long-term care services;

(3) recommend changes in state funding and administrative policies that are necessary to maximize the use of home and community-based care and that promote the use of the least costly alternative without sacrificing quality of care; and

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(4) develop methods of identifying and serving seniors who need minimal services to remain independent but who are likely to develop a need for more extensive services in the absence of these minimal services.

Subd. 2b. **GOALS OF THE COMMITTEE.** The long-term goals of the committee are:

(1) to achieve a broad awareness and use of low-cost home care and other residential alternatives to nursing homes;

(2) to develop a statewide system of information and assistance to enable easy access to long-term care services;

(3) to develop sufficient alternatives to nursing homes to serve the increased number of people needing long-term care; and

(4) to maintain the moratorium on new construction of nursing home beds and to lower the percentage of elderly served in institutional settings.

These goals are designed to create a new community-based care paradigm for long-term care in Minnesota in order to maximize independence of the older adult population, and to ensure cost-effective use of financial and human resources.

Subd. 4. **ENFORCEMENT.** The ~~board~~ committee shall develop and recommend for implementation effective methods of enforcing quality of care standards. The ~~board~~ committee shall develop and monitor, and the commissioner of human services shall implement, a resident relocation plan that instructs a county in which a nursing home or certified boarding care home is located of procedures to ensure that the needs of residents in nursing homes or certified boarding care homes about to be closed are met. The duties of a county under the relocation plan also apply when residents are to be discharged from a nursing home or certified boarding care home as a result of a change in certification, closure, or loss or termination of the facility's medical assistance provider agreement. The resident relocation plans and county duties required in this subdivision apply to the voluntary or involuntary closure, or reduction in services or size of, an intermediate care facility for the mentally retarded. The relocation plan for intermediate care facilities for the mentally retarded must conform to Minnesota Rules, parts 4655.6810 to 4655.6830, 9525.0015 to 9525.0165, and 9546.0010 to 9546.0060, or their successors. The commissioners of health and human services may waive a portion of existing rules that the commissioners determine does not apply to persons with mental retardation or related conditions. The county shall ensure appropriate placement of residents in licensed and certified facilities or other alternative care such as home health care and foster care placement. In preparing for relocation, the ~~board~~ committee shall ensure that residents and their families or guardians are involved in planning the relocation.

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Subd. 5. **REPORTS.** The ~~board~~ committee shall prepare a biennial report and the commissioners of health and human services shall deliver this report to the legislature ~~no later than January 15, 1984, on the board's proposals and progress on implementation of the methods required under subdivision 2~~ beginning January 31, 1993, listing progress, achievements, and current goals and objectives. The commissioners shall recommend changes in or additions to legislation necessary or desirable to fulfill their responsibilities. ~~The board shall prepare an annual report and the commissioners shall deliver this report annually to the legislature, beginning in January 1985, on the implementation of the provisions of this section.~~

Subd. 6. **DATA.** The interagency ~~board may~~ committee shall have access to data from the commissioners of health, human services, ~~and public safety~~ housing finance, and state planning for carrying out its duties under this section. The commissioner of health and the commissioner of human services may each have access to data on persons, including data on vendors of services, from the other to carry out the purposes of this section. If the interagency ~~board~~ committee, the commissioner of health, or the commissioner of human services receives data on persons, including data on vendors of services, that is collected, maintained, used or disseminated in an investigation, authorized by statute and relating to enforcement of rules or law, the ~~board~~ committee or the commissioner shall not disclose that information except:

(a) pursuant to section 13.05;

(b) pursuant to statute or valid court order; or

(c) to a party named in a civil or criminal proceeding, administrative or judicial, for preparation of defense.

Data described in this subdivision is classified as public data upon its submission to an administrative law judge or court in an administrative or judicial proceeding.

Subd. 7. **LONG-TERM CARE RESEARCH AND DATABASE.** The interagency long-term care planning committee shall collect and analyze state and national long-term care data and research, including relevant health data and information and research relating to long-term care and social needs, service utilization, costs, and client outcomes. The committee shall make recommendations to state agencies and other public and private agencies for methods of improving coordination of existing data, develop data needed for long-term care research, and promote new research activities. Research and data activities must be designed to:

(1) improve the validity and reliability of existing data and research information;

(2) identify sources of funding and potential uses of funding sources;

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(3) evaluate the effectiveness and client outcomes of existing programs; and

(4) identify and plan for future changes in the number, level, and type of services needed by seniors.

Sec. 2. Minnesota Statutes 1990, section 144A.46, subdivision 4, is amended to read:

Subd. 4. **RELATION TO OTHER REGULATORY PROGRAMS.** In the exercise of the authority granted under sections 144A.43 to 144A.49, the commissioner shall not duplicate or replace standards and requirements imposed under another state regulatory program. The commissioner shall not impose additional training or education requirements upon members of a licensed or registered occupation or profession, except as necessary to address or prevent problems that are unique to the delivery of services in the home or to enforce and protect the rights of consumers listed in section 144A.44. ~~For home care providers certified under the Medicare program, the state standards must not be inconsistent with the Medicare standards for Medicare services.~~ The commissioner of health shall not require a home care provider certified under the Medicare program to comply with a rule adopted under section 144A.45 if the home care provider is required to comply with any equivalent federal law or regulation relating to the same subject matter. The commissioner of health shall specify in the rules those provisions that are not applicable to certified home care providers. To the extent possible, the commissioner shall coordinate the inspections required under sections 144A.45 to 144A.48 with the health facility licensure inspections required under sections 144.50 to 144.58 or 144A.10 when the health care facility is also licensed under the provisions of Laws 1987, chapter 378.

Sec. 3. Minnesota Statutes 1990, section 198.007, is amended to read:

198.007 **QUALITY ASSURANCE.**

The board shall create a utilization review committee for each home comprised of the appropriate professionals employed by or under contract to the home. The committee shall use the case-mix system established under section 144.072 to assess the appropriateness and quality of care and services provided residents of the homes.

The board shall create an admissions committee for each home comprised of the appropriate professionals employed by or under contract to each home and adopt a preadmission screening program~~, such as the one established under section 256B.091,~~ for all applicants for admission to the homes who may require nursing or boarding care, taking into account the eligibility requirements in section 198.022, the admissions criteria established by board rules, and the availability of space in the homes.

Sec. 4. Minnesota Statutes 1990, section 256.025, subdivision 2, is amended to read:

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Subd. 2. **COVERED PROGRAMS AND SERVICES.** The procedures in this section govern payment of county agency expenditures for benefits and services distributed under the following programs:

(1) aid to families with dependent children under sections 256.82, subdivision 1, and 256.935, subdivision 1;

(2) medical assistance under sections 256B.041, subdivision 5, and 256B.19, subdivision 1;

(3) general assistance medical care under section 256D.03, subdivision 6;

(4) general assistance under section 256D.03, subdivision 2;

(5) work readiness under section 256D.03, subdivision 2;

(6) emergency assistance under section 256.871, subdivision 6;

(7) Minnesota supplemental aid under section 256D.36, subdivision 1;

(8) preadmission screening and alternative care grants ~~under section 256B.091~~;

(9) work readiness services under section 256D.051;

(10) case management services under section 256.736, subdivision 13;

(11) general assistance claims processing, medical transportation and related costs; and

(12) medical assistance, medical transportation and related costs.

Sec. 5. Minnesota Statutes 1990, section 256B.0625, subdivision 2, is amended to read:

Subd. 2. **SKILLED AND INTERMEDIATE NURSING CARE.** Medical assistance covers skilled nursing home services and services of intermediate care facilities, including training and habilitation services, as defined in section 252.41, subdivision 3, for persons with mental retardation or related conditions who are residing in intermediate care facilities for persons with mental retardation or related conditions. Medical assistance must not be used to pay the costs of nursing care provided to a patient in a swing bed as defined in section 144.562, unless (a) the facility in which the swing bed is located is eligible as a sole community provider, as defined in Code of Federal Regulations, title 42, section 412.92, or the facility is a public hospital owned by a governmental entity with 15 or fewer licensed acute care beds; (b) the health care financing administration approves the necessary state plan amendments; (c) the patient was screened as provided ~~in section 256B.091~~ by law; (d) the patient no longer requires acute care services; and (e) no nursing home beds are available within 25 miles of the facility. The daily medical assistance payment for nursing care for the patient in the swing bed is the statewide average medical assistance

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skilled nursing care per diem as computed annually by the commissioner on July 1 of each year.

Sec. 6. Minnesota Statutes 1990, section 256B.48, subdivision 1, is amended to read:

Subdivision 1. **PROHIBITED PRACTICES.** A nursing home is not eligible to receive medical assistance payments unless it refrains from all of the following:

(a) Charging private paying residents rates for similar services which exceed those which are approved by the state agency for medical assistance recipients as determined by the prospective desk audit rate, except under the following circumstances: the nursing home may (1) charge private paying residents a higher rate for a private room, and (2) charge for special services which are not included in the daily rate if medical assistance residents are charged separately at the same rate for the same services in addition to the daily rate paid by the commissioner. Services covered by the payment rate must be the same regardless of payment source. Special services, if offered, must be available to all residents in all areas of the nursing home and charged separately at the same rate. Residents are free to select or decline special services. Special services must not include services which must be provided by the nursing home in order to comply with licensure or certification standards and that if not provided would result in a deficiency or violation by the nursing home. Services beyond those required to comply with licensure or certification standards must not be charged separately as a special service if they were included in the payment rate for the previous reporting year. A nursing home that charges a private paying resident a rate in violation of this clause is subject to an action by the state of Minnesota or any of its subdivisions or agencies for civil damages. A private paying resident or the resident's legal representative has a cause of action for civil damages against a nursing home that charges the resident rates in violation of this clause. The damages awarded shall include three times the payments that result from the violation, together with costs and disbursements, including reasonable attorneys' fees or their equivalent. A private paying resident or the resident's legal representative, the state, subdivision or agency, or a nursing home may request a hearing to determine the allowed rate or rates at issue in the cause of action. Within 15 calendar days after receiving a request for such a hearing, the commissioner shall request assignment of an administrative law judge under sections 14.48 to 14.56 to conduct the hearing as soon as possible or according to agreement by the parties. The administrative law judge shall issue a report within 15 calendar days following the close of the hearing. The prohibition set forth in this clause shall not apply to facilities licensed as boarding care facilities which are not certified as skilled or intermediate care facilities level I or II for reimbursement through medical assistance.

(b) Requiring an applicant for admission to the home, or the guardian or conservator of the applicant, as a condition of admission, to pay any fee or deposit in excess of $100, loan any money to the nursing home, or promise to leave all or part of the applicant's estate to the home.

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(c) Requiring any resident of the nursing home to utilize a vendor of health care services who is a licensed physician or pharmacist chosen by the nursing home.

(d) Providing differential treatment on the basis of status with regard to public assistance.

(e) Discriminating in admissions, services offered, or room assignment on the basis of status with regard to public assistance or refusal to purchase special services. Admissions discrimination shall include, but is not limited to:

(1) basing admissions decisions upon assurance by the applicant to the nursing home, or the applicant's guardian or conservator, that the applicant is neither eligible for nor will seek public assistance for payment of nursing home care costs; and

(2) engaging in preferential selection from waiting lists based on an applicant's ability to pay privately or an applicant's refusal to pay for a special service.

The collection and use by a nursing home of financial information of any applicant pursuant to ~~the~~ a preadmission screening program established by ~~section 256B.091~~ law shall not raise an inference that the nursing home is utilizing that information for any purpose prohibited by this paragraph.

(f) Requiring any vendor of medical care as defined by section 256B.02, subdivision 7, who is reimbursed by medical assistance under a separate fee schedule, to pay any amount based on utilization or service levels or any portion of the vendor's fee to the nursing home except as payment for renting or leasing space or equipment or purchasing support services from the nursing home as limited by section 256B.433. All agreements must be disclosed to the commissioner upon request of the commissioner. Nursing homes and vendors of ancillary services that are found to be in violation of this provision shall each be subject to an action by the state of Minnesota or any of its subdivisions or agencies for treble civil damages on the portion of the fee in excess of that allowed by this provision and section 256B.433. Damages awarded must include three times the excess payments together with costs and disbursements including reasonable attorney's fees or their equivalent.

(g) Refusing, for more than 24 hours, to accept a resident returning to the same bed or a bed certified for the same level of care, in accordance with a physician's order authorizing transfer, after receiving inpatient hospital services.

The prohibitions set forth in clause (b) shall not apply to a retirement home with more than 325 beds including at least 150 licensed nursing home beds and which:

(1) is owned and operated by an organization tax-exempt under section 290.05, subdivision 1, clause (i); and

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(2) accounts for all of the applicant's assets which are required to be assigned to the home so that only expenses for the cost of care of the applicant may be charged against the account; and

(3) agrees in writing at the time of admission to the home to permit the applicant, or the applicant's guardian, or conservator, to examine the records relating to the applicant's account upon request, and to receive an audited statement of the expenditures charged against the applicant's individual account upon request; and

(4) agrees in writing at the time of admission to the home to permit the applicant to withdraw from the home at any time and to receive, upon withdrawal, the balance of the applicant's individual account.

For a period not to exceed 180 days, the commissioner may continue to make medical assistance payments to a nursing home or boarding care home which is in violation of this section if extreme hardship to the residents would result. In these cases the commissioner shall issue an order requiring the nursing home to correct the violation. The nursing home shall have 20 days from its receipt of the order to correct the violation. If the violation is not corrected within the 20-day period the commissioner may reduce the payment rate to the nursing home by up to 20 percent. The amount of the payment rate reduction shall be related to the severity of the violation and shall remain in effect until the violation is corrected. The nursing home or boarding care home may appeal the commissioner's action pursuant to the provisions of chapter 14 pertaining to contested cases. An appeal shall be considered timely if written notice of appeal is received by the commissioner within 20 days of notice of the commissioner's proposed action.

In the event that the commissioner determines that a nursing home is not eligible for reimbursement for a resident who is eligible for medical assistance, the commissioner may authorize the nursing home to receive reimbursement on a temporary basis until the resident can be relocated to a participating nursing home.

Certified beds in facilities which do not allow medical assistance intake on July 1, 1984, or after shall be deemed to be decertified for purposes of section 144A.071 only.

Sec. 7. **[256.9751] CONGREGATE HOUSING SERVICES PROJECTS.**

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

(a) **CONGREGATE HOUSING.** "Congregate housing" means federally or locally subsidized housing, designed for the elderly, consisting of private apartments and common areas which can be used for activities and for serving meals.

(b) **CONGREGATE HOUSING SERVICES PROJECTS.** "Congregate

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housing services project" means a project in which services are or could be made available to older persons who live in subsidized housing and which helps delay or prevent nursing home placement. To be considered a congregate housing services project, a project must have: (1) an on-site coordinator, and (2) a plan for providing a minimum of one meal per day, for each elderly participant, seven days a week.

(c) **ON-SITE COORDINATOR.** "On-site coordinator" means a person who works on-site in a building or buildings and who serves as a contact for older persons who need services, support, and assistance in order to delay or prevent nursing home placement.

(d) **CONGREGATE HOUSING SERVICES PROJECT PARTICIPANTS OR PROJECT PARTICIPANTS.** "Congregate housing services project participants" or "project participants" means elderly persons 60 years old or older, who are currently residents of, or who are applying for residence in housing sites, and who need support services to remain independent.

Subd. 2. **ADVISORY COMMITTEE.** An advisory committee shall be appointed to advise the Minnesota board on aging on the development and implementation of the congregate housing services projects. The advisory committee shall review procedures and provide advice and technical assistance to the Minnesota board on aging regarding the grant program established under this section. The advisory committee shall consist of not more than 15 people appointed by the Minnesota board on aging, and shall be comprised of representatives from public and nonprofit service and housing providers and consumers from all areas of the state. Members of the advisory committee shall not be compensated for service.

Subd. 3. **GRANT PROGRAM.** The Minnesota board on aging shall establish a congregate housing services grant program which will enable communities to provide on-site coordinators to serve as a contact for older persons who need services and support, and assistance to access services in order to delay or prevent nursing home placement.

Subd. 4. **USE OF GRANT FUNDS.** Grant funds shall be used to develop and fund on-site coordinator positions. Grant funds shall not be used to duplicate existing funds, to modify buildings, or to purchase equipment.

Subd. 5. **GRANT ELIGIBILITY.** A public or nonprofit agency or housing unit may apply for funds to provide a coordinator for congregate housing services to an identified population of frail elderly persons in a subsidized multiunit apartment building or buildings in a community. The board shall give preference to applicants that meet the requirements of this section, and that have a common dining site. Local match may be required. State money received may also be used to match federal money allocated for congregate housing services. Grants shall be awarded to urban and rural sites.

Subd. 6. **CRITERIA FOR SELECTION.** The Minnesota board on aging shall select projects under this section according to the following criteria:

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(1) the extent to which the proposed project assists older persons to age-in-place to prevent or delay nursing home placement;

(2) the extent to which the proposed project identifies the needs of project participants;

(3) the extent to which the proposed project identifies how the on-site coordinator will help meet the needs of project participants;

(4) the extent to which the proposed project assures the availability of one meal a day, seven days a week, for participants in need;

(5) the extent to which the proposed project demonstrates involvement of participants and family members in the project; and

(6) the extent to which the proposed project demonstrates involvement of housing providers and public and private service agencies, including area agencies on aging.

Subd. 7. **GRANT APPLICATIONS.** The Minnesota board on aging shall request proposals for grants and award grants using the criteria in subdivision 6. Grant applications shall include:

(1) documentation of the need for congregate services so the residents can remain independent;

(2) a description of the resources, such as social services and health services, that will be available in the community to provide the necessary support services;

(3) a description of the target population, as defined in subdivision 1, paragraph (d);

(4) a performance plan that includes written performance objectives, outcomes, timelines, and the procedure the grantee will use to document and measure success in meeting the objectives; and

(5) letters of support from appropriate public and private agencies and organizations, such as area agencies on aging and county human service departments that demonstrate an intent to work with and coordinate with the agency requesting a grant.

Subd. 8. **REPORT.** By January 1, 1993, the Minnesota board on aging shall submit a report to the legislature evaluating the programs. The report must document the project costs and outcomes that helped delay or prevent nursing home placement. The report must describe steps taken for quality assurance and must also include recommendations based on the project findings.

Sec. 8. Minnesota Statutes 1990, section 256B.04, subdivision 16, is amended to read:

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Subd. 16. **PERSONAL CARE SERVICES.** (a) ~~The commissioner shall adopt permanent rules to implement, administer, and operate personal care services. The rules must incorporate the standards and requirements adopted by the commissioner of health under section 144A.45 which are applicable to the provision of personal care.~~ Notwithstanding any contrary language in this paragraph, the commissioner of human services and the commissioner of health shall jointly promulgate rules to be applied to the licensure of personal care services provided under the medical assistance program. The rules shall consider standards for personal care services that are based on the World Institute on Disability's recommendations regarding personal care services. These rules shall at a minimum consider the standards and requirements adopted by the commissioner of health under section 144A.45, which the commissioner of human services determines are applicable to the provision of personal care services, in addition to other standards or modifications which the commissioner of human services determines are appropriate.

The commissioner of human services shall establish an advisory group including personal care consumers and providers to provide advice regarding which standards or modifications should be adopted. The advisory group membership must include not less than 15 members, of which at least 60 percent must be consumers of personal care services and representatives of recipients with various disabilities and diagnoses and ages. At least 51 percent of the members of the advisory group must be recipients of personal care.

The commissioner of human services may contract with the commissioner of health to enforce the jointly promulgated licensure rules for personal care service providers.

Prior to final promulgation of the joint rule the commissioner of human services shall report preliminary findings along with any comments of the advisory group and a plan for monitoring and enforcement by the department of health to the legislature by February 15, 1992.

Limits on the extent of personal care services that may be provided to an individual must be based on the cost-effectiveness of the services in relation to the costs of inpatient hospital care, nursing home care, and other available types of care. The rules must provide, at a minimum:

(1) that agencies be selected to contract with or employ and train staff to provide and supervise the provision of personal care services;

(2) that agencies employ or contract with a qualified applicant that a qualified recipient proposes to the agency as the recipient's choice of assistant;

(3) that agencies bill the medical assistance program for a personal care service by a personal care assistant and supervision by the registered nurse supervising the personal care assistant;

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(4) that agencies establish a grievance mechanism; and

(5) that agencies have a quality assurance program.

(b) ~~For personal care assistants under contract with an agency under paragraph (a), the provision of training and supervision by the agency does not create an employment relationship.~~ The commissioner may waive the requirement for the provision of personal care services through an agency in a particular county, when there are less than two agencies providing services in that county.

Sec. 9. Minnesota Statutes 1990, section 256B.0625, is amended by adding a subdivision to read:

Subd. 6a. **HOME HEALTH SERVICES.** Home health services are those services specified in Minnesota Rules, part 9505.0290. Medical assistance covers home health services at a recipient's home residence. Medical assistance does not cover home health services at a hospital, nursing facility, intermediate care facility, or a health care facility licensed by the commissioner of health, unless the commissioner of human services has prior authorized skilled nurse visits for less than 90 days for a resident at an intermediate care facility for persons with mental retardation, to prevent an admission to a hospital or nursing facility. Home health services must be provided by a Medicare certified home health agency. All nursing and home health aide services must be provided according to section 256B.0627.

Sec. 10. Minnesota Statutes 1990, 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. Medical assistance does not cover private duty nursing services at 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. 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. 11. Minnesota Statutes 1990, section 256B.0625, is amended by adding a subdivision to read:

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Subd. 19a. **PERSONAL CARE SERVICES.** Medical assistance covers personal care services in a recipient's home. Recipients who can direct their own care, or persons who cannot direct their own care when accompanied by the responsible party, may use approved hours 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. Medical assistance does not cover personal care services at 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. Total hours of service and payment allowed for services outside the home cannot exceed that which is otherwise allowed for personal care services in an in-home setting according to section 256B.0627. 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 of the recipient or the parent of a recipient under age 18, the responsible party, the foster care provider of a recipient who cannot direct their own care or the recipient's legal guardian. 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 granted a waiver under section 256B.0627. An exception for foster care providers may be made according to section 256B.0627, subdivision 5, paragraph (j).

Sec. 12. Minnesota Statutes 1990, section 256B.0627, is amended to read:

256B.0627 **COVERED SERVICE; HOME CARE SERVICES.**

Subdivision 1. **DEFINITION.** "Home care services" means a ~~medically necessary~~ health service, determined by the commissioner as medically necessary, that is ordered by a physician and documented in a care plan ~~of care~~ that is reviewed ~~and revised as medically necessary~~ by the physician at least once every 60 days~~. Home care services include personal care and nursing supervision of personal care services which is reviewed and revised as medically necessary by the physician~~ for the provision of home health services, or private duty nursing, or at least once every 365 days for personal care. Home care services are provided to the recipient at the recipient's residence that is a place other than a hospital or long-term care facility or as specified in section 256B.0625. "Medically necessary" has the meaning given in Minnesota Rules, parts 9505.0170 to 9505.0475. "Care plan" means a written description of the services needed which shall include a detailed description of the covered home care services, who is providing the services, frequency of those services, and duration of those services. The care plan shall also include expected outcomes and goals including expected date of goal accomplishment.

Subd. 2. **SERVICES COVERED.** Home care services covered under this section include:

(1) nursing services under section 256B.0625, subdivision 6a;

(2) private duty nursing services under section 256B.0625, subdivision 7;

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(3) home health aide services under section 256B.0625, subdivision 6a;

(4) personal care services under section 256B.0625, subdivision 19a; and

(5) nursing supervision of personal care services under section 256B.0625, subdivision 19a.

~~Subd. 3. PRIVATE DUTY NURSING SERVICES; WHO MAY PROVIDE. Private duty nursing services may be provided by a registered nurse or licensed practical nurse who is not the recipient's spouse, legal guardian, or parent of a minor child.~~

Subd. 4. **PERSONAL CARE SERVICES.** (a) ~~Personal care services may be provided by a qualified individual who is not the recipient's spouse, legal guardian, or parent of a minor child.~~

~~(b)~~ 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) range of motion exercises;

(4) respiratory assistance;

(5) transfers;

(6) bathing, grooming, and hairwashing necessary for personal hygiene;

(7) turning and positioning;

(8) assistance with furnishing medication that is normally self-administered;

(9) application and maintenance of prosthetics and orthotics;

(10) cleaning medical equipment;

(11) dressing or undressing;

(12) assistance with food, nutrition, and diet activities;

(13) accompanying a recipient to obtain medical diagnosis or treatment;

(14) ~~services provided for the recipient's personal health and safety;~~

~~(15)~~ helping the recipient to complete daily living skills such as personal and oral hygiene and medication schedules;

(15) supervision and observation that are medically necessary because of the recipient's diagnosis or disability; and

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(16) incidental household services that are an integral part of a personal care service described in clauses (1) to (15).

~~(c)~~ (b) The personal care services that are not eligible for payment are the following:

(1) personal care services that are not in the care plan ~~of care~~ developed by the supervising registered nurse in consultation with the personal care assistants and the recipient or ~~family~~ the responsible party directing the care of the recipient;

(2) services that are not supervised by the registered nurse;

(3) services provided by the recipient's spouse, legal guardian, or parent of a minor child;

(4) foster care provider of a recipient who cannot direct their own care, unless prior authorized by the commissioner under paragraph (j);

~~(4)~~ (5) sterile procedures; ~~and~~

~~(5)~~ (6) injections of fluids into veins, muscles, or skin.;

(7) services provided by parents of adult recipients, adult children, or adult siblings, 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, the relative is needed in order to provide an adequate number of qualified personal care assistants to meet the medical needs of the recipient;

(7) homemaker services that are not an integral part of a personal care services; and

(8) home maintenance, or chore services.

Subd. 5. **LIMITATION ON PAYMENTS.** Medical assistance payments for home care services shall be limited according to ~~paragraphs (a) to (c)~~ this subdivision.

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(a) **EXEMPTION FROM PAYMENT LIMITATIONS.** The level, or the number of hours or visits of a specific service, of home ~~health~~ care services to a recipient that began before and is continued without increase on or after December 1987, shall be exempt from the payment limitations of this section, as long as the services are medically necessary.

(b) ~~**LEVEL I HOME CARE**~~ **LIMITS ON SERVICES WITHOUT PRIOR AUTHORIZATION.** ~~For all new cases after December 1987, medically necessary home care services up to $800 may be provided in a calendar month.~~

~~If the services in the recipient's home care plan will exceed the $800 threshold for 30 days or less, the medically necessary services may be provided.~~ A recipient may receive the following amounts of home care services during a calendar year:

(1) a total of 40 home health aide visits, skilled nurse visits, health promotions, or health assessments under section 256B.0625, subdivision 6a; and

(2) a total of ten hours of nursing supervision under section 256B.0625, subdivision 7 or 19a.

(c) **PRIOR AUTHORIZATION; EXCEPTIONS.** All home care services above the limits in paragraph (b) 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; or

(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.

(d) **RETROACTIVE AUTHORIZATION.** A request for retroactive authorization under paragraph (c) will be evaluated according to the same criteria applied to prior authorization requests. Implementation of this provision shall begin no later than October 1, 1991, except that recipients who are currently receiving medically necessary services above the limits established under this subdivision may have a reasonable amount of time to arrange for waivered services under section 256B.49 or to establish an alternative living arrangement.

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All current recipients shall be phased down to the limits established under paragraph (b) on or before April 1, 1992.

~~(e)~~ (e) ~~LEVEL II HOME CARE~~ ASSESSMENT AND CARE PLAN. ~~If the services in the recipient's home care plan exceed $800 for more than 30 days, a public health nurse from the local preadmission screening team shall determine the recipient's maximum level of home care according to this paragraph.~~ The home care provider shall conduct an assessment and complete a care plan using forms specified by the commissioner. For the recipient to receive, or continue to receive, home care services, the provider must submit evidence necessary for the commissioner to determine the medical necessity of the home care services. The provider shall submit to the commissioner the assessment, the care 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.

~~(1)~~ (f) **PRIOR AUTHORIZATION.** The ~~public health nurse from the local preadmission screening team shall base the determination of the recipient's maximum level of care on the need and eligibility of the recipient for one of the following placements~~ commissioner, or the commissioner's designee, shall review the assessment, the care plan, and any additional information that is submitted. The commissioner shall, within 30 days after receiving a request for prior authorization, authorize home care services as follows:

~~(i) residential facility for persons with mental retardation or related conditions operated under section 256B.501;~~

~~(ii) inpatient hospital care for a ventilator-dependent recipient. "Ventilator dependent" means an individual who receives mechanical ventilation for life support at least six hours per day and is expected to or has been dependent for at least 30 consecutive days; or~~

~~(iii) all other recipients not appropriate for one of the above placements.~~

~~(2) If the recipient is eligible under clause (1)(i), the monthly medical assistance reimbursement for home care services shall not exceed the total monthly statewide average payment rate for residential facilities for children or adults with mental retardation or related conditions as appropriate for the recipient's age and level of self-preservation as determined according to Minnesota Rules, parts 9553.0010 to 9553.0080.~~

(l) **HOME HEALTH SERVICES.** All home health services provided by a nurse or a home health aide that exceed the limits established in paragraph (b) 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.

(2) **PERSONAL CARE SERVICES.** (i) All personal care services must be prior authorized by the commissioner or the commissioner's designee except for the limits on supervision established in paragraph (b). The amount of personal

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care services authorized must be based on the recipient's case mix classification according to section 256B.0911, except that 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 case mix level;

(B) up to three times the average number of direct care hours provided in nursing facilities for recipients who have complex medical needs;

(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 complex behaviors;

(D) up to the amount the commissioner would pay, as of July 1, 1991, for care provided in a regional treatment center for recipients referred to the commissioner by a regional treatment center preadmission evaluation team. For purposes of this clause, home care services means all services provided in the home or community that would be included in the payment to a regional treatment center; or

(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.091 or 256B.092.

(ii) The number of direct care hours shall be determined according to annual cost reports which are submitted to the department by nursing facilities each year. The average number of direct care hours, as established by May 1, shall be incorporated into the home care limits on July 1 each year.

(iii) The case mix level shall be determined by the commissioner or the commissioner's designee based on information submitted to the commissioner by the personal care provider on forms specified by the commissioner. The forms 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 children and nonelderly adults who need home care. The commissioner shall establish these forms and protocols under this section and shall use the advisory group established in section 256B.04, subdivision 16, for consultation in establishing the forms and protocols by October 1, 1991.

(iv) A recipient shall qualify as having complex medical needs if they require:

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(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; or

(G) other comparable medical conditions or treatments the commissioner determines would otherwise require institutional care.

(v) A recipient shall qualify as having complex behavior if the recipient exhibits on a daily basis the following:

(A) self-injurious behavior;

(B) unusual or repetitive habits;

(C) withdrawal behavior;

(D) hurtful behavior to others;

(E) socially or offensive behavior;

(F) destruction of property; or

(G) a need for constant one-to-one supervision for self-preservation.

(vi) The complex behaviors in clauses (A) to (G) have the meanings developed under section 256B.501.

(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 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 up to 16 hours per day of private duty nursing services or up to 24 hours per day of private duty nursing services until such time as the commissioner is able to make a determination of eligibility for

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recipients who are applying for home care services under the community alternative care program developed under section 256B.49, or until it is determined that a health benefit plan is required to pay for medically necessary nursing services. 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.

~~(3)~~ (4) **VENTILATOR-DEPENDENT RECIPIENTS.** If the recipient is ~~eligible under clause (1)(ii)~~ ventilator-dependent, the monthly medical assistance ~~reimbursement~~ authorization for home care services shall not exceed ~~the monthly cost of~~ 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.

~~(4) If the recipient is not eligible under either clause (1)(i) or (1)(ii), the monthly medical assistance reimbursement for home care services shall not exceed the total monthly statewide average payment for the case mix classification most appropriate to the recipient. The case mix classification is established under section 256B.431.~~

~~(5) The determination of the recipient's maximum level of home care by the public health nurse is called a home care cost assessment. The home care cost assessment must be requested by the home care provider before the end of the first 30 days of provided service and must be conducted by the public health nurse within ten working days following request.~~

~~(6) A home care provider shall request a new home care cost assessment when the needs of the individual have changed enough to require that a revised care plan be implemented that will increase costs beyond what was approved by the previous home care cost assessment and the change is anticipated to last for more than 30 days. The home care provider must request the home care cost assessment before the end of the first 30 days of provided service. Whenever a home care cost assessment is completed, the public health nurse that completes the home care cost assessment, in consultation with the home care provider,~~

(g) **PRIOR AUTHORIZATION; TIME LIMITS.** The commissioner or the commissioner's designee shall determine the time period for which a ~~home care cost assessment~~ prior authorization shall remain valid. If the recipient continues to require home care services beyond the ~~limited~~ duration of the ~~home care cost assessment~~ prior authorization, the home care provider must request a ~~reassessment through the home care cost assessment~~ new prior authorization through the process described above. Under no circumstances shall a ~~home care cost assessment~~ prior authorization be valid for more than 12 months.

~~(7) Reimbursement for the home care cost assessment shall be made~~

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~~through the Medicaid administrative authority. The state shall pay the nonfederal share.~~

(h) **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, and the amount, scope, and duration of home care services reimbursable by medical assistance, based on the assessment, the care plan, the recipient's age, the recipient's medical condition, and diagnosis or disability. The commissioner may publish additional criteria for determining medical necessity according to section 256B.04.

~~(d) LEVEL III HOME CARE. If the home care provider determines that the recipient's needs exceed the amount approved for the appropriate level of care as determined in paragraph (c), the home care provider may refer the case to the department for a level III determination. Based on the client needs, physician orders, diagnosis, condition, and plan of care, the department may give prior approval for care that exceeds level II described in paragraph (c). The amount approved shall not exceed the maximum cost for the appropriate level of care as determined in paragraph (c), clause (1), which will be the maximum ICF/MR rate for intermediate care facilities for persons with mental retardation or related conditions, or the maximum nursing home case mix payment, or the highest hospital cost for the state.~~

(i) **PRIOR AUTHORIZATION REQUESTS; TEMPORARY SERVICES.** The department has 30 days from receipt of the request to complete the ~~level III determination~~ prior authorization, during which time it may approve ~~the higher level while reviewing the case~~ a temporary level of home care service. Authorization under this authority for a temporary level of home care services is limited to the time specified by the commissioner.

~~Case reviews or approval of home care services in levels II and III may result in assignment of a case manager.~~

~~(e)~~ (j) **PRIOR ~~APPROVAL~~ AUTHORIZATION REQUIRED IN FOSTER CARE SETTING.** ~~Any~~ Home care ~~service~~ services provided in an adult or child foster care setting must receive prior ~~approval~~ authorization by the department according to the limits established in paragraph (b).

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;

(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 the recipient is referred to the commissioner by a regional treatment center preadmission evaluation team;

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(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 the recipient is referred to the commissioner by a regional treatment center preadmission evaluation team;

(4) home care services when the number of foster care residents is greater than four; or

(5) home care services when combined with foster care payments, less the base rate, that exceed the total amount that public funds would pay for the recipient's care in a medical institution.

Subd. 6. **RECOVERY OF EXCESSIVE PAYMENTS.** The commissioner shall seek monetary recovery from providers of payments made for services which exceed the limits established in this section.

Sec. 13. **[256B.0628] PRIOR AUTHORIZATION AND REVIEW OF HOME CARE SERVICES.**

Subdivision 1. **STATE COORDINATION.** The commissioner shall supervise the coordination of the prior authorization and review of home care services that are reimbursed by medical assistance.

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

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

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

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

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

(4) recommend to the commissioner the approval or denial of the use of medical assistance funds to pay for home care services when home care services exceed thresholds established by the commissioner under Minnesota Rules, parts 9505.0170 to 9505.0475;

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

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(6) conduct on-site assessments when determined necessary by the commissioner.

(c) In addition, the contractor may be requested by the commissioner to:

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

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

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

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

(5) assure the quality of home care services.

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

Sec. 14. **[256B.0911] NURSING HOME PREADMISSION SCREENING.**

Subdivision 1. **PURPOSE AND GOAL.** The purpose of the preadmission screening program is to prevent or delay certified nursing facility placements by assessing applicants and residents and offering cost-effective alternatives appropriate for the person's needs. Further, the goal of the program is to contain costs associated with unnecessary certified nursing facility admissions. The commissioners of human services and health shall seek to maximize use of available federal and state funds and establish the broadest program possible within the funding available.

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;

(2) residents transferred from other certified nursing facilities;

(3) individuals whose length of stay is expected to be 30 days or less based on a physician's certification, if the facility notifies the screening team prior to admission and provides an update to the screening team on the 30th day after admission;

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(4) individuals who have a contractual right to have their nursing facility care paid for indefinitely by the veteran's administration; or

(5) individuals who are enrolled in the Ebenezer/Group Health social health maintenance organization project at the time of application to a nursing home; or

(6) individuals who are screened by another state within three months before 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 be screened 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.

Persons transferred from an acute care facility to a certified nursing facility may be admitted to the nursing facility before screening, if authorized by the county agency; however, the person must be screened within ten working days after the admission.

Other persons who are not applicants to nursing facilities must be screened if a request is made for a screening.

Subd. 3. **PERSONS RESPONSIBLE FOR CONDUCTING THE PREADMISSION SCREENING.** (a) A local screening team shall be established by the county agency and the county public health nursing service of the local board of health. Each local screening team shall be composed of a social worker and a public health nurse from their respective county agencies. Two or more counties may collaborate to establish a joint local screening team or teams.

(b) Both members of the team must conduct the screening. However, individuals who are being transferred from an acute care facility to a certified nursing facility may be screened by only one member of the screening team in consultation with the other member.

(c) In assessing a person's needs, each screening team shall have a physician available for consultation and shall consider the assessment of the individual's attending physician, if any. The individual's physician shall be included on the screening team if the physician chooses to participate. Other personnel may be included on the team as deemed appropriate by the county agencies.

(d) If a person who has been screened must be reassessed to assign a case mix classification because admission to a nursing facility occurs later than the time allowed by rule following the initial screening and assessment, the reassessment may be completed by the public health nurse member of the screening team.

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Subd. 4. **RESPONSIBILITIES OF THE COUNTY AGENCY AND THE SCREENING TEAM.** (a) The county agency 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;

(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 active treatment needs in cooperation with:

(i) a qualified mental health professional for persons with a primary or secondary diagnosis of 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.

The county agency may determine in cooperation with the local board of health that the public health nursing agency of the local board of health is the lead agency which is responsible for all of the activities above except clause (5).

(b) The screening team 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.

The screening shall be conducted within ten working days after the date of referral or, for those approved for transfer from an acute care facility to a certified nursing facility, within ten working days after admission to the nursing facil-

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ity. 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 the screening team or the case manager in the discharge planning process for those individuals who the team has determined have discharge potential. The screening team or the case manager must ensure a smooth transition and follow-up for the individual's return to the community.

Local screening teams 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 screening team shall encourage the use of volunteers from families, religious organizations, social clubs, and similar civic and service organizations to provide services.

Subd. 5. **SIMPLIFICATION OF FORMS.** The commissioner shall minimize the number of forms required in the preadmission screening process and shall limit the screening document to items necessary for care plan approval, reimbursement, program planning, evaluation, and policy development.

Subd. 6. **REIMBURSEMENT FOR PREADMISSION SCREENING.** (a) The total screening cost for each county must be paid monthly by certified nursing facilities in the county. The monthly amount to be paid by each nursing facility for each fiscal year must be determined by dividing the county's estimate of the total annual cost of screenings allowed in the county for the following rate year by 12 to determine the monthly cost estimate and allocating the monthly cost estimate to each nursing facility based on the number of licensed beds in the nursing facility.

(b) The rate allowed for a screening where two team members are present shall be the actual costs up to $195. The rate allowed for a screening where only one team member is present shall be the actual costs up to $117. Annually on July 1, the commissioner shall adjust the rate up to the percentage change forecast in the fourth quarter of the prior calendar year by the Home Health Agency Market Basket of Operating Costs, unless otherwise adjusted by statute. The Home Health Agency Market Basket of Operating Costs is published by Data Resources, Inc.

(c) The monthly cost estimate for each certified nursing facility must be submitted to the state by the county no later than February 15 of each year for inclusion in the nursing facility's payment rate on the following rate year. The commissioner shall include the reported annual estimated cost of screenings for each nursing facility as an operating cost of that nursing facility in accordance with section 256B.431, subdivision 2b, paragraph (g). The monthly cost estimates approved by the commissioner must be sent to the nursing facility by the county no later than April 15 of each year.

(d) If in more than ten percent of the total number of screenings performed by a county in a fiscal year for all individuals regardless of payment source, the screening timelines were not met because a county was late in screening the individual, the county is solely responsible for paying the cost of those delayed screenings that exceed ten percent.

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(e) Notwithstanding section 256B.0641, overpayments attributable to payment of the screening costs under the medical assistance program may not be recovered from a facility.

(f) The commissioner of human services shall amend the Minnesota medical assistance plan to include reimbursement for the local screening teams.

Subd. 7. **REIMBURSEMENT FOR CERTIFIED NURSING FACILITIES.** Medical assistance reimbursement for nursing facilities shall be authorized for a medical assistance recipient only if a preadmission screening has been conducted 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 screening team has determined does not meet the level of care criteria for nursing facility placement.

An individual has a choice and makes the final decision between nursing facility placement and community placement after the screening team's recommendation. However, the local county mental health authority or the local 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 does need active treatment as defined in Public Law Numbers 100-203 and 101-508.

Appeals from the screening team's recommendation or the county agency's final decision shall be made according to section 256.045, subdivision 3.

Subd. 8. **ADVISORY COMMITTEE.** The commissioner shall appoint an advisory committee to advise the commissioner on the preadmission screening program, the alternative care program under section 256B.0913, and the home- and community-based services waiver programs for the elderly and the disabled. The advisory committee shall review policies and procedures and provide advice and technical assistance to the commissioner regarding the effectiveness and the efficient administration of the programs. The advisory committee must consist of not more than 20 people appointed by the commissioner and must be comprised of representatives from public agencies, public and private service providers, and consumers from all areas of the state. Members of the advisory committee must not be compensated for service.

Sec. 15. **[256B.0913] ALTERNATIVE CARE PROGRAM.**

Subdivision 1. **PURPOSE AND GOALS.** The purpose of the alternative care program is to provide funding for or access to home and community-based services for frail elderly persons, in order to limit nursing facility placements. The program is designed to support frail elderly persons in their desire to remain in the community as independently and as long as possible and to support informal caregivers in their efforts to provide care for frail elderly people. Further, the goals of the program are:

(1) to contain medical assistance expenditures by providing care in the community at a cost the same or less than nursing facility costs; and

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(2) to maintain the moratorium on new construction of nursing home beds.

Subd. 2. **ELIGIBILITY FOR SERVICES.** Alternative care services are available to all frail older Minnesotans. This includes:

(1) persons who are receiving medical assistance and served under the medical assistance program or the Medicaid waiver program;

(2) persons who would be eligible for medical assistance within 180 days of admission to a nursing facility and served under subdivisions 4 to 13; and

(3) persons who are paying for their services out-of-pocket.

Subd. 3. **ELIGIBILITY FOR FUNDING FOR SERVICES FOR MEDICAL ASSISTANCE RECIPIENTS.** Funding for services for persons who are eligible for medical assistance is available under section 256B.0627, governing home care services, or 256B.0915, governing the Medicaid waiver for home and community-based services.

Subd. 4. **ELIGIBILITY FOR FUNDING FOR SERVICES FOR NON-MEDICAL ASSISTANCE RECIPIENTS.** (a) Funding for services under the alternative care program is available to persons who meet the following criteria:

(1) the person has been screened by the county screening team or, if previously screened and served under the alternative care program, assessed by the local county social worker or public health nurse;

(2) the person is age 65 or older;

(3) the person would be eligible for medical assistance within 180 days of admission to a nursing facility;

(4) the screening team would recommend nursing facility admission or continued stay for the person if alternative care services were not available;

(5) the person needs services that are not available at that time in the county through other county, state, or federal funding sources; and

(6) the monthly cost of the alternative care services funded by the program for this person does not exceed 75 percent of the statewide average monthly medical assistance payment for nursing facility care at the individual's case mix classification to which the individual would be assigned under Minnesota Rules, parts 9549.0050 to 9549.0059.

(b) Individuals who meet the criteria in paragraph (a) and who have been approved for alternative care funding are called 180-day eligible clients.

(c) The statewide average payment for nursing facility care is the statewide average monthly nursing facility rate in effect on July 1 of the fiscal year in which the cost is incurred, less the statewide average monthly income of nursing facility residents who are age 65 or older and who are medical assistance recipi-

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ents in the month of March of the previous fiscal year. This monthly limit does not prohibit the 180-day eligible client from paying for additional services needed or desired.

(d) In determining the total costs of alternative care services for one month, the costs of all services funded by the alternative care program, including supplies and equipment, must be included.

(e) Alternative care funding under this subdivision is not available for a person who is a medical assistance recipient or who would be eligible for medical assistance without a spend-down if the person applied, unless authorized by the commissioner.

(f) Alternative care funding is not available for a person who resides in a licensed nursing home or boarding care home, except for case management services which are being provided in support of the discharge planning process.

Subd. 5. **SERVICES COVERED UNDER ALTERNATIVE CARE.** (a) Alternative care funding may be used for payment of costs of:

(1) adult foster care;

(2) adult day care;

(3) home health aide;

(4) homemaker services;

(5) personal care;

(6) case management;

(7) respite care;

(8) assisted living; and

(9) care-related supplies and equipment.

(b) The county agency may use up to ten percent of the annual allocation of alternative care funding for payment of costs of meals delivered to the home, transportation, skilled nursing, chore services, companion services, nutrition services, and training for direct informal caregivers. The commissioner shall determine the impact on alternative care costs of allowing these additional services to be provided and shall report the findings to the legislature by February 15, 1993, including any recommendations regarding provision of the additional services.

(c) The county agency must ensure that the funds are used only to supplement and not supplant services available through other public assistance or services programs.

(d) These services must be provided by a licensed provider, a home health agency certified for reimbursement under Titles XVIII and XIX of the Social Security Act, or by persons or agencies employed by or contracted with the county agency or the public health nursing agency of the local board of health.

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(e) The adult foster care rate shall be considered a difficulty of care payment and shall not include room and board.

(f) Personal care services may be provided by a personal care provider organization. A county agency may contract with a relative of the client to provide personal care services, but must ensure nursing supervision. Covered personal care services defined in section 256B.0627, subdivision 4, must meet applicable standards in Minnesota Rules, part 9505.0335.

(g) Costs for supplies and equipment that exceed $150 per item per month must have prior approval from the commissioner.

(h) For the purposes of this section, "assisted living" refers to supportive services provided by a single vendor to two or more alternative care grant clients who reside in the same apartment building of ten or more units. These services may include care coordination, the costs of preparing one or more nutritionally balanced meals per day, general oversight, and other supportive services which the vendor is licensed to provide according to sections 144A.43 to 144A.49, and which would otherwise be available to individual alternative care grant clients. Reimbursement from the lead agency shall be made to the vendor as a monthly capitated rate negotiated with the county agency. The capitated rate shall not exceed the state share of the average monthly medical assistance nursing facility payment rate of the case mix resident class to which the 180-day eligible client would be assigned under Minnesota Rules, parts 9549.0050 to 9549.0059. The capitated rate may not cover rent and direct food costs. A person's eligibility to reside in the building must not be contingent on the person's acceptance or use of the assisted living services. Assisted living services as defined in this section shall not be authorized in boarding and lodging establishments licensed according to sections 157.01 to 157.031.

(i) For purposes of this section, companion services are defined as nonmedical care, supervision and oversight, provided to a functionally impaired adult. Companions may assist the individual with such tasks as meal preparation, laundry and shopping, but do not perform these activities as discrete services. The provision of companion services does not entail hands-on medical care. Providers may also perform light housekeeping tasks which are incidental to the care and supervision of the recipient. This service must be approved by the case manager as part of the care plan. Companion services must be provided by individuals or nonprofit organizations who are under contract with the local agency to provide the service. Any person related to the waiver recipient by blood, marriage or adoption cannot be reimbursed under this service. Persons providing companion services will be monitored by the case manager.

(j) For purposes of this section, training for direct informal caregivers is defined as a classroom or home course of instruction which may include: transfer and lifting skills, nutrition, personal and physical cares, home safety in a home environment, stress reduction and management, behavioral management, long-term care decision making, care coordination and family dynamics. The

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training is provided to an informal unpaid caregiver of a 180-day eligible client which enables the caregiver to deliver care in a home setting with high levels of quality. The training must be approved by the case manager as part of the individual care plan. Individuals, agencies, and educational facilities which provide caregiver training and education will be monitored by the case manager.

Subd. 6. **ALTERNATIVE CARE PROGRAM ADMINISTRATION.** The alternative care program is administered by the county agency. This agency is the lead agency responsible for the local administration of the alternative care program as described in this section. However, it may contract with the public health nursing service to be the lead agency.

Subd. 7. **CASE MANAGEMENT.** The lead agency shall appoint a social worker from the county agency or a registered nurse from the county public health nursing service of the local board of health to be the case manager for any person receiving services funded by the alternative care program. The case manager must ensure the health and safety of the individual client and is responsible for the cost effectiveness of the alternative care individual care plan.

Subd. 8. **REQUIREMENTS FOR INDIVIDUAL CARE PLAN.** The case manager shall implement the plan of care for each 180-day eligible client and ensure that a client's service needs and eligibility are reassessed at least every six months. The plan shall include any services prescribed by the individual's attending physician as necessary to allow the individual to remain in a community setting. In developing the individual's care plan, the case manager should include the use of volunteers from families and neighbors, religious organizations, social clubs, and civic and service organizations to support the formal home care services. The county shall be held harmless for damages or injuries sustained through the use of volunteers under this subdivision including workers' compensation liability. The lead agency shall provide documentation to the commissioner verifying that the individual's alternative care is not available at that time through any other public assistance or service program. The lead agency shall provide documentation in each individual's plan of care and to the commissioner that the most cost-effective alternatives available have been offered to the individual and that the individual was free to choose among available qualified providers, both public and private.

Subd. 9. **CONTRACTING PROVISIONS FOR PROVIDERS.** The lead agency shall document to the commissioner that the agency made reasonable efforts to inform potential providers of the anticipated need for services under the alternative care program, including a minimum of 14 days' written advance notice of the opportunity to be selected as a service provider and an annual public meeting with providers to explain and review the criteria for selection. The lead agency shall also document to the commissioner that the agency allowed potential providers an opportunity to be selected to contract with the county agency. Funds reimbursed to counties under this subdivision are subject to audit by the commissioner for fiscal and utilization control.

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The lead agency must select providers for contracts or agreements using the following criteria and other criteria established by the county:

(1) the need for the particular services offered by the provider;

(2) the population to be served, including the number of clients, the length of time services will be provided, and the medical condition of clients;

(3) the geographic area to be served;

(4) quality assurance methods, including appropriate licensure, certification, or standards, and supervision of employees when needed;

(5) rates for each service and unit of service exclusive of county administrative costs;

(6) evaluation of services previously delivered by the provider; and

(7) contract or agreement conditions, including billing requirements, cancellation, and indemnification.

The county must evaluate its own agency services under the criteria established for other providers. The county shall provide a written statement of the reasons for not selecting providers.

Subd. 10. **ALLOCATION FORMULA.** (a) The alternative care appropriation for fiscal years 1992 and beyond shall cover only 180-day eligible clients.

(b) Prior to July 1 of each year, the commissioner shall allocate to county agencies the state funds available for alternative care for persons eligible under subdivision 2. The allocation for fiscal year 1992 shall be calculated using a base that is adjusted to exclude the medical assistance share of alternative care expenditures. The adjusted base is calculated by multiplying each county's allocation for fiscal year 1991 by the percentage of county alternative care expenditures for 180-day eligible clients. The percentage is determined based on expenditures for services rendered in fiscal year 1989 or calendar year 1989, whichever is greater.

(c) If the county expenditures for 180-day eligible clients are 95 percent or more of its adjusted base allocation, the allocation for the next fiscal year is 100 percent of the adjusted base, plus inflation to the extent that inflation is included in the state budget.

(d) If the county expenditures for 180-day eligible clients are less than 95 percent of its adjusted base allocation, the allocation for the next fiscal year is the adjusted base allocation less the amount of unspent funds below the 95 percent level.

(e) For fiscal year 1992 only, a county may receive an increased allocation if annualized service costs for the month of May 1991 for 180-day eligible clients are greater than the allocation otherwise determined. A county may apply for this increase by reporting projected expenditures for May to the commissioner

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by June 1, 1991. The amount of the allocation may exceed the amount calculated in paragraph (b). The projected expenditures for May must be based on actual 180-day eligible client caseload and the individual cost of clients' care plans. If a county does not report its expenditures for May, the amount in paragraph (c) or (d) shall be used.

(f) Calculations for paragraphs (c) and (d) are to be made as follows: for each county, the determination of expenditures shall be based on payments for services rendered from April 1 through March 31 in the base year, to the extent that claims have been submitted by June 1 of that year.

Subd. 11. **TARGETED FUNDING.** (a) The purpose of targeted funding is to make additional money available to counties with the greatest need. Targeted funds are not intended to be distributed equitably among all counties, but rather, allocated to those with long-term care strategies that meet state goals.

(b) The funds available for targeted funding shall be the total appropriation for each fiscal year minus county allocations determined under subdivision 10 as adjusted for any inflation increases provided in appropriations for the biennium.

(c) The commissioner shall allocate targeted funds to counties that demonstrate to the satisfaction of the commissioner that they have developed feasible plans to increase alternative care grant spending. In making targeted funding allocations, the commissioner shall use the following priorities:

(1) counties that received a lower allocation in fiscal year 1991 than in fiscal year 1990. Counties remain in this priority until they have been restored to their fiscal year 1990 level plus inflation;

(2) counties that sustain a base allocation reduction for failure to spend 95 percent of the allocation if they demonstrate that the base reduction should be restored;

(3) counties that propose projects to divert community residents from nursing home placement or convert nursing home residents to community living; and

(4) counties that can otherwise justify program growth by demonstrating the existence of waiting lists, demographically justified needs, or other unmet needs.

(d) Counties that would receive targeted funds according to paragraph (c) must demonstrate to the commissioner's satisfaction that the funds would be appropriately spent by showing how the funds would be used to further the state's alternative care goals as described in subdivision 1, and that the county has the administrative and service delivery capability to use them.

(e) The commissioner shall request applications by June 1 each year, for county agencies to apply for targeted funds. The counties selected for targeted funds shall be notified of the amount of their additional funding by August 1 of each year. Targeted funds allocated to a county agency in one year shall be

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treated as part of the county's base allocation for that year in determining allocations for subsequent years. No reallocations between counties shall be made.

(f) The allocation for each year after fiscal year 1992 shall be determined using the previous fiscal year's allocation, including any targeted funds, as the base and then applying the criteria under subdivision 10, paragraphs (c), (d), and (f), to the current year's expenditures.

Subd. 12. **CLIENT PREMIUMS.** (a) A premium is required for all 180-day eligible clients to help pay for the cost of participating in the program.

(b) The county agency must collect the premium from the client and forward the amounts collected to the commissioner in the manner and at the times prescribed by the commissioner. Money collected must be deposited in the general fund and is appropriated to the commissioner for the alternative care program. The client must supply the county with the client's social security number at the time of application. If a client fails or refuses to pay the premium due, the county shall supply the commissioner with the client's social security number and other information the commissioner requires to collect the premium from the client. The commissioner shall collect unpaid premiums using the revenue recapture act in chapter 270A and other methods available to the commissioner. The commissioner may require counties to inform clients of the collection procedures that may be used by the state if a premium is not paid.

(c) The commissioner shall establish a premium schedule ranging from $25 to $75 per month based on the client's income and assets. The schedule is not subject to chapter 14, but the commissioner shall publish the schedule and any later changes in the State Register and allow a period of 20 working days from the publication date for interested persons to comment before adopting the schedule in final form. The commissioner shall begin to adopt emergency or permanent rules governing client premiums within 30 days after the effective date of this section, including criteria for determining when services to a client must be terminated due to failure to pay a premium. Emergency or permanent rules governing client premiums supersede any schedule adopted under the exemption from chapter 14 in this section.

Subd. 13. **COUNTY ALTERNATIVE CARE BIENNIAL PLAN.** The commissioner shall establish by rule, in accordance with chapter 14, procedures for the submittal and approval of a biennial county plan for the administration of the alternative care program and the coordination with other planning processes for the older adult. In addition to the procedures in rule, this county biennial plan shall also include:

(1) information on the administration of the preadmission screening program;

(2) information on the administration of the home and community-based services waivers for the elderly under section 256B.0915, and for the disabled under section 256.49;

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(3) an application for targeted funds under subdivision 11; and

(4) an optional notice of intent to apply to participate in the long-term care projects under section 256B.0917.

Subd. 14. **REIMBURSEMENT AND RATE ADJUSTMENTS.** (a) Reimbursement for expenditures for the alternative care services shall be through the invoice processing procedures of the department's Medicaid management information system (MMIS), only with the approval of the client's case manager. To receive reimbursement, the county or vendor must submit invoices within 120 days following the month 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) Beginning July 1, 1991, the state will reimburse counties, up to the limits of state appropriations, according to the payment schedule in section 256.025 for the county share of costs incurred under this subdivision on or after January 1, 1991, for individuals who would be eligible for medical assistance within 180 days of admission to a nursing home.

(d) Annually on July 1, the commissioner must adjust the rates allowed for alternative care services by 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.

Sec. 16. **[256B.0915] MEDICAID WAIVER FOR HOME AND COMMUNITY-BASED SERVICES.**

Subdivision 1. **AUTHORITY.** The commissioner is authorized to apply for a home and community-based services waiver for the elderly, authorized under section 1915(c) of the Social Security Act, in order to obtain federal financial participation to expand the availability of services for persons who are eligible for medical assistance. The commissioner may apply for additional waivers or pursue other federal financial participation which is advantageous to the state for funding home care services for the frail elderly who are eligible for medical assistance. The provision of waivered services to medical assistance recipients must comply with the criteria approved in the waiver.

Subd. 2. **SPOUSAL IMPOVERISHMENT POLICIES.** The commissioner shall seek to amend the federal waiver and the medical assistance state plan to allow spousal impoverishment criteria as authorized in Code of Federal Regula-

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tions, title 42, section 435.726(1924), and as implemented in sections 256B.0575, 256B.058, and 256B.059 to be applied to persons who are screened and determined to need a nursing facility level of care.

Subd. 3. **LIMITS OF CASES, RATES, REIMBURSEMENT, AND FORECASTING.** (a) The number of medical assistance waiver recipients that a county may serve must be allocated according to the number of medical assistance waiver cases open on July 1 of each fiscal year. Additional recipients may be served with the approval of the commissioner.

(b) The monthly limit for the cost of waivered services to an individual waiver client shall be the statewide average payment rate of the case mix resident class to which the waiver client would be assigned under medical assistance case mix reimbursement system. The statewide average payment rate is calculated by determining the statewide average monthly nursing home rate effective July 1 of the fiscal year in which the cost is incurred, less the statewide average monthly income of nursing home residents who are age 65 or older, and who are medical assistance recipients in the month of March of the previous state fiscal year. The following costs must be included in determining the total monthly costs for the waiver client:

(1) cost of all waivered services, including extended medical supplies and equipment; and

(2) cost of skilled nursing, home health aide, and personal care services reimbursable by medical assistance.

(c) Medical assistance funding for skilled nursing services, home health aide, and personal care services for waiver recipients must be approved by the case manager and included in the individual care plan.

(d) Expenditures for extended medical supplies and equipment that cost over $150 per month must have the commissioner's prior approval.

(e) Annually on July 1, the commissioner must adjust the rates allowed for services by 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.

(f) Reimbursement for the medical assistance recipients under the approved waiver shall be made from the medical assistance account through the invoice processing procedures of the department's Medicaid management information system (MMIS), only with the approval of the client's case manager. The budget for the state share of the Medicaid expenditures shall be forecasted with the medical assistance budget, and shall be consistent with the approved waiver.

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(g) Beginning July 1, 1991, the state shall reimburse counties according to the payment schedule in section 256.025 for the county share of costs incurred under this subdivision on or after January 1, 1991, for individuals who are receiving medical assistance.

Sec. 17. **[256B.0917] SENIORS' AGENDA FOR INDEPENDENT LIVING (SAIL) PROJECTS FOR A NEW LONG-TERM CARE STRATEGY.**

Subdivision 1. **PURPOSE, MISSION, GOALS, AND OBJECTIVES.** (a) The purpose of implementing seniors' agenda for independent living (SAIL) projects under this section is to demonstrate a new cooperative strategy for the long-term care system in the state of Minnesota.

The projects are part of the initial biennial plan for a 20-year strategy. The mission of the 20-year strategy is to create a new community-based care paradigm for long-term care in Minnesota in order to maximize independence of the older adult population, and to ensure cost-effective use of financial and human resources. The goals for the 20-year strategy are to:

(1) achieve a broad awareness and use of low-cost home care and other residential alternatives to nursing homes;

(2) develop a statewide system of information and assistance to enable easy access to long-term care services;

(3) develop sufficient alternatives to nursing homes to serve the increased number of people needing long-term care;

(4) maintain the moratorium on new construction of nursing home beds and to lower the percentage of elderly served in institutional settings; and

(5) build a community-based approach and community commitment to delivering long-term care services for elderly persons in their homes.

(b) The objective for the fiscal years 1992 and 1993 biennial plan is to implement at least four but not more than six projects in anticipation of a statewide program. These projects will begin the process of implementing: (1) a coordinated planning and administrative process; (2) a refocused function of the preadmission screening program; (3) the development of additional home, community, and residential alternatives to nursing homes; (4) a program to support the informal caregivers for elderly persons; (5) programs to strengthen the use of volunteers; and (6) programs to support the building of community commitment to provide long-term care for elderly persons.

This is done in conjunction with an expanded role of the interagency long-term care planning committee as described in section 144A.31. The services offered through these projects will be available to those who have their own funds to pay for services, as well as to persons who are eligible for medical assis-

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tance and to persons who are 180-day eligible clients to the extent authorized in this section.

Subd. 2. **DESIGN OF SAIL PROJECTS; LOCAL LONG-TERM CARE COORDINATING TEAM.** (a) The commissioner of human services shall establish SAIL projects in four to six counties or groups of counties to demonstrate the feasibility and cost-effectiveness of a local long-term care strategy that is consistent with the state's long-term care goals identified in subdivision 1. The commissioner shall publish a notice in the State Register announcing the availability of project funding and giving instructions for making an application. The instructions for the application shall identify the amount of funding available for project components.

(b) To be selected for the project, a county board, or boards under a joint powers agreement, must establish a long-term care coordinating team consisting of county social service agencies, public health nursing service agencies, local boards of health, and the area agencies on aging in a geographic area which is responsible for:

(1) developing a local long-term care strategy consistent with state goals and objectives;

(2) submitting an application to be selected as a project;

(3) coordinating planning for funds to provide services to elderly persons, including funds received under Title III of the Older Americans Act, Community Social Services Act, Title XX of the Social Security Act and the Local Public Health Act; and

(4) ensuring efficient services provision and nonduplication of funding.

(c) The board, or boards under a joint powers agreement, shall designate a public agency to serve as the lead agency. The lead agency receives and manages the project funds from the state and is responsible for the implementation of the local strategy. If selected as a project, the local long-term care coordinating team must semiannually evaluate the progress of the local long-term care strategy in meeting state measures of performance and results as established in the contract.

(d) Each member of the local coordinating team must indicate its endorsement of the local strategy. The local long-term care coordinating team may include in its membership other units of government which provide funding for services to the frail elderly. The team must cooperate with consumers and other public and private agencies, including nursing homes, in the geographic area in order to develop and offer a variety of cost-effective services to the elderly and their caregivers.

(e) The board, or boards under a joint powers agreement, shall apply to be selected as a project. If the project is selected, the commissioner of human services shall contract with the lead agency for the project and shall provide additional administrative funds for implementing the provisions of the contract, within the appropriation available for this purpose.

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(f) Projects shall be selected according to the following conditions:

(1) No project may be selected unless it demonstrates that:

(i) the objectives of the local project will help to achieve the state's long-term care goals as defined in subdivision 1;

(ii) in the case of a project submitted jointly by several counties, all of the participating counties are contiguous;

(iii) there is a designated local lead agency that is empowered to make contracts with the state and local vendors on behalf of all participants;

(iv) the project proposal demonstrates that the local cooperating agencies have the ability to perform the project as described and that the implementation of the project has a reasonable chance of achieving its objectives;

(v) the project will serve an area that covers at least four counties or contains at least 2,500 persons who are 85 years of age or older, according to the projections of the state demographer or the census if the data is more recent; and

(vi) the local coordinating team documents efforts of cooperation with consumers and other agencies and organizations, both public and private, in planning for service delivery.

(2) If only two projects are selected, at least one of them must be from a metropolitan statistical area as determined by the United States Census Bureau; if three or four projects are selected, at least one but not more than two projects must be from a metropolitan statistical area; and if more than four projects are selected, at least two but not more than three projects must be from a metropolitan statistical area.

(3) Counties or groups of counties that submit a proposal for a project shall be assigned to types defined by institutional utilization rate and population growth rate in the following manner:

(i) Each county or group of counties shall be measured by the utilization rate of nursing homes and boarding care homes and by the projected growth rate of its population aged 85 and over between 1990 and 2000. For the purposes of this section, "utilization rate" means the proportion of the seniors aged 65 or older in the county or group of counties who reside in a licensed nursing home or boarding care home as determined by the most recent census of residents available from the department of health and the population estimates of the state demographer or the census, whichever is more recent. The "projected growth rate" is the rate of change in the county or group of counties of the population group aged 85 or older between 1990 and 2000 according to the projections of the state demographer.

(ii) The institutional utilization rate of a county or group of counties shall

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be converted to a category by assigning a "high utilization" category if the rate is above the median rate of all counties, and a "low utilization" category otherwise. The projected growth rate of a county or group of counties shall be converted to a category by assigning a score of "high growth" category if the rate is above the median rate of all counties, and a "low growth" category otherwise.

(iii) Types of areas shall be defined by the four combinations of the scores defined in item (ii): type 1 is low utilization - high growth, type 2 is high utilization - high growth, type 3 is high utilization - low growth, and type 4 is low utilization - low growth. Each county or group of counties making a proposal shall be assigned to one of these types.

(4) Projects shall be selected from each of the types in the order that the types are listed in paragraph 3, item (iii), with available funding allocated to projects until it is exhausted, with no more than 30 percent of available funding allocated to any one project. Available funding includes state administrative funds which have been appropriated for screening functions in subdivision 4, paragraph (b), clause (3), and for service developers and incentive grants in subdivision 5.

(5) If more than one county or group of counties within one of the types defined by paragraph (3) proposes a special project that meets all of the other conditions in paragraphs (1) and (2), the project that demonstrates the most cost-effective proposals in terms of the number of nursing home placements that can be expected to be diverted or converted to alternative care services per unit of cost shall be selected.

Subd. 3. **LOCAL LONG-TERM CARE STRATEGY.** The local long-term care strategy must list performance outcomes and indicators which meet the state's objectives. The local strategy must provide for:

(1) accessible information, assessment, and preadmission screening activities as described in subdivision 4;

(2) an application for expansion of alternative care targeted funds under section 256B.0913, for serving 180-day eligible clients, including those who are relocated from nursing homes;

(3) the development of additional services such as adult family foster care homes; family adult day care; assisted living projects and congregate housing service projects in apartment buildings; expanded home care services for evenings and weekends; expanded volunteer services; and caregiver support and respite care projects; and

(4) development and implementation of strategies for advocating, promoting, and developing long-term care insurance and encouraging insurance companies to offer long-term care insurance policies that are affordable and offer a wide range of benefits.

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The county or groups of counties selected for the projects shall be required to comply with federal regulations, alternative care funding policies in section 256B.0913, and the federal waiver programs' policies in section 256B.0915. The requirements for preadmission screening as defined in section 256B.0911, subdivisions 1 to 6, are waived for those counties selected as part of a long-term care strategy project. For persons who are eligible for medical assistance or who are 180-day eligible clients and who are screened after nursing facility admission, the nursing facility must include a screener in the discharge planning process for those individuals who the screener has determined have discharge potential. The agency responsible for the screening function in subdivision 4 must ensure a smooth transition and follow-up for the individual's return to the community. Requirements for an access, screening, and assessment function replace the preadmission screening requirements and are defined in subdivision 4. Requirements for the service development and service provision are defined in subdivision 5.

Subd. 4. **ACCESSIBLE INFORMATION, SCREENING, AND ASSESSMENT FUNCTION.** (a) The projects selected by and under contract with the commissioner shall establish an accessible information, screening, and assessment function for persons who need assistance and information regarding long-term care. This accessible information, screening, and assessment activity shall include information and referral, early intervention, follow-up contacts, telephone triage as defined in paragraph (f), home visits, assessments, preadmission screening, and relocation case management for the frail elderly and their caregivers in the area served by the county or counties. The purpose is to ensure that information and help is provided to elderly persons and their families in a timely fashion, when they are making decisions about long-term care. These functions may be split among various agencies, but must be coordinated by the local long-term care coordinating team.

(b) Accessible information, screening, and assessment functions shall be reimbursed as follows:

(1) The screenings of all persons entering nursing homes shall be reimbursed by the nursing homes in the counties of the project, through the same policy that is in place in fiscal year 1992 as established in section 256B.0911. The amount a nursing home pays to the county agency is that amount identified and approved in the February 15, 1991, estimated number of screenings and associated expenditures. This amount remains the same for fiscal year 1993;

(2) The level I screenings and the level II assessments required by Public Law Numbers 100-203 and 101-508 (OBRA) for persons with mental illness, mental retardation, or related conditions, are reimbursed through administrative funds with 75 percent federal funds and 25 percent state funds, as allowed by federal regulations and established in the contract; and

(3) Additional state administrative funds shall be available for the access, screening, and assessment activities that are not reimbursed under clauses (1) and (2). This amount shall not exceed the amount authorized in the guidelines

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and in instructions for the application and must be within the amount appropriated for this activity.

(c) The amounts available under paragraph (b) are available to the county or counties involved in the project to cover staff salaries and expenses to provide the services in this subdivision. The lead agency shall employ, or contract with other agencies to employ, within the limits of available funding, sufficient personnel to provide the services listed in this subdivision.

(d) Any information and referral functions funded by other sources, such as Title III of the Older Americans Act and Title XX of the Social Security Act and the Community Social Services Act, shall be considered by the local long-term care coordinating team in establishing this function to avoid duplication and to ensure access to information for persons needing help and information regarding long-term care.

(e) The staffing for the screening and assessment function must include, but is not limited to, a county social worker and a county public health nurse. The social worker and public health nurse are responsible for all assessments that are required to be completed by a professional. However, only one of these professionals is required to be present for the assessment.

(f) All persons entering a Medicaid certified nursing home or boarding care home must be screened through an assessment process, although the decision to conduct a face-to-face interview is left with the county social worker and the county public health nurse. All applicants to nursing homes must be screened and approved for admission by the county social worker or the county public health nurse named by the lead agency or the agencies which are under contract with the lead agency to manage the access, screening, and assessment functions. For applicants who have a diagnosis of mental illness, mental retardation, or a related condition, and are subject to the provisions of Public Law Numbers 100-203 and 101-508, their admission must be approved by the local mental health authority or the local developmental disabilities case manager.

The commissioner shall develop instructions and assessment forms for telephone triage and on-site screenings to ensure that federal regulations and waiver provisions are met.

For purposes of this section, the term "telephone triage" refers to a telephone or face-to-face consultation between health care and social service professionals during which the clients' circumstances are reviewed and the county agency professional sorts the individual into categories: (1) needs no screening, (2) needs an immediate screening, or (3) needs a screening after admission to a nursing home or after a return home. The county agency professional shall authorize admission to a nursing home according to the provisions in section 256B.0911, subdivision 7.

(g) The requirements for case mix assessments by a preadmission screening team may be waived and the nursing home shall complete the case mix assessments which are not conducted by the county public health nurse according to

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the procedures established under Minnesota Rules, part 9549.0059. The appropriate county or the lead agency is responsible for distributing the quality assurance and review form for all new applicants to nursing homes.

(h) The lead agency or the agencies under contract with the lead agency which are responsible for the accessible information, screening, and assessment function must complete the forms and reports required by the commissioner as specified in the contract.

Subd. 5. **SERVICE DEVELOPMENT AND SERVICE DELIVERY.** (a) In addition to the access, screening, and assessment activity, each local strategy may include provisions for the following:

(1) expansion of alternative care to serve an increased caseload, over the fiscal year 1991 average caseload, of at least 100 persons each year who are assessed prior to nursing home admission and persons who are relocated from nursing homes, which results in a reduction of the medical assistance nursing home caseload;

(2) the addition of a full-time staff person who is responsible to develop the following services and recruit providers as established in the contract:

(i) additional adult family foster care homes;

(ii) family adult day care providers as defined in section 256B.0919, subdivision 2;

(iii) an assisted living program in an apartment;

(iv) a congregate housing service project in a subsidized housing project; and

(v) the expansion of evening and weekend coverage of home care services as deemed necessary by the local strategic plan;

(3) small incentive grants to new adult family care providers for renovations needed to meet licensure requirements;

(4) a plan to apply for a congregate housing service project as identified in section 256.9751, authorized by the Minnesota board on aging, to the extent that funds are available;

(5) a plan to divert new applicants to nursing homes and to relocate a targeted population from nursing homes, using the individual's own resources or the funding available for services;

(6) one or more caregiver support and respite care projects, as described in subdivision 6; and

(7) one or more living-at-home/block nurse projects, as described in subdivisions 7 to 10.

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(b) The expansion of alternative care clients under paragraph (a) shall be accomplished with the funds provided under section 256B.0913, and includes the allocation of targeted funds. The funding for all participating counties must be coordinated by the local long-term care coordinating team and must be part of the local long-term care strategy. Each county retains responsibility for reimbursement as defined in section 256B.0913, subdivision 12. All other requirements for the alternative care program must be met unless an exception is provided in this section. The commissioner may establish by contract a reimbursement mechanism for alternative care that does not require invoice processing through the medical assistance management information system (MMIS). The commissioner and local agencies must assure that the same client and reimbursement data is obtained as is available under MMIS.

(c) The administration of these components is the responsibility of the agencies selected by the local coordinating team and under contract with the local lead agency. However, administrative funds for paragraph (a), clauses (2) to (5), and grant funds for paragraph (a), clauses (6) and (7), shall be granted to the local lead agency. The funding available for each component is based on the plan submitted and the amount negotiated in the contract.

Subd. 6. **STATEWIDE CAREGIVER SUPPORT AND RESPITE CARE RESOURCE CENTER; CAREGIVER SUPPORT AND RESPITE CARE PROJECTS.** (a) The commissioner shall establish and maintain a statewide resource center for caregiver support and respite care. The resource center shall:

(1) provide information, technical assistance, and training statewide to county agencies and organizations on direct service models of caregiver support and respite care services;

(2) identify and address issues, concerns, and gaps in the statewide network for caregiver support and respite care;

(3) maintain a statewide caregiver support and respite care directory;

(4) educate caregivers on the availability and use of caregiver and respite care services;

(5) promote and expand caregiver training and support groups using existing networks when possible; and

(6) apply for and manage grants related to caregiver support and respite care.

(b) The commissioner shall establish up to 36 projects to expand the respite care network in the state and to support caregivers in their responsibilities for care. The purpose of each project shall be to:

(1) establish a local coordinated network of volunteer and paid respite workers;

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(2) coordinate assignment of respite workers to clients and care receivers and assure the health and safety of the client; and

(3) provide training for caregivers and ensure that support groups are available in the community.

(c) The caregiver support and respite care funds shall be available to the four to six local long-term care strategy projects designated in subdivisions 1 to 5.

(d) The commissioner shall publish a notice in the State Register to solicit proposals from public or private nonprofit agencies for the projects not included in the four to six local long-term care strategy projects defined in subdivision 2. A county agency may, alone or in combination with other county agencies, apply for caregiver support and respite care project funds. A public or nonprofit agency may apply for project funds if the agency has a letter of agreement with the county or counties in which services will be developed, stating the intention of the county or counties to coordinate their activities with the agency requesting a grant.

(e) The commissioner shall select grantees based on the following criteria:

(1) the ability of the proposal to demonstrate need in the area served, as evidenced by a community needs assessment or other demographic data;

(2) the ability of the proposal to clearly describe how the project will achieve the purpose defined in paragraph (b);

(3) the ability of the proposal to reach underserved populations;

(4) the ability of the proposal to demonstrate community commitment to the project, as evidenced by letters of support and cooperation as well as formation of a community task force;

(5) the ability of the proposal to clearly describe the process for recruiting, training, and retraining volunteers; and

(6) the inclusion in the proposal of the plan to promote the project in the community, including outreach to persons needing the services.

(f) Funds for all projects under this subdivision may be used to:

(1) hire a coordinator to develop a coordinated network of volunteer and paid respite care services and assign workers to clients;

(2) recruit and train volunteer providers;

(3) train caregivers;

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(4) ensure the development of support groups for caregivers;

(5) advertise the availability of the caregiver support and respite care project; and

(6) purchase equipment to maintain a system of assigning workers to clients.

(g) Project funds may not be used to supplant existing funding sources.

(h) An advisory committee shall be appointed to advise the caregiver support project on the development and implementation of the caregiver support and respite care services projects. The advisory committee shall review procedures and provide advice and technical assistance to the caregiver support project regarding the grant program established under this section.

The advisory committee shall consist of not more than 16 people appointed by the commissioner and shall be comprised of representatives from public and private agencies, service providers and consumers from all areas of the state.

Members of the advisory committee shall not be compensated for service.

Subd. 7. **CONTRACT.** The commissioner of human services shall execute a contract with an organization experienced in establishing and operating community-based programs that have used the principles listed in subdivision 8, paragraph (b), in order to meet the independent living and health needs of senior citizens aged 65 and over and provide community-based long-term care for senior citizens in their homes. The organization awarded the contract shall:

(1) assist the commissioner in developing criteria for and in awarding grants to establish community-based organizations that will implement living-at-home/block nurse programs throughout the state;

(2) assist the commissioner in awarding grants to enable current living-at-home/block nurse programs to implement the combined living-at-home/block nurse program model;

(3) serve as a state technical assistance center to assist and coordinate the living-at-home/block nurse programs established; and

(4) develop the implementation plan required by subdivision 10.

Subd. 8. **LIVING-AT-HOME/BLOCK NURSE PROGRAM GRANT.** (a) The commissioner, in cooperation with the organization awarded the contract under subdivision 7, shall develop and administer a grant program to establish seven to ten community-based organizations that will implement living-at-home/block nurse programs that are designed to enable senior citizens to live as independently as possible in their homes and in their communities. Up to seven of the programs must be in counties outside the seven-county metropolitan area. The living-at-home/block nurse program funds shall be available to the four to six SAIL projects established under this section. Nonprofit organizations and

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units of local government are eligible to apply for grants to establish the community organizations that will implement living-at-home/block nurse programs. In awarding grants, the commissioner shall give preference to nonprofit organizations and units of local government from communities that:

(1) have high nursing home occupancy rates;

(2) have a shortage of health care professionals; and

(3) meet other criteria established by the commissioner, in consultation with the organization under contract.

(b) Grant applicants must also meet the following criteria:

(1) the local community demonstrates a readiness to establish a community model of care, including the formation of a board of directors, advisory committee, or similar group, of which at least two-thirds is comprised of community citizens interested in community-based care for older persons;

(2) the program has sponsorship by a credible, representative organization within the community;

(3) the program has defined specific geographic boundaries and defined its organization, staffing and coordination/delivery of services;

(4) the program demonstrates a team approach to coordination and care, ensuring that the older adult participants, their families, the formal and informal providers are all part of the effort to plan and provide services; and

(5) the program provides assurances that all community resources and funding will be coordinated and that other funding sources will be maximized, including a person's own resources.

(c) Grant applicants must provide a minimum of five percent of total estimated development costs from local community funding. Grants shall be awarded for two-year periods, and the base amount shall not exceed $40,000 per applicant for the grant period. The commissioner, in consultation with the organization under contract, may increase the grant amount for applicants from communities that have socioeconomic characteristics that indicate a higher level of need for development assistance.

(d) Each living-at-home/block nurse program shall be designed by representatives of the communities being served to ensure that the program addresses the specific needs of the community residents. The programs must be designed to:

(1) incorporate the basic community, organizational, and service delivery principles of the living-at-home/block nurse program model;

(2) provide senior citizens with registered nurse directed assessment, provi-

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sion and coordination of health and personal care services on a sliding fee basis as an alternative to expensive nursing home care;

(3) provide information, support services, homemaking services, counseling, and training for the client and family caregivers;

(4) encourage the development and use of respite care, caregiver support, and in-home support programs, such as adult foster care and in-home adult day care;

(5) encourage neighborhood residents and local organizations to collaborate in meeting the needs of senior citizens in their communities;

(6) recruit, train, and direct the use of volunteers to provide informal services and other appropriate support to senior citizens and their caregivers; and

(7) provide coordination and management of formal and informal services to senior citizens and their families using less expensive alternatives.

Subd. 9. **STATE TECHNICAL ASSISTANCE CENTER.** The organization under contract shall be the state technical assistance center to provide orientation and technical assistance, and to coordinate the living-at-home/block nurse programs established. The state resource center shall:

(1) provide communities with criteria in planning and designing their living-at-home/block nurse programs;

(2) provide general orientation and technical assistance to communities who desire to establish living-at-home/block nurse programs;

(3) provide ongoing analysis and data collection of existing and newly established living-at-home/block nurse programs and provide data to the organization performing the independent assessment; and

(4) serve as the living-at-home/block nurse programs' liaison to the legislature and other state agencies.

Subd. 10. **IMPLEMENTATION PLAN.** The organization under contract shall develop a plan that specifies a strategy for implementing living-at-home/block nurse programs statewide. The plan must also analyze the data collected by the state technical assistance center and describe the effectiveness of services provided by living-at-home/block nurse programs, including the program's impact on acute care costs. The organization shall report to the commissioner of human services and to the legislature by January 1, 1993.

Subd. 11. **EVALUATION AND EXPANSION.** The commissioner shall evaluate the success of the projects against the objective stated in subdivision 1, paragraph (b), and recommend to the legislature the continuation or expansion of the long-term care strategy by February 15, 1993.

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Subd. 12. **PUBLIC AWARENESS CAMPAIGN.** The commissioner, with assistance from the commissioner of health and with the advice of the long-term care planning committee, shall contract for a public awareness campaign to educate the general public, seniors, consumers, caregivers, and professionals about the aging process, the long-term care system, and alternatives available including alternative care and residential alternatives. Particular emphasis will be given to informing consumers on how to access the alternatives and obtain information on the long-term care system. The commissioner shall pursue the development of new names for preadmission screening, alternative care, and foster care.

Sec. 18. **[256B.0919] ADULT FOSTER CARE AND FAMILY ADULT DAY CARE.**

Subdivision 1. **ADULT FOSTER CARE LICENSURE CAPACITY.** Notwithstanding contrary provisions of the human services licensing act and rules adopted under it, an adult foster care license holder may care for five adults age 60 years or older who do not have serious and persistent mental illness or a developmental disability. The license holder under this section shall not be a corporate business which operates more than two facilities.

Subd. 2. **ADULT FOSTER CARE; FAMILY ADULT DAY CARE.** An adult foster care license holder who is not providing care to persons with serious and persistent mental illness or developmental disabilities may also provide family adult day care for adults age 60 years or older who do not have serious and persistent mental illness or a developmental disability. The maximum combined license capacity for adult foster care and family adult day care is five adults. A separate license is not required to provide family adult day care under this subdivision. Foster care homes providing services to five adults shall not be subject to licensure by the commissioner of health under the provisions of chapter 144, 144A, 157, or any other law requiring facility licensure by the commissioner of health.

Subd. 3. **COUNTY CERTIFICATION OF PERSONS PROVIDING ADULT FOSTER CARE TO RELATED PERSONS.** A person exempt from licensure under section 245A.03, subdivision 2, who provides adult foster care to a related individual age 65 and older, and who meets the requirements in Minnesota Rules, parts 9555.5105 to 9555.6265, may be certified by the county to provide adult foster care. A person certified by the county to provide adult foster care may be reimbursed for services provided and eligible for funding under sections 256B.0913 and 256B.0915, if the relative would suffer a financial hardship as a result of providing care. For purposes of this subdivision, financial hardship refers to a situation in which a relative incurs a substantial reduction in income because he or she resigns from a full-time job or takes a leave of absence without pay from a full-time job to care for the client.

Sec. 19. Minnesota Statutes 1990, section 256B.093, is amended to read:

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256B.093 **SERVICES FOR PERSONS WITH TRAUMATIC BRAIN INJURIES.**

Subdivision 1. **STATE COORDINATOR.** The commissioner of human services shall designate a full-time position within the long-term care management division of the department of human services to supervise and coordinate services for persons with traumatic brain injuries.

An advisory committee shall be established to provide recommendations to the department regarding program and service needs of persons with traumatic brain injuries.

Subd. 2. **ELIGIBILITY.** The commissioner may contract with qualified agencies or ~~persons~~ employ staff to provide statewide case management services to medical assistance recipients who are at risk of institutionalization and ~~meet one of the following criteria:~~

~~(a) The person has a~~ who have traumatic brain injury.

~~(b) The person is receiving home care services or is in an institution and has a discharge plan requiring the provision of home care services and meets one of the following criteria:~~

~~(1) the person suffers from a brain abnormality or degenerative brain disease resulting in significant destruction of brain tissue and loss of brain function that requires extensive services over an extended period of time;~~

~~(2) the person is unable to direct the person's own care;~~

~~(3) the person has medical home care costs that exceed thresholds established by the commissioner under Minnesota Rules, parts 9505.0170 to 9505.0475;~~

~~(4) the person is eligible for medical assistance under the option for certain disabled children in section 134 of the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA);~~

~~(5) the person receives home care from two or more providers who are unable to effectively coordinate the services; or~~

~~(6) the person has received or will receive home care services for longer than six months.~~

Subd. 3. **CASE MANAGEMENT DUTIES.** The department shall fund ~~the~~ case management ~~contracts~~ under this subdivision using medical assistance administrative funds. ~~The contractor must~~ Case management duties include:

(1) ~~assess~~ assessing the person's individual needs for services required to prevent institutionalization;

(2) ~~assure~~ ensuring that a care plan that ~~meets~~ addresses the person's needs

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is developed, implemented, and monitored on an ongoing basis by the appropriate agency or individual;

(3) ~~assist~~ assisting the person in obtaining services necessary to allow the person to remain in the community;

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

(5) ~~assure cost effectiveness of~~ ensuring appropriate, accessible, and cost-effective medical assistance services;

(6) ~~make recommendations~~ recommending to the commissioner ~~on~~ the approval or denial of the use of medical assistance funds to pay for home care services when home care services exceed thresholds established by the commissioner under Minnesota Rules, parts 9505.0170 to 9505.0475;

(7) ~~assist~~ assisting the person with problems related to the provision of home care services;

(8) ~~assure~~ ensuring the quality of home care services; ~~and~~

(9) ~~reassess~~ reassessing the person's need for and level of home care services at a frequency determined by the commissioner; and

(10) recommending to the commissioner the approval or denial of medical assistance funds for out-of-state placements for traumatic brain injury services.

Subd. 4. **DEFINITIONS.** For purposes of this section, the following definitions apply:

(a) "Traumatic brain injury" means a sudden insult or damage to the brain or its coverings, not of a degenerative or congenital nature. The insult or damage may produce an altered state of consciousness ~~or~~ and may result in a decrease in ~~mental,~~ cognitive, behavioral, emotional, or physical functioning resulting in partial or total disability.

(b) "Home care services" means medical assistance home care services defined under section 256B.0625, subdivisions ~~6~~ 6a, 7, and ~~19~~ 19a.

Sec. 20. Minnesota Statutes 1990, section 256B.64, is amended to read:

256B.64 ATTENDANTS TO VENTILATOR-DEPENDENT RECIPIENTS.

A ventilator-dependent recipient of medical assistance who has been receiving the services of a private duty nurse or personal care assistant in the recipient's home may continue to have a private duty nurse or personal care assistant present upon admission to a hospital licensed under chapter 144. The personal care assistant or private duty nurse shall perform only the services of communicator or interpreter for the ventilator-dependent patient during a transition

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period of up to 120 hours to assure adequate training of the hospital staff to communicate with the patient and to understand the unique comfort, safety, and personal care needs of the patient. The personal care assistant or private duty nurse may offer nonbinding advice to the health care professionals in charge of the ventilator-dependent patient's care and treatment on matters pertaining to the comfort and safety of the patient. ~~After the 120 hour transition period, an assessment may be made by the ventilator-dependent patient, the attending physician, and the patient's primary care nurse to determine whether continued services of communicator or interpreter for the patient by the private duty nurse or personal care assistant are necessary and appropriate for the patient's needs. If continued service is necessary and appropriate, the physician must certify this need to the commissioner of human services in order for payments to continue.~~ Within 36 hours of the end of the 120-hour transition period, an assessment may be made by the ventilator-dependent recipient, the attending physician, and the hospital staff caring for the recipient. If the persons making the assessment determine that additional communicator or interpreter services are medically necessary, the hospital must contact the commissioner 24 hours prior to the end of the 120-hour transition period and submit the assessment information to the commissioner. The commissioner shall review the request and determine if it is medically necessary to continue the interpreter services or if the hospital staff has had sufficient opportunity to adequately determine the needs of the patient. The commissioner shall determine if continued service is necessary and appropriate and whether or not payments shall continue. The commissioner may not authorize services beyond the limits of the available appropriations for this section. The commissioner may adopt rules necessary to implement this section. Reimbursement under this section must be at the payment rate and in a manner consistent with the payment rate and manner used in reimbursing these providers for home care services for the ventilator-dependent recipient under the medical assistance program.

Sec. 21. Minnesota Statutes 1990, section 256D.44, is amended by adding a subdivision to read:

Subd. 7. **RATE LIMITATION; WAIVERED SERVICES ELIGIBILITY.** If a current negotiated rate for a foster care placement is for an individual who is eligible for the home and community-based services waiver for the elderly, the negotiated rate must include only the room and board portion of the rate. The room and board portion of the negotiated rate is an amount equal to the difference between the medical assistance income limit for a single disabled or aged adult minus the amount of the medical assistance personal needs allowance for persons residing in a nursing facility.

Sec. 22. Minnesota Statutes 1990, section 273.1398, subdivision 1, is amended to read:

Subdivision 1. **DEFINITIONS.** (a) In this section, the terms defined in this subdivision have the meanings given them.

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(b) "Unique taxing jurisdiction" means the geographic area subject to the same set of local tax rates.

(c) "Gross tax capacity" means the product of the gross class rates and estimated market values. "Total gross tax capacity" means the gross tax capacities for all property within the unique taxing jurisdiction. The total gross tax capacity used shall be reduced by the sum of (1) the unique taxing jurisdiction's gross tax capacity of commercial industrial property as defined in section 473F.02, subdivision 3, multiplied by the ratio determined pursuant to section 473F.08, subdivision 6, for the municipality, as defined in section 473F.02, subdivision 8, in which the unique taxing jurisdiction is located, (2) the gross tax capacity of the captured value of tax increment financing districts as defined in section 469.177, subdivision 2, and (3) the gross tax capacity of transmission lines deducted from a local government's total gross tax capacity under section 273.425. Gross tax capacity cannot be less than zero.

(d) "Net tax capacity" means the product of (i) the appropriate net class rates for the year in which the aid is payable, except that for aids payable in 1991 the class rate applied to class 3 utility real and personal property shall be 5.38 percent; the class rate applied to class 4c property and that portion of class 3 property with an actual net class rate of 2.3 percent shall be 2.4 percent; the class rates applied to class 2a agricultural homestead property excluding the house, garage, and one acre shall be .4 percent for the first $100,000 of value reduced by the value of the house, garage, and one acre, 1.3 percent for the remaining value of the first 320 acres, and 1.7 percent for the remaining value of any acreage in excess of 320 acres; the class rate applied to class 2b property shall be 1.7 percent; the class rate applied to class 1b property shall be .4 percent; and the class rate for the portion of class 1 property and the house, garage, and one acre portion of class 2a property with a market value in excess of $100,000 shall be 3.0 percent, and (ii) estimated market values for the assessment two years prior to that in which aid is payable. The reclassification of mobile home parks as class 4c shall not be considered in determining net tax capacity for purposes of this paragraph for aids payable in 1991 or 1992. The reclassification of fraternity and sorority houses as class 4c shall not be considered in determining net tax capacity for purposes of this paragraph for aids payable in 1991. "Total net tax capacity" means the net tax capacities for all property within the unique taxing jurisdiction. The total net tax capacity used shall be reduced by the sum of (1) the unique taxing jurisdiction's net tax capacity of commercial industrial property as defined in section 473F.02, subdivision 3, multiplied by the ratio determined pursuant to section 473F.08, subdivision 6, for the municipality, as defined in section 473F.02, subdivision 8, in which the unique taxing jurisdiction is located, (2) the net tax capacity of the captured value of tax increment financing districts as defined in section 469.177, subdivision 2, and (3) the net tax capacity of transmission lines deducted from a local government's total net tax capacity under section 273.425. For purposes of determining the net tax capacity of property referred to in clauses (1) and (2), the net tax capacity shall be multiplied by the ratio of the highest class rate for class 3a property for taxes payable in the year in which the aid is payable to the

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highest class rate for class 3a property in the prior year. Net tax capacity cannot be less than zero.

(e) "Previous net tax capacity" means the product of the appropriate net class rates for the year previous to the year in which the aid is payable, and estimated market values for the assessment two years prior to that in which aid is payable. "Total previous net tax capacity" means the previous net tax capacities for all property within the unique taxing jurisdiction. The total previous net tax capacity shall be reduced by the sum of (1) the unique taxing jurisdiction's previous net tax capacity of commercial-industrial property as defined in section 473F.02, subdivision 3, multiplied by the ratio determined pursuant to section 473F.08, subdivision 6, for the municipality, as defined in section 473F.02, subdivision 8, in which the unique taxing jurisdiction is located, (2) the previous net tax capacity of the captured value of tax increment financing districts as defined in section 469.177, subdivision 2, and (3) the previous net tax capacity of transmission lines deducted from a local government's total net tax capacity under section 273.425. Previous net tax capacity cannot be less than zero.

(f) "Equalized market values" are market values that have been equalized by dividing the assessor's estimated market value for the second year prior to that in which the aid is payable by the assessment sales ratios determined by class in the assessment sales ratio study conducted by the department of revenue pursuant to section 124.2131 in the second year prior to that in which the aid is payable. The equalized market values shall equal the unequalized market values divided by the assessment sales ratio.

(g) "1989 local tax rate" means the quotient derived by dividing the gross taxes levied within a unique taxing jurisdiction for taxes payable in 1989 by the gross tax capacity of the unique taxing jurisdiction for taxes payable in 1989. For computation of the local tax rate for aid payable in 1991 and subsequent years, gross taxes for taxes payable in 1989 exclude equalized levies as defined in subdivision 2a. For purposes of computation of the local tax rate only, gross taxes shall not be adjusted by inflation or household growth.

(h) "Current local tax rate" means the quotient derived by dividing the taxes levied within a unique taxing jurisdiction for taxes payable in the year prior to that for which aids are being calculated by the net tax capacity of the unique taxing jurisdiction.

(i) For purposes of calculating the homestead and agricultural credit aid authorized pursuant to subdivision 2, the "subtraction factor" is the product of (i) a unique taxing jurisdiction's 1989 local tax rate; (ii) its total net tax capacity; and (iii) 0.9767.

(j) For purposes of calculating and allocating homestead and agricultural credit aid authorized pursuant to subdivision 2 and the disparity reduction aid authorized in subdivision 3, "gross taxes levied on all properties," "gross taxes," or "taxes levied" means the total taxes levied on all properties except that levied on the captured value of tax increment districts as defined in section 469.177,

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subdivision 2, and that levied on the portion of commercial industrial properties' assessed value or gross tax capacity, as defined in section 473F.02, subdivision 3, subject to the areawide tax as provided in section 473F.08, subdivision 6, in a unique taxing jurisdiction. Gross taxes levied on all properties or gross taxes are before reduction by any credits for taxes payable in 1989. "Gross taxes" are before any reduction for disparity reduction aid but "taxes levied" are after any reduction for disparity reduction aid. Gross taxes levied or taxes levied cannot be less than zero.

For homestead and agricultural credit aid payable in 1991, "gross taxes" or "gross taxes levied on all properties" shall mean gross taxes payable in 1989, excluding actual amounts levied for the purposes listed in subdivision 2a, multiplied by the cost-of-living adjustment factor and the household adjustment factor.

"Taxes levied" excludes actual amounts levied for purposes listed in subdivision 2a.

(k) "Human services aids" means:

(1) aid to families with dependent children under sections 256.82, subdivision 1, and 256.935, subdivision 1;

(2) medical assistance under sections 256B.041, subdivision 5, and 256B.19, subdivision 1;

(3) general assistance medical care under section 256D.03, subdivision 6;

(4) general assistance under section 256D.03, subdivision 2;

(5) work readiness under section 256D.03, subdivision 2;

(6) emergency assistance under section 256.871, subdivision 6;

(7) Minnesota supplemental aid under section 256D.36, subdivision 1;

(8) preadmission screening and alternative care grants ~~under section 256B.091~~;

(9) work readiness services under section 256D.051;

(10) case management services under section 256.736, subdivision 13;

(11) general assistance claims processing, medical transportation and related costs; and

(12) medical assistance, medical transportation and related costs.

(l) "Cost-of-living adjustment factor" means the greater of one or one plus the percentage increase in the consumer price index minus .36 percent. In no case may the cost of living adjustment factor exceed 1.0394.

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(m) The percentage increase in the consumer price index means the percentage, if any, by which:

(1) the consumer price index for the calendar year preceding that in which aid is payable, exceeds

(2) the consumer price index for calendar year 1989.

(n) "Consumer price index for any calendar year" means the average of the consumer price index as of the close of the 12-month period ending on May 31 of such calendar year.

(o) "Consumer price index" means the last consumer price index for all-urban consumers published by the department of labor. For purposes of the preceding sentence, the revision of the consumer price index which is most consistent with the consumer price index for calendar year 1989 shall be used.

(p) "Household adjustment factor" means the number of households for the second most recent year preceding that in which the aids are payable divided by the number of households for the third most recent year. The household adjustment factor cannot be less than one.

(q) "Growth adjustment factor" means the household adjustment factor in the case of counties, cities, and towns. In the case of school districts the growth adjustment factor means the average daily membership of the school district under section 124.17, subdivision 2, for the school year ending in the second most recent year preceding that in which the aids are payable divided by the average daily membership for the third most recent year. In the case of special taxing districts, the growth adjustment factor equals one. The growth adjustment factor cannot be less than one.

(r) "Homestead and agricultural credit base" means the previous year's certified homestead and agricultural credit aid determined under subdivision 2 plus, for aid payable in 1992, fiscal disparity homestead and agricultural credit aid under subdivision 2b.

(s) "Net tax capacity adjustment" means (1) the total previous net tax capacity minus the total net tax capacity, multiplied by (2) the unique taxing jurisdiction's current local tax rate. The net tax capacity adjustment cannot be less than zero.

(t) "Fiscal disparity adjustment" means the difference between (1) a taxing jurisdiction's fiscal disparity distribution levy under section 473F.08, subdivision 3, clause (a), for taxes payable in the year prior to that for which aids are being calculated, and (2) the same distribution levy multiplied by the ratio of the highest class rate for class 3 property for taxes payable in the year prior to that for which aids are being calculated to the highest class rate for class 3 property for taxes payable in the second prior year to that for which aids are being calculated. In the case of school districts, the fiscal disparity distribution levy shall

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exclude that part of the levy attributable to equalized school levies as defined in subdivision 2a.

Sec. 23. Laws 1988, chapter 689, article 2, section 256, subdivision 1, is amended to read:

Subdivision 1. **SELECTION OF PROJECTS.** The commissioner of human services shall establish pilot projects to demonstrate the feasibility and cost-effectiveness of alternatives to nursing home care that involve providing coordinated alternative care grant services for all eligible residents in an identified apartment building or complex or other congregate residential setting. The commissioner shall solicit proposals from counties and shall select up to four counties to participate, including at least one metropolitan county and one county in greater Minnesota. The commissioner shall select counties for participation based on the extent to which a proposed project is likely to:

(1) meet the needs of low-income, frail elderly;

(2) enable clients to live as independently as possible;

(3) result in cost-savings by reducing the per person cost of alternative care grant services through the efficiencies of coordinated services; and

(4) facilitate the discharge of elderly persons from nursing homes to less restrictive settings or delay their entry into nursing homes.

Participating counties shall use existing alternative care grant allocations to pay for pilot project services. The counties must contract with a medical assistance-certified home care agency to coordinate and deliver services and must demonstrate to the commissioner that quality assurance and auditing systems have been established. Notwithstanding Minnesota Statutes, section ~~256B.091~~ 256B.0913, and rules of the commissioner of human services relating to the alternative care ~~grants~~ program, the commissioner may authorize pilot projects to use a monthly precapitated ~~rates~~ rate up to 75 percent of the statewide average monthly nursing facility payment rate as defined in Minnesota Statutes, section 256B.0913; to provide expanded services such as chore services, activities, and meal planning, preparation, and serving; and to waive freedom of choice of vendor to the extent necessary to allow one vendor to provide services to all eligible persons in a residence or building. The commissioner may apply for a waiver of federal requirements as necessary to implement the pilot projects.

Sec. 24. **HOME CARE; INFLATION.**

Subdivision 1. **ALTERNATIVE CARE PROGRAM.** Notwithstanding Minnesota Statutes, section 256B.0913, subdivision 14, no percentage inflation increase may be provided for the fiscal year ending June 30, 1992. An increase of three percent must be provided for the fiscal year ending June 30, 1993.

Subd. 2. **MEDICAL ASSISTANCE HOME CARE; INFLATION.** Notwithstanding Minnesota Statutes, section 256B.0915, subdivision 3, no percentage inflation increase may be provided for the fiscal year ending June 30, 1993.

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Sec. 25. **REVISOR INSTRUCTIONS.**

Subdivision 1. In the next edition of Minnesota Statutes, the revisor shall delete the terms "board for quality assurance" and insert "long-term care planning committee" where found in Minnesota Statutes, sections 144A.071, subdivision 3; 144A.073, subdivision 3; 246.023; and 256B.431, subdivision 2d.

Subd. 2. In the next edition of Minnesota Statutes, the revisor shall delete the term "board" or "board's" and insert the term "committee" or "committee's" as appropriate and where found in Minnesota Statutes, section 144A.073, subdivisions 2 and 3.

Subd. 3. In the next edition of Minnesota Statutes, the revisor of statutes shall change the words "interagency board for quality assurance" to "interagency long-term care planning committee" or "interagency board" to "interagency committee" or "board" to "committee," as appropriate, wherever they appear in Minnesota Statutes. The revisor of statutes is also directed to change the citation "256B.091" wherever it appears in Minnesota Statutes to "256B.0911."

Sec. 26. **REPEALER.**

Minnesota Statutes 1990, sections 144A.31, subdivisions 2 and 3; 256B.0625, subdivisions 6 and 19; 256B.0627, subdivision 3; 256B.091; 256B.431, subdivision 6; and 256B.71, subdivision 5, are repealed.

ARTICLE 8

CRIMINAL JUSTICE

Section 1. Minnesota Statutes 1990, section 3.98, subdivision 1, is amended to read:

Subdivision 1. The head or chief administrative officer of each department or agency of the state government, including the supreme court, shall prepare a fiscal note at the request of the chair of the standing committee to which a bill has been referred, or the chair of the house appropriations committee, or the chair of the senate committee on finance.

For purposes of this subdivision, "supreme court" includes all agencies, committees, and commissions supervised or appointed by the state supreme court or the state court administrator.

Sec. 2. Minnesota Statutes 1990, section 3.982, is amended to read:

3.982 **FISCAL NOTES FOR STATE-MANDATED ACTIONS.**

When a bill is introduced and referred to a standing committee, the commissioner of finance shall determine whether the bill proposes a new or expanded mandate on a political subdivision, a district court, or the public

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defense system. If the commissioner determines that a new or expanded mandate is proposed, the commissioner shall direct the appropriate department or agency of state government to prepare a fiscal note identifying the projected fiscal impact of the bill on state government and on the affected ~~political subdivisions~~ entity. The commissioner of finance shall be responsible for coordinating the fiscal note process, for assuring the accuracy and completeness of the note, and for ensuring that fiscal notes are prepared, delivered, and updated as provided in this section. The fiscal note shall categorize mandates as program or nonprogram mandates and shall include estimates of the levy impacts of the mandates. To the extent that the bill would impose new fiscal obligations ~~on political subdivisions~~, the note shall indicate the efforts made to reduce those obligations, including consultations made with representatives of the ~~political subdivisions~~ affected entities. Chairs of legislative committees receiving bills on rereferrals from other legislative committees may request that fiscal notes be amended to reflect amendments made to the bills by prior committee action. Preparation of the fiscal notes required in this section shall be consistent with section 3.98. The commissioner of finance shall periodically report to and consult with the legislative commission on planning and fiscal policy on the issuance of the notes.

Sec. 3. Minnesota Statutes 1990, section 171.29, subdivision 2, is amended to read:

Subd. 2. (a) A person whose drivers license has been revoked as provided in subdivision 1, except under section 169.121 or 169.123, shall pay a $30 fee before the person's drivers license is reinstated.

(b) A person whose drivers license has been revoked as provided in subdivision 1 under section 169.121 or 169.123 shall pay a ~~$200~~ $250 fee before the person's drivers license is reinstated to be credited as follows:

(1) ~~25~~ 20 percent shall be credited to the trunk highway fund;

(2) ~~50~~ 55 percent shall be credited ~~to a separate account to be known as the county probation reimbursement account. Money in this account may be appropriated to the commissioner of corrections for the costs that counties assume under Laws 1959, chapter 698, of providing probation and parole services to wards of the commissioner of corrections. This money is provided in addition to any money which the counties currently receive under section 260.311, subdivision 5~~ the general fund;

(3) ~~ten~~ 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 shall be divided as follows: eight percent for laboratory costs; two percent for carrying out the provisions of section 299C.065;

(4) ~~15~~ 12 percent shall be credited to a separate account to be known as the alcohol-impaired driver education account. Money in the account may be appro-

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priated to the commissioner of education for grants to develop alcohol-impaired driver education programs in elementary, secondary, and post-secondary schools. The state board of education shall establish guidelines for the distribution of the grants. At least $70,000 must be awarded in grants to local school districts. Each year the commissioner may use $100,000 to administer the grant program and other traffic safety education programs; and

(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 establish and maintain the traumatic brain injury and spinal cord injury registry created in section 144.662 and to reimburse the commissioner of jobs and training for the reasonable cost of services provided under section 268A.03, clause (o).

Sec. 4. Minnesota Statutes 1990, section 241.022, is amended to read:

241.022 **GRANTS-IN-AID TO COUNTIES FOR ADULT DETENTION FACILITIES AND PROGRAMS.**

Subdivision 1. **AUTHORIZATION TO MAKE FACILITY GRANTS.** (a) The commissioner of corrections may, out of money appropriated for the purposes of this section, make grants to counties or groups of counties for the purpose of assisting those counties to construct or rehabilitate local adult detention facilities and to assist counties or groups of counties in the construction or rehabilitation of regional jails and lockups, work houses, or work farms, and detention and treatment facilities for adult offenders~~, youthful offenders, and delinquent children, and to aid such~~.

Subd. 2. **AUTHORIZATION TO MAKE PROGRAM GRANTS.** The commissioner of corrections may, out of money appropriated for the purposes of this section, make grants to counties or groups of counties for the purpose of assisting those counties ~~in developing and maintaining~~ to develop and maintain adequate programs and personnel for the education, training, treatment and rehabilitation of persons admitted to ~~such institutions, the commissioner of corrections is hereby authorized and empowered, out of any money appropriated for the purposes of this section, to make grants to such counties~~ the facilities described in subdivision 1. Eligible programs also include, but are not limited to, alternatives to detention or incarceration programs containing home detention components.

Subd. 3. **FEDERAL FUNDS.** The commissioner may also receive grants of funds from the federal government or any other lawful source for the ~~purpose of this section, and such~~ purposes of subdivisions 1 and 2. These funds are ~~hereby~~ appropriated annually to the commissioner.

Subd. ~~2.~~ 4. **MINIMUM STANDARDS FOR FACILITIES.** The commissioner shall establish minimum standards for the construction, rehabilitation, size, area to be served, training and treatment programs, and staff qualifications~~,~~

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~~and projected annual operating costs of~~ in adult facilities to be rehabilitated or constructed. Compliance with these standards ~~shall constitute~~ constitutes a minimum requirement for the granting of assistance as provided by this section.

Subd. ~~3.~~ 5. **APPLICATION FOR FACILITY GRANTS.** ~~Any~~ (a) A county or group of counties operating any of the adult facilities described in subdivision 1 or desiring to construct and operate or to rehabilitate existing facilities may apply for assistance under this section by submitting to the commissioner of corrections for approval its plans, specifications, budget, program for training and treatment, and staffing pattern, including personnel qualifications. The commissioner may recommend ~~such~~ changes or modifications as the commissioner ~~deems~~ considers necessary to effect substantial compliance with the standards provided in subdivision ~~2~~ 4. When the commissioner has determined that ~~any~~ a county or group of counties has substantially complied with the minimum standards, or is making satisfactory progress toward ~~such~~ compliance, the commissioner may pay to ~~such~~ the county or groups of counties an amount not ~~to exceed~~ more than 50 percent of the cost of construction or rehabilitation of the facilities described in this section~~, and~~.

(b) In the case of improvement of a program and continued operation of ~~any~~ a program in ~~a~~ an adult regional facility as described in subdivision ~~1~~ 2, the commissioner may pay to the governing board of ~~such~~ the facility a sum not ~~to exceed~~ more than $1,800 per year for each adult bed ~~and $3,200 per year for each juvenile bed as approved in the submitted plans and specifications~~.

Subd. ~~4.~~ 6. **INSPECTION.** The commissioner shall inspect at least annually each adult facility covered by this section and review its projected annual operating costs to insure continued compliance with minimum standards, and may withhold funds for noncompliance.

Subd. ~~5.~~ 7. **LIMITATION OF GRANTS TO FUTURE PROJECTS.** Completion and acceptance of new construction or rehabilitation of existing facilities must occur after ~~June 5, 1971~~ July 1, 1991, to enable a county or group of counties to receive any sums provided by this section.

~~This section shall apply only for those projects where a specific appropriation has been made.~~

Sec. 5. **[241.0221] JUVENILE DETENTION SERVICES SUBSIDY PROGRAM.**

Subdivision 1. **DEFINITIONS.** The definitions in this subdivision apply to this section.

(a) "Commissioner" means the commissioner of corrections.

(b) "Local detention facility" means a county or multicounty facility that detains or confines preadjudicated or adjudicated delinquent and nondelinquent offenders, including offenders defined in section 260.015, subdivisions 21, 22, and 23.

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(c) "Twenty-four-hour temporary holdover facility" means a physically restricting or a physically unrestricting facility used for up to 24 hours, excluding weekends and holidays, for the care of one or more children who are being detained under chapter 260.

(d) "Twenty-four-hour temporary holdover facility operational subsidy" means a subsidy in an amount not to exceed $7 per hour for wages for staff supervision services provided to a delinquent child held within a 24-hour temporary holdover facility.

(e) "Eight-day temporary holdover facility" means a physically restricting and unrestricting facility of not more than eight beds, two of which must be capable of being physically restricting. The maximum period that a child can be detained under chapter 260 in this facility is eight days, excluding weekends and holidays.

(f) "Eight-day temporary holdover facility operational subsidy" means a subsidy in an amount not to exceed 50 percent of the annual actual operating costs of the facility and not to exceed $100,000, whichever is less.

(g) "Secure juvenile detention center" means a physically restricting facility licensed under Minnesota Rules, chapter 2930, and used for the temporary care of a delinquent child being detained under chapter 260.

(h) "Alternative detention programs" include, but are not limited to, home detention services, transportation services, including programs designed to return runaway children to their legal place of residence, custody detention services, training subsidy programs, and administrative services.

(i) "Secure juvenile detention center subsidy" means the $1,200 per bed subsidy authorized under subdivisions 2 and 5, paragraph (b).

(j) "Transportation service" means transportation of a child who is being detained under chapter 260, including costs of wages, mileage and meal expenses, and costs for transporting and returning delinquent children who have absconded from their legal place of residence.

(k) "Home detention service" means:

(1) supervision of children who are residing at their legal place of residence and who are being detained under chapter 260 and includes costs incurred for wages, mileage, and expenses associated with supervision;

(2) a training subsidy used to pay for expenses incurred in training home detention staff; and

(3) electronic surveillance program costs incurred in electronic monitoring of children who are being detained at home or at their legal place of residence under chapter 260.

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(l) "Custody detention service" means secure and nonsecure detention per diem costs for a child who is being detained under chapter 260.

(m) "Training subsidy" means a subsidy associated with training required staff to implement temporary holdover facility programs, transportation services, and home detention services.

(n) "Administrative services" means administering, coordinating, and implementing the 24-hour temporary holdover facilities, juvenile detention alternative programs involving transportation, home detention, and custody detention services.

(o) "Administrative start-up subsidy" means a subsidy associated with services rendered to get a 24-hour temporary holdover facility established and operating as required and not to exceed $2,000 per facility.

Subd. 2. **AUTHORIZATION TO MAKE SUBSIDIES TO COUNTIES.** The commissioner may, out of money appropriated for the purposes of this section, subsidize counties or groups of counties to assist in:

(a) construction or rehabilitation of local detention facilities; and

(b) developing or maintaining adequate local detention facility operations or alternative detention programs.

Subd. 3. **FEDERAL FUNDS.** The commissioner may also receive funds from the federal government or any other lawful source for the purposes of subdivision 2.

Subd. 4. **MINIMUM STANDARDS.** (a) The commissioner shall establish, under chapter 14, minimum standards for the construction or rehabilitation of all local detention facilities and their operations by July 1, 1993. Interim standards developed by the commissioner may be used until that time.

(b) The commissioner shall establish requirements for alternative detention program subsidies and the maximum amount of funding each eligible participating county can receive. These subsidy requirements are not subject to chapter 14 procedures. Compliance with requirements established by the commissioner constitutes a minimum requirement for the granting of subsidy funding.

Subd. 5. **APPLICATION FOR SUBSIDY FUNDING.** (a) A county or group of counties operating or desiring to operate any of the facilities defined in subdivision 1 may apply for facility construction or rehabilitation subsidy funds. Applications must be submitted in a format provided by the commissioner. Subsidy funds granted are contingent on approval of plans and budget proposals submitted. The commissioner may recommend changes or modifications as the commissioner considers necessary to effect substantial compliance with the standards established in subdivision 4. When the commissioner has determined that a county or group of counties has substantially complied with the minimum

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standards, or is making satisfactory progress toward compliance, the commissioner may pay to the county or counties an amount not more than 50 percent of the costs of construction or rehabilitation of the facility or facilities for which a subsidy has been granted, with the following exceptions:

(1) a 24-hour nonsecure temporary holdover facility may receive a one-time payment of up to a maximum of $3,000 per facility for construction or rehabilitation purposes and furnishings;

(2) a 24-hour secure temporary holdover facility may receive a one-time payment of up to a maximum of $10,000 per facility for construction or rehabilitation purposes and furnishings; and

(3) an eight-day temporary holdover facility may receive a one-time payment of up to a maximum of $10,000 per bed for no more than eight beds for construction or rehabilitation purposes and furnishings.

(b) A county or group of counties operating a secure juvenile detention center may apply for secure juvenile detention center subsidy funds. The commissioner may pay to the governing board of a local secure juvenile detention center a sum not more than $1,200 per year for each secure juvenile bed as approved in the submitted plans and specifications. These subsidy funds must be expended for alternative juvenile detention programs felt to be appropriate by the local governing board. The $1,200 per bed, per year subsidy shall be known as the secure juvenile detention center subsidy.

(c) A county or group of counties operating an eight-day temporary holdover facility may apply for an operational subsidy in an amount not to exceed 50 percent of the facility's approved operational budget. Reimbursement would occur based upon actual expenditures and compliance with standards and requirements established in subdivision 4 and could not exceed $100,000 per year, per facility.

(d) The commissioner may also pay to a county or group of counties a subsidy for alternative detention programs. Subsidies may cover costs for:

(1) home detention services;

(2) transportation services;

(3) custody detention services;

(4) training; and

(5) local administrative services.

(e) Counties operating a juvenile eight-day temporary holdover facility or a secure juvenile detention center are not eligible to receive a subsidy for alternative detention programs described in paragraph (d).

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(f) The commissioner may pay to counties desiring to operate a secure or nonsecure 24-hour temporary holdover facility a one-time administrative start-up subsidy of $2,000 for staff services rendered for development and coordination purposes.

Subd. 6. **APPLICATION REVIEW PROCESS FOR SUBSIDY FUNDS.** To qualify for a subsidy, a county or group of counties must enter into a memorandum of agreement with the commissioner agreeing to comply with the minimum standards and requirements established by the commissioner under subdivision 4. The memorandum of agreement is not subject to the contract approval procedures of the commissioner of administration or chapter 16B. The commissioner shall provide forms and instructions for submission of subsidy applications.

The commissioner shall require a county or group of counties to document in its application that it is requesting subsidy funds for the least restrictive alternative appropriate to the county or counties detention needs. The commissioner shall evaluate applications and grant subsidies for local detention facilities and alternative detention programs described in this section in a manner consistent with the minimum standards and requirements established by the commissioner in subdivision 4 and within the limit appropriations made available by law.

Subd. 7. **INSPECTION.** The commissioner shall inspect each local detention facility covered by this section in accordance with requirements set forth in section 241.021 to ensure continued compliance with minimum standards and requirements established by the commissioner in subdivision 4 and may withhold funds for noncompliance.

Subd. 8. **LIMITATION OF SUBSIDIES.** Funds for the purposes of subdivision 5, paragraph (a), are available only for construction projects begun after July 1, 1991.

Sec. 6. Minnesota Statutes 1990, section 244.16, is amended to read:

244.16 **DAY-FINES.**

Subdivision 1. **MODEL SYSTEM.** ~~By June 1, 1991,~~ The sentencing guidelines commission shall develop a model day-fine system. ~~Each judicial district must adopt either the model system or its own day-fine system by January 1, 1992.~~ The commission shall report its model system to the legislature by February 1, 1993. Upon request of a judicial district, the commission may establish one pilot project for the development of a day-fine system.

Subd. 2. **COMPONENTS.** A day-fine system adopted under this section must provide for a two-step sentencing procedure for those receiving a fine as part of a probationary felony, gross misdemeanor, or misdemeanor sentence. In the first step, the court determines how many punishment points a person will

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receive, taking into account the severity of the offense and the criminal history of the offender. The second step is to multiply the punishment points by a factor that accounts for the offender's financial circumstances. The goal of the system is to provide a fine that is proportional to the seriousness of the offense and largely equal in impact among offenders with different financial circumstances. The system may provide for community service in lieu of fines for offenders whose means are so limited that the payment of a fine would be unlikely.

Sec. 7. Minnesota Statutes 1990, section 254A.17, subdivision 3, is amended to read:

Subd. 3. **STATEWIDE DETOXIFICATION TRANSPORTATION PROGRAM.** The commissioner shall provide grants to counties, Indian reservations, other nonprofit agencies, or local detoxification programs for provision of transportation of intoxicated individuals to detoxification programs. Funds shall be allocated among counties annually in proportion to each county's average number of detoxification admissions for the prior two years, except that no county shall receive less than $400. Unless a county has approved a grant of funds under this section, the commissioner shall make quarterly payments of detoxification funds to a county only after receiving an invoice describing the number of persons transported and the cost of transportation services for the previous quarter.

Sec. 8. Minnesota Statutes 1990, section 299A.21, subdivision 6, is amended to read:

Subd. 6. **COMMISSIONER.** "Commissioner" means the commissioner of ~~public safety~~ human services.

Sec. 9. Minnesota Statutes 1990, section 299A.23, subdivision 2, is amended to read:

Subd. 2. **ADVISORY COUNCIL.** An advisory council of 18 members is established under section 15.059. The commissioners of ~~human services~~ public safety, health, education, and corrections shall each appoint one member. The subcommittee on committees of the senate and the speaker of the house of representatives shall each appoint two members of their respective bodies, one from each caucus. The governor shall appoint an additional ten members who shall demonstrate knowledge in the area of child abuse and shall represent the demographic and geographic composition of the state, and to the extent possible, represent the following groups: local government, parents, racial and ethnic minority communities, the religious community, professional providers of child abuse prevention and treatment services, and volunteers in child abuse prevention and treatment services. The council shall advise and assist the commissioner in carrying out sections 299A.20 to 299A.26. The council does not expire as provided by section 15.059, subdivision 5.

Sec. 10. Minnesota Statutes 1990, section 299A.27, is amended to read:

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299A.27 **ANNUAL APPROPRIATION.**

All earnings from trust fund assets, all sums received under section 299A.26, and 60 percent of the amount collected under section 144.226, subdivision 3 are appropriated annually from the children's trust fund for the prevention of child abuse to the commissioner of ~~public safety~~ human services to carry out sections 299A.20 to 299A.26. In fiscal year 1987 only, the first $75,000 collected under section 144.226, subdivision 3 is appropriated from the children's trust fund for the prevention of child abuse to the commissioner of ~~public safety~~ human services to carry out sections 299A.20 to 299A.26.

Sec. 11. Minnesota Statutes 1990, section 401.13, is amended to read:

401.13 **CHARGES MADE TO COUNTIES.**

Each participating county will be charged a sum equal to the per diem cost of confinement of those juveniles committed to the commissioner after August 1, 1973, and confined in a state correctional facility. Provided, however, that the amount charged a participating county for the costs of confinement shall not exceed the amount of subsidy to which the county is eligible~~, and provided further that the counties of commitment shall also pay the per diem herein provided for all persons convicted of a felony for which the penalty provided by law does not exceed five years and confined in a state correctional facility prior to January 1, 1981. A county or group of counties participating in the community corrections act may not be charged for any per diem cost of confinement for adults sentenced to the commissioner of corrections for crimes committed on or after January 1, 1981~~. The commissioner shall annually determine costs ~~and deduct them from the subsidy due and payable to the respective participating counties,~~ making necessary adjustments to reflect the actual costs of confinement. However, in no case shall the percentage increase in the amount charged to the counties exceed the percentage by which the appropriation for the purposes of sections 401.01 to 401.16 was increased over the preceding biennium. The commissioner of corrections shall bill the counties and deposit the receipts from the counties in the general fund. All charges shall be a charge upon the county of commitment.

Sec. 12. Minnesota Statutes 1990, section 471.705, subdivision 1, is amended to read:

Subdivision 1. Except as otherwise expressly provided by statute, all meetings, including executive sessions, of any state agency, board, commission or department when required or permitted by law to transact public business in a meeting, and the governing body of any school district however organized, unorganized territory, county, city, town, or other public body, and of any committee, subcommittee, board, department or commission thereof, shall be open to the public, except meetings of ~~the board of pardons and~~ the commissioner of corrections. The votes of the members of such state agency, board, commission or department or of such governing body, committee, subcommittee, board, department or commission on any action taken in a meeting herein required to

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be open to the public shall be recorded in a journal kept for that purpose, which journal shall be open to the public during all normal business hours where such records are kept. The vote of each member shall be recorded on each appropriation of money, except for payments of judgments, claims and amounts fixed by statute. This section shall not apply to any state agency, board, or commission when exercising quasi-judicial functions involving disciplinary proceedings.

Sec. 13. Minnesota Statutes 1990, section 631.425, subdivision 3, is amended to read:

Subd. 3. **CONTINUATION OF EMPLOYMENT.** If the person committed under this section has been regularly employed, the sheriff shall arrange for a continuation of the employment insofar as possible without interruption. If the person is not employed, the ~~sheriff or any~~ court may designate a suitable person or agency ~~designated by the court shall make every effort~~ to make reasonable efforts to secure some suitable employment for that person. An inmate employed under this section must be paid a fair and reasonable wage for work performed and must work at fair and reasonable hours per day and per week.

Sec. 14. Minnesota Statutes 1990, section 631.425, subdivision 7, is amended to read:

Subd. 7. **VIOLATION OF SENTENCE; PROCEDURE.** If the inmate violates a condition of work release relating to conduct, custody, or employment, the ~~inmate must be returned to the court. The court then (1) may require that the balance of the inmate's sentence be spent in actual confinement, (2) may cancel any earned reduction of the inmate's term, and (3) may find~~ correctional facility administrator may require that the inmate spend the balance of the inmate's sentence in actual confinement. The facility administrator shall give the inmate an opportunity to be heard before implementing this decision. On appeal by the inmate within seven days, the court must review the facility administrator's decision and, in its review, may (1) uphold or reverse the decision; and (2) order additional sanctions for the work release violation, including canceling any earned reduction in the inmate's term and finding the inmate in contempt of court.

Sec. 15. Minnesota Statutes 1990, section 638.04, is amended to read:

638.04 **MEETINGS.**

The board of pardons shall hold meetings at least twice each year and shall hold a meeting whenever it takes formal action on an application for a pardon or commutation of sentence. All board meetings shall be open to the public as provided in section 471.705.

The victim of an applicant's crime has a right to submit an oral or written statement at the meeting. The statement may summarize the harm suffered by the victim as a result of the crime and give the victim's recommendation on whether the application for a pardon or commutation should be granted

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or denied. In addition, any law enforcement agency may submit an oral or written statement at the meeting, giving its recommendation on whether the application should be granted or denied. The board must consider the victim's and the law enforcement agency's statement when making its decision on the application.

Sec. 16. Minnesota Statutes 1990, section 638.05, is amended to read:

638.05 **APPLICATION FOR PARDON.**

Every application for a pardon or commutation of sentence shall be in writing, addressed to the board of pardons, signed by the convict or some one in the convict's behalf, shall state concisely the grounds upon which the pardon or commutation is sought, and in addition shall contain the following facts:

(1) The name under which the convict was indicted, and every alias by which known;

(2) The date and terms of sentence, and the names of the offense for which it was imposed;

(3) The name of the trial judge and the county attorney who participated in the trial of the convict, together with that of the county of trial;

(4) A succinct statement of the evidence adduced at the trial, with the endorsement of the judge or county attorney who tried the case that the same is substantially correct; if such statement and endorsement are not furnished, the reason thereof shall be stated;

(5) The age, birthplace, parentage, and occupation and residence of the convict during five years immediately preceding conviction;

(6) A statement of other arrests, indictments, and convictions, if any, of the convict.

Every application for a pardon or commutation of sentence shall contain a statement by the applicant consenting to the disclosure to the board of any private data concerning the applicant contained in the application or in any other record relating to the grounds on which the pardon or commutation is sought.

Sec. 17. Minnesota Statutes 1990, section 638.06, is amended to read:

638.06 **ACTION ON APPLICATION.**

Every such application shall be filed with the clerk of the board of pardons. If an application for a pardon or commutation has been once heard and denied on the merits, no subsequent application shall be filed without the consent of two members of the board endorsed thereon. The clerk shall, immediately on receipt of any application, mail notice thereof, and of the time and place of hearing thereon, to the judge of the court wherein the applicant was tried and sentenced, and to the prosecuting attorney who prosecuted the applicant, or a successor in office~~; provided, pardons or commutations of sentence of persons~~

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~~committed to a county jail or workhouse may be granted by the board without notice~~. The clerk shall also make all reasonable efforts to locate any victim of the applicant's crime. The clerk shall mail notice of the application and the time and place of the hearing to any victim who is located. This notice shall specifically inform the victim of the victim's right to be present at the hearing and to submit an oral or written statement to the board as provided in section 638.04.

Sec. 18. Minnesota Statutes 1990, section 643.29, subdivision 1, is amended to read:

Subdivision 1. **"GOOD CONDUCT" ALLOWANCE.** Any person sentenced for a term to any county jail, workhouse, or correctional work farm, whether the term is part of an executed sentence or is imposed as a condition of probation, shall, when sentenced to serve ten days or more, diminish the term of the sentence ~~five days~~ one day for each ~~month~~ two days served, commencing on the day of arrival, during which the person has not violated any rule or discipline of the place wherein the person is incarcerated and, if required to labor, has labored with diligence and fidelity.

Sec. 19. Laws 1989, chapter 290, article 1, section 3, subdivision 2, is amended to read:

Subd. 2. Correctional Institutions	14,470,000	16,519,000
Of this amount $5,713,000 in fiscal year 1990 and $9,337,000 in fiscal year 1991 are to pay operating costs of the facility at Faribault. The department's complement is increased by up to 245 positions in both years of the biennium.		
Of this amount $1,957,000 is to pay startup costs associated with conversion of portions of the regional treatment center at Faribault to a medium-security correctional facility.		
Of this amount, $63,000 in fiscal year 1990 and $332,000 in fiscal year 1991 are to establish and operate two additional sex offender programs within state correctional facilities. The department's complement is increased by one position in 1990 and up to eight positions in 1991.		
Any unexpended money in the fiscal year 1990 appropriation for conversion and operation of the facility at Faribault is available in fiscal year 1991.		

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During the biennium ending June 30, 1991, the commissioner shall give preference in recruiting, training, and hiring to employees of the department of human services whose positions are eliminated by implementation of the regional treatment center restructuring plan when filling correctional facility positions located on regional treatment center campuses.

Agreements between the commissioner of corrections and the commissioner of human services concerning operation of a correctional facility on a campus of a regional treatment center shall include provisions for operation of the kitchen and laundry facilities by the commissioner of human services. The department of human services shall operate the kitchen and laundry facilities until the department of human services has completed its restructuring plan at the regional treatment center.

~~Rogers Hall at Faribault regional treatment center may be used by the department of human services for developmentally disabled persons and may not be used by the department of corrections until the legislature specifically authorizes another use for the building.~~

The commissioner may enter into agreements with the appropriate officials of any state, political subdivision, or the United States, for housing prisoners in Minnesota correctional facilities. Money received under the agreements is appropriated to the commissioner for correctional purposes.

Sec. 20. **CRIMINAL JUSTICE RESOURCE MANAGEMENT.**

Subdivision 1. **CRIMINAL JUSTICE RESOURCE MANAGEMENT PLAN.** By January 1, 1993, the judges of each judicial district shall complete a final written criminal justice resource management plan to implement the goal of ensuring the fair and economical use of the criminal justice system resources within the district and the continued effective implementation of the district's case management plan. Each criminal justice resource management plan must address the following issues:

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(1) the relationship of the judicial district's case management plan to its use of the correctional resources within the judicial district;

(2) the role of individual judicial discretion in the use of the resources within the district. In addressing this issue, the plan shall make specific reference to the data and information submitted in the reports of the supreme court gender fairness and racial bias task forces and shall specifically provide for implementation of the findings of the task forces;

(3) the use of pretrial evaluation, bail, pretrial detention, and pretrial supervision and counseling;

(4) the use of criminal justice diversion programs;

(5) the role and use of intermediate sanctions such as community service, economic sanctions such as fines or day-fine programs, and sentencing to service programs;

(6) the presentence investigation process and the posttrial probation supervision process;

(7) the housing of various categories of nonviolent offenders;

(8) the adequacy of sharing of correctional resources between counties contained within multicounty judicial districts;

(9) the role of new correctional technologies such as electronic home monitoring or auto ignition interlocking devices;

(10) the use of treatment alternatives involving chemical dependency, sex offender treatment, and other psychological services; and

(11) the adequacy of existing correctional facilities and the possible need for a new correctional facility.

Subd. 2. **PRINCIPLES; ASSISTANCE.** By September 1, 1991, the sentencing guidelines commission shall develop principles to guide judicial districts in developing judicial district resource management plans. The commission shall provide technical assistance in developing the plans to districts that request assistance.

Subd. 3. **REVIEW OF JUDICIAL DISTRICT RESOURCE MANAGEMENT PLAN.** (a) Each judicial district shall submit its preliminary criminal justice resource management plan to the conference of chief judges by July 1, 1992. The conference shall review the plan and make recommendations it deems appropriate. Specifically, the conference shall address the adequacy and use of the sharing of correctional resources among judicial districts.

(b) A copy of the final draft of each judicial district's criminal justice resource management plan, along with the conference of chief judges' recom-

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mendations for changes in rules, criminal procedure, and statutes, must be filed with the chairs of the judiciary committees in the house of representatives and the senate by February 1, 1993.

Sec. 21. **TASK FORCE ON CORRECTIONS CROWDING.**

Subdivision 1. **MEMBERSHIP.** (a) The commissioner of corrections shall establish a task force on corrections crowding. The commissioner of corrections shall appoint 12 members, including representatives from among local government officials, law enforcement, the judiciary, local corrections, business and industry, experts in juvenile and criminal justice, the public, the state planning agency, the sentencing guidelines commission, the department of finance, and the department of corrections.

Subd. 2. **DUTIES.** The task force on corrections crowding shall examine the short- and long-range demand for correctional services and facilities and prepare a ten-year plan that fashions a corrections system for the 1990s. The task force shall:

(1) examine the relationship, interdependence, financing, and functions of the state and local correctional systems;

(2) review the entire system including felonies, gross misdemeanors, and misdemeanors;

(3) address the need for juvenile and adult, male and female correctional services and facilities;

(4) review the community corrections act and its funding formula;

(5) examine the increase of mentally ill correctional clients;

(6) recommend an equitable and effective solution for the short-term prison offender;

(7) examine the state's approach to pretrial detention, housing of various categories of nonviolent offenders, prerelease counseling, and postrelease supervision; and

(8) conduct informational forums across the state to solicit ideas and concerns regarding corrections crowding.

Subd. 3. **REPORT.** The task force shall make an interim report to the governor and the legislature by January 1, 1992. The task force shall complete its examination of these matters and make a final report to the governor and legislature by January 1, 1993.

Sec. 22. **METROPOLITAN AREA CORRECTIONS REPORT.**

The county correctional administrators of the metropolitan area, as defined in Minnesota Statutes, section 473.121, shall report to the legislature by January 1, 1992, concerning the steps taken by those counties to:

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(1) alleviate correctional crowding; and

(2) speed the processing of offenders through the system.

Sec. 23. **EMPLOYMENT AND EDUCATION PILOT PROGRAM.**

Subdivision 1. **ESTABLISHMENT.** A pilot program is established to provide adolescents with opportunities for gaining a high school diploma, exploring occupations, evaluating vocational options, receiving career and life skills counseling, developing and pursuing personal goals, and participating in community-based projects. Two pilot projects shall be funded under the program and shall be targeted for young people as defined in Laws 1990, chapter 562, article 4, section 12, between the ages of 14 and 18 who, because of a lack of personal resources and skills, need assistance in setting and realizing education and employment goals and in becoming contributing members of their community.

Subd. 2. **ELIGIBILITY.** (a) An applicant for a pilot project grant must be a (1) school district, (2) education district, (3) group of districts cooperating for a particular purpose, or (4) eligible program under contract with a school district to provide educational services in the high school graduation incentives program under Minnesota Statutes, section 126.22. To meet the requirement in paragraph (b), clause (1), an applicant may apply jointly with a provider of an employment and training program administered through the department of jobs and training.

(b) To be eligible for a pilot project grant, an applicant must meet all of the following criteria:

(1) have operated or must be applying jointly with an entity which has operated a youth employment program serving targeted young people, administered through the department of jobs and training, for at least two years before applying for the grant;

(2) have operated a specialized or nontraditional education program designed to meet the needs of targeted young people, for at least two years before applying for the grant;

(3) develop a plan to identify and assess the knowledge, skills, and aptitudes of targeted young people under subdivision 1; and

(4) must use the results of the assessment to provide appropriate education and employment opportunities to targeted young people that promote a sense of self-sufficiency, self-esteem, and community.

Subd. 3. **APPLICATION PROCESS.** To obtain a pilot project grant under this section, an applicant must submit an application to the commissioner of jobs and training in the form and manner prescribed by the commissioner after consultation with the commissioner of education. The application must describe how the applicant will assist targeted young people to set useful education and employment goals, secure meaningful employment, and lead productive lives

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within their community. The applicant must also indicate what resources will be available to continue the program if it is found to be effective. The commissioner may require additional information from an applicant.

Subd. 4. **REVIEWING APPLICATIONS.** When reviewing applications, the commissioner shall determine whether all the requirements in subdivisions 2 and 3 are met. The commissioner, in consultation with the commissioner of education, shall, at a minimum, consider the following when reviewing applications:

(1) the education and employment activities proposed for the program;

(2) the demonstrated effectiveness of the applicant or joint applicants as a provider of similar services to targeted young people;

(3) the attraction and use of other resources including federal and state education funding, federal and state employment training funding, local and private funding, and targeted jobs tax credits in funding the proposed programs;

(4) the availability of both the education and employment components of the program on a year-round basis; and

(5) diversity in the geographic location and delivery mechanism of the proposed programs.

Subd. 5. **GRANT AWARDS.** The commissioner may award up to two pilot project grants, one in the seven-county metropolitan area and one in outstate Minnesota. Up to ten percent of the Minnesota youth program slots in the service delivery areas of the successful grantees shall be made available for the purposes of this section.

Subd. 6. **PRELIMINARY REPORT.** The commissioner shall provide a preliminary report on the employment and education projects to the education and judiciary committees of the legislature no later than February 1, 1992. The report shall describe the projects which have been funded and shall include any preliminary information on the implementation and results of the projects. * **(Section 23 was vetoed by the governor.)**

Sec. 24. **TRANSFER OF CHILDREN'S TRUST FUND TO DEPARTMENT OF HUMAN SERVICES.**

Subdivision 1. **COMMISSIONER OF HUMAN SERVICES.** All powers and duties imposed on the commissioner of public safety relating to the children's trust fund for the prevention of child abuse under Minnesota Statutes, sections 299A.20 to 299A.27 are transferred to and imposed on the commissioner of human services.

Subd. 2. **TRANSFER OF POWER.** The provisions of Minnesota Statutes, section 15.039, apply to the transfer of power and duties of the commissioner of public safety imposed by Minnesota Statutes, sections 299A.20 to 299A.27 to the commissioner of human services.

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Subd. 3. **ADVISORY COUNCIL.** On transfer of powers and duties to the commissioner of human services, the members of the advisory board established under Minnesota Statutes, section 299A.23, subdivision 2, shall continue to serve the remainder of their terms. Upon completion of their terms, the new appointing authority may appoint successors as provided by law.

Sec. 25. **INSTRUCTION TO REVISOR.**

The revisor of statutes shall renumber each section of Minnesota Statutes specified in column A with the number set forth in column B. The revisor shall also make necessary cross-reference changes consistent with the renumbering.

Column A	Column B
299A.20	257.80
299A.21	257.801
299A.22	257.802
299A.23	257.803
299A.24	257.804
299A.25	257.805
299A.26	257.806
299A.27	257.807

Sec. 26. **EFFECTIVE DATE.**

Sections 13 and 14 are effective August 1, 1991, and apply to sentences imposed after that date.

ARTICLE 9

HOUSING

Section 1. Minnesota Statutes 1990, section 116C.04, is amended by adding a subdivision to read:

Subd. 11. The environmental quality board shall coordinate the implementation of an interagency compliance with existing state and federal lead regulations and report to the legislature by January 31, 1992, on the changes in programs needed to comply.

Sec. 2. Minnesota Statutes 1990, section 144.871, subdivision 2, is amended to read:

Subd. 2. **ABATEMENT.** "Abatement" means removal or encapsulation of paint, bare soil, dust, drinking water, or other materials that are ~~sources~~ readily accessible and pose an immediate threat of actual lead exposure to people. The abatement rules to be adopted under section 144.878, subdivision 2, shall apply as described in section 144.874.

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Sec. 3. Minnesota Statutes 1990, section 144.871, subdivision 7, is amended to read:

Subd. 7. **ENCAPSULATION.** "Encapsulation" means covering, sealing, painting, resurfacing to make smooth before repainting, or containment of a source of lead ~~exposure to people~~.

Sec. 4. **[144.8721] LEAD-RELATED CONTRACTS FOR FISCAL YEARS 1992 AND 1993.**

For fiscal years 1992 and 1993, the commissioner shall conduct, or contract with boards of health to conduct, assessments to determine sources of lead contamination in the residences of children and pregnant women whose blood levels exceed ten micrograms per deciliter. For fiscal years 1992 and 1993, the commissioner shall also provide, or contract with boards of health to provide, education on ways of reducing the danger of lead contamination.

Sec. 5. Minnesota Statutes 1990, section 144.873, subdivision 1, is amended to read:

Subdivision 1. **REPORT REQUIRED.** Medical laboratories performing blood lead analyses must report to the commissioner confirmed blood lead results of at least five micrograms per deciliter. Boards of health must report to the commissioner the results of analyses from residential samples of paint, bare soil, dust, and drinking water that show lead in concentrations greater than or equal to the lead standards adopted by permanent rule under section 144.878, ~~subdivision 2, paragraphs (a) and (c)~~. The commissioner shall require other related information from medical laboratories and boards of health as may be needed to monitor and evaluate blood lead levels in the public, including the date of the test and the address of the patient.

Sec. 6. Minnesota Statutes 1990, section 144.874, subdivision 1, is amended to read:

Subdivision 1. **RESIDENCE ASSESSMENT.** (a) A board of health must conduct a timely assessment of a residence to determine sources of lead exposure if:

(1) a pregnant woman in the residence is identified as having a blood lead level of at least ten micrograms of lead per deciliter of whole blood; or

(2) a child in the residence is identified as having an elevated blood lead level. If a child regularly spends several hours per day at another residence, such as a residential child care facility, the board of health must also assess the other residence.

(b) The board of health must conduct the residential assessment according to rules adopted by the commissioner according to section 144.878, ~~subdivision 1~~.

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Sec. 7. Minnesota Statutes 1990, section 144.874, subdivision 2, is amended to read:

Subd. 2. **RESIDENTIAL LEAD ASSESSMENT GUIDE.** (a) The commissioner of health shall develop or purchase a residential lead assessment guide that enables parents to assess the possible lead sources present and that suggests actions.

(b) A board of health must provide the residential lead assessment guide to:

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

(2) property owners and occupants who are issued housing code orders requiring disruption of lead sources.

(c) A board of health must provide the residential lead assessment guide on request to owners or tenants of residential property within the jurisdiction of the board of health.

Sec. 8. Minnesota Statutes 1990, section 144.874, subdivision 3, is amended to read:

Subd. 3. **ABATEMENT ORDERS.** A board of health must order a property owner to perform abatement on a lead source that exceeds a standard adopted according to section 144.878~~, subdivision 2, paragraph (a),~~ at the residence of a child with an elevated blood lead level or a pregnant woman with a blood lead level of at least ten micrograms per deciliter. Abatement orders must require that any source of damage, such as leaking roofs, plumbing, and windows, must be repaired or replaced, as needed, to prevent damage to lead-containing interior surfaces. With each abatement order, the board of health must provide a residential lead abatement guide. The guide must be developed or purchased by the commissioner and must provide information on safe abatement and disposal methods, sources of equipment, and telephone numbers for additional information to enable the property owner to either perform the abatement or to intelligently select an abatement contractor.

Sec. 9. Minnesota Statutes 1990, section 144.874, is amended by adding a subdivision to read:

Subd. 8. **AUTHORITY OF COMMISSIONER.** The commissioner may carry out the duties assigned to boards of health in subdivisions 1 to 6.

Sec. 10. Minnesota Statutes 1990, section 144.874, is amended by adding a subdivision to read:

Subd. 9. **PRIMARY PREVENTION.** Although children who are found to already have elevated blood lead levels must have the highest priority for intervention, the commissioner shall pursue primary prevention of lead poisoning within the limits of appropriations.

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

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Sec. 11. Minnesota Statutes 1990, section 144.874, is amended by adding a subdivision to read:

Subd. 10. **REGISTERED CONTRACTORS.** State-subsidized lead abatement shall be conducted by registered lead abatement contractors.

Sec. 12. Minnesota Statutes 1990, section 144.874, is amended by adding a subdivision to read:

Subd. 11. **VOLUNTARY ABATEMENT.** The commissioner shall enforce the rules under section 144.878 in cases of voluntary lead abatement.

Sec. 13. Minnesota Statutes 1990, section 144.874, is amended by adding a subdivision to read:

Subd. 12. **ENFORCEMENT REPORT.** The commissioner shall examine compliance with Minnesota's existing lead standards and rules and report to the legislature by January 15, 1992, on an evaluation of current levels of compliance, the need for any additional enforcement procedures, recommendations on developing a method to enforce compliance with lead standards and cost estimates for any proposed enforcement procedure.

Sec. 14. Minnesota Statutes 1990, section 268.39, is amended to read:

268.39 **LIFE SKILLS AND EMPLOYMENT GRANTS.**

The commissioner may provide grants to organizations for the development and administration of life skills and employment plans for homeless individuals that reside in residential units constructed or rehabilitated under section 462A.05, subdivision ~~29~~ 20. Grants awarded under this section may also be used for the management of these residential units. The organizations that receive grants under this section must coordinate their efforts with organizations that receive grants under section 462A.05, subdivision ~~29~~ 20.

A life skills and employment plan must be developed for each tenant residing in a dwelling that receives funding under section 462A.05, subdivision ~~29~~ 20. The plan may include preapprentice and apprenticeship training in the area of housing rehabilitation. If preapprentice and apprenticeship training is part of a plan, the organization must consult with labor organizations experienced in working with apprenticeship programs. The completion or compliance with the individual life skills and employment plan must be required for a tenant to remain in a unit constructed or rehabilitated under section 462A.05, subdivision ~~29~~ 20.

The application for a grant under this section must include a plan that must provide for:

(1) training for tenants in areas such as cleaning and maintenance, payment of rent, and roommate skills, and

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(2) tenant selection and rental policies that ensure rental of units to people who are homeless if applicable.

The applicant must provide a proposed occupancy contract if applicable, the name and address of the rental agent if applicable, and other information the commissioner considers necessary with the application.

The commissioner may adopt permanent rules to administer this grant program.

Sec. 15. Minnesota Statutes 1990, section 462A.03, subdivision 10, is amended to read:

Subd. 10. "Persons and families of low and moderate income" means persons and families, irrespective of race, creed, national origin ~~or~~, sex, or status with respect to guardianship or conservatorship, determined by the agency to require such assistance as is made available by sections 462A.01 to 462A.24 on account of personal or family income not sufficient to afford adequate housing. In making such determination the agency shall take into account the following: (a) The amount of the total income of such persons and families available for housing needs, (b) the size of the family, (c) the cost and condition of housing facilities available, (d) the eligibility of such persons and families to compete successfully in the normal housing market and to pay the amounts at which private enterprise is providing sanitary, decent and safe housing. In the case of federally subsidized mortgages with respect to which income limits have been established by any agency of the federal government having jurisdiction thereover for the purpose of defining eligibility of low and moderate income families, the limits so established shall govern under the provision of sections 462A.01 to 462A.24. In all other cases income limits for the purpose of defining low or moderate income persons shall be established by the agency by emergency or permanent rules.

Sec. 16. Minnesota Statutes 1990, section 462A.03, subdivision 13, is amended to read:

Subd. 13. "Eligible mortgagor" means a nonprofit or cooperative housing corporation, the department of administration for the purpose of developing community-based programs as defined in sections 252.50 and 253.28, limited profit entity or a builder as defined by the agency in its rules, which sponsors or constructs residential housing as defined in subdivision 7, or a natural person of low or moderate income, except that the return to a limited dividend entity shall not exceed ten percent of the capital contribution of the investors or such lesser percentage as the agency shall establish in its rules; provided that residual receipts funds of a limited dividend entity may be used for agency-approved, housing-related investments owned by the limited dividend entity without regard to the limitation on returns. Owners of existing residential housing occupied by renters shall be eligible for rehabilitation loans, only if, as a condition to the issuance of the loan, the owner agrees to conditions established by the agency in its rules relating to rental or other matters that will insure that the

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housing will be occupied by persons and families of low or moderate income. The agency shall require by rules that the owner give preference to those persons of low or moderate income who occupied the residential housing at the time of application for the loan.

Sec. 17. Minnesota Statutes 1990, section 462A.03, subdivision 16, is amended to read:

Subd. 16. "Mentally ill person" ~~shall have the meaning prescribed by section 253B.02, subdivision 13~~ means a person with a mental illness, an adult with an acute mental illness, or a person with a serious and persistent mental illness, as prescribed by section 245.462, subdivision 20.

Sec. 18. Minnesota Statutes 1990, section 462A.03, is amended by adding a subdivision to read:

Subd. 22. **NONPROFIT ORGANIZATION.** "Nonprofit organization" means a housing and redevelopment authority established under sections 469.001 to 469.047, or other law, or a partnership, joint venture, corporation, or association which is established for a purpose not involving pecuniary gain to the members, partners, or shareholders; pays no dividends or other pecuniary remuneration to the members, partners, or shareholders; and in the case of a private nonprofit corporation, is established under chapter 317A and is in compliance with chapter 317A. A nonprofit organization does not include a limited dividend entity.

Sec. 19. Minnesota Statutes 1990, section 462A.05, subdivision 14, is amended to read:

Subd. 14. **REHABILITATION LOANS.** It may agree to purchase, make, or otherwise participate in the making, and may enter into commitments for the purchase, making, or participation in the making, of eligible loans for rehabilitation to persons and families of low and moderate income, and to owners of existing residential housing for occupancy by such persons and families, for the rehabilitation of existing residential housing owned by them. The loans may be insured or uninsured and may be made with security, or may be unsecured, as the agency deems advisable. The loans may be in addition to or in combination with long-term eligible mortgage loans under subdivision 3. They may be made in amounts sufficient to refinance existing indebtedness secured by the property, if refinancing is determined by the agency to be necessary to permit the owner to meet the owner's housing cost without expending an unreasonable portion of the owner's income thereon. No loan for rehabilitation shall be made unless the agency determines that the loan will be used primarily to make the housing more desirable to live in, to increase the market value of the housing, for compliance with state, county or municipal building, housing maintenance, fire, health or similar codes and standards applicable to housing, or to accomplish energy conservation related improvements. In unincorporated areas and municipalities not having codes and standards, the agency may, solely for the purpose of administering the provisions of this chapter, establish codes and standards.

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Except for accessibility improvements under subdivision 14d, no loan for rehabilitation of any property shall be made in an amount which, with all other existing indebtedness secured by the property, would exceed its market value, as determined by the agency. No loan under this subdivision shall be denied solely because the loan will not be used for placing the residential housing in full compliance with all state, county, or municipal building, housing maintenance, fire, health, or similar codes and standards applicable to housing. Rehabilitation loans shall be made only when the agency determines that financing is not otherwise available, in whole or in part, from private lenders upon equivalent terms and conditions.

Sec. 20. Minnesota Statutes 1990, section 462A.05, is amended by adding a subdivision to read:

Subd. 14d. **ACCESSIBILITY LOAN PROGRAM.** Rehabilitation loans authorized under subdivision 14 may be made to eligible persons and families whose income does not exceed the maximum income limits allowable under section 143(f) of the Internal Revenue Code of 1986, as amended through June 30, 1991.

A person or family is eligible to receive an accessibility loan under the following conditions:

(1) the borrower or a member of the borrower's family requires a level of care provided in a hospital, skilled nursing facility, or intermediate care facility for persons with mental retardation or related conditions;

(2) home care is appropriate; and

(3) the improvement will enable the borrower or a member of the borrower's family to reside in the housing.

Sec. 21. Minnesota Statutes 1990, section 462A.05, is amended by adding a subdivision to read:

Subd. 15c. **RESIDENTIAL LEAD ABATEMENT.** It may make or purchase loans or grants for the abatement of hazardous levels of lead paint in residential buildings and lead contaminated soil on the property of residential buildings occupied by low- and moderate-income persons. Hazardous levels are as determined by the department of health or the pollution control agency. The agency must establish grant criteria for a residential lead paint and lead contaminated soil abatement program, including the terms of loans and grants under this section, a maximum amount for loans or grants, eligible owners, eligible contractors, and eligible buildings. The agency may make grants to cities, local units of government, registered lead abatement contractors, and nonprofit organizations for the purpose of administering a residential lead paint and contaminated lead soil abatement program. No loan or grant may be made for lead paint abatement for a multifamily building which contains substantial housing maintenance code violations unless the violations are being corrected in conjunction with receipt of the loan or grant under this section. The agency must

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establish standards for the relocation of families where necessary and the payment of relocation expenses. To the extent possible, the agency must coordinate loans and grants under this section with existing housing programs.

The agency, in consultation with the department of health, shall report to the legislature by January 1993 on the costs and benefits of subsidized lead abatement and the extent of the childhood lead exposure problem. The agency shall review the effectiveness of its existing loan and grant programs in providing funds for residential lead abatement and report to the legislature with examples, case studies and recommendations.

Sec. 22. Minnesota Statutes 1990, section 462A.05, subdivision 20, is amended to read:

Subd. 20. **SPECIAL NEEDS HOUSING FOR HOMELESS PERSONS.** (a) The agency may make loans or grants to ~~for profit, limited dividend, or nonprofit sponsors, as defined by the agency,~~ eligible mortgagors for the acquisition, rehabilitation, and construction of residential housing to be used ~~to provide~~ for the following purposes:

(1) temporary or transitional housing ~~to low- and moderate-income~~ for low-income persons and families having an immediate need for temporary or transitional housing as a result of natural disaster, resettlement, condemnation, displacement, lack of habitable housing, or other cause as defined by the agency. Loans or grants for residential housing for migrant farmworkers may be made under this paragraph. Residential housing for migrant farmworkers must contain cooking, sleeping, bathroom facilities, and hot and cold running water in the same structure;

(2) housing to be used by low-income persons living alone; and

(3) housing for homeless individuals and families.

(b) Housing under this subdivision must be for low-income families and individuals.

(c) The agency may make planning grants to nonprofit organizations to develop coordinated training and housing programs for homeless adults.

(d) Loans or grants ~~pursuant to~~ under this subdivision ~~shall~~ must not be used for residential care facilities ~~or,~~ for facilities that provide housing available for occupancy on less than a 24-hour continuous basis, or for any residential housing that requires occupants to accept board as well as lodging. ~~To the extent possible, a sponsor shall combine the loan or grant with other funds obtained from public and private sources. In making loans or grants, the agency shall determine the circumstances under which and the terms and conditions under which all or any portion thereof will be repaid and the appropriate security should repayment be required.~~

(e) Loans or grants under this subdivision must not exceed 50 percent of the

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development costs. Donated property may be used to satisfy the match requirement.

(f) All occupants of permanent housing financed under this subdivision must be offered a written lease that complies with section 325G.31, offers the occupants the option to renew, and prohibits eviction of an occupant without good cause.

(g) Priority must be given to viable proposals with the total lowest cost per person served.

(h) The selection criteria for the program must include the following: the extent to which proposals use donated, leased, abandoned, or empty dwellings owned by a public entity or property being sold by the Resolution Trust Corporation or the Department of Housing and Urban Development; and the extent to which applicants consulted with advocates for the homeless, representatives from neighborhood groups, and representatives from labor organizations in preparing the proposal.

Sec. 23. Minnesota Statutes 1990, section 462A.05, is amended by adding a subdivision to read:

Subd. 20a. **SPECIAL NEEDS HOUSING FOR CHEMICALLY DEPENDENT ADULTS.** (a) The agency may make loans or grants to for-profit, limited-dividend, or nonprofit sponsors, as defined by the agency, for residential housing to be used to provide temporary or transitional housing to low- and moderate-income persons and families having an immediate need for temporary or transitional housing as a result of natural disaster, resettlement, condemnation, displacement, lack of habitable housing, or other cause defined by the agency.

(b) Loans or grants for housing for chronic chemically dependent adults may be made under this subdivision. Housing for chronic chemically dependent adults must satisfy the following conditions:

(1) be certified by the department of health or the city as a board and lodging facility or single residence occupancy housing;

(2) meet all applicable health, building, fire safety, and zoning requirements;

(3) be located in an area significantly distant from the present location of county detoxification service sites;

(4) make available the services of trained personnel to appraise each client before or upon admission and to provide information about medical, job training, and chemical dependency services as necessary;

(5) provide on-site security designed to assure the health and safety of clients, staff, and neighborhood residents; and

(6) operate with the guidance of a neighborhood-based board.

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Priority for loans and grants made under this paragraph must be given to proposals that address the needs of the Native American population and veterans of military services for this type of housing.

(c) Loans or grants pursuant to this subdivision must not be used for facilities that provide housing available for occupancy on less than a 24-hour continuous basis. To the extent possible, a sponsor shall combine the loan or grant with other funds obtained from public and private sources. In making loans or grants, the agency shall determine the circumstances, terms, and conditions under which all or any portion of the loan or grant will be repaid and the appropriate security should repayment be required.

Sec. 24. Minnesota Statutes 1990, section 462A.05, is amended by adding a subdivision to read:

Subd. 36. **LEASE-PURCHASE HOUSING.** The agency may make grants or loans to nonprofit organizations, local government units, Indian tribes, and Indian tribal organizations to finance the acquisition, improvement, rehabilitation, and lease-purchase of existing housing for persons of low and moderate income. A person or family is eligible to participate in a lease-purchase agreement if the person's or family's income does not exceed 60 percent of the greater of (1) state median income, or (2) area or county median income. The lease agreement must provide for a portion of the lease payment to be escrowed as a down payment on the housing. A property containing two or fewer dwelling units is eligible for financing under the lease-purchase housing program. A loan made under this subdivision must be repaid to the agency upon sale of the housing. The agency may only make grants or loans under this subdivision from funds specifically appropriated by the legislature for that purpose.

Sec. 25. Minnesota Statutes 1990, section 462A.05, is amended by adding a subdivision to read:

Subd. 37. **BLIGHTED RESIDENTIAL PROPERTY ACQUISITION AND REHABILITATION; NEIGHBORHOOD LAND TRUST.** The agency may make grants to cities for the purpose of acquisition and demolition of blighted residential property and gap financing for the rehabilitation of blighted residential property or construction of new housing on the property. Gap financing is financing for the difference between the cost of the improvement of the blighted property, including acquisition, demolition, rehabilitation, and construction, and the market value of the property upon sale. Grants under this section must be used for households with income less than or equal to the county or area median income as determined by the United States Department of Housing and Urban Development. Cities may use the grants to establish revolving loan funds and provide loans and grants to eligible mortgagors for the acquisition, demolition, redevelopment, and rehabilitation of blighted residential property located in a neighborhood designated by the city for neighborhood preservation. The city may determine the terms and conditions of the loans and grants. The agency

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may make grants or loans to nonprofit organizations for the purpose of organizing or funding neighborhood land trust projects. The projects must assure the long-term affordability of neighborhood housing by maintaining ownership of the land through a neighborhood land trust.

Sec. 26. Minnesota Statutes 1990, section 462A.08, subdivision 2, is amended to read:

Subd. 2. The agency from time to time may issue bonds or notes for the purpose of refunding any bonds or notes of the agency then outstanding, or, with the consent of the original issuer, any bonds or notes then outstanding issued by an issuer other than the agency for the purpose of making or purchasing loans for single family housing or multifamily housing developments, including the payment of any redemption premiums thereon and any interest accrued or to accrue to the redemption date next succeeding the date of delivery of such refunding bonds or notes. The proceeds of any such refunding bonds or notes may, in the discretion of the agency, be applied to the purchase or payment at maturity of the bonds or notes to be refunded, or to the redemption of such outstanding bonds or notes on the redemption date next succeeding the date of delivery of such refunding bonds or notes and may, pending such application, be placed in escrow to be applied to such purchase, retirement, or redemption. Any such escrowed proceeds, pending such use, may be invested and reinvested in obligations issued or guaranteed by the state or the United States or by any agency or instrumentality thereof, or in certificates of deposit or time deposits secured in such manner as the agency shall determine, maturing at such time or times as shall be appropriate to assure the prompt payment of the principal of and interest and redemption premiums, if any, on the bonds or notes to be refunded. The income earned or realized on any such investment may also be applied to the payment of the bonds or notes to be refunded. After the terms of the escrow have been fully satisfied, any balance of such proceeds and investment income may be returned to the agency for use by it in any lawful manner. All refunding bonds or notes issued under the provisions of this subdivision shall be issued and secured in the manner provided by resolution of the agency. If bonds or notes are issued by the agency to refund bonds or notes issued by an issuer other than the agency, as authorized by this subdivision, the agency and said issuer may enter into such agreements as they may deem appropriate to facilitate such transaction.

Sec. 27. **[462A.205] RENT ASSISTANCE FOR FAMILY STABILIZATION DEMONSTRATION PROJECT.**

Subdivision 1. **FAMILY STABILIZATION DEMONSTRATION PROJECT.** The agency, in consultation with the department of human services, may establish a rent assistance for family stabilization demonstration project. The purpose of the project is to provide rental assistance to families who, at the time of initial eligibility for rental assistance under this section, were receiving public assistance, and had a caretaker parent participating in a self-sufficiency program and at least one minor child. The demonstration project is limited to counties

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with high average housing costs. The program must offer two options: a voucher option and a project-based voucher option. The funds may be distributed on a request for proposal basis.

Subd. 2. **DEFINITIONS.** For the purposes of this section, the following terms have the meaning given them.

(a) "Caretaker parent" means a parent, relative caretaker, or minor caretaker as defined by the aid to families with dependent children program, sections 256.72 to 256.87.

(b) "Counties with high average housing costs" means counties whose average federal section 8 fair market rents as determined by the Department of Housing and Urban Development are in the highest one-third of average rents in the state.

(c) "Designated rental property" is rental property (1) that is made available by a self-sufficiency program for use by participating families and meets federal section 8 existing quality standards, or (2) that has received federal, state, or local rental rehabilitation assistance since January 1, 1987, and meets federal section 8 existing housing quality standards.

(d) "Gross family income" for a family receiving rental assistance under this section means the gross amount of the wages, salaries, social security payments, pensions, workers' compensation, unemployment compensation, public assistance payments, alimony, child support, and income from assets received by the family.

(e) "Local housing agency" means the agency of local government responsible for administering the Department of Housing and Urban Development's section 8 existing voucher and certificate program.

(f) "Public assistance" means aid to families with dependent children, family general assistance, or family work readiness.

(g) "Self-sufficiency program" means a program operated by a certified employment and training service provider as defined in section 256.736, subdivision 1a, paragraph (e), an employability program administered by a community action agency, or courses of study at an accredited institution of higher education pursued with at least half-time student status.

Subd. 3. **LOCAL HOUSING AGENCY.** The agency may contract with a local housing agency to administer the rent assistance under this section. The local housing agency must be paid an administrative fee. The administrative fee is equal to the greater of ten percent of the amount of the subsidy or $15 per unit per month.

Subd. 4. **AMOUNT AND PAYMENT OF RENT ASSISTANCE.** (a) This subdivision applies to both the voucher option and the project-based voucher option.

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(b) Within the limits of available appropriations, eligible families may receive monthly rent assistance for a 36-month period starting with the month the family first receives rent assistance under this section. The amount of the family's portion of the rental payment is equal to at least 30 percent of gross income.

(c) The rent assistance must be paid by the local housing agency to the property owner.

(d) Subject to the limitations in (e), the amount of rent assistance is the difference between the rent and the family's portion of the rental payment.

(e) In no case:

(1) may the amount of monthly rent assistance be more than $200;

(2) may the owner receive more rent for assisted units than for comparable unassisted units; nor

(3) may the amount of monthly rent assistance be more than the difference between the family's portion of the rental payment and the fair market rent for the unit as determined by the Department of Housing and Urban Development.

Subd. 5. **VOUCHER OPTION.** At least one-half of the appropriated funds must be made available for a voucher option. Under the voucher option, the Minnesota housing finance agency, in consultation with the department of human services, will award a number of vouchers to self-sufficiency program administrators for participating families. Families may use the voucher for any rental housing that is certified by the local housing agency as meeting section 8 existing housing quality standards.

Subd. 6. **PROJECT-BASED VOUCHER OPTION.** A portion of the appropriated funds must be made available for a project-based voucher option. Under the project-based voucher option, the Minnesota housing finance agency, in consultation with the department of human services, will award a number of vouchers to self-sufficiency program administrators for participating families who live in designated rental property that is certified by a local housing agency as meeting section 8 existing housing quality standards. The Minnesota housing finance agency and local housing agencies must work with self-sufficiency program administrators to identify rental property that has received rental rehabilitation assistance since January 1, 1987. The agency may set aside a portion of the funds to be used in connection with rental rehabilitation projects which will be completed by July 1, 1992.

Subd. 7. **PROPERTY OWNER.** In order to receive rent assistance payments, the property owner must enter into a standard lease agreement with the family which includes a clause providing for good cause evictions only. Otherwise, the lease may be any standard lease agreement. The agency and local hous-

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ing agencies must make model lease agreements available to participating families and property owners.

Sec. 28. Minnesota Statutes 1990, section 462A.21, subdivision 4k, is amended to read:

Subd. 4k. **HOUSING DEVELOPMENT FUND.** The agency may make grants for residential housing for low-income persons under section 462A.05, subdivision ~~28~~ 20, and may pay the costs and expenses for the development and operation of the program.

Sec. 29. Minnesota Statutes 1990, section 462A.21, subdivision 12a, is amended to read:

Subd. 12a. **PROGRAM MONEY TRANSFER.** Grants authorized under section 462A.05, ~~subdivisions 20, 28, and 29~~ subdivision 20, may be made only with specific appropriations by the legislature, but unencumbered balances of money appropriated for the purpose of loans or grants for agency programs under these subdivisions may be transferred between programs created by these subdivisions or in accordance with section 462A.20, subdivision 3.

Sec. 30. Minnesota Statutes 1990, section 462A.21, subdivision 14, is amended to read:

Subd. 14. It may make housing grants for homeless individuals as provided in section 462A.05, subdivision ~~29~~ 20, and may pay the costs and expenses for the development and operation of the program.

Sec. 31. Minnesota Statutes 1990, section 462A.21, is amended by adding a subdivision to read:

Subd. 16. **RESIDENTIAL LEAD PAINT AND LEAD CONTAMINATED SOIL ABATEMENT.** It may make loans or grants for the purpose of the abatement of hazardous levels of lead paint in residential buildings and lead contaminated soil under section 462A.05, subdivision 15c, and may pay the costs and expenses necessary and incidental to the development and operation of the program.

Sec. 32. Minnesota Statutes 1990, section 462A.22, subdivision 9, is amended to read:

Subd. 9. **BIENNIAL REPORT.** The agency shall also submit a biennial report of its activities~~, projected activities,~~ and receipts, and ~~expenditures~~ a plan for the next biennium, to the governor and the legislature on or before ~~January~~ February 15 in each odd-numbered year. The report shall include the distribution of money under each agency program by county, except for counties containing a city of the first class, where the distribution shall be reported by municipality.

In addition, the report shall include the cost to the agency of the issuance of

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its bonds for each issue in the biennium, along with comparable information for other state housing finance agencies.

Sec. 33. Minnesota Statutes 1990, section 462A.222, subdivision 3, is amended to read:

Subd. 3. **ALLOCATION PROCEDURE.** (a) Projects will be awarded tax credits in three competitive rounds on an annual basis. The date for applications for each round must be determined by the agency. No allocating agency may award tax credits prior to the application dates established by the agency.

(b) Each allocating agency must meet the requirements of section 42(m) of the Internal Revenue Code of 1986, as amended through December 31, 1989, for the allocation of tax credits and the selection of projects.

(c) For applications submitted for the first round, an allocating agency may allocate tax credits only to the following types of projects:

(1) single-room occupancy projects which are affordable by households whose income does not exceed 30 percent of the median income;

(2) family housing projects in which at least 75 percent of the units contain two or more bedrooms and at least one-third of the 75 percent contain three or more bedrooms;

(3) projects in which ~~at least 50 percent~~ a percentage of the units are ~~for mentally ill, mentally retarded, drug dependent, developmentally disabled, or physically handicapped~~ set aside and rented to persons:

(i) with a serious and persistent mental illness as defined in section 245.462, subdivision 20, paragraph (c);

(ii) with a developmental disability as defined in United States Code, title 42, section 6001, paragraph (5), as amended through December 31, 1990;

(iii) who have been assessed as drug dependent persons as defined in section 254A.02, subdivision 5, and are receiving or will receive care and treatment services provided by an approved treatment program as defined in section 254A.02, subdivision 2;

(iv) with a brain injury as defined in section 256B.093, subdivision 4, paragraph (a); or

(v) with physical disabilities if at least 50 percent of the units are accessible as provided under Minnesota Rules, chapter 1340;

(4) projects which preserve existing subsidized housing which is subject to prepayment if the use of tax credits is necessary to prevent conversion to market rate use; or

(5) projects financed by the Farmers Home Administration which meet statewide distribution goals.

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(d) Before the date for applications for the second round, the allocating agencies other than the agency shall return all uncommitted and unallocated tax credits to the pool from which they were allocated, along with copies of any allocation or commitment. In the second round, the agency shall allocate the remaining credits from the regional pools to projects from the respective regions.

(e) In the third round, all unallocated tax credits must be transferred to a unified pool for allocation by the agency on a statewide basis.

(f) Unused portions of the state ceiling for low-income housing tax credits reserved to cities and counties for allocation may be returned at any time to the agency for allocation.

Sec. 34. **[462A.32] HOUSING CAPITAL RESERVE PROGRAM.**

Subdivision 1. **PROGRAM AUTHORIZATION.** The agency may establish the housing capital reserve program for the purposes of encouraging private financial institutions to participate in the preservation or rehabilitation of the existing housing stock and providing single-family home ownership and affordable rental housing opportunities. The agency may enter agreements with cities for city financial participation in the housing capital reserve program.

Subd. 2. **STATEWIDE HOUSING RESERVE FUND.** The agency may establish a statewide housing reserve fund consisting of agency and city funds for the purpose of securing housing rehabilitation loans and housing purchase-rehabilitation loans. Loans from the reserve fund may be sold on the secondary market. The agency or city may issue appropriate debt capital instruments, including taxable or tax-exempt bonds, secured by the reserve fund. The agency may use the reserve fund to secure the debt instruments or for credit enhancement purposes. Proceeds may be used to make housing rehabilitation loans and housing purchase-rehabilitation loans. The reserve fund may be used to provide additional security for loans provided by public agencies and private lenders to finance the preservation and rehabilitation of existing housing stock and provide affordable rental housing opportunities.

Subd. 3. **ELIGIBLE LOANS.** Rehabilitation loans made and pooled under this section may consist of both single and multifamily housing rehabilitation loans. Purchase-rehabilitation loans may be made and pooled for the purpose of single-family housing.

Sec. 35. Minnesota Statutes 1990, section 474A.048, subdivision 2, is amended to read:

Subd. 2. **LIMITATION; ORIGINATION PERIOD.** During the first ten months of an origination period, the Minnesota housing finance agency or a city may make loans financed with proceeds of mortgage bonds for the purchase of existing housing. Loans financed with the proceeds of mortgage bonds for new housing in the metropolitan area may be made during the first ten months of an origination period only if at least one of the following conditions is met:

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(1) the new housing is located in a redevelopment area and is replacing a structurally substandard structure or structures;

(2) the new housing is located on a parcel purchased by the city or conveyed to the city under section 282.01, subdivision 1; ~~or~~

(3) the new housing is part of a housing affordability initiative, other than those financed with the proceeds from the sale of bonds, in which federal, state, or local assistance is used to substantially improve the terms of the financing or to substantially write down the purchase price of the new housing.; or

(4) the new housing is accessible housing and the borrower or a member of the borrower's family is a person with a disability. For the purposes of this clause, "accessible housing" means a dwelling unit with the modifications necessary to enable a person with a disability to function in a residential setting. "A person with a disability" means a person who has a permanent physical condition which is not correctable and which substantially reduces the person's ability to function in a residential setting. A person with a physical condition which does not require the use of a device to increase mobility must be deemed a person with a disability upon written certification of a licensed physician that the physical condition substantially limits the person's ability to function in a residential setting.

Upon expiration of the first ten-month period, the agency or a city may make loans financed with the proceeds of mortgage bonds for the purchase of new and existing housing.

Sec. 36. Laws 1987, chapter 404, section 28, subdivision 1, is amended to read:

Subdivision 1. Total Appropriation	$9,526,700	$9,526,700

Approved complement - 129

Spending limit on cost of general administration of agency programs:

1988	1989
$ 6,235,000	$ 6,547,000

This appropriation is for transfer to the housing development fund for the programs specified.

$150,000 the first year and $150,000 the second year are for home sharing programs under Minnesota Statutes, section 462A.05, subdivision 24.

$990,000 the first year and $990,000 the second year are for home ownership

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assistance under Minnesota Statutes, section 462A.21, subdivision 8.

$2,225,000 the first year and $2,225,000 the second year are for home ownership, home improvement, and multifamily bond leveraging interest rate write-downs under Minnesota Statutes, sections 462A.21, subdivisions 4b and 8a.

$1,885,000 the first year and $1,885,000 the second year are for tribal Indian housing programs under Minnesota Statutes, section 462A.07, subdivision 14, of which $125,000 the first year and $125,000 the second year are for either a demonstration program to make off-reservation loans in combination with bond proceeds from the agency or other mortgage financing approved by the agency, or a home improvement loan program approved by the agency. Home improvement loans under Minnesota Statutes, section 462A.07, subdivision 14, may be made without regard to household income.

$235,000 the first year and $235,000 the second year are for urban Indian housing programs under Minnesota Statutes, section 462A.07, subdivision 15, to be distributed by the agency without regard to any allocation formula.

$3,716,700 the first year and $3,716,700 the second year are for housing rehabilitation and accessibility loans under Minnesota Statutes, sections 462A.05, subdivisions 14a and 15a.

$500,000 is appropriated to the housing development fund created in section 462A.20 for grants for residential housing for low income persons living alone. The agency may pay the costs and expenses for the development and operation of this program out of this appropriation.

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$75,000 the first year and $75,000 the second year are for temporary housing programs under Minnesota Statutes, section 462A.05, subdivision 20.

Sec. 37. Laws 1989, chapter 335, article 1, section 27, subdivision 1, as amended by Laws 1990, chapter 429, section 9, is amended to read:

Subdivision 1. Total Appropriation	12,583,000	12,584,000

Approved Complement - 134

Spending limit on cost of general administration of agency programs:

1990	1991
$7,130,000	$7,560,000

This appropriation is for transfer to the housing development fund for the programs specified.

$225,000 the first year and $225,000 the second year are for housing programs for the elderly under Minnesota Statutes, section 462A.05, subdivision 24.

$2,115,000 the first year and $2,115,000 the second year are for home ownership assistance under Minnesota Statutes, section 462A.21, subdivision 8.

$1,887,000 the first year and $1,887,000 the second year are for tribal Indian housing programs under Minnesota Statutes, section 462A.07, subdivision 14, of which $125,000 the first year and $125,000 the second year are for either a demonstration program to make off-reservation loans in combination with bond proceeds from the agency or other mortgage financing approved by the agency, or a home improvement loan program approved by the agency. Home improvement loans under Minnesota Statutes, section 462A.07, subdivision 14, may be made without regard to household income.

$233,000 the first year and $233,000

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the second year are for urban Indian housing programs under Minnesota Statutes, section 462A.07, subdivision 15, to be distributed by the agency without regard to any allocation formula.

$4,842,000 the first year and $4,842,000 the second year are for housing rehabilitation and accessibility loans under Minnesota Statutes, section 462A.05, subdivisions 14a and 15a.

$569,000 the first year and $569,000 the second year are for temporary housing programs under Minnesota Statutes, sections 462A.05, subdivision 20; and 462A.21.

Notwithstanding any law to the contrary, in the event that the housing finance agency assumes servicing responsibility for its home improvement loans, energy loans, and rehabilitation loans, the agency may apply for an increase in its complement and administrative cost ceiling through the regular legislative advisory commission process.

Sec. 38. **REPEALER.**

Minnesota Statutes 1990, section 462A.05, subdivisions 28 and 29, are repealed.

Sec. 39. **EFFECTIVE DATE.**

Sections 22 and 26 are effective the day following final enactment.

ARTICLE 10

WORKERS' COMPENSATION REHABILITATION PROGRAM

Section 1. **VOCATIONAL REHABILITATION.**

The responsibilities of the workers' compensation program of the rehabilitation services division of the department of jobs and training are transferred to the department of labor and industry pursuant to Minnesota Statutes, section 15.039. The transferred employees shall constitute the vocational rehabilitation unit of the department of labor and industry.

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Sec. 2. Minnesota Statutes 1990, section 176.104, subdivision 1, is amended to read:

Subdivision 1. **DISPUTE.** If there exists a dispute regarding medical causation or whether an injury arose out of and in the course and scope of employment and an employee has been disabled for the requisite time under section 176.102, subdivision 4, prior to determination of liability, the employee shall be referred by the commissioner to the ~~division of~~ department's vocational rehabilitation unit which shall provide rehabilitation consultation if appropriate. The services provided by the ~~division of~~ department's vocational rehabilitation unit and the scope and term of the rehabilitation are governed by section 176.102 and rules adopted pursuant to that section. Rehabilitation costs and services under this subdivision shall be monitored by the commissioner.

Sec. 3. Minnesota Statutes 1990, section 268A.03, is amended to read:

268A.03 **POWERS AND DUTIES.**

The commissioner shall:

(a) certify the rehabilitation facilities to offer extended employment programs, grant funds to the extended employment programs, and perform the duties as specified in section 268A.09;

(b) provide vocational rehabilitation services to persons with disabilities in accordance with the state plan for vocational rehabilitation. These services include but are not limited to: diagnostic and related services incidental to determination of eligibility for services to be provided, including medical diagnosis and vocational diagnosis; vocational counseling, training and instruction, including personal adjustment training; physical restoration, including corrective surgery, therapeutic treatment, hospitalization and prosthetic and orthotic devices, all of which shall be obtained from appropriate established agencies; transportation; occupational and business licenses or permits, customary tools and equipment; maintenance; books, supplies, and training materials; initial stocks and supplies; placement; on-the-job skill training and time-limited postemployment services leading to supported employment; acquisition of vending stands or other equipment, initial stocks and supplies for small business enterprises; supervision and management of small business enterprises, merchandising programs, or services rendered by severely disabled persons. Persons with a disability are entitled to free choice of vendor for any medical, dental, prosthetic, or orthotic services provided under this paragraph;

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

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

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~~(e)~~ maintain a contractual or regulatory relationship with the United States as authorized by the Social Security Act, as amended. Under this relationship, the state will undertake to make determinations referred to in those public laws with respect to all individuals in Minnesota, or with respect to a class or classes of individuals in this state that is designated in the agreement at the state's request. It is the purpose of this relationship to permit the citizens of this state to obtain all benefits available under federal law;

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

~~(g)~~ (f) conduct research and demonstration projects; provide training and instruction, including establishment and maintenance of research fellowships and traineeships, along with all necessary stipends and allowances; disseminate information to persons with a disability and the general public; and provide technical assistance relating to vocational rehabilitation and independent living;

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

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

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

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

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

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

~~(n)~~ (m) adopt, amend, suspend, or repeal rules necessary to implement or make specific programs that the commissioner by sections 268A.01 to 268A.10 is empowered to administer.

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Sec. 4. **REPEALER.**

Minnesota Statutes 1990, section 268A.05, subdivision 2, is repealed.

Sec. 5. **EFFECTIVE DATE.**

This article is effective July 1, 1991.

Presented to the governor May 31, 1991

Signed by the governor June 4, 1991, 9:10 p.m.

CHAPTER 293—S.F.No. 906

An act relating to retirement; authorizing purchase of military service credit by a certain teachers retirement association member; authorizing issuance of a state Persian Gulf war ribbon; proposing coding for new law in Minnesota Statutes, chapter 190.

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

Section 1. **[190.17] STATE PERSIAN GULF WAR RIBBON.**

From money appropriated for the purpose, the adjutant general shall issue a state ribbon to each Minnesota resident who is a member of the Minnesota army or air national guard who has been called to active duty to participate in Operation Desert Shield, Operation Desert Storm, or any other military operation that is part of the war in the Persian Gulf region. The adjutant general may adopt rules necessary to implement this section. In the case of other reservists ordered to active duty, a certificate replica of the state ribbon will be rendered.

Sec. 2. **TEACHER'S MILITARY SERVICE CREDIT.**

Subdivision 1. Notwithstanding the provisions of Minnesota Statutes, section 354.094, a member of the teachers retirement association who was born May 23, 1936, and who is employed by independent school district No. 833 may purchase allowable service credit for a one-year period of involuntary extension of military active duty performed after June 30, 1984, and before July 1, 1985, and not previously credited to the member.

Subd. 2. **PURCHASE PAYMENT AMOUNT.** To purchase service credit under subdivision 1, there must be paid to the teachers retirement association an amount equal to the present value, on the date of payment, of the amount of the additional retirement annuity that would be obtained by the purchase. Present value shall be calculated using the preretirement interest rate specified in Minnesota Statutes, section 356.215, subdivision 4d, and the mortality table adopted for the fund and assuming continuous future service as a member of the association until the requirements for retirement at the minimum age for normal

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