

CHAPTER 203—S.F.No. 1908

An act relating to human services; appropriating money; changing provisions for health care, long-term care facilities, children's programs, child support enforcement, continuing care for disabled persons; creating a demonstration project for persons with disabilities; changing provisions for marriage; accelerating state payments; making technical amendments to welfare reform; amending Minnesota Statutes 1996, sections 13.46, subdivision 2; 13.99, by adding a subdivision; 16A.124, subdivision 4b; 62D.04, subdivision 5; 62E.14, by adding a subdivision; 62J.69, subdivision 2, and by adding a subdivision; 62N.25, subdivision 2; 103I.101, subdivision 6; 103I.208; 103I.401, subdivision 1; 144.072I, subdivision 3; 144.121, subdivision 1, and by adding subdivisions; 144.125; 144.223; 144.226, subdivision 1, and by adding a subdivision; 144.394; 144A.071, subdivisions 1, 2, and 4a, as amended; 144A.073, subdivision 2, and by adding a subdivision; 145.925, subdivision 9; 151.40; 153A.17; 157.15, by adding subdivisions; 157.16, subdivision 3; 214.12, by adding a subdivision; 245.03, subdivision 2; 245.4882, subdivision 5; 245.493, subdivision 1, and by adding a subdivision; 245.652, subdivisions 1 and 2; 245.98, by adding a subdivision; 245A.11, subdivision 2a; 246.02, subdivision 2; 246.18, by adding a subdivision; 252.025, subdivisions 1, 4, and by adding a subdivision; 252.28, by adding a subdivision; 252.32, subdivisions 1a, 3, 3a, 3c, and 5; 254.04; 254A.17, subdivision 3; 254B.01, subdivision 3; 254B.02, subdivisions 1 and 3; 254B.03, subdivision 1; 254B.04, subdivision 1; 254B.09, subdivisions 4, 5, and 7; 256.01, subdivision 2, and by adding a subdivision; 256.025, subdivisions 2 and 4; 256.045, subdivisions 3, 3b, 4, 5, 7, 8, and 10; 256.476, subdivisions 2, 3, 4, and 5; 256.82, subdivision 1, and by adding a subdivision; 256.87, subdivisions 1, 1a, 3, 5, and by adding a subdivision; 256.871, subdivision 6; 256.935; 256.9354, subdivision 8, as added; 256.969, subdivision 1; 256.9695, subdivision 1; 256.9742; 256.9744, subdivision 2; 256.978, subdivisions 1 and 2; 256.9792, subdivisions 1 and 2; 256.998, subdivisions 1, 6, 7, and by adding subdivisions; 256B.037, subdivision 1a; 256B.04, by adding a subdivision; 256B.055, subdivision 12; 256B.056, subdivisions 4 and 5; 256B.057, subdivisions 1, 1b, and 2; 256B.06, subdivision 5, as added; 256B.0625, subdivisions 13, 14, and by adding a subdivision; 256B.0626; 256B.0627, subdivision 5, and by adding a subdivision; 256B.064, subdivisions 1a, 1c, and 2; 256B.0644; 256B.0911, subdivisions 2 and 7; 256B.0912, by adding a subdivision; 256B.0913, subdivisions 7, 10, 14, 15, and by adding a subdivision; 256B.0915, subdivisions 1b, 3, and by adding subdivisions; 256B.0917, subdivisions 7 and 8; 256B.19, subdivision 2a; 256B.421, subdivision 1; 256B.431, subdivisions 3f, 25, and by adding a subdivision; 256B.433, by adding a subdivision; 256B.434, subdivisions 2, 3, 4, 9, and 10; 256B.49, subdivision 1, and by adding a subdivision; 256B.69, subdivisions 2, 3a, 5, 5b, and by adding subdivisions; 256D.02, subdivision 12a, as amended; 256D.03, subdivisions 2, 2a, 3, as amended, and 6; 256D.05, subdivisions 1, as amended, and 8, as amended; 256D.36; 256E.06, by adding a subdivision; 256F.04, subdivisions 1 and 2; 256F.05, subdivisions 2, 3, 4, and 8; 256F.06, subdivisions 1 and 2; 256F.11, subdivision 2; 256G.02, subdivision 6; 256G.05, subdivision 2; 256I.05, subdivision 1a, and by adding a subdivision; 257.62, subdivisions 1 and 2; 257.66, subdivision 3, and by adding a subdivision; 257.70; 257.75, subdivisions 2, 3, 4, 5, and 7; 299C.46, subdivision 3; 326.37, subdivision 1; 327.20, subdivision 1; 393.07, subdivision 2; 466.01, subdivision 1; 469.155, subdivision 4; 471.59, subdivision 11; 508.63; 508A.63; 517.01; 517.03; 517.08, subdivision 1a; 517.20; 518.005, by adding a subdivision; 518.10; 518.148, subdivision 2; 518.17, subdivision 1; 518.171, subdivisions 1 and 4; 518.54, subdivision 6, and by adding a subdivision; 518.551, subdivisions 12 and 13; 518.5512, subdivision 2, and by adding subdivisions; 518.575; 518.68, subdivision 2; 518C.101; 518C.205; 518C.207; 518C.304; 518C.305; 518C.310; 518C.401; 518C.501; 518C.603; 518C.605; 518C.608; 518C.611; 518C.612; 518C.701; 548.091, subdivisions 1a, 2a, 3a, and by adding subdivisions; 550.37, subdivision 24; 626.556, subdivisions 10b, 10d, 10e, 10f, 11c, and by adding a subdivision; 626.558, subdivisions 1 and 2; and 626.559, subdivision 5; Laws 1995, chapter 207, article 6, section 115; article 8, section 41, subdivision 2; Laws 1997, chapter 7, article 1, section 75; Laws

New language is indicated by underline, deletions by strikeout.

1997, chapter 85, article 1, sections 7, subdivision 2; 8, subdivision 2; 12, subdivision 3; 16, subdivision 1; 26, subdivision 2; 32, subdivision 5; 33; and 75; article 3, sections 28, subdivision 1; and 42; Laws 1997, chapter 105, section 7; proposing coding for new law in Minnesota Statutes, chapters 13B; 62J; 145A; 157; 252; 256; 256B; 256J; 257; 325F; 518; 518C; and 552; repealing Minnesota Statutes 1996, sections 145.9256; 252.32, subdivision 4; 256.026; 256.74, subdivisions 5 and 7; 256.82, subdivision 1; 256.979, subdivision 9; 256B.057, subdivisions 2a and 2b; 256B.0625, subdivision 13b; 256B.501, subdivision 5c; 256F.05, subdivisions 5 and 7; 469.154, subdivision 6; 518.5511, subdivisions 5, 6, 7, 8, and 9; 518.611; 518.613; 518.645; 518C.9011; and 609.375, subdivisions 3, 4, and 6; Minnesota Rules, part 9505.1000.

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

ARTICLE 1

APPROPRIATIONS

Section 1. HEALTH AND HUMAN SERVICES APPROPRIATIONS.

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

SUMMARY BY FUND

APPROPRIATIONS	1998	1999	BIENNIAL TOTAL
General	\$2,587,119,000	\$2,738,148,000	\$5,325,267,000
State Government			
Special Revenue	31,911,000	32,150,000	64,061,000
Metropolitan			
Landfill Contingency			
Action Fund	193,000	193,000	386,000
Trunk Highway	1,652,000	1,678,000	3,330,000
TOTAL	\$2,620,875,000	\$2,772,169,000	\$5,393,044,000
		APPROPRIATIONS Available for the Year Ending June 30	
		1998	1999

Sec. 2. COMMISSIONER OF HUMAN SERVICES

Subdivision 1. Total		\$2,511,210,000	\$2,663,931,000
Appropriation			
	Summary by Fund		
General	2,510,757,000	2,663,469,000	
State Government			
Special Revenue	453,000	462,000	

Subd. 2. Agency Management

General	25,446,000	24,294,000
State Government		
Special Revenue	342,000	350,000

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

(a) Financial Operations

General	7,683,000	6,518,000
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RECEIPTS FOR SYSTEMS PROJECTS. Appropriations and federal receipts for information system projects for MAXIS, electronic benefit system, social services information system, child support enforcement, and Minnesota medicaid information system (MMIS II) must be deposited in the state system account authorized in Minnesota Statutes, section 256.014. Money appropriated for computer projects approved by the information policy office, funded by the legislature, and approved by the commissioner of finance may be transferred from one project to another and from development to operations as the commissioner of human services considers necessary. Any unexpended balance in the appropriation for these projects does not cancel but is available for ongoing development and operations.

STATE-OPERATED SERVICES BILLING SYSTEMS. Of this appropriation, \$250,000 in fiscal year 1998 is to modify the current state-operated services billing and receipting system to accommodate cost-per-service charging. As part of this project, the commissioner shall develop cost accounting methods to ensure that regional treatment center chemical dependency program charges are based on actual costs.

(b) Legal & Regulation Operations

General	6,283,000	6,046,000
State Government		
Special Revenue	342,000	350,000

CHILD CARE LICENSING; FIRE MARSHALL ASSISTANCE. Of this amount, \$200,000 for the biennium is for the

commissioner to add two deputy state fire marshall positions in the licensing division. These positions are to improve the speed of licensing child care programs, to provide technical assistance to applicants and providers regarding fire safety, and to improve communication between licensing staff and fire officials. The state fire marshall shall train and supervise the positions. The state fire marshall and the department shall develop an interagency agreement outlining the responsibilities and authorities for these positions, and continuation of cooperation to inspect programs that exceed the resources of these two positions. Unexpended funds for fiscal year 1998 do not cancel but are available to the commissioner for these purposes for fiscal year 1999.

MEALS REIMBURSEMENT FOR PROVIDERS. The commissioner shall transfer to the commissioner of children, families, and learning up to \$10,000 in order to provide reimbursement for meals to providers licensed under Minnesota Rules, parts 9502.0300 to 9502.0445, who were not reimbursed by the commissioner of children, families, and learning in 1996 and 1997 under the child and adult care food program in title 7 of the Code of Federal Regulations, subtitle B, chapter II, subchapter A, part 226, because of problems experienced with the department of human services licensing computer system. This paragraph is effective the day following final enactment.

AUTHORITY TO WAIVE STATUTES.

(a) In response to the immediate and long-term effects on individuals and public and private entities of the unusually severe conditions of the winter and spring of 1997, the commissioner of human services may waive or grant variances to provisions in chapters 245A, 252, 256, 256B, 256D, 256E, 256G, 256I, 257, 259, 260, 518, and 626 governing: the transference of funds between grant accounts; rate setting or other funding requirements or limits for specific services; documentation or reporting re-

quirements; licensing requirements; payments, including MinnesotaCare premiums; emergency assistance time limits; general assistance citizenship requirements for student residents; restrictions on receipt of emergency general assistance by AFDC recipients; and other administrative procedures as needed to ensure timely and continuous service to persons receiving or eligible to receive services administered by the commissioner or by the counties under supervision of the commissioner. In granting a waiver or variance, the commissioner shall consider the impact on the health and safety of vulnerable persons. Waivers or variances may be restricted to specific geographical areas and specific time periods.

(b) The commissioner shall notify the chairs of the senate health and family security committee, health and family security budget division, human resources finance committee, the house health and human services committee, health and human services finance division, and ways and means committee ten days prior to the effective date of any waiver or variance granted under paragraph (a).

(c) The appeal rights of applicants for, or recipients of, public assistance or a program of social services under Minnesota Statutes, section 256.045, are not affected by this provision. Counties and other services providers do not have a right to appeal the commissioner's decision on whether to waive or grant a variance from a statute under this provision.

(d) Expenditures under the waivers or variances must not exceed the total appropriation for the commissioner, including any special appropriations for flood relief. The commissioner shall issue a summary to the chairs of the senate human resources finance and house ways and means committees by January 15, 1998, regarding variances and waivers granted under the terms under this provision.

(e) This provision shall be effective the day following final enactment and shall expire February 15, 1998.

(c) Management Operations

General	11,480,000	11,730,000
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COMMUNICATION COSTS. The commissioner shall continue to operate the department of human services communication systems account established in Laws 1993, First Special Session chapter 1, article 1, section 2, subdivision 2, to manage shared communication costs necessary for the operation of the programs the commissioner supervises. A communications account may also be established for each regional treatment center which operates communication systems. Each account shall be used to manage shared communication costs necessary for the operation of programs the commissioner supervises. The commissioner may distribute the costs of operating and maintaining communication systems to participants in a manner that reflects actual usage. Costs may include acquisition, licensing, insurance, maintenance, repair, staff time, and other costs as determined by the commissioner. Nonprofit organizations and state, county, and local government agencies involved in the operation of programs the commissioner supervises may participate in the use of the department's communication technology and share in the cost of operation. The commissioner may accept on behalf of the state any gift, bequest, devise, or personal property of any kind, or money tendered to the state for any lawful purpose pertaining to the communication activities of the department. Any money received for this purpose must be deposited in the department of human services communication systems accounts. Money collected by the commissioner for the use of communication systems must be deposited in the state communication systems account and is appropriated to the commissioner for purposes of this section.

ISSUANCE OPERATIONS CENTER. Payments to the commissioner from other governmental units and private enterprises for (1) services performed by the issuance operations center, or (2) reports generated by

the payment and eligibility systems must be deposited in the state systems account authorized in Minnesota Statutes, section 256.014. These payments are appropriated to the commissioner for the operation of the issuance center or system, in accordance with Minnesota Statutes, section 256.014.

Subd. 3. Children's Grants

General	38,127,000	40,177,000
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INDIAN CHILD WELFARE ACT. Of this appropriation, \$90,000 each year is to provide grants according to Minnesota Statutes, section 257.3571, subdivision 2a, to the Indian child welfare defense corporation to promote statewide compliance with the Indian Child Welfare Act.

CHILDREN'S MENTAL HEALTH. Of this appropriation, \$600,000 in fiscal year 1998 and \$800,000 in fiscal year 1999 is for the commissioner to award grants to counties for children's mental health services. These grants may be used to provide any of the following services specified in Minnesota Statutes, section 245.4871; family community support services under subdivision 17; day treatment services under subdivision 10; case management services under subdivision 3; professional home-based family treatment under subdivision 31; and outpatient services under subdivision 29. Grant funds must be used to provide appropriate personnel and services according to an individual family community support plan under Minnesota Statutes, section 245.4882, subdivision 4, that must be developed, evaluated, and changed where needed, using a process that respects the consumer's identified cultural community and enhances consumer empowerment, best interests and outcomes which strengthens and supports children and their families.

In awarding these grants to counties, the commissioner shall work with the state advisory council on mental health to ensure that the process for awarding funds addresses the unmet need for services under Minnesota Statutes, sections 245.487 to 245.4888. The

commissioner shall also ensure that these grant funds are not used to replace existing funds, and that these grant funds are used to enhance service capacity at the community level consistent with Minnesota Statutes, sections 245.487 to 245.4888.

Subd. 4. Children's Services Management		
General	3,541,000	2,072,000

SOCIAL SERVICES INFORMATION SYSTEM. Of this appropriation, \$1,500,000 in fiscal year 1998 is for training and implementation costs related to the social services information system. Any unexpended funds shall not cancel but shall be available for fiscal year 1999. This appropriation shall not become part of the base for the biennium beginning July 1, 1999.

Subd. 5. Basic Health Care Grants

	Summary by Fund	
General	834,098,000	938,504,000

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

(a) MA Basic Health Care Grants--
Families and Children

General	322,970,000	367,726,000
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NOTICE ON CHANGES IN ASSET TEST. The commissioner shall provide a notice by July 15, 1997, to all recipients affected by the changes in this act in asset standards for families with children notifying them:

- (1) what asset limits will apply to them;
- (2) when the new limits will apply;
- (3) what options they have to spenddown assets; and
- (4) what options they have to enroll in MinnesotaCare, including an explanation of the MinnesotaCare premium structure.

(b) MA Basic Health Care Grants--
Elderly & Disabled

General	337,659,000	400,408,000
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PUBLIC HEALTH NURSE ASSESSMENT. The reimbursement for public health nurse visits relating to the provision of personal care services under Minnesota Statutes, sections 256B.0625, subdivision 19a, and 256B.0627, is \$204.36 for the initial assessment visit and \$102.18 for each reassessment visit.

SURCHARGE COMPLIANCE. In the event that federal financial participation in the Minnesota medical assistance program is reduced as a result of a determination that Minnesota is out of compliance with Public Law Number 102-234 or its implementing regulations or with any other federal law designed to restrict provider tax programs or intergovernmental transfers, the commissioner shall appeal the determination to the fullest extent permitted by law and may ratably reduce all medical assistance and general assistance medical care payments to providers other than the state of Minnesota in order to eliminate any shortfall resulting from the reduced federal funding. Any amount later recovered through the appeals process shall be used to reimburse providers for any ratable reductions taken.

BLOOD PRODUCTS LITIGATION. To the extent permitted by federal law, Minnesota Statutes, sections 256.015, 256B.042, 256B.056, and 256B.15 are waived as necessary for the limited purpose of resolving the state's claims in connection with In re Factor VIII or IX Concentrate Blood Products Litigation, MDL-986, No. 93-C7452 (N.D.III.).

DISTRIBUTION TO MEDICAL ASSISTANCE PROVIDERS. (a) Of the amount appropriated to the medical assistance account in fiscal year 1998, \$5,000,000 plus the federal financial participation amount shall be distributed to medical assistance providers according to the distribution methodology of the medical education research trust fund established under Minnesota Statutes, section 62J.69.

(b) In fiscal year 1999, the prepaid medical assistance and prepaid general assistance medical care capitation rate reduction amounts under Minnesota Statutes, section 256B.69, subdivision 5c, and the federal financial participation amount associated with the medical assistance reduction, shall be distributed to medical assistance providers according to the distribution methodology of the trust fund.

AUGMENTATIVE AND ALTERNATIVE COMMUNICATION SYSTEMS.

Augmentative and alternative communication systems and related components that are prior authorized by the department through pass through vendors during the period from January 1, 1997, until the augmentative and alternative communication system purchasing program or other alternatives are operational shall be paid under the medical assistance program at the actual price charged the pass through vendor plus 20 percent to cover administrative costs of prior authorization and billing and shipping charges.

(c) General Assistance Medical Care

General 173,469,000 170,370,000

HEALTH CARE ACCESS TRANSFERS TO GENERAL FUND.

Funds shall be transferred from the health care access fund to the general fund in an amount equal to the projected savings to general assistance medical care (GAMC) that would result from the transition of GAMC parents and adults without children to MinnesotaCare. Based on this projection, for state fiscal year 1998, the amount transferred from the health care access fund to the general fund shall be \$13,700,000. The amount of transfer, if any, necessary for state fiscal year 1999 shall be determined on a pro rata basis.

TUBERCULOSIS COST OF CARE. Of the general fund appropriation, \$89,000 for the biennium is for the cost of care that is required to be paid by the commissioner under Minnesota Statutes, section 144.4872, to diagnose or treat tuberculosis carriers.

Subd. 6. Basic Health Care Management		
General	23,502,000	24,518,000

CONSUMER-OWNED HOUSING REVOLVING ACCOUNT. Effective the day following final enactment, for the fiscal year ending June 30, 1997, the commissioner of human services may transfer \$25,000 of the appropriation for basic health care management to the commissioner of the Minnesota housing finance agency to establish an account to finance the underwriting requirements of the federal national mortgage association pilot program for persons with disabilities. The Minnesota housing finance agency may spend money from the account for the purpose of assisting in payment of delinquent mortgage payments of persons participating in the federal National Mortgage Association pilot program for persons with disabilities. Any unexpended balance in this account does not cancel, but is available to the commissioner of the Minnesota housing finance agency for the ongoing purposes of the account.

PROVIDER REIMBURSEMENT FOR HEALTH CARE SERVICES TO CRIME VICTIMS. Of this appropriation \$25,000 each year is for the commissioner to reimburse health care providers for counseling, testing, and early intervention services provided to crime victims who requested the services and who have experienced significant exposure to the HIV virus, as defined in Minnesota Statutes, section 144.761, subdivision 7, as the result of a crime.

(a) Health Care Policy Administration		
General	4,256,000	4,316,000

CONSUMER SATISFACTION SURVEY. Any federal matching money received through the medical assistance program for the consumer satisfaction survey is appropriated to the commissioner for this purpose. The commissioner may expend the federal money received for the consumer satisfaction survey in either year of the biennium.

(b) Health Care Operations

General	19,246,000	20,202,000
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PREPAID MEDICAL PROGRAMS. The nonfederal share of the prepaid medical assistance program fund, which has been appropriated to fund county managed care advocacy and enrollment operating costs, shall be disbursed as grants using either a reimbursement or block grant mechanism and may also be transferred between grants and nongrant administration costs with approval of the commissioner of finance.

SYSTEMS CONTINUITY. In the event of disruption of technical systems or computer operations, the commissioner may use available grant appropriations to ensure continuity of payments for maintaining the health, safety, and well-being of clients served by programs administered by the department of human services. Grant funds must be used in a manner consistent with the original intent of the appropriation.

Subd. 7. State-Operated Services

General	207,174,000	203,429,000
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The amounts that may be spent from this appropriation for each purpose are as follows:

(a) RTC Facilities

General	193,647,000	188,883,000
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MITIGATION RELATED TO DD DOWNSIZING AND MH PILOTS.

Money appropriated to finance mitigation expenses related to the downsizing of regional treatment center developmental disabilities programs and the establishment of mental health pilot projects may be transferred between fiscal years within the biennium.

FUNDING FOR GRAVE MARKERS. Of this appropriation, \$200,000 for the biennium ending June 30, 1999, is for the commissioner to fund markers with the names of individuals whose graves are located at regional treatment centers. This appropriation is available only after reasonable efforts have been made to acquire funds from pri-

vate sources to fund the markers, and after the private funds collected, if any, have been exhausted. Of the \$200,000, \$5,000 shall be transferred to Advocating Change Together for a public awareness campaign to increase public knowledge of the issues surrounding developmental disabilities and to encourage private contributions to assist in the completion of this project.

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

SHORT-TERM TREATMENT PROGRAM. The commissioner shall report to the legislature by January 15, 1998, with recommendations on the establishment of a short-term treatment program of less than 45 days to be administered by the Anoka regional center to serve persons with mental illness. The report must include a plan to qualify the program for medical assistance reimbursement and estimates of the capital bonding and ongoing funding necessary to operate the program.

RTC PILOT PROJECTS. The commissioner may authorize regional treatment centers to enter into contracts with health plans that provide services to publicly funded clients to provide services within the diagnostic categories related to mental illness and chemical dependency, provided that the rev-

enue is sufficient to cover actual costs. Regional treatment centers may establish revenue-based acute care services to be provided under these contracts, separate from the appropriation-based services otherwise provided at the regional treatment center. The appropriation to regional treatment centers may be used to cover start-up costs related to these services, offset by revenue. The commissioner, in conjunction with the commissioner of administration, is authorized to modify state contract procedures that would otherwise impede pilot projects in order for the facility to participate in managed care activities. The commissioner may delegate the execution of these contracts to the chief executive officer of the regional treatment center. The commissioner shall report to the legislature by January 15, 1998, on pilot project development and implementation.

CAMBRIDGE REGIONAL HUMAN SERVICES CENTER.

(a) The commissioner shall maintain capacity at Cambridge regional human services center and shall continue to provide residential and crisis services at Cambridge for persons with complex behavioral and social problems committed by the courts from the Faribault regional center and Cambridge regional human services center catchment areas. Campus programs shall operate with the aim of facilitating the return of individuals with clinically complex behavior and social problems to community settings and shall maintain sufficient support services on campus as needed by the programs.

(b) The commissioner shall develop and present a plan and recommendations to the legislature by January 15, 1998, for the second phase of the Minnesota extended treatment options (METO) program at Cambridge regional human services center to serve persons with developmental disabilities who pose a public risk. Phase two shall increase the on-campus program capacity of METO by at least 36 additional beds, unless program configuration changes are agreed to

by the affected exclusive bargaining representative.

RTC RESTRUCTURING. For purposes of restructuring the regional treatment centers and state nursing homes, any regional treatment center or state nursing home employee whose position is to be eliminated shall be afforded the options provided in applicable collective bargaining agreements. All salary and mitigation allocations from fiscal year 1998 shall be carried forward into fiscal year 1999. Provided there is no conflict with any collective bargaining agreement, any regional treatment center or state nursing home position reduction must only be accomplished through mitigation, attrition, transfer, and other measures as provided in state or applicable collective bargaining agreements and in Minnesota Statutes, section 252.50, subdivision 11, and not through lay-off.

RTC POPULATION. 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 for the 1998-1999 biennium 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, including resources for community placements and waived services for persons with mental retardation and related conditions, is transferred to the residential facilities appropriation.

REPAIRS AND BETTERMENTS. The commissioner may transfer unencumbered appropriation balances between fiscal years for the state residential facilities repairs and betterments account and special equipment.

PROJECT LABOR. Wages for project labor may be paid by the commissioner of human services out of repairs and betterments money if the individual is to be engaged in a construction project or a repair project of short-term and nonrecurring nature. Com-

compensation for project labor shall be based on the prevailing wage rates, as defined in Minnesota Statutes, section 177.42, subdivision 6. Project laborers are excluded from the provisions of Minnesota Statutes, sections 43A.22 to 43A.30, and shall not be eligible for state-paid insurance and benefits.

STATE-OPERATED SERVICES CD CONSOLIDATION. Notwithstanding the provisions of Minnesota Statutes, section 246.0135, paragraph (a), the commissioner may consolidate the extended plus chemical dependency program operated by Moose Lake Regional State-Operated Services at Cambridge and the chemical dependency program operated by Anoka-Metro Regional Treatment Center at the Anoka location. With the concurrence of the affected bargaining unit representatives, this consolidation may commence upon the date following enactment.

DEVELOPMENT OF ADULT MENTAL HEALTH PILOT PROJECTS. The commissioner shall ensure that exclusive bargaining representatives are informed about and allowed to participate in all aspects of the development of adult mental health pilot projects. Prior to authorizing additional funding for any county adult mental health pilot project, the commissioner shall give written assurance to the affected exclusive bargaining representatives that the mental health pilot project:

- (1) does not infringe on existing collective bargaining agreements or the relationships between public employees and their employers;
- (2) will effectively use bargaining unit employees; and
- (3) will foster cooperative and constructive labor and management practices under Minnesota Statutes, chapters 43A and 179A.

RTC STAFFING LEVELS. In order to maintain adequate staffing levels during reallocations, downsizing, or transfer of regional center nonfiscal resources, the commissioner must ensure that any reallocation

of positions between regional centers does not reduce required staffing at regional center programs for adults and adolescents with mental illness.

Each regional treatment center serving persons with mental illness must have a written staffing plan based on program services and treatment plans that are required for individuals with mental illness at the regional center using standards established by the commissioner. The written plan must include a detailed account of the staffing needed at the regional center for the following inpatient and other psychiatric programs:

- (1) acute inpatient;
- (2) long-term inpatient;
- (3) adolescent programs; and
- (4) mobile and other crisis services and transitional services.

If requested, the regional treatment center chief executive officer must provide the exclusive bargaining representative or any other interested party with a copy of the staffing plan.

If the exclusive bargaining representative or another interested party believes that actual staffing or planned staffing for a regional treatment center is not adequate to provide necessary treatment, they may request the ombudsman for mental health and mental retardation to investigate, report findings, and make recommendations under Minnesota Statutes, chapter 245. If an investigation is requested in light of such circumstances, the report and recommendations must be completed no less than 30 days before an actual reallocation, downsizing of staff, or transfer of nonfiscal resources from a regional treatment center.

By November 1, 1997, the commissioner shall begin to develop regional treatment center staffing plans for inpatient and other psychiatric programs. The commissioner will consult with representatives of exclusive bargaining representatives during the development of these plans. By February 1,

1998, the commissioner shall prepare and transmit to the legislature a report of the staffing level standards for regional treatment centers. The commissioner may also recommend any changes in statute, rules, and appropriations needed to implement the recommendations.

(b) State-Operated Community Services - MI Adults		
General	3,907,000	3,976,000
(c) State-Operated Community Services - DD		
General	9,620,000	10,570,000
Subd. 8. Continuing Care and Community Support Grants		
General	1,097,832,000	1,165,926,000

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

(a) Community Services Block Grants		
	55,641,000	55,641,000

CSSA TRADITIONAL APPROPRIATION. Notwithstanding Minnesota Statutes, section 256E.06, subdivisions 1 and 2, the appropriations available under that section in fiscal years 1998 and 1999 must be distributed to each county proportionately to the aid received by the county in calendar year 1996. The commissioner, in consultation with counties, shall study the formula limitations in subdivision 2 of that section, and report findings and any recommendations for revision of the CSSA formula and its formula limitation provisions to the legislature by January 15, 1998.

(b) Consumer Support Grants		
	1,757,000	1,757,000

(c) Aging Adult Service Grants		
	7,900,000	7,928,000

OMBUDSMAN FOR OLDER MINNESOTANS. Of this appropriation, \$150,000 in fiscal year 1998 and \$175,000 in fiscal year 1999 is for the board on aging's ombudsman for older Minnesotans to expand its activities relating to home care services and other noninstitutional services, and to devel-

op and implement a continuing education program for ombudsman volunteers. This appropriation shall become part of base-level funding for the biennium beginning July 1, 1999.

HEALTH INSURANCE COUNSELING.

(a) Of this appropriation, \$200,000 each year is for the board on aging for the purpose of health insurance counseling and assistance grants to be awarded to the area agencies on aging.

(b) Of the amount in paragraph (a), \$100,000 per year is for the area agencies in regions participating in the current health insurance counseling pilot program. The remaining funding shall be distributed on a competitive basis to area agencies on aging in other regions based on criteria developed jointly by the board on aging and the area agencies on aging.

(c) The board shall explore opportunities for obtaining alternative funding from nonstate sources, including contributions from individuals seeking health insurance counseling services.

LIVING-AT-HOME/BLOCK NURSE PROGRAMS. Of this appropriation, \$240,000 each fiscal year is for the commissioner to provide funding to 12 additional living-at-home/block nurse programs; \$70,000 for the biennium is for the commissioner to increase funding for certain living-at-home/block nurse programs so that funding for all programs is at the same level for each fiscal year; and \$50,000 each fiscal year is for the commissioner to provide additional contract funding for the organization awarded the contract for the living-at-home/block nurse program.

CONGREGATE AND HOME-DELIVERED MEALS. The supplemental funding for 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 shall be awarded at no less than the same levels as in fiscal year 1997.

EPILEPSY LIVING SKILLS. Of this appropriation, \$30,000 each year is for the purposes of providing increased funding for the living skills training program for persons with intractable epilepsy who need assistance in the transition to independent living. This amount must be included in the base amount for this program.

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

1,524,000	1,424,000
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ASSISTANCE DOGS. Of this appropriation, \$50,000 for the biennium is for the commissioner to provide grants to Minnesota nonprofit organizations that train or provide assistance dogs for persons with disabilities. This appropriation shall not become part of the base for the biennium beginning July 1, 1999.

GRANT FOR SERVICES TO DEAF-BLIND CHILDREN AND PERSONS. Of this appropriation, \$150,000 for the biennium is for a grant to an organization that provides services to deaf-blind persons. The grant must be used to provide additional services to deaf-blind children and their families. Such services may include providing intervenors to assist deaf-blind children in participating in their communities, and family education specialists to teach siblings and parents skills to support the deaf-blind child in the family. The commissioner shall use a request-for-proposal process to award the grants in this paragraph.

Of this appropriation, \$150,000 for the biennium is for a grant to an organization that provides services to deaf-blind persons. The grant must be used to provide assistance to deaf-blind persons who are working towards establishing and maintaining independence. The commissioner shall use a request-for-proposal process to award the grants in this paragraph.

An organization that receives a grant under this provision may expend the grant for any purpose authorized by this provision, and in either year of the biennium.

GRANT FOR SERVICES TO DEAF PERSONS WITH MENTAL ILLNESS.

Of this appropriation, \$100,000 the first year and \$50,000 the second year is for a grant to a nonprofit agency that currently serves deaf and hard-of-hearing adults with mental illness through residential programs and supported housing outreach activities. The grant must be used to continue or maintain community support services for deaf and hard-of-hearing adults with mental illness who use or wish to use sign language as their primary means of communication.

ASSESSMENTS FOR DEAF, HARD-OF-HEARING AND DEAF-BLIND CHILDREN.

Of this appropriation, \$150,000 each year is for the commissioner to establish a grant program for deaf, hard-of-hearing and deaf-blind children in the state. The grant program shall be used to provide specialized statewide psychological and social assessments, family assessments, and school and family consultation and training. Services provided through this program must be provided in cooperation with the Minnesota resource center; the department of children, families, and learning; the St. Paul-Ramsey health and wellness program serving deaf and hard-of-hearing people; and greater Minnesota community mental health centers.

(e) Mental Health Grants

48,796,000	49,896,000
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ADOLESCENT COMPULSIVE GAMBLING GRANT.

\$125,000 for fiscal year 1998 and \$125,000 for fiscal year 1999 shall be transferred by the director of the lottery from the lottery prize fund created under Minnesota Statutes, section 349A.10, subdivision 2, to the general fund. \$125,000 for fiscal year 1998 and \$125,000 for fiscal year 1999 is appropriated from the general fund to the commissioner for the purposes of a grant

to a compulsive gambling council located in St. Louis county for a statewide compulsive gambling prevention and education project for adolescents.

CAMP. Of this appropriation, \$30,000 for the biennium is from the mental health special projects account, for adults and children with mental illness from across the state for a camping program which utilizes the Boundary Waters Canoe Area and is cooperatively sponsored by client advocacy, mental health treatment, and outdoor recreation agencies.

**(f) Developmental Disabilities
Support Grants**

6,448,000	6,398,000
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**(g) Medical Assistance Long-Term
Care Waivers and Home Care**

249,512,000	299,186,000
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COUNTY WAIVERED SERVICES RESERVE. Notwithstanding the provisions of Minnesota Statutes, section 256B.092, subdivision 4, and Minnesota Rules, part 9525.1830, subpart 2, the commissioner may approve written procedures and criteria for the allocation of home- and community-based waiver services funding for persons with mental retardation or related conditions which enables a county to maintain a reserve resource account. The reserve resource account may not exceed five percent of the county agency's total annual allocation of home- and community-based waiver services funds. The reserve may be utilized to ensure the county's ability to meet the changing needs of current recipients, to ensure the health and safety needs of current recipients, or to provide short-term emergency intervention care to eligible waiver recipients.

REIMBURSEMENT INCREASES. (a) Effective for services rendered on or after July 1, 1997, the commissioner shall increase reimbursement or allocation rates by five percent, and county boards shall adjust provider contracts as needed, for home and community-based waiver services for persons with mental retardation or related

conditions under Minnesota Statutes, section 256B.501; home and community-based waiver services for the elderly under Minnesota Statutes, section 256B.0915; community alternatives for disabled individuals waiver services under Minnesota Statutes, section 256B.49; community alternative care waiver services under Minnesota Statutes, section 256B.49; traumatic brain injury waiver services under Minnesota Statutes, section 256B.49; nursing services and home health services under Minnesota Statutes, section 256B.0625, subdivision 6a; personal care services and nursing supervision of personal care services under Minnesota Statutes, section 256B.0625, subdivision 19a; private duty nursing services under Minnesota Statutes, section 256B.0625, subdivision 7; day training and habilitation services for adults with mental retardation or related conditions under Minnesota Statutes, sections 252.40 to 252.47; physical therapy services under Minnesota Statutes, sections 256B.0625, subdivision 8, and 256D.03, subdivision 4; occupational therapy services under Minnesota Statutes, sections 256B.0625, subdivision 8a, and 256D.03, subdivision 4; speech-language therapy services under Minnesota Statutes, section 256D.03, subdivision 4, and Minnesota Rules, part 9505.0390; respiratory therapy services under Minnesota Statutes, section 256D.03, subdivision 4, and Minnesota Rules, part 9505.0295; dental services under Minnesota Statutes, sections 256B.0625, subdivision 9, and 256D.03, subdivision 4; alternative care services under Minnesota Statutes, section 256B.0913; adult residential program grants under Minnesota Rules, parts 9535.2000 to 9535.3000; adult and family community support grants under Minnesota Rules, parts 9535.1700 to 9535.1760; and semi-independent living services under Minnesota Statutes, section 252.275, including SILS funding under county social services grants formerly funded under Minnesota Statutes, chapter 256I. The commissioner shall also increase prepaid medical assistance program

capitation rates as appropriate to reflect the rate increases in this paragraph. Section 13, sunset of uncodified language, does not apply to this paragraph.

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

(h) Medical Assistance Long-Term Care Facilities

570,291,000	598,115,000
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ICF/MR AND NURSING FACILITY INFLATION. The commissioner shall grant inflation adjustments for nursing facilities with rate years beginning during the biennium according to Minnesota Statutes, section 256B.431, and shall grant inflation adjustments for intermediate care facilities for persons with mental retardation or related conditions with rate years beginning during the biennium according to Minnesota Statutes, section 256B.501.

MORATORIUM EXCEPTIONS. Of this appropriation, \$500,000 each year shall be disbursed for the medical assistance costs of moratorium exceptions approved by the commissioner of health under Minnesota Statutes, section 144A.073. Unexpended money appropriated for fiscal year 1998 does not cancel but is available for fiscal year 1999.

(i) Alternative Care Grants

General	48,355,000	32,278,000
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PREADMISSION SCREENING TRANSFER. Effective the day following final enactment, up to \$40,000 of the appropriation for preadmission screening and alternative care for fiscal year 1997 may be transferred to the health care administration account to pay the state's share of county claims for conducting nursing home assessments for persons with mental illness or mental retardation as required by Public Law Number 100-203.

ALTERNATIVE CARE TRANSFER. Any money allocated to the alternative care

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

PREADMISSION SCREENING AMOUNT. The preadmission screening payment to all counties shall continue at the payment amount in effect for fiscal year 1997.

PAS/AC APPROPRIATION. The commissioner may expend the money appropriated for preadmission screening and the alternative care program for these purposes in either year of the biennium.

(j) Group Residential Housing		
General	65,974,000	69,562,000

(k) Chemical Dependency		
Entitlement Grants		
General	36,634,000	38,741,000

CHEMICAL DEPENDENCY FUNDS TRANSFER. \$11,340,000 from the consolidated chemical dependency general reserve fund available in fiscal year 1998 is transferred to the general fund.

(l) Chemical Dependency		
Nonentitlement Grants		
General	5,000,000	5,000,000

Subd. 9. Continuing Care and		
Community Support Management		
General	19,219,000	19,145,000

State Government		
Special Revenue	111,000	112,000

REGION 10 QUALITY ASSURANCE COMMISSION. Of this appropriation, \$160,000 each year is for the commissioner to allocate to the region 10 quality assurance commission for the costs associated with the establishment and operation of the quality assurance pilot project, and for the commissioner to provide grants to counties participating in the alternative quality assurance licensing system under Minnesota Statutes, section 256B.0953. \$10,000 each year is for the commissioner to contract with an independent entity to conduct a financial review

under Minnesota Statutes, section 256B.0955, paragraph (e); and \$5,000 each year is for the commissioner to establish and implement an ongoing evaluation process under Minnesota Statutes, section 256B.0955, paragraph (d). This appropriation shall not become part of base-level funding for the biennium beginning July 1, 1999.

JOINT PURCHASER DEMONSTRATION PROJECT. Of this appropriation, \$50,000 in fiscal year 1998 is for a grant to the Goodhue and Wabasha public health service board to be used for the development and start-up operational costs for a joint purchaser demonstration project described in Laws 1995, chapter 207, article 6, section 119, in Goodhue and Wabasha counties. This is a one-time appropriation and shall not become part of the base for the 2000-2001 biennial budget.

PILOT PROJECT FOR ASSISTED LIVING SERVICES FOR SENIOR CITIZENS IN PUBLIC HOUSING. Of this appropriation, \$75,000 in fiscal year 1998 is for a pilot project to provide assisted living services for unserved and underserved frail elderly and disabled persons with a focus on those who experience language and cultural barriers. The project shall offer frail elderly persons an opportunity to receive community-based support services in a public housing setting to enable them to remain in their homes. The project shall also serve younger disabled persons on waiver programs who live in public housing and would otherwise be in nursing homes. The commissioner shall provide pilot project funding to Hennepin county to contract with the Korean service center at the Cedars high-rises. The center shall agree to do the following:

- (1) facilitate or provide needed community support services while taking advantage of current local, state, and federal programs that provide services to senior citizens and handicapped individuals;

- (2) negotiate appropriate agreements with the Minneapolis public housing authority and Hennepin county;
- (3) ensure that all participants are screened for eligibility for services by Hennepin county;
- (4) become a licensed home care service provider or subcontract with a licensed provider to deliver needed services;
- (5) contract for meals to be provided through its congregate dining program; and
- (6) form other partnerships as needed to ensure the development of a successful, culturally sensitive program for meeting the needs of Korean, Southeast Asian, and other frail elderly and disabled persons living in public housing in southeast Minneapolis.

PILOT PROJECT ON WOMEN'S MENTAL HEALTH CRISIS SERVICES. (a)

Of this appropriation, \$200,000 in fiscal year 1998 is to develop a one-year pilot project community-based crisis center for women who are experiencing a mental health crisis as a result of childhood physical or sexual abuse. The commissioner shall provide pilot project funding to Hennepin county to contract with a four-bed adult foster care facility to provide these services.

(b) The commissioner shall apply to the federal government for all necessary waivers of medical assistance requirements for funding of mental health clinics so that the services in paragraph (a) may be reimbursed by medical assistance, upon legislative approval, effective July 1, 1998.

SNOW DAYS. Of this appropriation, \$85,000 in fiscal year 1998 shall be disbursed to reimburse day training and habilitation providers for days during which the provider was closed as a result of severe weather conditions in December 1996 to March 1997. A day training provider must request the aid and provide relevant information to the commissioner, including verification of the inability to make up days within the provider's yearly budget program calen-

dar. If the appropriation is insufficient to reimburse for all closed days reported by providers, the commissioner shall disburse the funds to those providers demonstrating the greatest need, measured by the amount of a provider's losses in proportion to the provider's overall budget. This money shall be distributed no later than September 15, 1997.

DEVELOPMENTAL DISABILITIES PLANNING GRANTS. Of the appropriation for developmental disabilities demonstration projects, \$125,000 in fiscal year 1998 is for grants to additional counties for planning necessary to participate in the projects.

Subd. 10. Economic Support Grants

General	223,031,000	208,140,000
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GIFTS. Notwithstanding Minnesota Statutes, chapter 7, the commissioner may accept on behalf of the state additional funding from sources other than state funds for the purpose of financing the cost of assistance program grants or nongrant administration. All additional funding is appropriated to the commissioner for use as designated by the grantee of funding.

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

(a) Assistance to Families Grants

General	89,412,000	110,571,000
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(b) Work Grants

General	13,966,000	13,892,000
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NEW CHANCE PROGRAM. Of this appropriation, \$280,000 for the biennium is for a grant to the new chance program. The new chance program shall provide comprehensive services through a private, nonprofit agency to young parents in Hennepin county who have dropped out of school and are receiving public assistance. The program administrator shall report annually to the commissioner on skills development, education, job training, and job placement outcomes for program participants. This appropriation is available for either year of the biennium. Base level funding for the biennium begin-

ning July 1, 1999, for this program shall be \$140,000 per year.

(c) Minnesota Family
Investment Plan

General 23,704,000 -0-

WELFARE REFORM CARRYOVER.

Unexpended grant funds for the statewide implementation of the Minnesota family investment program—statewide and employment and training programs and for the work first and work focused pilot programs appropriated in fiscal year 1998 for the implementation of welfare reform initiatives do not cancel and are available to the commissioner for these purposes in fiscal year 1999.

(d) Aid to Families With
Dependent Children

General 7,695,000 -0-

AFDC SUPPLEMENTARY GRANTS.

Of the appropriation for AFDC, the commissioner shall provide supplementary grants not to exceed \$200,000 a year for AFDC until the AFDC program no longer exists. The commissioner shall include the following costs in determining the amount of the supplementary grants: major home repairs, repair of major home appliances, utility recaps, supplementary dietary needs not covered by medical assistance, and replacements of furnishings and essential major appliances.

CASH BENEFITS IN ADVANCE. The commissioner, with the advance approval of the commissioner of finance, is authorized to issue cash assistance benefits up to three days before the first day of each month, including three days before the start of each state fiscal year. Of the money appropriated for cash assistance grants for each fiscal year, up to three percent of the annual state appropriation is available to the commissioner in the previous fiscal year. If that amount is insufficient for the costs incurred, an additional amount of the appropriation as needed may be transferred with the advance approval of the commissioner of finance.

This paragraph is effective the day following final enactment.

(e) Child Support Enforcement

General	5,427,000	5,009,000
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CHILD SUPPORT PAYMENT CENTER. Payments to the commissioner from other governmental units, private enterprises, and individuals for services performed by the child support payment center must be deposited in the state systems account authorized under Minnesota Statutes, section 256.014. These payments are appropriated to the commissioner for the operation of the child support payment center or system, according to Minnesota Statutes, section 256.014.

CHILD SUPPORT PAYMENT CENTER RECOUPMENT ACCOUNT. The child support payment center is authorized to establish an account to cover checks issued in error or in cases where insufficient funds are available to pay the checks. All recoupments against payments from the account must be deposited in the child support payment center recoupment account and are appropriated to the commissioner for the purposes of the account. Any unexpended balance in the account does not cancel, but is available until expended. For the period June 1, 1997, through June 30, 1997, the commissioner may transfer fiscal year 1997 general fund administrative money to the child support payment center recoupment account to cover underfinanced and unfunded checks during this period only. This paragraph is effective the day following final enactment.

CHILD SUPPORT ENFORCEMENT CARRYOVER. Unexpended funds for child support enforcement grants and county performance incentives for fiscal year 1998 do not cancel but are available to the commissioner for these purposes for fiscal year 1999.

CHILD SUPPORT ENFORCEMENT APPROPRIATIONS. Of this appropriation for the biennium ending June 30, 1999, the commissioner shall transfer: \$150,000 to the

attorney general for the continuation of the public education campaign specified in Minnesota Statutes, section 8.35; and \$68,000 to the attorney general for the purposes specified in Minnesota Statutes, section 518.575. Any balance remaining in the first year does not cancel, but is available in the second year.* **(The preceding text beginning "CHILD SUPPORT ENFORCEMENT APPROPRIATIONS." was vetoed by the governor.)**

(f) General Assistance

General	55,650,000	49,404,000
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GA STANDARD. The commissioner shall set the monthly standard of assistance for general 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. The commissioner may reduce this amount in accordance with Laws 1997, chapter 85, article 3, section 54.

(g) Minnesota Supplemental Aid

General	25,572,000	27,659,000
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(h) Refugee Services

General	1,605,000	1,605,000
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Subd. 11. Economic Support Management

General	38,787,000	37,264,000
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The amounts that may be spent from this appropriation for each purpose are as follows:

(a) Economic Support Policy Administration

General	10,145,000	8,508,000
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COMBINED MANUAL PRODUCTION COSTS. The commissioner may increase the fee charged to, and may retain money received from, individuals and private entities in order to recover the difference between the costs of producing the department of human services combined manual and the subsidized price charged to individuals and private entities on January 1, 1996. This provision does not apply to government agencies and nonprofit agencies serving the legal or social service needs of clients.

PLAN FOR TRIBAL OPERATION OF FAMILY ASSISTANCE PROGRAM. Of this appropriation, \$75,000 each year is for the commissioner to apportion to the tribes to assist in the development of a plan for providing state funds in support of a family assistance program administered by Indian tribes that have a reservation in Minnesota and that have federal approval to operate a tribal program. The commissioner and the tribes shall collaborate in the development of the plan. The plan shall be reported to the legislature no later than February 15, 1998.

ELIGIBILITY DETERMINATIONS FUNDING. Increased federal funds for the costs of eligibility determination and other permitted activities that are available to the state through section 114 of the Personal Responsibility and Work Opportunity Reconciliation Act, Public Law Number 104-193, are appropriated to the commissioner.

(b) Economic Support Policy
Operations

General	28,642,000	28,756,000
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ELECTRONIC BENEFIT TRANSFER (EBT) COUNTY ALLOCATION. Of the amount appropriated for electronic benefit transfer, an allocation shall be made each year to counties for EBT-related expenses. One hundred percent of the appropriation shall be allocated to counties based on each county's average monthly number of food stamp households as a proportion of state-wide average monthly food stamp households for the fiscal year ending June 30, 1996.

FRAUD PREVENTION AND CONTROL FUNDING. Unexpended funds appropriated for the provision of program integrity activities for fiscal year 1998 are also available to the commissioner to fund fraud prevention and control initiatives, and do not cancel but are available to the commissioner for these purposes for fiscal year 1999. Unexpended funds may be transferred between the fraud prevention investigation program and fraud control programs to promote the

provisions of Minnesota Statutes, sections 256.983 and 256.9861.

TRIBAL OPERATION OF ASSISTANCE PROGRAMS; FEASIBILITY CONSIDERED. The commissioner of human services, in consultation with the federally-recognized Indian tribes, the commissioner of children, families, and learning and the commissioner of economic security, shall explore and report to the legislature, by February 15, 1998, on the feasibility of having the federally-recognized Indian tribes administer or operate state and federally funded programs such as MFIP-S, diversionary assistance, food stamps, general assistance, emergency assistance, child support enforcement, and child care assistance. The exploration shall consider the state and federal funding needed for the programs under consideration.

COUNTY AID FOR SUPPLEMENTAL HOUSING ASSISTANCE PROGRAM.

(a) \$960,000 is appropriated to the commissioner for fiscal year 1998 to be allocated to counties for the county aid for supplemental assistance program (CASHAP). CASHAP is a statewide program to help meet the housing needs of legal noncitizens residing in Minnesota on August 22, 1996, who qualified for and received a loan secured by a mortgage on their principal residence, based in part on the expectation of continued receipt of SSI benefits, and who are terminated from SSI benefits under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law Number 104-193.

(b) The appropriation in paragraph (a) shall be allocated to county social services agencies based on each county's proportion of the total statewide number of legal noncitizens residing in Minnesota on August 22, 1996, who are terminated from SSI benefits under Public Law Number 104-193. County agencies shall use their allocation of CASHAP funds to help meet the long-term housing needs of the legal noncitizens described in paragraph (a).

(c) If at any time federal SSI benefits are restored for the legal noncitizens described in paragraph (a), the commissioner shall direct the county agencies to redetermine the eligibility of those legal noncitizens for SSI benefits, and convert all legal noncitizens eligible for SSI benefits to the SSI program and utilize available federal funds for those eligible persons. Legal noncitizens who are converted to federal benefit status are not eligible for assistance under CASHAP. Legal noncitizens who apply for assistance under CASHAP subsequent to the date that the federal government restores SSI benefits to legal noncitizens must first be screened for federal benefit eligibility.

(d) Funds appropriated for CASHAP but not expended in fiscal year 1998 do not cancel to the general fund, but are transferred to the MFIP-S/TANF reserve account created under Minnesota Statutes, section 256J.03.

Subd. 12. Federal TANF Funds

FEDERAL TANF FUNDS. Federal Temporary Assistance for Needy Families block grant funds authorized under title I of Public Law Number 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, are appropriated to the commissioner in amounts up to \$276,741,000 in fiscal year 1998 and \$265,795,000 in fiscal year 1999.

Sec. 3. COMMISSIONER OF HEALTH

Subdivision 1. Total

Appropriation	72,642,000	71,996,000
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Summary by Fund

General	50,589,000	49,733,000
Metropolitan Landfill Contingency		
Action Fund	193,000	193,000
State Government		
Special Revenue	21,860,000	22,070,000
Minnesota Resources	150,000	-0-

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

Subd. 2. Health Systems and Special Populations		48,517,000	48,233,000
	Summary by Fund		
General	39,295,000	38,998,000	
State Government			
Special Revenue	9,222,000	9,235,000	

FEES; DRUG AND ALCOHOL COUNSELOR LICENSE. When setting fees for the drug and alcohol counselor license, the department is exempt from Minnesota Statutes, section 16A.1285, subdivision 2.

STATE VITAL STATISTICS REDESIGN PROJECT ACCOUNT. The amount appropriated from the state government special revenue fund for the vital records redesign project shall be available until expended for development and implementation.

WIC PROGRAM. Of this appropriation, \$650,000 in 1998 is provided to maintain services of the program, \$700,000 in 1998 and \$700,000 in 1999 is added to the base level funding for the WIC food program in order to maintain the existing level of the program, and \$100,000 in 1998 is for the commissioner to develop and implement an outreach program to apprise potential recipients of the WIC food program of the importance of good nutrition and the availability of the program.

WIC TRANSFERS. General fund appropriations for the women, infants, and children (WIC) food supplement program 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.

LOCAL PUBLIC HEALTH FINANCING. Of the general fund appropriation, \$5,000,000 each year shall be disbursed for

local public health financing and shall be distributed according to the community health service subsidy formula in Minnesota Statutes, section 145A.13.

MINNESOTA CHILDREN WITH SPECIAL HEALTH NEEDS CARRYOVER.

General fund appropriations for treatment services in the services for children with special health care needs program are available for either year of the biennium.

HEALTH CARE ASSISTANCE FOR DISABLED CHILDREN INELIGIBLE FOR SSI. Notwithstanding the requirements of Minnesota Rules, part 4705.0100, subpart 14, children who: (a) are eligible for medical assistance as of June 30, 1997, and become ineligible for medical assistance due to changes in supplemental security income disability standards for children enacted in (PRWORA) Public Law Number 104-193; and (b) are not eligible for MinnesotaCare, are eligible for health care services through Minnesota services for children with special health care needs under Minnesota Rules, parts 4705.0100 to 4705.1600 for the fiscal year ending June 30, 1998, until eligibility for medical assistance is reestablished. The commissioner of health shall report to the legislature by March 1, 1998, on the number of children eligible under this provision, their health care needs, family income as a percentage of the federal poverty level, the extent to which families have employer-based health coverage, and recommendations on how to meet the future needs of children eligible under this provision.

AMERICAN INDIAN DIABETES. Of this appropriation, \$90,000 each year shall be disbursed for a comprehensive school-based intervention program designed to reduce the risk factors associated with diabetes among American Indian school children in grades 1 through 4. The appropriation for 1998 may be carried forward to 1999. The appropriation for fiscal year 1999 is available only if matched by \$1 of nonstate money for each \$1 of the appropriation and

may be expended in either year of the biennium. The commissioner shall convene an American Indian diabetes prevention advisory task force. The task force must include representatives from the American Indian tribes located in the state and urban American Indian representatives. The task force shall advise the commissioner on the adaptation of curricula and the dissemination of information designed to reduce the risk factors associated with diabetes among American Indian school children in grades 1 through 4. The curricula and information must be sensitive to traditional American Indian values and culture and must encourage full participation by the American Indian community.

HOME VISITING PROGRAMS. (a) Of this appropriation, \$140,000 in 1998 and \$870,000 in 1999 is for the home visiting programs for infant care under Minnesota Statutes, section 145A.16. These amounts are available until June 30, 1999.

(b) Of this appropriation, \$225,000 in 1998 and \$180,000 in 1999 is to continue funding the home visiting programs that received one-year funding under Laws 1995, chapter 480, article 1, section 9. This amount is available until expended.

FETAL ALCOHOL SYNDROME. Of the general fund appropriation, \$625,000 each year of the biennium shall be disbursed to prevent and reduce harm from fetal alcohol syndrome and fetal alcohol effect.

COMPLAINT INVESTIGATIONS. Of the appropriation, \$127,000 each year from the state government special revenue fund, and \$75,000 each year from the general fund, is for the commissioner to conduct complaint investigations of nursing facilities, hospitals and home health care providers.

COMPLEMENTARY MEDICINE STUDY. (a) Of the general fund appropriation, \$20,000 in fiscal year 1998 shall be disbursed for the commissioner of health, in consultation with the commissioner of commerce, to conduct a study based on existing literature, information, and data on the scope

of complementary medicine offered in this state. The commissioner shall:

- (1) include the types of complementary medicine therapies available in this state;
- (2) contact national and state complementary medicine associations for literature, information, and data;
- (3) conduct a general literary review for information and data on complementary medicine;
- (4) contact the departments of commerce and human services for information on existing registrations, licenses, certificates, credentials, policies, and regulations; and
- (5) determine by sample, if complementary medicine is currently covered by health plan companies and the extent of the coverage.

In conducting this review, the commissioner shall consult with the office of alternative medicine through the National Institute of Health.

(b) The commissioner shall, in consultation with the advisory committee, report the study findings to the legislature by January 15, 1998. As part of the report, the commissioner shall make recommendations on whether the state should credential or regulate any of the complementary medicine providers.

(c) The commissioner shall appoint an advisory committee to provide expertise and advice on the study. The committee must include representation from the following groups: health care providers, including providers of complementary medicine; health plan companies; and consumers. The advisory committee is governed by Minnesota Statutes, section 15.059, for membership terms and removal of members.

(d) For purposes of this study, the term "complementary medicine" includes, but is not limited to, acupuncture, homeopathy, manual healing, macrobiotics, naturopathy, biofeedback, mind/body control therapies, traditional and ethnomedicine therapies, structural manipulations and energetic thera-

pies, bioelectromagnetic therapies, and herbal medicine.

DOWN'S SYNDROME. Of the general fund appropriation, \$15,000 in fiscal year 1998 shall be disbursed for a grant to a non-profit organization that provides support to individuals with Down's Syndrome and their families, for the purpose of providing all obstetricians, certified nurse-midwives, and family physicians licensed to practice in this state with informational packets on Down's Syndrome. The packets must include, at a minimum, a fact sheet on Down's Syndrome, a list of counseling and support groups for families with children with Down's Syndrome, and a list of special needs adoption resources. The informational packets must be made available to any pregnant patient who has tested positive for Down's Syndrome, either through a screening test or amniocentesis.

NEWBORN SCREENING FOR HEARING LOSS PROGRAM IMPLEMENTATION PLAN. (a) Of the general fund appropriation, \$18,000 in fiscal year 1998 shall be disbursed to pay the costs of coordinating with hospitals, the medical community, audiologists, insurance companies, parents, and deaf and hard-of-hearing citizens to establish and implement a voluntary plan for hospitals and other health care facilities to screen all infants for hearing loss.

(b) The plan to achieve universal screening of infants for hearing loss on a voluntary basis shall be formulated by a department work group, including the following representatives:

- (1) a representative of the health insurance industry designated by the health insurance industry;
- (2) a representative of the Minnesota Hospital and Healthcare Partnership;
- (3) a total of two representatives from the following physician groups designated by the Minnesota Medical Association: pediatrics, family practice, and ENT;

- (4) two audiologists designated by the Minnesota Speech-Language-Hearing Association and the Minnesota Academy of Audiology;
- (5) a representative of hospital neonatal nurseries;
- (6) a representative of part H (IDEA) early childhood special education;
- (7) the commissioner of health or a designee;
- (8) a representative of the department of human services;
- (9) a public health nurse;
- (10) a parent of a deaf or hard-of-hearing child;
- (11) a deaf or hard-of-hearing person; and
- (12) a representative of the Minnesota commission serving deaf and hard-of-hearing people.

Members of the work group shall not collect a per diem or compensation as provided in Minnesota Statutes, section 15.0575.

(c) The plan shall include measurable goals and timetables for the achievement of universal screening of infants for hearing loss throughout the state and shall include the design and implementation of needed training to assist hospitals and other health care facilities screen infants for hearing loss according to recognized standards of care.

(d) The work group shall report to the legislature by January 15, 1998, concerning progress toward the achievement of universal screening of infants in Minnesota for the purpose of assisting the legislature to determine whether this goal can be accomplished on a voluntary basis.

INFANT HEARING SCREENING PROGRAM. Of the general fund appropriation, \$25,000 in fiscal year 1998 shall be disbursed for a grant to a hospital in Staples, Minnesota, for the infant hearing screening program.

NURSING HOMES DAMAGED BY FLOODS. The commissioner shall conduct an expedited process under Minnesota Statutes, section 144A.073, solely to review

nursing home moratorium exceptions necessary to repair or replace nursing facilities damaged by spring flooding in 1997. The commissioner may not issue a request for proposals for moratorium projects not related to spring flooding until this expedited process is completed. For facilities that require total replacement and the relocation of residents to other facilities during construction, the operating cost payment rates for the new facility shall be determined using the interim and settle-up payment provisions of Minnesota Rules, part 9549.0057, and the reimbursement provisions of Minnesota Statutes, section 256B.431, except that subdivision 25, paragraphs (b), clause (3), and (d), shall not apply until the second rate year after the settle-up cost report is filed. Property-related reimbursement rates shall be determined under Minnesota Rules, chapter 9549, taking into account any federal or state flood-related loans or grants provided to a facility. The medical assistance costs of this paragraph shall be paid from the amount made available in section 2 of this article for moratorium exceptions. This paragraph is effective the day following final enactment and is not subject to section 13 of this article.

Subd. 3. Health Protection		20,875,000	20,588,000
	Summary by Fund		
General	8,202,000	7,718,000	
Metro Landfill			
Contingency	193,000	193,000	
State Government			
Special Revenue	12,480,000	12,677,000	

HIV/AIDS PREVENTION. (a) Of the general fund appropriation, \$500,000 in fiscal year 1998 shall be disbursed to provide funding for HIV/AIDS prevention grants under Minnesota Statutes, section 145.924.

(b) Of the general fund appropriation, \$100,000 each year shall be disbursed for activities related to prevention of perinatal transmission of HIV, a statewide education campaign for pregnant women and their health care providers, and demonstration grants to providers to develop procedures for

incorporating HIV awareness and education into perinatal care.

(c) The appropriations in paragraphs (a) and (b) shall not become part of base-level funding for the biennium beginning July 1, 1999.

PLAN AND EVALUATION REQUIRED. Of this appropriation, \$100,000 for the biennium is for the commissioner to plan for and evaluate the effects of Minnesota Statutes, sections 151.40, subdivision 18, paragraph (b), 325F.785, and 145.924. The commissioner shall submit an interim report to the legislature by January 15, 1998, including a plan for implementing the syringe access initiative to prevent HIV as authorized in Minnesota Statutes, sections 151.40, 325F.785, and 145.924. The plan shall include, but not be limited to, strategies for coordinating the efforts of the commissioner, community health organizations, community-based HIV service organizations, pharmacists, and sellers as defined in Minnesota Statutes, section 325F.785, and others to provide information about the prevention initiative, to maximize opportunities to make referrals to health services, to collect used syringes, and to evaluate the initiative's impact. A final report, including evaluation, is due by January 15, 2002. The commissioner may seek funding from federal, local, and private sources for this purpose. The reports shall be presented to the house judiciary and health and human services committees and to the senate crime prevention and health and family security committees.

Subd. 4. Management and Support Services

	3,250,000	3,175,000
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Summary by Fund

General	3,092,000	3,017,000
State Government		
Special Revenue	158,000	158,000

HEALTH DEPARTMENT COMPUTER PROJECTS. Money appropriated for computer projects approved by the information policy office, funded by the legislature, and approved by the commissioner of finance

does not cancel but is available for development and implementation.

HOSPITAL CONVERSION. Of the appropriation from the general fund, for the fiscal year ending June 30, 1998, the commissioner of health shall provide \$75,000 to a 28-bed hospital located in Chisago county that is in the process of closing and converting to an outpatient and emergency services facility, for the facility's EMS and advanced life support services.

**Sec. 4. VETERANS NURSING
HOMES BOARD**

21,489,000

22,272,000

SPECIAL REVENUE ACCOUNT. The general fund appropriations made to the veterans homes board shall be transferred to a veterans homes special revenue account in the special revenue fund in the same manner as other receipts are deposited according to Minnesota Statutes, section 198.34, and are appropriated to the veterans homes board of directors for the operation of board facilities and programs.

SETTING THE COST OF CARE. The veterans homes board may set the cost of care at the Fergus Falls facility for fiscal year 1998 based on the cost of average skilled nursing care provided to residents of the Minneapolis veterans home for fiscal year 1998. The board may set the cost of care at the Fergus Falls facilities for fiscal year 1999 based on the cost of average skilled nursing care for residents of the Minneapolis veterans home for fiscal year 1999.

LICENSED CAPACITY. The department of health shall not reduce the licensed bed capacity for the Minneapolis veterans home pending completion of the project authorized by Laws 1990, chapter 61.0, article 1, section 9, subdivision 3.

ALLOWANCE FOR FOOD. The allowance for food may be adjusted annually to reflect changes in the producer price index, as prepared by the United States Bureau of Labor Statistics, with the approval of the commissioner of finance. Adjustments for fiscal year 1998 and fiscal year 1999 must be based

on the June 1996 and June 1997 producer price index respectively, but the adjustment must be prorated if it would require money in excess of the appropriation.

Sec. 5. HEALTH-RELATED BOARDS

Subdivision 1. Total
Appropriation

9,598,000 9,618,000

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

NO SPENDING IN EXCESS OF REVENUES. The commissioner of finance shall not permit the allotment, encumbrance, or expenditure of money appropriated in this section in excess of the anticipated biennial revenues or accumulated surplus revenues from fees collected by the boards. Neither this provision nor Minnesota Statutes, section 214.06, applies to transfers from the general contingent account.

Subd. 2. Board of Chiropractic
Examiners

332,000 340,000

Subd. 3. Board of Dentistry

742,000 760,000

Subd. 4. Board of Dietetic
and Nutrition Practice

90,000 90,000

Subd. 5. Board of Marriage and
Family Therapy

103,000 104,000

Subd. 6. Board of Medical
Practice

3,672,000 3,711,000

HEALTH PROFESSIONAL SERVICES ACTIVITY. Of these appropriations, \$291,000 the first year and \$296,000 the second year are for the Health Professional Services Activity.

Subd. 7. Board of Nursing

2,067,000 2,106,000

DISCIPLINE AND LICENSING SYSTEMS PROJECT. Of this appropriation, \$235,000 the first year and \$235,000 the second year is to complete the implementation of the discipline and licensing systems project.

Subd. 8. Board of Nursing Home Administrators	177,000	181,000
Subd. 9. Board of Optometry	82,000	85,000
Subd. 10. Board of Pharmacy	1,020,000	1,040,000

ADMINISTRATIVE SERVICES UNIT.

Of this appropriation, \$216,000 the first year and \$222,000 the second year are for the health boards administrative services unit. The administrative services unit may receive and expend reimbursements for services performed for other agencies.

Subd. 11. Board of Podiatry	33,000	33,000
Subd. 12. Board of Psychology	424,000	436,000
Subd. 13. Board of Social Work	715,000	588,000
Subd. 14. Board of Veterinary Medicine	141,000	144,000
Sec. 6. EMERGENCY MEDICAL SERVICES BOARD	2,494,000	2,262,000

Summary by Fund

General	842,000	584,000
Trunk Highway	1,652,000	1,678,000

COMPREHENSIVE ADVANCED LIFE SUPPORT (CALS). Of this appropriation, \$200,000 in fiscal year 1998 shall be disbursed to implement the comprehensive advanced life support (CALS) program or similar program and \$6,000 is for administrative costs of implementing the CALS program.

EMS BOARD DATA COLLECTION. Of this appropriation, \$52,000 for the biennium ending June 30, 1999, is from the general fund to the emergency medical services regulatory to be used as start-up costs for the financial data collection system.

Sec. 7. COUNCIL ON DISABILITY	616,000	631,000
Sec. 8. OMBUDSMAN FOR MENTAL HEALTH AND MENTAL RETARDATION	1,399,000	1,298,000

CARRYOVER. \$25,000 of the appropriation from Laws 1995, chapter 207, article 1, section 7, does not cancel but is available until June 30, 1999.

Sec. 9. OMBUDSMAN
FOR FAMILIES

157,000

161,000

Sec. 10. TRANSFERS

Subdivision 1. Grant Programs

The commissioner of human services, with the approval of the commissioner of finance, and after notification of the chair of the senate health and family security budget division and the chair of the house health and human services finance division, may transfer unencumbered appropriation balances for the biennium ending June 30, 1999, within fiscal years among the aid to families with dependent children, Minnesota family investment program—statewide, Minnesota family investment plan, general assistance, general assistance medical care, medical assistance, Minnesota supplemental aid, and group residential housing programs, and the entitlement portion of the chemical dependency consolidated treatment fund, and between fiscal years of the biennium.

Subd. 2. Approval Required

Positions, salary money, and nonsalary administrative money may be transferred within the departments of human services and health and within the programs operated by the veterans nursing homes board as the commissioners and the board consider necessary, with the advance approval of the commissioner of finance. The commissioner of finance shall inform the chairs of the house health and human services finance division and the senate health and family security budget division quarterly about transfers made under this provision.

Subd. 3. Transfer

Funding appropriated by the legislature may not be transferred to a different department than specified by the legislature without legislative authority.

Sec. 11. PROVISIONS

(a) Money appropriated to the commissioner of human services for the purchase of provisions within the item "current expense" must

be used solely for that purpose. Money provided and not used for the 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 drugs and medical and hospital supplies and equipment with written approval of the governor after consultation with the legislative advisory commission.

(b) For fiscal year 1998, the allowance for food may be adjusted to the equivalent of the 75th percentile of the comparable raw food costs for community nursing homes as reported to the commissioner of human services. For fiscal year 1999 an adjustment may be made to reflect the annual change in the United States Bureau of Labor Statistics producer price index as of June 1998 with the approval of the commissioner of finance. The adjustments for either year must be prorated if they would require money in excess of this appropriation.

Sec. 12. CARRYOVER LIMITATION

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

Sec. 13. SUNSET OF UNCODIFIED LANGUAGE

All uncodified language contained in this article expires on June 30, 1999, unless a different expiration date is explicit.

Sec. 14. COMMISSIONER OF ADMINISTRATION

1,270,000

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VETERANS HOMES IMPROVEMENTS. Of this appropriation, \$1,270,000 for the biennium is for the commissioner to accomplish the repair and replacement of sanitary sewers, fire protection water mains, roof drains, and deep sandstone tunnels at the Minneapolis veterans home, Minneapolis campus.

ARTICLE 2

HEALTH DEPARTMENT

Section 1. **[62J.49] AMBULANCE SERVICES FINANCIAL DATA.**

Subdivision 1. ESTABLISHMENT. The emergency medical services regulatory board established under chapter 144 shall establish a financial data collection system for all ambulance services licensed in this state. To establish the financial database, the emergency medical services regulatory board may contract with an entity that has experience in ambulance service financial data collection.

Subd. 2. DATA CLASSIFICATION. All financial data collected by the emergency medical services regulatory board shall be classified as nonpublic data under section 13.02, subdivision 9.

Sec. 2. Minnesota Statutes 1996, section 62J.69, subdivision 2, is amended to read:

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

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

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

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

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

(3) the total number, type, and specialty orientation of eligible Minnesota-based trainees in each accredited medical education program applying for which funds are being sought;

New language is indicated by underline, deletions by strikeout.

- (4) audited clinical training costs per trainee for each medical education program;
- (5) a description of current sources of funding for medical education costs including a description and dollar amount of all state and federal financial support;
- (6) other revenue received for the purposes of clinical training;
- (7) a statement identifying unfunded costs; and
- (8) other supporting information the commissioner, with advice from the advisory committee, determines is necessary for the equitable distribution of funds.

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

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

- (1) the total number of eligible trainees in the program;
- (2) the type of programs and residencies funded, the amounts of trust fund payments to each program, and within each program, the percentage distributed to each training site;
- (3) the average cost per trainee and a detailed breakdown of the components of those costs;
- (4) other state or federal appropriations received for the purposes of clinical training;
- (5) other revenue received for the purposes of clinical training; and
- (6) other information the commissioner, with advice from the advisory committee, deems appropriate to evaluate the effectiveness of the use of funds for clinical training.

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

- (f) The commissioner is authorized to distribute funds made available through:
 - (1) voluntary contributions by employers or other entities;

New language is indicated by underline, deletions by strikeout.

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

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

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

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

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

Sec. 3. Minnesota Statutes 1996, section 62J.69, is amended by adding a subdivision to read:

Subd. 3. MEDICAL ASSISTANCE AND GENERAL ASSISTANCE SERVICE. The commissioner of health, in consultation with the medical education and research costs advisory committee, shall develop a system to recognize those teaching programs which serve higher numbers or high proportions of public program recipients and shall report to the legislative commission on health care access by January 15, 1998, on an allocation formula to implement this system.

Sec. 4. Minnesota Statutes 1996, section 103I.101, subdivision 6, is amended to read:

Subd. 6. FEES FOR VARIANCES. The commissioner shall charge a nonrefundable application fee of ~~\$100~~ \$120 to cover the administrative cost of processing a request for a variance or modification of rules adopted by the commissioner under this chapter.

Sec. 5. Minnesota Statutes 1996, section 103I.208, is amended to read:

103I.208 WELL NOTIFICATION FILING FEES AND PERMIT FEES.

Subdivision 1. WELL NOTIFICATION FEE. The well notification fee to be paid by a property owner is:

(1) for a new well, ~~\$100~~ \$120, which includes the state core function fee; and

(2) for a well sealing, \$20, which includes the state core function fee; and

(3) for construction of a dewatering well, ~~\$100~~ \$120, which includes the state core function fee, for each well except a dewatering project comprising five or more wells shall be assessed a single fee of ~~\$500~~ \$600 for the wells recorded on the notification.

Subd. 1a. STATE CORE FUNCTION FEE. The state core function fee to be collected by the state and delegated boards of health and used to support state core functions is:

(1) for a new well, \$20; and

(2) for a well sealing, \$5.

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

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

- (1) for a well that is not in use under a maintenance permit, \$100 annually;
- (2) for construction of a monitoring well, ~~\$100~~ \$120, which includes the state core function fee;
- (3) for a monitoring well that is unsealed under a maintenance permit, \$100 annually;
- (4) for monitoring wells used as a leak detection device at a single motor fuel retail outlet or petroleum bulk storage site excluding tank farms, the construction permit fee is ~~\$100~~ \$120, which includes the state core function fee, per site regardless of the number of wells constructed on the site, and the annual fee for a maintenance permit for unsealed monitoring wells is \$100 per site regardless of the number of monitoring wells located on site;
- (5) for a groundwater thermal exchange device, in addition to the notification fee for wells, ~~\$100~~ \$120, which includes the state core function fee;
- (6) for a vertical heat exchanger, ~~\$100~~ \$120; and
- (7) for a dewatering well that is unsealed under a maintenance permit, \$100 annually for each well, except a dewatering project comprising more than five wells shall be issued a single permit for \$500 annually for wells recorded on the permit; and
- (8) for excavating holes for the purpose of installing elevator shafts, \$120 for each hole.

Sec. 6. Minnesota Statutes 1996, section 103I.401, subdivision 1, is amended to read:

Subdivision 1. **PERMIT REQUIRED.** (a) A person may not construct an elevator shaft until a permit for the hole or excavation is issued by the commissioner.

(b) ~~The fee for excavating holes for the purpose of installing elevator shafts is \$100 for each hole.~~

(e) The elevator shaft permit preempts local permits except local building permits, and counties and home rule charter or statutory cities may not require a permit for elevator shaft holes or excavations.

Sec. 7. Minnesota Statutes 1996, section 144.121, subdivision 1, is amended to read:

Subdivision 1. **REGISTRATION; FEES.** The fee for the registration for X-ray machines and radium other sources of ionizing radiation required to be registered under rules adopted by the state commissioner of health pursuant to section 144.12, shall be in an amount prescribed by the commissioner as described in subdivision 1a pursuant to section 144.122. ~~The first fee for registration shall be due on January 1, 1975.~~ The registration shall expire and be renewed as prescribed by the commissioner pursuant to section 144.122.

New language is indicated by underline, deletions by strikeout.

Sec. 8. Minnesota Statutes 1996, section 144.121, is amended by adding a subdivision to read:

Subd. 1a. FEES FOR X-RAY MACHINES AND OTHER SOURCES OF IONIZING RADIATION. A facility with x-ray machines or other sources of ionizing radiation must biennially pay an initial or biennial renewal registration fee consisting of a base facility fee of \$132 and an additional fee for each x-ray machine or other source of ionizing radiation as follows:

<u>(1) medical or veterinary equipment</u>	<u>\$106</u>
<u>(2) dental x-ray equipment</u>	<u>\$ 66</u>
<u>(3) accelerator</u>	<u>\$132</u>
<u>(4) radiation therapy equipment</u>	<u>\$132</u>
<u>(5) x-ray equipment not used on humans or animals</u>	<u>\$106</u>
<u>(6) devices with sources of ionizing radiation not used on humans or animals</u>	<u>\$106</u>
<u>(7) sources of radium</u>	<u>\$198</u>

Sec. 9. Minnesota Statutes 1996, section 144.121, is amended by adding a subdivision to read:

Subd. 1b. PENALTY FEE FOR LATE REGISTRATION. Applications for initial or renewal registrations submitted to the commissioner after the time specified by the commissioner shall be accompanied by a penalty fee of \$20 in addition to the fees prescribed in subdivision 1a.

Sec. 10. Minnesota Statutes 1996, section 144.121, is amended by adding a subdivision to read:

Subd. 1c. FEE FOR X-RAY MACHINES AND OTHER SOURCES OF IONIZING RADIATION REGISTERED DURING LAST 12 MONTHS OF A BIENNIAL REGISTRATION PERIOD. The initial registration fee of x-ray machines or other sources of radiation required to be registered during the last 12 months of a biennial registration period will be 50 percent of the applicable registration fee prescribed in subdivision 1a.

Sec. 11. Minnesota Statutes 1996, section 144.125, is amended to read:

144.125 TESTS OF INFANTS FOR INBORN METABOLIC ERRORS.

It is the duty of (1) the administrative officer or other person in charge of each institution caring for infants 28 days or less of age and (2) the person required in pursuance of the provisions of section 144.215, to register the birth of a child, to cause to have administered to every infant or child in its care tests for hemoglobinopathy, phenylketonuria, and other inborn errors of metabolism in accordance with rules prescribed by the state commissioner of health. In determining which tests must be administered, the commissioner shall take into consideration the adequacy of laboratory methods to detect the inborn metabolic error, the ability to treat or prevent medical conditions caused by the inborn metabolic error, and the severity of the medical conditions caused by the inborn metabolic error. Testing and the recording and reporting of the results of the tests shall be performed at the times and in the manner prescribed by the commissioner of health. The commissioner shall charge laboratory service fees for conducting the tests of infants for inborn metabol-

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

ic errors so that the total of fees collected will approximate the costs of conducting the tests and implementing and maintaining a system to follow-up infants with inborn metabolic errors. Costs associated with capital expenditures and the development of new procedures may be prorated over a three-year period when calculating the amount of the fees.

Sec. 12. Minnesota Statutes 1996, section 144.226, subdivision 1, is amended to read:

Subdivision 1. **WHICH SERVICES ARE FOR FEE.** The fees for any of the following services shall be in the following or an amount prescribed by rule of the commissioner:

(a) The fee for the issuance of a certified copy or certification of a vital record, or a certification that the record cannot be found; is \$8. No fee shall be charged for a certified birth or death record that is reissued within one year of the original issue, if the previously issued record is surrendered.

(b) The fee for the replacement of a birth certificate; record for all events except adoption is \$20.

(c) The fee for the filing of a delayed registration of birth or death; is \$20.

(d) The alteration, correction, or completion fee for the amendment of any vital record; provided that when requested more than one year after the filing of the record is \$20. No fee shall be charged for an alteration, correction, or completion amendment requested within one year after the filing of the certificate; and.

(e) The fee for the verification of information from ~~or noncertified~~ copies of vital records is \$8 when the applicant furnishes the specific information to locate the record. When the applicant does not furnish specific information, the fee is \$20 per hour for staff time expended. Specific information shall include the correct date of the event and the correct name of the registrant. Fees charged shall approximate the costs incurred in searching and copying the records. The fee shall be payable at time of application.

(f) The fee for issuance of a certified or noncertified copy of any document on file pertaining to a vital record or a certification that the record cannot be found is \$8.

Sec. 13. Minnesota Statutes 1996, section 144.226, is amended by adding a subdivision to read:

Subd. 4. **VITAL RECORDS SURCHARGE.** In addition to any fee prescribed under subdivision 1, there is a nonrefundable surcharge of \$3 for each certified and noncertified birth or death record. The local or state registrar shall forward this amount to the state treasurer to be deposited into the state government special revenue fund. This surcharge shall not be charged under those circumstances in which no fee for a birth or death record is permitted under subdivision 1, paragraph (a). This surcharge requirement expires June 30, 2002.

New language is indicated by underline, deletions by strikeout.

Sec. 14. Minnesota Statutes 1996, section 144.394, is amended to read:

144.394 SMOKING PREVENTION HEALTH PROMOTION AND EDUCATION.

The commissioner may sell at market value, all nonsmoking or tobacco use prevention advertising health promotion and health education materials. Proceeds from the sale of the advertising materials are appropriated to the department of health for its nonsmoking the program that developed the material.

Sec. 15. Minnesota Statutes 1996, section 145.925, subdivision 9, is amended to read:

Subd. 9. **RULES; REGIONAL FUNDING.** 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. The commissioner shall allocate to an organization receiving grant funds on July 1, 1997, at least the same amount of grant funds for the 1998 to 1999 grant cycle as the organization received for the 1996 to 1997 grant cycle, provided the organization submits an application that meets grant funding criteria. 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. 16. [145A.16] UNIVERSALLY OFFERED HOME VISITING PROGRAMS FOR INFANT CARE.

Subdivision 1. **ESTABLISHMENT.** The commissioner shall establish a grant program to fund universally offered home visiting programs designed to serve all live births in designated geographic areas. The commissioner shall designate the geographic area to be served by each program. At least one program must provide home visiting services to families within the seven-county metropolitan area, and at least one program must provide home visiting services to families outside the metropolitan area. The purpose of the program is to strengthen families and to promote positive parenting and healthy child development.

Subd. 2. **STEERING COMMITTEE.** The commissioner shall establish an ad hoc steering committee to develop and implement a comprehensive plan for the universally offered home visiting programs. The members of the ad hoc steering committee shall include, at a minimum, representatives of local public health departments, public health nurses, other health care providers, paraprofessionals, community-based family workers, representatives of the state councils of color, representatives of health insurance plans, and other individuals with expertise in the field of home visiting, early childhood health and development, and child abuse prevention.

Subd. 3. **PROGRAM REQUIREMENTS.** The commissioner shall award grants using a request for proposal system. Existing home visiting programs or a family services

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

collaborative established under section 256F.13 may apply for the grants. Health information and assessment, counseling, social support, educational services, and referral to community resources must be offered to all families, regardless of need or risk, beginning prenatally or as soon after birth as possible, and continuing as needed. Each program applying for a grant must have access to adequate community resources to complement the home visiting services and must be designed to:

(1) identify all newborn infants within the geographic area served by the program. Identification may be made prenatally or at the time of birth;

(2) offer a home visit by a trained home visitor. The offer of a home visit must be made in a way that guarantees that the existence of the pregnancy is not revealed to any other individual without the written consent of the pregnant female. If home visiting is accepted, the first visit must occur prenatally or as soon after birth as possible and must include a public health nursing assessment by a public health nurse;

(3) offer, at a minimum, information on infant care, child growth and development, positive parenting, the prevention of disease and exposure to environmental hazards, and support services available in the community;

(4) provide information on and referral to health care services, if needed, including information on health care coverage for which the individual or family may be eligible and information on family planning, pediatric preventive services, immunizations, and developmental assessments, and information on the availability of public assistance programs as appropriate;

(5) recruit home visit workers who will represent, to the extent possible, all the races, cultures, and languages spoken by eligible families in the designated geographic areas; and

(6) train and supervise home visitors in accordance with the requirements established under subdivision 5.

Subd. 4. COORDINATION. To minimize duplication, a program receiving a grant must establish a coalition that includes parents, health care providers who provide services to families with young children in the service area, and representatives of local schools, governmental and nonprofit agencies, community-based organizations, health insurance plans, and local hospitals. A program may use a family services collaborative as the coalition if a collaborative is established in the area served by the program. The coalition must designate the roles of all provider agencies, family identification methods, referral mechanisms, and payment responsibilities appropriate for the existing systems in the program's service area. The coalition must also coordinate with other programs offered by school boards under section 121.882, subdivision 2b, and programs offered under section 145A.15.

Subd. 5. TRAINING. The commissioner shall establish training requirements for home visitors and minimum requirements for supervision by a public health nurse. The requirements for nurses must be consistent with chapter 148. Training must include child development, positive parenting techniques, and diverse cultural practices in child rearing and family systems. A program may use grant money to train home visitors.

Subd. 6. EVALUATION. (a) The commissioner shall evaluate the effectiveness of the home visiting programs, taking into consideration the following goals:

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- (1) appropriate child growth, development, and access to health care;
- (2) appropriate utilization of preventive health care and medical care for acute illnesses;
- (3) lower rates of substantiated child abuse and neglect;
- (4) up-to-date immunizations;
- (5) a reduction in unintended pregnancies;
- (6) increasing families' understanding of lead poisoning prevention;
- (7) lower rates of unintentional injuries; and
- (8) fewer hospitalizations and emergency room visits.

(b) The commissioner shall compare overall outcomes of universally offered home visiting programs with targeted home visiting programs and report the findings to the legislature. The report must also include information on how home visiting programs will coordinate activities and preventive services provided by health plans and other organizations.

(c) The commissioner shall report to the legislature by February 15, 1998, on the comprehensive plan for the universally offered home visiting programs and recommend any draft legislation needed to implement the plan. The commissioner shall report to the legislature biennially beginning December 15, 2001, on the effectiveness of the universally offered home visiting programs. In the report due December 15, 2001, the commissioner shall include recommendations on the feasibility and cost of expanding the program statewide.

Subd. 7. TECHNICAL ASSISTANCE. The commissioner shall provide administrative and technical assistance to each program, including assistance conducting short- and long-term evaluations of the home visiting program required under subdivision 6. The commissioner may request research and evaluation support from the University of Minnesota.

Subd. 8. MATCHING FUNDS. The commissioner and the grant programs shall seek to supplement any state funding with private and other nonstate funding sources, including other grants and insurance coverage for services provided. Program funding may be used only to supplement, not to replace, existing funds being used for home visiting.

Subd. 9. PAYMENT FOR HOME VISITING SERVICES. Any health plan that provides services to families or individuals enrolled in medical assistance, general assistance medical care, or the MinnesotaCare program must contract with the programs receiving grants under this section and the programs established under section 145A.15 that are providing home visiting services in the area served by the health plan to provide home visiting services covered under medical assistance, general assistance medical care, or the MinnesotaCare program to their enrollees. A health plan may require a home visiting program to comply with the health plan's requirements on the same basis as the health plan's other participating providers.

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Sec. 17. Minnesota Statutes 1996, section 151.40, is amended to read:

151.40 POSSESSION AND SALE OF HYPODERMIC SYRINGES AND NEEDLES.

Subdivision 1. **GENERALLY.** Except as otherwise provided in subdivision 2, it shall be is unlawful for any person to possess, control, manufacture, sell, furnish, dispense, or otherwise dispose of hypodermic syringes or needles or any instrument or implement which can be adapted for subcutaneous injections, except by the following persons when acting in the course of their practice or employment: licensed practitioners, registered pharmacies and their employees or agents, licensed pharmacists, licensed doctors of veterinary medicine or their assistants, registered nurses, registered medical technologists, medical interns, licensed drug wholesalers, their employees or agents, licensed hospitals, licensed nursing homes, bona fide hospitals where animals are treated, licensed morticians, syringe and needle manufacturers, their dealers and agents, persons engaged in animal husbandry, clinical laboratories, persons engaged in bona fide research or education or industrial use of hypodermic syringes and needles provided such persons cannot use hypodermic syringes and needles for the administration of drugs to human beings unless such drugs are prescribed, dispensed, and administered by a person lawfully authorized to do so, persons who administer drugs pursuant to an order or direction of a licensed doctor of medicine or of a licensed doctor of osteopathy duly licensed to practice medicine.

Subd. 2. **SALES OF LIMITED QUANTITIES OF CLEAN NEEDLES AND SYRINGES.** (a) A registered pharmacy or its agent or a licensed pharmacist may sell, without a prescription, unused hypodermic needles and syringes in quantities of ten or fewer, provided the pharmacy or pharmacist complies with all of the requirements of this subdivision.

(b) At any location where hypodermic needles and syringes are kept for retail sale under this subdivision, the needles and syringes shall be stored in a manner that makes them available only to authorized personnel and not openly available to customers.

(c) No registered pharmacy or licensed pharmacist may advertise to the public the availability for retail sale, without a prescription, of hypodermic needles or syringes in quantities of ten or fewer.

(d) A registered pharmacy or licensed pharmacist that sells hypodermic needles or syringes under this subdivision may give the purchaser the materials developed by the commissioner of health under section 325F.785.

(e) A registered pharmacy or licensed pharmacist that sells hypodermic needles or syringes must certify to the commissioner of health participation in an activity, including but not limited to those developed under section 325F.785, that supports proper disposal of used hypodermic needles or syringes.

Sec. 18. Minnesota Statutes 1996, section 153A.17, is amended to read:

153A.17 EXPENSES; FEES.

The expenses for administering the certification requirements including the complaint handling system for hearing aid dispensers in sections 153A.14 and 153A.15 and the consumer information center under section 153A.18 must be paid from initial ap-

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plication and examination fees, renewal fees, penalties, and fines. All fees are nonrefundable. The certificate application fee is ~~\$280~~ \$165 for audiologists registered under section 148.511 and \$490 for all others, the examination fee is \$200 for the written portion and \$200 for the practical portion each time one or the other is taken, and the trainee application fee is \$100, except that the certification application fee for a registered audiologist is \$280 minus the audiologist registration fee of \$101. In addition, both certification and examination fees are subject to Notwithstanding the policy set forth in section 16A.1285, subdivision 2, a surcharge of ~~\$60~~ \$165 for audiologists registered under section 148.511 and \$330 for all others shall be paid at the time of application or renewal until June 30, 2003, to recover, over a five-year period, the commissioner's accumulated direct expenditures for administering the requirements of this chapter, but not registration of hearing instrument dispensers under section 214.13, before November 1, 1994. The penalty fee for late submission of a renewal application is \$70 \$200. All fees, penalties, and fines received must be deposited in the state government special revenue fund. The commissioner may prorate the certification fee for new applicants based on the number of quarters remaining in the annual certification period.

Sec. 19. Minnesota Statutes 1996, section 157.15, is amended by adding a subdivision to read:

Subd. 16. CRITICAL CONTROL POINT. "Critical control point" means a point or procedure in a specific food system where loss of control may result in an unacceptable health risk.

Sec. 20. Minnesota Statutes 1996, section 157.15, is amended by adding a subdivision to read:

Subd. 17. HACCP PLAN. "Hazard analysis critical control point (HACCP) plan" means a written document that delineates the formal procedures for following the HACCP principles developed by the National Advisory Committee on Microbiological Criteria for Foods.

Sec. 21. Minnesota Statutes 1996, section 157.15, is amended by adding a subdivision to read:

Subd. 18. HAZARD. "Hazard" means any biological, chemical, or physical property that may cause an unacceptable consumer health risk.

Sec. 22. Minnesota Statutes 1996, section 157.16, subdivision 3, is amended to read:

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

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

(c) A special event food stand shall pay a flat fee of \$60 annually. "Special event food stand" means a fee category where food is prepared or served in conjunction with

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celebrations, county fairs, or special events from a special event food stand as defined in section 157.15.

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

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

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

- (i) prepackaged food that receives heat treatment and is served in the package;
- (ii) frozen pizza that is heated and served;
- (iii) a continental breakfast such as rolls, coffee, juice, milk, and cold cereal;
- (iv) soft drinks, coffee, or nonalcoholic beverages; or
- (v) cleaning for eating, drinking, or cooking utensils, when the only food served is prepared off site.

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

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

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

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

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

(4) Large establishment with full menu selection, \$250. "Large establishment with full menu selection" means either:

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(i) a fee category that (A) meets the criteria in clause (3), items (i) or (ii), for a small medium establishment with full menu selection, (B) seats more than 175 people, and (C) offers the full menu selection an average of five or more days a week during the weeks of operation; or

(ii) a fee category that (A) meets the criteria in clause (3), item (iii), for a small medium establishment with full menu selection, and (B) prepares and serves 500 or more meals per day.

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 23. **[157.215] PILOT PROJECT.**

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The commissioner of health is authorized to issue a request for participation to the regulated food and beverage service establishment industry and to select up to 25 pilot projects utilizing HACCP quality assurance principles for monitoring risk.

Sec. 24. Minnesota Statutes 1996, section 214.12, is amended by adding a subdivision to read:

Subd. 3. FETAL ALCOHOL SYNDROME. The board of medical practice and the board of nursing shall require by rule that family practitioners, pediatricians, obstetricians and gynecologists, and other licensees who have primary responsibility for diagnosing and treating fetal alcohol syndrome in pregnant women or children receive education on the subject of fetal alcohol syndrome and fetal alcohol effects, including how to: (1) screen pregnant women for alcohol abuse; (2) identify affected children; and (3) provide referral information on needed services.

Sec. 25. Minnesota Statutes 1996, section 256B.0625, subdivision 14, is amended to read:

Subd. 14. DIAGNOSTIC, SCREENING, AND PREVENTIVE SERVICES. (a) Medical assistance covers diagnostic, screening, and preventive services.

(b) "Preventive services" include services related to pregnancy, including:

(1) services for those conditions which may complicate a pregnancy and which may be available to a pregnant woman determined to be at risk of poor pregnancy outcome;

(2) prenatal HIV risk assessment, education, counseling, and testing; and

(3) alcohol abuse assessment, education, and counseling on the effects of alcohol usage while pregnant. Preventive services available to a woman at risk of poor pregnancy outcome may differ in an amount, duration, or scope from those available to other individuals eligible for medical assistance.

(c) "Screening services" include, but are not limited to, blood lead tests.

Sec. 26. Minnesota Statutes 1996, section 256B.69, is amended by adding a subdivision to read:

Subd. 5c. MEDICAL EDUCATION AND RESEARCH TRUST FUND. (a) Beginning in January 1999 and each year thereafter:

(1) the commissioner of human services shall transfer an amount equal to the reduction in the prepaid medical assistance and prepaid general assistance medical care payments resulting from clause (2), excluding nursing facility and elderly waiver payments, to the medical education and research trust fund established under section 62J.69;

(2) the county medical assistance and general assistance medical care capitation base rate prior to plan specific adjustments shall be reduced 6.3 percent for Hennepin county, two percent for the remaining metropolitan counties, and 1.6 percent for nonmetropolitan Minnesota counties; and

(3) the amount calculated under clause (1) shall not be adjusted for subsequent changes to the capitation payments for periods already paid.

(b) This subdivision shall be effective upon approval of a federal waiver which allows federal financial participation in the medical education and research trust fund.

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Sec. 27. [325F.785] SALES OF HIV HOME COLLECTION KITS AND HYPODERMIC SYRINGES AND NEEDLES.

Subdivision 1. INFORMATION TO PURCHASERS. A seller may provide each purchaser of an HIV home collection kit or hypodermic syringes and needles as authorized in section 151.40, at the time of purchase, with written information about the telephone numbers for public HIV counseling and testing sites, the state's HIV hotline, disposal of used syringes, and general HIV prevention and care.

Subd. 2. ASSISTANCE FOR SELLERS. The commissioner of health shall provide technical assistance and materials to pharmacies and to sellers related to compliance with sections 151.40 and 325F.785. The commissioner, in consultation with organizations specializing in HIV prevention, shall provide printed materials, including the written information described under subdivision 1, at no charge to pharmacies that sell hypodermic needles or syringes under section 151.40, and sellers of HIV home collection kits under this section. A pharmacy or seller may request and the commissioner may authorize use of other methods for providing written information to purchasers. The commissioner may use funds appropriated under section 145.924, to provide technical assistance and materials.

Sec. 28. Minnesota Statutes 1996, section 326.37, subdivision 1, is amended to read:

Subdivision 1. RULES. The state commissioner of health may, by rule, prescribe minimum standards which shall be uniform, and which standards shall thereafter be effective for all new plumbing installations, including additions, extensions, alterations, and replacements connected with any water or sewage disposal system owned or operated by or for any municipality, institution, factory, office building, hotel, apartment building, or any other place of business regardless of location or the population of the city or town in which located. Notwithstanding the provisions of Minnesota Rules, part 4715.3130, as they apply to review of plans and specifications, the commissioner may allow plumbing construction, alteration, or extension to proceed without approval of the plans or specifications by the commissioner.

The commissioner shall administer the provisions of sections 326.37 to 326.45 and for such purposes may employ plumbing inspectors and other assistants.

Sec. 29. Minnesota Statutes 1996, section 327.20, subdivision 1, is amended to read:

Subdivision 1. RULES. No domestic animals or house pets of occupants of manufactured home parks or recreational camping areas shall be allowed to run at large, or commit any nuisances within the limits of a manufactured home park or recreational camping area. Each manufactured home park or recreational camping area licensed under the provisions of sections 327.10, 327.11, 327.14 to 327.28 shall, among other things, provide for the following, in the manner hereinafter specified:

(1) A responsible attendant or caretaker shall be in charge of every manufactured home park or recreational camping area at all times, who shall maintain the park or area, and its facilities and equipment in a clean, orderly and sanitary condition. In any manufactured home park containing more than 50 lots, the attendant, caretaker, or other responsible park employee, shall be readily available at all times in case of emergency.

(2) All manufactured home parks shall be well drained and be located so that the drainage of the park area will not endanger any water supply. No waste water from

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manufactured homes or recreational camping vehicles shall be deposited on the surface of the ground. All sewage and other water carried wastes shall be discharged into a municipal sewage system whenever available. When a municipal sewage system is not available, a sewage disposal system acceptable to the state commissioner of health shall be provided.

(3) No manufactured home shall be located closer than three feet to the side lot lines of a manufactured home park, if the abutting property is improved property, or closer than ten feet to a public street or alley. Each individual site shall abut or face on a driveway or clear unoccupied space of not less than 16 feet in width, which space shall have unobstructed access to a public highway or alley. There shall be an open space of at least ten feet between the sides of adjacent manufactured homes including their attachments and at least three feet between manufactured homes when parked end to end. The space between manufactured homes may be used for the parking of motor vehicles and other property, if the vehicle or other property is parked at least ten feet from the nearest adjacent manufactured home position. The requirements of this paragraph shall not apply to recreational camping areas and variances may be granted by the state commissioner of health in manufactured home parks when the variance is applied for in writing and in the opinion of the commissioner the variance will not endanger the health, safety, and welfare of manufactured home park occupants.

(4) An adequate supply of water of safe, sanitary quality shall be furnished at each manufactured home park or recreational camping area. The source of the water supply shall first be approved by the state department of health.

(5) All plumbing shall be installed in accordance with the rules of the state commissioner of health and the provisions of the Minnesota plumbing code.

(6) In the case of a manufactured home park with less than ten manufactured homes, a plan for the sheltering or the safe evacuation to a safe place of shelter of the residents of the park in times of severe weather conditions, such as tornadoes, high winds, and floods. The shelter or evacuation plan shall be developed with the assistance and approval of the municipality where the park is located and shall be posted at conspicuous locations throughout the park. The park owner shall provide each resident with a copy of the approved shelter or evacuation plan, as provided by section 327C.01, subdivision 1c. Nothing in this paragraph requires the department of health to review or approve any shelter or evacuation plan developed by a park. Failure of a municipality to approve a plan submitted by a park shall not be grounds for action against the park by the department of health if the park has made a good faith effort to develop the plan and obtain municipal approval.

(7) A manufactured home park with ten or more manufactured homes, licensed prior to March 1, 1988, shall provide a safe place of shelter for park residents or a plan for the evacuation of park residents to a safe place of shelter within a reasonable distance of the park for use by park residents in times of severe weather, including tornadoes and high winds. The shelter or evacuation plan must be approved by the municipality by March 1, 1989. The municipality may require the park owner to construct a shelter if it determines that a safe place of shelter is not available within a reasonable distance from the park. A copy of the municipal approval and the plan shall be submitted by the park owner to the department of health. The park owner shall provide each resident with a

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copy of the approved shelter or evacuation plan, as provided by section 327C.01, subdivision 1c.

(8) A manufactured home park with ten or more manufactured homes, receiving a primary license after March 1, 1988, must provide the type of shelter required by section 327.205, except that for manufactured home parks established as temporary, emergency housing in a disaster area declared by the President of the United States or the governor, an approved evacuation plan may be provided in lieu of a shelter for a period not exceeding 18 months.

(9) For the purposes of this subdivision, "park owner" and "resident" have the meaning given them in section 327C.01.

Sec. 30. GRANT PROGRAM FOR JUVENILE ASSESSMENT CENTERS.

Subdivision 1. PROGRAM DESCRIBED. The commissioner of health shall administer a pilot project grant program to award grants to no more than three judicial districts to develop and implement plans to create juvenile assessment centers. A juvenile assessment center is a 24-hour centralized receiving, processing, and intervention facility for children who are accused of committing delinquent acts or status offenses or who are alleged to have been victims of abuse or neglect.

Subd. 2. WORKING GROUPS AUTHORIZED; PLANS REQUIRED. The chief judge of a judicial district or the judge's designee may convene a working group consisting of individuals experienced in providing services to children. A working group shall consist of, but is not limited to, representatives from substance abuse programs, domestic abuse programs, child protection agencies, mental health providers, mental health collaboratives, law enforcement agencies, schools, health service providers, and higher education institutions. The working group shall cooperatively develop a plan to create a juvenile assessment center in the judicial district. Juvenile assessment centers must provide initial screening for children, including intake and needs assessments, substance abuse screening, physical and mental health screening, fetal alcohol syndrome and fetal alcohol exposure screening, and diagnostic educational testing, as appropriate. The entities involved in the assessment center shall make the resources for the provision of these assessments available at the same level to which they are available to the general public. The plan must include, but is not limited to, recommended screening tools to assess children to determine their needs and assets; protocols to determine how children should enter the center, what will happen at the center, and what will happen after the child leaves the center; methods to share information in a manner consistent with existing law; and information on how the center will collaborate with a higher educational institution that has expertise in the research, programming, and evaluation of children's services. The plan may also address the provision of services to children.

Subd. 3. COOPERATION WITH WORKING GROUPS. The commissioner may provide technical assistance to the working groups and judicial districts. If the working groups identify any necessary changes in data privacy laws that would facilitate the operation of the assessment centers, the commissioner may recommend these changes to the legislature.

Subd. 4. AWARDING OF GRANTS. By January 1, 1998, the commissioner shall award grants under this section to judicial districts to develop plans to create juvenile assessment centers. Each district awarded a planning grant shall submit its plan to the com-

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missioner. The commissioner shall review the plans and award grants to districts whose plans have been approved to develop an assessment center.

Subd. 5. REPORT. By January 15, 1999, the commissioner shall report to the legislature on the planning and implementation grants awarded under this section.

Sec. 31. FUNDING SOURCES FOR THE MEDICAL EDUCATION AND RESEARCH TRUST FUND.

(a) The commissioner of health, in consultation with the medical education and research costs advisory committee, shall continue to consider additional broad-based funding sources, and shall recommend potential sources of funding to the legislature by February 15, 1998.

(b) The commissioner of health, in consultation with the commissioner of human services, shall examine the appropriateness of transferring an educational component from the MinnesotaCare rates to the medical education and research trust fund, and the appropriate amount and timing of any such transfer. The commissioner shall report recommendations on the feasibility of including MinnesotaCare funding in the trust fund to the legislature by February 15, 1998.

Sec. 32. RULE CHANGE; RADIOGRAPHIC ABSORPTIONMETRY.

Upon review and recommendation by the health technology advisory committee regarding the impact on patients the commissioner of health shall examine the appropriateness of, and if appropriate, may amend Minnesota Rules, part 4730.1210, subpart 2, item G, to permit the use of direct exposure x-ray film in radiographic absorptionmetry for the diagnosis and management of osteoporosis. The commissioner may use the rulemaking procedures under Minnesota Statutes, section 14.388.

Sec. 33. MINORITY HEALTH INITIATIVE.

Subdivision 1. PURPOSE. The purpose of this section is to plan for the expansion and increase of information and statistical research on minority health in Minnesota. The plan must build upon the recommendations of the 1997 populations of color in Minnesota health status report.

Subd. 2. REPORT TO THE LEGISLATURE. (a) The commissioner of health, through the office of minority health, shall prepare and transmit to the legislature, according to Minnesota Statutes, section 3.195, and no later than January 15, 1998, a written report addressing the following:

(1) identifying the legal and administrative barriers that hinder the sharing of information on minority health issues among executive branch agencies, and recommending remedies to these barriers;

(2) assessing the current database of information on minority health issues, evaluating data collection standards and procedures in the department of health, identifying minority health issues that should be given priority for increased research to close the gaps and disparities including cancer incidence among populations of color, and recommending methods for expanding the current database of information on minority health; and

(3) planning a grant program targeted at supporting minority health and wellness programs that focus on prevention of illness and disease, health education, and health promotion.

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(b) As part of the report in paragraph (a), the commissioner, through the office of minority health, shall study how the department of health could be better organized to accomplish the tasks specified in paragraph (a) and shall propose an organizational structure to accomplish these tasks.

(c) The commissioner, through the office of minority health, may appoint advisory committees as appropriate to accomplish the tasks in paragraphs (a) and (b). The terms, compensation, and removal of members are governed by Minnesota Statutes, section 15.059, except that members do not receive per diem compensation.

Sec. 34. STUDY OF HIV AND HBV PREVENTION PROGRAM.

The commissioner of health shall evaluate the effectiveness of the HIV and HBV prevention program established under Minnesota Statutes, sections 214.17 to 214.25. The commissioner shall evaluate the effectiveness of the program in maintaining public confidence in the safety of health care provider settings, educating the public about HIV infection risk in such settings, prevention of HIV and HBV infections, and fairly and efficiently working with affected health care providers. The results in Minnesota shall be compared to similar efforts in other states. The commissioner shall present recommendations to the legislature by January 15, 1998, on whether the program should be continued, and whether modifications to the program are necessary if a recommendation is made to continue the program.

Sec. 35. REPORT REQUIRED; CALS PROGRAM.

The emergency medical services regulatory board, by December 1, 1999, shall report to the chairs of the house health and human services finance division and the senate health and family security budget division on the implementation of the comprehensive advanced life support (CALS) program or similar program.

Sec. 36. FAMILY PLANNING GRANT REVIEW.

The commissioner of health shall conduct a review of the family planning special projects grant process and shall report the results of its review to the legislature by February 15, 1998.

Sec. 37. REPEALER.

Minnesota Statutes 1996, section 145.9256, is repealed.

Sec. 38. EFFECTIVE DATE.

Sections 4 to 6, 17, and 27, subdivision 1 are effective July 1, 1998.

ARTICLE 3

LONG-TERM CARE FACILITIES

Section 1. Minnesota Statutes 1996, section 144A.071, subdivision 1, is amended to read:

Subdivision 1. **FINDINGS.** The legislature declares that a moratorium on the licensure and medical assistance certification of new nursing home beds and construction pro-

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jects that exceed the lesser of \$500,000 or 25 percent of a facility's appraised value \$750,000 is necessary to control nursing home expenditure growth and enable the state to meet the needs of its elderly by providing high quality services in the most appropriate manner along a continuum of care.

Sec. 2. Minnesota Statutes 1996, section 144A.071, subdivision 2, is amended to read:

Subd. 2. **MORATORIUM.** The commissioner of health, in coordination with the commissioner of human services, shall deny each request for new licensed or certified nursing home or certified boarding care beds except as provided in subdivision 3 or 4a, or section 144A.073. "Certified bed" means a nursing home bed or a boarding care bed certified by the commissioner of health for the purposes of the medical assistance program, under United States Code, title 42, sections 1396 et seq.

The commissioner of human services, in coordination with the commissioner of health, shall deny any request to issue a license under section 252.28 and chapter 245A to a nursing home or boarding care home, if that license would result in an increase in the medical assistance reimbursement amount.

In addition, the commissioner of health must not approve any construction project whose cost exceeds \$500,000, or 25 percent of the facility's appraised value, whichever is less, \$750,000 unless:

(a) any construction costs exceeding the lesser of \$500,000 or 25 percent of the facility's appraised value \$750,000 are not added to the facility's appraised value and are not included in the facility's payment rate for reimbursement under the medical assistance program; or

(b) the project:

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

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

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

(4) is necessary to repair or replace a portion of the facility that was damaged by fire, lightning, groundshifts, or other such hazards, including environmental hazards, provided that the provisions of subdivision 4a, clause (a), are met;

(5) as of May 1, 1992, the facility has submitted to the commissioner of health written documentation evidencing that the facility meets the "commenced construction" definition as specified in subdivision 1a, clause (d), or that substantial steps have been taken prior to April 1, 1992, relating to the construction project. "Substantial steps" require that the facility has made arrangements with outside parties relating to the construction project and include the hiring of an architect or construction firm, submission of preliminary plans to the department of health or documentation from a financial institution that financing arrangements for the construction project have been made; or

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

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

The dollar thresholds for construction projects are as follows: for construction projects other than those authorized in clauses (1) to (6), the dollar threshold is \$500,000 or ~~25 percent of appraised value, whichever is less~~ \$750,000. For projects authorized after July 1, 1993, under clause (1), the dollar threshold is the cost estimate submitted with a proposal for an exception under section 144A.073, plus inflation as calculated according to section 256B.431, subdivision 3f, paragraph (a). For projects authorized under clauses (2) to (4), the dollar threshold is the itemized estimate project construction costs submitted to the commissioner of health at the time of final plan approval, plus inflation as calculated according to section 256B.431, subdivision 3f, paragraph (a).

The commissioner of health shall adopt rules to implement this section or to amend the emergency rules for granting exceptions to the moratorium on nursing homes under section 144A.073.

Sec. 3. Minnesota Statutes 1996, section 144A.073, subdivision 2, is amended to read:

Subd. 2. REQUEST FOR PROPOSALS. At the authorization by the legislature of additional medical assistance expenditures for exceptions to the moratorium on nursing homes, the interagency committee shall publish in the State Register a request for proposals for nursing home projects to be licensed or certified under section 144A.071, subdivision 4a, clause (c). The public notice of this funding and the request for proposals must specify how the approval criteria will be prioritized by the advisory review panel, the interagency long-term care planning committee, and the commissioner. The notice must describe the information that must accompany a request and state that proposals must be submitted to the interagency committee within 90 days of the date of publication. The notice must include the amount of the legislative appropriation available for the additional costs to the medical assistance program of projects approved under this section. If no money is appropriated for a year, the interagency committee shall publish a notice to that effect, and no proposals shall be requested. If money is appropriated, the interagency committee shall initiate the application and review process described in this section at least twice each biennium and up to four times each biennium, according to dates established by rule. Authorized funds shall be allocated proportionally to the number of processes. Funds not encumbered by an earlier process within a biennium shall carry forward to subsequent iterations of the process. Authorization for expenditures does not carry forward into the following biennium. To be considered for approval, a proposal must include the following information:

(1) whether the request is for renovation, replacement, upgrading, conversion, or relocation;

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(2) a description of the problem the project is designed to address;

(3) a description of the proposed project;

(4) an analysis of projected costs of the nursing facility proposal, which are not required to exceed the cost threshold referred to in section 144A.071, subdivision 1, to be considered under this section, including initial construction and remodeling costs; site preparation costs; financing costs, including the current estimated long-term financing costs of the proposal, which consists of estimates of the amount and sources of money, reserves if required under the proposed funding mechanism, annual payments schedule, interest rates, length of term, closing costs and fees, insurance costs, and any completed marketing study or underwriting review; and estimated operating costs during the first two years after completion of the project;

(5) for proposals involving replacement of all or part of a facility, the proposed location of the replacement facility and an estimate of the cost of addressing the problem through renovation;

(6) for proposals involving renovation, an estimate of the cost of addressing the problem through replacement;

(7) the proposed timetable for commencing construction and completing the project;

(8) a statement of any licensure or certification issues, such as certification survey deficiencies;

(9) the proposed relocation plan for current residents if beds are to be closed so that the department of human services can estimate the total costs of a proposal; and

(10) other information required by permanent rule of the commissioner of health in accordance with subdivisions 4 and 8.

Sec. 4. Minnesota Statutes 1996, section 144A.073, is amended by adding a subdivision to read:

Subd. 9. **BUDGET REQUEST.** The commissioner of human services, in consultation with the commissioner of finance, shall include in each biennial budget request a line item for the nursing home moratorium exception process. If the commissioner of human services does not request funding for this item, the commissioner of human services must justify the decision in the budget pages.

Sec. 5. Minnesota Statutes 1996, section 252.28, is amended by adding a subdivision to read:

Subd. 3a. **LICENSING EXCEPTION.** Notwithstanding the provisions of subdivision 3, the commissioner may license service sites, each accommodating up to six residents moving from a 48-bed intermediate care facility for persons with mental retardation or related conditions located in Dakota county that is closing under section 252.292.

Sec. 6. Minnesota Statutes 1996, section 256B.421, subdivision 1, is amended to read:

Subdivision 1. **SCOPE.** For the purposes of this section and sections 256B.41, 256B.411, 256B.431, 256B.432, 256B.433, 256B.434, 256B.47, 256B.48, 256B.50, and 256B.502, the following terms and phrases shall have the meaning given to them.

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Sec. 7. Minnesota Statutes 1996, section 256B.431, subdivision 25, is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(f) For rate years beginning on or after July 1, 1995, the forecasted price index for a nursing facility's allowable operating cost per diems shall be determined under clauses (1) to (3) using the change in the Consumer Price Index—All Items (United States city average) (CPI-U) or the change in the Nursing Home Market Basket, both as forecasted by Data Resources Inc., whichever is applicable. The commissioner shall use the indices as forecasted in the fourth quarter of the calendar year preceding the rate year, subject to subdivision 21, paragraph (c). If, as a result of federal legislative or administrative action, the methodology used to calculate the Consumer Price Index—All Items (United States city average) (CPI-U) changes, the commissioner shall develop a conversion factor or other methodology to convert the CPI-U index factor that results from the new methodology to an index factor that approximates, as closely as possible, the index factor that would have resulted from application of the original CPI-U methodology prior to any changes in methodology. The commissioner shall use the conversion factor or other methodology to calculate an adjusted inflation index. The adjusted inflation index must be used to calculate payment rates under this section instead of the CPI-U index specified in paragraph (d). If the commissioner is required to develop an adjusted inflation index, the commissioner shall report to the legislature as part of the next budget submission the fiscal impact of applying this index.

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

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

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

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

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

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(2) For the rate year beginning July 1, 1997, after computing this nursing facility's payment rate according to section 256B.434, the commissioner shall make a one-year rate adjustment of \$8.62 to the facility's contract payment rate for the rate effect of operating cost changes associated with the facility's 1994 downsizing project.

(3) For rate years beginning on or after July 1, 1997, the commissioner shall add 35 cents to the facility's base property related payment rate for the rate effect of reducing its licensed capacity to 290 beds from 302 beds and shall add 83 cents to the facility's real estate tax and special assessment payment rate for payments in lieu of real estate taxes. The adjustments in this clause shall remain in effect for the duration of the facility's contract under section 256B.434.

(i) Notwithstanding Laws 1996, chapter 451, article 3, section 11, paragraph (h), for the rate years beginning on July 1, 1996, July 1, 1997, and July 1, 1998, a nursing facility licensed for 40 beds effective May 1, 1992, with a subsequent increase of 20 Medicare/Medicaid certified beds, effective January 26, 1993, in accordance with an increase in licensure is exempt from paragraphs (b) to (d).

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

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

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

(1) is at or below the median of the array, the commissioner shall limit the nursing facility's allowable operating cost per diem for each case mix category to the lesser of the prior reporting year's allowable operating cost per diem as specified in Laws 1996, chapter 451, article 3, section 11, paragraph (h), plus the inflation factor as established in paragraph (d), clause (2), increased by two percentage points, or the current reporting year's corresponding allowable operating cost per diem; or

(2) is above the median of the array, the commissioner shall limit the nursing facility's allowable operating cost per diem for each case mix category to the lesser of the prior reporting year's allowable operating cost per diem as specified in Laws 1996, chapter 451, article 3, section 11, paragraph (h), plus the inflation factor as established in para-

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graph (d), clause (2), increased by one percentage point, or the current reporting year's corresponding allowable operating cost per diem.

(b) For rate years beginning on or after July 1, 1997, the commissioner shall limit the allowable operating cost per diem for high cost nursing facilities. After application of the limits in paragraph (a) to each nursing facility's operating cost per diem, the commissioner shall group nursing facilities into two groups, freestanding or nonfreestanding, within each geographic group. A nonfreestanding nursing facility is a nursing facility whose other operating cost per diem are subject to hospital attached, short length of stay, or rule 80 limits. All other nursing facilities shall be considered freestanding nursing facilities. The commissioner shall then array all nursing facilities within each grouping by their allowable case mix A operating cost per diem. In calculating a nursing facility's operating cost per diem for this purpose, the commissioner shall exclude the raw food cost per diem related to providing special diets that are based on religious beliefs, as determined in subdivision 2b, paragraph (h). For those nursing facilities in each grouping whose case mix A operating cost per diem exceeds 1.0 standard deviation above the median, the commissioner shall reduce their allowable operating cost per diem by three percent. For those nursing facilities in each grouping whose case mix A operating cost per diem exceeds 0.5 standard deviation above the median but is less than or equal to 1.0 standard deviation above the median, the commissioner shall reduce their allowable operating cost per diem by two percent. However, in no case shall a nursing facility's operating cost per diem be reduced below its grouping's limit established at 0.5 standard deviations above the median.

(c) For rate years beginning on or after July 1, 1997, the commissioner shall determine a nursing facility's efficiency incentive by first computing the allowable difference, which is the lesser of \$4.50 or the amount by which the facility's other operating cost limit exceeds its nonadjusted other operating cost per diem for that rate year. The commissioner shall compute the efficiency incentive by:

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

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

(d) For rate years beginning on or after July 1, 1997, the forecasted price index for a nursing facility's allowable operating cost per diem shall be determined under clauses (1) and (2) using the change in the Consumer Price Index--All Items (United States city average) (CPI-U) as forecasted by Data Resources, Inc. The commissioner shall use the indices as forecasted in the fourth quarter of the calendar year preceding the rate year, subject to subdivision 21, paragraph (c).

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

(2) For rate years beginning on or after July 1, 1997, the forecasted index for operating cost limits referred to in subdivision 21, paragraph (b), shall be based on the CPI-U

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for the 12-month period between the midpoints of the two reporting years preceding the rate year.

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

(f) For rate years beginning on or after July 1, 1997, the total operating cost payment rates for a nursing facility shall be the greater of the total operating cost payment rates determined under this section or the total operating cost payment rates in effect on June 30, 1997, subject to rate adjustments due to field audit or rate appeal resolution. This provision shall not apply to subsequent field audit adjustments of the nursing facility's operating cost rates for rate years beginning on or after July 1, 1997.

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

(h) For a nursing facility whose construction project was authorized according to section 144A.073, subdivision 5, paragraph (g), the operating cost payment rates for the third location shall be determined based on Minnesota Rules, part 9549.0057. Paragraphs (a) and (b) shall not apply until the second rate year after the settle-up cost report is filed. Notwithstanding subdivision 2b, paragraph (g), real estate taxes and special assessments payable by the third location, a 501(c)(3) nonprofit corporation, shall be included in the payment rates determined under this subdivision for all subsequent rate years.

(i) For the rate year beginning July 1, 1997, the commissioner shall compute the payment rate for a nursing facility licensed for 94 beds on September 30, 1996, that applied in October 1993 for approval of a total replacement under the moratorium exception process in section 144A.073, and completed the approved replacement in June 1995, with other operating cost spend-up limit under paragraph (a), increased by \$3.98, and after computing the facility's payment rate according to this section, the commissioner shall make a one-year positive rate adjustment of \$3.19 for operating costs related to the newly constructed total replacement, without application of paragraphs (a) and (b). The facility's per diem, before the \$3.19 adjustment, shall be used as the prior reporting year's allowable operating cost per diem for payment rate calculation for the rate year beginning July 1, 1998. A facility described in this paragraph is exempt from paragraph (b) for the rate years beginning July 1, 1997, and July 1, 1998.

(j) For the purpose of applying the limit stated in paragraph (a), a nursing facility in Kandiyohi county licensed for 86 beds that was granted hospital-attached status on December 1, 1994, shall have the prior year's allowable care-related per diem increased by \$3.207 and the prior year's other operating cost per diem increased by \$4.777 before adding the inflation in paragraph (d), clause (2), for the rate year beginning on July 1, 1997.

(k) For the purpose of applying the limit stated in paragraph (a), a 117 bed nursing facility located in Pine county shall have the prior year's allowable other operating cost per diem increased by \$1.50 before adding the inflation in paragraph (d), clause (2), for the rate year beginning on July 1, 1997.

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(l) For the purpose of applying the limit under paragraph (a), a nursing facility in Hibbing licensed for 192 beds shall have the prior year's allowable other operating cost per diem increased by \$2.67 before adding the inflation in paragraph (d), clause (2), for the rate year beginning July 1, 1997.

Sec. 9. Minnesota Statutes 1996, section 256B.433, is amended by adding a subdivision to read:

Subd. 3a. **EXEMPTION FROM REQUIREMENT FOR SEPARATE THERAPY BILLING.** The provisions of subdivision 3 do not apply to nursing facilities that are reimbursed according to the provisions of section 256B.431 and are located in a county participating in the prepaid medical assistance program.

Sec. 10. Minnesota Statutes 1996, section 256B.434, subdivision 3, is amended to read:

Subd. 3. **DURATION AND TERMINATION OF CONTRACTS.** (a) Subject to available resources, the commissioner may begin to execute contracts with nursing facilities November 1, 1995.

(b) All contracts entered into under this section are for a term of four years one year. Either party may terminate a contract effective July 1 of any year by providing written notice to the other party no later than April 1 of that year at any time without cause by providing 30 calendar days advance written notice to the other party. The decision to terminate a contract is not appealable. If neither party provides written notice of termination by April 1, the contract is automatically renewed for the next rate year the contract shall be renegotiated for additional one-year terms, for up to a total of four consecutive one-year terms. The provisions of the contract shall be renegotiated annually by the parties prior to the expiration date of the contract. The parties may voluntarily renegotiate the terms of the contract at any time by mutual agreement.

(c) If a nursing facility fails to comply with the terms of a contract, the commissioner shall provide reasonable notice regarding the breach of contract and a reasonable opportunity for the facility to come into compliance. If the facility fails to come into compliance or to remain in compliance, the commissioner may terminate the contract. If a contract is terminated, the contract payment remains in effect for the remainder of the rate year in which the contract was terminated, but in all other respects the provisions of this section do not apply to that facility effective the date the contract is terminated. The contract shall contain a provision governing the transition back to the cost-based reimbursement system established under section 256B.431, subdivision 25, and Minnesota Rules, parts 9549.0010 to 9549.0080. A contract entered into under this section may be amended by mutual agreement of the parties.

Sec. 11. Minnesota Statutes 1996, section 256B.434, subdivision 9, is amended to read:

Subd. 9. **MANAGED CARE CONTRACTS FOR OTHER SERVICES.** Beginning July 1, 1995, the commissioner may contract with nursing facilities that have entered into alternative payment demonstration project contracts under this section to provide medical assistance services other than nursing facility care to residents of the facility under a prepaid, managed care payment system. ~~For purposes of contracts entered into under this subdivision, the commissioner may waive one or more of the requirements for~~

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payment for ancillary services in section 256B.433. Managed care contracts for other services may be entered into at any time during the duration of a nursing facility's alternative payment demonstration project contract, and the terms of the managed care contracts need not coincide with the terms of the alternative payment demonstration project contract.

Sec. 12. Minnesota Statutes 1996, section 256B.434, subdivision 10, is amended to read:

Subd. 10. **EXEMPTIONS.** (a) To the extent permitted by federal law, (1) a facility that has entered into a contract under this section is not required to file a cost report, as defined in Minnesota Rules, part 9549.0020, subpart 13, for any year after the base year that is the basis for the calculation of the contract payment rate for the first rate year of the alternative payment demonstration project contract; and (2) a facility under contract is not subject to audits of historical costs or revenues, or paybacks or retroactive adjustments based on these costs or revenues, except audits, paybacks, or adjustments relating to the cost report that is the basis for calculation of the first rate year under the contract.

(b) A facility that is under contract with the commissioner under this section is not subject to the moratorium on licensure or certification of new nursing home beds in section 144A.071, unless the project results in a net increase in bed capacity or involves relocation of beds from one site to another. Contract payment rates must not be adjusted to reflect any additional costs that a nursing facility incurs as a result of a construction project undertaken under this paragraph. In addition, as a condition of entering into a contract under this section, a nursing facility must agree that any future medical assistance payments for nursing facility services will not reflect any additional costs attributable to the sale of a nursing facility under this section and to construction undertaken under this paragraph that otherwise would not be authorized under the moratorium in section 144A.073. Nothing in this section prevents a nursing facility participating in the alternative payment demonstration project under this section from seeking approval of an exception to the moratorium through the process established in section 144A.073, and if approved the facility's rates shall be adjusted to reflect the cost of the project.

(c) Notwithstanding section 256B.48, subdivision 6, paragraphs (c), (d), and (e), and pursuant to any terms and conditions contained in the facility's contract, a nursing facility that is under contract with the commissioner under this section is in compliance with section 256B.48, subdivision 6, paragraph (b), if the facility is Medicare certified.

(d) Notwithstanding paragraph (a), if by April 1, 1996, the health care financing administration has not approved a required waiver, or the health care financing administration otherwise requires cost reports to be filed prior to the waiver's approval, the commissioner shall require a cost report for the rate year.

(e) A facility that is under contract with the commissioner under this section shall be allowed to change therapy arrangements from an unrelated vendor to a related vendor during the term of the contract. The commissioner may develop reasonable requirements designed to prevent an increase in therapy utilization for residents enrolled in the medical assistance program.

Sec. 13. Minnesota Statutes 1996, section 256I.05, is amended by adding a subdivision to read:

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Subd. 1d. **SUPPLEMENTARY SERVICE RATES FOR CERTAIN FACILITIES SERVING PERSONS WITH MENTAL ILLNESS OR CHEMICAL DEPENDENCY.** Notwithstanding the provisions of subdivisions 1a and 1c for the fiscal year ending June 30, 1998, a county agency may negotiate a supplementary service rate in addition to the board and lodging rate for facilities licensed and registered by the Minnesota department of health under section 157.17 prior to December 31, 1994, if the facility meets the following criteria:

(1) at least 75 percent of the residents have a primary diagnosis of mental illness, chemical dependency, or both, and have related special needs;

(2) the facility provides 24-hour, on-site, year-round supportive services by qualified staff capable of intervention in a crisis of persons with late-stage inebriety or mental illness who are vulnerable to abuse or neglect;

(3) the services at the facility include, but are not limited to:

(i) secure central storage of medication;

(ii) reminders and monitoring of medication for self-administration;

(iii) support for developing an individual medical and social service plan, updating the plan, and monitoring compliance with the plan; and

(iv) assistance with setting up meetings, appointments, and transportation to access medical, chemical health, and mental health service providers;

(4) each resident has a documented need for at least one of the services provided;

(5) each resident has been offered an opportunity to apply for admission to a licensed residential treatment program for mental illness, chemical dependency, or both, have refused that offer, and the offer and their refusal has been documented to writing; and

(6) the residents are not eligible for home and community-based services waivers because of their unique need for community support.

The total supplementary service rate must not exceed \$575.

Sec. 14. Laws 1997, chapter 7, article 1, section 75, is amended to read:

Sec. 75. **REPEALER; SECTION 144A.61, SUBDIVISION 6 NOTE.**

Laws 1989, chapter 282, article 3, section 28, subdivision 6, is repealed.

Sec. 15. Minnesota Statutes 1996, section 144A.071, subdivision 4a, as amended by Laws 1997, chapter 105, section 1, is amended to read:

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

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

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

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

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

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

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

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

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

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

(b) to license or certify beds that are moved from one location to another within a nursing home facility, provided the total costs of remodeling performed in conjunction with the relocation of beds does not exceed 25 percent of the appraised value of the facility or \$500,000, whichever is less \$750,000;

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

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

(e) to certify and license as nursing home beds boarding care beds in a certified boarding care facility if the beds meet the standards for nursing home licensure, or in a facility that was granted an exception to the moratorium under section 144A.073, and if the cost of any remodeling of the facility does not exceed 25 percent of the appraised value of the facility or \$500,000, whichever is less \$750,000. If boarding care beds are licensed as nursing home beds, the number of boarding care beds in the facility must not increase beyond the number remaining at the time of the upgrade in licensure. The provisions contained in section 144A.073 regarding the upgrading of the facilities do not apply to facilities that satisfy these requirements;

(f) to license and certify up to 40 beds transferred from an existing facility owned and operated by the Amherst H. Wilder Foundation in the city of St. Paul to a new unit at the same location as the existing facility that will serve persons with Alzheimer's disease and other related disorders. The transfer of beds may occur gradually or in stages, provided the total number of beds transferred does not exceed 40. At the time of licensure

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and certification of a bed or beds in the new unit, the commissioner of health shall delicense and decertify the same number of beds in the existing facility. As a condition of receiving a license or certification under this clause, the facility must make a written commitment to the commissioner of human services that it will not seek to receive an increase in its property-related payment rate as a result of the transfers allowed under this paragraph;

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

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

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

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

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

(l) to license or certify beds in renovation, replacement, or upgrading projects as defined in section 144A.073, subdivision 1, so long as the cumulative total costs of the facility's remodeling projects do not exceed 25 percent of the appraised value of the facility or \$500,000, whichever is less \$750,000;

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

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(n) to allow a facility that on April 16, 1993, was a 106-bed licensed and certified nursing facility located in Minneapolis to layaway all of its licensed and certified nursing home beds. These beds may be relicensed and recertified in a newly-constructed teaching nursing home facility affiliated with a teaching hospital upon approval by the legislature. The proposal must be developed in consultation with the interagency committee on long-term care planning. The beds on layaway status shall have the same status as voluntarily delicensed and decertified beds, except that beds on layaway status remain subject to the surcharge in section 256.9657. This layaway provision expires July 1, ~~1997~~ 1998;

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

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

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

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

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

(q) to license and certify beds in a renovation and remodeling project to convert ~~13~~ three-bed wards into ~~13~~ two-bed rooms and ~~13~~ single-bed rooms, expand space, and add improvements in a nursing home that, as of January 1, 1994, met the following conditions: the nursing home was located in Ramsey county; was not owned by a hospital cor-

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poration; had a licensed capacity of 64 beds; and had been ranked among the top 15 applicants by the 1993 moratorium exceptions advisory review panel. The total project construction cost estimate for this project must not exceed the cost estimate submitted in connection with the 1993 moratorium exception process;

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

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

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

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

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

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month in which the relicensing and recertification became effective. Any beds remaining on layaway status more than five years after the date the layaway status became effective must be removed from layaway status and immediately delicensed and decertified;

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

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

~~(x)~~ (w) to license and certify a total replacement project of up to 49 beds located in Norman county that are relocated from a nursing home destroyed by flood and whose residents were relocated to other nursing homes. The operating cost payment rates for the new nursing facility shall be determined based on the interim and settle-up payment provisions of Minnesota Rules, part 9549.0057, and the reimbursement provisions of section 256B.431, except that subdivision 25 26, paragraphs (a) and (b), clause (3), and (d), shall not apply until the second rate year after the settle-up cost report is filed. Property-related reimbursement rates shall be determined under section 256B.431, taking into account any federal or state flood-related loans or grants provided to the facility; or

~~(y)~~ (x) to license and certify a total replacement project of up to 129 beds located in Polk county that are relocated from a nursing home destroyed by flood and whose residents were relocated to other nursing homes. The operating cost payment rates for the new nursing facility shall be determined based on the interim and settle-up payment provisions of Minnesota Rules, part 9549.0057, and the reimbursement provisions of section 256B.431, except that subdivision 25 26, paragraphs (a) and (b), clause (3), and (d), shall not apply until the second rate year after the settle-up cost report is filed. Property-related reimbursement rates shall be determined under section 256B.431, taking into account any federal or state flood-related loans or grants provided to the facility; or

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

Sec. 16. Laws 1997, chapter 105, section 7, is amended to read:

Sec. 7. FLOOD-RELATED DISASTER APPROPRIATION.

(a) \$20,000,000 is appropriated from the budget reserve in the general fund to the commissioner of public safety for: (1) the state costs associated with the total replacement projects in Norman and Polk counties specified in section 1; and (2) reimbursements to counties, cities, and towns and to individuals or families for individual/family grants which may be used for costs related to flooding in 1997. This appropriation is added to the \$3,000,000 appropriation in Laws 1997, chapter 12, for flood-related purposes.

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(b) Of this amount, the commissioner of public safety shall transfer to the commissioner of human services the amount needed to pay the state costs associated with the projects in Norman and Polk counties specified in section 1, not to exceed \$492,700.

Sec. 17. **STUDY OF NURSING FACILITY CONVERSION.**

The commissioner, in consultation with the commissioner of health, shall report to the legislature by January 15, 1998, with recommendations for the establishment of a project to reduce the number of nursing facilities and the number of nursing facility beds in Minnesota. The report shall include: (1) goals for the number of facility and bed reductions; (2) strategies for voluntary and involuntary bed closures; and (3) criteria for selecting nursing facilities as candidates for closure. In developing the recommendations, the commissioner shall consult with an advisory task force that includes nursing industry representatives, nursing facility resident advocates, county representatives, and other interested parties.

Sec. 18. **RATE CLARIFICATION.**

For the rate years beginning October 1, 1997, and October 1, 1998, the commissioner of human services shall exempt intermediate care facilities for persons with mental retardation (ICF/MR) from reductions to the payment rates under Minnesota Statutes, section 256B.501, subdivision 5b, paragraph (d), clause (6), if the facility:

(1) has had a settle-up payment rate established in the reporting year preceding the rate year for the one-time rate adjustment;

(2) is a newly established facility;

(3) is an A to B conversion that has been converted under Minnesota Statutes, section 252.292, since rate year 1990;

(4) has a payment rate subject to a community conversion project under Minnesota Statutes, section 252.292;

(5) has a payment rate established under Minnesota Statutes, section 245A.12 or 245A.13; or

(6) is a facility created by the relocation of more than 25 percent of the capacity of a related facility during the reporting year.

Sec. 19. **ICF/MR REIMBURSEMENT OCTOBER 1, 1997, TO OCTOBER 1, 1999.**

(a) Notwithstanding any contrary provision in Minnesota Statutes, section 256B.501, for the rate years beginning October 1, 1997, and October 1, 1998, the commissioner of human services shall, for purposes of the spend-up limit, array facilities within each grouping established under Minnesota Statutes, section 256B.501, subdivision 5b, paragraph (d), clause (4), by each facility's cost per resident day. A facility's cost per resident day shall be determined by dividing its allowable historical general operating cost for the reporting year by the facility's resident days for the reporting year. Facilities with a cost per resident day at or above the median shall be limited to the lesser of:

(1) the current reporting year's cost per resident day; or

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(2) the prior report year's cost per resident day plus the inflation factor established under Minnesota Statutes, section 256B.501, subdivision 3c, clause (2), increased by three percentage points.

In no case shall the amount of this reduction exceed: three percent for a facility with a licensed capacity greater than 16 beds; two percent for a facility with a licensed capacity of nine to 16 beds; and one percent for a facility with a licensed capacity of eight or fewer beds.

(b) The commissioner shall not apply the limits established under Minnesota Statutes, section 256B.501, subdivision 5b, paragraph (d), clause (8), for the rate years beginning October 1, 1997, and October 1, 1998.

Sec. 20. EFFECTIVE DATE.

Section 16 is effective the day following final enactment.

ARTICLE 4

HEALTH CARE

Section 1. Minnesota Statutes 1996, section 62D.04, subdivision 5, is amended to read:

Subd. 5. PARTICIPATION; GOVERNMENT PROGRAMS. Health maintenance organizations shall, as a condition of receiving and retaining a certificate of authority, participate in the medical assistance, general assistance medical care, and Minnesota-Care programs. A health maintenance organization is required to submit proposals in good faith that meet the requirements of the request for proposal provided that the requirements can be reasonably met by a health maintenance organization to serve individuals eligible for the above programs in a geographic region of the state if, at the time of publication of a request for proposal, the percentage of recipients in the public programs in the region who are enrolled in the health maintenance organization is less than the health maintenance organization's percentage of the total number of individuals enrolled in health maintenance organizations in the same region. Geographic regions shall be defined by the commissioner of human services in the request for proposals.

Sec. 2. Minnesota Statutes 1996, section 62N.25, subdivision 2, is amended to read:

Subd. 2. LICENSURE REQUIREMENTS GENERALLY. To be licensed and to operate as a community integrated service network, an applicant must satisfy the requirements of chapter 62D, and all other legal requirements that apply to entities licensed under chapter 62D, except as exempted or modified in this section. Community networks must, as a condition of licensure, comply with rules adopted under section 256B.0644 that apply to entities governed by chapter 62D section 62D.04, subdivision 5. A community integrated service network that phases in its net worth over a three-year period is not required to respond to requests for proposals under section 256B.0644 62D.04, subdivision 5, during the first 12 months of licensure. These community networks are not prohib-

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ited from responding to requests for proposals, however, if they choose to do so during that time period. After the initial 12 months of licensure, these community networks are required to respond to the requests for proposals as required under section 256B.0644 62D.04, subdivision 5.

Sec. 3. Minnesota Statutes 1996, section 144.0721, subdivision 3, is amended to read:

Subd. 3. **LEVEL OF CARE CRITERIA; MODIFICATIONS.** The commissioner shall seek appropriate federal waivers to implement this subdivision. Notwithstanding any laws or rules to the contrary, effective July 1, ~~1996~~ 1998, Minnesota's level of care criteria for admission of any person to a nursing facility licensed under chapter 144A, or a boarding care home licensed under sections 144.50 to 144.56, are modified as follows:

(1) the resident reimbursement classifications and terminology established by rule under sections 256B.41 to 256B.48 are the basis for applying the level of care criteria changes;

(2) an applicant to a certified nursing facility or certified boarding care home who is dependent in zero, one, or two case mix activities of daily living, is classified as a case mix A, and is independent in orientation and self-preservation, is reclassified as a high function class A person and is not eligible for admission to Minnesota certified nursing facilities or certified boarding care homes;

(3) applicants in clause (2) who are dependent in one or two case mix activities of daily living, who are eligible for assistance as determined under sections 256B.055 and ~~256B.056~~ or meet eligibility criteria for section 256B.0913 are eligible for a service allowance under section 256B.0913, subdivision 15, and are not eligible for services under sections 256B.0913, subdivisions 1 to 14, and 256B.0915. Applicants in clause (2) shall have the option of receiving personal care assistant and home health aide services under section 256B.0625, if otherwise eligible, or of receiving the service allowance option, but not both. Applicants in clause (2) shall have the option of residing in community settings under sections 256I.01 to 256I.06, if otherwise eligible, or receiving the services allowance option under section 256B.0913, subdivision 15, but not both;

(4) residents of a certified nursing facility or certified boarding care home who were admitted before July 1, ~~1996~~ 1998, or individuals receiving services under section 256B.0913, subdivisions 1 to 14, or 256B.0915, before July 1, ~~1996~~ 1998, are not subject to the new level of care criteria unless the resident is discharged home or to another service setting other than a certified nursing facility or certified boarding care home and applies for admission to a certified nursing facility or certified boarding care home after June 30, ~~1996~~ 1998;

(5) the local screening teams under section 256B.0911 ~~shall make preliminary determinations concerning~~ may determine the existence of extraordinary circumstances which render nonadmission to a certified nursing or certified boarding care home a serious threat to the health and safety of applicants in clause (2) and may authorize an admission for a short-term stay at to a certified nursing facility or certified boarding care home in accordance with a treatment and discharge plan ~~for up to 30 days per year;~~ and

(6) an individual deemed ineligible for admission to Minnesota certified nursing facilities is entitled to an appeal under section 256.045, subdivision 3.

New language is indicated by underline, deletions by strikeout.

If the commissioner determines upon appeal that an applicant in clause (2) presents extraordinary circumstances including but not limited to the absence or inaccessibility of suitable alternatives, contravening family circumstances, and or protective service issues, the applicant may be eligible for admission to Minnesota certified nursing facilities or certified boarding care homes.

Sec. 4. Minnesota Statutes 1996, section 254A.17, subdivision 3, is amended to read:

Subd. 3. **STATEWIDE DETOXIFICATION TRANSPORTATION PROGRAM.** The commissioner shall provide grants to counties, Indian reservations, other nonprofit agencies, or local detoxification programs for provision of transportation of intoxicated individuals to detoxification programs, to open shelters, and to secure shelters as defined in section 254A.085 and, shelters serving intoxicated persons, including long-term supportive housing facilities for chronic inebriates, and hospital emergency rooms. ~~In state fiscal years 1994, 1995, and 1996, funds shall be allocated to counties in proportion to each county's allocation in fiscal year 1993. In subsequent fiscal years, 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. The commissioner shall make an annual payment to counties for provision of transportation under this section. If appropriations are not sufficient to pay the allowed maximum per trip, the commissioner shall reduce the maximum payment per trip until payments do not exceed the appropriation.~~ A county must make a good faith effort to provide the transportation service through the most cost-effective community-based agencies or organizations eligible to provide the service. The program administrator and all staff of the program must report to the office of the ombudsman for mental health and mental retardation within 24 hours of its occurrence, any serious injury, as defined in section 245.91, subdivision 6, or the death of a person admitted to the shelter. The ombudsman shall acknowledge in writing the receipt of all reports made to the ombudsman's office under this section. Acknowledgment must be mailed to the facility and to the county social service agency within five working days of the day the report was made. In addition, the program administrator and staff of the program must comply with all of the requirements of section 626.557, the vulnerable adults act.

Sec. 5. Minnesota Statutes 1996, section 254B.01, subdivision 3, is amended to read:

Subd. 3. **CHEMICAL DEPENDENCY SERVICES.** "Chemical dependency services" means a planned program of care for the treatment of chemical dependency or chemical abuse to minimize or prevent further chemical abuse by the person. Diagnostic, evaluation, prevention, referral, detoxification, and aftercare services that are not part of a program of care licensable as a residential or nonresidential chemical dependency treatment program are not chemical dependency services for purposes of this section. For pregnant and postpartum women, chemical dependency services include halfway house services, after-care services, psychological services, and case management.

New language is indicated by underline, deletions by strikeout.

Sec. 6. Minnesota Statutes 1996, section 254B.02, subdivision 1, is amended to read:

Subdivision 1. **CHEMICAL DEPENDENCY TREATMENT ALLOCATION.** The chemical dependency funds appropriated for allocation shall be placed in a special revenue account. For the fiscal year beginning July 1, 1987, funds shall be transferred to operate the vendor payment, invoice processing, and collections system for one year. The commissioner shall annually transfer funds from the chemical dependency fund to pay for operation of the drug and alcohol abuse normative evaluation system and to pay for all costs incurred by adding two positions for licensing of chemical dependency treatment and rehabilitation programs located in hospitals for which funds are not otherwise appropriated. For each year of the biennium ending June 30, 1999, the commissioner shall allocate funds to the American Indian chemical dependency tribal account for treatment of American Indians by eligible vendors under section 254B.05, equal to the amount allocated in fiscal year 1997. The commissioner shall annually divide the money available in the chemical dependency fund that is not held in reserve by counties from a previous allocation, or allocated to the American Indian chemical dependency tribal account. ~~Twelve~~ Six percent of the remaining money must be reserved for the nonreservation American Indian chemical dependency allocation for treatment of American Indians by eligible vendors under section 254B.05, subdivision 1. The remainder of the money must be allocated among the counties according to the following formula, using state demographer data and other data sources determined by the commissioner:

(a) For purposes of this formula, American Indians and children under age 14 are subtracted from the population of each county to determine the restricted population.

(b) The amount of chemical dependency fund expenditures for entitled persons for services not covered by prepaid plans governed by section 256B.69 in the previous year is divided by the amount of chemical dependency fund expenditures for entitled persons for all services to determine the proportion of exempt service expenditures for each county.

(c) The prepaid plan months of eligibility is multiplied by the proportion of exempt service expenditures to determine the adjusted prepaid plan months of eligibility for each county.

(d) The adjusted prepaid plan months of eligibility is added to the number of restricted population fee for service months of eligibility for aid to families with dependent children, general assistance, and medical assistance and divided by the county restricted population to determine county per capita months of covered service eligibility.

(e) The number of adjusted prepaid plan months of eligibility for the state is added to the number of fee for service months of eligibility for aid to families with dependent children, general assistance, and medical assistance for the state restricted population and divided by the state restricted population to determine state per capita months of covered service eligibility.

(f) The county per capita months of covered service eligibility is divided by the state per capita months of covered service eligibility to determine the county welfare caseload factor.

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(g) The median married couple income for the most recent three-year period available for the state is divided by the median married couple income for the same period for each county to determine the income factor for each county.

(h) The county restricted population is multiplied by the sum of the county welfare caseload factor and the county income factor to determine the adjusted population.

(i) \$15,000 shall be allocated to each county.

(j) The remaining funds shall be allocated proportional to the county adjusted population.

Sec. 7. Minnesota Statutes 1996, 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, 256B.056, and 256B.057, subdivisions 1, 2, 5, and 6, 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 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.

(d) Notwithstanding the provisions of paragraphs (b) and (c), state funds appropriated to serve persons who are not entitled under the provisions of paragraph (a), shall be expended for chemical dependency treatment services for nonentitled but eligible persons who have children in their household, are pregnant, or are younger than 18 years old. These persons may have household incomes up to 60 percent of the state median income. Any funds in addition to the amounts necessary to serve the persons identified in this paragraph shall be expended according to the provisions of paragraphs (b) and (c).

Sec. 8. Minnesota Statutes 1996, section 254B.09, subdivision 4, is amended to read:

Subd. 4. **TRIBAL ALLOCATION.** Forty-two and one-half Eighty-five percent of the American Indian chemical dependency tribal account must be allocated to the fed-

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erally recognized American Indian tribal governing bodies that have entered into an agreement under subdivision 2 as follows: \$10,000 must be allocated to each governing body and the remainder must be allocated in direct proportion to the population of the reservation according to the most recently available estimates from the federal Bureau of Indian Affairs. When a tribal governing body has not entered into an agreement with the commissioner under subdivision 2, the county may use funds allocated to the reservation to pay for chemical dependency services for a current resident of the county and of the reservation.

Sec. 9. Minnesota Statutes 1996, section 254B.09, subdivision 5, is amended to read:

Subd. 5. **TRIBAL RESERVE ACCOUNT.** The commissioner shall reserve ~~7.5~~ 15 percent of the American Indian chemical dependency tribal account. The reserve must be allocated to those tribal units that have used all money allocated under subdivision 4 according to agreements made under subdivision 2 and to counties submitting invoices for American Indians under subdivision 1 when all money allocated under subdivision 4 has been used. An American Indian tribal governing body or a county submitting invoices under subdivision 1 may receive not more than 30 percent of the reserve account in a year. The commissioner may refuse to make reserve payments for persons not eligible under section 254B.04, subdivision 1, if the tribal governing body responsible for treatment placement has exhausted its allocation. Money must be allocated as invoices are received.

Sec. 10. Minnesota Statutes 1996, section 254B.09, subdivision 7, is amended to read:

Subd. 7. **NONRESERVATION INDIAN ACCOUNT.** ~~Fifty percent of The nonreservation~~ American Indian chemical dependency allocation must be held in reserve by the commissioner in an account for treatment of Indians not residing on lands of a reservation receiving money under subdivision 4. This money must be used to pay for services certified by county invoice to have been provided to an American Indian eligible recipient. Money allocated under this subdivision may be used for payments on behalf of American Indian county residents only if, in addition to other placement standards, the county certifies that the placement was appropriate to the cultural orientation of the client. Any funds for treatment of nonreservation Indians remaining at the end of a fiscal year shall be reallocated under section 254B.02.

Sec. 11. Minnesota Statutes 1996, section 256.045, subdivision 7, is amended to read:

Subd. 7. **JUDICIAL REVIEW.** Except for a prepaid health plan, any party who is aggrieved by an order of the commissioner of human services, or the commissioner of health in appeals within the commissioner's jurisdiction under subdivision 3b, may appeal the order to the district court of the county responsible for furnishing assistance, or, in appeals under subdivision 3b, the county where the maltreatment occurred, by serving a written copy of a notice of appeal upon the commissioner and any adverse party of record within 30 days after the date the commissioner issued the order, the amended order, or order affirming the original order, and by filing the original notice and proof of service with the court administrator of the district court. Service may be made personally or by mail; service by mail is complete upon mailing; no filing fee shall be required by the court

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administrator in appeals taken pursuant to this subdivision, with the exception of appeals taken under subdivision 3b. The commissioner may elect to become a party to the proceedings in the district court. Except for appeals under subdivision 3b, any party may demand that the commissioner furnish all parties to the proceedings with a copy of the decision, and a transcript of any testimony, evidence, or other supporting papers from the hearing held before the human services referee, by serving a written demand upon the commissioner within 30 days after service of the notice of appeal. Any party aggrieved by the failure of an adverse party to obey an order issued by the commissioner under subdivision 5 may compel performance according to the order in the manner prescribed in sections 586.01 to 586.12.

Sec. 12. Minnesota Statutes 1996, section 256.476, subdivision 2, is amended to read:

Subd. 2. **DEFINITIONS.** For purposes of this section, the following terms have the meanings given them:

(a) "County board" means the county board of commissioners for the county of financial responsibility as defined in section 256G.02, subdivision 4, or its designated representative. When a human services board has been established under sections 402.01 to 402.10, it shall be considered the county board for the purposes of this section.

(b) "Family" means the person's birth parents, adoptive parents or stepparents, siblings or stepsiblings, children or stepchildren, grandparents, grandchildren, niece, nephew, aunt, uncle, or spouse. For the purposes of this section, a family member is at least 18 years of age.

(c) "Functional limitations" means the long-term inability to perform an activity or task in one or more areas of major life activity, including self-care, understanding and use of language, learning, mobility, self-direction, and capacity for independent living. For the purpose of this section, the inability to perform an activity or task results from a mental, emotional, psychological, sensory, or physical disability, condition, or illness.

(d) "Informed choice" means a voluntary decision made by the person or the person's legal representative, after becoming familiarized with the alternatives to:

- (1) select a preferred alternative from a number of feasible alternatives;
- (2) select an alternative which may be developed in the future; and
- (3) refuse any or all alternatives.

(e) "Local agency" means the local agency authorized by the county board to carry out the provisions of this section.

(f) "Person" or "persons" means a person or persons meeting the eligibility criteria in subdivision 3.

(g) "~~Responsible individual~~" "Authorized representative" means an individual designated by the person or their legal representative to act on their behalf. This individual may be a family member, guardian, representative payee, or other individual designated by the person or their legal representative, if any, to assist in purchasing and arranging for supports. For the purposes of this section, a responsible individual an authorized representative is at least 18 years of age.

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(h) "Screening" means the screening of a person's service needs under sections 256B.0911 and 256B.092.

(i) "Supports" means services, care, aids, home modifications, or assistance purchased by the person or the person's family. Examples of supports include respite care, assistance with daily living, and adaptive aids. For the purpose of this section, notwithstanding the provisions of section 144A.43, supports purchased under the consumer support program are not considered home care services.

(j) "Program of origination" means the program the individual transferred from when approved for the consumer support grant program.

Sec. 13. Minnesota Statutes 1996, section 256.476, subdivision 3, is amended to read:

Subd. 3. **ELIGIBILITY TO APPLY FOR GRANTS.** (a) A person is eligible to apply for a consumer support grant if the person meets all of the following criteria:

(1) the person is eligible for and has been approved to receive services under medical assistance as determined under sections 256B.055 and 256B.056 or the person is eligible for and has been approved to receive services under alternative care services as determined under section 256B.0913 or the person has been approved to receive a grant under the developmental disability family support program under section 252.32;

(2) the person is able to direct and purchase the person's own care and supports, or the person has a family member, legal representative, or other responsible individual authorized representative who can purchase and arrange supports on the person's behalf;

(3) the person has functional limitations, requires ongoing supports to live in the community, and is at risk of or would continue institutionalization without such supports; and

(4) the person will live in a home. For the purpose of this section, "home" means the person's own home or home of a person's family member. These homes are natural home settings and are not licensed by the department of health or human services.

(b) Persons may not concurrently receive a consumer support grant if they are:

(1) receiving home and community-based services under United States Code, title 42, section 1396h(c); personal care attendant and home health aide services under section 256B.0625; a developmental disability family support grant; or alternative care services under section 256B.0913; or

(2) residing in an institutional or congregate care setting.

(c) A person or person's family receiving a consumer support grant shall not be charged a fee or premium by a local agency for participating in the program. A person or person's family is not eligible for a consumer support grant if their income is at a level where they are required to pay a parental fee under sections 252.27, 256B.055, subdivision 12, and 256B.14 and rules adopted under those sections for medical assistance services to a disabled child living with at least one parent.

(d) The commissioner may limit the participation of nursing facility residents, residents of intermediate care facilities for persons with mental retardation, and the recipi-

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ents of services from federal waiver programs in the consumer support grant program if the participation of these individuals will result in an increase in the cost to the state.

(e) The commissioner shall establish a budgeted appropriation each fiscal year for the consumer support grant program. The number of individuals participating in the program will be adjusted so the total amount allocated to counties does not exceed the amount of the budgeted appropriation. The budgeted appropriation will be adjusted annually to accommodate changes in demand for the consumer support grants.

Sec. 14. Minnesota Statutes 1996, section 256.476, subdivision 4, is amended to read:

Subd. 4. SUPPORT GRANTS; CRITERIA AND LIMITATIONS. (a) A county board may choose to participate in the consumer support grant program. If a county board chooses to participate in the program, the local agency shall establish written procedures and criteria to determine the amount and use of support grants. These procedures must include, at least, the availability of respite care, assistance with daily living, and adaptive aids. The local agency may establish monthly or annual maximum amounts for grants and procedures where exceptional resources may be required to meet the health and safety needs of the person on a time-limited basis, however, the total amount awarded to each individual may not exceed the limits established in subdivision 5, paragraph (f).

(b) Support grants to a person or a person's family ~~may~~ will be provided through a monthly subsidy or lump sum payment basis and be in the form of cash, voucher, or direct county payment to vendor. Support grant amounts must be determined by the local agency. Each service and item purchased with a support grant must meet all of the following criteria:

(1) it must be over and above the normal cost of caring for the person if the person did not have functional limitations;

(2) it must be directly attributable to the person's functional limitations;

(3) it must enable the person or the person's family to delay or prevent out-of-home placement of the person; and

(4) it must be consistent with the needs identified in the service plan, when applicable.

(c) Items and services purchased with support grants must be those for which there are no other public or private funds available to the person or the person's family. Fees assessed to the person or the person's family for health and human services are not reimbursable through the grant.

(d) In approving or denying applications, the local agency shall consider the following factors:

(1) the extent and areas of the person's functional limitations;

(2) the degree of need in the home environment for additional support; and

(3) the potential effectiveness of the grant to maintain and support the person in the family environment or the person's own home.

(e) At the time of application to the program or screening for other services, the person or the person's family shall be provided sufficient information to ensure an informed

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choice of alternatives by the person, the person's legal representative, if any, or the person's family. The application shall be made to the local agency and shall specify the needs of the person and family, the form and amount of grant requested, the items and services to be reimbursed, and evidence of eligibility for medical assistance or alternative care program.

(f) Upon approval of an application by the local agency and agreement on a support plan for the person or person's family, the local agency shall make grants to the person or the person's family. The grant shall be in an amount for the direct costs of the services or supports outlined in the service agreement.

(g) Reimbursable costs shall not include costs for resources already available, such as special education classes, day training and habilitation, case management, other services to which the person is entitled, medical costs covered by insurance or other health programs, or other resources usually available at no cost to the person or the person's family.

(h) The state of Minnesota, the county boards participating in the consumer support grant program, or the agencies acting on behalf of the county boards in the implementation and administration of the consumer support grant program shall not be liable for damages, injuries, or liabilities sustained through the purchase of support by the individual, the individual's family, or the authorized representative under this section with funds received through the consumer support grant program. Liabilities include but are not limited to: workers' compensation liability, the Federal Insurance Contributions Act (FICA), or the Federal Unemployment Tax Act (FUTA). For purposes of this section, participating county boards and agencies acting on behalf of county boards are exempt from the provisions of section 268.04.

Sec. 15. Minnesota Statutes 1996, section 256.476, subdivision 5, is amended to read:

Subd. 5. REIMBURSEMENT, ALLOCATIONS, AND REPORTING. (a) For the purpose of transferring persons to the consumer support grant program from specific programs or services, such as the developmental disability family support program and alternative care program, personal care attendant, home health aide, or nursing facility services, the amount of funds transferred by the commissioner between the developmental disability family support program account, the alternative care account, the medical assistance account, or the consumer support grant account shall be based on each county's participation in transferring persons to the consumer support grant program from those programs and services.

(b) At the beginning of each fiscal year, county allocations for consumer support grants shall be based on:

(1) the number of persons to whom the county board expects to provide consumer supports grants;

(2) their eligibility for current program and services;

(3) the amount of nonfederal dollars expended on those individuals for those programs and services; or, in situations where an individual is unable to obtain the support needed from the program of origination due to the unavailability of service providers at the time or the location where the supports are needed, the allocation will be based on the

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county's best estimate of the nonfederal dollars that would have been expended if the services had been available; and

(4) projected dates when persons will start receiving grants. County allocations shall be adjusted periodically by the commissioner based on the actual transfer of persons or service openings, and the nonfederal dollars associated with those persons or service openings, to the consumer support grant program.

(c) The amount of funds transferred by the commissioner from the alternative care account and the medical assistance account for an individual may be changed if it is determined by the county or its agent that the individual's need for support has changed.

(d) The authority to utilize funds transferred to the consumer support grant account for the purposes of implementing and administering the consumer support grant program will not be limited or constrained by the spending authority provided to the program of origination.

(e) The commissioner shall use up to five percent of each county's allocation, as adjusted, for payments to that county for administrative expenses, to be paid as a proportionate addition to reported direct service expenditures.

(4) (f) Except as provided in this paragraph, the county allocation for each individual or individual's family cannot exceed 80 percent of the total nonfederal dollars expended on the individual by the program of origination except for the developmental disabilities family support grant program which can be approved up to 100 percent of the nonfederal dollars and in situations as described in paragraph (b), clause (3). In situations where exceptional need exists or the individual's need for support increases, up to 100 percent of the nonfederal dollars expended may be allocated to the county. Allocations that exceed 80 percent of the nonfederal dollars expended on the individual by the program of origination must be approved by the commissioner. The remainder of the amount expended on the individual by the program of origination will be used in the following proportions: half will be made available to the consumer support grant program and participating counties for consumer training, resource development, and other costs, and half will be returned to the state general fund.

(g) The commissioner may recover, suspend, or withhold payments if the county board, local agency, or grantee does not comply with the requirements of this section.

Sec. 16. Minnesota Statutes 1996, section 256.969, subdivision 1, is amended to read:

Subdivision 1. **HOSPITAL COST INDEX.** (a) The hospital cost index shall be the change in the Consumer Price Index—All Items (United States city average) (CPI-U) forecasted by Data Resources, Inc. The commissioner shall use the indices as forecasted in the third quarter of the calendar year prior to the rate year. The hospital cost index may be used to adjust the base year operating payment rate through the rate year on an annually compounded basis.

(b) For fiscal years beginning on or after July 1, 1993, the commissioner of human services shall not provide automatic annual inflation adjustments for hospital payment rates under medical assistance, nor under general assistance medical care, except that the inflation adjustments under paragraph (a) for medical assistance, excluding general assistance medical care, shall apply through calendar year 1997-1999. The commissioner of

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finance shall include as a budget change request in each biennial detailed expenditure budget submitted to the legislature under section 16A.11 annual adjustments in hospital payment rates under medical assistance and general assistance medical care, based upon the hospital cost index.

Sec. 17. Minnesota Statutes 1996, 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 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 14.57 to 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. 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. For case mix appeals filed after January 1, 1997, the difference in case mix and the corresponding payment adjustment must exceed a threshold of five percent.

Sec. 18. Minnesota Statutes 1996, section 256B.04, is amended by adding a subdivision to read:

Subd. 1a. **COMPREHENSIVE HEALTH SERVICES SYSTEM.** The commissioner shall carry out the duties in this section with the participation of the boards of county commissioners, and with full consideration for the interests of counties, to plan and implement a unified, accountable, comprehensive health services system that:

- (1) promotes accessible and quality health care for all Minnesotans;
- (2) assures provision of adequate health care within limited state and county resources;
- (3) avoids shifting funding burdens to county tax resources;

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(4) provides statewide eligibility, benefit, and service expectations;

(5) manages care, develops risk management strategies, and contains cost in all health and human services; and

(6) supports effective implementation of publicly funded health and human services for all areas of the state.

Sec. 19. Minnesota Statutes 1996, section 256B.055, subdivision 12, is amended to read:

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

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

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

(c) For purposes of this subdivision, "nursing facility" means a facility which provides nursing care as defined in section 144A.01, subdivision 5, licensed pursuant to sec-

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

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

(e) For purposes of this subdivision, a person requires the level of care provided in a nursing facility if the person requires 24-hour monitoring or supervision and a plan of mental health treatment because of specific symptoms or functional impairments associated with a serious mental illness or disorder diagnosis, which meet severity criteria for mental health established by the commissioner based on standards developed for the Wisconsin Katie Beckett program and published in July 1994 March 1997 as the Minnesota Mental Health Level of Care for Children and Adolescents with Severe Emotional Disorders.

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

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

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

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

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

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

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

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

Sec. 20. Minnesota Statutes 1996, section 256B.056, subdivision 4, is amended to read:

Subd. 4. **INCOME.** To be eligible for medical assistance, a person must not have, or anticipate receiving, semiannual income in excess of 120 percent of the income standards by family size used in the aid to families with dependent children program, except that families and children may have an income up to 133-1/3 percent of the AFDC income standard. In computing income to determine eligibility of persons who are not residents of long-term care facilities, the commissioner shall disregard increases in income as required by Public Law Numbers 94-566, section 503; 99-272; and 99-509. Veterans aid and attendance benefits and Veterans Administration unusual medical expense payments are considered income to the recipient.

Sec. 21. Minnesota Statutes 1996, section 256B.056, subdivision 5, is amended to read:

Subd. 5. **EXCESS INCOME.** A person who has excess income is eligible for medical assistance if the person has expenses for medical care that are more than the amount of the person's excess income, computed by deducting incurred medical expenses from the excess income to reduce the excess to the income standard specified in subdivision 4. The person shall elect to have the medical expenses deducted at the beginning of a one-month budget period or at the beginning of a six-month budget period. Until June 30, 1993, or the date the Medicaid Management Information System (MMIS) upgrade is implemented, whichever occurs last, The commissioner shall allow persons eligible for assistance on a one-month spenddown basis under this subdivision to elect to pay the monthly spenddown amount in advance of the month of eligibility to the local state agency in order to maintain eligibility on a continuous basis. If the recipient does not pay the spenddown amount on or before the 10th 20th of the month, the recipient is ineligible for this option for the following month. The local agency must deposit spenddown payments into its treasury and issue a monthly payment to the state agency with the necessary individual account information. The local agency shall code the client eligibility Medicaid Management Information System (MMIS) to indicate that the spenddown obligation has been

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satisfied for the month paid recipient has elected this option. The state agency shall convey this information recipient eligibility information relative to the collection of the spenddown to providers through eligibility cards which list no remaining spenddown obligation. After the implementation of the MMIS upgrade, the Electronic Verification System (EVS). A recipient electing advance payment must pay the state agency the monthly spenddown amount on or before the 10th 20th of the month in order to be eligible for this option in the following month.

Sec. 22. Minnesota Statutes 1996, 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 275 percent of the federal poverty guideline for the same family size. For purposes of this subdivision, "countable family income" means the amount of income considered available using the methodology of the AFDC program, except for the earned income disregard and employment deductions. An amount equal to the amount of earned income exceeding 275 percent of the federal poverty guideline, up to a maximum of the amount by which the combined total of 185 percent of the federal poverty guideline plus the earned income disregards and deductions of the AFDC program exceeds 275 percent of the federal poverty guideline will be deducted for pregnant women and infants less than one year of age. Eligibility for a pregnant woman or infant less than one year of age under this subdivision must be determined without regard to asset standards established in section 256B.056, subdivision 3.

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. 23. Minnesota Statutes 1996, section 256B.057, subdivision 1b, is amended to read:

Subd. 1b. **PREGNANT WOMEN AND INFANTS; EXPANSION.** This subdivision supersedes subdivision 1 as long as the Minnesota health care reform waiver remains in effect. When the waiver expires, the commissioner of human services shall publish a notice in the State Register and notify the revisor of statutes. An infant less than two years 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 275 percent of the federal poverty guideline for the same family size. For purposes of this subdivision, "countable family income" means the amount of income considered available using the methodology of the AFDC program, except for the earned income disregard and employment deductions. An amount equal to the amount of earned income exceeding 275 percent of the federal poverty guideline, up to a maximum of the amount by which the combined total of 185 percent of the federal poverty guideline plus the earned income disregards and deductions of the AFDC program exceeds 275 percent of the federal poverty guideline will be deducted for pregnant women and infants less than two years of age. Eligibility for a pregnant woman or infant less than two years of age under this subdivision must be determined without regard to asset standards established in section 256B.056, subdivision 3.

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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 second birthday, as long as the child remains in the woman's household.

Sec. 24. Minnesota Statutes 1996, 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 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.~~

Sec. 25. Minnesota Statutes 1996, section 256B.0625, subdivision 13, is amended to read:

Subd. 13. **DRUGS.** (a) Medical assistance covers drugs, except for fertility drugs when specifically used to enhance fertility, if prescribed by a licensed practitioner and dispensed by a licensed pharmacist, by a physician enrolled in the medical assistance program as a dispensing physician, or by a physician or a nurse practitioner employed by or under contract with a community health board as defined in section 145A.02, subdivision 5, for the purposes of communicable disease control. The commissioner, after receiving recommendations from professional medical associations and professional pharmacist associations, shall designate a formulary committee to advise the commissioner on the names of drugs for which payment is made, recommend a system for reimbursing providers on a set fee or charge basis rather than the present system, and develop methods encouraging use of generic drugs when they are less expensive and equally effective as trademark drugs. The 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 three-year terms and shall serve without compensation. Members may be reappointed once.

(b) The commissioner shall establish a drug formulary. Its establishment and publication shall not be subject to the requirements of the administrative procedure act, but the formulary committee shall review and comment on the formulary contents. The formulary committee shall review and recommend drugs which require prior authorization. The formulary committee may recommend drugs for prior authorization directly to the commissioner, as long as opportunity for public input is provided. Prior authorization may be requested by the commissioner based on medical and clinical criteria before certain drugs are eligible for payment. Before a drug may be considered for prior authorization at the request of the commissioner:

(1) the drug formulary committee must develop criteria to be used for identifying drugs; the development of these criteria is not subject to the requirements of chapter 14,

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but the formulary committee shall provide opportunity for public input in developing criteria;

(2) the drug formulary committee must hold a public forum and receive public comment for an additional 15 days; and

(3) the commissioner must provide information to the formulary committee on the impact that placing the drug on prior authorization will have on the quality of patient care and information regarding whether the drug is subject to clinical abuse or misuse. Prior authorization may be required by the commissioner before certain formulary drugs are eligible for payment. The formulary shall not include:

(i) drugs or products for which there is no federal funding;

(ii) over-the-counter drugs, except for antacids, acetaminophen, family planning products, aspirin, insulin, products for the treatment of lice, vitamins for adults with documented vitamin deficiencies, and vitamins for children under the age of seven and pregnant or nursing women; and

(iii) any other over-the-counter drug identified by the commissioner, in consultation with the drug formulary committee, as necessary, appropriate, and cost-effective for the treatment of certain specified chronic diseases, conditions or disorders, and this determination shall not be subject to the requirements of chapter 14;

(iv) (iii) anorectics; and

(v) (iv) drugs for which medical value has not been established.

The commissioner shall publish conditions for prohibiting payment for specific drugs after considering the formulary committee's recommendations.

(c) 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; 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. The pharmacy dispensing fee shall be ~~\$3.85~~ \$3.65. Actual acquisition cost includes quantity and other special discounts except time and cash discounts. The actual acquisition cost of a drug shall be estimated by the commissioner, at average wholesale price minus nine percent. 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

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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.

Sec. 26. Minnesota Statutes 1996, section 256B.0625, is amended by adding a subdivision to read:

Subd. 31a. AUGMENTATIVE AND ALTERNATIVE COMMUNICATION SYSTEMS. (a) Medical assistance covers augmentative and alternative communication systems consisting of electronic or nonelectronic devices and the related components necessary to enable a person with severe expressive communication limitations to produce or transmit messages or symbols in a manner that compensates for that disability.

(b) By January 1, 1998, the commissioner, in cooperation with the commissioner of administration, shall establish an augmentative and alternative communication system purchasing program within a state agency or by contract with a qualified private entity. The purpose of this service is to facilitate ready availability of the augmentative and alternative communication systems needed to meet the needs of persons with severe expressive communication limitations in an efficient and cost-effective manner. This program shall:

(1) coordinate purchase and rental of augmentative and alternative communication systems;

(2) negotiate agreements with manufacturers and vendors for purchase of components of these systems, for warranty coverage, and for repair service;

(3) when efficient and cost-effective, maintain and refurbish if needed, an inventory of components of augmentative and alternative communication systems for short- or long-term loan to recipients;

(4) facilitate training sessions for service providers, consumers, and families on augmentative and alternative communication systems; and

(5) develop a recycling program for used augmentative and alternative communications systems to be reissued and used for trials and short-term use, when appropriate.

The availability of components of augmentative and alternative communication systems through this program is subject to prior authorization requirements established under subdivision 25.

Reimbursement rates established by this purchasing program are not subject to Minnesota Rules, part 9505.0445, item S or T.

Sec. 27. Minnesota Statutes 1996, section 256B.0626, is amended to read:

256B.0626 ESTIMATION OF 50TH PERCENTILE OF PREVAILING CHARGES.

(a) The 50th percentile of the prevailing charge for the base year identified in statute must be estimated by the commissioner in the following situations:

(1) there were less than ten five billings in the calendar year specified in legislation governing maximum payment rates;

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(2) the service was not available in the calendar year specified in legislation governing maximum payment rates;

(3) the payment amount is the result of a provider appeal;

(4) the procedure code description has changed since the calendar year specified in legislation governing maximum payment rates, and, therefore, the prevailing charge information reflects the same code but a different procedure description; or

(5) the 50th percentile reflects a payment which is grossly inequitable when compared with payment rates for procedures or services which are substantially similar.

(b) When one of the situations identified in paragraph (a) occurs, the commissioner shall use the following methodology to reconstruct a rate comparable to the 50th percentile of the prevailing rate:

(1) refer to information which exists for the first ~~nine~~ four billings in the calendar year specified in legislation governing maximum payment rates; or

(2) refer to surrounding or comparable procedure codes; or

(3) refer to the 50th percentile of years subsequent to the calendar year specified in legislation governing maximum payment rates, and reduce that amount by applying an appropriate Consumer Price Index formula; or

(4) refer to relative value indexes; or

(5) refer to reimbursement information from other third parties, such as Medicare.

Sec. 28. Minnesota Statutes 1996, section 256B.0627, subdivision 5, is amended to read:

Subd. 5. **LIMITATION ON PAYMENTS.** Medical assistance payments for home care services shall be limited according to this subdivision.

(a) **LIMITS ON SERVICES WITHOUT PRIOR AUTHORIZATION.** A recipient may receive the following home care services during a calendar year:

(1) any initial assessment; ~~and~~

(2) up to two reassessments per year done to determine a recipient's need for personal care services; and

(3) up to five skilled nurse visits.

(b) **PRIOR AUTHORIZATION; EXCEPTIONS.** All home care services above the limits in paragraph (a) must receive the commissioner's prior authorization, except when:

(1) the home care services were required to treat an emergency medical condition that if not immediately treated could cause a recipient serious physical or mental disability, continuation of severe pain, or death. The provider must request retroactive authorization no later than five working days after giving the initial service. The provider must be able to substantiate the emergency by documentation such as reports, notes, and admission or discharge histories;

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(2) the home care services were provided on or after the date on which the recipient's eligibility began, but before the date on which the recipient was notified that the case was opened. Authorization will be considered if the request is submitted by the provider within 20 working days of the date the recipient was notified that the case was opened;

(3) a third-party payor for home care services has denied or adjusted a payment. Authorization requests must be submitted by the provider within 20 working days of the notice of denial or adjustment. A copy of the notice must be included with the request;

(4) the commissioner has determined that a county or state human services agency has made an error; or

(5) the professional nurse determines an immediate need for up to 40 skilled nursing or home health aide visits per calendar year and submits a request for authorization within 20 working days of the initial service date, and medical assistance is determined to be the appropriate payer.

(c) **RETROACTIVE AUTHORIZATION.** A request for retroactive authorization will be evaluated according to the same criteria applied to prior authorization requests.

(d) **ASSESSMENT AND SERVICE PLAN.** Assessments under section 256B.0627, subdivision 1, paragraph (a), shall be conducted initially, and at least annually thereafter, in person with the recipient and result in a completed service plan using forms specified by the commissioner. Within 30 days of recipient or responsible party request for home care services, the assessment, the service plan, and other information necessary to determine medical necessity such as diagnostic or testing information, social or medical histories, and hospital or facility discharge summaries shall be submitted to the commissioner. For personal care services:

(1) The amount and type of service authorized based upon the assessment and service plan will follow the recipient if the recipient chooses to change providers.

(2) If the recipient's medical need changes, the recipient's provider may assess the need for a change in service authorization and request the change from the county public health nurse. Within 30 days of the request, the public health nurse will determine whether to request the change in services based upon the provider assessment, or conduct a home visit to assess the need and determine whether the change is appropriate.

(3) To continue to receive personal care services when the recipient displays no significant change, the county public health nurse has the option to review with the commissioner, or the commissioner's designee, the service plan on record and receive authorization for up to an additional 12 months at a time for up to three years.

(e) **PRIOR AUTHORIZATION.** The commissioner, or the commissioner's designee, shall review the assessment, the service plan, and any additional information that is submitted. The commissioner shall, within 30 days after receiving a complete request, assessment, and service plan, authorize home care services as follows:

(1) **HOME HEALTH SERVICES.** All home health services provided by a licensed nurse or a home health aide must be prior authorized by the commissioner or the commissioner's designee. Prior authorization must be based on medical necessity and cost-effectiveness when compared with other care options. When home health services

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are used in combination with personal care and private duty nursing, the cost of all home care services shall be considered for cost-effectiveness. The commissioner shall limit nurse and home health aide visits to no more than one visit each per day.

(2) **PERSONAL CARE SERVICES.** (i) All personal care services and registered nurse supervision must be prior authorized by the commissioner or the commissioner's designee except for the assessments established in paragraph (a). The amount of personal care services authorized must be based on the recipient's home care rating. A child may not be found to be dependent in an activity of daily living if because of the child's age an adult would either perform the activity for the child or assist the child with the activity and the amount of assistance needed is similar to the assistance appropriate for a typical child of the same age. Based on medical necessity, the commissioner may authorize:

(A) up to two times the average number of direct care hours provided in nursing facilities for the recipient's comparable case mix level; or

(B) up to three times the average number of direct care hours provided in nursing facilities for recipients who have complex medical needs or are dependent in at least seven activities of daily living and need physical assistance with eating or have a neurological diagnosis; or

(C) up to 60 percent of the average reimbursement rate, as of July 1, 1991, for care provided in a regional treatment center for recipients who have Level I behavior, plus any inflation adjustment as provided by the legislature for personal care service; or

(D) up to the amount the commissioner would pay, as of July 1, 1991, plus any inflation adjustment provided for home care services, for care provided in a regional treatment center for recipients referred to the commissioner by a regional treatment center preadmission evaluation team. For purposes of this clause, home care services means all 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.0911 or 256B.092; and

(F) a reasonable amount of time for the provision of nursing supervision of personal care services.

(ii) The number of direct care hours shall be determined according to the annual cost report submitted to the department by nursing facilities. The average number of direct care hours, as established by May 1, 1992, shall be calculated and incorporated into the home care limits on July 1, 1992. These limits shall be calculated to the nearest quarter hour.

(iii) The home care rating shall be determined by the commissioner or the commissioner's designee based on information submitted to the commissioner by the county public health nurse on forms specified by the commissioner. The home care rating shall be a combination of current assessment tools developed under sections 256B.0911 and 256B.501 with an addition for seizure activity that will assess the frequency and severity of seizure activity and with adjustments, additions, and clarifications that are necessary to reflect the needs and conditions of recipients who need home care including children and adults under 65 years of age. The commissioner shall establish these forms and proto-

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cols under this section and shall use an advisory group, including representatives of recipients, providers, and counties, for consultation in establishing and revising the forms and protocols.

(iv) A recipient shall qualify as having complex medical needs if the care required is difficult to perform and because of recipient's medical condition requires more time than community-based standards allow or requires more skill than would ordinarily be required and the recipient needs or has one or more of the following:

(A) daily tube feedings;

(B) daily parenteral therapy;

(C) wound or decubiti care;

(D) postural drainage, percussion, nebulizer treatments, suctioning, tracheotomy care, oxygen, mechanical ventilation;

(E) catheterization;

(F) ostomy care;

(G) quadriplegia; or

(H) other comparable medical conditions or treatments the commissioner determines would otherwise require institutional care.

(v) A recipient shall qualify as having Level I behavior if there is reasonable supporting evidence that the recipient exhibits, or that without supervision, observation, or redirection would exhibit, one or more of the following behaviors that cause, or have the potential to cause:

(A) injury to the recipient's own body;

(B) physical injury to other people; or

(C) destruction of property.

(vi) Time authorized for personal care relating to Level I behavior in subclause (v), items (A) to (C), shall be based on the predictability, frequency, and amount of intervention required.

(vii) A recipient shall qualify as having Level II behavior if the recipient exhibits on a daily basis one or more of the following behaviors that interfere with the completion of personal care services under subdivision 4, paragraph (a):

(A) unusual or repetitive habits;

(B) withdrawn behavior; or

(C) offensive behavior.

(viii) A recipient with a home care rating of Level II behavior in subclause (vii), items (A) to (C), shall be rated as comparable to a recipient with complex medical needs under subclause (iv). If a recipient has both complex medical needs and Level II behavior, the home care rating shall be the next complex category up to the maximum rating under subclause (i), item (B).

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(3) **PRIVATE DUTY NURSING SERVICES.** All private duty nursing services shall be prior authorized by the commissioner or the commissioner's designee. Prior authorization for private duty nursing services shall be based on medical necessity and cost-effectiveness when compared with alternative care options. The commissioner may authorize medically necessary private duty nursing services in quarter-hour units when:

(i) the recipient requires more individual and continuous care than can be provided during a nurse visit; or

(ii) the cares are outside of the scope of services that can be provided by a home health aide or personal care assistant.

The commissioner may authorize:

(A) up to two times the average amount of direct care hours provided in nursing facilities statewide for case mix classification "K" as established by the annual cost report submitted to the department by nursing facilities in May 1992;

(B) private duty nursing in combination with other home care services up to the total cost allowed under clause (2);

(C) up to 16 hours per day if the recipient requires more nursing than the maximum number of direct care hours as established in item (A) and the recipient meets the hospital admission criteria established under Minnesota Rules, parts 9505.0500 to 9505.0540.

The commissioner may authorize up to 16 hours per day of medically necessary private duty nursing services or up to 24 hours per day of medically necessary private duty nursing services until such time as the commissioner is able to make a determination of eligibility for recipients who are cooperatively applying for home care services under the community alternative care program developed under section 256B.49, or until it is determined by the appropriate regulatory agency that a health benefit plan is or is not required to pay for appropriate medically necessary health care services. Recipients or their representatives must cooperatively assist the commissioner in obtaining this determination. Recipients who are eligible for the community alternative care program may not receive more hours of nursing under this section than would otherwise be authorized under section 256B.49.

(4) **VENTILATOR-DEPENDENT RECIPIENTS.** If the recipient is ventilator-dependent, the monthly medical assistance authorization for home care services shall not exceed what the commissioner would pay for care at the highest cost hospital designated as a long-term hospital under the Medicare program. For purposes of this clause, home care services means all services provided in the home that would be included in the payment for care at the long-term hospital. "Ventilator-dependent" means an individual who receives mechanical ventilation for life support at least six hours per day and is expected to be or has been dependent for at least 30 consecutive days.

(f) **PRIOR AUTHORIZATION; TIME LIMITS.** The commissioner or the commissioner's designee shall determine the time period for which a prior authorization shall be effective. If the recipient continues to require home care services beyond the duration of the prior authorization, the home care provider must request a new prior authorization. Under no circumstances, other than the exceptions in paragraph (b), shall a prior authorization be valid prior to the date the commissioner receives the request or for more than 12 months. A recipient who appeals a reduction in previously authorized home care ser-

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vices may continue previously authorized services, other than temporary services under paragraph (h), pending an appeal under section 256.045. The commissioner must provide a detailed explanation of why the authorized services are reduced in amount from those requested by the home care provider.

(g) **APPROVAL OF HOME CARE SERVICES.** The commissioner or the commissioner's designee shall determine the medical necessity of home care services, the level of caregiver according to subdivision 2, and the institutional comparison according to this subdivision, the cost-effectiveness of services, and the amount, scope, and duration of home care services reimbursable by medical assistance, based on the assessment, primary payer coverage determination information as required, the service plan, the recipient's age, the cost of services, the recipient's medical condition, and diagnosis or disability. The commissioner may publish additional criteria for determining medical necessity according to section 256B.04.

(h) **PRIOR AUTHORIZATION REQUESTS; TEMPORARY SERVICES.** The agency nurse, the independently enrolled private duty nurse, or county public health nurse may request a temporary authorization for home care services by telephone. The commissioner may approve a temporary level of home care services based on the assessment, and service or care plan information, and primary payer coverage determination information as required. Authorization for a temporary level of home care services including nurse supervision is limited to the time specified by the commissioner, but shall not exceed 45 days, unless extended because the county public health nurse has not completed the required assessment and service plan, or the commissioner's determination has not been made. The level of services authorized under this provision shall have no bearing on a future prior authorization.

(i) **PRIOR AUTHORIZATION REQUIRED IN FOSTER CARE SETTING.** Home care services provided in an adult or child foster care setting must receive prior authorization by the department according to the limits established in paragraph (a).

The commissioner may not authorize:

(1) home care services that are the responsibility of the foster care provider under the terms of the foster care placement agreement and administrative rules. Requests for home care services for recipients residing in a foster care setting must include the foster care placement agreement and determination of difficulty of care;

(2) personal care services when the foster care license holder is also the personal care provider or personal care assistant unless the recipient can direct the recipient's own care, or case management is provided as required in section 256B.0625, subdivision 19a;

(3) personal care services when the responsible party is an employee of, or under contract with, or has any direct or indirect financial relationship with the personal care provider or personal care assistant, unless case management is provided as required in section 256B.0625, subdivision 19a;

(4) home care services when the number of foster care residents is greater than four unless the county responsible for the recipient's foster placement made the placement prior to April 1, 1992, requests that home care services be provided, and case management is provided as required in section 256B.0625, subdivision 19a; or

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(5) home care services when combined with foster care payments, other than room and board payments that exceed the total amount that public funds would pay for the recipient's care in a medical institution.

Sec. 29. Minnesota Statutes 1996, section 256B.0627, is amended by adding a subdivision to read:

Subd. 8. PERSONAL CARE ASSISTANT SERVICES. Recipients of personal care assistant services may share staff and the commissioner shall provide a rate system for shared personal care assistant services. The rate system shall not exceed 1-1/2 the amount paid for providing services to one person, and shall increase incrementally by one-half the cost of serving a single person, for each person served. A personal care assistant may not serve more than three children in a single setting.

Nothing in this subdivision shall be construed to reduce the total number of hours authorized for an individual recipient.

Sec. 30. Minnesota Statutes 1996, section 256B.064, subdivision 1a, is amended to read:

Subd. 1a. GROUNDS FOR MONETARY RECOVERY AND SANCTIONS AGAINST VENDORS. The commissioner may seek monetary recovery and impose sanctions against vendors of medical care for any of the following: fraud, theft, or abuse in connection with the provision of medical care to recipients of public assistance; a pattern of presentment of false or duplicate claims or claims for services not medically necessary; a pattern of making false statements of material facts for the purpose of obtaining greater compensation than that to which the vendor is legally entitled; suspension or termination as a Medicare vendor; and refusal to grant the state agency access during regular business hours to examine all records necessary to disclose the extent of services provided to program recipients; and any reason for which a vendor could be excluded from participation in the Medicare program under section 1128, 1128A, or 1866(b)(2) of the Social Security Act. The determination of services not medically necessary may be made by the commissioner in consultation with a peer advisory task force appointed by the commissioner on the recommendation of appropriate professional organizations. The task force expires as provided in section 15.059, subdivision 5.

Sec. 31. Minnesota Statutes 1996, section 256B.064, subdivision 1c, is amended to read:

Subd. 1c. METHODS OF MONETARY RECOVERY. The commissioner may obtain monetary recovery for the conduct described in subdivision 1a by the following from a vendor who has been improperly paid either as a result of conduct described in subdivision 1a or as a result of a vendor or department error, regardless of whether the error was intentional. The commissioner may obtain monetary recovery using methods, including but not limited to the following: assessing and recovering money erroneously improperly paid and debiting from future payments any money erroneously improperly paid, except that. Patterns need not be proven as a precondition to monetary recovery for of erroneous or false claims, duplicate claims, claims for services not medically necessary, or claims based on false statements. The commissioner may shall charge interest on money to be recovered if the recovery is to be made by installment payments or debits, except when the monetary recovery is of an overpayment that resulted from a department

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error. The interest charged shall be the rate established by the commissioner of revenue under section 270.75.

Sec. 32. Minnesota Statutes 1996, section 256B.064, subdivision 2, is amended to read:

Subd. 2. IMPOSITION OF MONETARY RECOVERY AND SANCTIONS.

(a) 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. Except in the case of a conviction for conduct described in subdivision 1a as provided in paragraph (b), neither a monetary recovery nor a sanction will be sought imposed by the commissioner without prior notice and an opportunity for a hearing, pursuant according to chapter 14, on the commissioner's proposed action, provided that the commissioner may suspend or reduce payment to a vendor of medical care, except a nursing home or convalescent care facility, after notice and 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.

(b) Except for a nursing home or convalescent care facility, the commissioner may withhold or reduce payments to a vendor of medical care without providing advance notice of such withholding or reduction if either of the following occurs:

(1) the vendor is convicted of a crime involving the conduct described in subdivision 1a; or

(2) the commissioner receives reliable evidence of fraud or willful misrepresentation by the vendor.

(c) The commissioner must send notice of the withholding or reduction of payments under paragraph (b) within five days of taking such action. The notice must:

(1) state that payments are being withheld according to paragraph (b);

(2) except in the case of a conviction for conduct described in subdivision 1a, state that the withholding is for a temporary period and cite the circumstances under which withholding will be terminated;

(3) identify the types of claims to which the withholding applies; and

(4) inform the vendor of the right to submit written evidence for consideration by the commissioner.

The withholding or reduction of payments will not continue after the commissioner determines there is insufficient evidence of fraud or willful misrepresentation by the vendor, or after legal proceedings relating to the alleged fraud or willful misrepresentation are completed, unless the commissioner has sent notice of intention to impose monetary recovery or sanctions under paragraph (a).

(d) Upon receipt of a notice under paragraph (a) 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:

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- (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. 33. Minnesota Statutes 1996, section 256B.0644, is amended to read:

256B.0644 PARTICIPATION REQUIRED FOR REIMBURSEMENT UNDER OTHER STATE HEALTH CARE PROGRAMS.

A vendor of medical care, as defined in section 256B.02, subdivision 7, and a health maintenance organization, as defined in chapter 62D, must participate as a provider or contractor in the medical assistance program, general assistance medical care program, and MinnesotaCare as a condition of participating as a provider in health insurance plans and programs or contractor for state employees established under section 43A.18, the public employees insurance program under section 43A.316, for health insurance plans offered to local statutory or home rule charter city, county, and school district employees, the workers' compensation system under section 176.135, and insurance plans provided through the Minnesota comprehensive health association under sections 62E.01 to 62E.16. The limitations on insurance plans offered to local government employees shall not be applicable in geographic areas where provider participation is limited by managed care contracts with the department of human services. For providers other than health maintenance organizations, participation in the medical assistance program means that (1) the provider accepts new medical assistance, general assistance medical care, and MinnesotaCare patients ~~or~~, (2) for providers other than dental services providers, at least 20 percent of the provider's patients are covered by medical assistance, general assistance medical care, and MinnesotaCare as their primary source of coverage, or (3) for dental services providers, at least ten percent of the provider's patients are covered by medical assistance, general assistance medical care, and MinnesotaCare as their primary source of coverage. The commissioner shall establish participation requirements for health maintenance organizations. The commissioner shall provide lists of participating medical assistance providers on a quarterly basis to the commissioner of employee relations, the commissioner of labor and industry, and the commissioner of commerce. Each of the commissioners shall develop and implement procedures to exclude as participating providers in the program or programs under their jurisdiction those providers who do not participate in the medical assistance program. The commissioner of employee relations shall implement this section through contracts with participating health and dental carriers.

Sec. 34. Minnesota Statutes 1996, section 256B.0911, subdivision 7, is amended to read:

Subd. 7. **REIMBURSEMENT FOR CERTIFIED NURSING FACILITIES.** (a) Medical assistance reimbursement for nursing facilities shall be authorized for a medical assistance recipient only if a preadmission screening has been conducted prior to admis-

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sion 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 screener has determined does not meet the level of care criteria for nursing facility placement or, if indicated, has not had a level II PASARR evaluation completed unless an admission for a recipient with mental illness is approved by the local mental health authority or an admission for a recipient with mental retardation or related condition is approved by the state mental retardation authority. The county preadmission screening team may deny certified nursing facility admission using the level of care criteria established under section 144.0721 and deny medical assistance reimbursement for certified nursing facility care. Persons receiving care in a certified nursing facility or certified boarding care home who are reassessed by the commissioner of health according to section 144.0722 and determined to no longer meet the level of care criteria for a certified nursing facility or certified boarding care home may no longer remain a resident in the certified nursing facility or certified boarding care home and must be relocated to the community if the persons were admitted on or after July 1, 1996 1998.

(b) Persons receiving services under section 256B.0913, subdivisions 1 to 14, or 256B.0915 who are reassessed and found to not meet the level of care criteria for admission to a certified nursing facility or certified boarding care home may no longer receive these services if persons were admitted to the program on or after July 1, 1996 1998. The commissioner shall make a request to the health care financing administration for a waiver allowing screening team approval of Medicaid payments for certified nursing facility care. An individual has a choice and makes the final decision between nursing facility placement and community placement after the screening team's recommendation, except as provided in paragraphs (b) and (c).

(c) The local county mental health authority or the state mental retardation authority under Public Law Numbers 100-203 and 101-508 may prohibit admission to a nursing facility, if the individual does not meet the nursing facility level of care criteria or needs specialized services as defined in Public Law Numbers 100-203 and 101-508. For purposes of this section, "specialized services" for a person with mental retardation or a related condition means "active treatment" as that term is defined in Code of Federal Regulations, title 42, section 483.440(a)(1).

(d) Upon the receipt by the commissioner of approval by the Secretary of Health and Human Services of the waiver requested under paragraph (a), the local screener shall deny medical assistance reimbursement for nursing facility care for an individual whose long-term care needs can be met in a community-based setting and whose cost of community-based home care services is less than 75 percent of the average payment for nursing facility care for that individual's case mix classification, and who is either:

(i) a current medical assistance recipient being screened for admission to a nursing facility; or

(ii) an individual who would be eligible for medical assistance within 180 days of entering a nursing facility and who meets a nursing facility level of care.

(e) Appeals from the screening team's recommendation or the county agency's final decision shall be made according to section 256.045, subdivision 3.

Sec. 35. Minnesota Statutes 1996, section 256B.0912, is amended by adding a subdivision to read:

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Subd. 3. RATE CONSOLIDATION AND EQUALIZATION. (a) The commissioner of human services shall use one maximum reimbursement rate for personal care services rendered after June 30, 1997, regardless of whether the services are provided through the medical assistance program, the alternative care program, and the elderly, the community alternatives for disabled individuals, the community alternative care, and the traumatic brain injury waiver programs. The maximum reimbursement rate to be paid must be the reimbursement rate paid for personal care services received under the medical assistance program on June 30, 1997.

(b) The maximum reimbursement rates for behavior programming and cognitive therapy services provided through the traumatic brain injury waiver must be equivalent to the medical assistance reimbursement rates for mental health services.

Sec. 36. Minnesota Statutes 1996, section 256B.0913, subdivision 7, is amended to read:

Subd. 7. CASE MANAGEMENT. The lead agency shall appoint a social worker from the county agency or a registered nurse from the county public health nursing service of the local board of health to be the case manager for any person receiving services funded by the alternative care program. Providers of case management services for persons receiving services funded by the alternative care program must meet the qualification requirements and standards specified in section 256B.0915, subdivision 1b. The case manager must ensure the health and safety of the individual client and is responsible for the cost-effectiveness of the alternative care individual care plan. The county may allow a case manager employed by the county to delegate certain aspects of the case management activity to another individual employed by the county provided there is oversight of the individual by the case manager. The case manager may not delegate those aspects which require professional judgment including assessments, reassessments, and care plan development.

Sec. 37. Minnesota Statutes 1996, section 256B.0913, subdivision 10, is amended to read:

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.

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(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 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. Calculations for paragraphs (c) and (d) must also include the funds transferred to the consumer support grant program for clients who have transferred to that program from April 1 through March 31 in the base year.

Sec. 38. Minnesota Statutes 1996, section 256B.0913, subdivision 15, is amended to read:

Subd. 15. **SERVICE ALLOWANCE FUND AVAILABILITY.** (a) Effective July 1, 1996 1998, the commissioner may use alternative care funds for services to high function class A persons as defined in section 144.0721, subdivision 3, clause (2). The county alternative care grant allocation will be supplemented with a special allocation amount based on the projected number of eligible high function class A's and computed on the basis of \$240 per month per projected eligible person. Individual monthly expenditures under the service allowance option are permitted to be either greater or less than the amount of \$240 per month based on individual need. County allocations shall be adjusted periodically based on the actual provision of services to high function class A persons. The allocation will be distributed by a population based formula and shall not exceed the proportion of projected savings made available under section 144.0721, subdivision 3.

(b) Counties shall have the option of providing services, cash service allowances, vouchers, or a combination of these options to high function class A persons defined in section 144.0721, subdivision 3, clause (2). High function class A persons may choose services from among the categories of services listed under subdivision 5, except for case management services.

(c) If the special allocation under this section to a county is not sufficient to serve all persons who qualify for alternative care services the service allowance, the county is not required to provide any alternative care services to a high function class A person but shall establish a waiting list to provide services as special allocation funding becomes available.

Sec. 39. Minnesota Statutes 1996, section 256B.0913, is amended by adding a subdivision to read:

Subd. 16. **CONVERSION OF ENROLLMENT.** Upon approval of the elderly waiver amendments described in section 42, persons currently receiving services shall have their eligibility for the elderly waiver program determined under section 256B.0915. Persons currently receiving alternative care services whose income is under the special income standard according to Code of Federal Regulations, title 42, section 435.236, who are eligible for the elderly waiver program shall be transferred to that pro-

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gram and shall receive priority access to elderly waiver slots for six months after implementation of this subdivision. Persons currently enrolled in the alternative care program who are not eligible for the elderly waiver program shall continue to be eligible for the alternative care program as long as continuous eligibility is maintained. Continued eligibility for the alternative care program shall be reviewed every six months. Persons who apply for the alternative care program after approval of the elderly waiver amendments in section 42 are not eligible for alternative care if they would qualify for the elderly waiver, with or without a spenddown.

Sec. 40. Minnesota Statutes 1996, section 256B.0915, subdivision 1b, is amended to read:

Subd. 1b. **PROVIDER QUALIFICATIONS AND STANDARDS.** The commissioner must enroll qualified providers of elderly case management services under the home and community-based waiver for the elderly under section 1915(c) of the Social Security Act. The enrollment process shall ensure the provider's ability to meet the qualification requirements and standards in this subdivision and other federal and state requirements of this service. An elderly case management provider is an enrolled medical assistance provider who is determined by the commissioner to have all of the following characteristics:

(1) the legal authority for alternative care program administration under section 256B.0913;

(2) the demonstrated capacity and experience to provide the components of case management to coordinate and link community resources needed by the eligible population;

(3) (2) administrative capacity and experience in serving the target population for whom it will provide services and in ensuring quality of services under state and federal requirements;

(4) the legal authority to provide preadmission screening under section 256B.0911, subdivision 4;

(5) (3) a financial management system that provides accurate documentation of services and costs under state and federal requirements;

(6) (4) the capacity to document and maintain individual case records under state and federal requirements; and

(7) (5) the county may allow a case manager employed by the county to delegate certain aspects of the case management activity to another individual employed by the county provided there is oversight of the individual by the case manager. The case manager may not delegate those aspects which require professional judgment including assessments, reassessments, and care plan development.

Sec. 41. Minnesota Statutes 1996, section 256B.0915, is amended by adding a subdivision to read:

Subd. 1d. **POSTELIGIBILITY TREATMENT OF INCOME AND RESOURCES FOR ELDERLY WAIVER.** (a) Notwithstanding the provisions of section 256B.056, the commissioner shall make the following amendment to the medical assis-

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tance elderly waiver program effective July 1, 1997, or upon federal approval, whichever is later.

A recipient's maintenance needs will be an amount equal to the Minnesota supplemental aid equivalent rate as defined in section 256I.03, subdivision 5, plus the medical assistance personal needs allowance as defined in section 256B.35, subdivision 1, paragraph (a), when applying posteligibility treatment of income rules to the gross income of elderly waiver recipients, except for individuals whose income is in excess of the special income standard according to Code of Federal Regulations, title 42, section 435.236.

(b) The commissioner of human services shall secure approval of additional elderly waiver slots sufficient to serve persons who will qualify under the revised income standard described in paragraph (a) before implementing section 256B.0913, subdivision 16.

Sec. 42. Minnesota Statutes 1996, section 256B.0915, subdivision 3, is amended to read:

Subd. 3. **LIMITS OF CASES, RATES, REIMBURSEMENT, AND FORECASTING.** (a) The number of medical assistance waiver recipients that a county may serve must be allocated according to the number of medical assistance waiver cases open on July 1 of each fiscal year. Additional recipients may be served with the approval of the commissioner.

(b) The monthly limit for the cost of waived services to an individual waiver client shall be the statewide average payment rate of the case mix resident class to which the waiver client would be assigned under the medical assistance case mix reimbursement system. If medical supplies and equipment or adaptations are or will be purchased for an elderly waiver services recipient, the costs may be prorated on a monthly basis throughout the year in which they are purchased. If the monthly cost of a recipient's other waived services exceeds the monthly limit established in this paragraph, the annual cost of the waived services shall be determined. In this event, the annual cost of waived services shall not exceed 12 times the monthly limit calculated in this paragraph. The statewide average payment rate is calculated by determining the statewide average monthly nursing home rate, effective July 1 of the fiscal year in which the cost is incurred, less the statewide average monthly income of nursing home residents who are age 65 or older, and who are medical assistance recipients in the month of March of the previous state fiscal year. The annual cost divided by 12 of elderly or disabled waived services for a person who is a nursing facility resident at the time of requesting a determination of eligibility for elderly or disabled waived services shall not exceed be the greater of the monthly payment for: (i) the resident class assigned under Minnesota Rules, parts 9549.0050 to 9549.0059, for that resident in the nursing facility where the resident currently resides; or (ii) the statewide average payment of the case mix resident class to which the resident would be assigned under the medical assistance case mix reimbursement system, provided that the limit under this clause only applies to persons discharged from a nursing facility and found eligible for waived services on or after July 1, 1997. The following costs must be included in determining the total monthly costs for the waiver client:

(1) cost of all waived services, including extended medical supplies and equipment; and

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(2) cost of skilled nursing, home health aide, and personal care services reimbursable by medical assistance.

(c) Medical assistance funding for skilled nursing services, private duty nursing, home health aide, and personal care services for waiver recipients must be approved by the case manager and included in the individual care plan.

(d) For both the elderly waiver and the nursing facility disabled waiver, a county may purchase extended supplies and equipment without prior approval from the commissioner when there is no other funding source and the supplies and equipment are specified in the individual's care plan as medically necessary to enable the individual to remain in the community according to the criteria in Minnesota Rules, part 9505.0210, items A and B. A county is not required to contract with a provider of supplies and equipment if the monthly cost of the supplies and equipment is less than \$250.

(e) For the fiscal year beginning on July 1, 1993, and for subsequent fiscal years, the commissioner of human services shall not provide automatic annual inflation adjustments for home and community-based waived services. The commissioner of finance shall include as a budget change request in each biennial detailed expenditure budget submitted to the legislature under section 16A.11, annual adjustments in reimbursement rates for home and community-based waived services, based on the forecasted percentage change in the Home Health Agency Market Basket of Operating Costs, for the fiscal year beginning July 1, compared to the previous fiscal year, unless otherwise adjusted by statute. The Home Health Agency Market Basket of Operating Costs is published by Data Resources, Inc. The forecast to be used is the one published for the calendar quarter beginning January 1, six months prior to the beginning of the fiscal year for which rates are set. The adult foster care rate shall be considered a difficulty of care payment and shall not include room and board.

(f) The adult foster care daily rate for the elderly and disabled waivers shall be negotiated between the county agency and the foster care provider. The rate established under this section shall not exceed the state average monthly nursing home payment for the case mix classification to which the individual receiving foster care is assigned; the rate must allow for other waiver and medical assistance home care services to be authorized by the case manager.

(g) The assisted living and residential care service rates for elderly and community alternatives for disabled individuals (CADI) waivers shall be made to the vendor as a monthly rate negotiated with the county agency. The rate shall not exceed the nonfederal share of the greater of either the statewide or any of the geographic groups' weighted average monthly medical assistance nursing facility payment rate of the case mix resident class to which the elderly or disabled client would be assigned under Minnesota Rules, parts 9549.0050 to 9549.0059. For alternative care assisted living projects established under Laws 1988, chapter 689, article 2, section 256, monthly rates may not exceed 65 percent of the greater of either the statewide or any of the geographic groups' weighted average monthly medical assistance nursing facility payment rate for the case mix resident class to which the elderly or disabled client would be assigned under Minnesota Rules, parts 9549.0050 to 9549.0059. The rate may not cover direct rent or food costs.

(h) The county shall negotiate individual rates with vendors and may be reimbursed for actual costs up to the greater of the county's current approved rate or 60 percent of the

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maximum rate in fiscal year 1994 and 65 percent of the maximum rate in fiscal year 1995 for each service within each program.

(i) On July 1, 1993, the commissioner shall increase the maximum rate for home-delivered meals to \$4.50 per meal.

(j) Reimbursement for the medical assistance recipients under the approved waiver shall be made from the medical assistance account through the invoice processing procedures of the department's Medicaid Management Information System (MMIS), only with the approval of the client's case manager. The budget for the state share of the Medicaid expenditures shall be forecasted with the medical assistance budget, and shall be consistent with the approved waiver.

(k) Beginning July 1, 1991, the state shall reimburse counties according to the payment schedule in section 256.025 for the county share of costs incurred under this subdivision on or after January 1, 1991, for individuals who are receiving medical assistance.

(l) For the community alternatives for disabled individuals waiver, and nursing facility disabled waivers, county may use waiver funds for the cost of minor adaptations to a client's residence or vehicle without prior approval from the commissioner if there is no other source of funding and the adaptation:

- (1) is necessary to avoid institutionalization;
- (2) has no utility apart from the needs of the client; and
- (3) meets the criteria in Minnesota Rules, part 9505.0210, items A and B.

For purposes of this subdivision, "residence" means the client's own home, the client's family residence, or a family foster home. For purposes of this subdivision, "vehicle" means the client's vehicle, the client's family vehicle, or the client's family foster home vehicle.

(m) The commissioner shall establish a maximum rate unit for baths provided by an adult day care provider that are not included in the provider's contractual daily or hourly rate. This maximum rate must equal the home health aide extended rate and shall be paid for baths provided to clients served under the elderly and disabled waivers.

Sec. 43. Minnesota Statutes 1996, section 256B.0915, is amended by adding a subdivision to read:

Subd. 7. PREPAID ELDERLY WAIVER SERVICES. An individual for whom a prepaid health plan is liable for nursing home services or elderly waiver services according to section 256B.69, subdivision 6a, is not eligible to receive county-administered elderly waiver services under this section.

Sec. 44. Minnesota Statutes 1996, section 256B.0917, subdivision 7, is amended to read:

Subd. 7. **CONTRACT.** (a) 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 Living

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at Home/Block Nurse Program, Inc. (LAH/BN, Inc.). The organization contract shall require LAH/BN, Inc. to:

(1) assist the commissioner in developing develop criteria for and in awarding award grants to establish community-based organizations that will implement living-at-home/block nurse programs throughout the state;

(2) assist the commissioner in awarding award grants to enable current living-at-home/block nurse programs to continue 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 manage contracts with individual living-at-home/block nurse programs.

(b) The contract shall be effective July 1, 1997, and section 16B.17 shall not apply.

Sec. 45. Minnesota Statutes 1996, section 256B.0917, subdivision 8, is amended to read:

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 or expand up to 15 27 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. At least seven one-half 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 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 organization awarded the contract under subdivision 7 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) are located in counties adjacent to, or are located in, counties with existing living-at-home/block nurse programs; and

(4) meet other criteria established by the commissioner LAH/BN, Inc., in consultation with the organization under contract commissioner.

(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;

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(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 four-year periods, and the base amount shall not exceed \$40,000 \$80,000 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 socio-economic characteristics that indicate a higher level of need for development assistance. Subject to the availability of funding, grants and grant renewals awarded or entered into on or after July 1, 1997, shall be renewed by LAH/BN, Inc. every four years, unless LAH/BN, Inc. determines that the grant recipient has not satisfactorily operated the living-at-home/block nurse program in compliance with the requirements of paragraphs (b) and (d). Grants provided to living-at-home/block nurse programs under this paragraph may be used for both program development and the delivery of services.

(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, provision 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.

Sec. 46. Minnesota Statutes 1996, 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

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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 C30 Report, Value of New Construction Put in Place.

(b) **RENTAL FACTOR.** For the rate year beginning July 1, 1988, the commissioner shall increase the rental factor as established in Minnesota Rules, part 9549.0060, subpart 8, item A, by 6.2 percent rounded to the nearest 100th percent for the purpose of reimbursing nursing facilities for soft costs and entrepreneurial profits not included in the cost valuation services used by the state's contracted appraisers. For rate years beginning on or after July 1, 1989, the rental factor is the amount determined under this paragraph for the rate year beginning July 1, 1988.

(c) **OCCUPANCY FACTOR.** For rate years beginning on or after July 1, 1988, in order to determine property-related payment rates under Minnesota Rules, part 9549.0060, for all nursing facilities except those whose average length of stay in a skilled level of care within a nursing facility is 180 days or less, the commissioner shall use 95 percent of capacity days. For a nursing facility whose average length of stay in a skilled level of care within a nursing facility is 180 days or less, the commissioner shall use the greater of resident days or 80 percent of capacity days but in no event shall the divisor exceed 95 percent of capacity days.

(d) **EQUIPMENT ALLOWANCE.** For rate years beginning on July 1, 1988, and July 1, 1989, the commissioner shall add ten cents per resident per day to each nursing facility's property-related payment rate. The ten-cent property-related payment rate increase is not cumulative from rate year to rate year. For the rate year beginning July 1, 1990, the commissioner shall increase each nursing facility's equipment allowance as established in Minnesota Rules, part 9549.0060, subpart 10, by ten cents per resident per day. For rate years beginning on or after July 1, 1991, the adjusted equipment allowance must be adjusted annually for inflation as in Minnesota Rules, part 9549.0060, subpart 10, item E. For the rate period beginning October 1, 1992, the equipment allowance for each nursing facility shall be increased by 28 percent. For rate years beginning after June 30, 1993, the allowance must be adjusted annually for inflation.

(e) **POST CHAPTER 199 RELATED-ORGANIZATION DEBTS AND INTEREST EXPENSE.** For rate years beginning on or after July 1, 1990, Minnesota Rules, part 9549.0060, subpart 5, item E, shall not apply to outstanding related organization debt incurred prior to May 23, 1983, provided that the debt was an allowable debt under Minnesota Rules, parts 9510.0010 to 9510.0480, the debt is subject to repayment through annual principal payments, and the nursing facility demonstrates to the commissioner's satisfaction that the interest rate on the debt was less than market interest rates for similar arms-length transactions at the time the debt was incurred. If the debt was incurred due to a sale between family members, the nursing facility must also demonstrate

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that the seller no longer participates in the management or operation of the nursing facility. Debts meeting the conditions of this paragraph are subject to all other provisions of Minnesota Rules, parts 9549.0010 to 9549.0080.

(f) **BUILDING CAPITAL ALLOWANCE FOR NURSING FACILITIES WITH OPERATING LEASES.** For rate years beginning on or after July 1, 1990, a nursing facility with operating lease costs incurred for the nursing facility's buildings shall receive its building capital allowance computed in accordance with Minnesota Rules, part 9549.0060, subpart 8.

Sec. 47. Minnesota Statutes 1996, section 256B.49, is amended by adding a subdivision to read:

Subd. 9. PREVOCATIONAL AND SUPPORTED EMPLOYMENT SERVICES. The commissioner shall seek to amend the community alternatives for disabled individuals waivers and the traumatic brain injury waivers to include prevocational and supported employment services.

Sec. 48. Minnesota Statutes 1996, section 256B.69, subdivision 2, is amended to read:

Subd. 2. DEFINITIONS. For the purposes of this section, the following terms have the meanings given.

(a) "Commissioner" means the commissioner of human services. For the remainder of this section, the commissioner's responsibilities for methods and policies for implementing the project will be proposed by the project advisory committees and approved by the commissioner.

(b) "Demonstration provider" means an individual, agency, organization, or group of these entities a health maintenance organization or community integrated service network authorized and operating under chapter 62D or 62N that participates in the demonstration project according to criteria, standards, methods, and other requirements established for the project and approved by the commissioner. Notwithstanding the above, Itasca county may continue to participate as a demonstration provider until July 1, 2000.

(c) "Eligible individuals" means those persons eligible for medical assistance benefits as defined in sections 256B.055, 256B.056, and 256B.06.

(d) "Limitation of choice" means suspending freedom of choice while allowing eligible individuals to choose among the demonstration providers.

(e) This paragraph supersedes paragraph (c) as long as the Minnesota health care reform waiver remains in effect. When the waiver expires, this paragraph expires and the commissioner of human services shall publish a notice in the State Register and notify the revisor of statutes. "Eligible individuals" means those persons eligible for medical assistance benefits as defined in sections 256B.055, 256B.056, and 256B.06. Notwithstanding sections 256B.055, 256B.056, and 256B.06, an individual who becomes ineligible for the program because of failure to submit income reports or recertification forms in a timely manner, shall remain enrolled in the prepaid health plan and shall remain eligible to receive medical assistance coverage through the last day of the month following the month in which the enrollee became ineligible for the medical assistance program.

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Sec. 49. Minnesota Statutes 1996, section 256B.69, subdivision 3a, is amended to read:

Subd. 3a. **COUNTY AUTHORITY.** (a) The commissioner, when implementing the general assistance medical care, or medical assistance prepayment program within a county, must include the county board in the process of development, approval, and issuance of the request for proposals to provide services to eligible individuals within the proposed county. County boards must be given reasonable opportunity to make recommendations regarding the development, issuance, review of responses, and changes needed in the request for proposals. The commissioner must provide county boards the opportunity to review each proposal based on the identification of community needs under chapters 145A and 256E and county advocacy activities. If a county board finds that a proposal does not address certain community needs, the county board and commissioner shall continue efforts for improving the proposal and network prior to the approval of the contract. The county board shall make recommendations regarding the approval of local networks and their operations to ensure adequate availability and access to covered services. The provider or health plan must respond directly to county advocates and the state prepaid medical assistance ombudsperson regarding service delivery and must be accountable to the state regarding contracts with medical assistance and general assistance medical care funds. The county board may recommend a maximum number of participating health plans after considering the size of the enrolling population; ensuring adequate access and capacity; considering the client and county administrative complexity; and considering the need to promote the viability of locally developed health plans. The county board or a single entity representing a group of county boards and the commissioner shall mutually select health plans for participation at the time of initial implementation of the prepaid medical assistance program in that county or group of counties and at the time of contract renewal. The commissioner shall also seek input for contract requirements from the county or single entity representing a group of county boards at each contract renewal and incorporate those recommendations into the contract negotiation process. The commissioner, in conjunction with the county board, shall actively seek to develop a mutually agreeable timetable prior to the development of the request for proposal, but counties must agree to initial enrollment beginning on or before January 1, 1999, in either the prepaid medical assistance and general assistance medical care programs or county-based purchasing under section 256B.692. At least 90 days before enrollment in the medical assistance and general assistance medical care prepaid programs begins in a county in which the prepaid programs have not been established, the commissioner shall provide a report to the chairs of senate and house committees having jurisdiction over state health care programs which verifies that the commissioner complied with the requirements for county involvement that are specified in this subdivision.

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

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(c) At the option of the county board, the board may develop contract requirements related to the achievement of local public health goals to meet the health needs of medical assistance and general assistance medical care enrollees. These requirements must be reasonably related to the performance of health plan functions and within the scope of the medical assistance and general assistance medical care benefit sets. If the county board and the commissioner mutually agree to such requirements, the department shall include such requirements in all health plan contracts governing the prepaid medical assistance and general assistance medical care programs in that county at initial implementation of the program in that county and at the time of contract renewal. The county board may participate in the enforcement of the contract provisions related to local public health goals.

(d) For counties in which prepaid medical assistance and general assistance medical care programs have not been established, the commissioner shall not implement those programs if a county board submits acceptable and timely preliminary and final proposals under section 256B.692, until county-based purchasing is no longer operational in that county. For counties in which prepaid medical assistance and general assistance medical care programs are in existence on or after September 1, 1997, the commissioner must terminate contracts with health plans according to section 256B.692, subdivision 5, if the county board submits and the commissioner accepts preliminary and final proposals according to that subdivision. The commissioner is not required to terminate contracts that begin on or after September 1, 1997, according to section 256B.692 until two years have elapsed from the date of initial enrollment.

(e) In the event that a county board or a single entity representing a group of county boards and the commissioner cannot reach agreement regarding: (i) the selection of participating health plans in that county; (ii) contract requirements; or (iii) implementation and enforcement of county requirements including provisions regarding local public health goals, the commissioner shall resolve all disputes after taking into account the recommendations of a three-person mediation panel. The panel shall be composed of one designee of the president of the association of Minnesota counties, one designee of the commissioner of human services, and one designee of the commissioner of health.

(f) If a county which elects to implement county-based purchasing ceases to implement county-based purchasing, it is prohibited from assuming the responsibility of county-based purchasing for a period of five years from the date it discontinues purchasing.

Sec. 50. Minnesota Statutes 1996, section 256B.69, subdivision 5, is amended to read:

Subd. 5. **PROSPECTIVE PER CAPITA PAYMENT.** The commissioner shall establish the method and amount of payments for services. The commissioner shall annually contract with demonstration providers to provide services consistent with these established methods and amounts for payment. ~~Notwithstanding section 62D.02, subdivision 1, payments for services rendered as part of the project may be made to providers that are not licensed health maintenance organizations on a risk-based, prepaid capitation basis.~~

If allowed by the commissioner, a demonstration provider may contract with an insurer, health care provider, nonprofit health service plan corporation, or the commissioner, to provide insurance or similar protection against the cost of care provided by the dem-

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onstration provider or to provide coverage against the risks incurred by demonstration providers under this section. The recipients enrolled with a demonstration provider are a permissible group under group insurance laws and chapter 62C, the Nonprofit Health Service Plan Corporations Act. Under this type of contract, the insurer or corporation may make benefit payments to a demonstration provider for services rendered or to be rendered to a recipient. Any insurer or nonprofit health service plan corporation licensed to do business in this state is authorized to provide this insurance or similar protection.

Payments to providers participating in the project are exempt from the requirements of sections 256.966 and 256B.03, subdivision 2. The commissioner shall complete development of capitation rates for payments before delivery of services under this section is begun. For payments made during calendar year 1990 and later years, the commissioner shall contract with an independent actuary to establish prepayment rates.

By January 15, 1996, the commissioner shall report to the legislature on the methodology used to allocate to participating counties available administrative reimbursement for advocacy and enrollment costs. The report shall reflect the commissioner's judgment as to the adequacy of the funds made available and of the methodology for equitable distribution of the funds. The commissioner must involve participating counties in the development of the report.

Sec. 51. Minnesota Statutes 1996, section 256B.69, subdivision 5b, is amended to read:

Subd. 5b. **PROSPECTIVE REIMBURSEMENT RATES.** For prepaid medical assistance and general assistance medical care program contract rates set by the commissioner under subdivision 5 and effective on or after January 1, 1997, ~~through December 31, 1998~~, capitation rates for nonmetropolitan counties shall on a weighted average be no less than 85.88 percent of the capitation rates for metropolitan counties, excluding Hennepin county. The commissioner shall make a pro rata adjustment in capitation rates paid to counties other than nonmetropolitan counties in order to make this provision budget neutral.

Sec. 52. Minnesota Statutes 1996, section 256B.69, is amended by adding a subdivision to read:

Subd. 5d. **MODIFICATION OF PAYMENT DATES EFFECTIVE JANUARY 1, 2001.** Effective for services rendered on or after January 1, 2001, capitation payments under this section and under section 256D.03 shall be made no earlier than the first day after the month of service.

Sec. 53. Minnesota Statutes 1996, section 256B.69, is amended by adding a subdivision to read:

Subd. 6a. **NURSING HOME SERVICES.** (a) Notwithstanding Minnesota Rules, part 9500.1457, subpart 1, item B, nursing facility services as defined in section 256B.0625, subdivision 2, which are provided in a nursing facility certified by the Minnesota department of health for services provided and eligible for payment under Medicaid, shall be covered under the prepaid medical assistance program for individuals who are not residing in a nursing facility at the time of enrollment in the prepaid medical assistance program. Liability for coverage of nursing facility services by a participating health plan is limited to 365 days for any person enrolled under the prepaid medical assistance program.

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(b) For individuals enrolled in the Minnesota senior health options project authorized under subdivision 23, nursing facility services shall be covered according to the terms and conditions of the federal waiver governing that demonstration project.

Sec. 54. Minnesota Statutes 1996, section 256B.69, is amended by adding a subdivision to read:

Subd. 6b. **ELDERLY WAIVER SERVICES.** Notwithstanding Minnesota Rules, part 9500.1457, subpart 1, item C, elderly waiver services shall be covered under the prepaid medical assistance program for all individuals who are eligible according to section 256B.0915. For individuals enrolled in the Minnesota senior health options project authorized under subdivision 23, elderly waiver services shall be covered according to the terms and conditions of the federal waiver governing that demonstration project.

Sec. 55. Minnesota Statutes 1996, section 256B.69, is amended by adding a subdivision to read:

Subd. 24. **ENROLLMENT EXEMPTION.** Persons eligible for services under section 256B.056 without a spenddown but below the MSA equivalent rate as defined in section 256I.03, subdivision 5, plus the medical assistance personal needs allowance as defined in section 256B.35, subdivision 1, paragraph (a), shall be exempt from mandatory enrollment in the prepaid medical assistance program under this section unless otherwise directed by the legislature, except for those persons who were initially enrolled in the prepaid medical assistance program while residing in a nursing home or whose income changed after initial enrollment in the prepaid medical assistance program. Nothing in this subdivision shall require persons who are required to enroll in the prepaid medical assistance program to disenroll from that program or from the Minnesota senior health options project after initial enrollment.

Sec. 56. [256B.69] COUNTY-BASED PURCHASING.

Subdivision 1. **IN GENERAL.** County boards or groups of county boards may elect to purchase or provide health care services on behalf of persons eligible for medical assistance and general assistance medical care who would otherwise be required to or may elect to participate in the prepaid medical assistance or prepaid general assistance medical care programs according to sections 256B.69 and 256I.03. Counties that elect to purchase or provide health care under this section must provide all services included in prepaid managed care programs according to sections 256B.69, subdivisions 1 to 22, and 256I.03. County-based purchasing under this section is governed by section 256B.69, unless otherwise provided for under this section.

Subd. 2. **DUTIES OF THE COMMISSIONER OF HEALTH.** Notwithstanding chapters 62D and 62N, a county that elects to purchase medical assistance and general assistance medical care in return for a fixed sum without regard to the frequency or extent of services furnished to any particular enrollee is not required to obtain a certificate of authority under chapter 62D or 62N. A county that elects to purchase medical assistance and general assistance medical care services under this section must satisfy the commissioner of health that the requirements of chapter 62D, applicable to health maintenance organizations, or chapter 62N, applicable to community integrated service networks, will be met. A county must also assure the commissioner of health that the requirements of section 72A.201 will be met. All enforcement and rulemaking powers available under

chapters 62D and 62N are hereby granted to the commissioner of health with respect to counties that purchase medical assistance and general assistance medical care services under this section.

Subd. 3. REQUIREMENTS OF THE COUNTY BOARD. A county board that intends to purchase or provide health care under this section, which may include purchasing all or part of these services from health plans or individual providers on a fee-for-service basis, or providing these services directly, must demonstrate the ability to follow and agree to the following requirements:

(1) purchase all covered services for a fixed payment from the state that does not exceed the estimated state and federal cost that would have occurred under the prepaid medical assistance and general assistance medical care programs;

(2) ensure that covered services are accessible to all enrollees and that enrollees have a reasonable choice of providers, health plans, or networks when possible. If the county is also a provider of service, the county board shall develop a process to ensure that providers employed by the county are not the sole referral source and are not the sole provider of health care services if other providers, which meet the same quality and cost requirements are available;

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

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

(5) provide appropriate quality and other required data in a format required by the state;

(6) provide a system for advocacy, enrollee protection, and complaints and appeals that is independent of care providers or other risk bearers and complies with section 256B.69;

(7) for counties within the seven-county metropolitan area, ensure that the implementation and operation of the Minnesota senior health options demonstration project, authorized under section 256B.69, subdivision 23, will not be impeded;

(8) ensure that all recipients that are enrolled in the prepaid medical assistance or general assistance medical care program will be transferred to county-based purchasing without utilizing the department's fee-for-service claims payment system;

(9) ensure that all recipients who are required to participate in county-based purchasing are given sufficient information prior to enrollment in order to make informed decisions; and

(10) ensure that the state and the medical assistance and general assistance medical care recipients will be held harmless for the payment of obligations incurred by the county if the county, or a health plan providing services on behalf of the county, or a provider participating in county-based purchasing becomes insolvent, and the state has made the payments due to the county under this section.

Subd. 4. PAYMENTS TO COUNTIES. The commissioner shall pay counties that are purchasing or providing health care under this section a per capita payment for all enrolled recipients. Payments shall not exceed payments that otherwise would have been paid to health plans under medical assistance and general assistance medical care for that

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county or region. This payment is in addition to any administrative allocation to counties for education, enrollment, and advocacy. The state of Minnesota and the United States Department of Health and Human Services are not liable for any costs incurred by a county that exceed the payments to the county made under this subdivision. A county whose costs exceed the payments made by the state, or any affected enrollees or creditors of that county, shall have no rights under chapter 61B or section 62D.181. A county may assign risk for the cost of care to a third party.

Subd. 5. COUNTY PROPOSALS. (a) On or before September 1, 1997, a county board that wishes to purchase or provide health care under this section must submit a preliminary proposal that substantially demonstrates the county's ability to meet all the requirements of this section in response to criteria for proposals issued by the department on or before July 1, 1997. Counties submitting preliminary proposals must establish a local planning process that involves input from medical assistance and general assistance medical care recipients, recipient advocates, providers and representatives of local school districts, labor, and tribal government to advise on the development of a final proposal and its implementation.

(b) The county board must submit a final proposal on or before July 1, 1998, that demonstrates the ability to meet all the requirements of this section, including beginning enrollment on January 1, 1999.

(c) After January 1, 1999, for a county in which the prepaid medical assistance program is in existence, the county board must submit a preliminary proposal at least 15 months prior to termination of health plan contracts in that county and a final proposal six months prior to the health plan contract termination date in order to begin enrollment after the termination. Nothing in this section shall impede or delay implementation or continuation of the prepaid medical assistance and general assistance medical care programs in counties for which the board does not submit a proposal, or submits a proposal that is not in compliance with this section.

(d) The commissioner is not required to terminate contracts for the prepaid medical assistance and prepaid general assistance medical care programs that begin on or after September 1, 1997, in a county for which a county board has submitted a proposal under this paragraph, until two years have elapsed from the date of initial enrollment in the prepaid medical assistance and prepaid general assistance medical care programs.

Subd. 6. COMMISSIONER'S AUTHORITY. The commissioner may:

(1) reject any preliminary or final proposal that substantially fails to meet the requirements of this section, or that the commissioner determines would substantially impair the state's ability to purchase health care services in other areas of the state, or would substantially impair an enrollee's choice of care systems when reasonable choice is possible, or would substantially impair the implementation and operation of the Minnesota senior health options demonstration project authorized under section 256B.69, subdivision 23; and

(2) assume operation of a county's purchasing of health care for enrollees in medical assistance and general assistance medical care in the event that the contract with the county is terminated.

Subd. 7. DISPUTE RESOLUTION. In the event the commissioner rejects a proposal under subdivision 6, the county board may request the recommendation of a three-

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person mediation panel. The commissioner shall resolve all disputes after taking into account the recommendations of the mediation panel. The panel shall be composed of one designee of the president of the association of Minnesota counties, one designee of the commissioner of human services, and one designee of the commissioner of health.

Subd. 8. APPEALS. A county that conducts county-based purchasing shall be considered to be a prepaid health plan for purposes of section 256.045.

Subd. 9. FEDERAL APPROVAL. The commissioner shall request any federal waivers and federal approval required to implement this section. County-based purchasing shall not be implemented without obtaining all federal approval required to maintain federal matching funds in the medical assistance program.

Subd. 10. REPORT TO THE LEGISLATURE. The commissioner shall submit a report to the legislature by February 1, 1998, on the preliminary proposals submitted on or before September 1, 1997.

Sec. 57. Minnesota Statutes 1996, section 256D.03, subdivision 3, is amended to read:

Subd. 3. GENERAL ASSISTANCE MEDICAL CARE; ELIGIBILITY. (a) General assistance medical care may be paid for any person who is not eligible for medical assistance under chapter 256B, including eligibility for medical assistance based on a spenddown of excess income according to section 256B.056, subdivision 5, and:

(1) who is receiving assistance under section 256D.05, or who is having a payment made on the person's behalf under sections 256I.01 to 256I.06; or

(2)(i) who is a resident of Minnesota; and whose equity in assets is not in excess of \$1,000 per assistance unit. ~~No asset test shall be applied to children and their parents living in the same household. Exempt assets, the reduction of excess assets, and the waiver of excess assets must conform to the medical assistance program in chapter 256B, with the following exception: the maximum amount of undistributed funds in a trust that could be distributed to or on behalf of the beneficiary by the trustee, assuming the full exercise of the trustee's discretion under the terms of the trust, must be applied toward the asset maximum; and~~

(ii) who has countable income not in excess of the assistance standards established in section 256B.056, subdivision 4, or whose excess income is spent down pursuant to section 256B.056, subdivision 5, using a six-month budget period, ~~except that a one-month budget period must be used for recipients residing in a long-term care facility. The method for calculating earned income disregards and deductions for a person who resides with a dependent child under age 21 shall be as specified in section 256.74, subdivision 1 follow section 256B.056, subdivision 1a. 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, or MFIP-S for 12 consecutive months. The earned income and work expense deductions for a person who does not reside with a dependent child under age 21 shall be the same as the method used to determine eligibility for a person under section 256D.06, subdivision 1, except the disregard of the first \$50 of earned income is not allowed; or~~

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(3) who would be eligible for medical assistance except that the person resides in a facility that is determined by the commissioner or the federal health care financing administration to be an institution for mental diseases.

(b) Eligibility is available for the month of application, and for three months prior to application if the person was eligible in those prior months. A redetermination of eligibility must occur every 12 months.

(c) General assistance medical care is not available for a person in a correctional facility unless the person is detained by law for less than one year in a county correctional or detention facility as a person accused or convicted of a crime, or admitted as an inpatient to a hospital on a criminal hold order, and the person is a recipient of general assistance medical care at the time the person is detained by law or admitted on a criminal hold order and as long as the person continues to meet other eligibility requirements of this subdivision.

(d) General assistance medical care is not available for applicants or recipients who do not cooperate with the county agency to meet the requirements of medical assistance.

(e) In determining the amount of assets of an individual, there shall be included any asset or interest in an asset, including an asset excluded under paragraph (a), that was given away, sold, or disposed of for less than fair market value within the 60 months preceding application for general assistance medical care or during the period of eligibility. Any transfer described in this paragraph shall be presumed to have been for the purpose of establishing eligibility for general assistance medical care, unless the individual furnishes convincing evidence to establish that the transaction was exclusively for another purpose. For purposes of this paragraph, the value of the asset or interest shall be the fair market value at the time it was given away, sold, or disposed of, less the amount of compensation received. For any uncompensated transfer, the number of months of ineligibility, including partial months, shall be calculated by dividing the uncompensated transfer amount by the average monthly per person payment made by the medical assistance program to skilled nursing facilities for the previous calendar year. The individual shall remain ineligible until this fixed period has expired. The period of ineligibility may exceed 30 months, and a reapplication for benefits after 30 months from the date of the transfer shall not result in eligibility unless and until the period of ineligibility has expired. The period of ineligibility begins in the month the transfer was reported to the county agency, or if the transfer was not reported, the month in which the county agency discovered the transfer, whichever comes first. For applicants, the period of ineligibility begins on the date of the first approved application.

(f)(1) Beginning October 1, 1993, an undocumented alien or a nonimmigrant is ineligible for general assistance medical care other than emergency services. For purposes of this subdivision, a nonimmigrant is an individual in one or more of the classes listed in United States Code, title 8, section 1101(a)(15), and an undocumented alien is an individual who resides in the United States without the approval or acquiescence of the Immigration and Naturalization Service.

(2) This subdivision does not apply to a child under age 18, to a Cuban or Haitian entrant as defined in Public Law Number 96-422, section 501(e)(1) or (2)(a), or to an alien who is aged, blind, or disabled as defined in United States Code, title 42, section 1382c(a)(1).

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(3) For purposes of paragraph (f), "emergency services" has the meaning given in Code of Federal Regulations, title 42, section 440.255(b)(1), except that it also means services rendered because of suspected or actual pesticide poisoning.

Sec. 58. Minnesota Statutes 1996, section 256G.02, subdivision 6, is amended to read:

Subd. 6. **EXCLUDED TIME.** "Excluded time" means:

(a) any period an applicant spends in a hospital, sanitarium, nursing home, shelter other than an emergency shelter, halfway house, foster home, semi-independent living domicile or services program, residential facility offering care, board and lodging facility or other institution for the hospitalization or care of human beings, as defined in section 144.50, 144A.01, or 245A.02, subdivision 14; maternity home, battered women's shelter, or correctional facility; or any facility based on an emergency hold under sections 253B.05, subdivisions 1 and 2, and 253B.07, subdivision 6;

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

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

Sec. 59. Minnesota Statutes 1996, section 256G.05, subdivision 2, is amended to read:

Subd. 2. **NON-MINNESOTA RESIDENTS.** State residence is not required for receiving emergency assistance in the ~~general assistance, general assistance medical care, and Minnesota supplemental aid programs only program.~~ The receipt of emergency assistance must not be used as a factor in determining county or state residence. Non-Minnesota residents are not eligible for emergency general assistance medical care, except emergency hospital services, and professional services incident to the hospital services, for the treatment of acute trauma resulting from an accident occurring in Minnesota. To be eligible under this subdivision a non-Minnesota resident must verify that they are not eligible for coverage under any other health care program, including coverage from a program in their state of residence.

Sec. 60. Minnesota Statutes 1996, section 256I.05, subdivision 1a, is amended to read:

Subd. 1a. **SUPPLEMENTARY RATES.** (a) In addition to the room and board rate specified in subdivision 1, the county agency may negotiate a payment not to exceed \$426.37 for other services necessary to provide room and board provided by the group residence if the residence is licensed by or registered by the department of health, or licensed by the department of human services to provide services in addition to room and board, and if the provider of services is not also concurrently receiving funding for services for a recipient under a home and community-based waiver under title XIX of the Social Security Act; or funding from the medical assistance program under section 256B.0627, subdivision 4, for personal care services for residents in the setting; or resid-

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ing in a setting which receives funding under Minnesota Rules, parts 9535.2000 to 9535.3000. If funding is available for other necessary services through a home and community-based waiver, or personal care services under section 256B.0627, subdivision 4, then the GRH rate is limited to the rate set in subdivision 1. The registration and licensure requirement does not apply to establishments which are exempt from state licensure because they are located on Indian reservations and for which the tribe has prescribed health and safety requirements. Service payments under this section may be prohibited under rules to prevent the supplanting of federal funds with state funds. The commissioner shall pursue the feasibility of obtaining the approval of the Secretary of Health and Human Services to provide home and community-based waiver services under title XIX of the Social Security Act for residents who are not eligible for an existing home and community-based waiver due to a primary diagnosis of mental illness or chemical dependency and shall apply for a waiver if it is determined to be cost-effective.

(b) The commissioner is authorized to make cost-neutral transfers from the GRH fund for beds under this section to other funding programs administered by the department after consultation with the county or counties in which the affected beds are located. The commissioner may also make cost-neutral transfers from the GRH fund to county human service agencies for beds permanently removed from the GRH census under a plan submitted by the county agency and approved by the commissioner. The commissioner shall report the amount of any transfers under this provision annually to the legislature.

(c) The provisions of paragraph (b) do not apply to a facility that has its reimbursement rate established under section 256B.431, subdivision 4, paragraph (c).

Sec. 61. Minnesota Statutes 1996, section 469.155, subdivision 4, is amended to read:

Subd. 4. **REFINANCING HEALTH FACILITIES.** It may issue revenue bonds to pay, purchase, or discharge all or any part of the outstanding indebtedness of a contracting party engaged primarily in the operation of one or more nonprofit hospitals or nursing homes previously incurred in the acquisition or betterment of its existing hospital or nursing home facilities to the extent deemed necessary by the governing body of the municipality or redevelopment agency; this may include any unpaid interest on the indebtedness accrued or to accrue to the date on which the indebtedness is finally paid, and any premium the governing body of the municipality or redevelopment agency determines to be necessary to be paid to pay, purchase, or defease the outstanding indebtedness. If revenue bonds are issued for this purpose, the refinancing and the existing properties of the contracting party shall be deemed to constitute a project under section 469.153, subdivision 2, clause (d). Revenue bonds may not be issued pursuant to this subdivision unless the application for approval of the project pursuant to section 469.154 shows that a reduction in debt service charges is estimated to result and will be reflected in charges to patients and third-party payors. Proceeds of revenue bonds issued pursuant to this subdivision may not be used for any purpose inconsistent with the provisions of chapter 256B. Nothing in this subdivision prohibits the use of revenue bond proceeds to pay outstanding indebtedness of a contracting party to the extent permitted by law on March 28, 1978.

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Sec. 62. Laws 1995, chapter 207, article 6, section 115, is amended to read:

Sec. 115. CONTINUATION OF PILOT PROJECTS.

The alternative care pilot projects authorized in Laws 1993, First Special Session chapter 1, article 5, section 133, shall not expire on June 30, 1995, but shall continue until June 30, 1997 2001, except that the three percent rate increases authorized in Laws 1993, First Special Session chapter 1, article 1, section 2, subdivision 4, and any subsequent rate increases shall be incorporated in average monthly cost effective July 1, 1995. Beginning July 1, 1997, a county may spend up to ten percent of grant funds for needed client services that are not listed under Minnesota Statutes, section 256B.0913, subdivision 5. The commissioner shall allow additional counties at their option to implement the alternative care program within the parameters established in Laws 1993, First Special Session chapter 1, article 5, section 133. If more than five counties exercise this option, the commissioner may require counties to make this change on a phased schedule if necessary in order to implement this provision within the limit of available resources. For newly participating counties, the previous fiscal year shall be the base year.

Sec. 63. NEED FOR NONSTANDARD WHEELCHAIRS.

The commissioner of human services, in consultation with the System of Technology to Achieve Results (STAR) program, shall present a report to the legislature by January 1, 1998, on the need for nonstandard wheelchairs for recipients residing in long-term care facilities. A standard wheelchair is a manual wheelchair that is 16 to 20 inches wide and 18 inches deep with sling seat and back upholstery and a seat height of 19-1/2 inches. The report shall:

(1) determine how many medical assistance recipients who reside in long-term care facilities cannot independently operate a standard wheelchair, but can safely and independently operate a power or other nonstandard wheelchair;

(2) determine how many medical assistance recipients who reside in long-term care facilities require a wheelchair to be permanently modified by the addition of an item to accommodate their health needs;

(3) determine how many medical assistance recipients who reside in long-term care facilities have seating or positioning needs which cannot be accommodated in a standard wheelchair;

(4) determine the average cost of a nonstandard wheelchair;

(5) determine the capability of long-term care facilities to provide nonstandard wheelchairs to meet medical assistance recipients needs; and

(6) determine to what extent in the past four years the department of health has enforced regulations or rules relating to a long-term care facility's obligation to meet the mobility needs of residents.

Sec. 64. STUDY OF ELDERLY WAIVER EXPANSION.

The commissioner of human services shall appoint a task force that includes representatives of counties, health plans, consumers, and legislators to study the impact of the expansion of the elderly waiver program under section 4 and to make recommendations for any changes in law necessary to facilitate an efficient and equitable relationship be-

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tween the elderly waiver program and the Minnesota senior health options project. Based on the results of the task force study, the commissioner may seek any federal waivers needed to improve the relationship between the elderly waiver and the Minnesota senior health options project. The commissioner shall report the results of the task force study to the legislature by January 15, 1998.

Sec. 65. DEVELOPMENT OF APPEALS PROCESS.

The commissioner of human services, in consultation with elderly advocates and nursing facility representatives, shall develop and present to the legislature by January 15, 1998, an appeals process for persons affected by the changes in nursing facility level of care criteria scheduled to take effect on July 1, 1998.

Sec. 66. PERSONAL CARE SERVICES STUDY.

The commissioner of human services shall formulate recommendations on how to allow recipients of medical assistance who have been diagnosed with autism or other disabilities to use personal care services with more flexibility to meet individual client needs and preferences. The commissioner may convene an advisory task force as authorized under Minnesota Statutes, section 15.014, subdivision 2, to assist in formulating these recommendations. If a task force is convened, it shall be comprised of department of human services staff from the adult mental health, children's mental health, home- and community-based services, and developmental disabilities divisions, as well as consumers of personal care services, advocates, and providers of personal care attendant services. A report with recommendations that outlines how consumer-centered planning and flexible use of funds can be implemented by July 1, 1998, must be presented to the legislature by December 15, 1997.

Sec. 67. INTEGRATION OF MINNESOTACARE WITH COUNTY-BASED PURCHASING.

The commissioner of human services shall develop a plan to integrate the MinnesotaCare program with county-based purchasing. The plan must be designed to provide more choice to MinnesotaCare enrollees and to ensure that they have health care options in addition to county-based purchasing. The plan must permit a county that elects to implement county-based purchasing to elect to purchase or provide health services on behalf of persons eligible for the MinnesotaCare program. The commissioner shall submit the plan to the legislature by February 1, 1998.

Sec. 68. OMBUDSPERSON SERVICES.

The commissioner of human services shall make recommendations to the legislature by January 15, 1998, on how the ombudsperson services and prepayment coordinator services established in Minnesota Statutes, section 256B.69, subdivisions 20 and 21, could be reorganized to ensure that the ombudsman and county prepayment coordinator are independent of the department of human services, county authorities, health plans, or other health care providers. The commissioner must seek input from recipients, advocates, and counties in reorganizing the ombudsman and county advocate system.

Sec. 69. WAIVER REQUEST.

The commissioner of human services shall seek federal approval to amend the health care reform waiver to extend the postpartum period of medical assistance eligibility for chemical dependency after-care services.

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Sec. 70. WAIVER MODIFICATION.

The commissioner of human services shall seek federal approval for any modifications to the health care reform waiver necessary to implement the asset standard changes in sections 21 to 23, and 28.

Sec. 71. REPORT ON RULE 101 CHANGE.

The commissioner shall report to the legislature any increase in participation of dental services providers in the public assistance programs due to the change in the provider participation requirements under the 1997 amendments to Minnesota Statutes, section 256B.0644, by January 15, 1999.

Sec. 72. SUNSET.

The 1997 amendments to Minnesota Statutes, section 256B.0644, in section 33, expire on June 30, 1999.

Sec. 73. REPEALER.

(a) Minnesota Statutes 1996, sections 256B.057, subdivisions 2a and 2b; and 469.154, subdivision 6, are repealed.

(b) Minnesota Statutes 1996, section 256B.0625, subdivision 13b, is repealed the day following final enactment.

(c) Minnesota Rules, part 9505.1000, is repealed.

Sec. 74. EFFECTIVE DATE.

(a) Sections 12 to 15, 28, and 37 are effective the day following final enactment.

(b) Sections 43, 53, and 54 are effective July 1, 1999.

ARTICLE 5**CHILDREN'S PROGRAMS**

Section 1. Minnesota Statutes 1996, section 245.4882, subdivision 5, is amended to read:

Subd. 5. **SPECIALIZED RESIDENTIAL TREATMENT SERVICES.** The commissioner of human services shall continue efforts to further interagency collaboration to develop a comprehensive system of services, including family community support and 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~~

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normally do business, the commissioner is responsible, effective July 1, 1997, 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, and if the out-of-state treatment has been approved by the commissioner. By January 1, 1995, the commissioners of human services and corrections shall jointly develop a plan, including a financing strategy, for increasing the in-state availability of treatment within a secure setting. By July 1, 1994, the commissioner of human services shall also:

- (1) conduct a study and develop a plan to meet the needs of children with both a developmental disability and severe emotional disturbance; and
- (2) study the feasibility of expanding medical assistance coverage to include specialized residential treatment for the children described in this subdivision.

Sec. 2. Minnesota Statutes 1996, section 245.493, subdivision 1, is amended to read:

Subdivision 1. **REQUIREMENTS TO QUALIFY AS A LOCAL CHILDREN'S MENTAL HEALTH COLLABORATIVE.** In order to qualify as a local children's mental health collaborative and be eligible to receive start-up funds, the representatives of the local system of care, including entities provided under section 245.4875, subdivision 6, and nongovernmental entities such as parents of children in the target population; parent and consumer organizations; community, civic, and religious organizations; private and nonprofit mental and physical health care providers; culturally specific organizations; local foundations; and businesses, or at a minimum one county, one school district or special education cooperative, and one mental health entity, and, by July 1, 1998, one juvenile justice or corrections entity, must agree to the following:

- (1) to establish a local children's mental health collaborative and develop an integrated service system; and
- (2) to commit resources to providing services through the local children's mental health collaborative.

Sec. 3. Minnesota Statutes 1996, section 245.493, is amended by adding a subdivision to read:

Subd. 1a. **DUTIES OF CERTAIN COORDINATING BODIES.** By mutual agreement of the collaborative and a coordinating body listed in this subdivision, a children's mental health collaborative or a collaborative established by the merger of a children's mental health collaborative and a family services collaborative under section 121.8355, may assume the duties of a community transition interagency committee established under section 120.17, subdivision 16; an interagency early intervention committee established under 120.1701, subdivision 5; a local advisory council established under section 245.4875, subdivision 5; or a local coordinating council established under section 245.4875, subdivision 6.

Sec. 4. Minnesota Statutes 1996, 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:

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(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

(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

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431, including the administration of any federal funds granted to the state to aid in the performance of any functions of the commissioner as specified in Laws 1939, chapter 431, and including the promulgation of rules making uniformly available medical care benefits to all recipients of public assistance, at such times as the federal government increases its participation in assistance expenditures for medical care to recipients of public assistance, the cost thereof to be borne in the same proportion as are grants of aid to said recipients.

(7) Establish and maintain any administrative units reasonably necessary for the performance of administrative functions common to all divisions of the department.

(8) Act as designated guardian of both the estate and the person of all the wards of the state of Minnesota, whether by operation of law or by an order of court, without any further act or proceeding whatever, except as to persons committed as mentally retarded. For children under the guardianship of the commissioner whose interests would be best served by adoptive placement, the commissioner may contract with a licensed child-placing agency to provide adoption services. A contract with a licensed child-placing agency must be designed to supplement existing county efforts and may not replace existing county programs, unless the replacement is agreed to by the county board and the appropriate exclusive bargaining representative or the commissioner has evidence that child placements of the county continue to be substantially below that of other counties.

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

(10) The specific enumeration of powers and duties as hereinabove set forth shall in no way be construed to be a limitation upon the general transfer of powers herein contained.

(11) Establish county, regional, or statewide schedules of maximum fees and charges which may be paid by county agencies for medical, dental, surgical, hospital, nursing and nursing home care and medicine and medical supplies under all programs of medical care provided by the state and for congregate living care under the income maintenance programs.

(12) Have the authority to conduct and administer experimental projects to test methods and procedures of administering assistance and services to recipients or potential recipients of public welfare. To carry out such experimental projects, it is further provided that the commissioner of human services is authorized to waive the enforcement of existing specific statutory program requirements, rules, and standards in one or more counties. The order establishing the waiver shall provide alternative methods and procedures of administration, shall not be in conflict with the basic purposes, coverage, or benefits provided by law, and in no event shall the duration of a project exceed four years. It is further provided that no order establishing an experimental project as authorized by the provisions of this section shall become effective until the following conditions have been met:

(a) The 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.

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(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 assistance programs. For the food stamp program, sanctions shall be shared by each county board, with 50 percent of the sanction being distributed to each county in the same proportion as that county's administrative costs for food stamps are to the total of all food stamp administrative costs for all counties, and 50 percent of the sanctions being distributed to each county in the same proportion as that county's value of food stamp benefits issued are to the total of all benefits issued for all counties. Each county shall pay its share of the disallowance to the state of Minnesota. When a county fails to pay the amount due hereunder, the commissioner may deduct the amount from reimbursement otherwise due the county, or the attorney general, upon the request of the commissioner, may institute civil action to recover the amount due.

(b) Notwithstanding the provisions of paragraph (a), if the disallowance results from knowing noncompliance by one or more counties with a specific program instruction, and that knowing noncompliance is a matter of official county board record, the commissioner may require payment or recover from the county or counties, in the manner prescribed in paragraph (a), an amount equal to the portion of the total disallowance which resulted from the noncompliance, and may distribute the balance of the disallowance according to paragraph (a).

(15) Develop and implement special projects that maximize reimbursements and result in the recovery of money to the state. For the purpose of recovering state money, the commissioner may enter into contracts with third parties. Any recoveries that result from projects or contracts entered into under this paragraph shall be deposited in the state treasury and credited to a special account until the balance in the account reaches \$1,000,000. When the balance in the account exceeds \$1,000,000, the excess shall be transferred and credited to the general fund. All money in the account is appropriated to the commissioner for the purposes of this paragraph.

(16) Have the authority to make direct payments to facilities providing shelter to women and their children 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.

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(17) Have the authority to establish and enforce the following county reporting requirements:

(a) The commissioner shall establish fiscal and statistical reporting requirements necessary to account for the expenditure of funds allocated to counties for human services programs. When establishing financial and statistical reporting requirements, the commissioner shall evaluate all reports, in consultation with the counties, to determine if the reports can be simplified or the number of reports can be reduced.

(b) The county board shall submit monthly or quarterly reports to the department as required by the commissioner. Monthly reports are due no later than 15 working days after the end of the month. Quarterly reports are due no later than 30 calendar days after the end of the quarter, unless the commissioner determines that the deadline must be shortened to 20 calendar days to avoid jeopardizing compliance with federal deadlines or risking a loss of federal funding. Only reports that are complete, legible, and in the required format shall be accepted by the commissioner.

(c) If the required reports are not received by the deadlines established in clause (b), the commissioner may delay payments and withhold funds from the county board until 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 non-compliant. 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

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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.

Sec. 5. Minnesota Statutes 1996, section 256.01, is amended by adding a subdivision to read:

Subd. 14. CHILD WELFARE REFORM PILOTS. The commissioner of human services shall encourage local reforms in the delivery of child welfare services and is authorized to approve local pilot programs which focus on reforming the child protection and child welfare systems in Minnesota. Authority to approve pilots includes authority to waive existing state rules as needed to accomplish reform efforts. Notwithstanding section 626.556, subdivision 10, 10b, or 10d, the commissioner may authorize programs to use alternative methods of investigating and assessing reports of child maltreatment, provided that the programs comply with the provisions of section 626.556 dealing with the rights of individuals who are subjects of reports or investigations, including notice and appeal rights and data practices requirements. Pilot programs must be required to address responsibility for safety and protection of children, be time limited, and include evaluation of the pilot program.

Sec. 6. Minnesota Statutes 1996, section 256.045, subdivision 3, is amended to read:

Subd. 3. STATE AGENCY HEARINGS. (a) State agency hearings are available for the following: (1) any person applying for, receiving or having received public assistance or a program of social services granted by the state agency or a county agency under sections 252.32, 256.031 to 256.036, and 256.72 to 256.879, chapters 256B, 256D, 256E, 261, or the federal Food Stamp Act whose application for assistance is denied, not acted upon with reasonable promptness, or whose assistance is suspended, reduced, terminated, or claimed to have been incorrectly paid; (2) any patient or relative aggrieved by an order of the commissioner under section 252.27; (3) a party aggrieved by a ruling of a prepaid health plan; (4) any individual or facility determined by a lead agency to have maltreated a vulnerable adult under section 626.557 after they have exercised their right to administrative reconsideration under section 626.557; (5) any person whose claim for foster care payment pursuant to a placement of the child resulting from a child protection assessment under section 626.556 is denied or not acted upon with reasonable promptness, regardless of funding source; (6) any person to whom a right of appeal pursuant to this section is given by other provision of law; ~~or~~ (7) an applicant aggrieved by an adverse decision to an application for a hardship waiver under section 256B.15; or (8) an individual or facility determined to have maltreated a minor under section 626.556, after the individual or facility has exercised the right to administrative reconsideration under section 626.556. The failure to exercise the right to an administrative reconsideration shall not be a bar to a hearing under this section if federal law provides an individual the right to a hearing to dispute a finding of maltreatment. Individuals and organizations specified in this section may contest the specified action, decision, or final disposition before the state agency by submitting a written request for a hearing to the state agency within 30 days after receiving written notice of the action, decision, or final disposition, or within 90 days of such written notice if the applicant, recipient, patient, or relative shows good cause why the request was not submitted within the 30-day time limit.

The hearing for an individual or facility under clause (4) or (8) is the only administrative appeal to the final lead agency disposition determination specifically, including a

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challenge to the accuracy and completeness of data under section 13.04. Hearings requested under clause (4) apply only to incidents of maltreatment that occur on or after October 1, 1995. Hearings requested by nursing assistants in nursing homes alleged to have maltreated a resident prior to October 1, 1995, shall be held as a contested case proceeding under the provisions of chapter 14. Hearings requested under clause (8) apply only to incidents of maltreatment that occur on or after July 1, 1997. A hearing for an individual or facility under clause (8) is only available when there is no juvenile court or adult criminal action pending. If such action is filed in either court while an administrative review is pending, the administrative review must be suspended until the judicial actions are completed. If the juvenile court action or criminal charge is dismissed or the criminal action overturned, the matter may be considered in an administrative hearing.

For purposes of this section, bargaining unit grievance procedures are not an administrative appeal.

The scope of hearings involving claims to foster care payments under clause (5) shall be limited to the issue of whether the county is legally responsible for a child's placement under court order or voluntary placement agreement and, if so, the correct amount of foster care payment to be made on the child's behalf and shall not include review of the propriety of the county's child protection determination or child placement decision.

(b) ~~Except for a prepaid health plan,~~ A vendor of medical care as defined in section 256B.02, subdivision 7, or a vendor under contract with a county agency to provide social services under section 256E.08, subdivision 4, is not a party and may not request a hearing under this section, except if assisting a recipient as provided in subdivision 4.

(c) An applicant or recipient is not entitled to receive social services beyond the services included in the amended community social services plan developed under section 256E.081, subdivision 3, if the county agency has met the requirements in section 256E.081.

Sec. 7. Minnesota Statutes 1996, section 256.045, subdivision 3b, is amended to read:

Subd. 3b. STANDARD OF EVIDENCE FOR MALTREATMENT HEARINGS. The state human services referee shall determine that maltreatment has occurred if a preponderance of evidence exists to support the final disposition under sections 626.556 and 626.557.

The state human services referee shall recommend an order to the commissioner of health or human services, as applicable, who shall issue a final order. The commissioner shall affirm, reverse, or modify the final disposition. Any order of the commissioner issued in accordance with this subdivision is conclusive upon the parties unless appeal is taken in the manner provided in subdivision 7. In any licensing appeal under chapter 245A and sections 144.50 to 144.58 and 144A.02 to 144A.46, the commissioner's findings determination as to whether maltreatment occurred is conclusive.

Sec. 8. Minnesota Statutes 1996, section 256.045, subdivision 4, is amended to read:

Subd. 4. CONDUCT OF HEARINGS. (a) All hearings held pursuant to subdivision 3, 3a, 3b, or 4a shall be conducted according to the provisions of the federal Social Security Act and the regulations implemented in accordance with that act to enable this

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state to qualify for federal grants-in-aid, and according to the rules and written policies of the commissioner of human services. County agencies shall install equipment necessary to conduct telephone hearings. A state human services referee may schedule a telephone conference hearing when the distance or time required to travel to the county agency offices will cause a delay in the issuance of an order, or to promote efficiency, or at the mutual request of the parties. Hearings may be conducted by telephone conferences unless the applicant, recipient, former recipient, person, or facility contesting maltreatment objects. The hearing shall not be held earlier than five days after filing of the required notice with the county or state agency. The state human services referee shall notify all interested persons of the time, date, and location of the hearing at least five days before the date of the hearing. Interested persons may be represented by legal counsel or other representative of their choice, including a provider of therapy services, at the hearing and may appear personally, testify and offer evidence, and examine and cross-examine witnesses. The applicant, recipient, former recipient, person, or facility contesting maltreatment shall have the opportunity to examine the contents of the case file and all documents and records to be used by the county or state agency at the hearing at a reasonable time before the date of the hearing and during the hearing. In cases alleging discharge for maltreatment, in hearings under subdivision 3, paragraph (a), clauses (4) and (8), either party may subpoena the private data relating to the investigation memorandum prepared by the lead agency under section 626.556 or 626.557 that is not otherwise accessible under section 13.04, provided the name identity of the reporter may not be disclosed.

(b) The private data obtained by subpoena in a hearing under subdivision 3, paragraph (a), clause (4) or (8), must be subject to a protective order which prohibits its disclosure for any other purpose outside the hearing provided for in this section without prior order of the district court. Disclosure without court order is punishable by a sentence of not more than 90 days imprisonment or a fine of not more than \$700, or both. These restrictions on the use of private data do not prohibit access to the data under section 13.03, subdivision 6. Except for appeals under subdivision 3, paragraph (a), clauses (4), (5), and (8), upon request, the county agency shall provide reimbursement for transportation, child care, photocopying, medical assessment, witness fee, and other necessary and reasonable costs incurred by the applicant, recipient, or former recipient in connection with the appeal, except in appeals brought under subdivision 3b. All evidence, except that privileged by law, commonly accepted by reasonable people in the conduct of their affairs as having probative value with respect to the issues shall be submitted at the hearing and such hearing shall not be "a contested case" within the meaning of section 14.02, subdivision 3. The agency must present its evidence prior to or at the hearing, and may not submit evidence after the hearing except by agreement of the parties at the hearing, provided the recipient petitioner has the opportunity to respond.

Sec. 9. Minnesota Statutes 1996, section 256.045, subdivision 5, is amended to read:

Subd. 5. ORDERS OF THE COMMISSIONER OF HUMAN SERVICES. This subdivision does not apply to appeals under subdivision 3b. A state human services referee shall conduct a hearing on the appeal and shall recommend an order to the commissioner of human services. The recommended order must be based on all relevant evidence and must not be limited to a review of the propriety of the state or county agency's action. A referee may take official notice of adjudicative facts. The commissioner of human services may accept the recommended order of a state human services referee and

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issue the order to the county agency and the applicant, recipient, former recipient, or prepaid health plan. The commissioner on refusing to accept the recommended order of the state human services referee, shall notify the ~~county petitioner, the agency and the applicant, recipient, former recipient,~~ or prepaid health plan of that fact and shall state reasons therefor and shall allow each party ten days' time to submit additional written argument on the matter. After the expiration of the ten-day period, the commissioner shall issue an order on the matter to the ~~county petitioner, the agency and the applicant, recipient, former recipient,~~ or prepaid health plan.

A party aggrieved by an order of the commissioner may appeal under subdivision 7, or request reconsideration by the commissioner within 30 days after the date the commissioner issues the order. The commissioner may reconsider an order upon request of any party or on the commissioner's own motion. A request for reconsideration does not stay implementation of the commissioner's order. Upon reconsideration, the commissioner may issue an amended order or an order affirming the original order.

Any order of the commissioner issued under this subdivision shall be conclusive upon the parties unless appeal is taken in the manner provided by subdivision 7. Any order of the commissioner is binding on the parties and must be implemented by the state agency ~~or, a county agency, or a prepaid health plan~~ according to subdivision 3a, until the order is reversed by the district court, or unless the commissioner or a district court orders monthly assistance or aid or services paid or provided under subdivision 10.

~~Except for a prepaid health plan, A vendor of medical care as defined in section 256B.02, subdivision 7, or a vendor under contract with a county agency to provide social services under section 256E.08, subdivision 4, is not a party and may not request a hearing or seek judicial review of an order issued under this section, unless assisting a recipient as provided in subdivision 4. A prepaid health plan is a party to an appeal under subdivision 3a, but cannot seek judicial review of an order issued under this section.~~

Sec. 10. Minnesota Statutes 1996, section 256.045, subdivision 8, is amended to read:

Subd. 8. **HEARING.** Any party may obtain a hearing at a special term of the district court by serving a written notice of the time and place of the hearing at least ten days prior to the date of the hearing. ~~Except for appeals under subdivision 3b,~~ The court may consider the matter in or out of chambers, and shall take no new or additional evidence unless it determines that such evidence is necessary for a more equitable disposition of the appeal.

Sec. 11. Minnesota Statutes 1996, section 256.82, is amended by adding a subdivision to read:

Subd. 5. **DIFFICULTY OF CARE ASSESSMENT PILOT PROJECT.** Notwithstanding any law to the contrary, the commissioner of human services shall conduct a two-year statewide pilot project beginning July 1, 1997, to conduct a difficulty of care assessment process which both assesses an individual child's current functioning and identifies needs in a variety of life situations. The pilot project must take into consideration existing difficulty of care payments so that, to the extent possible, no child for whom a difficulty of care rate is currently established will be adversely affected. The pilot project must include an evaluation and an interim report to the legislature by January 15, 1999.

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Sec. 12. Minnesota Statutes 1996, section 256F.04, subdivision 1, is amended to read:

Subdivision 1. **FAMILY PRESERVATION FUND.** The commissioner shall establish a family preservation fund to assist counties in providing placement prevention and family reunification services. ~~This fund shall include a basic grant for family preservation services, a placement earnings grant under section 256.8711, subdivision 6b, paragraph (a), and a development grant under section 256.8711, subdivision 6a, to assist counties in developing and expanding their family preservation core services as defined in section 256F.03, subdivision 10. Beginning with calendar year 1998, after each annual or quarterly calculation, these three component grants shall be added together and treated as a single family preservation grant.~~

Sec. 13. Minnesota Statutes 1996, section 256F.04, subdivision 2, is amended to read:

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 information necessary to apply for a family preservation fund grant, and to exercise county options under section 256F.05, subdivisions 7, paragraph (a), or subdivision 8, paragraph (c).

Sec. 14. Minnesota Statutes 1996, section 256F.05, subdivision 2, is amended to read:

Subd. 2. **MONEY AVAILABLE FOR THE BASIC GRANT FAMILY PRESERVATION.** Money appropriated for family preservation under sections 256F.04 to 256F.07, 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, chapter 7, subchapter IV, part B, section 621, must be distributed to counties on a calendar year basis according to the formula in subdivision 3.

Sec. 15. Minnesota Statutes 1996, section 256F.05, subdivision 3, is amended to read:

Subd. 3. **BASIC GRANT FORMULA.** (a) The amount of money allocated to counties under subdivision 2 shall first be allocated in amounts equal to each county's guaranteed floor according to paragraph (b), and second, any remaining available funds allocated as follows:

(1) ~~90~~ 50 percent of the funds shall be allocated based on 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) ~~ten~~ 20 percent of funds shall be allocated based on the county's percentage share of the unduplicated number of families who received family preservation services under section 256F.03, subdivision 5, paragraphs (a), (b), (c), and (e), in the most recent calendar year available as determined by the commissioner;

(3) ten percent of the funds shall be allocated based on the county's percentage share of the unduplicated number of children in substitute care in the most recent calendar year available as determined by the commissioner;

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(4) ten percent of the funds shall be allocated based on the county's percentage share of the number of determined maltreatment reports in the most recent calendar year available as determined by the commissioner;

(5) five percent of the funds shall be allocated based on the county's percentage share of the number of American Indian children under age 18 residing in the county in the most recent calendar year as determined by the commissioner; and

(6) five percent of the funds shall be allocated based on the county's percentage share of the number of minority children of color receiving children's case management services as defined by the commissioner based on the most recent data as determined by the commissioner.

(b) Each county's basic grant guaranteed floor shall be calculated as follows:

(1) 90 percent of the county's allocation received in the preceding calendar year. ~~For calendar year 1996 only, the allocation received in the preceding calendar year shall be determined by the commissioner based on the funding previously distributed as separate grants under sections 256F.04 to 256F.07 or \$25,000, whichever is greater; and~~

(2) when the amounts 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.

(c) The commissioner shall regularly review the use of family preservation fund allocations by county. The commissioner may reallocate unexpended or unencumbered money at any time among those counties that have expended or are projected to expend their full allocation.

(d) For the period of July 1, 1997, to December 31, 1998, only, each county shall receive an 18-month allocation. For the purposes of determining the guaranteed floor for this 18-month allocation, the allocation received in the preceding calendar year shall be determined by the commissioner based on the funding previously distributed separately under sections 256.8711 and 256F.04.

Sec. 16. Minnesota Statutes 1996, section 256F.05, subdivision 4, is amended to read:

Subd. 4. **PAYMENTS.** The commissioner shall make grant payments to each county whose biennial community social services plan has been approved under section 256F.04, subdivision 2. ~~The basic grant under subdivisions 2 and 3 and the development grant under section 256.8711, subdivision 6a, shall be paid to counties in four installments per year. The commissioner may certify the payments for the first three months of a calendar year. Subsequent payments shall be based on reported expenditures and may be adjusted for anticipated spending patterns. The placement earnings grant under section 256.8711, subdivision 6b, paragraph (a), shall be based on earnings and coordinated with the other payments. In calendar years 1996 and 1997, the placement earnings grant and the development grant shall be distributed separately from the basic grant, except as provided in subdivision 7, paragraph (a). Beginning with calendar year 1998, after each annual or quarterly calculation, these three component grants shall be added together into a single family preservation fund grant and treated as a single grant.~~

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Sec. 17. Minnesota Statutes 1996, section 256F.05, subdivision 8, is amended to read:

Subd. 8. **USES OF FAMILY PRESERVATION FUND GRANTS.** ~~For both basic grants and single family preservation fund grants:~~ (a) A county which has not demonstrated that year that its family preservation core services are developed as provided in subdivision 1a, must use its family preservation fund grant exclusively for family preservation services defined in section 256F.03, subdivision 5, paragraphs (a), (b), (c), and (e).

(b) A county which has demonstrated that year that its family preservation core services are developed becomes eligible either to continue using its family preservation fund grant as provided in paragraph (a), or to exercise the expanded service option under paragraph (c).

(c) The expanded service option permits an eligible county to use its family preservation fund grant for child welfare ~~preventative~~ preventive services as defined in section 256F.10, subdivision 7, paragraph (d). For purposes of this section, child welfare preventive services are those services directed toward a specific child or family that further the goals of section 256F.01 and include assessments, family preservation services, service coordination, community-based treatment, crisis nursery services when the parents retain custody and there is no voluntary placement agreement with a child-placing agency, respite care except when it is provided under a medical assistance waiver, home-based services, and other related services. For purposes of this section, child welfare preventive services shall not include shelter care or other placement services under the authority of the court or public agency to address an emergency. To exercise this option, an eligible county must notify the commissioner in writing of its intention to do so no later than 30 days into the quarter during which it intends to begin or in its county plan, as provided in section 256F.04, subdivision 2. Effective with the first day of that quarter, the county must maintain its base level of expenditures for child welfare preventative preventive services and use the family preservation fund to expand them. The base level of expenditures for a county shall be that established under section 256F.10, subdivision 7. For counties which have no such base established, a comparable base shall be established with the base year being the calendar year ending at least two calendar quarters before the first calendar quarter in which the county exercises its expanded service option. The commissioner shall, at the request of the counties, reduce, suspend, or eliminate either or both of a county's obligations to continue the base level of expenditures and to expand child welfare preventative preventive services based on conditions described in section 256F.10, subdivision 7, paragraph (b) or (e) under extraordinary circumstances.

(d) ~~Each county's placement earnings and development grant shall be determined under section 256.8711, but after each annual or quarterly calculation, if added to that county's basic grant, the three component grants shall be treated as a single family preservation fund grant.~~

Sec. 18. Minnesota Statutes 1996, section 256F.06, subdivision 1, is amended to read:

Subdivision 1. **RESPONSIBILITIES.** A county board may, alone or in combination with other county boards, apply for a family preservation fund grant as provided in section 256F.04, subdivision 2. Upon approval of the grant, the county board may con-

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tract for or directly provide family-based and other eligible services. A county board may contract with or directly provide eligible services to children and families through a local collaborative.

Sec. 19. Minnesota Statutes 1996, section 256F.06, subdivision 2, is amended to read:

Subd. 2. **DEVELOPING FAMILY PRESERVATION CORE SERVICES.** A county board shall endeavor to develop and expand its family preservation core services. When a county can demonstrate that its family preservation core services are developed as provided in section 256F.05, subdivision 1a, a county board becomes eligible to exercise the expanded service option under section 256F.05, subdivision 8, paragraph (c). ~~For calendar years 1996 and 1997, the county board also becomes eligible to request that its basic, placement earnings, and development grants be added into a single grant under section 256F.05, subdivision 7, paragraph (a).~~

Sec. 20. Minnesota Statutes 1996, section 256F.11, subdivision 2, is amended to read:

Subd. 2. **FUND DISTRIBUTION.** In distributing funds, the commissioner shall give priority consideration to agencies and organizations with experience in working with abused or neglected children and their families, and with children at high risk of abuse and neglect and their families, and serve communities which demonstrate the greatest need for these services. Funds shall be distributed to crisis nurseries according to a formula developed by the commissioner in consultation with the Minnesota crisis nursery association. This formula shall include funding for all existing crisis nursery programs that meet program requirements as specified in paragraph (a), and consideration of factors reflecting the need for services in each service area, including, but not limited to, the number of children 18 years of age and under living in the service area, the percent of children 18 years of age and under living in poverty in the service area, and factors reflecting the cost of providing services, including, but not limited to, the number of days of service provided in the previous year. At least 25 percent of available funds for state fiscal year 1998 shall be set aside to accomplish any of the following: establish new crisis nursery programs; increase statewide availability of crisis nursery services; and enhance or expand services at existing crisis nursery programs.

(a) The crisis nurseries must:

- (1) be available 24 hours a day, seven days a week;
- (2) provide services for children up to three days at any one time;
- (3) make referrals for parents to counseling services and other community resources to help alleviate the underlying cause of the precipitating stress or crisis;
- (4) provide services without a fee for a maximum of 30 days in any year;
- (5) provide services to children from birth to 12 years of age;
- (6) provide an initial assessment and intake interview conducted by a skilled professional who will identify the presenting problem and make an immediate referral to an appropriate agency or program to prevent maltreatment and out-of-home placement of children;

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(7) maintain the clients' confidentiality to the extent required by law, and also comply with statutory reporting requirements which may mandate a report to child protective services;

(8) contain a volunteer component;

(9) provide preservice training and ongoing training to providers and volunteers;

(10) evaluate the services provided by documenting use of services, the result of family referrals made to community resources, and how the services reduced the risk of maltreatment;

(11) provide age appropriate programming;

(12) provide developmental assessments;

(13) provide medical assessments as determined by using a risk screening tool;

(14) meet United States Department of Agriculture regulations concerning meals and provide three meals a day and three snacks during a 24-hour period; and

(15) provide appropriate sleep and nap arrangements for children.

(b) The crisis nurseries are encouraged to provide:

(1) on-site support groups for facility model programs, or agency sponsored parent support groups for volunteer family model programs;

(2) parent education classes or programs that include parent-child interaction; and

(3) opportunities for parents to volunteer, if appropriate, to assist with child care in a supervised setting in order to enhance their parenting skills and self-esteem, in addition to providing them the opportunity to give something back to the program.

(c) Parents shall retain custody of their children during placement in a crisis facility.

The crisis nurseries are encouraged to include one or more parents who have used the crisis nursery services on the program's multidisciplinary advisory board.

Sec. 21. [257.85] RELATIVE CUSTODY ASSISTANCE.

Subdivision 1. CITATION. This section may be cited as the "Relative Custody Assistance Act."

Subd. 2. SCOPE. The provisions of this section apply to those situations in which the legal and physical custody of a child is established with a relative according to section 260.191, subdivision 3b, by a court order issued on or after July 1, 1997.

Subd. 3. DEFINITIONS. For purposes of this section, the terms defined in this subdivision have the meanings given them.

(a) "AFDC or MFIP standard" means the monthly standard of need used to calculate assistance under the AFDC program, the transitional standard used to calculate assistance under the MFIP-S program, or, if neither of those is applicable, the analogous transitional standard used to calculate assistance under the MFIP or MFIP-R programs.

(b) "Local agency" means the local social service agency with legal custody of a child prior to the transfer of permanent legal and physical custody to a relative.

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(c) "Permanent legal and physical custody" means permanent legal and physical custody ordered by a Minnesota juvenile court under section 260.191, subdivision 3b.

(d) "Relative" means an individual, other than a parent, who is related to a child by blood, marriage, or adoption.

(e) "Relative custodian" means a relative of a child for whom the relative has permanent legal and physical custody.

(f) "Relative custody assistance agreement" means an agreement entered into between a local agency and the relative of a child who has been or will be awarded permanent legal and physical custody of the child.

(g) "Relative custody assistance payment" means a monthly cash grant made to a relative custodian pursuant to a relative custody assistance agreement and in an amount calculated under subdivision 7.

(h) "Remains in the physical custody of the relative custodian" means that the relative custodian is providing day-to-day care for the child and that the child lives with the relative custodian; absence from the relative custodian's home for a period of more than 120 days raises a presumption that the child no longer remains in the physical custody of the relative custodian.

Subd. 4. DUTIES OF LOCAL AGENCY. (a) When a local agency seeks a court order under section 260.191, subdivision 3b, to establish permanent legal and physical custody of a child with a relative, or if such an order is issued by the court, the local agency shall perform the duties in this subdivision.

(b) As soon as possible after the local agency determines that it will seek to establish permanent legal and physical custody of the child with a relative or, if the agency did not seek to establish custody, as soon as possible after the issuance of the court order establishing custody, the local agency shall inform the relative about the relative custody assistance program, including eligibility criteria and payment levels. Anytime prior to, but not later than seven days after, the date the court issues the order establishing permanent legal and physical custody of the child with a relative, the local agency shall determine whether the eligibility criteria in subdivision 6 are met to allow the relative to receive relative custody assistance. Not later than seven days after determining whether the eligibility criteria are met, the local agency shall inform the relative custodian of its determination and of the process for appealing that determination under subdivision 9.

(c) If the local agency determines that the relative custodian is eligible to receive relative custody assistance, the local agency shall prepare the relative custody assistance agreement and ensure that it meets the criteria of subdivision 6.

(d) The local agency shall make monthly payments to the relative as set forth in the relative custody assistance agreement. On a quarterly basis and on a form to be provided by the commissioner, the local agency shall make claims for reimbursement from the commissioner for relative custody assistance payments made.

(e) For a relative custody assistance agreement that is in place for longer than one year, and as long as the agreement remains in effect, the local agency shall send an annual affidavit form to the relative custodian of the eligible child within the month before the anniversary date of the agreement. The local agency shall monitor whether the annual

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affidavit is returned by the relative custodian within 30 days following the anniversary date of the agreement. The local agency shall review the affidavit and any other information in its possession to ensure continuing eligibility for relative custody assistance and that the amount of payment made according to the agreement is correct.

(f) When the local agency determines that a relative custody assistance agreement should be terminated or modified, it shall provide notice of the proposed termination or modification to the relative custodian at least ten days before the proposed action along with information about the process for appealing the proposed action.

Subd. 5. RELATIVE CUSTODY ASSISTANCE AGREEMENT. (a) A relative custody assistance agreement will not be effective, unless it is signed by the local agency and the relative custodian no later than 30 days after the date of the order establishing permanent legal and physical custody with the relative, except that a local agency may enter into a relative custody assistance agreement with a relative custodian more than 30 days after the date of the order if it certifies that the delay in entering the agreement was through no fault of the relative custodian. There must be a separate agreement for each child for whom the relative custodian is receiving relative custody assistance.

(b) Regardless of when the relative custody assistance agreement is signed by the local agency and relative custodian, the effective date of the agreement shall be the first day of the month following the date of the order establishing permanent legal and physical custody or the date that the last party signs the agreement, whichever occurs later.

(c) If MFIP-S is not the applicable program for a child at the time that a relative custody assistance agreement is entered on behalf of the child, when MFIP-S becomes the applicable program, if the relative custodian had been receiving custody assistance payments calculated based upon a different program, the amount of relative custody assistance payment under subdivision 7 shall be recalculated under the MFIP-S program.

(d) The relative custody assistance agreement shall be in a form specified by the commissioner and shall include provisions relating to the following:

(1) the responsibilities of all parties to the agreement;

(2) the payment terms, including the financial circumstances of the relative custodian, the needs of the child, the amount and calculation of the relative custody assistance payments, and that the amount of the payments shall be reevaluated annually;

(3) the effective date of the agreement, which shall also be the anniversary date for the purpose of submitting the annual affidavit under subdivision 8;

(4) that failure to submit the affidavit as required by subdivision 8 will be grounds for terminating the agreement;

(5) the agreement's expected duration, which shall not extend beyond the child's eighteenth birthday;

(6) any specific known circumstances that could cause the agreement or payments to be modified, reduced, or terminated and the relative custodian's appeal rights under subdivision 9;

(7) that the relative custodian must notify the local agency within 30 days of any of the following:

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- (i) a change in the child's status;
- (ii) a change in the relationship between the relative custodian and the child;
- (iii) a change in composition or level of income of the relative custodian's family;
- (iv) a change in eligibility or receipt of benefits under AFDC, MFIP-S, or other assistance program; and
- (v) any other change that could affect eligibility for or amount of relative custody assistance;
- (8) that failure to provide notice of a change as required by clause (7) will be grounds for terminating the agreement;
- (9) that the amount of relative custody assistance is subject to the availability of state funds to reimburse the local agency making the payments;
- (10) that the relative custodian may choose to temporarily stop receiving payments under the agreement at any time by providing 30 days' notice to the local agency and may choose to begin receiving payments again by providing the same notice but any payments the relative custodian chooses not to receive are forfeit; and
- (11) that the local agency will continue to be responsible for making relative custody assistance payments under the agreement regardless of the relative custodian's place of residence.

Subd. 6. ELIGIBILITY CRITERIA. A local agency shall enter into a relative custody assistance agreement under subdivision 5 if it certifies that the following criteria are met:

- (1) the juvenile court has determined or is expected to determine that the child, under the former or current custody of the local agency, cannot return to the home of the child's parents;
- (2) the court, upon determining that it is in the child's best interests, has issued or is expected to issue an order transferring permanent legal and physical custody of the child to the relative; and
- (3) the child either:
 - (i) is a member of a sibling group to be placed together; or
 - (ii) has a physical, mental, emotional, or behavioral disability that will require financial support.

When the local agency bases its certification that the criteria in clause (1) or (2) are met upon the expectation that the juvenile court will take a certain action, the relative custody assistance agreement does not become effective until and unless the court acts as expected.

Subd. 7. AMOUNT OF RELATIVE CUSTODY ASSISTANCE PAYMENTS.
(a) The amount of a monthly relative custody assistance payment shall be determined according to the provisions of this paragraph.

(1) The total maximum assistance rate is equal to the base assistance rate plus, if applicable, the supplemental assistance rate.

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(i) The base assistance rate is equal to the maximum amount that could be received as basic maintenance for a child of the same age under the adoption assistance program.

(ii) The local agency shall determine whether the child has physical, mental, emotional, or behavioral disabilities that require care, supervision, or structure beyond that ordinarily provided in a family setting to children of the same age such that the child would be eligible for supplemental maintenance payments under the adoption assistance program if an adoption assistance agreement were entered on the child's behalf. If the local agency determines that the child has such a disability, the supplemental assistance rate shall be the maximum amount of monthly supplemental maintenance payment that could be received on behalf of a child of the same age, disabilities, and circumstances under the adoption assistance program.

(2) The net maximum assistance rate is equal to the total maximum assistance rate from clause (1) less the following offsets:

(i) if the child is or will be part of an assistance unit receiving an AFDC, MFIP-S, or other MFIP grant, the portion of the AFDC or MFIP standard relating to the child;

(ii) Supplemental Security Income payments received by or on behalf of the child;

(iii) veteran's benefits received by or on behalf of the child; and

(iv) any other income of the child, including child support payments made on behalf of the child.

(3) The relative custody assistance payment to be made to the relative custodian shall be a percentage of the net maximum assistance rate calculated in clause (2) based upon the gross income of the relative custodian's family, including the child for whom the relative has permanent legal and physical custody. In no case shall the amount of the relative custody assistance payment exceed that which the child could qualify for under the adoption assistance program if an adoption assistance agreement were entered on the child's behalf. The relative custody assistance payment shall be calculated as follows:

(i) if the relative custodian's gross family income is less than or equal to 200 percent of federal poverty guidelines, the relative custody assistance payment shall be the full amount of the net maximum assistance rate;

(ii) if the relative custodian's gross family income is greater than 200 percent and less than or equal to 225 percent of federal poverty guidelines, the relative custody assistance payment shall be 80 percent of the net maximum assistance rate;

(iii) if the relative custodian's gross family income is greater than 225 percent and less than or equal to 250 percent of federal poverty guidelines, the relative custody assistance payment shall be 60 percent of the net maximum assistance rate;

(iv) if the relative custodian's gross family income is greater than 250 percent and less than or equal to 275 percent of federal poverty guidelines, the relative custody assistance payment shall be 40 percent of the net maximum assistance rate;

(v) if the relative custodian's gross family income is greater than 275 percent and less than or equal to 300 percent of federal poverty guidelines, the relative custody assistance payment shall be 20 percent of the net maximum assistance rate; or

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(vi) if the relative custodian's gross family income is greater than 300 percent of federal poverty guidelines, no relative custody assistance payment shall be made.

(b) This paragraph specifies the provisions pertaining to the relationship between relative custody assistance and AFDC, MFIP-S, or other MFIP programs:

(1) the relative custodian of a child for whom the relative is receiving relative custody assistance is expected to seek whatever assistance is available for the child through the AFDC, MFIP-S, or other MFIP programs. If a relative custodian fails to apply for assistance through AFDC, MFIP-S, or other MFIP program for which the child is eligible, the child's portion of the AFDC or MFIP standard will be calculated as if application had been made and assistance received;

(2) the portion of the AFDC or MFIP standard relating to each child for whom relative custody assistance is being received shall be calculated as follows:

(i) determine the total AFDC or MFIP standard for the assistance unit;

(ii) determine the amount that the AFDC or MFIP standard would have been if the assistance unit had not included the children for whom relative custody assistance is being received;

(iii) subtract the amount determined in item (ii) from the amount determined in item (i); and

(iv) divide the result in item (iii) by the number of children for whom relative custody assistance is being received that are part of the assistance unit; or

(3) if a child for whom relative custody assistance is being received is not eligible for assistance through the AFDC, MFIP-S, or other MFIP programs, the portion of AFDC or MFIP standard relating to that child shall be equal to zero.

Subd. 8. ANNUAL AFFIDAVIT. When a relative custody assistance agreement remains in effect for more than one year, the local agency shall require the relative custodian to annually submit an affidavit in a form to be specified by the commissioner. The affidavit must be submitted to the local agency each year no later than 30 days after the relative custody assistance agreement's anniversary date. The affidavit shall document the following:

(1) that the child remains in the physical custody of the relative custodian;

(2) that there is a continuing need for the relative custody assistance payments due to the child's physical, mental, emotional, or behavioral needs; and

(3) the current gross income of the relative custodian's family.

The relative custody assistance agreement may be modified based on information or documentation presented to the local agency under this requirement and as required by annual adjustments to the federal poverty guidelines.

Subd. 9. RIGHT OF APPEAL. A relative custodian who enters into a relative custody assistance agreement with a local agency has the right to appeal to the commissioner according to section 256.045 when the local agency establishes, denies, terminates, or modifies the agreement. Upon appeal, the commissioner may review only:

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(1) whether the local agency has met the legal requirements imposed by this chapter for establishing, denying, terminating, or modifying the agreement;

(2) whether the amount of the relative custody assistance payment was correctly calculated under the method in subdivision 7;

(3) whether the local agency paid for correct time periods under the relative custody assistance agreement;

(4) whether the child remains in the physical custody of the relative custodian;

(5) whether the local agency correctly calculated the amount of the supplemental assistance rate based on a change in the child's physical, mental, emotional, or behavioral needs, the relative custodian's failure to document the continuing need for the supplemental assistance rate after the local agency has requested such documentation; and

(6) whether the local agency correctly calculated or terminated the amount of relative custody assistance based on the relative custodian's failure to provide documentation of the gross income of the relative custodian's family after the local agency has requested such documentation.

Subd. 10. **CHILD'S COUNTY OF RESIDENCE.** For the purposes of the unitary residency act under chapter 256G, time spent by a child in the custody of a relative custodian receiving payments under this section is not excluded time. A child is a resident of the county where the relative custodian is a resident.

Subd. 11. **FINANCIAL CONSIDERATIONS.** (a) Payment of relative custody assistance under a relative custody assistance agreement is subject to the availability of state funds and payments may be reduced or suspended on order of the commissioner if insufficient funds are available.

(b) Upon receipt from a local agency of a claim for reimbursement, the commissioner shall reimburse the local agency in an amount equal to 100 percent of the relative custody assistance payments provided to relative custodians. The local agency may not seek and the commissioner shall not provide reimbursement for the administrative costs associated with performing the duties described in subdivision 4.

(c) For the purposes of determining eligibility or payment amounts under the AFDC, MFIP-S, and other MFIP programs, relative custody assistance payments shall be considered excluded income.

Sec. 22. Minnesota Statutes 1996, section 393.07, subdivision 2, is amended to read:

Subd. 2. **ADMINISTRATION OF PUBLIC WELFARE.** The local social services agency, subject to the supervision of the commissioner of human services, shall administer all forms of public welfare, both for children and adults, responsibility for which now or hereafter may be imposed on the commissioner of human services by law, including general assistance, aid to dependent children, county supplementation, if any, or state aid to recipients of supplemental security income for aged, blind and disabled, child welfare services, mental health services, and other public assistance or public welfare services, provided that the local social services agency shall not employ public health nursing or home health service personnel other than homemaker-home help aides, but shall contract for or purchase the necessary services from existing community agencies. The

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duties of the local social services agency shall be performed in accordance with the standards and rules which may be promulgated by the commissioner of human services to achieve the purposes intended by law and in order to comply with the requirements of the federal Social Security Act in respect to public assistance and child welfare services, so that the state may qualify for grants-in-aid available under that act. To avoid administrative penalties under section 256.017, the local social services agency must comply with (1) policies established by state law and (2) instructions from the commissioner relating (i) to public assistance program policies consistent with federal law and regulation and state law and rule and (ii) to local agency program operations. The commissioner may enforce local social services agency compliance with the instructions, and may delay, withhold, or deny payment of all or part of the state and federal share of benefits and federal administrative reimbursement, according to the provisions under section 256.017. The local social services agency shall supervise wards of the commissioner and, when so designated, act as agent of the commissioner of human services in the placement of the commissioner's wards in adoptive homes or in other foster care facilities. The local social services agency shall cooperate as needed when the commissioner contracts with a licensed child placement agency for adoption services for a child under the commissioner's guardianship. The local social services agency may contract with a bank or other financial institution to provide services associated with the processing of public assistance checks and 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. 23. Minnesota Statutes 1996, section 466.01, subdivision 1, is amended to read:

Subdivision 1. **MUNICIPALITY.** For the purposes of sections 466.01 to 466.15, "municipality" means any city, whether organized under home rule charter or otherwise, any county, town, public authority, public corporation, nonprofit firefighting corporation that has associated with it a relief association as defined in section 424A.001, subdivision 4, special district, school district, however organized, county agricultural society organized pursuant to chapter 38, joint powers board or organization created under section 471.59 or other statute, public library, regional public library system, multicounty multiple library system, family services collaborative established under section 121.8355, children's mental health collaboratives established under sections 245.491 to 245.496, or a collaborative established by the merger of a children's mental health collaborative and a family services collaborative, other political subdivision, or community action agency.

Sec. 24. Minnesota Statutes 1996, section 471.59, subdivision 11, is amended to read:

Subd. 11. **JOINT POWERS BOARD.** (a) Two or more governmental units, through action of their governing bodies, by adoption of a joint powers agreement that complies with the provisions of subdivisions 1 to 5, may establish a joint board to issue bonds or obligations under any law by which any of the governmental units establishing the joint board may independently issue bonds or obligations and may use the proceeds of the bonds or obligations to carry out the purposes of the law under which the bonds or obligations are issued. A joint board established under this section may issue obligations and other forms of indebtedness only in accordance with express authority granted by the action of the governing bodies of the governmental units that established the joint board. Except as provided in paragraph (b), the joint board established under this subdivision must be composed solely of members of the governing bodies of the governmental unit

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that established the joint board. A joint board established under this subdivision may not pledge the full faith and credit or taxing power of any of the governmental units that established the joint board. The obligations or other forms of indebtedness must be obligations of the joint board issued on behalf of the governmental units creating the joint board. The obligations or other forms of indebtedness must be issued in the same manner and subject to the same conditions and limitations that would apply if the obligations were issued or indebtedness incurred by one of the governmental units that established the joint board, provided that any reference to a governmental unit in the statute, law, or charter provision authorizing the issuance of the bonds or the incurring of the indebtedness is considered a reference to the joint board.

(b) Notwithstanding paragraph (a), one school district, one county, and one public health entity, through action of their governing bodies, may establish a joint board to establish and govern a family services collaborative under section 121.8355. The school district, county, and public health entity may include other governmental entities at their discretion. The membership of a board established under this paragraph, in addition to members of the governing bodies of the participating governmental units, must include the representation required by section 121.8355, subdivision 1, paragraph (a), selected in accordance with section 121.8355, subdivision 1, paragraph (c).

(c) Notwithstanding paragraph (a), counties, school districts, and mental health entities, through action of their governing bodies, may establish a joint board to establish and govern a children's mental health collaborative under sections 245.491 to 245.496, or a collaborative established by the merger of a children's mental health collaborative and a family services collaborative under section 121.8355. The county, school district, and mental health entities may include other entities at their discretion. The membership of a board established under this paragraph, in addition to members of the governing bodies of the participating governmental units, must include the representation provided by section 245.493, subdivision 1.

Sec. 25. Minnesota Statutes 1996, section 626.556, subdivision 10b, is amended to read:

Subd. 10b. **DUTIES OF COMMISSIONER; NEGLECT OR ABUSE IN A FACILITY.** (a) The commissioner shall immediately investigate if the report alleges that:

(1) a child who is in the care of a facility as defined in subdivision 2 is neglected, physically abused, or sexually abused by an individual in that facility, or has been so neglected or abused by an individual in that facility within the three years preceding the report; or

(2) a child was neglected, physically abused, or sexually abused by an individual in a facility defined in subdivision 2, while in the care of that facility within the three years preceding the report.

The commissioner shall arrange for the transmittal to the commissioner of reports received by local agencies and may delegate to a local welfare agency the duty to investigate reports. In conducting an investigation under this section, the commissioner has the powers and duties specified for local welfare agencies under this section. The commissioner or local welfare agency may interview any children who are or have been in the care of a facility under investigation and their parents, guardians, or legal custodians.

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(b) Prior to any interview, the commissioner or local welfare agency shall notify the parent, guardian, or legal custodian of a child who will be interviewed in the manner provided for in subdivision 10d, paragraph (a). If reasonable efforts to reach the parent, guardian, or legal custodian of a child in an out-of-home placement have failed, the child may be interviewed if there is reason to believe the interview is necessary to protect the child or other children in the facility. The commissioner or local agency must provide the information required in this subdivision to the parent, guardian, or legal custodian of a child interviewed without parental notification as soon as possible after the interview. When the investigation is completed, any parent, guardian, or legal custodian notified under this subdivision shall receive the written memorandum provided for in subdivision 10d, paragraph (c).

(c) In conducting investigations under this subdivision the commissioner or local welfare agency shall obtain access to information consistent with subdivision 10, paragraphs (h), (i), and (j).

(d) Except for foster care and family child care, the commissioner has the primary responsibility for the investigations and notifications required under subdivisions 10d and 10f for reports that allege maltreatment related to the care provided by or in facilities licensed by the commissioner. The commissioner may request assistance from the local social service agency.

Sec. 26. Minnesota Statutes 1996, section 626.556, subdivision 10d, is amended to read:

Subd. 10d. **NOTIFICATION OF NEGLECT OR ABUSE IN A FACILITY.** (a) When a report is received that alleges neglect, physical abuse, or sexual abuse of a child while in the care of a facility required to be licensed pursuant to sections 245A.01 to 245A.16 chapter 245A, the commissioner or local welfare agency investigating the report shall provide the following information to the parent, guardian, or legal custodian of a child alleged to have been neglected, physically abused, or sexually abused: the name of the facility; the fact that a report alleging neglect, physical abuse, or sexual abuse of a child in the facility has been received; the nature of the alleged neglect, physical abuse, or sexual abuse; that the agency is conducting an investigation; any protective or corrective measures being taken pending the outcome of the investigation; and that a written memorandum will be provided when the investigation is completed.

(b) The commissioner or local welfare agency may also provide the information in paragraph (a) to the parent, guardian, or legal custodian of any other child in the facility if the investigative agency knows or has reason to believe the alleged neglect, physical abuse, or sexual abuse has occurred. In determining whether to exercise this authority, the commissioner or local welfare agency shall consider the seriousness of the alleged neglect, physical abuse, or sexual abuse; the number of children allegedly neglected, physically abused, or sexually abused; the number of alleged perpetrators; and the length of the investigation. The facility shall be notified whenever this discretion is exercised.

(c) When the commissioner or local welfare agency has completed its investigation, every parent, guardian, or legal custodian notified of the investigation by the commissioner or local welfare agency shall be provided with the following information in a written memorandum: the name of the facility investigated; the nature of the alleged neglect, physical abuse, or sexual abuse; the investigator's name; a summary of the investigation

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findings; a statement whether maltreatment was found; and the protective or corrective measures that are being or will be taken. The memorandum shall be written in a manner that protects the identity of the reporter and the child and shall not contain the name, or to the extent possible, reveal the identity of the alleged perpetrator or of those interviewed during the investigation. The commissioner or local welfare agency shall also provide the written memorandum to the parent, guardian, or legal custodian of each child in the facility if maltreatment is determined to exist.

Sec. 27. Minnesota Statutes 1996, section 626.556, subdivision 10e, is amended to read:

Subd. 10e. **DETERMINATIONS.** Upon the conclusion of every assessment or investigation it conducts, the local welfare agency shall make two determinations: first, whether maltreatment has occurred; and second, whether child protective services are needed. When maltreatment is determined in an investigation involving a facility, the investigating agency shall also determine whether the facility or individual was responsible for the maltreatment using the mitigating factors in paragraph (d). Determinations under this subdivision must be made based on a preponderance of the evidence.

(a) For the purposes of this subdivision, "maltreatment" means any of the following acts or omissions committed by a person responsible for the child's care:

- (1) physical abuse as defined in subdivision 2, paragraph (d);
- (2) neglect as defined in subdivision 2, paragraph (c);
- (3) sexual abuse as defined in subdivision 2, paragraph (a); or
- (4) mental injury as defined in subdivision 2, paragraph (k).

(b) For the purposes of this subdivision, a determination that child protective services are needed means that the local welfare agency has documented conditions during the assessment or investigation sufficient to cause a child protection worker, as defined in section 626.559, subdivision 1, to conclude that a child is at significant risk of maltreatment if protective intervention is not provided and that the individuals responsible for the child's care have not taken or are not likely to take actions to protect the child from maltreatment or risk of maltreatment.

(c) This subdivision does not mean that maltreatment has occurred solely because the child's parent, guardian, or other person responsible for the child's care in good faith selects and depends upon spiritual means or prayer for treatment or care of disease or remedial care of the child, in lieu of medical care. However, if lack of medical care may result in serious danger to the child's health, the local welfare agency may ensure that necessary medical services are provided to the child.

(d) When determining whether the facility or individual is the responsible party for determined maltreatment in a facility, the investigating agency shall consider at least the following mitigating factors:

(1) whether the actions of the facility or the individual caregivers were according to, and followed the terms of, an erroneous physician order, prescription, individual care plan, or directive; however, this is not a mitigating factor when the facility or caregiver was responsible for the issuance of the erroneous order, prescription, individual care

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plan, or directive or knew or should have known of the errors and took no reasonable measures to correct the defect before administering care;

(2) comparative responsibility between the facility, other caregivers, and requirements placed upon an employee, including the facility's compliance with related regulatory standards and the adequacy of facility policies and procedures, facility training, an individual's participation in the training, the caregiver's supervision, and facility staffing levels and the scope of the individual employee's authority and discretion; and

(3) whether the facility or individual followed professional standards in exercising professional judgment.

Sec. 28. Minnesota Statutes 1996, section 626.556, subdivision 10f, is amended to read:

Subd. 10f. **NOTICE OF DETERMINATIONS.** Within ten working days of the conclusion of an assessment, the local welfare agency shall notify the parent or guardian of the child, the person determined to be maltreating the child, and if applicable, the director of the facility, of the determination and a summary of the specific reasons for the determination. The notice must also include a certification that the information collection procedures under subdivision 10, paragraphs (h), (i), and (j), were followed and a notice of the right of a data subject to obtain access to other private data on the subject collected, created, or maintained under this section. In addition, the notice shall include the length of time that the records will be kept under subdivision 11c. When there is no determination of either maltreatment or a need for services, the notice shall also include the alleged perpetrator's right to have the records destroyed. The investigating agency shall notify the designee of the child who is the subject of the report, and any person or facility determined to have maltreated a child, of their appeal rights under this section.

Sec. 29. Minnesota Statutes 1996, section 626.556, is amended by adding a subdivision to read:

Subd. 10i. **ADMINISTRATIVE RECONSIDERATION OF THE FINAL DETERMINATION OF MALTREATMENT.** (a) An individual or facility that the commissioner or a local social service agency determines has maltreated a child, or the child's designee, regardless of the determination, who contests the investigating agency's final determination regarding maltreatment, may request the investigating agency to reconsider its final determination regarding maltreatment. The request for reconsideration must be submitted in writing to the investigating agency within 15 calendar days after receipt of notice of the final determination regarding maltreatment.

(b) If the investigating agency denies the request or fails to act upon the request within 15 calendar days after receiving the request for reconsideration, the person or facility entitled to a fair hearing under section 256.045 may submit to the commissioner of human services a written request for a hearing under that section.

(c) If, as a result of the reconsideration, the investigating agency changes the final determination of maltreatment, that agency shall notify the parties specified in subdivisions 10b, 10d, and 10f.

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Sec. 30. Minnesota Statutes 1996, section 626.556, subdivision 11c, is amended to read:

Subd. 11c. **WELFARE, COURT SERVICES AGENCY, AND SCHOOL RECORDS MAINTAINED.** Notwithstanding sections 138.163 and 138.17, records maintained or records derived from reports of abuse by local welfare agencies, court services agencies, or schools under this section shall be destroyed as provided in paragraphs (a) to (d) by the responsible authority.

(a) If upon assessment or investigation there is no determination of maltreatment or the need for child protective services, the records may be maintained for a period of four years. After the individual alleged to have maltreated a child is notified under subdivision 10f of the determinations at the conclusion of the assessment or investigation, upon that individual's request, records shall be destroyed within 30 days or after the appeal rights under subdivision 10i have been concluded, whichever is later.

(b) All records relating to reports which, upon assessment or investigation, indicate either maltreatment or a need for child protective services shall be maintained for at least ten years after the date of the final entry in the case record.

(c) All records regarding a report of maltreatment, including any notification of intent to interview which was received by a school under subdivision 10, paragraph (d), shall be destroyed by the school when ordered to do so by the agency conducting the assessment or investigation. The agency shall order the destruction of the notification when other records relating to the report under investigation or assessment are destroyed under this subdivision.

(d) Private or confidential data released to a court services agency under subdivision 10h must be destroyed by the court services agency when ordered to do so by the local welfare agency that released the data. The local welfare agency shall order destruction of the data when other records relating to the assessment or investigation are destroyed under this subdivision.

Sec. 31. Minnesota Statutes 1996, section 626.558, subdivision 1, is amended to read:

Subdivision 1. **ESTABLISHMENT OF THE TEAM.** A county shall establish a multidisciplinary child protection team that may include, but not be limited to, the director of the local welfare agency or designees, the county attorney or designees, the county sheriff or designees, representatives of health and education, representatives of mental health or other appropriate human service or community-based agencies, and parent groups. As used in this section, a "community-based agency" may include, but is not limited to, schools, social service agencies, family service and mental health collaboratives, early childhood and family education programs, Head Start, or other agencies serving children and families.

Sec. 32. Minnesota Statutes 1996, section 626.558, subdivision 2, is amended to read:

Subd. 2. **DUTIES OF TEAM.** A multidisciplinary child protection team may provide public and professional education, develop resources for prevention, intervention, and treatment, and provide case consultation to the local welfare agency to better enable the agency to carry out its child protection functions under section 626.556 and the com-

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community social services act, or other interested community-based agencies. The community-based agencies may request case consultation from the multidisciplinary child protection team regarding a child or family for whom the community-based agency is providing services. As used in this section, "case consultation" means a case review process in which recommendations are made concerning services to be provided to the identified children and family. Case consultation may be performed by a committee or subcommittee of members representing human services, including mental health and chemical dependency; law enforcement, including probation and parole; the county attorney; health care; education; community-based agencies and other necessary agencies; and persons directly involved in an individual case as designated by other members performing case consultation.

Sec. 33. Minnesota Statutes 1996, section 626.559, subdivision 5, is amended to read:

Subd. 5. TRAINING REVENUE. The commissioner of human services shall add the following funds to the funds appropriated under section 626.5591, subdivision 2, to develop and support training:

(a) The commissioner of human services shall submit claims for federal reimbursement earned through the activities and services supported through department of human services child protection or child welfare training funds. Federal revenue earned must be used to improve and expand training services by the department. The department expenditures eligible for federal reimbursement under this section must not be made from federal funds or funds used to match other federal funds.

(b) Each year, the commissioner of human services shall withhold from funds distributed to each county under Minnesota Rules, parts 9550.0300 to 9550.0370, an amount equivalent to 1.5 percent of each county's annual Title XX allocation under section 256E.07. The commissioner must use these funds to ensure decentralization of training.

(c) The federal revenue earned under this subdivision is available for these purposes until the funds are expended.

Sec. 34. EVALUATION REPORT REQUIRED.

The commissioner shall report the results of the evaluation required under section 5 to the chairs of the house of representatives and senate health and human services policy committees by January 15, 1999.

Sec. 35. UNIFORM CONTRIBUTION SCHEDULE FOR OUT-OF-HOME PLACEMENT; REPORT.

The commissioner of human services shall prepare recommendations and report to the 1998 legislature regarding a uniform relative contribution schedule to reimburse costs associated with out-of-home placement. The commissioner shall use the child support guidelines in Minnesota Statutes, chapter 518, as the basis for the uniform contribution schedule. The recommendations and report are due December 1, 1997.

Sec. 36. MALTREATMENT OF MINORS ADVISORY COMMITTEE.

The commissioner of human services, with the cooperation of the commissioners of health and children, families, and learning and the attorney general, shall establish an ad-

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visory committee to review the Maltreatment of Minors Act, Minnesota Statutes, section 626.556, to determine whether existing state policy and procedures for protecting children who are at risk of maltreatment in the home, school, or community are effective.

The committee shall include consumers, advocacy and provider organizations, county practitioners and administrators, school districts, law enforcement agencies, communities of color, professional associations, labor organizations, office of the ombudsman for mental health and mental retardation, and the commissioners of health, human services, and children, families, and learning.

In making recommendations, the advisory committee shall review all services and protections available under existing state and federal laws with the focus on eliminating duplication of effort among various local, state, and federal agencies and minimizing possible conflicts of interest by establishing a statewide process of coordination of responsibilities. The advisory committee shall submit a report to the legislature by February 15, 1998, that includes a detailed plan with specific law, rule, or administrative procedure changes to implement the recommendations.

Sec. 37. TRANSFER TO COMMISSIONER OF CHILDREN, FAMILIES, AND LEARNING; REVISOR INSTRUCTION.

Effective July 1, 1997, all duties and funding related to family visitation centers under Minnesota Statutes, section 256F.09, are transferred to the commissioner of children, families, and learning. In the next edition of Minnesota Statutes, the revisor of statutes shall renumber Minnesota Statutes, section 256F.09, in Minnesota Statutes, chapter 119A.

Sec. 38. REPEALER.

Minnesota Statutes 1996, section 256F.05, subdivisions 5 and 7, are repealed.

ARTICLE 6

CHILD SUPPORT ENFORCEMENT

Section 1. Minnesota Statutes 1996, 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;

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(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, social security numbers, income, addresses, and other data as required, upon request by the department of revenue to administer the property tax refund law, supplemental housing allowance, early refund of refundable tax credits, and the income tax. "Refundable tax credits" means the dependent care credit under section 290.067, the Minnesota working family credit under section 290.0671, the property tax refund under section 290A.04, and, if the required federal waiver or waivers are granted, the federal earned income tax credit under section 32 of the Internal Revenue Code;

(9) to the Minnesota department of economic security for the purpose of monitoring the eligibility of the data subject for reemployment insurance, 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 programs 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;

(12) to the county medical examiner or the county coroner for identifying or locating relatives or friends of a deceased person;

(13) data on a child support obligor who makes payments to the public agency may be disclosed to the higher education services office to the extent necessary to determine eligibility under section 136A.121, subdivision 2, clause (5);

(14) participant social security numbers and names collected by the telephone assistance program may be disclosed to the department of revenue to conduct an electronic data match with the property tax refund database to determine eligibility under section 237.70, subdivision 4a;

(15) the current address of a recipient of aid to families with dependent children may be disclosed to law enforcement officers who provide the name and social security number of the recipient and satisfactorily demonstrate that: (i) the recipient is a fugitive felon, including the grounds for this determination; (ii) the location or apprehension of the felon is within the law enforcement officer's official duties; and (iii) the request is made in writing and in the proper exercise of those duties;

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(16) the current address of a recipient of general assistance, work readiness, or general assistance medical care may be disclosed to probation officers and corrections agents who are supervising the recipient, and to law enforcement officers who are investigating the recipient in connection with a felony level offense;

(17) information obtained from food stamp applicant or recipient households may be disclosed to local, state, or federal law enforcement officials, upon their written request, for the purpose of investigating an alleged violation of the food stamp act, in accordance with Code of Federal Regulations, title 7, section 272.1(c);

(18) data on a certain information regarding child support obligor obligors who is are in arrears may be disclosed for purposes of publishing the data pursuant made public according to section 518.575;

(19) data on child support payments made by a child support obligor, data on the enforcement actions undertaken by the public authority and the status of those actions, and data on the income of the obligor or obligee may be disclosed to the obligee other party;

(20) data in the work reporting system may be disclosed under section 256.998, subdivision 7;

(21) to the department of children, families, and learning for the purpose of matching department of children, families, and learning student data with public assistance data to determine students eligible for free and reduced price meals, meal supplements, and free milk pursuant to United States Code, title 42, sections 1758, 1761, 1766, 1766a, 1772, and 1773; to produce accurate numbers of students receiving aid to families with dependent children as required by section 124.175; and to allocate federal and state funds that are distributed based on income of the student's family; or

(22) the current address and telephone number of program recipients and emergency contacts may be released to the commissioner of health or a local board of health as defined in section 145A.02, subdivision 2, when the commissioner or local board of health has reason to believe that a program recipient is a disease case, carrier, suspect case, or at risk of illness, and the data are necessary to locate the person; or

(23) to other state agencies, statewide systems, and political subdivisions of this state, including the attorney general, and agencies of other states, interstate information networks, federal agencies, and other entities as required by federal regulation or law for the administration of the child support enforcement program.

(b) Information on persons who have been treated for drug or alcohol abuse may only be disclosed in accordance with the requirements of Code of Federal Regulations, title 42, sections 2.1 to 2.67.

(c) Data provided to law enforcement agencies under paragraph (a), clause (15), (16), or (17), or paragraph (b), are investigative data and are confidential or protected nonpublic while the investigation is active. The data are private after the investigation becomes inactive under section 13.82, subdivision 5, paragraph (a) or (b).

(d) 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).

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Sec. 2. Minnesota Statutes 1996, section 13.99, is amended by adding a subdivision to read:

Subd. 101d. CHILD SUPPORT PARTIES. Certain data regarding the location of parties in connection with child support proceedings are governed by sections 256.87, subdivision 8; 257.70; and 518.005, subdivision 5. Certain data regarding the suspension of licenses of persons owing child support are governed by section 518.551, subdivision 13a, and certain data on newly hired employees maintained by the public authority for support enforcement are governed by section 256.998.

Sec. 3. [13B.06] CHILD SUPPORT OR MAINTENANCE OBLIGOR DATA MATCHES.

Subdivision 1. DEFINITIONS. The definitions in this subdivision apply to this section.

(a) "Account" means a demand deposit account, checking or negotiable withdraw order account, savings account, time deposit account, or money market mutual fund.

(b) "Account information" means the type of account, the account number, whether the account is singly or jointly owned, and in the case of jointly owned accounts the name and address of the nonobligor account owner if available.

(c) "Financial institution" means any of the following that do business within the state:

(1) federal or state commercial banks and federal or state savings banks, including savings and loan associations and cooperative banks;

(2) federal and state chartered credit unions;

(3) benefit associations;

(4) life insurance companies;

(5) safe deposit companies; and

(6) money market mutual funds.

(d) "Obligor" means an individual who is in arrears in court-ordered child support or maintenance payments, or both, in an amount equal to or greater than three times the obligor's total monthly support and maintenance payments.

(e) "Public authority" means the public authority responsible for child support enforcement.

Subd. 2. DATA MATCH SYSTEM ESTABLISHED. The commissioner of human services shall establish a process for the comparison of account information data held by financial institutions with the public authority's database of child support obligors. The commissioner shall inform the financial industry of the requirements of this section and the means by which financial institutions can comply. The commissioner may contract for services to carry out this section.

Subd. 3. DUTY TO PROVIDE DATA. On written request by a public authority, a financial institution shall provide to the public authority on a quarterly basis the name, address, social security number, tax identification number if known, and all account information for each obligor who maintains an account at the financial institution.

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Subd. 4. METHOD TO PROVIDE DATA. To comply with the requirements of this section, a financial institution may either:

(1) provide to the public authority a list containing only the names and other necessary personal identifying information of all account holders for the public authority to compare against its list of child support obligors for the purpose of identifying which obligors maintain an account at the financial institution; the names of the obligors who maintain an account at the institution shall then be transmitted to the financial institution which shall provide the public authority with account information on those obligors; or

(2) obtain a list of child support obligors from the public authority and compare that data to the data maintained at the financial institution to identify which of the identified obligors maintains an account at the financial institution.

A financial institution shall elect either method in writing upon written request of the public authority, and the election remains in effect unless the public authority agrees in writing to a change.

Subd. 5. MEANS TO PROVIDE DATA. A financial institution may provide the required data by submitting electronic media in a compatible format, delivering, mailing, or telefaxing a copy of the data, or by other means authorized by the commissioner of human services that will result in timely reporting.

Subd. 6. ACCESS TO DATA. (a) With regard to account information on all account holders provided by a financial institution under subdivision 4, clause (1), the commissioner of human services shall retain the reported information only until the account information is compared against the public authority's obligor database. Notwithstanding section 138.17, all account information that does not pertain to an obligor listed in the public authority's database must be immediately discarded, and no retention or publication may be made of that data by the public authority. All account information that does pertain to an obligor listed in the public authority's database must be incorporated into the public authority's database. Access to that data is governed by chapter 13.

(b) With regard to data on obligors provided by the public authority to a financial institution under subdivision 4, clause (2), the financial institution shall retain the reported information only until the financial institution's database is compared against the public authority's database. Data that do not pertain to an account holder at the financial institution must be immediately discarded, and no retention or publication may be made of that data by the financial institution.

Subd. 7. FEES. A financial institution may charge and collect a fee from the public authority for providing account information to the public authority. No financial institution shall charge or collect a fee that exceeds its actual costs of complying with this section. The commissioner, together with an advisory group consisting of representatives of the financial institutions in the state, shall determine a fee structure that minimizes the cost to the state and reasonably meets the needs of the financial institutions, and shall report to the chairs of the judiciary committees in the house of representatives and the senate by February 1, 1998, a recommended fee structure for inclusion in this section.

Subd. 8. FAILURE TO RESPOND TO REQUEST FOR INFORMATION. The public authority shall send by certified mail a written notice of noncompliance to a financial institution that fails to respond to a first written request for information under this

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section. The notice of noncompliance must explain the requirements of this section and advise the financial institution of the penalty for noncompliance. A financial institution that receives a second notice of noncompliance is subject to a civil penalty of \$1,000 for its failure to comply. A financial institution that continues to fail to comply with this section is subject to a civil penalty of \$5,000 for the third and each subsequent failure to comply. These penalties may be imposed and collected by the public authority.

A financial institution that has been served with a notice of noncompliance and incurs a second or subsequent notice of noncompliance has the right to a contested case hearing under chapter 14. A financial institution has 20 days from the date of the service of the notice of noncompliance to file a request for a contested case hearing with the commissioner. The order of the administrative law judge constitutes the final decision in the case.

Subd. 9. IMMUNITY. A financial institution that provides or reasonably attempts to provide information to the public authority in compliance with this section is not liable to any person for disclosing the information or for taking any other action in good faith as authorized by this section or chapter 552.

Subd. 10. CIVIL ACTION FOR UNAUTHORIZED DISCLOSURE BY FINANCIAL INSTITUTION. (a) An account holder may bring a civil action in district court against a financial institution for unauthorized disclosure of data received from the public authority under subdivision 4, clause (2). A financial institution found to have violated this subdivision shall be liable as provided in paragraph (b) or (c).

(b) Any financial institution that willfully and maliciously discloses data received from the public authority under subdivision 4 is liable to that account holder in an amount equal to the sum of:

(1) any actual damages sustained by the consumer as a result of the disclosure; and

(2) in the case of any successful action to enforce any liability under this section, the costs of the action taken plus reasonable attorney's fees as determined by the court.

(c) Any financial institution that negligently discloses data received from the public authority under subdivision 4 is liable to that account holder in an amount equal to any actual damages sustained by the account holder as a result of the disclosure.

(d) A financial institution may not be held liable in any action brought under this subdivision if the financial institution shows, by a preponderance of evidence, that the disclosure was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid any error.

Sec. 4. Minnesota Statutes 1996, section 144.223, is amended to read:

144.223 **REPORT OF MARRIAGE.**

Data relating to certificates of marriage registered shall be reported to the state registrar by the local registrars pursuant to the rules of the commissioner. The information necessary to compile the report shall be furnished by the applicant prior to the issuance of the marriage license. The report shall contain the following information:

A. Personal information on bride and groom:

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1. Name;
2. Residence;
3. Date and place of birth;
4. Race;
5. If previously married, how terminated;
6. Signature of applicant and date signed, and social security number.

B. Information concerning the marriage:

1. Date of marriage;
2. Place of marriage;
3. Civil or religious ceremony.

Sec. 5. [256.741] CHILD SUPPORT AND MAINTENANCE.

Subdivision 1. PUBLIC ASSISTANCE. (a) The term "public assistance" as used in this chapter and chapters 257, 518, and 518C, includes any form of assistance provided under AFDC, MFIP, and MFIP-R under chapter 256, MFIP-S under chapter 256J, and work first under chapter 256K; child care assistance provided through the child care fund according to chapter 119B; any form of medical assistance under chapter 256B; MinnesotaCare under chapter 256; and foster care as provided under Title IV-E of the Social Security Act.

(b) The term "child support agency" as used in this section refers to the public authority responsible for child support enforcement.

(c) The term "public assistance agency" as used in this section refers to a public authority providing public assistance to an individual.

Subd. 2. ASSIGNMENT OF SUPPORT AND MAINTENANCE RIGHTS. (a) An individual receiving public assistance in the form of assistance under AFDC, MFIP-S, MFIP-R, MFIP, and work first is considered to have assigned to the state at the time of application all rights to child support and maintenance from any other person the applicant or recipient may have in the individual's own behalf or in the behalf of any other family member for whom application for public assistance is made. An assistance unit is ineligible for aid to families with dependent children or its successor program unless the caregiver assigns all rights to child support and spousal maintenance benefits according to this section.

- (1) An assignment made according to this section is effective as to:
 - (i) any current child support and current spousal maintenance; and
 - (ii) any accrued child support and spousal maintenance arrears.
- (2) An assignment made after September 30, 1997, is effective as to:
 - (i) any current child support and current spousal maintenance;
 - (ii) any accrued child support and spousal maintenance arrears collected before October 1, 2000, or the date the individual terminates assistance, whichever is later; and

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(iii) any accrued child support and spousal maintenance arrears collected under federal tax intercept.

(b) An individual receiving public assistance in the form of medical assistance, including MinnesotaCare, is considered to have assigned to the state at the time of application all rights to medical support from any other person the individual may have in the individual's own behalf or in the behalf of any other family member for whom medical assistance is provided.

An assignment made after September 30, 1997, is effective as to any medical support accruing after the date of medical assistance or MinnesotaCare eligibility.

(c) An individual receiving public assistance in the form of child care assistance under the child care fund pursuant to chapter 119B is considered to have assigned to the state at the time of application all rights to child care support from any other person the individual may have in the individual's own behalf or in the behalf of any other family member for whom child care assistance is provided.

An assignment made according to this paragraph is effective as to:

(1) any current child care support and any child care support arrears assigned and accruing after the effective date of this section that are collected before October 1, 2000; and

(2) any accrued child care support arrears collected under federal tax intercept.

Subd. 3. EXISTING ASSIGNMENTS. Assignments based on the receipt of public assistance in existence prior to the effective date of this section are permanently assigned to the state.

Subd. 4. EFFECT OF ASSIGNMENT. Assignments in this section take effect upon a determination that the applicant is eligible for public assistance. The amount of support assigned under this subdivision may not exceed the total amount of public assistance issued or the total support obligation, whichever is less.

Subd. 5. COOPERATION WITH CHILD SUPPORT ENFORCEMENT. After notification from a public assistance agency that an individual has applied for or is receiving any form of public assistance, the child support agency shall determine whether the party is cooperating with the agency in establishing paternity, child support, modification of an existing child support order, or enforcement of an existing child support order. The public assistance agency shall notify each applicant or recipient in writing of the right to claim a good cause exemption from cooperating with the requirements in this section. A copy of the notice must be furnished to the applicant or recipient, and the applicant or recipient and a representative from the public authority shall acknowledge receipt of the notice by signing and dating a copy of the notice. The individual shall cooperate with the child support agency by:

(1) providing all known information regarding the alleged father or obligor, including name, address, social security number, telephone number, place of employment or school, and the names and addresses of any relatives;

(2) appearing at interviews, hearings and legal proceedings;

(3) submitting to genetic tests including genetic testing of the child, under a judicial or administrative order; and

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(4) providing additional information known by the individual as necessary for cooperating in good faith with the child support agency.

The caregiver of a minor child must cooperate with the efforts of the public authority to collect support according to this subdivision. A caregiver must forward to the public authority all support the caregiver receives during the period the assignment of support required under subdivision 2 is in effect. Support received by a caregiver and not forwarded to the public authority must be repaid to the child support enforcement unit for any month following the date on which initial eligibility is determined, except as provided under subdivision 8, paragraph (b), clause (4).

Subd. 6. DETERMINATION. If the individual cannot provide the information required in subdivision 5, before making a determination that the individual is cooperating, the child support agency shall make a finding that the individual could not reasonably be expected to provide the information. In making this finding, the child support agency shall consider:

- (1) the age of the child for whom support is being sought;
- (2) the circumstances surrounding the conception of the child;
- (3) the age and mental capacity of the parent or caregiver of the child for whom support is being sought;
- (4) the time period that has expired since the parent or caregiver of the child for whom support is sought last had contact with the alleged father or obligor, or the person's relatives; and
- (5) statements from the applicant or recipient or other individuals that show evidence of an inability to provide correct information about the alleged father or obligor because of deception by the alleged father or obligor.

Subd. 7. NONCOOPERATION. Unless good cause is found to exist under subdivision 10, upon a determination of noncooperation by the child support agency, the agency shall promptly notify the individual and each public assistance agency providing public assistance to the individual that the individual is not cooperating with the child support agency. Upon notice of noncooperation, the individual shall be sanctioned in the amount determined according to the public assistance agency responsible for enforcing the sanction.

Subd. 8. REFUSAL TO COOPERATE WITH SUPPORT REQUIREMENTS.

(a) Failure by a caregiver to satisfy any of the requirements of subdivision 5 constitutes refusal to cooperate, and the sanctions under paragraph (b) apply. The IV-D agency must determine whether a caregiver has refused to cooperate according to subdivision 5.

(b) Determination by the IV-D agency that a caregiver has refused to cooperate has the following effects:

- (1) a caregiver is subject to the applicable sanctions under section 256J.46;
- (2) a caregiver who is not a parent of a minor child in an assistance unit may choose to remove the child from the assistance unit unless the child is required to be in the assistance unit;

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(3) a parental caregiver who refuses to cooperate is ineligible for medical assistance; and

(4) direct support retained by a caregiver must be counted as unearned income when determining the amount of the assistance payment.

Subd. 9. GOOD CAUSE EXEMPTION FROM COOPERATING WITH SUPPORT REQUIREMENTS. The IV-A or IV-D agency must notify the caregiver that the caregiver may claim a good cause exemption from cooperating with the requirements in subdivision 5. Good cause may be claimed and exemptions determined according to subdivisions 10 to 13.

Subd. 10. GOOD CAUSE EXEMPTION. (a) Cooperation with the child support agency under subdivision 5 is not necessary if the individual asserts, and both the child support agency and the public assistance agency find, good cause exists under this subdivision for failing to cooperate. An individual may request a good cause exemption by filing a written claim with the public assistance agency on a form provided by the commissioner of human services. Upon notification of a claim for good cause exemption, the child support agency shall cease all child support enforcement efforts until the claim for good cause exemption is reviewed and the validity of the claim is determined. Designated representatives from public assistance agencies and at least one representative from the child support enforcement agency shall review each claim for a good cause exemption and determine its validity.

(b) Good cause exists when an individual documents that pursuit of child support enforcement services could reasonably result in:

(1) physical or emotional harm to the child for whom support is sought;

(2) physical harm to the parent or caregiver with whom the child is living that would reduce the ability to adequately care for the child; or

(3) emotional harm to the parent or caregiver with whom the child is living, of such nature or degree that it would reduce the person's ability to adequately care for the child.

Physical and emotional harm under this paragraph must be of a serious nature in order to justify a finding of good cause exemption. A finding of good cause exemption based on emotional harm may only be based upon a demonstration of emotional impairment that substantially affects the individual's ability to function.

(c) Good cause also exists when the designated representatives in this subdivision believe that pursuing child support enforcement would be detrimental to the child for whom support is sought and the individual applicant or recipient documents any of the following:

(1) the child for whom child support enforcement is sought was conceived as a result of incest or rape;

(2) legal proceedings for the adoption of the child are pending before a court of competent jurisdiction; or

(3) the parent or caregiver of the child is currently being assisted by a public or licensed private social service agency to resolve the issues of whether to keep the child or place the child for adoption.

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The parent or caregiver's right to claim a good cause exemption based solely on this paragraph expires if the assistance lasts more than 90 days.

(d) The public authority shall consider the best interests of the child in determining good cause.

Subd. 11. **PROOF OF GOOD CAUSE.** (a) An individual seeking a good cause exemption has 20 days from the date the good cause claim was provided to the public assistance agency to supply evidence supporting the claim. The public assistance agency may extend the time period in this section if it believes the individual is cooperating and needs additional time to submit the evidence required by this section. Failure to provide this evidence shall result in the child support agency resuming child support enforcement efforts.

(b) Evidence supporting a good cause claim includes, but is not limited to:

(1) a birth certificate or medical or law enforcement records indicating that the child was conceived as the result of incest or rape;

(2) court documents or other records indicating that legal proceedings for adoption are pending before a court of competent jurisdiction;

(3) court, medical, criminal, child protective services, social services, domestic violence advocate services, psychological, or law enforcement records indicating that the alleged father or obligor might inflict physical or emotional harm on the child, parent, or caregiver;

(4) medical records or written statements from a licensed medical professional indicating the emotional health history or status of the custodial parent, child, or caregiver, or indicating a diagnosis or prognosis concerning their emotional health;

(5) a written statement from a public or licensed private social services agency that the individual is deciding whether to keep the child or place the child for adoption; or

(6) sworn statements from individuals other than the applicant or recipient that provide evidence supporting the good cause claim.

(c) The child support agency and the public assistance agency shall assist an individual in obtaining the evidence in this section upon request of the individual.

Subd. 12. **DECISION.** A good cause exemption must be granted if the individual's claim and the investigation of the supporting evidence satisfy the investigating agencies that the individual has good cause for refusing to cooperate.

Subd. 13. **DURATION.** (a) A good cause exemption may not continue for more than one year without redetermination of cooperation and good cause pursuant to this section. The child support agency may redetermine cooperation and the designated representatives in subdivision 10 may redetermine the granting of a good cause exemption before the one year expiration in this subdivision.

(b) A good cause exemption must be allowed under subsequent applications and redeterminations without additional evidence when the factors that led to the exemption continue to exist. A good cause exemption must end when the factors that led to the exemption have changed.

New language is indicated by underline, deletions by strikeout.

Subd. 14. TRAINING. The commissioner shall establish domestic violence and sexual abuse training programs for child support agency employees. The training programs must be developed in consultation with experts on domestic violence and sexual assault. To the extent possible, representatives of the child support agency involved in making a determination of cooperation under subdivision 6 or reviewing a claim for good cause exemption under subdivision 9 shall receive training in accordance with this subdivision.

Sec. 6. Minnesota Statutes 1996, section 256.87, subdivision 1, is amended to read:

Subdivision 1. ACTIONS AGAINST PARENTS FOR ASSISTANCE FURNISHED. A parent of a child is liable for the amount of public assistance, as defined in section 256.741, furnished under sections 256.031 to 256.0361, 256.72 to 256.87, or under ~~Title IV-E~~ of the Social Security Act or medical assistance under chapter 256, 256B, or 256D and for the benefit of the child, including any assistance furnished for the benefit of the caretaker of the child, which the parent has had the ability to pay. Ability to pay must be determined according to chapter 518. The parent's liability is limited to the two years immediately preceding the commencement of the action, except that where child support has been previously ordered, the state or county agency providing the assistance, as assignee of the obligee, shall be entitled to judgments for child support payments accruing within ten years preceding the date of the commencement of the action up to the full amount of assistance furnished. The action may be ordered by the state agency or county agency and shall be brought in the name of the county ~~by the county attorney of the county in which the assistance was granted, or by in the name of the state agency~~ against the parent for the recovery of the amount of assistance granted, together with the costs and disbursements of the action.

Sec. 7. Minnesota Statutes 1996, section 256.87, subdivision 1a, is amended to read:

Subd. 1a. CONTINUING SUPPORT CONTRIBUTIONS. In addition to granting the county or state agency a money judgment, the court may, upon a motion or order to show cause, order continuing support contributions by a parent found able to reimburse the county or state agency. The order shall be effective for the period of time during which the recipient receives public assistance from any county or state agency and thereafter. The order shall require support according to chapter 518. An order for continuing contributions is reinstated without further hearing upon notice to the parent by any county or state agency that public assistance, as defined in section 256.741, is again being provided for the child of the parent ~~under sections 256.031 to 256.0361, 256.72 to 256.87, or under Title IV-E of the Social Security Act or medical assistance under chapter 256, 256B, or 256D.~~ The notice shall be in writing and shall indicate that the parent may request a hearing for modification of the amount of support or maintenance.

Sec. 8. Minnesota Statutes 1996, section 256.87, subdivision 3, is amended to read:

Subd. 3. CONTINUING CONTRIBUTIONS TO FORMER RECIPIENT. The order for continuing support contributions shall remain in effect following the period after public assistance, as defined in section 256.741, granted under sections 256.72 to 256.87 is terminated unless the former recipient files an affidavit with the court requesting termination of the order.

Sec. 9. Minnesota Statutes 1996, section 256.87, subdivision 5, is amended to read:

New language is indicated by underline, deletions by strikeout.

Subd. 5. **CHILD NOT RECEIVING ASSISTANCE.** A person or entity having physical custody of a dependent child not receiving public assistance under sections 256.031 to 256.0361, or 256.72 to 256.87 as defined in section 256.741 has a cause of action for child support against the child's absent noncustodial parents. Upon a motion served on the absent noncustodial parent, the court shall order child support payments, including medical support and child care support, from the absent noncustodial parent under chapter 518. The absent A noncustodial parent's liability may include up to the two years immediately preceding the commencement of the action. This subdivision applies only if the person or entity has physical custody with the consent of a custodial parent or approval of the court.

Sec. 10. Minnesota Statutes 1996, section 256.87, is amended by adding a subdivision to read:

Subd. 8. **DISCLOSURE PROHIBITED.** Notwithstanding statutory or other authorization for the public authority to release private data on the location of a party to the action, information on the location of one party may not be released to the other party by the public authority if:

(1) the public authority has knowledge that a protective order with respect to the other party has been entered; or

(2) the public authority has reason to believe that the release of the information may result in physical or emotional harm to the other party.

Sec. 11. Minnesota Statutes 1996, section 256.978, subdivision 1, is amended to read:

Subdivision 1. **REQUEST FOR INFORMATION.** (a) The commissioner of human services public authority responsible for child support in this state or any other state, in order to locate a person to establish paternity, and child support or to modify or enforce child support, or to enforce a child support obligation in arrears, may request information reasonably necessary to the inquiry from the records of all departments, boards, bureaus, or other agencies of this state, which shall, notwithstanding the provisions of section 268.12, subdivision 12, or any other law to the contrary, provide the information necessary for this purpose. Employers, utility companies, insurance companies, financial institutions, and labor associations doing business in this state shall provide information as provided under subdivision 2 upon written or electronic request by an agency responsible for child support enforcement regarding individuals owing or allegedly owing a duty to support within 30 days of the receipt service of the written request made by the public authority. Information requested and used or transmitted by the commissioner pursuant according to the authority conferred by this section may be made available only to public officials and agencies of this state and its political subdivisions and other states of the union and their political subdivisions who are seeking to enforce the support liability of parents or to locate parents. The commissioner may not release the information to an agency or political subdivision of another state unless the agency or political subdivision is directed to maintain the data consistent with its classification in this state. Information obtained under this section may not be released except to the extent necessary for the administration of the child support enforcement program or when otherwise authorized by law. to other agencies, statewide systems, and political subdivisions of this state, and agencies of other states, interstate information networks, federal agencies, and other enti-

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ties as required by federal regulation or law for the administration of the child support enforcement program.

(b) For purposes of this section, "state" includes the District of Columbia, Puerto Rico, the United States Virgin Islands, and any territory or insular possession subject to the jurisdiction of the United States.

Sec. 12, Minnesota Statutes 1996, section 256.978, subdivision 2, is amended to read:

Subd. 2. **ACCESS TO INFORMATION.** (a) A written request for information by the public authority responsible for child support of this state or any other state may be made to:

(1) employers when there is reasonable cause to believe that the subject of the inquiry is or was an employee or independent contractor of the employer. Information to be released by employers is limited to place of residence, employment status, wage or payment information, benefit information, and social security number;

(2) utility companies when there is reasonable cause to believe that the subject of the inquiry is or was a retail customer of the utility company. Customer information to be released by utility companies is limited to place of residence, home telephone, work telephone, source of income, employer and place of employment, and social security number;

(3) insurance companies when there is an arrearage of child support and there is reasonable cause to believe that the subject of the inquiry is or was receiving funds either in the form of a lump sum or periodic payments. Information to be released by insurance companies is limited to place of residence, home telephone, work telephone, employer, social security number, and amounts and type of payments made to the subject of the inquiry;

(4) labor organizations when there is reasonable cause to believe that the subject of the inquiry is or was a member of the labor association. Information to be released by labor associations is limited to place of residence, home telephone, work telephone, social security number, and current and past employment information; and

(5) financial institutions when there is an arrearage of child support and there is reasonable cause to believe that the subject of the inquiry has or has had accounts, stocks, loans, certificates of deposits, treasury bills, life insurance policies, or other forms of financial dealings with the institution. Information to be released by the financial institution is limited to place of residence, home telephone, work telephone, identifying information on the type of financial relationships, social security number, current value of financial relationships, and current indebtedness of the subject with the financial institution.

(b) For purposes of this subdivision, utility companies include telephone companies, radio common carriers, and telecommunications carriers as defined in section 237.01, and companies that provide electrical, telephone, natural gas, propane gas, oil, coal, or cable television services to retail customers. The term financial institution includes banks, savings and loans, credit unions, brokerage firms, mortgage companies, and insurance companies, benefit associations, safe deposit companies, money market mutual funds, or similar entities authorized to do business in the state.

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Sec. 13. Minnesota Statutes 1996, section 256.9792, subdivision 1, is amended to read:

Subdivision 1. **ARREARAGE COLLECTIONS.** Arrearage collection projects are created to increase the revenue to the state and counties, reduce ~~AFDC~~ public assistance expenditures for former public assistance cases, and increase payments of arrearages to persons who are not receiving public assistance by submitting cases for arrearage collection to collection entities, including but not limited to, the department of revenue and private collection agencies.

Sec. 14. Minnesota Statutes 1996, section 256.9792, subdivision 2, is amended to read:

Subd. 2. **DEFINITIONS.** (a) The definitions in this subdivision apply to this section:

(b) "Public assistance arrearage case" means a case where current support may be due, no payment, with the exception of tax offset, has been made within the last 90 days, and the arrearages are assigned to the public agency ~~pursuant~~ according to section 256.74, subdivision 5 256.741.

(c) "Public authority" means the public authority responsible for child support enforcement.

(d) "Nonpublic assistance arrearage case" means a support case where arrearages have accrued that have not been assigned ~~pursuant~~ according to section 256.74, subdivision 5 256.741.

Sec. 15. Minnesota Statutes 1996, section 256.998, subdivision 1, is amended to read:

Subdivision 1. **DEFINITIONS.** (a) The definitions in this subdivision apply to this section.

(b) "Date of hiring" means the earlier of: (1) the first day for which an employee is owed compensation by an employer; or (2) the first day that an employee reports to work or performs labor or services for an employer.

(c) "Earnings" means payment owed by an employer for labor or services rendered by an employee.

(d) "Employee" means a person who resides or works in Minnesota and, performs services for compensation, in whatever form, for an employer and satisfies the criteria of an employee under chapter 24 of the Internal Revenue Code. Employee does not include:

(1) persons hired for domestic service in the private home of the employer, as defined in the Federal Tax Code; or

(2) an employee of the federal or state agency performing intelligence or counterintelligence functions, if the head of such agency has determined that reporting according to this law would endanger the safety of the employee or compromise an ongoing investigation or intelligence mission.

(e) "Employer" means a person or entity located or doing business in this state that employs one or more employees for payment, and satisfies the criteria of an employer

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under chapter 24 of the Internal Revenue Code. Employer includes a labor organization as defined in paragraph (g). Employer also includes the state, political or other governmental subdivisions of the state, and the federal government.

(f) "Hiring" means engaging a person to perform services for compensation and includes the reemploying or return to work of any previous employee who was laid off, furloughed, separated, granted a leave without pay, or terminated from employment when a period of 90 days elapses from the date of layoff, furlough, separation, leave, or termination to the date of the person's return to work.

(g) "Labor organization" means entities located or doing business in this state that meet the criteria of labor organization under section 2(5) of the National Labor Relations Act. This includes any entity, that may also be known as a hiring hall, used to carry out requirements described in chapter 7 of the National Labor Relations Act.

(h) "Payor" means a person or entity located or doing business in Minnesota who pays money to an independent contractor according to an agreement for the performance of services.

Sec. 16. Minnesota Statutes 1996, section 256.998, subdivision 6, is amended to read:

Subd. 6. **SANCTIONS.** If an employer fails to report under this section, the commissioner of human services, by certified mail, shall send the employer a written notice of noncompliance requesting that the employer comply with the reporting requirements of this section. The notice of noncompliance must explain the reporting procedure under this section and advise the employer of the penalty for noncompliance. An employer who has received a notice of noncompliance and later incurs a second violation is subject to a civil penalty of \$50 \$25 for each intentionally unreported employee. An employer who has received a notice of noncompliance and later incurs a ~~third or subsequent violation~~ is subject to a civil penalty of \$500 for each intentionally unreported employee, if noncompliance is the result of a conspiracy between an employer and an employee not to supply the required report or to supply a false or incomplete report. These penalties may be imposed and collected by the commissioner of human services. An employer who has been served with a notice of noncompliance and incurs a second or subsequent violation resulting in a civil penalty, has the right to a contested case hearing under chapter 14. An employer has 20 days from the date of service of the notice, to file a request for a contested case hearing with the commissioner. The order of the administrative law judge constitutes the final decision in the case.

Sec. 17. Minnesota Statutes 1996, section 256.998, subdivision 7, is amended to read:

Subd. 7. **ACCESS TO DATA.** The commissioner of human services shall retain the information reported to the work reporting system for a period of six months. Data in the work reporting system may be disclosed to the public authority responsible for child support enforcement, federal agencies, and state and local agencies of other states for the purposes of enforcing state and federal laws governing child support, and agencies responsible for the administration of programs under Title IV-A of the Social Security Act, the department of economic security, and the department of labor and industry.

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

Sec. 18. Minnesota Statutes 1996, section 256.998, is amended by adding a subdivision to read:

Subd. 10. USE OF WORK REPORTING SYSTEM INFORMATION IN DETERMINING ELIGIBILITY FOR PUBLIC ASSISTANCE PROGRAMS. The commissioner of human services is authorized to use information from the work reporting system to determine eligibility for applicants and recipients of public assistance programs administered by the department of human services. Data including names, dates of birth, and social security numbers of people applying for or receiving public assistance benefits will be compared to the work reporting system information to determine if applicants or recipients of public assistance are employed. County agencies will be notified of discrepancies in information obtained from the work reporting system.

Sec. 19. Minnesota Statutes 1996, section 256.998, is amended by adding a subdivision to read:

Subd. 11. ACTION ON INFORMATION. Upon receipt of the discrepant information, county agencies will notify clients of the information and request verification of employment status and earnings. County agencies must attempt to resolve the discrepancy within 45 days of receipt of the information.

Sec. 20. Minnesota Statutes 1996, section 256.998, is amended by adding a subdivision to read:

Subd. 12. CLIENT NOTIFICATION. Persons applying for public assistance programs administered by the department of human services will be notified at the time of application that data including their name, date of birth, and social security number will be shared with the work reporting system to determine possible employment. All current public assistance recipients will be notified of this provision prior to its implementation.

Sec. 21. Minnesota Statutes 1996, section 257.62, subdivision 1, is amended to read:

Subdivision 1. BLOOD OR GENETIC TESTS REQUIRED. (a) The court or public authority may, and upon request of a party shall, require the child, mother, or alleged father to submit to blood or genetic tests. A mother or alleged father requesting the tests shall file with the court an affidavit either alleging or denying paternity and setting forth facts that establish the reasonable possibility that there was, or was not, the requisite sexual contact between the parties.

(b) A copy of the test results must be served on the parties as provided in section 543.20 each party by first class mail to the party's last known address. Any objection to the results of blood or genetic tests must be made in writing no later than 15 days prior to a hearing at which time those test results may be introduced into evidence 30 days after service of the results. Test results served upon a party must include notice of this right to object.

(c) If the alleged father is dead, the court may, and upon request of a party shall, require the decedent's parents or brothers and sisters or both to submit to blood or genetic tests. However, in a case involving these relatives of an alleged father, who is deceased, the court may refuse to order blood or genetic tests if the court makes an express finding that submitting to the tests presents a danger to the health of one or more of these relatives that outweighs the child's interest in having the tests performed. Unless the person gives consent to the use, the results of any blood or genetic tests of the decedent's parents,

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brothers, or sisters may be used only to establish the right of the child to public assistance including but not limited to social security and veterans' benefits. The tests shall be performed by a qualified expert appointed by the court.

Sec. 22. Minnesota Statutes 1996, section 257.62, subdivision 2, is amended to read:

Subd. 2. The court, upon reasonable request by a party, shall order that independent tests be performed by other qualified experts. Unless otherwise agreed by the parties, a party wanting additional testing must first contest the original tests in subdivision 1, paragraph (b), and must pay in advance for the additional testing. The additional testing must be performed by another qualified expert.

Sec. 23. Minnesota Statutes 1996, section 257.66, subdivision 3, is amended to read:

Subd. 3. **JUDGMENT; ORDER.** The judgment or order shall contain provisions concerning the duty of support, the custody of the child, the name of the child, the social security number of the mother, father, and child, if known at the time of adjudication, visitation privileges with the child, the furnishing of bond or other security for the payment of the judgment, or any other matter in the best interest of the child. Custody and visitation and all subsequent motions related to them shall proceed and be determined under section 257.541. The remaining matters and all subsequent motions related to them shall proceed and be determined in accordance with chapter 518. The judgment or order may direct the appropriate party to pay all or a proportion of the reasonable expenses of the mother's pregnancy and confinement, after consideration of the relevant facts, including the relative financial means of the parents; the earning ability of each parent; and any health insurance policies held by either parent, or by a spouse or parent of the parent, which would provide benefits for the expenses incurred by the mother during her pregnancy and confinement. Pregnancy and confinement expenses and genetic testing costs, submitted by the public authority, are admissible as evidence without third-party foundation testimony and constitute prima facie evidence of the amounts incurred for those services or for the genetic testing. Remedies available for the collection and enforcement of child support apply to confinement costs and are considered additional child support.

Sec. 24. Minnesota Statutes 1996, section 257.66, is amended by adding a subdivision to read:

Subd. 6. **REQUIRED INFORMATION.** Upon entry of judgment or order, each parent who is a party in a paternity proceeding shall:

(1) file with the public authority responsible for child support enforcement the party's social security number, residential and mailing address, telephone number, driver's license number, and name, address, and telephone number of any employer if the party is receiving services from the public authority or begins receiving services from the public authority;

(2) file the information in clause (1) with the district court; and

(3) notify the court and, if applicable, the public authority responsible for child support enforcement of any change in the information required under this section within ten days of the change.

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Sec. 25. Minnesota Statutes 1996, section 257.70, is amended to read:

257.70 HEARINGS AND RECORDS; CONFIDENTIALITY.

(a) Notwithstanding any other law concerning public hearings and records, any hearing or trial held under sections 257.51 to 257.74 shall be held in closed court without admittance of any person other than those necessary to the action or proceeding. All papers and records, other than the final judgment, pertaining to the action or proceeding, whether part of the permanent record of the court or of a file in the state department of human services or elsewhere, are subject to inspection only upon consent of the court and all interested persons, or in exceptional cases only upon an order of the court for good cause shown.

(b) In all actions under this chapter in which public assistance is assigned under section 256.741 or the public authority provides services to a party or parties to the action, notwithstanding statutory or other authorization for the public authority to release private data on the location of a party to the action, information on the location of one party may not be released by the public authority to the other party if:

(1) the public authority has knowledge that a protective order with respect to the other party has been entered; or

(2) the public authority has reason to believe that the release of the information may result in physical or emotional harm to the other party.

Sec. 26. Minnesota Statutes 1996, section 257.75, subdivision 2, is amended to read:

Subd. 2. REVOCATION OF RECOGNITION. A recognition may be revoked in a writing signed by the mother or father before a notary public and filed with the state registrar of vital statistics within the earlier of 30 days after the recognition is executed or the date of an administrative or judicial hearing relating to the child in which the revoking party is a party to the related action. A joinder in a recognition may be revoked in a writing signed by the man who executed the joinder and filed with the state registrar of vital statistics within 30 days after the joinder is executed. Upon receipt of a revocation of the recognition of parentage or joinder in a recognition, the state registrar of vital statistics shall forward a copy of the revocation to the nonrevoking parent, or, in the case of a joinder in a recognition, to the mother and father who executed the recognition.

Sec. 27. Minnesota Statutes 1996, section 257.75, subdivision 3, is amended to read:

Subd. 3. EFFECT OF RECOGNITION. Subject to subdivision 2 and section 257.55, subdivision 1, paragraph (g) or (h), the recognition has the force and effect of a judgment or order determining the existence of the parent and child relationship under section 257.66. If the conditions in section 257.55, subdivision 1, paragraph (g) or (h), exist, the recognition creates only a presumption of paternity for purposes of sections 257.51 to 257.74. Once a recognition has been properly executed and filed with the state registrar of vital statistics, if there are no competing presumptions of paternity, a judicial or administrative court may not allow further action to determine parentage regarding the signator of the recognition. Until an order is entered granting custody to another, the mother has sole custody. The recognition is:

(1) a basis for bringing an action to award custody or visitation rights to either parent, establishing a child support obligation which may include up to the two years im-

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mediately preceding the commencement of the action, ordering a contribution by a parent under section 256.87, or ordering a contribution to the reasonable expenses of the mother's pregnancy and confinement, as provided under section 257.66, subdivision 3, or ordering reimbursement for the costs of blood or genetic testing, as provided under section 257.69, subdivision 2;

(2) determinative for all other purposes related to the existence of the parent and child relationship; and

(3) entitled to full faith and credit in other jurisdictions.

Sec. 28. Minnesota Statutes 1996, section 257.75, subdivision 4, is amended to read:

Subd. 4. **ACTION TO VACATE RECOGNITION.** (a) An action to vacate a recognition of paternity may be brought by the mother, father, husband or former husband who executed a joinder, or the child. A mother, father, or husband or former husband who executed a joinder must bring the action within one year of the execution of the recognition or within six months after the person bringing the action obtains the results of blood or genetic tests that indicate that the man who executed the recognition is not the father of the child. A child must bring an action to vacate within six months after the child obtains the result of blood or genetic tests that indicate that the man who executed the recognition is not the father of the child, or within one year of reaching the age of majority, whichever is later. If the court finds a prima facie basis for vacating the recognition, the court shall order the child, mother, father, and husband or former husband who executed a joinder to submit to blood tests. If the court issues an order for the taking of blood tests, the court shall require the party seeking to vacate the recognition to make advance payment for the costs of the blood tests. If the party fails to pay for the costs of the blood tests, the court shall dismiss the action to vacate with prejudice. The court may also order the party seeking to vacate the recognition to pay the other party's reasonable attorney fees, costs, and disbursements. If the results of the blood tests establish that the man who executed the recognition is not the father, the court shall vacate the recognition. If a recognition is vacated, any joinder in the recognition under subdivision 1a is also vacated. The court shall terminate the obligation of a party to pay ongoing child support based on the recognition. A modification of child support based on a recognition may be made retroactive with respect to any period during which the moving party has pending a motion to vacate the recognition but only from the date of service of notice of the motion on the responding party.

(b) The burden of proof in an action to vacate the recognition is on the moving party. The moving party must request the vacation on the basis of fraud, duress, or material mistake of fact. The legal responsibilities in existence at the time of an action to vacate, including child support obligations, may not be suspended during the proceeding, except for good cause shown.

Sec. 29. Minnesota Statutes 1996, section 257.75, subdivision 5, is amended to read:

Subd. 5. **RECOGNITION FORM.** The commissioner of human services shall prepare a form for the recognition of parentage under this section. In preparing the form, the commissioner shall consult with the individuals specified in subdivision 6. The recognition form must be drafted so that the force and effect of the recognition, the alternatives to executing a recognition, and the benefits and responsibilities of establishing paternity are clear and understandable. The form must include a notice regarding the finality of a rec-

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ognition and the revocation procedure under subdivision 2. The form must include a provision for each parent to verify that the parent has read or viewed the educational materials prepared by the commissioner of human services describing the recognition of paternity. The individual providing the form to the parents for execution shall provide oral notice of the rights, responsibilities, and alternatives to executing the recognition. Notice may be provided by audiotape, videotape, or similar means. Each parent must receive a copy of the recognition.

Sec. 30. Minnesota Statutes 1996, section 257.75, subdivision 7, is amended to read:

Subd. 7. **HOSPITAL AND DEPARTMENT OF HEALTH DISTRIBUTION OF EDUCATIONAL MATERIALS; RECOGNITION FORM.** Hospitals that provide obstetric services and the state registrar of vital statistics shall distribute the educational materials and recognition of parentage forms prepared by the commissioner of human services to new parents and shall assist parents in understanding the recognition of parentage form, including following the provisions for notice under subdivision 5. On and after January 1, 1994, hospitals may not distribute the declaration of parentage forms.

Sec. 31. Minnesota Statutes 1996, section 299C.46, subdivision 3, is amended to read:

Subd. 3. **AUTHORIZED USE, FEE.** (a) The data communications network shall be used exclusively by:

(1) criminal justice agencies in connection with the performance of duties required by law;

(2) agencies investigating federal security clearances of individuals for assignment or retention in federal employment with duties related to national security, as required by Public Law Number 99-1691; and

(3) other agencies to the extent necessary to provide for protection of the public or property in an emergency or disaster situation; and

(4) the public authority responsible for child support enforcement in connection with the performance of its duties.

(b) The commissioner of public safety shall establish a monthly network access charge to be paid by each participating criminal justice agency. The network access charge shall be a standard fee established for each terminal, computer, or other equipment directly addressable by the criminal justice data communications network, as follows: January 1, 1984 to December 31, 1984, \$40 connect fee per month; January 1, 1985 and thereafter, \$50 connect fee per month.

(c) The commissioner of public safety is authorized to arrange for the connection of the data communications network with the criminal justice information system of the federal government, any adjacent state, or Canada.

Sec. 32. Minnesota Statutes 1996, section 508.63, is amended to read:

508.63 REGISTRATION OF INSTRUMENTS CREATING LIENS; JUDGMENTS.

No judgment requiring the payment of money shall be a lien upon registered land, except as herein provided. Any person claiming such lien shall file with the registrar a

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certified copy of the judgment, together with a written statement containing a description of each parcel of land in which the judgment debtor has a registered interest and upon which the lien is claimed, and a proper reference to the certificate or certificates of title to such land. Upon filing such copy and statement, the registrar shall enter a memorial of such judgment upon each certificate designated in such statement, and the judgment shall thereupon be and become a lien upon the judgment debtor's interest in the land described in such certificate or certificates. At any time after filing the certified copy of such judgment, any person claiming the lien may, by filing a written statement, as herein provided, cause a memorial of such judgment to be entered upon any certificate of title to land in which the judgment debtor has a registered interest and not described in any previous statement and the judgment shall thereupon be and become a lien upon the judgment debtor's interest in such land. The public authority for child support enforcement may present for filing a notice of judgment lien under section 548.091 with identifying information for a parcel of real property. Upon receipt of the notice of judgment lien, the registrar shall enter a memorial of it upon each certificate which can reasonably be identified as owned by the judgment debtor on the basis of the information provided. The judgment shall survive and the lien thereof shall continue for a period of ten years from the date of the judgment and no longer, and the registrar of titles shall not carry forward to a new certificate of title the memorial of the judgment after that period. In every case where an instrument of any description, or a copy of any writ, order, or decree, is required by law to be filed or recorded in order to create or preserve any lien, writ, or attachment upon unregistered land, such instrument or copy, if intended to affect registered land, shall, in lieu of recording, be filed and registered with the registrar. In addition to any facts required by law to be stated in such instruments to entitle them to be filed or recorded, they shall also contain a reference to the number of the certificate of title of the land to be affected, and, if the attachment, charge, or lien is not claimed on all the land described in any certificate of title, such instrument shall contain a description sufficient to identify the land.

Sec. 33. Minnesota Statutes 1996, section 508A.63, is amended to read:

508A.63 REGISTRATION OF INSTRUMENTS CREATING LIENS; JUDGMENTS.

No judgment requiring the payment of money shall be a lien upon land registered under sections 508A.01 to 508A.85, except as herein provided. Any person claiming a lien shall file with the registrar a certified copy of the judgment, together with a written statement containing a description of each parcel of land in which the judgment debtor has a registered interest and upon which the lien is claimed, and a proper reference to the CPT or CPTs to the land. Upon filing the copy and statement, the registrar shall enter a memorial of the judgment upon each CPT designated in the statement, and the judgment shall then be and become a lien upon the judgment debtor's interest in the land described in CPT or CPTs. At any time after filing the certified copy of the judgment, any person claiming the lien may, by filing a written statement, as herein provided, cause a memorial of the judgment to be entered upon any CPT to land in which the judgment debtor has a registered interest and not described in any previous statement and the judgment shall then be and become a lien upon the judgment debtor's interest in the land. The public authority for child support enforcement may present for filing a notice of judgment lien under section 548.091 with identifying information for a parcel of real property. Upon receipt of the notice of judgment lien, the registrar shall enter a memorial of it upon each

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certificate of possessory title which reasonably can be identified as owned by the judgment debtor on the basis of the information provided. The judgment shall survive and the lien thereof shall continue for a period of ten years from the date of the judgment and no longer; and the registrar shall not carry forward to a new certificate of title the memorial of the judgment after that period. In every case where an instrument of any description, or a copy of any writ, order, or decree, is required by law to be filed or recorded in order to create or preserve any lien, writ, or attachment upon unregistered land, the instrument or copy, if intended to affect registered land, shall, in lieu of recording, be filed and registered with the registrar. In addition to any facts required by law to be stated in the instruments to entitle them to be filed or recorded, they shall also contain a reference to the number of the CPT of the land to be affected. If the attachment, charge, or lien is not claimed on all the land described in any CPT, the instrument shall contain a description sufficient to identify the land.

Sec. 34. Minnesota Statutes 1996, section 517.08, subdivision 1a, is amended to read:

Subd. 1a. Application for a marriage license shall be made upon a form provided for the purpose and shall contain the following information:

the full names of the parties,

their post office addresses and county and state of residence,

their full ages,

if either party has previously been married, the party's married name, and the date, place and court in which the marriage was dissolved or annulled or the date and place of death of the former spouse,

if either party is a minor, the name and address of the minor's parents or guardian, whether the parties are related to each other, and, if so, their relationship,

the name and date of birth of any child of which both parties are parents, born before the making of the application, unless their parental rights and the parent and child relationship with respect to the child have been terminated,

address of the bride and groom after the marriage to which the court administrator shall send a certified copy of the marriage certificate,

and the full names the parties will have after marriage and the parties' social security numbers. The social security numbers must be collected for the application but must not appear on the marriage license.

Sec. 35. Minnesota Statutes 1996, section 518.005, is amended by adding a subdivision to read:

Subd. 5. **PROHIBITED DISCLOSURE.** In all proceedings under this chapter in which public assistance is assigned under section 256.741 or the public authority provides services to a party or parties to the proceedings, notwithstanding statutory or other authorization for the public authority to release private data on the location of a party to the action, information on the location of one party may not be released by the public authority to the other party if:

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(1) the public authority has knowledge that a protective order with respect to the other party has been entered; or

(2) the public authority has reason to believe that the release of the information may result in physical or emotional harm to the other party.

Sec. 36. Minnesota Statutes 1996, section 518.10, is amended to read:

518.10 REQUISITES OF PETITION.

The petition for dissolution of marriage or legal separation shall state and allege:

(a) The name and, address, and, in circumstances in which child support or spousal maintenance will be addressed, social security number of the petitioner and any prior or other name used by the petitioner;

(b) The name and, if known, the address and, in circumstances in which child support or spousal maintenance will be addressed, social security number of the respondent and any prior or other name used by the respondent and known to the petitioner;

(c) The place and date of the marriage of the parties;

(d) In the case of a petition for dissolution, that either the petitioner or the respondent or both:

(1) Has resided in this state for not less than 180 days immediately preceding the commencement of the proceeding, or

(2) Has been a member of the armed services and has been stationed in this state for not less than 180 days immediately preceding the commencement of the proceeding, or

(3) Has been a domiciliary of this state for not less than 180 days immediately preceding the commencement of the proceeding;

(e) The name at the time of the petition and any prior or other name, age and date of birth of each living minor or dependent child of the parties born before the marriage or born or adopted during the marriage and a reference to, and the expected date of birth of, a child of the parties conceived during the marriage but not born;

(f) Whether or not a separate proceeding for dissolution, legal separation, or custody is pending in a court in this state or elsewhere;

(g) In the case of a petition for dissolution, that there has been an irretrievable breakdown of the marriage relationship;

(h) In the case of a petition for legal separation, that there is a need for a decree of legal separation; and

(i) Any temporary or permanent maintenance, child support, child custody, disposition of property, attorneys' fees, costs and disbursements applied for without setting forth the amounts.

The petition shall be verified by the petitioner or petitioners, and its allegations established by competent evidence.

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Sec. 37. Minnesota Statutes 1996, section 518.148, subdivision 2, is amended to read:

Subd. 2. **REQUIRED INFORMATION.** The certificate shall include the following information:

- (1) the full caption and file number of the case and the title "Certificate of Dissolution";
- (2) the names and any prior or other names of the parties to the dissolution;
- (3) the names of any living minor or dependent children as identified in the judgment and decree;
- (4) that the marriage of the parties is dissolved; ~~and~~
- (5) the date of the judgment and decree; and
- (6) the social security number of the parties to the dissolution and the social security number of any living minor or dependent children identified in the judgment and decree.

Sec. 38. Minnesota Statutes 1996, section 518.171, subdivision 1, is amended to read:

Subdivision 1. **ORDER.** Compliance with this section constitutes compliance with a qualified medical child support order as described in the federal Employee Retirement Income Security Act of 1974 (ERISA) as amended by the federal Omnibus Budget Reconciliation Act of 1993 (OBRA).

(a) Every child support order must:

(1) expressly assign or reserve the responsibility for maintaining medical insurance for the minor children and the division of uninsured medical and dental costs; and

(2) contain the names ~~and~~ last known addresses, ~~if any and~~ social security number of the custodial parent and noncustodial parent, of the dependents unless the court prohibits the inclusion of an address or social security number and orders the custodial parent to provide the address and social security number to the administrator of the health plan. The court shall order the party with the better group dependent health and dental insurance coverage or health insurance plan to name the minor child as beneficiary on any health and dental insurance plan that is available to the party on:

- (i) a group basis;
- (ii) through an employer or union; or

(iii) through a group health plan governed under the ERISA and included within the definitions relating to health plans found in section 62A.011, 62A.048, or 62E.06, subdivision 2.

"Health insurance" or "health insurance coverage" as used in this section means coverage that is comparable to or better than a number two qualified plan as defined in section 62E.06, subdivision 2. "Health insurance" or "health insurance coverage" as used in this section does not include medical assistance provided under chapter 256, 256B, or 256D.

(b) If the court finds that dependent health or dental insurance is not available to the obligor or obligee on a group basis or through an employer or union, or that group insur-

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ance is not accessible to the obligee, the court may require the obligor (1) to obtain other dependent health or dental insurance, (2) to be liable for reasonable and necessary medical or dental expenses of the child, or (3) to pay no less than \$50 per month to be applied to the medical and dental expenses of the children or to the cost of health insurance dependent coverage.

(c) If the court finds that the available dependent health or dental insurance does not pay all the reasonable and necessary medical or dental expenses of the child, including any existing or anticipated extraordinary medical expenses, and the court finds that the obligor has the financial ability to contribute to the payment of these medical or dental expenses, the court shall require the obligor to be liable for all or a portion of the medical or dental expenses of the child not covered by the required health or dental plan. Medical and dental expenses include, but are not limited to, necessary orthodontia and eye care, including prescription lenses.

(d) Unless otherwise agreed by the parties and approved by the court, if the court finds that the obligee is not receiving public assistance for the child and has the financial ability to contribute to the cost of medical and dental expenses for the child, including the cost of insurance, the court shall order the obligee and obligor to each assume a portion of these expenses based on their proportionate share of their total net income as defined in section 518.54, subdivision 6.

(e) Payments ordered under this section are subject to section 518.611. An obligee who fails to apply payments received to the medical expenses of the dependents may be found in contempt of this order.

Sec. 39. Minnesota Statutes 1996, section 518.171, subdivision 4, is amended to read:

Subd. 4. **EFFECT OF ORDER.** (a) The order is binding on the employer or union and the health and dental insurance plan when service under subdivision 3 has been made. In the case of an obligor who changes employment and is required to provide health coverage for the child, a new employer that provides health care coverage shall enroll the child in the obligor's health plan upon receipt of an order or notice for health insurance, unless the obligor contests the enrollment. The obligor may contest the enrollment on the limited grounds that the enrollment is improper due to mistake of fact or that the enrollment meets the requirements of section 518.64, subdivision 2. If the obligor chooses to contest the enrollment, the obligor must do so no later than 15 days after the employer notifies the obligor of the enrollment, by doing all of the following:

- (1) filing a request for contested hearing according to section 518.5511, subdivision 3a;
- (2) serving a copy of the request for contested hearing upon the public authority and the obligee; and
- (3) securing a date for the contested hearing no later than 45 days after the notice of enrollment.

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(b) The enrollment must remain in place during the time period in which the obligor contests the withholding.

An employer or union that is included under ERISA may not deny enrollment based on exclusionary clauses described in section 62A.048. Upon receipt of the order, or upon application of the obligor pursuant according to the order or notice, the employer or union and its health and dental insurance plan shall enroll the minor child as a beneficiary in the group insurance plan and withhold any required premium from the obligor's income or wages. If more than one plan is offered by the employer or union, the child shall be enrolled in the least costly health insurance plan otherwise available to the obligor that is comparable to a number two qualified plan. If the obligor is not enrolled in a health insurance plan, the employer or union shall also enroll the obligor in the chosen plan if enrollment of the obligor is necessary in order to obtain dependent coverage under the plan. Enrollment of dependents and the obligor shall be immediate and not dependent upon open enrollment periods. Enrollment is not subject to the underwriting policies described in section 62A.048.

(b) (c) An employer or union that willfully fails to comply with the order is liable for any health or dental expenses incurred by the dependents during the period of time the dependents were eligible to be enrolled in the insurance program, and for any other premium costs incurred because the employer or union willfully failed to comply with the order. An employer or union that fails to comply with the order is subject to contempt under section 518.615 and is also subject to a fine of \$500 to be paid to the obligee or public authority. Fines paid to the public authority are designated for child support enforcement services.

(e) (d) Failure of the obligor to execute any documents necessary to enroll the dependent in the group health and dental insurance plan will not affect the obligation of the employer or union and group health and dental insurance plan to enroll the dependent in a plan. Information and authorization provided by the public authority responsible for child support enforcement, or by the custodial parent or guardian, is valid for the purposes of meeting enrollment requirements of the health plan. The insurance coverage for a child eligible under subdivision 5 shall not be terminated except as authorized in subdivision 5.

Sec. 40. Minnesota Statutes 1996, section 518.54, is amended by adding a subdivision to read:

Subd. 4a. SUPPORT ORDER. "Support order" means a judgment, decree, or order, whether temporary, final, or subject to modification, issued by a court or administrative agency of competent jurisdiction, for the support and maintenance of a child, including a child who has attained the age of majority under the law of the issuing state, or a child and the parent with whom the child is living, that provides for monetary support, child care, medical support including expenses for confinement and pregnancy, arrearages, or reimbursement, and that may include related costs and fees, interest and penalties, income withholding, and other relief. This definition applies to orders issued under this chapter and chapters 256, 257, and 518C.

Sec. 41. Minnesota Statutes 1996, section 518.54, subdivision 6, is amended to read:

Subd. 6. **INCOME.** (a) "Income" means any form of periodic payment to an individual including, but not limited to, wages, salaries, payments to an independent contrac-

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tor, workers' compensation, reemployment insurance, annuity, military and naval retirement, pension and disability payments. Benefits received under sections ~~256.72 to 256.87~~ and chapter ~~256D~~ Title IV—A of the Social Security Act are not income under this section.

(b) Income also includes nonperiodic distributions of workers' compensation claims, reemployment claims, personal injury recoveries for lost wages or salary, proceeds from a lawsuit for lost wages or salary, severance pay, and bonuses.

Sec. 42. Minnesota Statutes 1996, section 518.551, subdivision 12, is amended to read:

Subd. 12. OCCUPATIONAL LICENSE SUSPENSION. (a) Upon motion of an obligee, if the court finds that the obligor is or may be licensed by a licensing board listed in section 214.01 or other state, county, or municipal agency or board that issues an occupational license and the obligor is in arrears in court-ordered child support or maintenance payments or both in an amount equal to or greater than three times the obligor's total monthly support and maintenance payments and is not in compliance with a written payment agreement regarding both current support and arrearages approved by the court, an administrative law judge, or the public authority, the administrative law judge, or the court shall direct the licensing board or other licensing agency to suspend the license under section 214.101. The court's order must be stayed for 90 days in order to allow the obligor to execute a written payment agreement regarding both current support and arrearages. The payment agreement must be approved by either the court or the public authority responsible for child support enforcement. If the obligor has not executed or is not in compliance with a written payment agreement regarding both current support and arrearages after the 90 days expires, the court's order becomes effective. If the obligor is a licensed attorney, the court shall 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.

(b) If a public authority responsible for child support enforcement finds that the obligor is or may be licensed by a licensing board listed in section 214.01 or other state, county, or municipal agency or board that issues an occupational license and the obligor is in arrears in court-ordered child support or maintenance payments or both in an amount equal to or greater than three times the obligor's total monthly support and maintenance payments and is not in compliance with a written payment agreement regarding both current support and arrearages approved by the court, an administrative law judge, or the public authority, the court, an administrative law judge, or the public authority shall direct the licensing board or other licensing agency to suspend the license under section 214.101. If the obligor is a licensed attorney, the public authority 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 public authority.

(c) At least 90 days before notifying a licensing authority or the lawyers professional responsibility board under paragraph (b), the public authority shall mail a written notice to the license holder addressed to the license holder's last known address that the public authority intends to seek license suspension under this subdivision and that the license holder must request a hearing within 30 days in order to contest the suspension. If the

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license holder makes a written request for a hearing within 30 days of the date of the notice, either a court hearing or a contested administrative proceeding must be held under section 518.5511, subdivision 4. Notwithstanding any law to the contrary, the license holder must be served with 14 days' notice in writing specifying the time and place of the hearing and the allegations against the license holder. The notice may be served personally or by mail. If the public authority does not receive a request for a hearing within 30 days of the date of the notice, and the obligor does not execute a written payment agreement regarding both current support and arrearages approved by the court, an administrative law judge or the public authority within 90 days of the date of the notice, the public authority shall direct the licensing board or other licensing agency to suspend the obligor's license under paragraph (b), or shall report the matter to the lawyers professional responsibility board.

(d) The administrative law judge, on behalf of the public authority, or the court shall notify the lawyers professional responsibility board for appropriate action in accordance with the rules of professional responsibility conduct or order the licensing board or licensing agency to suspend the license if the judge finds that:

(1) the person is licensed by a licensing board or other state agency that issues an occupational license;

(2) the person has not made full payment of arrearages found to be due by the public authority; and

(3) the person has not executed or is not in compliance with a payment plan approved by the court, an administrative law judge, or the public authority.

(e) Within 15 days of the date on which the obligor either makes full payment of arrearages found to be due by the court or public authority or executes and initiates good faith compliance with a written payment plan approved by the court, an administrative law judge, or the public authority, the court, an administrative law judge, or the public authority responsible for child support enforcement shall notify the licensing board or licensing agency or the lawyers professional responsibility board that the obligor is no longer ineligible for license issuance, reinstatement, or renewal under this subdivision.

(f) In addition to the criteria established under this section for the suspension of an obligor's occupational license, a court, an administrative law judge, or the public authority may direct the licensing board or other licensing agency to suspend the license of a party who has failed, after receiving notice, to comply with a subpoena relating to a paternity or child support proceeding.

(g) The license of an obligor who fails to remain in compliance with an approved payment agreement may be suspended. Notice to the obligor of an intent to suspend under this paragraph must be served by first class mail at the obligor's last known address and must include a notice of hearing. The notice must be served upon the obligor not less than ten days before the date of the hearing. If the obligor appears at the hearing and the judge determines that the obligor has failed to comply with an approved payment agreement, the judge shall notify the occupational licensing board or agency to suspend the obligor's license under paragraph (c). If the obligor fails to appear at the hearing, the public authority may notify the occupational or licensing board to suspend the obligor's license under paragraph (c).

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Sec. 43. Minnesota Statutes 1996, section 518.551, subdivision 13, is amended to read:

Subd. 13. **DRIVER'S LICENSE SUSPENSION.** (a) Upon motion of an obligee, which has been properly served on the obligor and upon which there has been an opportunity for hearing, if a court finds that the obligor has been or may be issued a driver's license by the commissioner of public safety and the obligor is in arrears in court-ordered child support or maintenance payments, or both, in an amount equal to or greater than three times the obligor's total monthly support and maintenance payments and is not in compliance with a written payment agreement regarding both current support and arrearages approved by the court, an administrative law judge, or the public authority, the court shall order the commissioner of public safety to suspend the obligor's driver's license. The court's order must be stayed for 90 days in order to allow the obligor to execute a written payment agreement regarding both current support and arrearages, which payment agreement must be approved by either the court or the public authority responsible for child support enforcement. If the obligor has not executed or is not in compliance with a written payment agreement regarding both current support and arrearages after the 90 days expires, the court's order becomes effective and the commissioner of public safety shall suspend the obligor's driver's license. The remedy under this subdivision is in addition to any other enforcement remedy available to the court. An obligee may not bring a motion under this paragraph within 12 months of a denial of a previous motion under this paragraph.

(b) If a public authority responsible for child support enforcement determines that the obligor has been or may be issued a driver's license by the commissioner of public safety and the obligor is in arrears in court-ordered child support or maintenance payments or both in an amount equal to or greater than three times the obligor's total monthly support and maintenance payments and not in compliance with a written payment agreement regarding both current support and arrearages approved by the court, an administrative law judge, or the public authority, the public authority shall direct the commissioner of public safety to suspend the obligor's driver's license. The remedy under this subdivision is in addition to any other enforcement remedy available to the public authority.

(c) At least 90 days prior to notifying the commissioner of public safety pursuant according to paragraph (b), the public authority must mail a written notice to the obligor at the obligor's last known address, that it intends to seek suspension of the obligor's driver's license and that the obligor must request a hearing within 30 days in order to contest the suspension. If the obligor makes a written request for a hearing within 30 days of the date of the notice, either a court hearing or a contested administrative proceeding must be held under section 518.5511, subdivision 4. Notwithstanding any law to the contrary, the obligor must be served with 14 days' notice in writing specifying the time and place of the hearing and the allegations against the obligor. The notice may be served personally or by mail. If the public authority does not receive a request for a hearing within 30 days of the date of the notice, and the obligor does not execute a written payment agreement regarding both current support and arrearages approved by the court, an administrative law judge, or the public authority within 90 days of the date of the notice, the public authority shall direct the commissioner of public safety to suspend the obligor's driver's license under paragraph (b).

(d) At a hearing requested by the obligor under paragraph (c), and on finding that the obligor is in arrears in court-ordered child support or maintenance payments or both in an

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amount equal to or greater than three times the obligor's total monthly support and maintenance payments, the district court or the administrative law judge shall order the commissioner of public safety to suspend the obligor's driver's license or operating privileges unless the court or administrative law judge determines that the obligor has executed and is in compliance with a written payment agreement regarding both current support and arrearages approved by the court, an administrative law judge, or the public authority.

(e) An obligor whose driver's license or operating privileges are suspended may provide proof to the ~~court~~ or the public authority responsible for child support enforcement that the obligor is in compliance with all written payment agreements regarding both current support and arrearages. Within 15 days of the receipt of that proof, the ~~court~~ or public authority shall inform the commissioner of public safety that the obligor's driver's license or operating privileges should no longer be suspended.

(f) On January 15, 1997, and every two years after that, the commissioner of human services shall submit a report to the legislature that identifies the following information relevant to the implementation of this section:

(1) the number of child support obligors notified of an intent to suspend a driver's license;

(2) the amount collected in payments from the child support obligors notified of an intent to suspend a driver's license;

(3) the number of cases paid in full and payment agreements executed in response to notification of an intent to suspend a driver's license;

(4) the number of cases in which there has been notification and no payments or payment agreements;

(5) the number of driver's licenses suspended; and

(6) the cost of implementation and operation of the requirements of this section.

(g) In addition to the criteria established under this section for the suspension of an obligor's driver's license, a court, an administrative law judge, or the public authority may direct the commissioner of public safety to suspend the license of a party who has failed, after receiving notice, to comply with a subpoena relating to a paternity or child support proceeding. Notice to an obligor of intent to suspend must be served by first class mail at the obligor's last known address. The notice must inform the obligor of the right to request a hearing. If the obligor makes a written request within ten days of the date of the hearing, a contested administrative proceeding must be held under section 518.5511, subdivision 4. At the hearing, the only issues to be considered are mistake of fact and whether the obligor received the subpoena.

(h) The license of an obligor who fails to remain in compliance with an approved payment agreement may be suspended. Notice to the obligor of an intent to suspend under this paragraph must be served by first class mail at the obligor's last known address and must include a notice of hearing. The notice must be served upon the obligor not less than ten days before the date of the hearing. If the obligor appears at the hearing and the judge determines that the obligor has failed to comply with an approved payment agreement, the judge shall notify the department of public safety to suspend the obligor's license under paragraph (c). If the obligor fails to appear at the hearing, the public authority

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may notify the department of public safety to suspend the obligor's license under paragraph (c).

Sec. 44. Minnesota Statutes 1996, section 518.5512, subdivision 2, is amended to read:

Subd. 2. **PATERNITY.** (a) After service of the notice and proposed order, a nonattorney employee of the public authority may request an administrative law judge or the district court to order the child, mother, or alleged father to submit to blood or genetic tests. The order is effective when signed by an administrative law judge or the district court. Failure to comply with the order for blood or genetic tests may result in a default determination of parentage.

(b) If parentage is contested at the administrative hearing, the administrative law judge may order temporary child support under section 257.62, subdivision 5, and shall refer the case to the district court.

(c) The district court may appoint counsel for an indigent alleged father only after the return of the blood or genetic test results from the testing laboratory.

Sec. 45. Minnesota Statutes 1996, section 518.5512, is amended by adding a subdivision to read:

Subd. 5. **ADMINISTRATIVE AUTHORITY.** (a) In each case in which support rights are assigned under section 256.741, subdivision 2, or where the public authority is providing services under an application for child support services, a nonattorney employee of the public authority may, without requirement of a court order:

(1) recognize and enforce orders of child support agencies of other states;

(2) compel by subpoena the production of all papers, books, records, documents, or other evidentiary material needed to establish a parentage or child support order or to modify or enforce a child support order;

(3) change the payee to the appropriate person, organization, or agency authorized to receive or collect child support or any other person or agency designated as the caretaker of the child by agreement of the legal custodian or by court order;

(4) order income withholding of child support under section 518.6111;

(5) secure assets to satisfy the debt or arrearage in cases in which there is a support debt or arrearage by: (i) intercepting or seizing periodic or lump sum payments from state or local agencies, including reemployment insurance, workers' compensation payments, judgments, settlements, and lotteries; (ii) attaching and seizing assets of the obligor held in financial institutions or public or private retirement funds; and (iii) imposing liens and, in appropriate cases, forcing the sale of property and the distribution of proceeds; and

(6) increase the amount of the monthly support payments to include amounts for debts or arrearages for the purpose of securing overdue support.

(b) Subpoenas may be served anywhere within the state and served outside the state in the same manner as prescribed by law for service of process of subpoenas issued by the district court of this state. When a subpoena under this subdivision is served on a third-party recordkeeper, written notice of the subpoena shall be mailed to the person who is

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the subject of the subpoenaed material at the person's last known address within three days of the day the subpoena is served. This notice provision does not apply if there is reasonable cause to believe the giving of the notice may lead to interference with the production of the subpoenaed documents.

(c) A person served with a subpoena may make a written objection to the public authority or court before the time specified in the subpoena for compliance. The public authority or the court shall cancel or modify the subpoena, if appropriate. The public authority shall pay the reasonable costs of producing the documents, if requested.

(d) Subpoenas shall be enforceable in the same manner as subpoenas of the district court, in proceedings initiated by complaint of the public authority in the district court.

Sec. 46. Minnesota Statutes 1996, section 518.5512, is amended by adding a subdivision to read:

Subd. 6. CONTROLLING ORDER DETERMINATION. The public authority or a party may request the office of administrative hearings to determine a controlling order according to section 518C.207, paragraph (c).

Sec. 47. Minnesota Statutes 1996, section 518.575, is amended to read:

518.575 PUBLICATION OF NAMES OF DELINQUENT CHILD SUPPORT OBLIGORS.

Subdivision 1. PUBLICATION OF MAKING NAMES PUBLIC. Twice each year, At least once each year, the commissioner of human services, in consultation with the attorney general, shall publish a list of the names and last known addresses of each person and other identifying information of no more than 25 persons who (1) is a child support obligor obligors, (2) is are at least \$3,000 \$10,000 in arrears, and (3) is not in compliance with a written payment agreement regarding both current support and arrearages approved by the court, an administrative law judge, or the public authority. The commissioner of human services shall publish the name of each obligor in the newspaper or newspapers of widest circulation in the area where the obligor is most likely to be residing. For each publication, the commissioner shall release the list of all names being published not earlier than the first day on which names appear in any newspaper. An obligor's name may not be published if the obligor claims in writing, and the commissioner of human services determines, there is good cause for the nonpayment of child support. Good cause includes the following: (i) there is a mistake in the obligor's identity or the amount of the obligor's arrears; (ii) arrears are reserved by the court or there is a pending legal action concerning the unpaid child support; or (iii) other circumstances as determined by the commissioner. The list must be based on the best information available to the state at the time of publication are not in compliance with a written payment agreement regarding both current support and arrearages approved by the court, an administrative law judge, or the public authority, (4) cannot currently be located by the public authority for the purposes of enforcing a support order, and (5) have not made a support payment except tax intercept payments, in the preceding 12 months.

Identifying information may include the obligor's name, last known address, amount owed, date of birth, photograph, the number of children for whom support is owed, and any additional information about the obligor that would assist in identifying or locating the obligor. The commissioner and attorney general may use posters, media pre-

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sentations, electronic technology, and other means that the commissioner and attorney general determine are appropriate for dissemination of the information, including publication on the Internet. The commissioner and attorney general may make any or all of the identifying information regarding these persons public. Information regarding an obligor who meets the criteria in this subdivision will only be made public subsequent to that person's selection by the commissioner and attorney general.

Before publishing making public the name of the obligor, the department of human services shall send a notice to the obligor's last known address which states the department's intention to publish the obligor's name and the amount of child support the obligor owes make public information on the obligor. The notice must also provide an opportunity to have the obligor's name removed from the list by paying the arrearage or by entering into an agreement to pay the arrearage, and or by providing information to the public authority that there is good cause not to make the information public. The notice must include the final date when the payment or agreement can be accepted.

The department of human services shall insert with the notices sent to the obligee, a notice stating the intent to publish the obligor's name, and the criteria used to determine the publication of the obligor's name obtain the written consent of the obligee to make the name of the obligor public.

Subd. 2. NAMES PUBLISHED IN ERROR. If the commissioner publishes makes public a name under subdivision 1 which is in error, the commissioner must also offer to publish a printed retraction and a public apology acknowledging that the name was published made public in error. If the person whose name was made public in error elects the public retraction and apology, the retraction and apology must appear in each publication that included the same medium and the same format as the original notice with the name listed in error, and it must appear in the same type size and appear the same number of times as the original notice. In addition to the right of a public retraction and apology, a person whose name was made public in error has a civil action for damages caused by the error.

Sec. 48. [518.611] INCOME WITHHOLDING.

Subdivision 1. DEFINITIONS. (a) For the purpose of this section, the following terms have the meanings provided in this subdivision unless otherwise stated.

(b) "Payor of funds" means any person or entity that provides funds to an obligor, including an employer as defined under chapter 24 of the Internal Revenue Code, section 3401(d), an independent contractor, payor of worker's compensation benefits or reemployment insurance, or a financial institution as defined in section 13B.06.

(c) "Business day" means a day on which state offices are open for regular business.

(d) "Arrears" means amounts owed under a support order that are past due.

Subd. 2. APPLICATION. This section applies to all support orders issued by a court or an administrative tribunal and orders for or notices of withholding issued by the public authority according to section 518.5512, subdivision 5, paragraph (a), clause (4).

Subd. 3. ORDER. Every support order must address income withholding. Whenever a support order is initially entered or modified, the full amount of the support order must be withheld from the income of the obligor and forwarded to the public authority.

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Every order for support or maintenance shall provide for a conspicuous notice of the provisions of this section that complies with section 518.68, subdivision 2. An order without this notice remains subject to this section. This section applies regardless of the source of income of the person obligated to pay the support or maintenance.

A payor of funds shall implement income withholding according to this section upon receipt of an order for or notice of withholding. The notice of withholding shall be on a form provided by the commissioner of human services.

Subd. 4. COLLECTION SERVICES. The commissioner of human services shall prepare and make available to the courts a notice of services that explains child support and maintenance collection services available through the public authority, including income withholding. Upon receiving a petition for dissolution of marriage or legal separation, the court administrator shall promptly send the notice of services to the petitioner and respondent at the addresses stated in the petition.

Upon receipt of a support order requiring income withholding, a petitioner or respondent, who is not a recipient of public assistance and does not receive child support services from the public authority, shall apply to the public authority for either full child support collection services or for income withholding only services.

For those persons applying for income withholding only services, a monthly service fee of \$15 must be charged to the obligor. This fee is in addition to the amount of the support order and shall be withheld through income withholding. The public authority shall explain the service options in this section to the affected parties and encourage the application for full child support collection services.

Subd. 5. PAYOR OF FUNDS RESPONSIBILITIES. (a) An order for or notice of withholding is binding on a payor of funds upon receipt. Withholding must begin no later than the first pay period that occurs after 14 days following the date of receipt of the order for or notice of withholding. In the case of a financial institution, preauthorized transfers must occur in accordance with a court-ordered payment schedule.

(b) A payor of funds shall withhold from the income payable to the obligor the amount specified in the order or notice of withholding and amounts specified under subdivisions 6 and 9 and shall remit the amounts withheld to the public authority within seven business days of the date the obligor is paid the remainder of the income. The payor of funds shall include with the remittance the social security number of the obligor, the case type indicator as provided by the public authority and the date the obligor is paid the remainder of the income. The obligor is considered to have paid the amount withheld as of the date the obligor received the remainder of the income. A payor of funds may combine all amounts withheld from one pay period into one payment to each public authority, but shall separately identify each obligor making payment.

(c) A payor of funds shall not discharge, or refuse to hire, or otherwise discipline an employee as a result of wage or salary withholding authorized by this section. A payor of funds shall be liable to the obligee for any amounts required to be withheld. A payor of funds that fails to withhold or transfer funds in accordance with this section is also liable to the obligee for interest on the funds at the rate applicable to judgments under section 549.09, computed from the date the funds were required to be withheld or transferred. A payor of funds is liable for reasonable attorney fees of the obligee or public authority incurred in enforcing the liability under this paragraph. A payor of funds that has failed to

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comply with the requirements of this section is subject to contempt sanctions under section 518.615. If the payor of funds is an employer or independent contractor and violates this subdivision, a court may award the obligor twice the wages lost as a result of this violation. If a court finds a payor of funds violated this subdivision, the court shall impose a civil fine of not less than \$500.

(d) If a single employee is subject to multiple withholding orders or multiple notices of withholding for the support of more than one child, the payor of funds shall comply with all of the orders or notices to the extent that the total amount withheld from the obligor's income does not exceed the limits imposed under the Consumer Credit Protection Act, Chapter 15 of the United States Code section 1637(b), giving priority to amounts designated in each order or notice as current support as follows:

(1) if the total of the amounts designated in the orders for or notices of withholding as current support exceeds the amount available for income withholding, the payor of funds shall allocate to each order or notice an amount for current support equal to the amount designated in that order or notice as current support, divided by the total of the amounts designated in the orders or notices as current support, multiplied by the amount of the income available for income withholding; and

(2) if the total of the amounts designated in the orders for or notices of withholding as current support does not exceed the amount available for income withholding, the payor of funds shall pay the amounts designated as current support, and shall allocate to each order or notice an amount for past due support, equal to the amount designated in that order or notice as past due support, divided by the total of the amounts designated in the orders or notices as past due support, multiplied by the amount of income remaining available for income withholding after the payment of current support.

(e) When an order for or notice of withholding is in effect and the obligor's employment is terminated, the obligor and the payor of funds shall notify the public authority of the termination within ten days of the termination date. The termination notice shall include the obligor's home address and the name and address of the obligor's new payor of funds, if known.

(f) A payor of funds may deduct one dollar from the obligor's remaining salary for each payment made pursuant to an order for or notice of withholding under this section to cover the expenses of withholding.

Subd. 6. FINANCIAL INSTITUTIONS. (a) If income withholding is ineffective due to the obligor's method of obtaining income, the court shall order the obligor to identify a child support deposit account owned solely by the obligor, or to establish an account, in a financial institution located in this state for the purpose of depositing court-ordered child support payments. The court shall order the obligor to execute an agreement with the appropriate public authority for preauthorized transfers from the obligor's child support account payable to an account of the public authority. The court shall order the obligor to disclose to the court all deposit accounts owned by the obligor in whole or in part in any financial institution. The court may order the obligor to disclose to the court the opening or closing of any deposit account owned in whole or in part by the obligor within 30 days of the opening or closing. The court may order the obligor to execute an agreement with the appropriate public authority for preauthorized transfers from any deposit account owned in whole or in part by the obligor to the obligor's child support deposit account if necessary to satisfy court-ordered child support payments. The court

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may order a financial institution to disclose to the court the account number and any other information regarding accounts owned in whole or in part by the obligor. An obligor who fails to comply with this subdivision, fails to deposit funds in at least one deposit account sufficient to pay court-ordered child support, or stops payment or revokes authorization of any preauthorized transfer is subject to contempt of court procedures under chapter 588.

(b) A financial institution shall execute preauthorized transfers for the deposit accounts of the obligor in the amount specified in the order and amounts required under this section as directed by the public authority. A financial institution is liable to the obligee if funds in any of the obligor's deposit accounts identified in the court order equal the amount stated in the preauthorization agreement but are not transferred by the financial institution in accordance with the agreement.

Subd. 7. SUBSEQUENT INCOME WITHHOLDING. (a) This subdivision applies to support orders that do not contain provisions for income withholding.

(b) For cases in which the public authority is providing child support enforcement services to the parties, the income withholding under this subdivision shall take effect without prior judicial notice to the obligor and without the need for judicial or administrative hearing. Withholding shall result when:

(1) the obligor requests it in writing to the public authority;

(2) the obligee or obligor serves on the public authority a copy of the notice of income withholding, a copy of the court's order, an application, and the fee to use the public authority's collection services; or

(3) the public authority commences withholding according to section 518.5512, subdivision 5, paragraph (a), clause (4).

(c) For cases in which the public authority is not providing child support services to the parties, income withholding under this subdivision shall take effect when an obligee requests it by making a written motion to the court and the court finds that previous support has not been paid on a timely consistent basis or that the obligor has threatened expressly or otherwise to stop or reduce payments;

(d) Within two days after the public authority commences withholding under this subdivision, the public authority shall send to the obligor at the obligor's last known address, notice that withholding has commenced. The notice shall include the information provided to the payor of funds in the notice of withholding.

Subd. 8. CONTEST. (a) The obligor may contest withholding under subdivision 7 on the limited grounds that the withholding or the amount withheld is improper due to mistake of fact. If the obligor chooses to contest the withholding, the obligor must do so no later than 15 days after the employer commences withholding, by doing all of the following:

(1) file a request for contested hearing according to section 518.5511, subdivision 4, and include in the request the alleged mistake of fact;

(2) serve a copy of the request for contested hearing upon the public authority and the obligee; and

(3) secure a date for the contested hearing no later than 45 days after receiving notice that withholding has commenced.

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(b) The income withholding must remain in place while the obligor contests the withholding.

(c) If the court finds a mistake in the amount of the arrearage to be withheld, the court shall continue the income withholding, but it shall correct the amount of the arrearage to be withheld.

Subd. 9. PRIORITY. (a) An order for or notice of withholding under this section or execution or garnishment upon a judgment for child support arrearage or preadjudicated expenses shall have priority over an attachment, execution, garnishment, or wage assignment and shall not be subject to the statutory limitations on amounts levied against the income of the obligor. Amounts withheld from an employee's income must not exceed the maximum permitted under the Consumer Credit Protection Act, title 15 of the United States Code, section 1673(b).

(b) If more than one order for or notice of withholding exists involving the same obligor and child, the public authority shall enforce the most current order or notice. An order for or notice of withholding that was previously implemented according to this section shall end as of the date of the most current order. The public authority shall notify the payor of funds to withhold under the most current withholding order or notice.

Subd. 10. ARREARAGE ORDER. (a) This section does not prevent the court from ordering the payor of funds to withhold amounts to satisfy the obligor's previous arrearage in support order payments. This remedy shall not operate to exclude availability of other remedies to enforce judgments. The employer or payor of funds shall withhold from the obligor's income an additional amount equal to 20 percent of the monthly child support or maintenance obligation until the arrearage is paid.

(b) Notwithstanding any law to the contrary, funds from income sources included in section 518.54, subdivision 6, whether periodic or lump sum, are not exempt from attachment or execution upon a judgment for child support arrearage.

(c) Absent an order to the contrary, if an arrearage exists at the time a support order would otherwise terminate, income withholding shall continue in effect or may be implemented in an amount equal to the support order plus an additional 20 percent of the monthly child support obligation, until all arrears have been paid in full.

Subd. 11. LUMP-SUM PAYMENTS. Before transmittal to the obligor of a lump-sum payment of \$500 or more including, but not limited to, severance pay, accumulated sick pay, vacation pay, bonuses, commissions, or other pay or benefits, a payor of funds:

(1) who has been served with an order for or notice of income withholding under this section shall:

(i) notify the public authority of the lump-sum payment that is to be paid to the obligor;

(ii) hold the lump-sum payment for 30 days after the date on which the lump-sum payment would otherwise have been paid to the obligor, notwithstanding sections 176.221, 176.225, 176.521, 181.08, 181.101, 181.11, 181.13, and 181.145, and Minnesota Rules, part 1415.2000, subpart 10; and

(iii) upon order of the court, and after a showing of past willful nonpayment of support, pay any specified amount of the lump-sum payment to the public authority for future support; or

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(2) shall pay the lessor of the amount of the lump-sum payment or the total amount of the judgment and arrearages upon service by United States mail of a sworn affidavit from the public authority or a court order that includes the following information:

(i) that a judgment entered pursuant to section 548.091, subdivision 1a, exists against the obligor, or that other support arrearages exist;

(ii) the current balance of the judgment or arrearage; and

(iii) that a portion of the judgment or arrearage remains unpaid.

The Consumer Credit Protection Act, title 15 of the United States Code, section 1673(b), does not apply to lump-sum payments.

Subd. 12. INTERSTATE INCOME WITHHOLDING. (a) Upon receipt of an order for support entered in another state and the specified documentation from an authorized agency, the public authority shall implement income withholding. A payor of funds in this state shall withhold income under court orders for withholding issued by other states or territories.

(b) An employer receiving an income withholding notice from another state shall withhold and distribute the funds as directed in the withholding notice and shall apply the law of the obligor's principal place of employment when determining:

(1) the employer's fee for processing an income withholding notice;

(2) the maximum amount permitted to be withheld from the obligor's income; and

(3) deadlines for implementing and forwarding the child support payment.

(c) An obligor may contest withholding under this subdivision pursuant to section 518C.506.

Subd. 13. ORDER TERMINATING INCOME WITHHOLDING. (a) An order terminating income withholding must specify the effective date of the order and reference the initial order or decree that establishes the support obligation and shall be entered once the following conditions have been met:

(1) the obligor serves written notice of the application for termination of income withholding by mail upon the obligee at the obligee's last known mailing address, and a duplicate copy of the application is served on the public authority;

(2) the application for termination of income withholding specifies the event that terminates the support obligation, the effective date of the termination of the support obligation, and the applicable provisions of the order or decree that established the support obligation; and

(3) the application includes the complete name of the obligor's payor of funds, the business mailing address, the court action and court file number, and the support and collections file number, if known.

(b) After receipt of the application for termination of income withholding, the obligee or the public authority fails within 20 days to request a contested hearing on the issue of whether income withholding of support should continue clearly specifying the basis for the continued support obligation and, ex parte, to stay the service of the order terminating income withholding upon the obligor's payor of funds, pending the outcome of the contest hearing.

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Subd. 14. TERMINATION BY THE PUBLIC AUTHORITY. If the public authority determines that income withholding is no longer applicable, the public authority shall notify the obligee and the obligor of intent to terminate income withholding.

Five days following notification to the obligee and obligor, the public authority shall issue a notice to the payor of funds terminating income withholding, without a requirement for a court order unless the obligee has requested a contested hearing under section 518.5511, subdivision 4.

Subd. 15. CONTRACT FOR SERVICE. To carry out the provisions of this section, the public authority responsible for child support enforcement may contract for services, including the use of electronic funds transfer.

Subd. 16. WAIVER. (a) If child support or maintenance is not assigned under section 256.741, the court may waive the requirements of this section if the court finds there is no arrearage in child support and maintenance as of the date of the hearing and:

(1) one party demonstrates and the court finds there is good cause to waive the requirements of this section or to terminate an order for or notice of income withholding previously entered under this section; or

(2) all parties reach an agreement and the agreement is approved by the court after a finding that the agreement is likely to result in regular and timely payments. The court's findings waiving the requirements of this paragraph shall include a written explanation of the reasons why income withholding would not be in the best interests of the child.

In addition to the other requirements in this subdivision, if the case involves a modification of support, the court shall make a finding that support has been timely made.

(b) If the court waives income withholding, the obligee or obligor may at any time request income withholding under subdivision 7.

Subd. 17. NONLIABILITY; PAYOR OF FUNDS. A payor of funds who complies with an income withholding order or notice of withholding according to this chapter or chapter 518C, that appears regular on its face shall not be subject to civil liability to any individual or agency for taking action in compliance with the order or notice.

Subd. 18. ELECTRONIC TRANSMISSION. Orders or notices for withholding under this section may be transmitted for enforcement purposes by electronic means.

Sec. 49. Minnesota Statutes 1996, section 518.68, subdivision 2, is amended to read:

Subd. 2. **CONTENTS.** The required notices must be substantially as follows:

IMPORTANT NOTICE

1. PAYMENTS TO PUBLIC AGENCY

Pursuant According to Minnesota Statutes, section 518.551, subdivision 1, payments ordered for maintenance and support must be paid to the public agency responsible for child support enforcement as long as the person entitled to receive the payments is receiving or has applied for public assistance

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or has applied for support and maintenance collection services. MAIL PAYMENTS TO:

2. DEPRIVING ANOTHER OF CUSTODIAL OR PARENTAL RIGHTS — A FELONY

A person may be charged with a felony who conceals a minor child or takes, obtains, retains, or fails to return a minor child from or to the child's parent (or person with custodial or visitation rights), pursuant according to Minnesota Statutes, section 609.26. A copy of that section is available from any district court clerk.

3. RULES OF SUPPORT, MAINTENANCE, VISITATION

(a) Payment of support or spousal maintenance is to be as ordered, and the giving of gifts or making purchases of food, clothing, and the like will not fulfill the obligation.

(b) Payment of support must be made as it becomes due, and failure to secure or denial of rights of visitation is NOT an excuse for nonpayment, but the aggrieved party must seek relief through a proper motion filed with the court.

(c) Nonpayment of support is not grounds to deny visitation. The party entitled to receive support may apply for support and collection services, file a contempt motion, or obtain a judgment as provided in Minnesota Statutes, section 548.091.

(d) The payment of support or spousal maintenance takes priority over payment of debts and other obligations.

(e) A party who accepts additional obligations of support does so with the full knowledge of the party's prior obligation under this proceeding.

(f) Child support or maintenance is based on annual income, and it is the responsibility of a person with seasonal employment to budget income so that payments are made throughout the year as ordered.

(g) If there is a layoff or a pay reduction, support may be reduced as of the time of the layoff or pay reduction if a motion to reduce the support is served and filed with the court at that time, but any such reduction must be ordered by the court. The court is not permitted to reduce support retroactively, except as provided in Minnesota Statutes, section 518.64, subdivision 2, paragraph (c).

4. PARENTAL RIGHTS FROM MINNESOTA STATUTES, SECTION 518.17, SUBDIVISION 3

Unless otherwise provided by the Court:

(a) Each party has the right of access to, and to receive copies of, school, medical, dental, religious training, and other important records and information about the minor children. Each party has the right of access to information regarding health or dental insurance available to the minor children. Presentation of a copy of this order to the custodian of a record or other information

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about the minor children constitutes sufficient authorization for the release of the record or information to the requesting party.

(b) Each party shall keep the other informed as to the name and address of the school of attendance of the minor children. Each party has the right to be informed by school officials about the children's welfare, educational progress and status, and to attend school and parent teacher conferences. The school is not required to hold a separate conference for each party.

(c) In case of an accident or serious illness of a minor child, each party shall notify the other party of the accident or illness, and the name of the health care provider and the place of treatment.

(d) Each party has the right of reasonable access and telephone contact with the minor children.

5. WAGE AND INCOME DEDUCTION OF SUPPORT AND MAINTENANCE

Child support and/or spousal maintenance may be withheld from income, with or without notice to the person obligated to pay, when the conditions of Minnesota Statutes, sections 518.611 and 518.613, have been met. A copy of those sections is available from any district court clerk.

6. CHANGE OF ADDRESS OR RESIDENCE

Unless otherwise ordered, the person responsible to make support or maintenance payments ~~each party shall notify the person entitled to receive the payment other party, the court, and the public authority responsible for collection, if applicable, of a change of address or residence the following information within 60 ten days of the address or residence change any change: the residential and mailing address, telephone number, driver's license number, social security number, and name, address, and telephone number of the employer.~~

7. COST OF LIVING INCREASE OF SUPPORT AND MAINTENANCE

Child support and/or spousal maintenance may be adjusted every two years based upon a change in the cost of living (using Department of Labor Consumer Price Index, unless otherwise specified in this order) when the conditions of Minnesota Statutes, section 518.641, are met. Cost of living increases are compounded. A copy of Minnesota Statutes, section 518.641, and forms necessary to request or contest a cost of living increase are available from any district court clerk.

8. JUDGMENTS FOR UNPAID SUPPORT

If a person fails to make a child support payment, the payment owed becomes a judgment against the person responsible to make the payment by operation of law on or after the date the payment is due, and the person entitled to receive the payment or the public agency may obtain entry and docketing of the judgment WITHOUT NOTICE to the person responsible to make the payment under Minnesota Statutes, section 548.091. Interest begins to accrue on a payment or installment of child support whenever the unpaid amount due is great-

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er than the current support due, pursuant according to Minnesota Statutes, section 548.091, subdivision 1a.

9. JUDGMENTS FOR UNPAID MAINTENANCE

A judgment for unpaid spousal maintenance may be entered when the conditions of Minnesota Statutes, section 548.091, are met. A copy of that section is available from any district court clerk.

10. ATTORNEY FEES AND COLLECTION COSTS FOR ENFORCEMENT OF CHILD SUPPORT

A judgment for attorney fees and other collection costs incurred in enforcing a child support order will be entered against the person responsible to pay support when the conditions of section 518.14, subdivision 2, are met. A copy of section 518.14 and forms necessary to request or contest these attorney fees and collection costs are available from any district court clerk.

11. VISITATION EXPEDITOR PROCESS

On request of either party or on its own motion, the court may appoint a visitation expeditor to resolve visitation disputes under Minnesota Statutes, section 518.1751. A copy of that section and a description of the expeditor process is available from any district court clerk.

12. VISITATION REMEDIES AND PENALTIES

Remedies and penalties for the wrongful denial of visitation rights are available under Minnesota Statutes, section 518.175, subdivision 6. These include compensatory visitation; civil penalties; bond requirements; contempt; and reversal of custody. A copy of that subdivision and forms for requesting relief are available from any district court clerk.

Sec. 50. Minnesota Statutes 1996, section 518C.101, is amended to read:

518C.101 DEFINITIONS.

In this chapter:

(a) "Child" means an individual, whether over or under the age of majority, who is or is alleged to be owed a duty of support by the individual's parent or who is or is alleged to be the beneficiary of a support order directed to the parent.

(b) "Child support order" means a support order for a child, including a child who has attained the age of majority under the law of the issuing state.

(c) "Duty of support" means an obligation imposed or imposed by law to provide support for a child, spouse, or former spouse, including an unsatisfied obligation to provide support.

(d) "Home state" means the state in which a child lived with a parent or a person acting as parent for at least six consecutive months immediately preceding the time of filing of a petition or comparable pleading for support and, if a child is less than six months old, the state in which the child lived from birth with any of them. A period of temporary absence of any of them is counted as part of the six-month or other period.

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(e) "Income" includes earnings or other periodic entitlements to money from any source and any other property subject to withholding for support under the law of this state.

(f) "Income-withholding order" means an order or other legal process directed to an obligor's employer or other debtor under section 518.611 or 518.613, to withhold support from the income of the obligor.

(g) "Initiating state" means a state in from which a proceeding is forwarded or in which a proceeding is filed for forwarding to a responding state under this chapter or a law or procedure substantially similar to this chapter, or under a law or procedure substantially similar to the uniform reciprocal enforcement of support act, or the revised uniform reciprocal enforcement of support act is filed for forwarding to a responding state.

(h) "Initiating tribunal" means the authorized tribunal in an initiating state.

(i) "Issuing state" means the state in which a tribunal issues a support order or renders a judgment determining parentage.

(j) "Issuing tribunal" means the tribunal that issues a support order or renders a judgment determining parentage.

(k) "Law" includes decisional and statutory law and rules and regulations having the force of law.

(l) "Obligee" means:

(1) an individual to whom a duty of support is or is alleged to be owed or in whose favor a support order has been issued or a judgment determining parentage has been rendered;

(2) a state or political subdivision to which the rights under a duty of support or support order have been assigned or which has independent claims based on financial assistance provided to an individual obligee; or

(3) an individual seeking a judgment determining parentage of the individual's child.

(m) "Obligor" means an individual, or the estate of a decedent:

(1) who owes or is alleged to owe a duty of support;

(2) who is alleged but has not been adjudicated to be a parent of a child; or

(3) who is liable under a support order.

(n) "~~Petition~~" means a petition or comparable pleading used pursuant to section 518.5511.

(e) "Register" means to file a support order or judgment determining parentage in the office of the court administrator.

(p) (o) "Registering tribunal" means a tribunal in which a support order is registered.

(q) (p) "Responding state" means a state to in which a proceeding is filed or to which a proceeding is forwarded for filing from an initiating state under this chapter or a law or

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procedure substantially similar to this chapter, or under a law or procedure substantially similar to the uniform reciprocal enforcement of support act, or the revised uniform reciprocal enforcement of support act.

(+) (q) "Responding tribunal" means the authorized tribunal in a responding state.

(s) (r) "Spousal support order" means a support order for a spouse or former spouse of the obligor.

(+) (s) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. "State" includes:

(1) an Indian tribe; and

(2) a foreign jurisdiction that has enacted a law or established procedures for issuance and enforcement of support orders that are substantially similar to the procedures under this chapter or the procedures under the uniform reciprocal enforcement of support act or the revised uniform reciprocal enforcement of support act.

(+) (t) "Support enforcement agency" means a public official or agency authorized to:

(1) seek enforcement of support orders or laws relating to the duty of support;

(2) seek establishment or modification of child support;

(3) seek determination of parentage; or

(4) locate obligors or their assets.

(v) (u) "Support order" means a judgment, decree, or order, whether temporary, final, or subject to modification, for the benefit of a child, spouse, or former spouse, which provides for monetary support, health care, arrearages, or reimbursement, and may include related costs and fees, interest, income withholding, attorney's fees, and other relief.

(w) (v) "Tribunal" means a court, administrative agency, or quasi-judicial entity authorized to establish, enforce, or modify support orders or to determine parentage.

Sec. 51. Minnesota Statutes 1996, section 518C.205, is amended to read:

518C.205 CONTINUING, EXCLUSIVE JURISDICTION.

(a) A tribunal of this state issuing a support order consistent with the law of this state has continuing, exclusive jurisdiction over a child support order:

(1) as long as this state remains the residence of the obligor, the individual obligee, or the child for whose benefit the support order is issued; or

(2) until each individual party has all of the parties who are individuals have filed written consent consents with the tribunal of this state for a tribunal of another state to modify the order and assume continuing, exclusive jurisdiction.

(b) A tribunal of this state issuing a child support order consistent with the law of this state may not exercise its continuing jurisdiction to modify the order if the order has been

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modified by a tribunal of another state pursuant to this chapter or a law substantially similar to this chapter.

(c) If a child support order of this state is modified by a tribunal of another state pursuant to this chapter or a law substantially similar to this chapter, a tribunal of this state loses its continuing, exclusive jurisdiction with regard to prospective enforcement of the order issued in this state, and may only:

(1) enforce the order that was modified as to amounts accruing before the modification;

(2) enforce nonmodifiable aspects of that order; and

(3) provide other appropriate relief for violations of that order which occurred before the effective date of the modification.

(d) A tribunal of this state shall recognize the continuing, exclusive jurisdiction of a tribunal of another state which has issued a child support order pursuant to this chapter or a law substantially similar to this chapter.

(e) A temporary support order issued ex parte or pending resolution of a jurisdictional conflict does not create continuing, exclusive jurisdiction in the issuing tribunal.

(f) A tribunal of this state issuing a support order consistent with the law of this state has continuing, exclusive jurisdiction over a spousal support order throughout the existence of the support obligation. A tribunal of this state may not modify a spousal support order issued by a tribunal of another state having continuing, exclusive jurisdiction over that order under the law of that state.

Sec. 52. Minnesota Statutes 1996, section 518C.207, is amended to read:

518C.207 RECOGNITION OF CONTROLLING CHILD SUPPORT ORDERS ORDER.

(a) If a proceeding is brought under this chapter and only one tribunal has issued a child support order, the order of that tribunal is controlling and must be recognized.

(b) If a proceeding is brought under this chapter, and one two or more child support orders have been issued in by tribunals of this state or another state with regard to an the same obligor and a child, a tribunal of this state shall apply the following rules in determining which order to recognize for purposes of continuing, exclusive jurisdiction:

(1) If only one tribunal has issued a child support order, the order of that tribunal must be recognized.

(2) If two or more tribunals have issued child support orders for the same obligor and child, and only one of the tribunals would have continuing, exclusive jurisdiction under this chapter, the order of that tribunal is controlling and must be recognized.

(3) (2) If two or more tribunals have issued child support orders for the same obligor and child, and more than one of the tribunals would have continuing, exclusive jurisdiction under this chapter, an order issued by a tribunal in the current home state of the child must be recognized, but if an order has not been issued in the current home state of the child, the order most recently issued is controlling and must be recognized.

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(4) ~~(3)~~ If two or more tribunals have issued child support orders for the same obligor and child, and none of the tribunals would have continuing, exclusive jurisdiction under this chapter, the tribunal of this state may having jurisdiction over the parties shall issue a child support order, which is controlling and must be recognized.

(c) If two or more child support orders have been issued for the same obligor and child and if the obligor or the individual obligee resides in this state, a party may request a tribunal of this state to determine which order controls and must be recognized under paragraph (b). The request must be accompanied by a certified copy of every support order in effect. The requesting party shall give notice of the request to each party whose rights may be affected by the determination.

(b) (d) The tribunal that has issued an the order that must be recognized as controlling under paragraph (a) (b) or (c) is the tribunal having that has continuing, exclusive jurisdiction in accordance with section 518C.205.

(e) A tribunal of this state which determines by order the identity of the controlling child support order under paragraph (b), clause (1) or (2), or which issues a new controlling child support order under paragraph (b), clause (3), shall include in that order the basis upon which the tribunal made its determination.

(f) Within 30 days after issuance of the order determining the identity of the controlling order, the party obtaining that order shall file a certified copy of it with each tribunal that had issued or registered an earlier order of child support. A party who obtains the order and fails to file a certified copy is subject to appropriate sanctions by a tribunal in which the issue of failure to file arises. The failure to file does not affect the validity or enforceability of the controlling order.

Sec. 53. Minnesota Statutes 1996, section 518C.304, is amended to read:

518C.304 DUTIES OF INITIATING TRIBUNAL.

(a) Upon the filing of a petition authorized by this chapter, an initiating tribunal of this state shall forward three copies of the petition and its accompanying documents:

(1) to the responding tribunal or appropriate support enforcement agency in the responding state; or

(2) if the identity of the responding tribunal is unknown, to the state information agency of the responding state with a request that they be forwarded to the appropriate tribunal and that receipt be acknowledged.

(b) If a responding state has not enacted this chapter or a law or procedure substantially similar to this chapter, a tribunal of this state may issue a certificate or other documents and make findings required by the law of the responding state. If the responding state is a foreign jurisdiction, the tribunal may specify the amount of support sought and provide other documents necessary to satisfy the requirements of the responding state.

Sec. 54. Minnesota Statutes 1996, section 518C.305, is amended to read:

518C.305 DUTIES AND POWERS OF RESPONDING TRIBUNAL.

(a) When a responding tribunal of this state receives a petition or comparable pleading from an initiating tribunal or directly pursuant to section 518C.301, paragraph (c), it

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shall cause the petition or pleading to be filed and notify the petitioner by ~~first class mail~~ where and when it was filed.

(b) A responding tribunal of this state, to the extent otherwise authorized by law, may do one or more of the following:

(1) issue or enforce a support order, modify a child support order, or render a judgment to determine parentage;

(2) order an obligor to comply with a support order, specifying the amount and the manner of compliance;

(3) order income withholding;

(4) determine the amount of any arrearages, and specify a method of payment;

(5) enforce orders by civil or criminal contempt, or both;

(6) set aside property for satisfaction of the support order;

(7) place liens and order execution on the obligor's property;

(8) order an obligor to keep the tribunal informed of the obligor's current residential address, telephone number, employer, address of employment, and telephone number at the place of employment;

(9) issue a bench warrant for an obligor who has failed after proper notice to appear at a hearing ordered by the tribunal and enter the bench warrant in any local and state computer systems for criminal warrants;

(10) order the obligor to seek appropriate employment by specified methods;

(11) award reasonable attorney's fees and other fees and costs; and

(12) grant any other available remedy.

(c) A responding tribunal of this state shall include in a support order issued under this chapter, or in the documents accompanying the order, the calculations on which the support order is based.

(d) A responding tribunal of this state may not condition the payment of a support order issued under this chapter upon compliance by a party with provisions for visitation.

(e) If a responding tribunal of this state issues an order under this chapter, the tribunal shall send a copy of the order by ~~first class mail~~ to the petitioner and the respondent and to the initiating tribunal, if any.

Sec. 55. Minnesota Statutes 1996, section 518C.310, is amended to read:

518C.310 DUTIES OF STATE INFORMATION AGENCY.

(a) The unit within the department of human services that receives and disseminates incoming interstate actions under title IV-D of the Social Security Act from section 518C.02, subdivision 1a, is the state information agency under this chapter.

(b) The state information agency shall:

(1) compile and maintain a current list, including addresses, of the tribunals in this state which have jurisdiction under this chapter and any support enforcement agencies in this state and transmit a copy to the state information agency of every other state;

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(2) maintain a register of tribunals and support enforcement agencies received from other states;

(3) forward to the appropriate tribunal in the place in this state in which the individual obligee or the obligor resides, or in which the obligor's property is believed to be located, all documents concerning a proceeding under this chapter received from an initiating tribunal or the state information agency of the initiating state; and

(4) obtain information concerning the location of the obligor and the obligor's property within this state not exempt from execution, by such means as postal verification and federal or state locator services, examination of telephone directories, requests for the obligor's address from employers, and examination of governmental records, including, to the extent not prohibited by other law, those relating to real property, vital statistics, law enforcement, taxation, motor vehicles, driver's licenses, and social security; and

(5) determine which foreign jurisdictions and Indian tribes have substantially similar procedures for issuance and enforcement of support orders. The state information agency shall compile and maintain a list, including addresses, of all these foreign jurisdictions and Indian tribes. The state information agency shall make this list available to all state tribunals and all support enforcement agencies.

Sec. 56. Minnesota Statutes 1996, section 518C.401, is amended to read:

518C.401 PETITION TO ESTABLISH SUPPORT ORDER.

(a) If a support order entitled to recognition under this chapter has not been issued, a responding tribunal of this state may issue a support order if:

- (1) the individual seeking the order resides in another state; or
- (2) the support enforcement agency seeking the order is located in another state.

(b) The tribunal may issue a temporary child support order if:

- (1) the respondent has signed a verified statement acknowledging parentage;
- (2) the respondent has been determined by ~~or pursuant to~~ law to be the parent; or
- (3) there is other clear and convincing evidence that the respondent is the child's parent.

(c) Upon a finding, after notice and opportunity to be heard, that an obligor owes a duty of support, the tribunal shall issue a support order directed to the obligor and may issue other orders pursuant according to section 518C.305.

Sec. 57. Minnesota Statutes 1996, section 518C.501, is amended to read:

518C.501 RECOGNITION EMPLOYER'S RECEIPT OF INCOME-WITH- HOLDING ORDER OF ANOTHER STATE.

(a) An income-withholding order issued in another state may be sent by first class mail to the person or entity defined as the obligor's employer under section 518.611 or 518.613 without first filing a petition or comparable pleading or registering the order with a tribunal of this state. Upon receipt of the order, the employer shall:

- (1) treat an income-withholding order issued in another state which appears regular on its face as if it had been issued by a tribunal of this state;

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- (2) immediately provide a copy of the order to the obligor; and
- (3) distribute the funds as directed in the withholding order.

(b) An obligor may contest the validity or enforcement of an income-withholding order issued in another state in the same manner as if the order had been issued by a tribunal of this state. Section 518C.604 applies to the contest. The obligor shall give notice of the contest to any support enforcement agency providing services to the obligee and to:

- (1) the person or agency designated to receive payments in the income-withholding order; or
- (2) if no person or agency is designated, the obligee.

Sec. 58. [518C.502] EMPLOYER'S COMPLIANCE WITH INCOME-WITHHOLDING ORDER OF ANOTHER STATE.

(a) Upon receipt of an income-withholding order, the obligor's employer shall immediately provide a copy of the order to the obligor.

(b) The employer shall treat an income-withholding order issued in another state which appears regular on its face as if it had been issued by a tribunal of this state.

(c) Except as provided by paragraph (d) and section 518C.503, the employer shall withhold and distribute the funds as directed in the withholding order by complying with the terms of the order, as applicable, that specify:

- (1) the duration and the amount of periodic payments of current child support, stated as a sum certain;
 - (2) the person or agency designated to receive payments and the address to which the payments are to be forwarded;
 - (3) medical support, whether in the form of periodic cash payment, stated as a sum certain, or ordering the obligor to provide health insurance coverage for the child under a policy available through the obligor's employment;
 - (4) the amount of periodic payments of fees and costs for a support enforcement agency, the issuing tribunal, and the obligee's attorney, stated as sums certain; and
 - (5) the amount of periodic payments of arrears and interest on arrears, stated as sums certain.
- (d) The employer shall comply with the law of the state of the obligor's principal place of employment for withholding from income with respect to:
- (1) the employer's fee for processing an income-withholding order;
 - (2) the maximum amount permitted to be withheld from the obligor's income; and
 - (3) the time periods within which the employer must implement the withholding order and forward the child support payment.

Sec. 59. [518C.503] COMPLIANCE WITH MULTIPLE INCOME-WITHHOLDING ORDERS.

If the obligor's employer receives multiple orders to withhold support from the earnings of the same obligor, the employer satisfies the terms of the multiple orders if the

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employer complies with the law of the state of the obligor's principal place of employment to establish the priorities for withholding and allocating income withheld for multiple child support obligees.

Sec. 60. [518C.504] IMMUNITY FROM CIVIL LIABILITY.

An employer who complies with an income-withholding order issued in another state in accordance with this chapter is not subject to civil liability to any individual or agency with regard to the employer's withholding child support from the obligor's income.

Sec. 61. [518C.505] PENALTIES FOR NONCOMPLIANCE.

An employer who willfully fails to comply with an income-withholding order issued by another state and received for enforcement is subject to the same penalties that may be imposed for noncompliance with an order issued by a tribunal of this state.

Sec. 62. [518C.506] CONTEST BY OBLIGOR.

(a) An obligor may contest the validity or enforcement of an income-withholding order issued in another state and received directly by an employer in this state in the same manner as if the order had been issued by a tribunal of this state. Section 518C.604 applies to the contest.

(b) The obligor shall give notice of the contest to:

- (1) a support enforcement agency providing services to the obligee;
- (2) each employer which has directly received an income-withholding order; and
- (3) the person or agency designated to receive payments in the income-withholding order or, if no person or agency is designated, to the obligee.

Sec. 63. [518C.508] ADMINISTRATIVE ENFORCEMENT OF ORDERS.

(a) A party seeking to enforce a support order or an income-withholding order, or both, issued by a tribunal of another state may send the documents required for registering the order to a support enforcement agency of this state.

(b) Upon receipt of the documents, the support enforcement agency, without initially seeking to register the order, shall consider and may use any administrative procedure authorized by the laws of this state to enforce a support order or an income-withholding order, or both. If the obligor does not contest administrative enforcement, the order need not be registered. If the obligor contests the validity or administrative enforcement of the order, the support enforcement agency shall register the order under this chapter.

Sec. 64. Minnesota Statutes 1996, section 518C.603, is amended to read:

518C.603 EFFECT OF REGISTRATION FOR ENFORCEMENT.

(a) A support order or income-withholding order issued in another state is registered when the order is filed in the registering tribunal of this state.

(b) A registered order issued in another state is enforceable in the same manner and is subject to the same procedures as an order issued by a tribunal of this state.

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(c) Except as otherwise provided in sections 518C.601 to 518C.612 this chapter, a tribunal of this state shall recognize and enforce, but may not modify, a registered order if the issuing tribunal had jurisdiction.

Sec. 65. Minnesota Statutes 1996, section 518C.605, is amended to read:

518C.605 NOTICE OF REGISTRATION OF ORDER.

(a) When a support order or income-withholding order issued in another state is registered, the registering tribunal shall notify the nonregistering party. ~~Notice must be given by certified or registered mail or by any means of personal service authorized by the law of this state.~~ The notice must be accompanied by a copy of the registered order and the documents and relevant information accompanying the order.

(b) The notice must inform the nonregistering party:

(1) that a registered order is enforceable as of the date of registration in the same manner as an order issued by a tribunal of this state;

(2) that a hearing to contest the validity or enforcement of the registered order must be requested within 20 days after the date of mailing or personal service of the notice;

(3) that failure to contest the validity or enforcement of the registered order in a timely manner will result in confirmation of the order and enforcement of the order and the alleged arrearages and precludes further contest of that order with respect to any matter that could have been asserted; and

(4) of the amount of any alleged arrearages.

(c) Upon registration of an income-withholding order for enforcement, the registering tribunal shall notify the obligor's employer pursuant to section 518.611 or 518.613.

Sec. 66. Minnesota Statutes 1996, section 518C.608, is amended to read:

518C.608 CONFIRMED ORDER.

~~If a contesting party has received notice of registration under section 518C.605, Confirmation of a registered order, whether by operation of law or after notice and hearing, precludes further contest of the order based upon facts that were known by the contesting party at the time of registration with respect to any matter that could have been asserted at the time of registration with respect to any matter that could have been asserted at the time of registration.~~

Sec. 67. Minnesota Statutes 1996, section 518C.611, is amended to read:

518C.611 MODIFICATION OF CHILD SUPPORT ORDER OF ANOTHER STATE.

(a) After a child support order issued in another state has been registered in this state, the responding tribunal of this state may modify that order only if, section 518C.613 does not apply and after notice and hearing, it finds that:

(1) the following requirements are met:

(i) the child, the individual obligee, and the obligor do not reside in the issuing state;

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(ii) a petitioner who is a nonresident of this state seeks modification; and

(iii) the respondent is subject to the personal jurisdiction of the tribunal of this state;

or

(2) an individual party or the child, or a party who is an individual, is subject to the personal jurisdiction of the tribunal of this state and all of the individual parties who are individuals have filed a written consent consents in the issuing tribunal providing that for a tribunal of this state may to modify the support order and assume continuing, exclusive jurisdiction over the order. However, if the issuing state is a foreign jurisdiction that has not enacted a law or established procedures substantially similar to the procedures in this chapter, the consent otherwise required of an individual residing in this state is not required for the tribunal to assume jurisdiction to modify the child support order.

(b) Modification of a registered child support order is subject to the same requirements, procedures, and defenses that apply to the modification of an order issued by a tribunal of this state and the order may be enforced and satisfied in the same manner.

(c) A tribunal of this state may not modify any aspect of a child support order that may not be modified under the law of the issuing state. If two or more tribunals have issued child support orders for the same obligor and child, the order that controls and must be recognized under section 518C.207 establishes the aspects of the support order which are nonmodifiable.

(d) On issuance of an order modifying a child support order issued in another state, a tribunal of this state becomes the tribunal of continuing, exclusive jurisdiction.

(e) Within 30 days after issuance of a modified child support order, the party obtaining the modification shall file a certified copy of the order with the issuing tribunal which had continuing, exclusive jurisdiction over the earlier order, and in each tribunal in which the party knows that earlier order has been registered.

Sec. 68. Minnesota Statutes 1996, section 518C.612, is amended to read:

518C.612 RECOGNITION OF ORDER MODIFIED IN ANOTHER STATE.

A tribunal of this state shall recognize a modification of its earlier child support order by a tribunal of another state which assumed jurisdiction pursuant according to this chapter or a law substantially similar to this chapter and, upon request, except as otherwise provided in this chapter, shall:

(1) enforce the order that was modified only as to amounts accruing before the modification;

(2) enforce only nonmodifiable aspects of that order;

(3) provide other appropriate relief only for violations of that order which occurred before the effective date of the modification; and

(4) recognize the modifying order of the other state, upon registration, for the purpose of enforcement.

Sec. 69. [518C.613] JURISDICTION TO MODIFY SUPPORT ORDER OF ANOTHER STATE WHEN INDIVIDUAL PARTIES RESIDE IN THIS STATE.

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(a) If all of the parties who are individuals reside in this state and the child does not reside in the issuing state, a tribunal of this state has jurisdiction to enforce and to modify the issuing state's child support order in a proceeding to register that order.

(b) A tribunal of this state exercising jurisdiction as provided in this section shall apply sections 518C.101 to 518C.209 and 518C.601 to 518C.614 to the enforcement or modification proceeding. Sections 518C.301 to 518C.507 and 518C.701 to 518C.802 do not apply and the tribunal shall apply the procedural and substantive law of this state.

Sec. 70. [518C.614] NOTICE TO ISSUING TRIBUNAL OF MODIFICATION.

Within 30 days after issuance of a modified child support order, the party obtaining the modification shall file a certified copy of the order with the issuing tribunal that had continuing, exclusive jurisdiction over the earlier order, and in each tribunal in which the party knows the earlier order has been registered. A party who obtains the order and fails to file a certified copy is subject to appropriate sanctions by a tribunal in which the issue of failure to file arises. The failure to file does not affect the validity or enforceability of the modified order of the new tribunal having continuing, exclusive jurisdiction.

Sec. 71. Minnesota Statutes 1996, section 518C.701, is amended to read:

518C.701 PROCEEDING TO DETERMINE PARENTAGE.

(a) A tribunal of this state may serve as an initiating or responding tribunal in a proceeding brought under this chapter or a law or procedure substantially similar to this chapter, or under a law or procedure substantially similar to the uniform reciprocal enforcement of support act, or the revised uniform reciprocal enforcement of support act to determine that the petitioner is a parent of a particular child or to determine that a respondent is a parent of that child.

(b) In a proceeding to determine parentage, a responding tribunal of this state shall apply the parentage act, sections 257.51 to 257.74, and the rules of this state on choice of law.

Sec. 72. Minnesota Statutes 1996, section 548.091, subdivision 1a, is amended to read:

Subd. 1a. CHILD SUPPORT JUDGMENT BY OPERATION OF LAW. (a) Any payment or installment of support required by a judgment or decree of dissolution or legal separation, determination of parentage, an order under chapter 518C, an order under section 256.87, or an order under section 260.251, that is not paid or withheld from the obligor's income as required under section 518.611 or 518.613, or which is ordered as child support by judgment, decree, or order by a court in any other state, is a judgment by operation of law on and after the date it is due and is entitled to full faith and credit in this state and any other state. Except as otherwise provided by paragraph (b), interest accrues from the date the unpaid amount due is greater than the current support due at the annual rate provided in section 549.09, subdivision 1, plus two percent, not to exceed an annual rate of 18 percent. A payment or installment of support that becomes a judgment by operation of law between the date on which a party served notice of a motion for modification under section 518.64, subdivision 2, and the date of the court's order on modification may be modified under that subdivision.

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(b) Notwithstanding the provisions of section 549.09, upon motion to the court and upon proof by the obligor of 36 consecutive months of complete and timely payments of both current support and court-ordered paybacks of a child support debt or arrearage, the court may order interest on the remaining debt or arrearage to stop accruing. Timely payments are those made in the month in which they are due. If, after that time, the obligor fails to make complete and timely payments of both current support and court-ordered paybacks of child support debt or arrearage, the public authority or the obligee may move the court for the reinstatement of interest as of the month in which the obligor ceased making complete and timely payments.

The court shall provide copies of all orders issued under this section to the public authority. The commissioner of human services shall prepare and make available to the court and the parties forms to be submitted by the parties in support of a motion under this paragraph.

Sec. 73. Minnesota Statutes 1996, section 548.091, subdivision 2a, is amended to read:

Subd. 2a. **DOCKETING OF CHILD SUPPORT JUDGMENT.** On or after the date an unpaid amount becomes a judgment by operation of law under subdivision 1a, the obligee or the public authority may file with the court administrator, either electronically or by other means:

(1) a statement identifying, or a copy of, the judgment or decree of dissolution or legal separation, determination of parentage, order under chapter 518C, an order under section 256.87, ~~or an order under section 260.251, or judgment, decree, or order for child support by a court in any other state, which provides for installment or periodic payments~~ installments of child support, or a judgment or notice of attorney fees and collection costs under section 518.14, subdivision 2;

(2) an affidavit of default. The affidavit of default must state the full name, occupation, place of residence, and last known post office address of the obligor, the name and post office address of the obligee, the date or dates payment was due and not received and judgment was obtained by operation of law, ~~and the total amount of the judgments to the date of filing, and the amount and frequency of the periodic installments of child support that will continue to become due and payable subsequent to the date of filing;~~ and

(3) an affidavit of service of a notice of ~~entry of judgment or notice of intent to docket judgment~~ and to recover attorney fees and collection costs on the obligor, in person or by mail at the obligor's last known post office address. Service is completed upon mailing in the manner designated. Where applicable, a notice of interstate lien in the form promulgated under United States Code, title 42, section 652(a), is sufficient to satisfy the requirements of clauses (1) and (2).

Sec. 74. Minnesota Statutes 1996, section 548.091, subdivision 3a, is amended to read:

Subd. 3a. **ENTRY, DOCKETING, AND SURVIVAL OF CHILD SUPPORT JUDGMENT.** Upon receipt of the documents filed under subdivision 2a, the court administrator shall enter and docket the judgment in the amount of the ~~default specified in the affidavit of default unpaid obligation identified in the affidavit of default and note the amount and frequency of the periodic installments of child support that will continue to~~

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become due and payable after the date of docketing. From the time of docketing, the judgment is a lien upon all the real property in the county owned by the judgment debtor, but it is not a lien on registered land unless the obligee or the public authority causes a notice of judgment lien or certified copy of the judgment to be memorialized on the certificate of title or certificate of possessory title under section 508.63 or 508A.63. The judgment survives and the lien continues for ten years after the date the judgment was docketed. Child support judgments may be renewed by service of notice upon the debtor. Service shall be by certified mail at the last known address of the debtor or in the manner provided for the service of civil process. Upon the filing of the notice and proof of service the court administrator shall renew the judgment for child support without any additional filing fee.

Sec. 75. Minnesota Statutes 1996, section 548.091, is amended by adding a subdivision to read:

Subd. 5. **AUTOMATIC INCREASES; SATISFACTION.** After docketing and until satisfied by the obligee, public authority, or the court administrator, the amount of the docketed judgment automatically increases by the total amount of periodic installments of child support that became due and payable subsequent to the date of docketing, plus attorney's fees and collection costs incurred by the public authority, and less any payment made by the obligor to partially satisfy the docketed judgment. The court administrator shall not satisfy any child support judgment without first obtaining a written judgment payoff statement from the public authority or obligee. If no such statement can be obtained within two business days, the court administrator shall only satisfy the judgment if the amount paid to the court administrator equals the judgment amount plus interest and costs, and the amount of the periodic installment times the number of payments due since the date of docketing of the judgment.

Sec. 76. Minnesota Statutes 1996, section 548.091, is amended by adding a subdivision to read:

Subd. 6. **NOTE ON JUDGMENT ROLL.** The court administrator shall note on the judgment roll which judgments are filed pursuant to this section and the amount and frequency of the periodic installment of child support that will continue to become due and payable after the date of docketing.

Sec. 77. Minnesota Statutes 1996, section 548.091, is amended by adding a subdivision to read:

Subd. 7. **FEES.** The public authority is exempt from payment of fees when a judgment is docketed or a certified copy of a judgment is issued by a court administrator, or a notice of judgment lien or a certified copy of a judgment is presented to a registrar of titles for recording. If a notice or certified copy is recorded by the public authority under this subdivision, the registrar of titles may collect from a party presenting for recording a satisfaction or release of the notice or certified copy the fees for recording and memorializing both the notice or certified copy and the satisfaction or release.

Sec. 78. Minnesota Statutes 1996, section 548.091, is amended by adding a subdivision to read:

Subd. 8. **REGISTERED LAND.** If requested by the public authority and upon the public authority's providing a notice of judgment lien or a certified copy of a judgment for child support debt, together with a street address, tax parcel identifying number, or a

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legal description for a parcel of real property, the county recorder shall search the registered land records in that county and cause the notice of judgment lien or certified copy of the judgment to be memorialized on every certificate of title or certificate of possessory title of registered land in that county that can be reasonably identified as owned by the obligor who is named on a docketed judgment. The fees for memorializing the lien or judgment must be paid in the manner prescribed by subdivision 7. The county recorders and their employees and agents are not liable for any loss or damages arising from failure to identify a parcel of registered land owned by the obligor who is named on the docketed judgment.

Sec. 79. Minnesota Statutes 1996, section 548.091, is amended by adding a subdivision to read:

Subd. 9. **PAYOFF STATEMENT.** The public authority shall issue to the obligor, attorneys, lenders, and closers, or their agents, a payoff statement setting forth conclusively the amount necessary to satisfy the lien. Payoff statements must be issued within three business days after receipt of a request by mail, personal delivery, telefacsimile, or e-mail transmission, and must be delivered to the requester by telefacsimile or e-mail transmission if requested and if appropriate technology is available to the public authority.

Sec. 80. Minnesota Statutes 1996, section 548.091, is amended by adding a subdivision to read:

Subd. 10. **RELEASE OF LIEN.** Upon payment of the amount due under subdivision 5, the public authority shall execute and deliver a satisfaction of the judgment lien within five business days.

Sec. 81. Minnesota Statutes 1996, section 548.091, is amended by adding a subdivision to read:

Subd. 11. **SPECIAL PROCEDURES.** The public authority shall negotiate a release of lien on specific property for less than the full amount due where the proceeds of a sale or financing, less reasonable and necessary closing expenses, are not sufficient to satisfy all encumbrances on the lien property. Partial releases do not release the obligor's personal liability for the amount unpaid.

Sec. 82. Minnesota Statutes 1996, section 548.091, is amended by adding a subdivision to read:

Subd. 12. **CORRECTING ERRORS.** The public authority shall maintain a process to review the identity of the obligor and to issue releases of lien in cases of misidentification. The public authority shall maintain a process to review the amount of child support determined to be delinquent and to issue amended notices of judgment lien in cases of incorrectly docketed judgments.

Sec. 83. Minnesota Statutes 1996, section 548.091, is amended by adding a subdivision to read:

Subd. 13. **FORMS.** The department of human services, after consultation with registrars of title, shall prescribe the notice of judgment lien. These forms are not subject to chapter 14.

New language is indicated by underline, deletions by strikeout.

Sec. 84. Minnesota Statutes 1996, section 550.37, subdivision 24, is amended to read:

Subd. 24. **EMPLOYEE BENEFITS.** (a) The debtor's right to receive present or future payments, or payments received by the debtor, under a stock bonus, pension, profit sharing, annuity, individual retirement account, individual retirement annuity, simplified employee pension, or similar plan or contract on account of illness, disability, death, age, or length of service:

(1) to the extent the plan or contract is described in section 401(a), 403, 408, or 457 of the Internal Revenue Code of 1986, as amended, or payments under the plan or contract are or will be rolled over as provided in section 402(a)(5), 403(b)(8), or 408(d)(3) of the Internal Revenue Code of 1986, as amended; or

(2) to the extent of the debtor's aggregate interest under all plans and contracts up to a present value of \$30,000 and additional amounts under all the plans and contracts to the extent reasonably necessary for the support of the debtor and any spouse or dependent of the debtor.

(b) The exemptions in paragraph (a) do not apply when the debt is owed under a support order as defined in section 518.54, subdivision 4a.

Sec. 85. [552.01] DEFINITIONS.

Subdivision 1. SCOPE. For the purposes of this chapter, the terms defined in this section have the meanings given them.

Subd. 2. PUBLIC AUTHORITY. "Public authority" means the public authority responsible for child support enforcement.

Subd. 3. JUDGMENT DEBTOR. "Judgment debtor" means a party against whom the public authority has a judgment for the recovery of money owed pursuant to a support order as defined in section 518.54.

Subd. 4. THIRD PARTY. "Third party" means the person or entity upon whom the execution levy is served.

Subd. 5. CLAIM. "Claim" means the unpaid balance of the public authority's judgment against the judgment debtor, including all lawful interest and costs incurred.

Subd. 6. FINANCIAL INSTITUTION. "Financial institution" means all entities identified in section 13B.06.

Sec. 86. [552.02] PUBLIC AUTHORITY'S SUMMARY EXECUTION OF SUPPORT JUDGMENT DEBTS; WHEN AUTHORIZED.

The public authority may execute on a money judgment resulting from money owed pursuant to a support order by levying under this chapter on indebtedness owed to the judgment debtor by a third party. The public authority may execute under this chapter upon service of a notice of support judgment levy for which the seal of the court is not required.

Sec. 87. [552.03] SCOPE OF GENERAL AND SPECIFIC PROVISIONS.

General provisions relating to the public authority's summary execution as authorized in this chapter are set forth in section 552.04. Specific provisions relating to summa-

New language is indicated by underline, deletions by strikeout.

ry execution on funds at a financial institution are set forth in section 552.05. When the public authority levies against funds at a financial institution, the specific provisions of section 552.05 must be complied with in addition to the general provisions of section 552.04. Provisions contained in the statutory forms are incorporated in this chapter and have the same force of law as any other provisions in this chapter.

Sec. 88. [552.04] GENERAL PROVISIONS.

Subdivision 1. RULES OF CIVIL PROCEDURE. Unless this chapter specifically provides otherwise, the Minnesota Rules of Civil Procedure for the District Courts and section 518.511 apply in all proceedings under this chapter.

Subd. 2. PROPERTY ATTACHABLE BY SERVICE OF LEVY. Subject to the exemptions provided by subdivision 3 and section 550.37, and any other applicable statute, to the extent the exemptions apply in cases of child support enforcement, the service by the public authority of a notice of support judgment levy under this chapter attaches all nonexempt indebtedness or money due or belonging to the judgment debtor and owing by the third party or in the possession or under the control of the third party at the time of service of the notice of support judgment levy, whether or not the indebtedness or money has become payable. The third party shall not be compelled to pay or deliver the same before the time specified by any agreement unless the agreement was fraudulently contracted to defeat an execution levy or other collection remedy.

Subd. 3. PROPERTY NOT ATTACHABLE. The following property is not subject to attachment by a notice of support judgment levy served under this chapter:

(1) any indebtedness or money due to the judgment debtor, unless at the time of the service of the notice of support judgment levy the same is due absolutely or does not depend upon any contingency;

(2) any judgment owing by the third party to the judgment debtor, if the third party or the third party's property is liable on an execution levy upon the judgment;

(3) any debt owing by the third party to the judgment debtor for which any negotiable instrument has been issued or endorsed by the third party;

(4) any indebtedness or money due to the judgment debtor with a cumulative value of less than \$10; and

(5) any disposable earnings, indebtedness, or money that is exempt under state or federal law to the extent the exemptions apply in cases of child support enforcement.

Subd. 4. SERVICE OF THIRD PARTY LEVY; NOTICE AND DISCLOSURE FORMS. When levying upon money owed to the judgment debtor by a third party, the public authority shall serve a copy of the notice of support judgment levy upon the third party either by registered or certified mail, or by personal service. Along with a copy of the notice of support judgment levy, the public authority shall serve upon the third party a notice of support judgment levy and disclosure form that must be substantially in the form set forth below.

New language is indicated by underline, deletions by strikeout.

OFFICE OF ADMINISTRATIVE HEARINGS

..... (Public authority)
against
..... (Judgment Debtor)
and
..... (Third Party)

File No.

NOTICE OF SUPPORT JUDGMENT
LEVY AND DISCLOSURE
(OTHER THAN EARNINGS)

PLEASE TAKE NOTICE that pursuant to Minnesota Statutes, chapters 518 and 522, the undersigned, as representative of the public authority responsible for child support enforcement, makes demand and levies execution upon all money due and owing by you to the judgment debtor for the amount of the judgment specified below. A copy of the notice of support judgment levy is enclosed. The unpaid judgment balance is \$.....

In responding to this levy, you are to complete the attached disclosure form and mail it to the public authority, together with your check payable to the public authority, for the nonexempt amount owed by you to the judgment debtor or for which you are obligated to the judgment debtor, within the time limits in chapter 552.

Public Authority
Address
(.....)
Phone number

DISCLOSURE

On the ... day of, 19..., the time of service of the execution levy herein, there was due and owing the judgment debtor from the third party the following:

(1) Money. Enter on the line below any amounts due and owing the judgment debtor, except earnings, from the third party.

.....

(2) Setoff. Enter on the line below the amount of any setoff, defense, lien, or claim which the third party claims against the amount set forth on line (1). State the facts by which the setoff, defense, lien, or claim is claimed. (Any indebtedness to you incurred by the judgment debtor within ten days prior to the receipt of the first execution levy on a debt may not be claimed as a setoff, defense, lien, or claim against the amount set forth on line (1).)

.....

(3) Exemption. Enter on the line below any amounts or property claimed by the judgment debtor to be exempt from execution.

.....

(4) Adverse Interest. Enter on the line below any amounts claimed by other persons by reason of ownership or interest in the judgment debtor's property.

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

.....

(5) Enter on the line below the total of lines (2), (3), and (4).

.....

(6) Enter on the line below the difference obtained (never less than zero when line (5) is subtracted from the amount on line (1)).

.....

(7) Enter on the line below 100 percent of the amount of the public authority's claim which remains unpaid.

.....

(8) Enter on the line below the lesser of line (6) and line (7). You are instructed to remit this amount only if it is \$10 or more.

.....

AFFIRMATION

I, (person signing Affirmation), am the third party or I am authorized by the third party to complete this nonearnings disclosure, and have done so truthfully and to the best of my knowledge.

Dated:

Signature

.....

Title

.....

Telephone Number

Subd. 5. THIRD PARTY DISCLOSURE AND REMITTANCE. Within 15 days after receipt of the notice of support judgment levy, unless governed by section 552.05, the third party shall disclose and remit to the public authority as much of the amount due as the third party's own debt equals to the judgment debtor.

Subd. 6. ORAL DISCLOSURE. Before or after the service of a written disclosure by a third party under subdivision 5, upon a showing by affidavit upon information and belief that an oral examination of the third party would provide a complete disclosure of relevant facts, any party to the execution proceedings may obtain an ex parte order requiring the third party, or a representative of the third party designated by name or by title, to appear for oral examination before the court or a referee appointed by the court. Notice of the examination must be given to all parties.

Subd. 7. SUPPLEMENTAL COMPLAINT. If a third party holds property, money, earnings, or other indebtedness by a title that is void as to the judgment debtor's creditors, the property may be levied on although the judgment debtor would be barred from maintaining an action to recover the property, money, earnings, or other indebtedness. In this and all other cases where the third party denies liability, the public authority may move the court at any time before the third party is discharged, on notice to both the judgment debtor and the third party for an order making the third party a party to supplemental action and granting the public authority leave to file a supplemental complaint

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

against the third party and the judgment debtor. The supplemental complaint shall set forth the facts upon which the public authority claims to charge the third party. If probable cause is shown, the motion shall be granted. The supplemental complaint shall be served upon the third party and the judgment debtor and any other parties. The parties served shall answer or respond pursuant to the Minnesota Rules of Civil Procedure for the district courts, and if they fail to do so, judgment by default may be entered against them.

Subd. 8. JUDGMENT AGAINST THIRD PARTY UPON FAILURE TO DISCLOSE OR REMIT. Judgment may be entered against a third party who has been served with a notice of support judgment levy and fails to disclose or remit the levied funds as required in this chapter. Upon order to show cause served on the third party and notice of motion supported by affidavit of facts and affidavit of service upon both the judgment debtor and third party, the court may render judgment against the third party for an amount not exceeding 100 percent of the amount claimed in the execution. Judgment against the third party under this section shall not bar the public authority from further remedies under this chapter as a result of any subsequent defaults by the third party. The court upon good cause shown may remove the default and permit the third party to disclose or remit on just terms.

Subd. 9. SATISFACTION. Upon expiration, the public authority making the execution may file a partial satisfaction by amount or, if applicable, shall file the total satisfaction with the court administrator without charge.

Subd. 10. THIRD PARTY GOOD FAITH REQUIREMENT. The third party is not liable to the judgment debtor, public authority, or other person for wrongful retention if the third party retains or remits disposable earnings, indebtedness, or money of the judgment debtor or any other person, pending the third party's disclosure or consistent with the disclosure the third party makes, if the third party has a good faith belief that the property retained or remitted is subject to the execution. In addition, the third party may, at any time before or after disclosure, proceed under Rule 67 of the Minnesota rules of civil procedure to make deposit into court. No third party is liable for damages if the third party complies with the provisions of this chapter.

Subd. 11. BAD FAITH CLAIM. If, in a proceeding brought under section 552.05, subdivision 9, or a similar proceeding under this chapter to determine a claim of exemption, the claim of exemption is not upheld, and the court finds that it was asserted in bad faith, the public authority shall be awarded actual damages, costs, reasonable attorney's fees resulting from the additional proceedings, and an amount not to exceed \$100. If the claim of exemption is upheld, and the court finds that the public authority disregarded the claim of exemption in bad faith, the judgment debtor shall be awarded actual damages, costs, reasonable attorney's fees resulting from the additional proceedings, and an amount not to exceed \$100. The underlying judgment shall be modified to reflect assessment of damages, costs, and attorney's fees. However, if the party in whose favor a penalty assessment is made is not actually indebted to that party's attorney for fees, the attorney's fee award shall be made directly to the attorney, and if not paid, an appropriate judgment in favor of the attorney shall be entered. Any action by a public authority made in bad faith and in violation of this chapter renders the execution levy void and the public authority liable to the judgment debtor named in the execution levy in the amount of \$100, actual damages, and reasonable attorney's fees and costs.

New language is indicated by underline, deletions by strikeout.

Subd. 12. DISCHARGE OF A THIRD PARTY. Subject to subdivisions 6 and 13, the third party, after disclosure, shall be discharged of any further obligation to the public authority when one of the following conditions is met:

(a) The third party discloses that the third party is not indebted to the judgment debtor or does not possess any earnings, property, money, or indebtedness belonging to the judgment debtor that is attachable as defined in subdivision 2. The disclosure is conclusive against the public authority and discharges the third party from any further obligation to the public authority other than to retain and remit all nonexempt disposable earnings, property, indebtedness, or money of the judgment debtor which was disclosed.

(b) The third party discloses that the third party is indebted to the judgment debtor as indicated on the execution disclosure form. The disclosure is conclusive against the public authority and discharges the third party from any further obligation to the public authority other than to retain and remit all nonexempt disposable earnings, property, indebtedness, or money of the judgment debtor that was disclosed.

(c) The court may, upon motion of an interested person, discharge the third party as to any disposable earnings, money, property, or indebtedness in excess of the amount that may be required to satisfy the public authority's claim.

Subd. 13. EXCEPTIONS TO DISCHARGE OF A THIRD PARTY. The third party is not discharged if:

(a) Within 20 days of the service of the third party's disclosure, an interested person serves a motion relating to the execution levy. The hearing on the motion must be scheduled to be heard within 30 days of the service of the motion.

(b) The public authority moves the court for leave to file a supplemental complaint against the third party, as provided for in subdivision 7, and the court upon proper showing vacates the discharge of the third party.

Subd. 14. JOINDER AND INTERVENTION BY PERSONS IN INTEREST. If it appears that a person, who is not a party to the action, has or claims an interest in any of the disposable earnings, other indebtedness, or money, the court shall permit that person to intervene or join in the execution proceeding under this chapter. If that person does not appear, the court may summon that person to appear or order the claim barred. The person so appearing or summoned shall be joined as a party and be bound by the judgment.

Subd. 15. APPEAL. A party to an execution proceeding aggrieved by an order or final judgment may appeal as allowed by law.

Subd. 16. PRIORITY OF LEVY. Notwithstanding section 52.12, a levy by the public authority made under this section on an obligor's funds on deposit in a financial institution located in this state has priority over any unexercised right of setoff of the financial institution to apply the levied funds toward the balance of an outstanding loan or loans owed by the obligor to the financial institution. A claim by the financial institution that it exercised its right to setoff prior to the levy by the public authority must be substantiated by evidence of the date of the setoff and must be verified by the sworn statement of a responsible corporate officer of the financial institution. For purposes of determining the priority of a levy made under this section, the levy must be treated as if it were an execution made under chapter 550.

New language is indicated by underline, deletions by strikeout.

Sec. 89. [552.05] SUMMARY EXECUTION UPON FUNDS AT A FINANCIAL INSTITUTION.

Subdivision 1. PROCEDURE. In addition to the provisions of section 552.04, when levying upon funds at a financial institution, the public authority must comply with this section. If the notice of support judgment levy is being used by the public authority to levy funds of a judgment debtor who is a natural person and if the funds to be levied are held on deposit at any financial institution, in lieu of service the public authority shall send with the notice of support judgment levy and disclosure required by section 552.04, subdivision 4, one copy of an exemption and right to hearing notice. The notice must be substantially in the form determined by the commissioner in accordance with section 552.05, subdivision 10. Failure of the public authority to send the notice renders the execution levy void, and the financial institution shall take no action. Upon receipt of the notice of support judgment levy and exemption and right to hearing notice, the financial institution shall retain as much of the amount due as the financial institution has on deposit owing to the judgment debtor, but not more than 100 percent of the amount remaining due on the judgment until directed by the public authority or the court to release the funds to the public authority or the judgment debtor in accordance with this chapter.

Subd. 2. DUTIES OF FINANCIAL INSTITUTION. Within two business days after receipt of the execution levy and exemption and right to hearing notice, the financial institution shall serve upon the judgment debtor the exemption and right to hearing notice. The financial institution shall serve the notice by first class mail to the last known address of the judgment debtor. If no claim of exemption or request for hearing is received by the public authority within 14 days after the notice is mailed to the judgment debtor, the public authority shall notify the financial institution within seven days that the funds remain subject to the execution levy and shall be remitted to the public authority. If a claim of exemption or a request for hearing is received by the public authority within 14 days after the exemption notice is mailed to the judgment debtor, the public authority shall within seven days notify the financial institution either to release the funds to the judgment debtor or that the funds remain subject to the execution levy pending the determination of an administrative law judge at a requested contested case proceeding. When notified by the public authority to release the funds, the financial institution shall release the funds to the public authority or to the judgment debtor, as directed by the public authority, within two business days.

Subd. 3. PROCESS TO CLAIM EXEMPTION. If the judgment debtor elects to claim an exemption, the judgment debtor shall complete the applicable portion of the exemption and right to hearing notice, sign it under penalty of perjury, and deliver one copy to the public authority within 14 days of the date postmarked on the correspondence mailed to the judgment debtor containing the exemption and right to hearing notice. Failure of the judgment debtor to deliver the executed exemption and right to hearing notice does not constitute a waiver of any claimed right to an exemption. Upon timely receipt of a claim of exemption, funds not claimed to be exempt by the judgment debtor remain subject to the execution levy. Within seven days after the date postmarked on the envelope containing the executed exemption and right to hearing notice mailed to the public authority, or the date of personal delivery of the executed exemption and right to hearing notice to the public authority, the public authority shall either notify the financial institu-

New language is indicated by underline, deletions by strikethrough.

tion to release the exempt portion of the funds to the judgment debtor or schedule a contested administrative proceeding pursuant to subdivision 5.

Subd. 4. PROCESS TO REQUEST HEARING. If the judgment debtor elects to request a hearing on any issue specified in subdivision 6, the judgment debtor shall complete the applicable portion of the exemption and right to hearing notice, sign it under penalty of perjury, and deliver one copy to the public authority within 14 days of the date postmarked on the correspondence mailed to the judgment debtor containing the exemption and right to hearing notice. Upon timely receipt of a request for hearing, funds not claimed to be exempt by the judgment debtor remain subject to the execution levy. Within seven days after the date postmarked on the envelope containing the executed request for hearing mailed to the public authority, or the date of personal delivery of the executed request for hearing to the public authority, the public authority shall either notify the financial institution to release the exempt portion of the funds to the judgment debtor or schedule a contested administrative proceeding under section 518.5511 and notify the judgment debtor of the time and place of the scheduled hearing.

Subd. 5. DUTIES OF PUBLIC AUTHORITY IF HEARING IS REQUESTED. Within seven days of the receipt of a request for hearing or a claim of exemption to which the public authority does not consent, the public authority shall schedule a contested administrative proceeding under section 518.5511. The hearing must be scheduled to occur within five business days. The public authority shall send written notice of the hearing date, time, and place to the judgment debtor by first class mail. The hearing may be conducted by telephone, audiovisual means or other electronic means, at the discretion of the administrative law judge. If the hearing is to be conducted by telephone, audiovisual means, or other electronic means, the public authority shall provide reasonable assistance to the judgment debtor to facilitate the submission of all necessary documentary evidence to the administrative law judge, including access to the public authority's facsimile transmission machine.

Subd. 6. ISSUES RELEVANT AT HEARING. At any hearing requested by the judgment debtor under this chapter, the only issues to be determined are whether:

- (1) the public authority complied with the process required by this chapter;
- (2) the amount stated in the notice of support judgment levy is owed by the judgment debtor;
- (3) the amount stated in the notice of support judgment levy is correct; or
- (4) any of the funds levied upon are exempt.

Subd. 7. NOTICE OF ORDER. Within one business day of receipt of the order of the administrative law judge, the public authority shall send a copy of the order to the judgment debtor at the judgment debtor's last known address and to the financial institution.

Subd. 8. RELEASE OF FUNDS. At any time during the procedure specified in this section, the judgment debtor or the public authority may direct the financial institution to release the funds in question to the other party. Upon receipt of a release, the financial institution shall release the funds as directed.

Subd. 9. SUBSEQUENT PROCEEDINGS; BAD FAITH CLAIM. If in subsequent proceedings brought by the judgment debtor or the public authority, the claim of

New language is indicated by underline, deletions by strikeout.

exemption is not upheld, and the office of administrative hearings finds that it was asserted in bad faith, the public authority shall be awarded actual damages, costs, and reasonable attorney fees resulting from the additional proceedings, and an amount not to exceed \$100. The underlying judgment must be modified to reflect assessment of damages, costs, and attorney fees. However, if the party in whose favor a penalty assessment is made is not actually indebted to the party's attorney for fees, the attorney's fee award shall be made directly to the attorney and if not paid, an appropriate judgment in favor of the attorney shall be entered. Upon motion of any party in interest, on notice, the office of administrative hearings shall determine the validity of any claim of exemption, and may make any order necessary to protect the rights of those interested. No financial institution is liable for damages for complying with this section. The financial institution may rely on the date of mailing or delivery of a notice to it in computing any time periods in this section.

Subd. 10. FORMS. The commissioner of human services shall develop statutory forms for use as required under this chapter. In developing these forms, the commissioner shall consult with the attorney general, representatives of financial institutions, and legal services. The commissioner shall report back to the legislature by February 1, 1998, with recommended forms to be included in this chapter.

Sec. 90. CHILD SUPPORT ENFORCEMENT PROGRAM; SERVICES DELIVERY STUDY.

The commissioner of human services, in consultation with the commissioner's advisory committee, shall conduct a study of the overall state child support enforcement delivery system and shall recommend to the legislature a program design that will best meet the following goals:

- (1) comply with all state and federal laws and regulations;
- (2) deliver child support and paternity services in a timely manner;
- (3) meet federal performance criteria;
- (4) provide respectful and efficient service to custodial and noncustodial parents;
- (5) make efficient use of public money funding the program; and
- (6) provide a consistent level of services throughout the state.

The study may make specific recommendations regarding staffing, training, program administration, customer access to services, use of technology, and other features of a successful child support program. The commissioner may contract with a private vendor to complete the study. The commissioner shall provide the study and recommendations to the legislature by July 1, 1998.

Sec. 91. AGENCY CONSULTATION ON SUSPENDING RECREATIONAL LICENSES.

The commissioner shall consult with other state agencies to obtain recommendations for establishing procedures to meet federal requirements to suspend recreational licenses of child support obligors who fail to pay child support. The procedures must impose the fewest restrictions on recreational licenses consistent with federal law. No procedure may be implemented until approved by the legislature and enacted into law.

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

Sec. 92. INSTRUCTION TO REVISOR.

The revisor shall delete the references to sections 518.611 and 518.613 and insert a reference to section 518.6111 wherever they occur in Minnesota Statutes and Minnesota Rules.

Sec. 93. REPEALER.

(a) Minnesota Statutes 1996, sections 518C.9011; and 609.375, subdivisions 3, 4, and 6, are repealed.

(b) Minnesota Statutes 1996, section 256.74, subdivisions 5 and 7, are repealed March 31, 1998.

(c) Minnesota Statutes 1996, sections 256.979, subdivision 9; 518.5511, subdivisions 5, 6, 7, 8, and 9; 518.611; 518.613; and 518.645, are repealed effective July 1, 1997.

Sec. 94. EFFECTIVE DATES.

(a) Section 1 is effective the day following final enactment.

(b) Section 3 is effective July 1, 1998.

(c) Sections 72 to 83 are effective July 1, 1998.

(d) Section 75 applies only to judgments docketed on or after July 1, 1998.

(e) Sections 85 to 89 are effective July 1, 1998.

ARTICLE 7**CONTINUING CARE FOR DISABLED PERSONS**

Section 1. Minnesota Statutes 1996, section 62E.14, is amended by adding a subdivision to read:

Subd. 4c. **WAIVER OF PREEXISTING CONDITIONS; PERSONS COVERED BY PUBLICLY FUNDED HEALTH PROGRAMS.** A person may enroll in the comprehensive plan with a waiver of the preexisting condition limitation in subdivision 3, provided that:

(1) the person was formerly enrolled in the medical assistance, general assistance medical care, or MinnesotaCare program;

(2) the person is a Minnesota resident; and

(3) the person applies within 90 days of termination from medical assistance, general assistance medical care, or MinnesotaCare program.

Sec. 2. Minnesota Statutes 1996, section 245.652, subdivision 1, is amended to read:

Subdivision 1. **PURPOSE.** The regional treatment centers shall provide services designed to end a person's reliance on chemical use or a person's chemical abuse and in-

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crease effective and chemical-free functioning. Clinically effective programs must be provided in accordance with section 246.64. Services may be offered on the regional center campus or at sites elsewhere in the catchment area served by the regional treatment center.

Sec. 3. Minnesota Statutes 1996, section 245.652, subdivision 2, is amended to read:

Subd. 2. **SERVICES OFFERED.** Services provided ~~must~~ may include, but are not limited to, the following:

(1) primary and extended residential care, including residential treatment programs of varied duration intended to deal with a person's chemical dependency or chemical abuse problems;

(2) follow-up care to persons discharged from regional treatment center programs or other chemical dependency programs;

(3) outpatient treatment programs; and

(4) other treatment services, as appropriate and as provided under contract or shared service agreements.

Sec. 4. Minnesota Statutes 1996, section 245A.11, subdivision 2a, is amended to read:

Subd. 2a. **ADULT FOSTER CARE LICENSE CAPACITY.** An adult foster care license holder may have a maximum license capacity of five if all persons in care are age 60 or over and do not have a serious and persistent mental illness or a developmental disability. The commissioner may grant variances to this subdivision to allow the use of a fifth bed for emergency crisis services for a person with serious and persistent mental illness or a developmental disability, regardless of age, provided the variance complies with the provisions in section 245A.04, subdivision 9, and approval of the variance is recommended by the county in which the licensed foster care provider is located.

Sec. 5. Minnesota Statutes 1996, section 246.02, subdivision 2, is amended to read:

Subd. 2. The commissioner of human services shall act with the advice of the medical policy directional committee on mental health in the appointment and removal of the chief executive officers of the following institutions: Anoka-Metro Regional Treatment Center, Ah-Gwah-Ching Center, Fergus Falls Regional Treatment Center, St. Peter Regional Treatment Center and Minnesota Security Hospital, Willmar Regional Treatment Center, ~~Faribault Regional Center,~~ Cambridge Regional Human Services Center, Brainerd Regional Human Services Center, and ~~until June 30, 1995, Moose Lake Regional Treatment Center,~~ and after June 30, 1995, Minnesota Sexual Psychopathic Personality Treatment Center and until June 30, 1998, Faribault Regional Center.

Sec. 6. Minnesota Statutes 1996, section 246.18, is amended by adding a subdivision to read:

Subd. 2a. **DISPOSITION OF INTEREST FOR CHEMICAL DEPENDENCY FUNDS.** Beginning July 1, 1991, interest earned on cash balances on deposit with the state treasurer derived from receipts from chemical dependency programs affiliated with state-operated facilities under the commissioner of human services must be deposited in the state treasury and credited to a chemical dependency account under subdivision 2.

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

Any interest earned is appropriated to the commissioner to operate chemical dependency programs according to subdivision 2.

Sec. 7. Minnesota Statutes 1996, section 252.025, subdivision 1, is amended to read:

Subdivision 1. **REGIONAL TREATMENT CENTERS.** State hospitals for persons with mental retardation shall be established and maintained at Faribault until June 30, 1998, Cambridge and Brainerd, and notwithstanding any provision to the contrary they shall be respectively known as the Faribault regional center, the Cambridge regional human services center, and the Brainerd regional human services center. Each of the foregoing state hospitals shall also be known by the name of regional center at the discretion of the commissioner of human services. The terms "human services" or "treatment" may be included in the designation.

Sec. 8. Minnesota Statutes 1996, section 252.025, subdivision 4, is amended to read:

Subd. 4. **STATE-PROVIDED SERVICES.** (a) It is the policy of the state to capitalize and recapitalize the regional treatment centers as necessary to prevent depreciation and obsolescence of physical facilities and to ensure they retain the physical capability to provide residential programs. Consistent with that policy and with section 252.50, and within the limits of appropriations made available for this purpose, the commissioner may establish, by June 30, 1991, the following state-operated, community-based programs for the least vulnerable regional treatment center residents: at Brainerd regional services center, two residential programs and two day programs; at Cambridge regional treatment center, four residential programs and two day programs; at Faribault regional treatment center, ten residential programs and six day programs; at Fergus Falls regional treatment center, two residential programs and one day program; at Moose Lake regional treatment center, four residential programs and two day programs; and at Willmar regional treatment center, two residential programs and one day program.

(b) By January 15, 1991, the commissioner shall report to the legislature a plan to provide continued regional treatment center capacity and state-operated, community-based residential and day programs for persons with developmental disabilities at Brainerd, Cambridge, Faribault, Fergus Falls, St. Peter, and Willmar, as follows:

(1) by July 1, 1998, continued regional treatment center capacity to serve 350 persons with developmental disabilities as follows: at Brainerd, 80 persons; at Cambridge, 12 persons; at Faribault, 110 persons; at Fergus Falls, 60 persons; at St. Peter, 35 persons; at Willmar, 25 persons; and up to 16 crisis beds in the Twin Cities metropolitan area; and

(2) by July 1, 1999, continued regional treatment center capacity to serve 254 persons with developmental disabilities as follows: at Brainerd, 57 persons; at Cambridge, 12 persons; at Faribault, 80 persons; at Fergus Falls, 35 persons; at St. Peter, 30 persons; at Willmar, 12 persons, and up to 16 crisis beds in the Twin Cities metropolitan area. In addition, the plan shall provide for the capacity to provide residential services to 570 persons with developmental disabilities in 95 state-operated, community-based residential programs.

The commissioner is subject to a mandamus action under chapter 586 for any failure to comply with the provisions of this subdivision.

Sec. 9. Minnesota Statutes 1996, section 252.025, is amended by adding a subdivision to read:

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Subd. 7. MINNESOTA EXTENDED TREATMENT OPTIONS. The commissioner shall develop by July 1, 1997, the Minnesota extended treatment options to serve Minnesotans who have mental retardation and exhibit severe behaviors which present a risk to public safety. This program must provide specialized residential services on the Cambridge campus and an array of community support services statewide.

Sec. 10. Minnesota Statutes 1996, section 252.32, subdivision 1a, is amended to read:

Subd. 1a. SUPPORT GRANTS. (a) Provision of support grants must be limited to families who require support and whose dependents are under the age of 22 and who have mental retardation or who have a related condition and who have been determined by a screening team established under section 256B.092 to be at risk of institutionalization. Families who are receiving home and community-based waived services for persons with mental retardation or related conditions 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 support grant shall be made by the legal guardian to the county social service agency to the department of human services. The application shall specify the needs of the families, the form of the grant requested by the families, and that the families have agreed to use the support grant for items and services within the designated reimbursable expense categories and recommendations of the county.

(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.

Sec. 11. Minnesota Statutes 1996, section 252.32, subdivision 3, is amended to read:

Subd. 3. AMOUNT OF SUPPORT GRANT; USE. Support grant amounts shall be determined by the ~~commissioner of human services~~ county social service agency. 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.

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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 county social service agency may consider the dependent's supplemental security income in determining the amount of the support grant. A variancee The county social service agency may be granted by the commissioner to exceed \$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. The commissioner county social service agency may set aside up to five percent of the appropriation its allocation to fund emergency situations.~~

Effective July 1, 1997, county social service agencies shall continue to provide funds to families receiving state grants on June 30, 1997, if eligibility criteria continue to be met. Any adjustments to their monthly grant amount must be based on the needs of the family and funding availability.

Sec. 12. Minnesota Statutes 1996, section 252.32, subdivision 3a, is amended to read:

Subd. 3a. **REPORTS AND REIMBURSEMENT ALLOCATIONS.** (a) 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.

(b) Beginning January 1, 1998, the commissioner shall allocate state funds made available under this section to county social service agencies on a calendar year basis. The commissioner shall allocate to each county first in amounts equal to each county's guaranteed floor as described in clause (1), and second, any remaining funds, after the allocation of funds to the newly participating counties as provided for in clause (3), shall be allocated in proportion to each county's total number of families receiving a grant on July 1 of the most recent calendar year.

(1) Each county's guaranteed floor shall be calculated as follows:

(i) 95 percent of the county's allocation received in the preceding calendar year. For the calendar year 1998 allocation, the preceding calendar year shall be considered to be double the six-month allocation as provided in clause (2);

(ii) when the amount of funds available for allocation is less than the amount available in the preceding year, each county's previous year allocation shall be reduced in proportion to the reduction in statewide funding, for the purpose of establishing the guaranteed floor.

(2) For the period July 1, 1997, to December 31, 1997, the commissioner shall allocate to each county an amount equal to the actual, state approved grants issued to the families for the month of January 1997, multiplied by six. This six-month allocation shall be

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combined with the calendar year 1998 allocation and be administered as an 18-month allocation.

(3) At the commissioner's discretion, funds may be allocated to any nonparticipating county that requests an allocation under this section. Allocations to newly participating counties are dependent upon the availability of funds, as determined by the actual expenditure amount of the participating counties for the most recently completed calendar year.

(4) The commissioner shall regularly review the use of family support fund allocations by county. The commissioner may reallocate unexpended or unencumbered money at any time to those counties that have a demonstrated need for additional funding.

(c) County allocations under this section will be adjusted for transfers that occur according to section 256.476 or when the county of financial responsibility changes according to chapter 256G for eligible recipients.

Sec. 13. Minnesota Statutes 1996, section 252.32, subdivision 3c, is amended to read:

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~~ approve a plan for items and services to be reimbursed and inform families of the commissioner's county'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 indicate on the screening documents the annual grant level for each family, the families denied grants, and the families eligible but waiting for funding; and

(7) coordinate services with other programs offered by the county.

Sec. 14. Minnesota Statutes 1996, section 252.32, subdivision 5, is amended to read:

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. 15. Minnesota Statutes 1996, section 254.04, is amended to read:

254.04 TREATMENT OF CHEMICALLY DEPENDENT PERSONS.

The commissioner of human services is hereby authorized to continue the treatment of chemically dependent persons at Ah-Gwah-Ching and Moose Lake area programs as well as at the regional treatment centers located at Anoka, Brainerd, Fergus Falls, Moose Lake, St. Peter, and Willmar as specified in section 245.652. During the year ending June 30, 1994, the commissioner shall relocate, in the catchment area served by the Moose

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Lake regional treatment center, two state-operated off-campus programs designed to serve patients who are relocated from the Moose Lake regional treatment center. One program shall be a 35-bed program for women who are chemically dependent; the other shall be a 25-bed program for men who are chemically dependent. The facility space housing the Liberalis chemical dependency program (building C-35) and the men's chemical dependency program (4th floor main) may not be vacated until suitable off-campus space for the women's chemical dependency program of 35 beds and the men's chemical dependency program of 25 beds is located and clients and staff are relocated.

Sec. 16. Minnesota Statutes 1996, section 254B.02, subdivision 3, is amended to read:

Subd. 3. **RESERVE ACCOUNT.** The commissioner shall allocate money from the reserve account to counties that, during the current fiscal year, have met or exceeded the base level of expenditures for eligible chemical dependency services from local money. The commissioner shall establish the base level for fiscal year 1988 as the amount of local money used for eligible services in calendar year 1986. In later years, the base level must be increased in the same proportion as state appropriations to implement Laws 1986, chapter 394, sections 8 to 20, are increased. The base level must be decreased if the fund balance from which allocations are made under section 254B.02, subdivision 1, is decreased in later years. The local match rate for the reserve account is the same rate as applied to the initial allocation. Reserve account payments must not be included when calculating the county adjustments made according to subdivision 2. For counties providing medical assistance or general assistance medical care through managed care plans on January 1, 1996, the base year is fiscal year 1995. For counties beginning provision of managed care after January 1, 1996, the base year is the most recent fiscal year before enrollment in managed care begins. For counties providing managed care, the base level will be increased or decreased in proportion to changes in the fund balance from which allocations are made under subdivision 2, but will be additionally increased or decreased in proportion to the change in county adjusted population made in subdivision 1, paragraphs (b) and (c).

Sec. 17. Minnesota Statutes 1996, section 254B.03, subdivision 1, is amended to read:

Subdivision 1. **LOCAL AGENCY DUTIES.** (a) Every local agency shall provide chemical dependency services to persons residing within its jurisdiction who meet criteria established by the commissioner for placement in a chemical dependency residential or nonresidential treatment service. Chemical dependency money must be administered by the local agencies according to law and rules adopted by the commissioner under sections 14.001 to 14.69.

(b) In order to contain costs, the county board shall, with the approval of the commissioner of human services, select eligible vendors of chemical dependency services who can provide economical and appropriate treatment. Unless the local agency is a social services department directly administered by a county or human services board, the local agency shall not be an eligible vendor under section 254B.05. The commissioner may approve proposals from county boards to provide services in an economical manner or to control utilization, with safeguards to ensure that necessary services are provided. If a county implements a demonstration or experimental medical services funding plan, the commissioner shall transfer the money as appropriate. If a county selects a vendor lo-

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cated in another state, the county shall ensure that the vendor is in compliance with the rules governing licensure of programs located in the state.

(c) For the biennium ending June 30, 1999, the rate for vendors may not increase more than three percent above the rate approved on January 1, 1997.

(e) (d) A culturally specific vendor that provides assessments under a variance under Minnesota Rules, part 9530.6610, shall be allowed to provide assessment services to persons not covered by the variance.

Sec. 18. [256B.095] THREE-YEAR QUALITY ASSURANCE PILOT PROJECT ESTABLISHED.

Effective July 1, 1998, an alternative quality assurance licensing system pilot project for programs for persons with developmental disabilities is established in Dodge, Fillmore, Freeborn, Goodhue, Houston, Mower, Olmsted, Rice, Steele, Wabasha, and Winona counties for the purpose of improving the quality of services provided to persons with developmental disabilities. A county, at its option, may choose to have all programs for persons with developmental disabilities located within the county licensed under chapter 245A using standards determined under the alternative quality assurance licensing system pilot project or may continue regulation of these programs under the licensing system operated by the commissioner. The pilot project expires on June 30, 2001.

Sec. 19. [256B.0951] QUALITY ASSURANCE COMMISSION.

Subdivision 1. MEMBERSHIP. The region 10 quality assurance commission is established. The commission consists of at least 13 but not more than 20 members as follows: at least three but not more than five members representing advocacy organizations; at least three but not more than five members representing consumers, families, and their legal representatives; at least three but not more than five members representing service providers; and at least three but not more than five members representing counties. Initial membership of the commission shall be recruited and approved by the region 10 stakeholders group. Prior to approving the commission's membership, the stakeholders group shall provide to the commissioner a list of the membership in the stakeholders group, as of February 1, 1997, a brief summary of meetings held by the group since July 1, 1996, and copies of any materials prepared by the group for public distribution. The first commission shall establish membership guidelines for the transition and recruitment of membership for the commission's ongoing existence. Members of the commission who do not receive a salary or wages from an employer for time spent on commission duties may receive a per diem payment when performing commission duties and functions. All members may be reimbursed for expenses related to commission activities. Notwithstanding the provisions of section 15.059, subdivision 5, the commission expires on June 30, 2001.

Subd. 2. AUTHORITY TO HIRE STAFF. The commission may hire staff to perform the duties assigned in this section.

Subd. 3. COMMISSION DUTIES. (a) By October 1, 1997, the commission, in cooperation with the commissioners of human services and health, shall do the following: (1) approve an alternative quality assurance licensing system based on the evaluation of outcomes; (2) approve measurable outcomes in the areas of health and safety, consumer evaluation, education and training, providers, and systems that shall be evaluated dur-

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ing the alternative licensing process; and (3) establish variable licensure periods not to exceed three years based on outcomes achieved. For purposes of this subdivision, "outcome" means the behavior, action, or status of a person that can be observed or measured and can be reliably and validly determined.

(b) By January 15, 1998, the commission shall approve, in cooperation with the commissioner of human services, a training program for members of the quality assurance teams established under section 256B.0952, subdivision 4.

Subd. 4. COMMISSION'S AUTHORITY TO RECOMMEND VARIANCES OF LICENSING STANDARDS. The commission may recommend to the commissioners of human services and health variances from the standards governing licensure of programs for persons with developmental disabilities in order to improve the quality of services by implementing an alternative developmental disabilities licensing system if the commission determines that the alternative licensing system does not affect the health or safety of persons being served by the licensed program nor compromise the qualifications of staff to provide services.

Subd. 5. VARIANCE OF CERTAIN STANDARDS PROHIBITED. The safety standards, rights, or procedural protections under sections 245.825; 245.91 to 245.97; 245A.04, subdivisions 3, 3a, 3b, and 3c; 245A.09, subdivision 2, paragraph (c), clauses (2) and (5); 245A.12; 245A.13; 252.41, subdivision 9; 256B.092, subdivisions 1b, clause (7), and 10; 626.556; 626.557, and procedures for the monitoring of psychotropic medications shall not be varied under the alternative licensing system pilot project. The commission may make recommendations to the commissioners of human services and health or to the legislature regarding alternatives to or modifications of the rules referenced in this subdivision.

Subd. 6. PROGRESS REPORT. The commission shall submit a progress report to the legislature on pilot project development by January 15, 1998. The report shall include recommendations on any legislative changes necessary to improve cooperation between the commission and the commissioners of human services and health.

Sec. 20. [256B.0952] COUNTY DUTIES; QUALITY ASSURANCE TEAMS.

Subdivision 1. NOTIFICATION. By January 15, 1998, each affected county shall notify the commission and the commissioners of human services and health as to whether it chooses to implement on July 1, 1998, the alternative licensing system for the pilot project. A county that does not implement the alternative licensing system on July 1, 1998, may give notice to the commission and the commissioners by January 15, 1999, or January 15, 2000, that it will implement the alternative licensing system on the following July 1. A county that implements the alternative licensing system commits to participate until June 30, 2001.

Subd. 2. APPOINTMENT OF REVIEW COUNCIL; DUTIES OF COUNCIL. A county or group of counties that chooses to participate in the alternative licensing system shall appoint a quality assurance review council comprised of advocates; consumers, families, and their legal representatives; providers; and county staff. The council shall:

(1) review summary reports from quality assurance team reviews and make recommendations to counties regarding program licensure;

(2) make recommendations to the commission regarding the alternative licensing system and quality assurance process; and

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(3) resolve complaints between the quality assurance teams, counties, providers, and consumers, families, and their legal representatives.

Subd. 3. NOTICE TO COMMISSIONERS. The county, based on reports from quality assurance managers and recommendations from the quality assurance review council regarding the findings of quality assurance teams, shall notify the commissioners of human services and health regarding whether facilities, programs, or services have met the outcome standards for licensure and are eligible for payment.

Subd. 4. APPOINTMENT OF QUALITY ASSURANCE MANAGER. (a) A county or group of counties that chooses to participate in the alternative licensing system shall designate a quality assurance manager and shall establish quality assurance teams in accordance with subdivision 5. The manager shall recruit, train, and assign duties to the quality assurance team members. In assigning team members to conduct the quality assurance process at a facility, program, or service, the manager shall take into account the size of the service provider, the number of services to be reviewed, the skills necessary for team members to complete the process, and other relevant factors. The manager shall ensure that no team member has a financial, personal, or family relationship with the facility, program, or service being reviewed or with any clients of the facility, program, or service.

(b) Quality assurance teams shall report the findings of their quality assurance reviews to the quality assurance manager. The quality assurance manager shall provide the report from the quality assurance team to the county and commissioners of human services and health and a summary of the report to the quality assurance review council.

Subd. 5. QUALITY ASSURANCE TEAMS. Quality assurance teams shall be comprised of county staff; providers; consumers, families, and their legal representatives; members of advocacy organizations; and other involved community members. Team members must satisfactorily complete the training program approved by the commission and must demonstrate performance-based competency. Team members are not considered to be county employees for purposes of workers' compensation, unemployment compensation, or state retirement laws solely on the basis of participation on a quality assurance team. The county may pay a per diem to team members who do not receive a salary or wages from an employer for time spent on alternative quality assurance process matters. All team members may be reimbursed for expenses related to their participation in the alternative process.

Subd. 6. LICENSING FUNCTIONS. Participating counties shall perform licensing functions and activities as delegated by the commissioner of human services in accordance with section 245A.16.

Sec. 21. [256B.0953] QUALITY ASSURANCE PROCESS.

Subdivision 1. PROCESS COMPONENTS. (a) The quality assurance licensing process consists of an evaluation by a quality assurance team of the facility, program, or service according to outcome-based measurements. The process must include an evaluation of a random sample of program consumers. The sample must be representative of each service provided. The sample size must be at least five percent of consumers but not less than three consumers.

(b) All consumers must be given the opportunity to be included in the quality assurance process in addition to those chosen for the random sample.

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Subd. 2. **LICENSURE PERIODS.** (a) In order to be licensed under the alternative quality assurance process, a facility, program, or service must satisfy the health and safety outcomes approved for the pilot project.

(b) Licensure shall be approved for periods of one to three years for a facility, program, or service that satisfies the requirements of paragraph (a) and achieves the outcome measurements in the categories of consumer evaluation, education and training, providers, and systems.

Subd. 3. **APPEALS PROCESS.** A facility, program, or service may contest a licensing decision of the quality assurance team as permitted under chapter 245A.

Sec. 22. [256B.0954] CERTAIN PERSONS DEFINED AS MANDATED REPORTERS.

Members of the quality assurance commission established under section 256B.0951, members of quality assurance review councils established under section 256B.0952, quality assurance managers appointed under section 256B.0952, and members of quality assurance teams established under section 256B.0952 are mandated reporters as that term is defined in sections 626.556, subdivision 3, and 626.5572, subdivision 16.

Sec. 23. [256B.0955] DUTIES OF THE COMMISSIONER OF HUMAN SERVICES.

(a) Effective July 1, 1998, the commissioner of human services shall delegate authority to perform licensing functions and activities, in accordance with section 245A.16, to counties participating in the alternative licensing system. The commissioner shall not license or reimburse a facility, program, or service for persons with developmental disabilities in a county that participates in the alternative licensing system if the commissioner has received from the appropriate county notification that the facility, program, or service has been reviewed by a quality assurance team and has failed to qualify for licensure.

(b) The commissioner may conduct random licensing inspections based on outcomes adopted under section 256B.0951 at facilities, programs, and services governed by the alternative licensing system. The role of such random inspections shall be to verify that the alternative licensing system protects the safety and well-being of consumers and maintains the availability of high-quality services for persons with developmental disabilities.

(c) The commissioner shall provide technical assistance and support or training to the alternative licensing system pilot project.

(d) The commissioner and the commission shall establish an ongoing evaluation process for the alternative licensing system.

(e) The commissioner shall contract with an independent entity to conduct a financial review of the alternative licensing system, including an evaluation of possible budgetary savings within the department of human services and the department of health as a result of implementation of the alternative quality assurance licensing system. This review must be completed by December 15, 2000.

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(f) The commissioner and the commission shall submit a report to the legislature by January 15, 2001, on the results of the evaluation process of the alternative licensing system, a summary of the results of the independent financial review, and a recommendation on whether the pilot project should be extended beyond June 30, 2001.

Sec. 24. Minnesota Statutes 1996, section 256B.49, subdivision 1, is amended to read:

Subdivision 1. **STUDY; WAIVER APPLICATION.** The commissioner shall authorize a study to assess the need for home and community-based waivers for chronically ill children who have been and will continue to be hospitalized without a waiver, and for disabled individuals under the age of 65 who are likely to reside in an acute care or nursing home facility in the absence of a waiver. If a need for these waivers can be demonstrated, the commissioner shall apply for federal waivers necessary to secure, to the extent allowed by law, federal participation under United States Code, title 42, sections 1396-1396p, as amended through December 31, 1982, for the provision of home and community-based services to chronically ill children who, in the absence of such a waiver, would remain in an acute care setting, and to disabled individuals under the age of 65 who, in the absence of a waiver, would reside in an acute care or nursing home setting. If the need is demonstrated, the commissioner shall request a waiver under United States Code, title 42, sections 1396-1396p, to allow medicaid eligibility for blind or disabled children with ineligible parents where income deemed from the parents would cause the applicant to be ineligible for supplemental security income if the family shared a household and to furnish necessary services in the home or community to disabled individuals under the age of 65 who would be eligible for medicaid if institutionalized in an acute care or nursing home setting. These waivers are requested to furnish necessary services in the home and community setting to children or disabled adults under age 65 who are medicaid eligible when institutionalized in an acute care or nursing home setting. The commissioner shall assure that the cost of home and community-based care will not be more than the cost of care if the eligible child or disabled adult under age 65 were to remain institutionalized. The average monthly limit for the cost of home and community-based services to a community alternative care waiver client, determined on a 12-month basis, shall not exceed the statewide average medical assistance adjusted base year operating cost for nursing and accommodation services under sections 256.9685 to 256.969 for the diagnostic category to which the waiver client would be assigned except the admission and outlier rates shall be converted to an overall per diem. The average monthly limit for the cost of services to a traumatic brain injury neurobehavioral hospital waiver client, determined on a 12-month basis, shall not exceed the statewide average medical assistance adjusted base-year operating cost for nursing and accommodation services of neurobehavioral rehabilitation programs in Medicare designated long-term hospitals under sections 256.9685 to 256.969. The following costs must be included in determining the total average monthly costs for a waiver client:

- (1) cost of all waived services; and
- (2) cost of skilled nursing, private duty nursing, home health aide, and personal care services reimbursable by medical assistance.

The commissioner of human services shall seek federal waivers as necessary to implement the average monthly limit. The commissioner shall seek to amend the federal waivers obtained under this section to apply criteria to protect against spousal impover-

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ishment as authorized under United States Code, title 42, section 1396r-5, and as implemented in sections 256B.0575, 256B.058, and 256B.059, except that the amendment shall seek to add to the personal needs allowance permitted in section 256B.0575, an amount equivalent to the group residential housing rate as set by section 256I.03, subdivision 5.

Sec. 25. Laws 1995, chapter 207, article 8, section 41, subdivision 2, is amended to read:

Subd. 2. **PROGRAM DESIGN AND IMPLEMENTATION.** (a) The pilot projects shall be established to design, plan, and improve the mental health service delivery system for adults with serious and persistent mental illness that would:

(1) provide an expanded array of services from which clients can choose services appropriate to their needs;

(2) be based on purchasing strategies that improve access and coordinate services without cost shifting;

(3) incorporate existing state facilities and resources into the community mental health infrastructure through creative partnerships with local vendors; and

(4) utilize existing categorical funding streams and reimbursement sources in combined and creative ways, except appropriations to regional treatment centers and all funds that are attributable to the operation of state-operated services are excluded unless appropriated specifically by the legislature for a purpose consistent with this section.

(b) All projects funded by January 1, 1997, must complete their the planning phase and be operational by June 30, 1997; all projects funded by January 1, 1998, must be operational by June 30, 1998.

Sec. 26. NAMES REQUIRED ON GRAVES.

Unless the individual's family indicates otherwise to the appropriate authority, the commissioner of human services with assistance of the communities in which regional treatment centers are located and in consultation with the state council on disability shall replace numbers with the names of individuals whose graves are located at regional treatment centers operated by the commissioner or formerly operated by the commissioner. The commissioner and the state council on disability shall develop a plan to accomplish this systematically over a five-year period. The individual names may be placed on a central marker or memorial for a designated cemetery.

Sec. 27. WAIVER AMENDMENT.

By July 15, 1997, the commissioner of human services shall submit proposed amendments to the Health Care Financing Administration for changes in the home and community-based waiver for persons with mental retardation or a related condition that maximize the number of persons served within the limits of appropriations and divert persons from institutional placement. The commissioner shall monitor county utilization of allocated resources and, as appropriate, reassign resources not utilized. Priority consideration for the reassignment of resources shall be given to counties who enter into written agreements with other counties to jointly plan, request resources, and develop services for persons with mental retardation or a related condition who are screened and

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waiting for waived services. In addition to the priorities listed in Minnesota Rules, part 9525.1880, the commissioner shall also give priority consideration to persons whose living situations are unstable due to the age or incapacity of the primary caregiver. The commissioner shall report to the chairs of the senate health and family security budget division and the house health and human services finance division by March 1, 1998, on the results of the waiver amendment, the authorization and utilization of waived services for persons with mental retardation or a related condition, including crisis respite services, plans to increase the number of counties working together, additional persons served by the reassignment of resources, and options which would allow an increased number of persons to be served within the existing appropriation.

Sec. 28. REQUEST FOR WAIVER.

By January 1, 1998, the commissioner of human services or health shall request a waiver from the federal Department of Health and Human Services to permit the use of the alternative quality assurance system to license and certify intermediate care facilities for persons with mental retardation.

Sec. 29. REPEALER.

Minnesota Statutes 1996, sections 252.32, subdivision 4; and 256B.501, subdivision 5c, are repealed.

Sec. 30. EFFECTIVE DATE.

Sections 2, 3, 6, 9, 15, and 27 are effective the day following final enactment.

ARTICLE 8

DEMONSTRATION PROJECT FOR PERSONS WITH DISABILITIES

Section 1. [256B.77] COORDINATED SERVICE DELIVERY SYSTEM FOR PEOPLE WITH DISABILITIES.

Subdivision 1. DEMONSTRATION PROJECT FOR PEOPLE WITH DISABILITIES. (a) The commissioner of human services, in cooperation with county authorities, shall develop and implement a demonstration project to create a coordinated service delivery system in which the full medical assistance benefit set for disabled persons eligible for medical assistance is provided and funded on a capitated basis. The demonstration period shall be a minimum of three years.

(b) Each demonstration site shall, under county authority, establish a local group to assist the commissioner in planning, designing, implementing, and evaluating the coordinated service delivery system in their area. This local group shall include county agencies, providers, consumers, family members, advocates, tribal governments, a local representative of labor, and advocacy organizations, and may include health plan companies. Consumers, families, and consumer representatives must be involved in the planning, implementation, and evaluation processes for the demonstration project.

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Subd. 2. DEFINITIONS. For the purposes of this section, the following terms have the meanings given:

(a) "Acute care" means hospital, physician, and other health and dental services covered in the medical assistance benefit set that are not specified in the intergovernmental contract or service delivery contract as continuing care services.

(b) "Additional services" means services developed and provided through the county administrative entity or service delivery organization, which are in addition to the medical assistance benefit set.

(c) "Advocate" means an individual who:

(1) has been authorized by the enrollee or the enrollee's legal representative to help the enrollee understand information presented and to speak on the enrollee's behalf, based on directions and decisions by the enrollee or the enrollee's legal representative; and

(2) represents only the enrollee and the enrollee's legal representative.

(d) "Advocacy organization" means an organization whose primary purpose is to advocate for the needs of persons with disabilities.

(e) "Alternative services" means services developed and provided through the county administrative entity or service delivery organization that are not part of the medical assistance benefit set.

(f) "Commissioner" means the commissioner of human services.

(g) "Continuing care" means any services, including long-term support services, covered in the medical assistance benefit set that are not specified in the intergovernmental contract or service delivery contract as acute care.

(h) "County administrative entity" means the county administrative structure defined and designated by the county authority to implement the demonstration project under the direction of the county authority.

(i) "County authority" means the board of county commissioners or a single entity representing multiple boards of county commissioners.

(j) "Demonstration period" means the period of time during which county administrative entities or service delivery organizations will provide services to enrollees.

(k) "Demonstration site" means the geographic area in which eligible individuals may be included in the demonstration project.

(l) "Department" means the department of human services.

(m) "Emergency" means a condition that if not immediately treated could cause a person serious physical or mental disability, continuation of severe pain, or death. Labor and delivery is an emergency if it meets this definition.

(n) "Enrollee" means an eligible individual who is enrolled in the demonstration project.

(o) "Informed choice" means a voluntary decision made by the enrollee or the enrollee's legal representative, after becoming familiar with the alternatives, and having

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been provided sufficient relevant written and oral information at an appropriate comprehension level and in a manner consistent with the enrollee's or the enrollee's legal representative's primary mode of communication.

(p) "Informed consent" means the written agreement, or an agreement as documented in the record, by a competent enrollee, or an enrollee's legal representative, who:

- (1) has the capacity to make reasoned decisions based on relevant information;
- (2) is making decisions voluntarily and without coercion; and
- (3) has knowledge to make informed choice.

(q) "Intergovernmental contract" means the agreement between the commissioner and the county authority.

(r) "Legal representative" means an individual who is legally authorized to provide informed consent or make informed choices on a person's behalf. A legal representative may be one of the following individuals:

- (1) the parent of a minor who has not been emancipated;
- (2) a court-appointed guardian or conservator of a person who is 18 years of age or older, in areas where legally authorized to make decisions;
- (3) a guardian ad litem or special guardian or conservator, in areas where legally authorized to make decisions;
- (4) legal counsel if so specified by the person; or
- (5) any other legally authorized individual.

The county administrative entity is prohibited from acting as legal representative for any enrollee, as long as the provisions of subdivision 15 are funded.

(s) "Life domain areas" include, but are not limited to: home, family, education, employment, social environment, psychological and emotional health, self-care, independence, physical health, need for legal representation and legal needs, financial needs, safety, and cultural identification and spiritual needs.

(t) "Medical assistance benefit set" means the services covered under this chapter and accompanying rules which are provided according to the definition of medical necessity in Minnesota Rules, part 9505.0175, subpart 25.

(u) "Outcome" means the targeted behavior, action, or status of the enrollee that can be observed and or measured.

(v) "Personal support plan" means a document agreed to and signed by the enrollee and the enrollee's legal representative, if any, which describes:

- (1) the assessed needs and strengths of the enrollee;
- (2) the outcomes chosen by the enrollee or their legal representative;
- (3) the amount, type, setting, start date, duration, and frequency of services and supports authorized by the county administrative entity or service delivery organization to achieve the chosen outcomes;

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(4) a description of needed services and supports that are not the responsibility of the county administrative entity or service delivery organization and plans for addressing those needs;

(5) plans for referring to and coordinating between all agencies or individuals providing needed services and supports;

(6) the use of regulated treatment; and

(7) the transition of a child to the adult service system.

(w) "Regulated treatment" means any behaviorally altering medication of any classification or any aversive or deprivation procedure as defined in rules or statutes applicable to eligible individuals.

(x) "Service delivery contract" means the agreement between the commissioner or the county authority and the service delivery organization in those areas in which the county authority has provided written approval.

(y) "Service delivery organization" means an entity that is licensed as a health maintenance organization under chapter 62D or a community integrated service network under chapter 62N and is under contract with the commissioner or a county authority to participate in the demonstration project. If authorized in contract by the commissioner or the county authority, a service delivery organization participating in the demonstration project shall have the duties, responsibilities, and obligations defined under subdivisions 8, 9, 18, and 19.

(z) "Urgent situation" means circumstances in which care is needed as soon as possible, usually with 24 hours, to protect the health of an enrollee.

Subd. 3. ASSURANCES TO THE COMMISSIONER OF HEALTH. A county authority that elects to participate in a demonstration project for people with disabilities under this section is not required to obtain a certificate of authority under chapter 62D or 62N. A county authority that elects to participate in a demonstration project for people with disabilities under this section must assure the commissioner of health that the requirements of chapters 62D and 62N are met. All enforcement and rulemaking powers available under chapters 62D and 62N are granted to the commissioner of health with respect to the county authorities that contract with the commissioner to purchase services in a demonstration project for people with disabilities under this section.

Subd. 4. FEDERAL WAIVERS. The commissioner, in consultation with county authorities, shall request any authority from the United States Department of Health and Human Services that is necessary to implement the demonstration project under the medical assistance program; and authority to combine Medicaid and Medicare funding for service delivery to eligible individuals who are also eligible for Medicare, only if this authority does not preclude county authority participation under the waiver. Implementation of these programs may begin without authority to include medicare funding. The commissioner may authorize county authorities to begin enrollment of eligible individuals upon federal approval but no earlier than July 1, 1998.

Subd. 5. DEMONSTRATION SITES. The commissioner shall designate up to two demonstration sites with the approval of the county authority. Demonstration sites may include one county or a multicounty group. At least one of the sites shall implement a

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model specifically addressing the needs of eligible individuals with physical disabilities. By February 1, 1998, the commissioner and the county authorities shall submit to the chairs of the senate committee on health and family security and the house committee on health and human services a phased enrollment plan to ensure an orderly transition which protects the health and safety of enrollees and ensures continuity of services.

Subd. 6. RESPONSIBILITIES OF THE COUNTY AUTHORITY. (a) The commissioner may execute an intergovernmental contract with any county authority that demonstrates the ability to arrange for and coordinate services for enrollees covered under this section according to the terms and conditions specified by the commissioner. With the written consent of the county authority, the commissioner may issue a request for proposals for service delivery organizations to provide portions of the medical assistance benefit set not contracted for by the county authority. County authorities that do not contract for the full medical assistance benefit set must ensure coordination with the entities responsible for the remainder of the covered services.

(b) No less than 90 days before the intergovernmental contract is executed, the county authority shall submit to the commissioner an initial proposal on how it will address the areas listed in this subdivision and subdivisions 1, 7, 8, 9, 12, 18, and 19. The county authority shall submit to the commissioner annual reports describing its progress in addressing these areas.

(c) Each county authority shall develop policies to address conflicts of interest, including public guardianship and representative payee issues.

(d) Each county authority shall annually evaluate the effectiveness of the service coordination provided according to subdivision 12 and shall take remedial or corrective action if the service coordination does not fulfill the requirements of that subdivision.

Subd. 7. ELIGIBILITY AND ENROLLMENT. The commissioner, in consultation with the county authority, shall develop a process for enrolling eligible individuals in the demonstration project. A county or counties may limit enrollment in the demonstration project to one or more of the disability populations described in subdivision 7a, paragraph (b). Enrollment into county administrative entities and service delivery organizations shall be conducted according to the terms of the federal waiver. Enrollment of eligible individuals under the demonstration project may be phased in with approval of the commissioner. The commissioner shall ensure that eligibility for medical assistance and enrollment for the person are determined by individuals outside of the county administrative entity.

Subd. 7a. ELIGIBLE INDIVIDUALS. (a) Persons are eligible for the demonstration project as provided in this subdivision.

(b) "Eligible individuals" means those persons living in the demonstration site who are eligible for medical assistance and are disabled based on a disability determination under section 256B.055, subdivisions 7 and 12, or who are eligible for medical assistance and have been diagnosed as having:

(1) serious and persistent mental illness as defined in section 245.462, subdivision 20;

(2) severe emotional disturbance as defined in section 245.487, subdivision 6; or

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(3) mental retardation or a related condition as defined in section 252.27, subdivision 1a.

Other individuals may be included at the option of the county authority based on agreement with the commissioner.

(c) Eligible individuals residing on a federally recognized Indian reservation may be excluded from participation in the demonstration project at the discretion of the tribal government based on agreement with the commissioner, in consultation with the county authority.

(d) Eligible individuals include individuals in excluded time status, as defined in chapter 256G. Enrollees in excluded time at the time of enrollment shall remain in excluded time status as long as they live in the demonstration site and shall be eligible for 90 days after placement outside the demonstration site if they move to excluded time status in a county within Minnesota other than their county of financial responsibility.

(e) A person who is a sexual psychopathic personality as defined in section 253B.02, subdivision 18a, or a sexually dangerous person as defined in section 253B.02, subdivision 18b, is excluded from enrollment in the demonstration project.

Subd. 8. RESPONSIBILITIES OF THE COUNTY ADMINISTRATIVE ENTITY. (a) The county administrative entity shall meet the requirements of this subdivision, unless the county authority or the commissioner, with written approval of the county authority, enters into a service delivery contract with a service delivery organization for any or all of the requirements contained in this subdivision.

(b) The county administrative entity shall enroll eligible individuals regardless of health or disability status.

(c) The county administrative entity shall provide all enrollees timely access to the medical assistance benefit set. Alternative services and additional services are available to enrollees at the option of the county administrative entity and may be provided if specified in the personal support plan. County authorities are not required to seek prior authorization from the department as required by the laws and rules governing medical assistance.

(d) The county administrative entity shall cover necessary services as a result of an emergency without prior authorization, even if the services were rendered outside of the provider network.

(e) The county administrative entity shall authorize necessary and appropriate services when needed and requested by the enrollee or the enrollee's legal representative in response to an urgent situation. Enrollees shall have 24-hour access to urgent care services coordinated by experienced disability providers who have information about enrollees' needs and conditions.

(f) The county administrative entity shall accept the capitation payment from the commissioner in return for the provision of services for enrollees.

(g) The county administrative entity shall maintain internal grievance and complaint procedures, including an expedited informal complaint process in which the county administrative entity must respond to verbal complaints within ten calendar days,

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and a formal grievance process, in which the county administrative entity must respond to written complaints within 30 calendar days.

(h) The county administrative entity shall provide a certificate of coverage, upon enrollment, to each enrollee and the enrollee's legal representative, if any, which describes the benefits covered by the county administrative entity, any limitations on those benefits, and information about providers and the service delivery network. This information must also be made available to prospective enrollees. This certificate must be approved by the commissioner.

(i) The county administrative entity shall present evidence of an expedited process to approve exceptions to benefits, provider network restrictions, and other plan limitations under appropriate circumstances.

(j) The county administrative entity shall provide enrollees or their legal representatives with written notice of their appeal rights under subdivision 16, and of ombudsman and advocacy programs under subdivisions 13 and 14, at the following times: upon enrollment, upon submission of a written complaint, when a service is reduced, denied, or terminated, or when renewal of authorization for ongoing service is refused.

(k) The county administrative entity shall determine immediate needs, including services, support, and assessments, within 30 calendar days of enrollment, or within a shorter time frame if specified in the intergovernmental contract.

(l) The county administrative entity shall assess the need for services of new enrollees within 60 calendar days of enrollment, or within a shorter time frame if specified in the intergovernmental contract, and periodically reassess the need for services for all enrollees.

(m) The county administrative entity shall ensure the development of a personal support plan for each person within 60 calendar days of enrollment, or within a shorter time frame if specified in the intergovernmental contract, unless otherwise agreed to by the enrollee and the enrollee's legal representative, if any. Until a personal support plan is developed and agreed to by the enrollee, enrollees must have access to the same amount, type, setting, duration, and frequency of covered services that they had at the time of enrollment unless other covered services are needed. For an enrollee who is not receiving covered services at the time of enrollment and for enrollees whose personal support plan is being revised, access to the medical assistance benefit set must be assured until a personal support plan is developed or revised. The personal support plan must be based on choices, preferences, and assessed needs and strengths of the enrollee. The service coordinator shall develop the personal support plan, in consultation with the enrollee or the enrollee's legal representative and other individuals requested by the enrollee. The personal support plan must be updated as needed or as requested by the enrollee. Enrollees may choose not to have a personal support plan.

(n) The county administrative entity shall ensure timely authorization, arrangement, and continuity of needed and covered supports and services.

(o) The county administrative entity shall offer service coordination that fulfills the responsibilities under subdivision 12 and is appropriate to the enrollee's needs, choices, and preferences, including a choice of service coordinator.

(p) The county administrative entity shall contract with schools and other agencies as appropriate to provide otherwise covered medically necessary medical assistance ser-

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vices as described in an enrollee's individual family support plan, as described in section 120.1701, or individual education plan, as described in chapter 120.

(q) The county administrative entity shall develop and implement strategies, based on consultation with affected groups, to respect diversity and ensure culturally competent service delivery in a manner that promotes the physical, social, psychological, and spiritual well-being of enrollees and preserves the dignity of individuals, families, and their communities.

(r) When an enrollee changes county authorities, county administrative entities shall ensure coordination with the entity that is assuming responsibility for administering the medical assistance benefit set to ensure continuity of supports and services for the enrollee.

(s) The county administrative entity shall comply with additional requirements as specified in the intergovernmental contract.

(t) To the extent that alternatives are approved under subdivision 17, county administrative entities must provide for the health and safety of enrollees and protect the rights to privacy and to provide informed consent.

Subd. 9. CONSUMER CHOICE AND SAFEGUARDS. (a) The commissioner may require all eligible individuals to obtain services covered under this chapter through county authorities. Enrollees shall be given choices among a range of available providers with expertise in serving persons of their age and with their category of disability. If the county authority is also a provider of services covered under the demonstration project, other than service coordination, the enrollee shall be given the choice of at least one other provider of that service. The commissioner shall ensure that all enrollees have continued access to medically necessary covered services.

(b) The commissioner must ensure that a set of enrollee safeguards in the categories of access, choice, comprehensive benefits, access to specialist care, disclosure of financial incentives to providers, prohibition of exclusive provider contracting and gag clauses, legal representation, guardianship, representative payee, quality, rights and appeals, privacy, data collection, and confidentiality are in place prior to enrollment of eligible individuals.

(c) If multiple service delivery organizations are offered for acute or continuing care within a demonstration site, enrollees shall be given a choice of these organizations. A choice is required if the county authority operates its own health maintenance organization, community integrated service network, or similar plan. Enrollees shall be given opportunities to change enrollment in these organizations within 12 months following initial enrollment into the demonstration project and shall also be offered an annual open enrollment period, during which they are permitted to change their service delivery organization.

(d) Enrollees shall have the option to change their primary care provider once per month.

(e) The commissioner may waive the choice of provider requirements in paragraph (a) or the choice of service delivery organization requirements in paragraph (c) if the county authority can demonstrate that, despite reasonable efforts, no other provider of the service or service delivery organization can be made available within the cost and quality requirements of the demonstration project.

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Subd. 10. CAPITATION PAYMENT. (a) The commissioner shall pay a capitation payment to the county authority and, when applicable under subdivision 6, paragraph (a), to the service delivery organization for each medical assistance eligible enrollee. The commissioner shall develop capitation payment rates for the initial contract period for each demonstration site in consultation with an independent actuary, to ensure that the cost of services under the demonstration project does not exceed the estimated cost for medical assistance services for the covered population under the fee-for-service system for the demonstration period. For each year of the demonstration project, the capitation payment rate shall be based on 96 percent of the projected per person costs that would otherwise have been paid under medical assistance fee-for-service during each of those years. Rates shall be adjusted within the limits of the available risk adjustment technology, as mandated by section 62Q.03. In addition, the commissioner shall implement appropriate risk and savings sharing provisions with county administrative entities and, when applicable under subdivision 6, paragraph (a), service delivery organizations within the projected budget limits. Any savings beyond those allowed for the county authority, county administrative entity, or service delivery organization shall be first used to meet the unmet needs of eligible individuals. Payments to providers participating in the project are exempt from the requirements of sections 256.966 and 256B.03, subdivision 2.

(b) The commissioner shall monitor and evaluate annually the effect of the discount on consumers, the county authority, and providers of disability services. Findings shall be reported and recommendations made, as appropriate, to ensure that the discount effect does not adversely affect the ability of the county administrative entity or providers of services to provide appropriate services to eligible individuals, and does not result in cost shifting of eligible individuals to the county authority.

Subd. 11. INTEGRATION OF FUNDING SOURCES. The county authority may integrate other local, state, and federal funding sources with medical assistance funding. The commissioner's approval is required for integration of state and federal funds but not for local funds. During the demonstration project period, county authorities must maintain the level of local funds expended during the previous calendar year for populations covered in the demonstration project. Excluding the state share of Medicaid payments, state appropriations for state-operated services shall not be integrated unless specifically approved by the legislature. The commissioner may approve integration of other state and federal funding if the intergovernmental contract includes assurances that the people who would have been served by these funds will receive comparable or better services. The commissioner may withdraw approval for integration of state and federal funds if the county authority does not comply with these assurances. If the county authority chooses to integrate funding, it must comply with the reporting requirements of the commissioner, as specified in the intergovernmental contract, to account for federal and state Medicaid expenditures and expenditures of local funds. The commissioner, upon the request and concurrence of a county authority, may transfer state grant funds that would otherwise be made available to the county authority to provide continuing care for enrollees to the medical assistance account and, within the limits of federal authority and available federal funding, the commissioner shall adjust the capitation based on the amount of this transfer.

Subd. 12. SERVICE COORDINATION. (a) For purposes of this section, "service coordinator" means an individual selected by the enrollee or the enrollee's legal repre-

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sentative and authorized by the county administrative entity or service delivery organization to work in partnership with the enrollee to develop, coordinate, and in some instances, provide supports and services identified in the personal support plan. Service coordinators may only provide services and supports if the enrollee is informed of potential conflicts of interest, is given alternatives, and gives informed consent. Eligible service coordinators are individuals age 18 or older who meet the qualifications as described in paragraph (b). Enrollees, their legal representatives, or their advocates are eligible to be service coordinators if they have the capabilities to perform the activities and functions outlined in paragraph (b). Providers licensed under chapter 245A to provide residential services, or providers who are providing residential services covered under the group residential housing program may not act as service coordinator for enrollees for whom they provide residential services. This does not apply to providers of short-term detoxification services. Each county administrative entity or service delivery organization may develop further criteria for eligible vendors of service coordination during the demonstration period and shall determine whom it contracts with or employs to provide service coordination. County administrative entities and service delivery organizations may pay enrollees or their advocates or legal representatives for service coordination activities.

(b) The service coordinator shall act as a facilitator, working in partnership with the enrollee to ensure that their needs are identified and addressed. The level of involvement of the service coordinator shall depend on the needs and desires of the enrollee. The service coordinator shall have the knowledge, skills, and abilities to, and is responsible for:

(1) arranging for an initial assessment, and periodic reassessment as necessary, of supports and services based on the enrollee's strengths, needs, choices, and preferences in life domain areas;

(2) developing and updating the personal support plan based on relevant ongoing assessment;

(3) arranging for and coordinating the provisions of supports and services, including knowledgeable and skilled specialty services and prevention and early intervention services, within the limitations negotiated with the county administrative entity or service delivery organization;

(4) assisting the enrollee and the enrollee's legal representative, if any, to maximize informed choice of and control over services and supports and to exercise the enrollee's rights and advocate on behalf of the enrollee;

(5) monitoring the progress toward achieving the enrollee's outcomes in order to evaluate and adjust the timeliness and adequacy of the implementation of the personal support plan;

(6) facilitating meetings and effectively collaborating with a variety of agencies and persons, including attending individual family service plan and individual education plan meetings when requested by the enrollee or the enrollee's legal representative;

(7) soliciting and analyzing relevant information;

(8) communicating effectively with the enrollee and with other individuals participating in the enrollee's plan;

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(9) educating and communicating effectively with the enrollee about good health care practices and risk to the enrollee's health with certain behaviors;

(10) having knowledge of basic enrollee protection requirements, including data privacy;

(11) informing, educating, and assisting the enrollee in identifying available service providers and accessing needed resources and services beyond the limitations of the medical assistance benefit set covered services; and

(12) providing other services as identified in the personal support plan.

(c) For the demonstration project, the qualifications and standards for service coordination in this section shall replace comparable existing provisions of existing statutes and rules governing case management for eligible individuals.

(d) The provisions of this subdivision apply only to the demonstration sites that begin implementation on July 1, 1998.

Subd. 13. OMBUDSMAN. Enrollees shall have access to ombudsman services established in section 256B.031, subdivision 6, and advocacy services provided by the ombudsman for mental health and mental retardation established in sections 245.91 to 245.97. The managed care ombudsman and the ombudsman for mental health and mental retardation shall coordinate services provided to avoid duplication of services. For purposes of the demonstration project, the powers and responsibilities of the office of the ombudsman for mental health and mental retardation, as provided in sections 245.91 to 245.97 are expanded to include all eligible individuals, health plan companies, agencies, and providers participating in the demonstration project.

Subd. 14. EXTERNAL ADVOCACY. In addition to ombudsman services, enrollees shall have access to advocacy services on a local or regional basis. The purpose of external advocacy includes providing individual advocacy services for enrollees who have complaints or grievances with the county administrative entity, service delivery organization, or a service provider; assisting enrollees to understand the service delivery system and select providers and, if applicable, a service delivery organization; and understand and exercise their rights as an enrollee. External advocacy contractors must demonstrate that they have the expertise to advocate on behalf of all categories of eligible individuals and are independent of the commissioner, county authority, county administrative entity, service delivery organization, or any service provider within the demonstration project.

These advocacy services shall be provided through the ombudsman for mental health and mental retardation directly, or under contract with private, nonprofit organizations, with funding provided through the demonstration project. The funding shall be provided annually to the ombudsman's office based on 0.1 percent of the projected per person costs that would otherwise have been paid under medical assistance fee-for-service during those years. Funding for external advocacy shall be provided for each year of the demonstration period. This funding is in addition to the capitation payment available under subdivision 10.

Subd. 15. PUBLIC GUARDIANSHIP ALTERNATIVES. Each county authority with enrollees under public guardianship shall develop a plan to discharge all those public guardianships and establish appropriate private alternatives during the demonstration period.

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The commissioner shall provide county authorities with funding for public guardianship alternatives during the first year of the demonstration project based on a proposal to establish private alternatives for a specific number of enrollees under public guardianship. Funding in subsequent years shall be based on the county authority's performance in achieving discharges of public guardianship and establishing appropriate alternatives. The commissioner may establish fiscal incentives to encourage county activity in this area. For each year of the demonstration period, an appropriation is available to the commissioner based on 0.2 percent of the projected per person costs that would otherwise have been paid under medical assistance fee-for-service for that year. This funding is in addition to the capitation payment available under subdivision 10.

Subd. 16. **APPEALS.** Enrollees have the appeal rights specified in section 256.045. Enrollees may request the conciliation process as outlined under section 256.045, subdivision 4a. If an enrollee appeals in writing to the state agency on or before the latter of the effective day of the proposed action or the tenth day after they have received the decision of the county administrative entity or service delivery organization to reduce, suspend, terminate, or deny continued authorization for ongoing services which the enrollee had been receiving, the county administrative entity or service delivery organization must continue to authorize services at a level equal to the level it previously authorized until the state agency renders its decision.

Subd. 17. **APPROVAL OF ALTERNATIVES.** The commissioner may approve alternatives to administrative rules if the commissioner determines that appropriate alternative measures are in place to protect the health, safety, and rights of enrollees and to assure that services are of sufficient quality to produce the outcomes described in the personal support plans. Prior approved waivers, if needed by the demonstration project, shall be extended. The commissioner shall not waive the rights or procedural protections under sections 245.825; 245.91 to 245.97; 252.41, subdivision 9; 256B.092, subdivision 10; 626.556; and 626.557; or procedures for the monitoring of psychotropic medications. Prohibited practices as defined in statutes and rules governing service delivery to eligible individuals are applicable to services delivered under this demonstration project.

Subd. 18. **REPORTING.** Each county authority and service delivery organization, and their contracted providers, shall submit information as required by the commissioner in the intergovernmental contract or service delivery contract, including information about complaints, appeals, outcomes, costs, including spending on services, service utilization, identified unmet needs, services provided, rates of out-of-home placement of children, institutionalization, commitments, number of public guardianships discharged and alternatives to public guardianship established, the use of emergency services, and enrollee satisfaction. This information must be made available to enrollees and the public. A county authority under an intergovernmental contract and a service delivery organization under a service delivery contract to provide services must provide the most current listing of the providers who are participating in the plan. This listing must be provided to enrollees and be made available to the public. The commissioner, county authorities, and service delivery organizations shall also made all contracts and subcontracts related to the demonstration project available to the public.

Subd. 19. **QUALITY MANAGEMENT AND EVALUATION.** County authorities and service delivery organizations participating in this demonstration project shall provide information to the department as specified in the intergovernmental contract or

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service delivery contract for the purpose of project evaluation. This information may include both process and outcome evaluation measures across areas that shall include enrollee satisfaction, service delivery, service coordination, individual outcomes, and costs. An independent evaluation of each demonstration site shall be conducted prior to expansion of the demonstration project to other sites.

Subd. 20. LIMITATION ON REIMBURSEMENT. The county administrative entity or service delivery organization may limit any reimbursement to providers not employed by or under contract with the county administrative entity or service delivery organization to the medical assistance rates paid by the commissioner of human services to providers for services to recipients not participating in the demonstration project.

Subd. 21. COUNTY SOCIAL SERVICES OBLIGATIONS. For services that are outside of the medical assistance benefit set for enrollees in excluded time status, the county of financial responsibility must negotiate the provisions and payment of services with the county of service prior to the provision of services.

Subd. 22. MINNESOTA COMMITMENT ACT SERVICES. The county administrative entity or service delivery organization is financially responsible for all services for enrollees covered by the medical assistance benefit set and ordered by the court under the Minnesota Commitment Act, chapter 253B. The county authority shall seek input from the county administrative entity or service delivery organization in giving the court information about services the enrollee needs and least restrictive alternatives. The court order for services is deemed to comply with the definition of medical necessity in Minnesota Rules, part 9505.0175. The financial responsibility of the county administrative entity or service delivery organization for regional treatment center services to an enrollee while committed to the regional treatment center is limited to 45 days following commitment. Voluntary hospitalization for enrollees at regional treatment centers must be covered by the county administrative entity or service delivery organization if deemed medically necessary by the county administrative entity or service delivery organization. The regional treatment center shall not accept a voluntary admission of an enrollee without the authorization of the county administrative entity or service delivery organization. An enrollee will maintain enrollee status while receiving treatment under the Minnesota Commitment Act or voluntary services in a regional treatment center. For enrollees committed to the regional treatment center longer than 45 days, the commissioner may adjust the aggregate capitation payments, as specified in the intergovernmental contract or service delivery contract.

Subd. 23. STAKEHOLDER COMMITTEE. The commissioner shall appoint a stakeholder committee to review and provide recommendations on specifications for demonstration projects; intergovernmental contracts; service delivery contracts; alternatives to administrative rules proposed under subdivision 17; specific recommendations for legislation required for the implementation of this project, including changes to statutes; waivers of choice granted under subdivision 9, paragraph (e); and other demonstration project policies and procedures as requested by the commissioner. The stakeholder committee shall include representatives from the following stakeholders: consumers and their family members, advocates, advocacy organizations, service providers, state government, counties, and health plan companies. This stakeholder committee shall be in operation for the demonstration period. The county authorities shall continue to meet with state government to develop the intergovernmental partnership.

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Subd. 24. **REPORT TO THE LEGISLATURE.** (a) By February 15 of each year of the demonstration project, the commissioner shall report to the legislature on the progress of the demonstration project, including enrollee outcomes, enrollee satisfaction, fiscal information, other information as described in subdivision 18, recommendations from the stakeholder committee, and descriptions of any rules or other administrative procedures waived.

(b) The commissioner, in consultation with the counties and the stakeholder committee, shall study and define the county government function of service coordination and make recommendations to the legislature in the report due February 15, 1998.

Subd. 25. **SEVERABILITY.** If any subdivision of this section is not approved by the United States Department of Health and Human Services, the commissioner, with the approval of the county authority, retains the authority to implement the remaining subdivisions.

Subd. 26. **SOUTHERN MINNESOTA HEALTH INITIATIVE PILOT PROJECT.** When the commissioner contracts under subdivisions 1 and 6, paragraph (a), with the joint powers board for the southern Minnesota health initiative (SMHI) to participate in the demonstration project for persons with disabilities under subdivision 5, the commissioner shall also require health plans serving counties participating in the southern Minnesota health initiative under this section to contract with the southern Minnesota health initiative joint powers board to provide covered mental health and chemical dependency services for the nonelderly/nondisabled persons who reside in one of the counties and who are required or elect to participate in the prepaid medical assistance and general assistance medical care programs. Enrollees may obtain covered mental health and chemical dependency services through the SMHI or through other health plan contractors. Participation of the nonelderly/nondisabled with the SMHI is voluntary. The commissioner shall identify a monthly per capita payment amount that health plans are required to pay to the SMHI for all nonelderly/nondisabled recipients who choose the SMHI for their mental health and chemical dependency services.

ARTICLE 9

MISCELLANEOUS

Section 1. Minnesota Statutes 1996, section 16A.124, subdivision 4b, is amended to read:

Subd. 4b. **HEALTH CARE PAYMENTS.** (a) The commissioner of human services must pay or deny a valid vendor obligation for health services under the medical assistance, general assistance medical care, or MinnesotaCare program within 30 days after receipt. A "valid vendor obligation" means a clean claim submitted directly to the commissioner by an eligible health care provider for health services provided to an eligible recipient. A "clean claim" means an original paper or electronic claim with correct data elements, prepared in accordance with the commissioner's published specifications for claim preparation, that does not require an attachment or text information to pay or

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deny the claim. Adjustment claims, claims with attachments and text information, and claims submitted to the commissioner as the secondary or tertiary payer, that have been prepared in accordance with the commissioner's published specifications, must be adjudicated within 90 days after receipt.

For purposes of this subdivision, paragraphs (b) and (c) apply.

(b) The agency is not required to make an interest penalty payment on claims for which payment has been delayed for purposes of reviewing potentially fraudulent or abusive billing practices, if there is an eventual finding by the agency of fraud or abuse.

(c) The agency is not required to make an interest penalty payment of less than \$2.

Sec. 2. Minnesota Statutes 1996, section 245.03, subdivision 2, is amended to read:

Subd. 2. **MISSION; EFFICIENCY.** It is part of the department's mission that within the department's resources the commissioner shall endeavor to:

(1) prevent the waste or unnecessary spending of public money;

(2) use innovative fiscal and human resource practices to manage the state's resources and operate the department as efficiently as possible, including the authority to consolidate different nonentitlement grant programs, having similar functions or serving similar populations, as may be determined by the commissioner, while protecting the original purposes of the programs. Nonentitlement grant funds consolidated by the commissioner shall be reflected in the department's biennial budget. With approval of the commissioner, vendors who are eligible for funding from any of the commissioner's granting authority under section 256.01, subdivision 2, paragraph (1), clause (f), may submit a single application for a grant agreement including multiple awards;

(3) coordinate the department's activities wherever appropriate with the activities of other governmental agencies;

(4) use technology where appropriate to increase agency productivity, improve customer service, increase public access to information about government, and increase public participation in the business of government;

(5) utilize constructive and cooperative labor-management practices to the extent otherwise required by chapters 43A and 179A;

(6) include specific objectives in the performance report required under section 15.91 to increase the efficiency of agency operations, when appropriate; and

(7) recommend to the legislature, in the performance report of the department required under section 15.91, appropriate changes in law necessary to carry out the mission of the department.

Sec. 3. Minnesota Statutes 1996, section 245.98, is amended by adding a subdivision to read:

Subd. 5. **STANDARDS.** The commissioner shall create standards for treatment and provider qualifications for the treatment component of the compulsive gambling program.

Sec. 4. **[252.294] CRITERIA FOR DOWNSIZING OF FACILITIES.**

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The commissioner of human services shall develop a process to evaluate and rank proposals for the voluntary downsizing or closure of intermediate care facilities for persons with mental retardation or related conditions using the following guidelines:

(1) the extent to which the option matches overall policy direction of the department;

(2) the extent to which the option demonstrates respect for individual needs and allows implementation of individual choice;

(3) the extent to which the option addresses safety, privacy, and other programmatic issues;

(4) the extent to which the option appropriately redesigns the overall community capacity; and

(5) the cost of each option.

The process shall, to the extent feasible, be modeled on the nursing home moratorium exception process, including procedures for administrative evaluation and approval of projects within the limit of appropriations made available by the legislature.

Sec. 5. Minnesota Statutes 1996, 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, cash payments, medical assistance, general assistance medical care, and MinnesotaCare program payments 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, cash payments, medical assistance, general assistance medical care, or MinnesotaCare 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. In enforcing a claim on MinnesotaCare program payments, the state or county agency shall reduce the claim amount by the value of any premium payments made by a recipient or former recipient during the period for which the recipient or former recipient has been determined to be ineligible. Provision of a health care service by the state agency under medical assistance, general assistance medical care, or MinnesotaCare pending appeal shall not render moot the state agency's position in a court of law.

Sec. 6. Minnesota Statutes 1996, section 256.9742, is amended to read:

256.9742 DUTIES AND POWERS OF THE OFFICE.

Subdivision 1. **DUTIES.** ~~The ombudsman~~ ombudsman's program shall:

(1) gather information and evaluate any act, practice, policy, procedure, or administrative action of a long-term care facility, acute care facility, home care service provider,

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or government agency that may adversely affect the health, safety, welfare, or rights of any client;

(2) mediate or advocate on behalf of clients;

(3) monitor the development and implementation of federal, state, or local laws, rules, regulations, and policies affecting the rights and benefits of clients;

(4) comment on and recommend to the legislature and public and private agencies regarding laws, rules, regulations, and policies affecting clients;

(5) inform public agencies about the problems of clients;

(6) provide for training of volunteers and promote the development of citizen participation in the work of the office;

(7) conduct public forums to obtain information about and publicize issues affecting clients;

(8) provide public education regarding the health, safety, welfare, and rights of clients; and

(9) collect and analyze data relating to complaints, conditions, and services.

Subd. 1a. **DESIGNATION; LOCAL OMBUDSMAN REPRESENTATIVES STAFF AND VOLUNTEERS.** (a) In designating an individual to perform duties under this section, the ombudsman must determine that the individual is qualified to perform the duties required by this section.

(b) An individual designated as ombudsman staff under this section must successfully complete an orientation training conducted under the direction of the ombudsman or approved by the ombudsman. Orientation training shall be at least 20 hours and will consist of training in: investigation, dispute resolution, health care regulation, confidentiality, resident and patients' rights, and health care reimbursement.

(c) The ombudsman shall develop and implement a continuing education program for individuals designated as ombudsman staff under this section. The continuing education program shall be at least 60 hours annually.

(d) An individual designated as an ombudsman volunteer under this section must successfully complete an approved orientation training course with a minimum curriculum including federal and state bills of rights for long-term care residents, acute hospital patients and home care clients, the Vulnerable Adults Act, confidentiality, and the role of the ombudsman.

(e) The ombudsman shall develop and implement a continuing education program for ombudsman volunteers which will provide a minimum of 12 hours of continuing education per year.

(f) The ombudsman may withdraw an individual's designation if the individual fails to perform duties of this section or meet continuing education requirements. The individual may request a reconsideration of such action by the board on aging whose decision shall be final.

Subd. 2. **IMMUNITY FROM LIABILITY.** The ombudsman or designee including staff and volunteers under this section is immune from civil liability that otherwise

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might result from the person's actions or omissions if the person's actions are in good faith, are within the scope of the person's responsibilities as an ombudsman or designee, and do not constitute willful or reckless misconduct.

Subd. 3. **POSTING.** Every long-term care facility and acute care facility shall post in a conspicuous place the address and telephone number of the office. A home care service provider shall provide all recipients, including those in elderly housing with services under chapter 144D, with the address and telephone number of the office. Counties shall provide clients receiving a consumer support grant or a service allowance with the name, address, and telephone number of the office. The posting or notice is subject to approval by the ombudsman.

Subd. 4. **ACCESS TO LONG-TERM CARE AND ACUTE CARE FACILITIES AND CLIENTS.** The ombudsman or designee may:

- (1) enter any long-term care facility without notice at any time;
- (2) enter any acute care facility without notice during normal business hours;
- (3) enter any acute care facility without notice at any time to interview a patient or observe services being provided to the patient as part of an investigation of a matter that is within the scope of the ombudsman's authority, but only if the ombudsman's or designee's presence does not intrude upon the privacy of another patient or interfere with routine hospital services provided to any patient in the facility;
- (4) communicate privately and without restriction with any client in accordance with section 144.651, as long as the ombudsman has the client's consent for such communication;
- (5) inspect records of a long-term care facility, home care service provider, or acute care facility that pertain to the care of the client according to sections 144.335 and 144.651; and
- (6) with the consent of a client or client's legal guardian, the ombudsman or designated staff shall have access to review records pertaining to the care of the client according to sections 144.335 and 144.651. If a client cannot consent and has no legal guardian, access to the records is authorized by this section.

A person who denies access to the ombudsman or designee in violation of this subdivision or aids, abets, invites, compels, or coerces another to do so is guilty of a misdemeanor.

Subd. 5. **ACCESS TO STATE RECORDS.** The ombudsman or designee, excluding volunteers, has access to data of a state agency necessary for the discharge of the ombudsman's duties, including records classified confidential or private under chapter 13, or any other law. The data requested must be related to a specific case and is subject to section 13.03, subdivision 4. If the data concerns an individual, the ombudsman or designee shall first obtain the individual's consent. If the individual cannot consent and has no legal guardian, then access to the data is authorized by this section.

Each state agency responsible for licensing, regulating, and enforcing state and federal laws and regulations concerning long-term care, home care service providers, and acute care facilities shall forward to the ombudsman on a quarterly basis, copies of all

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correction orders, penalty assessments, and complaint investigation reports, for all long-term care facilities, acute care facilities, and home care service providers.

Subd. 6. **PROHIBITION AGAINST DISCRIMINATION OR RETALIATION.** (a) No entity shall take discriminatory, disciplinary, or retaliatory action against an employee or volunteer, or a patient, resident, or guardian or family member of a patient, resident, or guardian for filing in good faith a complaint with or providing information to the ombudsman or designee including volunteers. A person who violates this subdivision or who aids, abets, invites, compels, or coerces another to do so is guilty of a misdemeanor.

(b) There shall be a rebuttable presumption that any adverse action, as defined below, within 90 days of report, is discriminatory, disciplinary, or retaliatory. For the purpose of this clause, the term "adverse action" refers to action taken by the entity involved in a report against the person making the report or the person with respect to whom the report was made because of the report, and includes, but is not limited to:

- (1) discharge or transfer from a facility;
- (2) termination of service;
- (3) restriction or prohibition of access to the facility or its residents;
- (4) discharge from or termination of employment;
- (5) demotion or reduction in remuneration for services; and
- (6) any restriction of rights set forth in section 144.651 or 144A.44.

Sec. 7. Minnesota Statutes 1996, section 256.9744, subdivision 2, is amended to read:

Subd. 2. **RELEASE.** Data maintained by the office that does not relate to the identity of a complainant, a client receiving home-care services, or a resident of a long-term facility may be released at the discretion of the ombudsman responsible for maintaining the data. Data relating to the identity of a complainant, a client receiving home-care services, or a resident of a long-term facility may be released only with the consent of the complainant, the client or resident or by court order.

Sec. 8. **[256.9772] HEALTH CARE CONSUMER ASSISTANCE GRANT PROGRAM.**

The board on aging shall award grants to area agencies on aging to develop projects to provide information about health coverage and to provide assistance to individuals in obtaining public and private health care benefits. Projects must:

- (1) train and support staff and volunteers to work in partnership to provide one-on-one information and assistance services;
- (2) provide individual consumers with assistance in understanding the terms of a certificate, contract, or policy of health coverage, including, but not limited to, terms relating to covered services, limitations on services, limitations on access to providers, and enrollee complaint and appeal procedures;
- (3) assist individuals to understand medical bills and to process health care claims and appeals to obtain health care benefits;

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(4) coordinate with existing health insurance counseling programs serving Medicare eligible individuals or establish programs to serve all consumers;

(5) target those individuals determined to be in greatest social and economic need for counseling services; and

(6) operate according to United States Code, title 42, section 1395b-4, if serving Medicare beneficiaries.

Sec. 9. Minnesota Statutes 1996, section 256B.037, subdivision 1a, is amended to read:

Subd. 1a. **MULTIPLE DENTAL PLAN AREAS.** After the department has executed contracts with dental plans to provide covered dental care services in a multiple dental plan area, the department shall:

(1) inform applicants and recipients, in writing, of available dental plans, when written notice of dental plan selection must be submitted to the department, and when dental plan participation begins;

(2) randomly assign to a dental plan recipients who fail to notify the department in writing of their dental plan choice; and

(3) notify recipients, in writing, of their assigned dental plan before the effective date of the recipient's dental plan participation.

Sec. 10. Minnesota Statutes 1996, section 256B.0911, subdivision 2, is amended to read:

Subd. 2. **PERSONS REQUIRED TO BE SCREENED; EXEMPTIONS.** All applicants to Medicaid certified nursing facilities must be screened prior to admission, regardless of income, assets, or funding sources, except the following:

(1) patients who, having entered acute care facilities from certified nursing facilities, are returning to a certified nursing facility;

(2) residents transferred from other certified nursing facilities located within the state of Minnesota;

(3) individuals who have a contractual right to have their nursing facility care paid for indefinitely by the veteran's administration;

(4) individuals who are enrolled in the Ebenezer/Group Health social health maintenance organization project, or enrolled in a demonstration project under section 256B.69, subdivision 18, at the time of application to a nursing home; or

(5) individuals previously screened and currently being served under the alternative care program or under a home and community-based services waiver authorized under section 1915(c) of the Social Security Act; or

(6) individuals who are admitted to a certified nursing facility for a short-term stay, which, based upon a physician's certification, is expected to be 14 days or less in duration, and who have been screened and approved for nursing facility admission within the previous six months. This exemption applies only if the screener determines at the time of the initial screening of the six-month period that it is appropriate to use the nursing facility.

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ity for short-term stays and that there is an adequate plan of care for return to the home or community-based setting. If a stay exceeds 14 days, the individual must be referred no later than the first county working day following the 14th resident day for a screening, which must be completed within five working days of the referral. Payment limitations in subdivision 7 will apply to an individual found at screening to meet the level of care criteria for admission to a certified nursing facility.

Regardless of the exemptions in clauses (2) to (4) (5), persons who have a diagnosis or possible diagnosis of mental illness, mental retardation, or a related condition must be screened and receive a preadmission screening before admission unless the admission prior to screening is authorized by the local mental health authority or the local developmental disabilities case manager, or unless authorized by the county agency according to Public Law Number 101-508.

Before admission to a Medicaid certified nursing home or boarding care home, all persons must be screened and approved for admission through an assessment process. The nursing facility is authorized to conduct case mix assessments which are not conducted by the county public health nurse under Minnesota Rules, part 9549.0059. The designated county agency is responsible for distributing the quality assurance and review form for all new applicants to nursing homes.

Other persons who are not applicants to nursing facilities must be screened if a request is made for a screening.

Sec. 11. Minnesota Statutes 1996, section 256B.434, subdivision 2, is amended to read:

Subd. 2. REQUESTS FOR PROPOSALS. (a) No later than August 1, 1995, at least twice annually the commissioner shall publish in the State Register a request for proposals to provide nursing facility services according to this section. The commissioner shall issue two additional requests for proposals prior to July 1, 1997, based upon a timetable established by the commissioner. The commissioner must respond to all proposals in a timely manner.

(b) The commissioner may reject any proposal if, in the judgment of the commissioner, a contract with a particular facility is not in the best interests of the residents of the state of Minnesota. The commissioner may accept up to the number of proposals that can be adequately supported with available state resources, as determined by the commissioner, except that the commissioner shall not contract with more than 40 nursing facilities as part of any request for proposals. The commissioner may accept proposals from a single nursing facility or from a group of facilities through a managing entity. The commissioner shall seek to ensure that nursing facilities under contract are located in all geographic areas of the state. The commissioner shall present recommendations to the legislature by February 1, 1996, on the number of nursing facility contracts that may be entered into by the commissioner as a result of a request for proposals.

(c) In issuing the request for proposals, the commissioner may develop reasonable requirements which, in the judgment of the commissioner, are necessary to protect residents or ensure that the contractual alternative payment demonstration project further the interest of the state of Minnesota. The request for proposals may include, but need not be limited to, the following:

(1) a requirement that a nursing facility make reasonable efforts to maximize Medicare payments on behalf of eligible residents;

(2) requirements designed to prevent inappropriate or illegal discrimination against residents enrolled in the medical assistance program as compared to private paying residents;

(3) requirements designed to ensure that admissions to a nursing facility are appropriate and that reasonable efforts are made to place residents in home and community-based settings when appropriate;

(4) a requirement to agree to participate in a project to develop data collection systems and outcome-based standards ~~for managed care contracting for long-term care services~~. Among other requirements specified by the commissioner, each facility entering into a contract may be required to pay an annual fee ~~in an amount determined by the commissioner not to exceed \$50 per bed~~. Revenue generated from the fees is appropriated to the commissioner and must be used to contract with a qualified consultant or contractor to develop data collection systems and outcome-based contracting standards;

(5) a requirement that contractors agree to maintain Medicare cost reports and to submit them to the commissioner upon request or at times specified by the commissioner;

(6) a requirement for demonstrated willingness and ability to develop and maintain data collection and retrieval systems to be used in measuring outcomes; and

(7) a requirement to provide all information and assurances required by the terms and conditions of the federal waiver or federal approval.

(d) In addition to the information and assurances contained in the submitted proposals, the commissioner may consider the following in determining whether to accept or deny a proposal:

(1) the facility's history of compliance with federal and state laws and rules, except that a facility deemed to be in substantial compliance with federal and state laws and rules is eligible to respond to a request for proposal. A facility's compliance history shall not be the sole determining factor in situations where the facility has been sold and the new owners have submitted a proposal;

(2) whether the facility has a record of excessive licensure fines or sanctions or fraudulent cost reports;

(3) financial history and solvency; and

(4) other factors identified by the commissioner that the commissioner deems relevant to a determination that a contract with a particular facility is not in the best interests of the residents of the facility or the state of Minnesota.

(e) If the commissioner rejects the proposal of a nursing facility, the commissioner shall provide written notice to the facility of the reason for the rejection, including the factors and evidence upon which the rejection was based.

Sec. 12. Minnesota Statutes 1996, section 256B.434, subdivision 4, is amended to read:

Subd. 4. **ALTERNATE RATES FOR NURSING FACILITIES.** (a) For nursing facilities which have their payment rates determined under this section rather than sec-

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tion 256B.431, subdivision 25, the commissioner shall establish a rate under this subdivision. The nursing facility must enter into a written contract with the commissioner.

(b) A nursing facility's case mix payment rate for the first rate year of a facility's contract under this section is the payment rate the facility would have received under section 256B.431, subdivision 25.

(c) A nursing facility's case mix payment rates for the second and subsequent years of a facility's contract under this section are the previous rate year's contract payment rates plus an inflation adjustment. The index for the inflation adjustment must be based on the change in the Consumer Price Index—All Items (United States City average) (CPI—U) forecasted by Data Resources, Inc., as forecasted in the fourth quarter of the calendar year preceding the rate year. The inflation adjustment must be based on the 12-month period from the midpoint of the previous rate year to the midpoint of the rate year for which the rate is being determined.

(d) The commissioner ~~may~~ shall develop additional incentive-based payments of up to five percent above the standard contract rate for achieving outcomes specified in each contract. ~~The incentive system may be implemented for contract rate years beginning on or after July 1, 1996.~~ The specified facility-specific outcomes must be measurable and ~~must be based on criteria to be developed and approved by the commissioner.~~ The commissioner may establish, for each contract, various levels of achievement within an outcome. After the outcomes have been specified the commissioner shall assign various levels of payment associated with achieving the outcome. Any incentive-based payment cancels if there is a termination of the contract. In establishing the specified outcomes and related criteria the commissioner shall consider the following state policy objectives:

- (1) improved cost effectiveness and quality of life as measured by improved clinical outcomes;
- (2) successful diversion or discharge to community alternatives;
- (3) decreased acute care costs;
- (4) improved consumer satisfaction;
- (5) the achievement of quality; or
- (6) any additional outcomes proposed by a nursing facility that the commissioner finds desirable.

Sec. 13. [256B.693] STATE-OPERATED SERVICES; MANAGED CARE.

Subdivision 1. PROPOSALS FOR MANAGED CARE; ROLE OF STATE OPERATED SERVICES. Any proposal integrating state-operated services with managed care systems for persons with disabilities shall identify the specific role to be assumed by state-operated services and the funding arrangement in which state-operated services shall effectively operate within the managed care initiative. The commissioner shall not approve or implement the initiative that consolidates funding appropriated for state-operated services with funding for managed care initiatives for persons with disabilities.

Subd. 2. STUDY BY THE COMMISSIONER. To help identify appropriate state-operated services for managed care systems, the commissioner of human services

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shall study the integration of state-operated services into public managed care systems and make recommendations to the legislature. The commissioner's study and recommendations shall include, but shall not be limited to, the following:

- (1) identification of persons with disabilities on waiting lists for services, which could be provided by state-operated services;
- (2) availability of crisis services to persons with disabilities;
- (3) unmet service needs, which could be met by state-operated services; and
- (4) deficiencies in managed care contracts and services, which hinder the placement and maintenance of persons with disabilities in community settings.

In conducting this study, the commissioner shall survey counties concerning their interest in and need for services that could be provided by state-operated services. The commissioner shall also consult with the appropriate exclusive bargaining unit representatives. The commissioner shall report findings to the legislature by February 1, 1998.

Sec. 14. Minnesota Statutes 1996, section 256E.06, is amended by adding a subdivision to read:

Subd. 2b. COUNTY SOCIAL SERVICE GRANTS FOR FORMER GRH RECIPIENTS. (a) Notwithstanding subdivisions 1 and 2, and notwithstanding the provision in Laws 1995, chapter 207, article 1, section 2, subdivision 3, that authorized the commissioner to transfer funds from the group residential housing account to community social services aids to counties, beginning July 1, 1995, money used to provide continuous funding for assistance to persons who are no longer eligible for assistance under the group residential housing program under chapter 256I, as specified in paragraph (b), is added to the community social services aid amount for the county in which the group residential housing setting for which the person is no longer eligible is located. Notwithstanding the provision in Laws 1995, chapter 207, article 1, section 2, subdivision 3, that required the increased community social services act appropriations to be used to proportionately increase each county's aid, this money must not be apportioned to any other county or counties.

(b) Former group residential housing recipients for whom money is added to a county's aid amount under paragraph (a) include:

(1) persons receiving services in Hennepin county from a provider that on August 1, 1984, was licensed under Minnesota Rules, parts 9525.0520 to 9525.0660, but was funded as a group residence under the general assistance or Minnesota supplemental aid programs;

(2) persons residing in a setting with a semi-independent living services license under Minnesota Rules, parts 9525.0900 to 9525.1020; and

(3) persons residing in family foster care settings who have become ineligible for group residential housing assistance because they receive services through the medical assistance community-based waiver for persons with mental retardation or related conditions under section 256B.0916.

Sec. 15. **[256J.03] TANF RESERVE ACCOUNT.**

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The Minnesota family investment program—statewide/TANF reserve account is created in the state treasury. Funds designated by the legislature and earnings available from the federal TANF block grant appropriated to the commissioner but not expended in the biennium beginning July 1, 1997, shall be retained in the reserve account to be expended for the Minnesota family investment program—statewide in fiscal year 2000 and subsequent fiscal years.

Sec. 16. Minnesota Statutes 1996, section 518.17, subdivision 1, is amended to read:

Subdivision 1. **THE BEST INTERESTS OF THE CHILD.** (a) “The best interests of the child” means all relevant factors to be considered and evaluated by the court including:

- (1) the wishes of the child’s parent or parents as to custody;
- (2) the reasonable preference of the child, if the court deems the child to be of sufficient age to express preference;
- (3) the child’s primary caretaker;
- (4) the intimacy of the relationship between each parent and the child;
- (5) the interaction and interrelationship of the child with a parent or parents, siblings, and any other person who may significantly affect the child’s best interests;
- (6) the child’s adjustment to home, school, and community;
- (7) the length of time the child has lived in a stable, satisfactory environment and the desirability of maintaining continuity;
- (8) the permanence, as a family unit, of the existing or proposed custodial home;
- (9) the mental and physical health of all individuals involved; except that a disability, as defined in section 363.01, of a proposed custodian or the child shall not be determinative of the custody of the child, unless the proposed custodial arrangement is not in the best interest of the child;
- (10) the capacity and disposition of the parties to give the child love, affection, and guidance, and to continue educating and raising the child in the child’s culture and religion or creed, if any;
- (11) the child’s cultural background;
- (12) the effect on the child of the actions of an abuser, if related to domestic abuse, as defined in section 518B.01, that has occurred between the parents or between a parent and another individual, whether or not the individual alleged to have committed domestic abuse is or ever was a family or household member of the parent; and
- (13) except in cases in which a finding of domestic abuse as defined in section 518B.01 has been made, the disposition of each parent to encourage and permit frequent and continuing contact by the other parent with the child.

The court may not use one factor to the exclusion of all others. The primary caretaker factor may not be used as a presumption in determining the best interests of the child. The court must make detailed findings on each of the factors and explain how the factors led to its conclusions and to the determination of the best interests of the child.

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(b) The court shall not consider conduct of a proposed custodian that does not affect the custodian's relationship to the child.

Sec. 17. **DOMESTIC VIOLENCE; TRAINING PROGRAMS.**

The commissioner of human services shall establish mandatory domestic violence and sexual abuse training programs for county financial workers and child support agency employees who screen and work with applicants and recipients. In order to provide this training, the commissioner shall establish a request for proposals and contract with experts in domestic violence and sexual abuse issues to do the actual training. Where feasible, the commissioner shall integrate training on domestic violence and sexual abuse issues with retraining of county employees on implementation of the new TANF program, and with the training required under Minnesota Statutes 1996, section 256.741, subdivision 14, in order to contain costs. To the extent possible, the state or local agency shall not refer applicants or recipients to any employee who has not been trained in dealing with issues related to domestic violence and sexual abuse.

Sec. 18. **VETERANS HOMES IMPROVEMENTS.**

(a) The veterans homes board of directors may make and maintain the following improvements to the indicated veterans homes using money donated for those purposes:

(1) at the Hastings veterans home, an outdoor bus shelter and smoking area for residents and a pole barn for storage of residents' property;

(2) at the Luverne veterans home, a garage, picnic shelter, and three-season porch;
and

(3) at the Silver Bay veterans home, a garage, maintenance, and storage building, a three-season porch at the east entrance, and landscaping as follows:

(i) walking and wheelchair trails;

(ii) stationary benches along trails;

(iii) flag pole relocation;

(iv) a gazebo in the dementia wander area; and

(v) two patio areas.

(b) Money donated for these improvements must be accounted for according to Minnesota Statutes, section 198.161.

Sec. 19. **TRANSITION FOR THE COMPULSIVE GAMBLING TREATMENT PROGRAM.**

The commissioner of human services shall conduct a transition of treatment programs for compulsive gambling from the treatment center model to a model in which reimbursement for treatment of an individual compulsive gambler from an approved provider is on a fee-for-service basis on the following schedule:

(1) one-third of compulsive gamblers treated through the program must receive services paid for from the individual treatment reimbursement model beginning October 1, 1997;

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(2) two-thirds of compulsive gamblers treated through the program must receive services paid for from the individual treatment reimbursement model beginning July 1, 1998; and

(3) 100 percent of compulsive gamblers treated through the program must receive treatment paid for from the individual treatment reimbursement model beginning July 1, 1999.

Sec. 20. **JOB-PLUS PILOT PROJECT.**

Subdivision 1. **PROJECT AUTHORIZED.** A three-year job-plus pilot project administered by the Manpower Demonstration Research Corporation is authorized in Ramsey county. The commissioner of human services shall cooperate with the St. Paul public housing authority, Ramsey county, the St. Paul workforce development center, and the Manpower Demonstration Research Corporation to develop and implement the project.

Subd. 2. **PROJECT DESCRIPTION.** (a) Jobs-plus shall offer intensive employment-related services and activities to working-age family residents of the Mt. Airy Homes public housing development. McDonough Homes and Roosevelt Homes public housing developments shall be used as comparison sites. The project shall incorporate community support for work, work incentives, and best practices in preparing people for sustained employment and in linking residents with jobs.

(b) The Mt. Airy community center shall serve as a hub for delivery of pilot project services, delivery of related services, and promotion of community support for work. The center shall provide space for economic development and supportive services programming and for activities that best respond to diverse resident needs, including expanded child care, computer technology access, employment-related and workforce literacy training, job clubs, job fairs, special workshops, and life skills training.

(c) The pilot project shall promote the involvement of Mt. Airy Homes residents in the development and implementation of the pilot project through community meetings, celebrations and recognition events, and the inclusion of resident representatives in planning and implementation activities.

(d) The commissioner may authorize work incentives that exceed the incentives provided to participants in the Minnesota family investment program-statewide (MFIP-S).

(e) The commissioner of human services, the St. Paul public housing authority, Ramsey county, the St. Paul workforce development center, and the Manpower Development Research Corporation may negotiate changes as necessary in the program outlined in paragraphs (a) to (d) in order to develop an effective job-plus project.

Subd. 3. **PROJECT FUNDING.** The commissioner of human services may authorize work incentives that are different from the incentives provided under the MFIP-S program only if nonstate funding is available to defray the additional costs associated with utilizing the different work incentives.

Subd. 4. **RELEASE OF DATA.** Notwithstanding the provisions of Minnesota Statutes, chapter 13, Ramsey county and the relevant state agencies shall, upon request, release to the Manpower Demonstration Research Corporation data on public assistance

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benefits received, wages earned, and unemployment insurance benefits received by residents of the Mt. Airy Homes, McDonough Homes, and Roosevelt Homes public housing developments in St. Paul during the period from 1992 to 2002 for the purposes of complying with the research and evaluation requirements of the jobs-plus program.

Sec. 21. **INELIGIBILITY FOR STATE FUNDED PROGRAMS.**

(a) Beginning July 1, 1999, the following persons will be ineligible for general assistance and general assistance medical care under Minnesota Statutes, chapter 256D, group residential housing under Minnesota Statutes, chapter 256I, and MFIP-S assistance under Minnesota Statutes, chapter 256J, funded with state money:

(1) persons who are terminated from or denied Supplemental Security Income due to the 1996 changes in the federal law making persons whose alcohol or drug addiction is a material factor contributing to the person's disability ineligible for Supplemental Security Income, and are eligible for general assistance under Minnesota Statutes, section 256D.05, subdivision 1, paragraph (a), clause (17), general assistance medical care under Minnesota Statutes, chapter 256D, or group residential housing under Minnesota Statutes, chapter 256I;

(2) legal noncitizens who are ineligible for Supplemental Security Income due to the 1996 changes in federal law making certain noncitizens ineligible for these programs due to their noncitizen status; and

(3) legal noncitizens who are eligible for MFIP-S assistance, either the cash assistance portion or the food assistance portion, funded entirely with state money.

(b) State money that remains unspent on June 30, 1999, due to changes in federal law enacted after May 12, 1997, that reduce state spending for legal noncitizens or for persons whose alcohol or drug addiction is a material factor contributing to the person's disability shall not cancel and shall be deposited in the TANF reserve account.

Sec. 22. **ALTERNATIVE GRANT APPLICATION PROCESS FOR SMALL COUNTIES.**

Subdivision 1. **AUTHORIZATION FOR PROGRAM.** Pine county and up to four additional counties with a population of less than 30,000 selected by the children's cabinet may use a letter of intent in lieu of completing an application for social service and employment service grants, including family services collaboratives grants. For competitive grants, the departments of human services; children, families, and learning; and economic security may develop an alternate grantee selection process that is based primarily on documented need.

If the county's request for funding is accepted by the commissioners of the departments of human services; children, families, and learning; or economic security, the appropriate commissioner shall distribute the amount of funds requested by the county up to the amount of the county's allocation or an amount consistent with the grant and proportionate to that county.

The county board shall approve the letter of intent. The letter of intent shall include: an agreement to use the funds for the purpose intended by the grant; a brief description of the services to be provided; the outcomes, indicators, and measures the services are intended to provide; and assurances that the county will follow all applicable laws and rules associated with the use of the grant funds.

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Subd. 2. **FUTURE FUNDING.** The commissioners of the departments of human services; children, families, and learning; and economic security may withhold future funding if a determination is made that the county has not met the requirements of the program funded by the alternative funding process. The commissioners shall first provide the county with an appeal process and a 60-day notice of intent to reduce or end funding received under subdivision 1.

Subd. 3. **REPORT.** The children's cabinet shall provide to the legislature a report by January 15, 1999, on the feasibility of using the alternative funding process for counties with less than 30,000 population.

Subd. 4. **SERVICE DELIVERY PLAN.** Pine county and the other counties using this alternative application process for grants may annually update their service delivery plan to reflect changes in the approved budget or services delivered in lieu of submitting a biennial community social services plan, a local service unit plan, a family services collaborative plan, or a grant application, and other plan document requirements of the departments of human services; children, families, and learning; and economic security. The service delivery plan must be an ongoing planning document that incorporates the major requirements of the plans it replaces.

Subd. 5. **SUNSET.** This section expires on June 30, 2001.

Sec. 23. REPORT; ALTERNATE RATES FOR NURSING FACILITIES.

Before implementing any incentive-based payments under section 12, the commissioner shall report to the chairs of the senate health and family security committee and the house health and human services committee by January 15, 1998, on the plan to develop additional incentive-based payments for nursing facilities under the 1997 amendments to Minnesota Statutes, section 256B.434, subdivision 4.

Sec. 24. EFFECTIVE DATE.

Section 16, amending Minnesota Statutes 1996, section 518.17, subdivision 1, is effective the day following final enactment.

ARTICLE 10

MARRIAGE PROVISIONS

Section 1. Minnesota Statutes 1996, section 517.01, is amended to read:

517.01 MARRIAGE A CIVIL CONTRACT.

Marriage, so far as its validity in law is concerned, is a civil contract between a man and a woman, to which the consent of the parties, capable in law of contracting, is essential. Lawful marriage may be contracted only between persons of the opposite sex and only when a license has been obtained as provided by law and when the marriage is contracted in the presence of two witnesses and solemnized by one authorized, or whom one or both of the parties in good faith believe to be authorized, so to do. Marriages subsequent to April 26, 1941, not so contracted shall be null and void.

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Sec. 2. Minnesota Statutes 1996, section 517.03, is amended to read:

517.03 PROHIBITED MARRIAGES.

Subdivision 1. GENERAL. (a) The following marriages are prohibited:

(a) (1) a marriage entered into before the dissolution of an earlier marriage of one of the parties becomes final, as provided in section 518.145 or by the law of the jurisdiction where the dissolution was granted;

(b) (2) a marriage between an ancestor and a descendant, or between a brother and a sister, whether the relationship is by the half or the whole blood or by adoption;

(c) (3) a marriage between an uncle and a niece, between an aunt and a nephew, or between first cousins, whether the relationship is by the half or the whole blood, except as to marriages permitted by the established customs of aboriginal cultures; provided, however, that and

(4) a marriage between persons of the same sex.

(b) A marriage entered into by persons of the same sex, either under common law or statute, that is recognized by another state or foreign jurisdiction is void in this state and contractual rights granted by virtue of the marriage or its termination are unenforceable in this state.

Subd. 2. MENTALLY RETARDED PERSONS; CONSENT BY COMMISSIONER OF HUMAN SERVICES. Mentally retarded persons committed to the guardianship of the commissioner of human services and mentally retarded persons committed to the conservatorship of the commissioner of human services in which the terms of the conservatorship limit the right to marry, may marry on receipt of written consent of the commissioner. The commissioner shall grant consent unless it appears from the commissioner's investigation that the marriage is not in the best interest of the ward or conservatee and the public. The court administrator of the district court in the county where the application for a license is made by the ward or conservatee shall not issue the license unless the court administrator has received a signed copy of the consent of the commissioner of human services.

Sec. 3. Minnesota Statutes 1996, section 517.08, subdivision 1a, is amended to read:

Subd. 1a. Application for a marriage license shall be made upon a form provided for the purpose and shall contain the following information:

(1) the full names of the parties, and the sex of each party;

(2) their post office addresses and county and state of residence;

(3) their full ages;

(4) if either party has previously been married, the party's married name, and the date, place and court in which the marriage was dissolved or annulled or the date and place of death of the former spouse;

(5) if either party is a minor, the name and address of the minor's parents or guardian;

(6) whether the parties are related to each other, and, if so, their relationship;

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(7) the name and date of birth of any child of which both parties are parents, born before the making of the application, unless their parental rights and the parent and child relationship with respect to the child have been terminated;

(8) address of the bride and groom after the marriage to which the court administrator shall send a certified copy of the marriage certificate; and

(9) the full names the parties will have after marriage.

Sec. 4. Minnesota Statutes 1996, section 517.20, is amended to read:

517.20 APPLICATION.

Except as provided in section 517.03, subdivision 1, paragraph (b), all marriages contracted within this state prior to March 1, 1979 or outside this state that were valid at the time of the contract or subsequently validated by the laws of the place in which they were contracted or by the domicile of the parties are valid in this state.

Sec. 5. EFFECTIVE DATE.

Sections 1, 2, and 4 are effective the day following final enactment. Section 3 is effective July 1, 1997. Section 2, subdivision 1, paragraph (b), and section 4 apply to all marriages entered into in other jurisdictions before, on, or after the effective date of those sections.

ARTICLE 11

ACCELERATING STATE PAYMENTS

Section 1. Minnesota Statutes 1996, section 256.025, subdivision 2, is amended to read:

Subd. 2. **COVERED PROGRAMS AND SERVICES.** The procedures in this section govern payment of county agency expenditures for benefits and services distributed under the following programs:

(1) aid to families with dependent children under sections 256.82, subdivision 1, and 256.935, subdivision 1, for assistance costs incurred prior to July 1, 1997;

(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, for assistance costs incurred prior to July 1, 1997;

(4) general assistance under section 256D.03, subdivision 2, for assistance costs incurred prior to July 1, 1997;

(5) work readiness under section 256D.03, subdivision 2, for assistance costs incurred prior to July 1, 1995;

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(6) emergency assistance under section 256.871, subdivision 6, for assistance costs incurred prior to July 1, 1997;

(7) Minnesota supplemental aid under section 256D.36, subdivision 1, for assistance costs incurred prior to July 1, 1997;

(8) preadmission screening and alternative care grants for assistance costs incurred prior to July 1, 1997;

(9) work readiness services under section 256D.051 for employment and training services costs incurred prior to July 1, 1995;

(10) case management services under section 256.736, subdivision 13, for case management service costs incurred prior to July 1, 1995;

(11) general assistance claims processing, medical transportation and related costs for costs incurred prior to July 1, 1997;

(12) medical assistance, medical transportation and related costs for transportation and related costs incurred prior to July 1, 1997; and

(13) group residential housing under section 256I.05, subdivision 8, transferred from programs in clauses (4) and (7), for assistance costs incurred prior to July 1, 1997.

Sec. 2. Minnesota Statutes 1996, section 256.025, subdivision 4, is amended to read:

Subd. 4. **PAYMENT SCHEDULE.** Except as provided for in subdivision 3, beginning July 1, 1991, the state will reimburse counties, according to the following payment schedule, for the county share of county agency expenditures for the programs specified in subdivision 2.

(a) Beginning July 1, 1991, the state will reimburse or pay the county share of county agency expenditures according to the reporting cycle as established by the commissioner, for the programs identified in subdivision 2. Payments for the period of January 1 through July 31, for calendar years 1991, 1992, 1993, 1994, and 1995 shall be made on or before July 10 in each of those years. Payments for the period August through December for calendar years 1991, 1992, 1993, 1994, and 1995 shall be made on or before the third of each month thereafter through December 31 in each of those years.

(b) Payment for 1/24 of the base amount and the January 1996 county share of county agency expenditures growth amount for the programs identified in subdivision 2 shall be made on or before January 3, 1996. For the period of February 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 July 10, 1996. 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.

(c) Payment for the county share of county agency expenditures during January 1997 shall be made on or before January 3, 1997. Payment for 1/24 of the base amount and the February 1997 county share of county agency expenditures growth amount for the programs identified in subdivision 2 shall be made on or before February 3, 1997. For the period of March 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 amount over the base amount shall be made on or before July 10, 1997. Payments for the period August 1997

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through December 1997 shall be made on or before the third of each month thereafter through December 31, 1997.

(d) Monthly payments for the county share of county agency expenditures from January 1998 through ~~February~~ March 1998 shall be made on or before the third of each month through ~~February~~ March 1998. Payment for 1/24 of the base amount and the March 1998 county share of county agency expenditures growth amount for the programs identified in subdivision 2 shall be made on or before March 1998. For the period of April 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 July 10, 1998. 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.

(e) Monthly payments for the county share of county agency expenditures from January 1999 through ~~March~~ April 1999 shall be made on or before the third of each month through ~~March~~ April 1999. Payment for 1/24 of the base amount and the April 1999 county share of county agency expenditures growth amount for the programs identified in subdivision 2 shall be made on or before April 3, 1999. For the period of May 1, 1999 through July 31, 1999, payment of the base amount shall be made on or before July 10, 1999, and payment of the growth amount over the base amount 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.

(f) Monthly payments for the county share of county agency expenditures from January 2000 through ~~April~~ May 2000 shall be made on or before the third of each month through ~~April~~ May 2000. Payment for 1/24 of the base amount and the May 2000 county share of county agency expenditures growth amount for the programs identified in subdivision 2 shall be made on or before May 3, 2000. For the period of June 1, 2000 through July 31, 2000, payment of the base amount shall be made on or before July 10, 2000, and payment of the growth amount over the base amount shall be made on or before July 10, 2000. Payments for the period August 2000 through December 2000 shall be made on or before the third of each month thereafter through December 31, 2000.

(g) Monthly payments for the county share of county agency expenditures from January 2001 through ~~May~~ 2001 shall be made on or before the third of each month through ~~May~~ 2001. Payment for 1/24 of the base amount and the June 2001 county share of county agency expenditures growth amount for the programs identified in subdivision 2 shall be made on or before June 3, 2001. Payments for the period July 2001 through December 2001 shall be made on or before the third of each month thereafter through December 31, 2001.

(h) Effective January 1, ~~2002~~ 2001, monthly payments for the county share of county agency expenditures shall be made subsequent to the first of each month.

Payments under this subdivision are subject to the provisions of section 256.017.

Sec. 3. Minnesota Statutes 1996, section 256.82, subdivision 1, is amended to read:

Subdivision 1. **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,

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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~~ 100 percent, and the county share shall be ~~15~~ 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 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. 4. Minnesota Statutes 1996, 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. The state share of the nonfederal portion of eligible expenditures shall be ~~ten~~ 100 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 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. 5. Minnesota Statutes 1996, section 256.935, is amended to read:

256.935 FUNERAL EXPENSES, PAYMENT BY COUNTY AGENCY.

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 the amount paid for comparable services under section 261.035 plus actual cemetery charges. No funeral expenses shall be paid if the estate of the deceased is sufficient to pay such expenses or if the spouse, who was legally responsible for the support of the deceased while living, is 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 shall pay the entire amount of county agency expenditures shall be 50 percent and the county share shall be 50 percent. Benefits shall be issued to recipients

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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 under this subdivision is subject to the provisions of section 256.017.~~

Sec. 6. Minnesota Statutes 1996, section 256B.0913, subdivision 14, is amended to read:

Subd. 14. **REIMBURSEMENT AND RATE ADJUSTMENTS.** (a) Reimbursement for expenditures for the alternative care services as approved by the client's case manager shall be through the invoice processing procedures of the department's Medicaid Management Information System (MMIS). To receive reimbursement, the county or vendor must submit invoices within 12 months following the date of service. The county agency and its vendors under contract shall not be reimbursed for services which exceed the county allocation.

(b) If a county collects less than 50 percent of the client premiums due under subdivision 12, the commissioner may withhold up to three percent of the county's final alternative care program allocation determined under subdivisions 10 and 11.

~~(e) 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) (c) For fiscal years beginning on or after July 1, 1993, the commissioner of human services shall not provide automatic annual inflation adjustments for alternative care services. The commissioner of finance shall include as a budget change request in each biennial detailed expenditure budget submitted to the legislature under section 16A.11 annual adjustments in reimbursement rates for alternative care services based on the forecasted percentage change in the Home Health Agency Market Basket of Operating Costs, for the fiscal year beginning July 1, compared to the previous fiscal year, unless otherwise adjusted by statute. The Home Health Agency Market Basket of Operating Costs is published by Data Resources, Inc. The forecast to be used is the one published for the calendar quarter beginning January 1, six months prior to the beginning of the fiscal year for which rates are set.

(e) (d) The county shall negotiate individual rates with vendors and may be reimbursed for actual costs up to the greater of the county's current approved rate or 60 percent of the maximum rate in fiscal year 1994 and 65 percent of the maximum rate in fiscal year 1995 for each alternative care service. Notwithstanding any other rule or statutory provision to the contrary, the commissioner shall not be authorized to increase rates by an annual inflation factor, unless so authorized by the legislature.

(f) (e) On July 1, 1993, the commissioner shall increase the maximum rate for home delivered meals to \$4.50 per meal.

Sec. 7. Minnesota Statutes 1996, section 256B.19, subdivision 2a, is amended to read:

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Subd. 2a. **DIVISION OF COSTS.** Beginning July 1, 1991, the state shall reimburse counties according to the payment schedule in section 256.025 for the nonfederal share of costs incurred for medical assistance common carrier transportation and related travel expenses provided for medical purposes to medical assistance recipients from January 1, 1991, on. For purposes of this subdivision, transportation shall have the meaning given it in Code of Federal Regulations, title 42, section 440.170(a), as amended through October 1, 1987, and travel expenses shall have the meaning given in Code of Federal Regulations, title 42, section 440.170(a)(3), as amended through October 1, 1987.

The county shall ensure that only the least costly, most appropriate transportation and travel expenses are used. The state may enter into volume purchase contracts, or use a competitive bidding process, whenever feasible, to minimize the costs of transportation services. If the state has entered into a volume purchase contract or used the competitive bidding procedures of chapter 16B to arrange for transportation services, the county may be required to use such arrangements to be eligible for state reimbursement of the 50 percent county share of medical assistance common carrier transportation and related travel expenses provided for medical purposes.

Sec. 8. Minnesota Statutes 1996, section 256D.03, subdivision 2, is amended to read:

Subd. 2. After December 31, 1980, State aid shall be paid for 75 percent of all general assistance and grants up to the standards of section 256D.01, subdivision 1a, and according to procedures established by the commissioner, except as provided for under section 256.017. 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. 9. Minnesota Statutes 1996, 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: (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 persons not meeting the eligibility standards set forth in section 256D.05, subdivision 1, but for whom the aid would further the purposes established in the general assistance program in accordance with according to rules adopted by the commissioner pursuant according 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 according to section 256.01 and 256.025, subdivision 3.

Sec. 10. Minnesota Statutes 1996, section 256D.03, subdivision 6, is amended to read:

Subd. 6. **DIVISION OF COSTS.** The state share of county agency expenditures for general assistance medical care shall be 90 100 percent and the county share shall be ten percent. Payments made under this subdivision shall be made in accordance with accord-

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ing to sections 256B.041, subdivision 5 and 256B.19, subdivision 1. In counties where a pilot or demonstration project is operated for general assistance medical care services, the state may pay 100 percent of the costs of administering the pilot or demonstration project. Reimbursement for these costs is subject to section 256.025.

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.

Notwithstanding any provision to the contrary, beginning July 1, 1991, the state shall pay 100 percent of the costs for centralized claims processing by the department of administration relative to claims beginning January 1, 1991, and submitted on behalf of general assistance medical care recipients by vendors in the general assistance medical care program.

Beginning July 1, 1991, the state shall reimburse counties up to the limit of state appropriations for general assistance medical care common carrier transportation and related travel expenses provided for medical purposes after December 31, 1990. Reimbursement shall be provided according to the payment schedule set forth in section 256.025. For purposes of this subdivision, transportation shall have the meaning given it in Code of Federal Regulations, title 42, section 440.170(a), as amended through October 1, 1987, and travel expenses shall have the meaning given in Code of Federal Regulations, title 42, section 440.170(a)(3), as amended through October 1, 1987.

The county shall ensure that only the least costly most appropriate transportation and travel expenses are used. The state may enter into volume purchase contracts, or use a competitive bidding process, whenever feasible, to minimize the costs of transportation services. If the state has entered into a volume purchase contract or used the competitive bidding procedures of chapter 16B to arrange for transportation services, the county may be required to use such arrangements to be eligible for state reimbursement for general assistance medical care common carrier transportation and related travel expenses provided for medical purposes.

In counties where prepaid health plans are under contract to the commissioner to provide services to general assistance medical care recipients, the cost of court ordered treatment that does not include diagnostic evaluation, recommendation, or referral for treatment by the prepaid health plan is the responsibility of the county of financial responsibility.

Sec. 11. Minnesota Statutes 1996, section 256D.36, is amended to read:

256D.36 STATE PARTICIPATION.

Subdivision 1. **STATE PARTICIPATION.** The state share of aid paid shall be 85 percent and the county share shall be 15 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 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.

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Sec. 12. COUNTY TREASURER DUTIES RELATED TO COUNTY EXPENDITURES; 1998.

On or before June 10, 1998, and on or before June 10, 1999, 2000, and 2001, the county treasurer shall pay to the commissioner for deposit in the state treasury an amount equal to 1/24 of the county's base amount as defined in Minnesota Statutes, section 256.025, subdivision 1, for the programs and services identified in Minnesota Statutes, section 256.025, subdivision 2, clause (2).

Sec. 13. REPEALER.

Minnesota Statutes 1996, sections 256.026; and 256.82, subdivision 1, are repealed.

ARTICLE 12

WELFARE REFORM AMENDMENTS

Section 1. Minnesota Statutes 1996, section 256.9354, subdivision 8, as added by Laws 1997, chapter 85, article 3, section 9, is amended to read:

Subd. 8. SPONSOR'S INCOME AND RESOURCES DEEMED AVAILABLE. When determining eligibility for any federal or state benefits under sections 256.9351 to 256.9363 and 256.9366 to 256.9369, the income and resources of all noncitizens whose sponsor signed an affidavit of support as defined under the United States Code, title 8, section 1183a, shall be deemed to include their sponsors' income and resources as defined in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, title IV, Public Law Number 104-193, sections 421 and 422, and subsequently set out in federal rules.

Sec. 2. Minnesota Statutes 1996, section 256B.06, subdivision 5, as added by Laws 1997, chapter 85, article 3, section 20, is amended to read:

Subd. 5. DEEMING OF SPONSOR INCOME AND RESOURCES. When determining eligibility for any federal or state funded medical assistance under this section, the income and resources of all noncitizens shall be deemed to include their sponsors' income and resources as required under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, title IV, Public Law Number 104-193, sections 421 and 422, and subsequently set out in federal rules. This section is effective the day following final enactment.

Sec. 3. Minnesota Statutes 1996, section 256D.02, subdivision 12a, as amended by Laws 1997, chapter 85, article 3, section 27, is amended to read:

Subd. 12a. RESIDENT. (a) For purposes of eligibility for general assistance and general assistance medical care, a person must be a resident of this state.

(b) A "resident" is a person living in the state for at least 30 days with the intention of making the person's home here and not for any temporary purpose. Time spent in a shelter for battered women shall count toward satisfying the 30-day residency requirement.

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All applicants for these programs are required to demonstrate the requisite intent and can do so in any of the following ways:

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

(2) by verifying residence according to Minnesota Rules, part 9500.1219, subpart 3, item C.

(c) For general assistance medical care, a county agency shall waive the 30-day residency requirement in cases of medical emergencies. For general assistance, a county shall waive the 30-day residency requirement where unusual hardship would result from denial of general assistance. For purposes of this subdivision, "unusual hardship" means the applicant is without shelter or is without available resources for food.

The county agency must report to the commissioner within 30 days on any waiver granted under this section. The county shall not deny an application solely because the applicant does not meet at least one of the criteria in this subdivision, but shall continue to process the application and leave the application pending until the residency requirement is met or until eligibility or ineligibility is established.

(d) For purposes of paragraph (c), the following definitions apply (1) "metropolitan statistical area" is as defined by the U.S. Census Bureau; (2) "shelter" includes any shelter that is located within the metropolitan statistical area containing the county and for which the applicant is eligible, provided the applicant does not have to travel more than 20 miles to reach the shelter and has access to transportation to the shelter. Clause (2) does not apply to counties in the Minneapolis-St. Paul metropolitan statistical area.

(e) Migrant workers as defined in section 256J.08 and, until March 31, 1998, their immediate families are exempt from the 30-day residency requirement requirements of this section, provided the migrant worker provides verification that the migrant family worked in this state within the last 12 months and earned at least \$1,000 in gross wages during the time the migrant worker worked in this state.

(f) For purposes of eligibility for emergency general assistance, the 30-day residency requirement in paragraph (b) under this section shall not be waived.

(g) If any provision of this subdivision is enjoined from implementation or found unconstitutional by any court of competent jurisdiction, the remaining provisions shall remain valid and shall be given full effect.

Sec. 4. Minnesota Statutes 1996, section 256D.03, subdivision 3, as amended by Laws 1997, chapter 85, article 3, section 29, is amended to read:

Subd. 3. **GENERAL ASSISTANCE MEDICAL CARE; ELIGIBILITY.** (a) General assistance medical care may be paid for any person who is not eligible for medical assistance under chapter 256B, including eligibility for medical assistance based on a spenddown of excess income according to section 256B.056, subdivision 5, and:

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(1) who is receiving assistance under section 256D.05, or who is having a payment made on the person's behalf under sections 256I.01 to 256I.06; or

(2)(i) who is a resident of Minnesota; and whose equity in assets is not in excess of \$1,000 per assistance unit. No asset test shall be applied to children and their parents living in the same household. Exempt assets, the reduction of excess assets, and the waiver of excess assets must conform to the medical assistance program in chapter 256B, with the following exception: the maximum amount of undistributed funds in a trust that could be distributed to or on behalf of the beneficiary by the trustee, assuming the full exercise of the trustee's discretion under the terms of the trust, must be applied toward the asset maximum; and

(ii) who has countable income not in excess of the assistance standards established in section 256B.056, subdivision 4, or whose excess income is spent down according 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 follow section 256B.056. 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, aid to families with dependent children or MFIP-S for 12 consecutive months. The earned income and work expense deductions for a person who does not reside with a dependent child under age 21 shall be the same as the method used to determine eligibility for a person under section 256D.06, subdivision 1, except the disregard of the first \$50 of earned income is not allowed; or

(3) who would be eligible for medical assistance except that the person resides in a facility that is determined by the commissioner or the federal health care financing administration to be an institution for mental diseases.

(b) Eligibility is available for the month of application, and for three months prior to application if the person was eligible in those prior months. A redetermination of eligibility must occur every 12 months.

(c) General assistance medical care is not available for a person in a correctional facility unless the person is detained by law for less than one year in a county correctional or detention facility as a person accused or convicted of a crime, or admitted as an inpatient to a hospital on a criminal hold order, and the person is a recipient of general assistance medical care at the time the person is detained by law or admitted on a criminal hold order and as long as the person continues to meet other eligibility requirements of this subdivision.

(d) General assistance medical care is not available for applicants or recipients who do not cooperate with the county agency to meet the requirements of medical assistance.

(e) In determining the amount of assets of an individual, there shall be included any asset or interest in an asset, including an asset excluded under paragraph (a), that was given away, sold, or disposed of for less than fair market value within the 60 months preceding application for general assistance medical care or during the period of eligibility. Any transfer described in this paragraph shall be presumed to have been for the purpose of

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establishing eligibility for general assistance medical care, unless the individual furnishes convincing evidence to establish that the transaction was exclusively for another purpose. For purposes of this paragraph, the value of the asset or interest shall be the fair market value at the time it was given away, sold, or disposed of, less the amount of compensation received. For any uncompensated transfer, the number of months of ineligibility, including partial months, shall be calculated by dividing the uncompensated transfer amount by the average monthly per person payment made by the medical assistance program to skilled nursing facilities for the previous calendar year. The individual shall remain ineligible until this fixed period has expired. The period of ineligibility may exceed 30 months, and a reapplication for benefits after 30 months from the date of the transfer shall not result in eligibility unless and until the period of ineligibility has expired. The period of ineligibility begins in the month the transfer was reported to the county agency, or if the transfer was not reported, the month in which the county agency discovered the transfer, whichever comes first. For applicants, the period of ineligibility begins on the date of the first approved application.

(f) When determining eligibility for any state benefits under this subdivision, the income and resources of all noncitizens shall be deemed to include their sponsor's income and resources as defined in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, title IV, Public Law Number 104-193, sections 421 and 422, and subsequently set out in federal rules.

(g)(1) An undocumented noncitizen or a nonimmigrant is ineligible for general assistance medical care other than emergency services. For purposes of this subdivision, a nonimmigrant is an individual in one or more of the classes listed in United States Code, title 8, section 1101(a)(15), and an undocumented noncitizen is an individual who resides in the United States without the approval or acquiescence of the Immigration and Naturalization Service.

(2) This paragraph does not apply to a child under age 18, to a Cuban or Haitian entrant as defined in Public Law Number 96-422, section 501(e)(1) or (2)(a), or to a noncitizen who is aged, blind, or disabled as defined in Code of Federal Regulations, title 42, sections 435.520, 435.530, 435.531, 435.540, and 435.541, who cooperates with the Immigration and Naturalization Service to pursue any applicable immigration status, including citizenship, that would qualify the individual for medical assistance with federal financial participation.

(3) For purposes of paragraph (f), "emergency services" has the meaning given in Code of Federal Regulations, title 42, section 440.255(b)(1), except that it also means services rendered because of suspected or actual pesticide poisoning.

(4) Notwithstanding any other provision of law, a noncitizen who is ineligible for medical assistance due to the deeming of a sponsor's income and resources, is ineligible for general assistance medical care.

Sec. 5. Minnesota Statutes 1996, section 256D.05, subdivision 1, as amended by Laws 1997, chapter 85, article 3, section 30, is amended to read:

Subdivision 1. **ELIGIBILITY.** (a) Each assistance unit with income and resources less than the standard of assistance established by the commissioner and with a member who is a resident of the state shall be eligible for and entitled to general assistance if the assistance unit is:

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(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 according 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, psychological practitioner, 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, 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 vocational specialist and, in consultation with the county agency, has been determined to be unemployable for purposes of this clause; a person is considered employable if 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. The person's eligibility under this category must be reassessed at least annually. The county agency must provide notice to the person not later than 30 days before annual eligibility under this item ends, informing the person of the date annual eligibility will end and the need for vocational assessment if the person wishes to continue eligibility under this clause. For purposes of establishing eligibility under this clause, it is the applicant's or recipient's duty to obtain any needed vocational assessment;

(9) a person who is determined by the county agency, according to 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, and 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 services case plan for the child; or the

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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 the child has failed or refuses to cooperate with the county agency in developing the plan;

(11) until March 31, 1998, 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 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 four hours round-trip traveling time from any potential suitable employment;

(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;

(15)(i) until March 31, 1998, a family as defined in section 256D.02, subdivision 5, which is ineligible for the aid to families with dependent children program.

(ii) unless exempt under section 256D.051, subdivision 3a, each adult in the unit must participate in and cooperate with the food stamp employment and training program under section 256D.051 each month that the unit receives general assistance benefits. The recipient's participation must begin no later than the first day of the first full month following the determination of eligibility for general assistance benefits. To the extent of available resources, and with the county agency's consent, the recipient may voluntarily continue to participate in food stamp employment and training services for up to three additional consecutive months immediately following termination of general assistance benefits in order to complete the provisions of the recipient's employability development plan. If an adult member fails without good cause to participate in or cooperate with the food stamp employment and training program, the county agency shall concurrently terminate that person's eligibility for general assistance and food stamps using the notice, good cause, conciliation and termination procedures specified in section 256D.051; or

(16) a person over age 18 whose primary language is not English and who is attending high school at least half time; or

(17) a person whose alcohol and drug addiction is a material factor that contributes to the person's disability; applicants who assert this clause as a basis for eligibility must be assessed by the county agency to determine if they are amenable to treatment; if the applicant is determined to be not amenable to treatment, but is otherwise eligible for benefits, then general assistance must be paid in vendor form, up to the limit of for the individual's shelter costs up to the limit of the grant amount, with the residual, if any, paid according to section 256D.09, subdivision 2a; if the applicant is determined to be amenable to treatment, then in order to receive benefits, the applicant must be in a treatment program or on a waiting list and the benefits must be paid in vendor form, up to the limit of

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for the individual's shelter costs, up to the limit of the grant amount, with the residual, if any, paid according to section 256D.09, subdivision 2a.

(b) 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.

(c) The burden of providing documentation for a county agency to use to verify eligibility for general assistance or for exemption from the food stamp employment and training program 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. 6. Minnesota Statutes 1996, section 256D.05, subdivision 8, as amended by Laws 1997, chapter 85, article 3, section 34, is amended to read:

Subd. 8. **CITIZENSHIP.** (a) Effective July 1, 1997, citizenship requirements for applicants and recipients under sections 256D.01 to 256D.03, subdivision 2, and 256D.04 to 256D.21 shall be determined the same as under section 256J.11, except that legal noncitizens who are applicants or recipients must have been residents of Minnesota on March 1, 1997. Legal noncitizens who arrive in Minnesota after March 1, 1997, and become elderly or disabled after that date, and are otherwise eligible for general assistance can receive benefits under this section. The income and assets of sponsors of noncitizens shall be deemed available to general assistance applicants and recipients according to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law Number 104-193, Title IV, sections 421 and 422, and subsequently set out in federal rules.

(b) As a condition of eligibility, each legal adult noncitizen in the assistance unit who has resided in the country for four years or more and who is under 70 years of age must:

- (1) be enrolled in a literacy class, English as a second language class, or a citizen class;
- (2) be applying for admission to a literacy class, English as a second language class, and is on a waiting list;
- (3) be in the process of applying for a waiver from the Immigration and Naturalization Service of the English language or civics requirements of the citizenship test;
- (4) have submitted an application for citizenship to the Immigration and Naturalization Service and is waiting for a testing date or a subsequent swearing in ceremony; or
- (5) have been denied citizenship due to a failure to pass the test after two attempts or because of an inability to understand the rights and responsibilities of becoming a United States citizen, as documented by the Immigration and Naturalization Service or the county.

If the county social service agency determines that a legal noncitizen subject to the requirements of this subdivision will require more than one year of English language

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training, then the requirements of clause (1) or (2) shall be imposed after the legal noncitizen has resided in the country for three years. Individuals who reside in a facility licensed under chapter 144A, 144D, 245A, or 256I are exempt from the requirements of this section.

Sec. 7. Laws 1997, chapter 85, article 1, section 7, subdivision 2, is amended to read:

Subd. 2. **NONCITIZENS; MFIP-S FOOD PORTION.** For the period ~~January~~ September 1, 1998 ~~1997~~, to June 30, 1998, noncitizens who do not meet one of the exemptions in section 412 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, but were residing in this state as of July 1, 1997, are eligible for the 6/10 of the average value of food stamps for the same family size and composition until MFIP-S is operative in the noncitizen's county of financial responsibility and thereafter, the 6/10 of the food portion of MFIP-S. However, federal food stamp dollars cannot be used to fund the food portion of MFIP-S benefits for an individual under this subdivision.

Sec. 8. Laws 1997, chapter 85, article 1, section 8, subdivision 2, is amended to read:

Subd. 2. **EXCEPTIONS.** (a) A county shall waive the 30-day residency requirement where unusual hardship would result from denial of assistance.

(b) For purposes of this section, unusual hardship means a family:

- (1) is without alternative shelter; or
- (2) is without available resources for food.

(c) For purposes of this subdivision, the following definitions apply (1) "metropolitan statistical area" is as defined by the U.S. Census Bureau; (2) "alternative shelter" includes any shelter that is located within the metropolitan statistical area containing the county and for which the family is eligible, provided the family does not have to travel more than 20 miles to reach the shelter and has access to transportation to the shelter. Clause (2) does not apply to counties in the Minneapolis-St. Paul metropolitan statistical area.

(d) Subd. 2a. **MIGRANT WORKERS.** Migrant workers, as defined in section 256J.08, and their immediate families are exempt from the 30-day residency requirement requirements of subdivisions 1 and 1a, provided the migrant worker provides verification that the migrant family worked in this state within the last 12 months and earned at least \$1,000 in gross wages during the time the migrant worker worked in this state.

Sec. 9. Laws 1997, chapter 85, article 1, section 12, subdivision 3, is amended to read:

Subd. 3. **OTHER PROPERTY LIMITATIONS.** To be eligible for MFIP-S, the equity value of all nonexcluded real and personal property of the assistance unit must not exceed \$2,000 for applicants and \$5,000 for ongoing recipients. The value of clauses (1) to (18) must be excluded when determining the equity value of real and personal property:

(1) licensed vehicles up to a total market value of less than or equal to \$7,500. The county agency shall apply any excess market value to the asset limit described in this section. If the assistance unit owns more than one licensed vehicle, the county agency shall determine the vehicle with the highest market value and count only the market value over

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\$7,500. The county agency shall count the market value of all other vehicles and apply this amount to the asset limit described in this section. The value of special equipment for a handicapped member of the assistance unit is excluded. To establish the market value of vehicles, a county agency must use the N.A.D.A. Official Used Car Guide, Midwest Edition, for newer model cars. The N.A.D.A. Official Used Car Guide, Midwest Edition, is incorporated by reference. When a vehicle is not listed in the guidebook, or when the applicant or participant disputes the value listed in the guidebook as unreasonable given the condition of the particular vehicle, the county agency may require the applicant or participant to document the value by securing a written statement from a motor vehicle dealer licensed under section 168.27, stating the amount that the dealer would pay to purchase the vehicle. The county agency shall reimburse the applicant or participant for the cost of a written statement that documents a lower value;

(2) the value of life insurance policies for members of the assistance unit;

(3) one burial plot per member of an assistance unit;

(4) the value of personal property needed to produce earned income, including tools, implements, farm animals, inventory, business loans, business checking and savings accounts used exclusively for the operation of a self-employment business, and any motor vehicles if the vehicles are essential for the self-employment business;

(5) the value of personal property not otherwise specified which is commonly used by household members in day-to-day living such as clothing, necessary household furniture, equipment, and other basic maintenance items essential for daily living;

(6) the value of real and personal property owned by a recipient of Social Supplemental Security Income or Minnesota supplemental aid;

(7) the value of corrective payments, but only for the month in which the payment is received and for the following month;

(8) a mobile home used by an applicant or participant as the applicant's or participant's home;

(9) money in a separate escrow account that is needed to pay real estate taxes or insurance and that is used for this purpose;

(10) money held in escrow to cover employee FICA, employee tax withholding, sales tax withholding, employee worker compensation, business insurance, property rental, property taxes, and other costs that are paid at least annually, but less often than monthly;

(11) monthly assistance and emergency assistance payments for the current month's needs;

(12) the value of school loans, grants, or scholarships for the period they are intended to cover;

(13) payments listed in section 256J.21, subdivision 2, clause (9), which are held in escrow for a period not to exceed three months to replace or repair personal or real property;

(14) income received in a budget month through the end of the budget month;

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(15) savings of a minor child or a minor parent that are set aside in a separate account designated specifically for future education or employment costs;

(16) the earned income tax credit and Minnesota working family credit in the month received and the following month;

(17) payments excluded under federal law as long as those payments are held in a separate account from any nonexcluded funds; and

(18) money received by a participant of the corps to career program under section 84.0887, subdivision 2, paragraph (b), as a postservice benefit under the federal Ameri-corps Act.

Sec. 10. Laws 1997, chapter 85, article 1, section 16, subdivision 1, is amended to read:

Subdivision 1. **PERSON CONVICTED OF DRUG OFFENSES.** (a) Applicants or recipients who have been convicted of a drug offense after July 1, 1997, may, if otherwise eligible, receive AFDC or MFIP-S benefits subject to the following conditions:

(1) benefits for the entire assistance unit must be paid in vendor form for shelter and utilities during any time the applicant is part of the assistance unit;

(2) the convicted applicant or recipient shall be subject to random drug testing as a condition of continued eligibility and is subject to sanctions under section 256J.46 following any positive test for an illegal controlled substance, except that the grant must continue to be vendor paid under clause (1).

This subdivision also applies to persons who receive food stamps under section 115 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

(b) For the purposes of this subdivision, "drug offense" means a conviction that occurred after July 1, 1997, of sections 152.021 to 152.025, 152.0261, or 152.096. Drug offense also means a conviction in another jurisdiction of the possession, use, or distribution of a controlled substance, or conspiracy to commit any of these offenses, if the offense occurred after July 1, 1997, and the conviction is a felony offense in that jurisdiction, or in the case of New Jersey, a high misdemeanor.

Sec. 11. Laws 1997, chapter 85, article 1, section 26, subdivision 2, is amended to read:

Subd. 2. **DEEMED INCOME AND ASSETS OF SPONSOR OF NONCITIZENS.** All income and assets of a sponsor, or sponsor's spouse, who executed an affidavit of support for a noncitizen must be deemed to be unearned income of the noncitizen as specified in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, title IV, Public Law Number 104-193, sections 421 and 422, and subsequently set out in federal rules.

Sec. 12. Laws 1997, chapter 85, article 1, section 32, subdivision 5, is amended to read:

Subd. 5. **EXEMPTION FOR CERTAIN FAMILIES.** (a) Any cash assistance received by an assistance unit does not count toward the 60-month limit on assistance during a month in which the parental caregiver is in the category in section 256J.56, clause

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(1). The exemption applies for the period of time the caregiver belongs to one of the categories specified in this subdivision.

(b) From July 1, 1997, until the date MFIP-S is operative in the caregiver's county of financial responsibility, any cash assistance received by a caregiver who is complying with sections 256.73, subdivision 5a, and 256.736, if applicable, does not count toward the 60-month limit on assistance. Thereafter, any cash assistance received by a caregiver who is complying with the requirements of sections 256J.14 and 256J.54, if applicable, does not count towards the 60-month limit on assistance.

Sec. 13. Laws 1997, chapter 85, article 1, section 33, is amended to read:

Sec. 33. **[256J.43] INTERSTATE PAYMENT STANDARDS.**

(a) Effective July 1, 1997, the amount of assistance paid to an eligible family in which all members have resided in this state for fewer than 12 consecutive calendar months immediately preceding the date of application shall be the lesser of either the payment standard that would have been received by the family from the state of immediate prior residence, or the amount calculated in accordance with AFDC or MFIP-S standards. The lesser payment must continue until the family meets the 12-month requirement. Payment must be calculated by applying this state's budgeting policies, and the unit's net income must be deducted from the payment standard in the other state or in this state, whichever is lower. Payment shall be made in vendor form for rent and utilities, up to the limit of the grant amount, and residual amounts, if any, shall be paid directly to the assistance unit.

(b) During the first 12 months a family resides in this state, the number of months that a family is eligible to receive AFDC or MFIP-S benefits is limited to the number of months the family would have been eligible to receive similar benefits in the state of immediate prior residence.

(c) This policy applies whether or not the family received similar benefits while residing in the state of previous residence.

(d) When a family moves to this state from another state where the family has exhausted that state's time limit for receiving benefits under that state's TANF program, the family will not be eligible to receive any AFDC or MFIP-S benefits in this state for 12 months from the date the family moves here.

(e) For the purposes of this section, "state of immediate prior residence" means:

(1) the state in which the applicant declares the applicant spent the most time in the 30 days prior to moving to this state; or

(2) the state in which an applicant who is a migrant worker maintains a home.

(f) The commissioner shall annually verify and update all other states' payment standards as they are to be in effect in July of each year.

(g) Applicants must provide verification of their state of immediate prior residence, in the form of tax statements, a driver's license, automobile registration, rent receipts, or other forms of verification approved by the commissioner.

(h) Migrant workers, as defined in section 256J.08, and their immediate families are exempt from this section, provided the migrant worker provides verification that the mi-

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grant family worked in this state within the last 12 months and earned at least \$1,000 in gross wages during the time the migrant worker worked in this state.

Sec. 14. Laws 1997, chapter 85, article 1, section 75, is amended to read:

Sec. 75. EFFECTIVE DATE.

(a) Sections 2, 7, 8, 16, 32, 33, 39, subdivisions 2 and 11, 60, 61, and 64 are effective July 1, 1997.

(b) The remaining provisions of this article are effective January 1, 1998, unless otherwise specified in the section.

Sec. 15. Laws 1997, chapter 85, article 3, section 28, subdivision 1, is amended to read:

Subdivision 1. **PERSON CONVICTED OF DRUG OFFENSES.** (a) If an applicant or recipient has been convicted of a drug offense after July 1, 1997, the assistance unit is ineligible for benefits under this chapter until five years after the applicant has completed terms of the court-ordered sentence, unless the person is participating in a drug treatment program, has successfully completed a drug treatment program, or has been assessed by the county and determined not to be in need of a drug treatment program. Persons subject to the limitations of this subdivision who become eligible for assistance under this chapter shall be subject to random drug testing as a condition of continued eligibility and shall lose eligibility for benefits for five years beginning the month following:

(1) any positive test result for an illegal controlled substance; or (2) discharge of sentence after conviction for another drug felony.

(b) For the purposes of this subdivision, "drug offense" means a conviction that occurred after July 1, 1997, of sections 152.021 to 152.025, 152.0261, or 152.096. Drug offense also means a conviction in another jurisdiction of the possession, use, or distribution of a controlled substance, or conspiracy to commit any of these offenses, if the offense occurred after July 1, 1997, and the conviction is a felony offense in that jurisdiction, or in the case of New Jersey, a high misdemeanor.

Sec. 16. Laws 1997, chapter 85, article 3, section 42, is amended to read:

Sec. 42. [256D.057] SUPPLEMENT FOR CERTAIN NONCITIZENS.

(a) For the period from July 1, 1997, to June 30, 1998, for an assistance unit receiving general assistance that contains an adult or a minor legal noncitizen who was residing in this state as of July 1, 1997, and lost eligibility for the federal food stamp and Supplemental Security Income programs under the provisions of title IV of Public Law Number 104-193, the standard is shall include an additional \$87 for each legal noncitizen under this section. To be eligible for benefits under this section, each legal adult noncitizen in the assistance unit who has resided in the country for four years or more and is under 70 years of age must:

(1) be enrolled in a literacy class, English as a second language class, or a citizenship class;

(2) be applying for admission to a literacy class, English as a second language class, or a citizenship class, and is enrolled within 60 days of receiving the increased grant amount under this paragraph on a waiting list;

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(3) be in the process of applying for a waiver from the Immigration and Naturalization Service of the English language or civics requirement of the citizenship test;

(4) have submitted an application for citizenship to the Immigration and Naturalization Service and is waiting for a testing date or a subsequent swearing in ceremony; or

(5) have been denied citizenship due to a failure to pass the test after two attempts or due to a denial of the application for naturalization because of an inability to understand the rights and responsibilities of becoming a citizen, as documented by the Immigration and Naturalization Service or the county.

If the county social service agency determines that a legal noncitizen subject to the requirements of this subdivision will require more than one year of English language training, then the requirements of clause (1) or (2) shall be imposed after the legal noncitizen has resided in the country for three years. Individuals who reside in a facility licensed under chapter 144A, 144D, 245A, or 256I are exempt from the requirements of this section.

(b) The assistance provided under this section, which is designated as a supplement to replace lost benefits under the food stamp program, must be disregarded as income in federal and state housing subsidy programs, low-income home energy assistance programs, and other programs that do not count food stamps as income.

Sec. 17. TEMPORARY SAFETY PLAN UNDER MFIP-S EMPLOYMENT AND TRAINING COMPONENT.

Effective July 1, 1997, and for the period of July 1, 1997, to March 31, 1998, a participant who is a victim of domestic violence and who agrees to develop or has developed a safety plan meeting the definition under this section is exempt from the 60-month time limit under Minnesota Statutes, section 256J.42, for a period of three months from the date the safety plan is approved by the county agency. A participant deferred under this section must submit a safety plan status report to the county agency on a quarterly basis. Based on a review of the status report, the county agency may approve or renew the participant's deferral each quarter, provided the personal safety of the participant is still at risk and the participant is complying with the plan. A participant who is deferred under this section and Minnesota Statutes, section 256J.52, subdivision 6, may be deferred for a total of 12 months under a safety plan, provided the individual is complying with the terms of the plan. For purposes of this section, "safety plan" means a plan developed by a victim of domestic violence or a person continuing to be at risk of domestic violence with the assistance of a public agency or a private nonprofit agency, including agencies that receive designation by the department of corrections to provide emergency shelter services or support services under Minnesota Statutes, section 611A.32. A safety plan shall not include a provision that automatically requires a domestic violence victim to seek an order of protection, or to attend counseling, as part of the safety plan.

Sec. 18. RESTORATION OF FEDERAL BENEFITS.

(a) Notwithstanding Laws 1997, chapter 85, if at any time federal benefits are restored for legal noncitizens who are receiving any of the following benefits funded entirely with state money:

(1) MFIP-S (TANF) under Minnesota Statutes, section 256J.11;

New language is indicated by underline, deletions by strikeout.

(2) medical assistance under Minnesota Statutes, section 256B.06; or

(3) general assistance and the food supplement authorized by Minnesota Statutes, section 256D.057, in lieu of federal Supplemental Security Income (SSI) and food stamp benefits;

then the commissioner shall immediately direct the county social service agencies to:

(i) redetermine the eligibility of those legal noncitizens for federally funded benefits under TANF, medical assistance, Supplemental Security Income, and the federal food stamp program; and

(ii) convert all legal noncitizens eligible for federally funded benefits to the appropriate federal program and utilize available federal funds for those eligible clients.

(b) Legal noncitizens who are converted to federal benefit status are not eligible for state-only benefits under Minnesota Statutes, section 256J.11, 256B.06, or 256D.057. Legal noncitizens who apply for assistance subsequent to the date that the federal government restores benefits to legal noncitizens under any federal program must first be screened for federal benefit eligibility.

Sec. 19. EFFECTIVE DATE.

(a) Section 2 is effective the day following final enactment.

(b) Sections 9 and 11 are effective January 1, 1998.

Presented to the governor May 29, 1997

Signed by the governor June 2, 1997, 2:35 p.m.

CHAPTER 204—S.F.No. 1833

An act relating to counties; providing that issuance of a certain permit does not make a county liable for certain injuries; amending Minnesota Statutes 1996, section 86B.121.

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

Section 1. Minnesota Statutes 1996, section 86B.121, is amended to read:

86B.121 RACES, COMPETITIONS, AND EXHIBITIONS.

(a) A person may not hold or sponsor any scheduled or public race, regatta, tournament or other competition or exhibition, or trial race on water or ice, whether or not involving watercraft, without first having obtained a written permit from the sheriff of the county where the event is to originate.

(b) The sheriff, in the permit, may exempt watercraft from any of the provisions of this chapter relating to the licensing, operation, and equipment of watercraft while participating in the event authorized.

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