STATE OF MINNESOTA

Journal of the Senate

SEVENTY-NINTH LEGISLATURE

EIGHTY-SECOND DAY

St. Paul, Minnesota, Wednesday, February 21, 1996

The Senate met at 11:45 a.m. and was called to order by the President.

CALL OF THE SENATE

Mr. Betzold imposed a call of the Senate. The Sergeant at Arms was instructed to bring in the absent members.

Prayer was offered by Senator Pat Piper.

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

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

The President declared a quorum present.

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

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce the passage by the House of the following Senate Files, herewith returned: S.F. Nos. 1909, 1984 and 2514.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned February 19, 1996

Mr. President:

I have the honor to announce the passage by the House of the following House Files, herewith transmitted: H.F. Nos. 219, 2204, 3052, 2318, 2525, 2059, 2483, 2526, 732, 2222, 2788 and 3162.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted February 19, 1996

FIRST READING OF HOUSE BILLS

The following bills were read the first time and referred to the committees indicated.

H.F. No. 219: A bill for an act relating to insurance; health plans; requiring coverage for treatment of Lyme disease; requiring a study; amending Minnesota Statutes 1994, section 62A.136; proposing coding for new law in Minnesota Statutes, chapter 62A.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 221.

H.F. No. 2204: A bill for an act relating to civil actions; creating a nuisance action by individuals and neighborhood organizations; proposing coding for new law in Minnesota Statutes, chapter 617.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 2014, now on General Orders.

H.F. No. 3052: A bill for an act relating to insurance; clarifying that existing law prohibits insurers from terminating agents as a result of contacts with any branch of government; amending Minnesota Statutes 1994, section 72A.20, subdivision 20.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 2780, now on General Orders.

H.F. No. 2318: A bill for an act relating to lawful gambling; regulating expenditures and reports; providing enforcement powers; removing the restriction on compensation to persons who participate in the conduct of lawful gambling; amending Minnesota Statutes 1994, sections 349.151, subdivision 4; 349.166, subdivisions 2 and 3; 349.18, subdivision 1; and 349.19, subdivision 3; repealing Minnesota Statutes 1994, section 349.168, subdivision 3.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 2218, now on General Orders.

H.F. No. 2525: A bill for an act relating to commerce; providing for the relocation of an existing new motor vehicle dealership under certain specified conditions.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 2201, now on General Orders.

H.F. No. 2059: A bill for an act relating to veterinarians; changing the veterinary practice act; amending Minnesota Statutes 1994, sections 156.001, subdivisions 3 and 6; 156.01, subdivisions 1, 2, 5, and by adding a subdivision; 156.02; 156.04; 156.05; 156.06; 156.07; 156.071; 156.072; 156.081; 156.10; 156.12, subdivisions 2, 3, and 4; 156.16, subdivisions 3 and 14; 156.17; and 156.18, subdivisions 1 and 2; proposing coding for new law in Minnesota Statutes, chapter 156; repealing Minnesota Statutes 1994, section 156.12, subdivision 5.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 1982, now on General Orders.

H.F. No. 2483: A bill for an act relating to courts; clarifying the process for applying for a writ of certiorari; amending Minnesota Statutes 1994, section 606.01; proposing coding for new law in Minnesota Statutes, chapter 543.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 2476, now on General Orders.

H.F. No. 2526: A bill for an act relating to crime; making it a crime to obtain cellular telephone service through cellular counterfeiting; requiring forfeiture of cloning paraphernalia used to create cloned cellular telephones; prescribing penalties; amending Minnesota Statutes 1994, section 609.531, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 609.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 2170, now on General Orders.

H.F. No. 732: A bill for an act relating to commerce; regulating the enforcement of copyright licenses on certain nondramatic musical works and similar works; requiring certain notices; prohibiting certain practices; providing remedies; proposing coding for new law in Minnesota Statutes, chapter 325E.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 950, now on General Orders.

H.F. No. 2222: A bill for an act relating to state government; excepting certain contracts from certain contract management requirements; abolishing certain reports and providing for a comprehensive annual report by the department of economic security; providing a mission statement for the department of economic security; amending Minnesota Statutes 1994, sections 268.0122, subdivisions 3 and 4; and 268.65, subdivision 1; Minnesota Statutes 1995 Supplement, sections 16B.06, subdivision 2a; 268.0122, subdivision 6; 268.0124; 268.363; and 268.98, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 268; repealing Minnesota Statutes 1994, sections 268.367; 268.37, subdivision 5; and 268.38, subdivision 11; Minnesota Statutes 1995 Supplement, section 268.92, subdivision 10.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 2097, now on General Orders.

H.F. No. 2788: A bill for an act relating to liquor; modifying restrictions for temporary on-sale licenses; amending Minnesota Statutes 1995 Supplement, sections 340A.404, subdivision 10; and 340A.410, subdivision 10.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 2591, now on General Orders.

H.F. No. 3162: A bill for an act relating to local government; permitting the city of Cohasset to own and operate a gas utility.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 2821, now on General Orders.

REPORTS OF COMMITTEES

Mr. Moe, R.D. moved that the Committee Reports at the Desk be now adopted, with the exception of the reports on S.F. Nos. 2203, 1861, 820, 2691 and 2391. The motion prevailed.

Mr. Lessard from the Committee on Environment and Natural Resources, to which was referred

S.F. No. 2208: A bill for an act relating to water; providing for collection of revenue by watershed districts; amending Minnesota Statutes 1994, section 444.075, subdivision 1a, and by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 103D.

Reports the same back with the recommendation that the bill be amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. [103D.729] [WATER MANAGEMENT DISTRICT.]

Subdivision 1. [WATER MANAGEMENT DISTRICT.] A watershed district may establish a water management district or districts in the territory within the watershed, for the purpose of collecting revenues and paying the costs of projects initiated under section 103B.231, 103D.601, 103D.605, 103D.611, or 103D.730.

Subd. 2. [PROCEDURE.] A watershed district may establish a water management district only by amendment to its plan in accordance with section 103D.411, or 103B.231 for watershed districts in the metropolitan area, and compliance with subdivisions 3 and 4. The amendment shall

describe with particularity the territory or the area to be included in the water management district, the amount of the necessary charges, the methods used to determine charges, and the length of time the water management district will remain in force. After adoption the amendment shall be filed with the county auditor and county recorder of each county affected by the water management district. The water management district may be dissolved by the procedure prescribed for the establishment of the water management district.

Subd. 3. [NOTIFICATION.] The managers shall, ten days prior to a hearing or decision on projects implemented under this section, provide notice to the city, town, or county within the affected area. The city, town, or county receiving notice shall submit to the managers' concerns relating to the implementation of the project. The managers shall consider the concerns of the city, town, or county in the decision on the project.

Subd. 4. [RESOLUTION OF DISPUTES.] Unresolved differences between local governments and the managers may be brought before the committee on dispute resolution under section 103B.101, subdivision 10. Within 45 days of receiving the request for dispute resolution, the committee must consider the concerns of the local government. The committee has 30 days after meeting to issue a recommendation to the board for final decision.

Sec. 2. [103D.730] [STORM WATER FACILITIES.]

(a) Any watershed district may build, construct, reconstruct, repair, enlarge, improve, or in any other manner obtain storm water systems, including mains, holding areas and ponds, and other appurtenances and related facilities for the collection and disposal of storm water, maintain and operate the facilities, and acquire by gift, purchase, lease, condemnation, or otherwise any and all land and easements required for that purpose.

(b) The authority granted is in addition to all other powers with reference to the facilities otherwise granted by the laws of this state or by this chapter.

Sec. 3. Minnesota Statutes 1994, section 444.075, is amended by adding a subdivision to read:

Subd. 2a. [COLLECTION OF CHARGES BY WATERSHED DISTRICTS.] (a) With respect to watershed districts, charges established under section 103D.729 for the purpose of projects under section 103D.730 may be billed and collected in a manner the district shall determine, including certification to the counties with territory within the district for collection by the counties. A county may bill and collect the charges in a manner the county board shall determine or as described in paragraph (b).

(b) On or before October 15 in each year, the district or county board may certify to the county auditor all unpaid outstanding charges, and a description of the lands against which the charges arose. The county auditor shall extend the charges with interest not to exceed the interest rate provided for in section 279.03, subdivision 1, upon the tax rolls of the county for the taxes of the year in which the charge is filed. The charge with interest shall be carried into the tax becoming due and payable in January of the following year, and shall be enforced and collected in the manner provided for the enforcement and collection of real property taxes. The charges, if not paid, shall become delinquent and subject to the same penalties and the same rate of interest as real property taxes.

(c) Any individual may appeal the charges under section 103D.535."

Amend the title as follows:

Page 1, line 4, delete "subdivision 1a, and"

And when so amended the bill do pass. Amendments adopted. Report adopted.

Mr. Lessard from the Committee on Environment and Natural Resources, to which was referred

S.F. No. 2114: A bill for an act relating to water; modifying provisions of the reinvest in

Minnesota resources program; amending Minnesota Statutes 1994, section 103F.515, subdivisions 2, 3, and 6.

Reports the same back with the recommendation that the bill be amended as follows:

Page 3, line 34, reinstate the stricken language

Page 3, line 36, delete the new language

Page 4, delete lines 1 to 8

Page 4, line 9, delete the new language

Page 4, after line 15, insert:

"(d) For wetland restoration projects involving more than one conservation easement, state payments for restoration costs may exceed the limits set forth in this section for an individual easement provided the total payment for the restoration project does not exceed the amount payable for the total number of acres involved.

(e) The board may use available nonstate funds to exceed the payment limits in this section."

And when so amended the bill do pass. Amendments adopted. Report adopted.

Mr. Lessard from the Committee on Environment and Natural Resources, to which was referred

S.F. No. 2203: A bill for an act relating to waters; establishing the Minnesota river basin joint powers board to coordinate cleanup efforts; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 103F.

Reports the same back with the recommendation that the bill be amended as follows:

Page 1, line 9, delete "ESTABLISHMENT" and insert "DUTIES" and delete "A" and insert "The"

Page 1, line 10, delete "is" and insert a comma

Page 1, line 11, delete "cleanup" and after "efforts" insert "to improve water quality"

Page 1, line 13, delete the period and insert a comma

Page 1, line 14, delete everything before "has"

Page 1, line 17, delete "integrating" and insert "coordinating"

Page 2, line 7, after "office" insert "and the chairs of the agriculture and environment and natural resources committees of the senate and the house of representatives" and delete "cleanup" and insert "water quality management"

Page 2, line 9, delete "3" and insert "2"

Page 2, line 12, after "technical" insert "and citizen"

Page 2, line 16, delete "expertise" and insert "an interest" and before "and" insert "sporting activities,"

Page 2, line 17, delete "of expertise"

Page 2, delete section 2

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 2, delete "establishing" and insert "requiring"

Page 1, line 4, delete "appropriating money;"

And when so amended the bill do pass.

Pursuant to Joint Rule 2.03, the bill was referred to the Committee on Rules and Administration.

Mr. Novak from the Committee on Jobs, Energy and Community Development, to which was referred

S.F. No. 2793: A bill for an act relating to economic development; modifying the neighborhood revitalization program; amending Minnesota Statutes 1994, section 469.1831, subdivisions 3 and 6.

Reports the same back with the recommendation that the bill do pass. Report adopted.

Mr. Spear from the Committee on Crime Prevention, to which was referred

S.F. No. 2254: A bill for an act relating to government data practices; providing a statutory process for expungement of certain arrest or conviction records; modifying grounds for expungement in certain cases; amending Minnesota Statutes 1994, sections 242.31, subdivision 2; and 299C.13; Minnesota Statutes 1995 Supplement, sections 152.18, subdivision 1; 242.31, subdivision 1; and 299C.11; proposing coding for new law as Minnesota Statutes, chapter 609A; repealing Minnesota Statutes 1994, sections 152.18, subdivision 2; 242.31, subdivision 3; 609.166; 609.167; and 609.168.

Reports the same back with the recommendation that the bill be amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1995 Supplement, section 152.18, subdivision 1, is amended to read:

Subdivision 1. If any person who has not previously participated in or completed a diversion program authorized under section 401.065 or who has not previously been placed on probation without a judgment of guilty and thereafter been discharged from probation under this section is found guilty of a violation of section 152.024, subdivision 2, 152.025, subdivision 2, or 152.027, subdivision 2, 3, or 4, for possession of a controlled substance, after trial or upon a plea of guilty, and the court determines that the violation does not qualify as a subsequent controlled substance conviction under section 152.01, subdivision 16a, the court may, without entering a judgment of guilty and with the consent of the person, defer further proceedings and place the person on probation upon such reasonable conditions as it may require and for a period, not to exceed the maximum sentence provided for the violation. The court may give the person the opportunity to attend and participate in an appropriate program of education regarding the nature and effects of alcohol and drug abuse as a stipulation of probation. Upon violation of a condition of the probation, the court may enter an adjudication of guilt and proceed as otherwise provided. The court may, in its discretion, dismiss the proceedings against the person and discharge the person from probation before the expiration of the maximum period prescribed for the person's probation. If during the period of probation the person does not violate any of the conditions of the probation, then upon expiration of the period the court shall discharge the person and dismiss the proceedings against that person. Discharge and dismissal under this subdivision shall be without court adjudication of guilt, but a not public record of it shall be retained by the ~~department of public safety~~ bureau of criminal apprehension for the purpose of use by the courts in determining the merits of subsequent proceedings against the person. The not public record may also be opened only upon court order for purposes of a criminal investigation, prosecution, or sentencing. Upon request by law enforcement, prosecution, or corrections authorities, the ~~department~~ bureau shall notify the requesting party of the existence of the not public record and the right to seek a court order to open it pursuant to this section. The court shall forward a record of any discharge and

dismissal under this subdivision to the ~~department of public safety who~~ bureau which shall make and maintain the not public record of it as provided under this subdivision. The discharge or dismissal shall not be deemed a conviction for purposes of disqualifications or disabilities imposed by law upon conviction of a crime or for any other purpose.

For purposes of this subdivision, "not public" has the meaning given in section 13.02, subdivision 8a.

Sec. 2. Minnesota Statutes 1994, section 168.36, is amended by adding a subdivision to read:

Subd. 4. [OFFICER MAY SEIZE REGISTRATION PLATES.] If a peace officer stops a motor vehicle and determines, through a check of the motor vehicle registration record system, that the vehicle is being operated without valid registration in violation of this section and it has been more than 30 days since the registration has expired, the officer may immediately seize the vehicle's registration plates and destroy the plates or return them to the commissioner of public safety.

Sec. 3. Minnesota Statutes 1995 Supplement, section 242.31, subdivision 1, is amended to read:

Subdivision 1. Whenever a person who has been committed to the custody of the commissioner of corrections upon conviction of a crime following certification under the provisions of section 260.125 is finally discharged by order of the commissioner, that discharge shall restore the person to all civil rights ~~and, if so ordered by the commissioner of corrections, also shall have the effect of setting aside the conviction, nullifying it and purging the person of it~~. The commissioner shall file a copy of the order with the district court of the county in which the conviction occurred~~; upon receipt, the court shall order the conviction set aside. An order setting aside a conviction for a crime of violence as defined in section 624.712, subdivision 5, must provide that the person is not entitled to ship, transport, possess, or receive a firearm until ten years have elapsed since the order was entered and during that time the person was not convicted of any other crime of violence. A person whose conviction was set aside under this section and who thereafter has received a relief of disability under United States Code, title 18, section 925, shall not be subject to the restrictions of this subdivision~~.

Sec. 4. Minnesota Statutes 1994, section 242.31, subdivision 2, is amended to read:

Subd. 2. Whenever a person described in subdivision 1 has been placed on probation by the court pursuant to section 609.135 and, after satisfactory fulfillment of it, is discharged from probation, the court shall issue an order of discharge pursuant to subdivision 2a and section 609.165. ~~On application of the defendant or on its own motion and after notice to the county attorney, the court in its discretion may also order that the defendant's conviction be set aside with the same effect as a court order under subdivision 1.~~

~~These orders restore~~ This order restores the defendant to civil rights ~~and purge and free the defendant from all penalties and disabilities arising from the defendant's conviction and the conviction shall not thereafter be used against the defendant, except in a criminal prosecution for a subsequent offense if otherwise admissible therein. In addition, the record of the defendant's conviction shall be sealed and may be opened only upon court order for purposes of a criminal investigation, prosecution, or sentencing. Upon request by law enforcement, prosecution, or corrections authorities, the court or the department of public safety shall notify the requesting party of the existence of the sealed record and the right to seek a court order to open it pursuant to this section~~.

Sec. 5. Minnesota Statutes 1995 Supplement, section 260.132, subdivision 1, is amended to read:

Subdivision 1. [NOTICE.] When a peace officer~~,~~ or attendance officer ~~in the case of a habitual truant,~~ has probable cause to believe that a child:

(1) is in need of protection or services under section 260.015, subdivision 2a, clause (11) or (12);

(2) is a juvenile petty offender; or

(3) has committed a delinquent act that would be a petty misdemeanor or misdemeanor if committed by an adult;

the officer may issue a notice to the child to appear in juvenile court in the county in which the child is found or in the county of the child's residence or, in the case of a juvenile petty offense, or a petty misdemeanor or misdemeanor delinquent act, the county in which the offense was committed. If there is a school attendance review board or county attorney mediation program operating in the child's school district, a notice to appear in juvenile court for a habitual truant may not be issued until the applicable procedures under section 260A.06 or 260A.07 have been exhausted. The officer shall file a copy of the notice to appear with the juvenile court of the appropriate county. If a child fails to appear in response to the notice, the court may issue a summons notifying the child of the nature of the offense alleged and the time and place set for the hearing. If the peace officer finds it necessary to take the child into custody, sections 260.165 and 260.171 shall apply.

Sec. 6. Minnesota Statutes 1994, section 260.161, subdivision 1a, is amended to read:

Subd. 1a. [RECORD OF ADJUDICATIONS; NOTICE TO BUREAU OF CRIMINAL APPREHENSION.] (a) The juvenile court shall forward to the Bureau of Criminal Apprehension the following data on juveniles adjudicated delinquent for having committed felony-level criminal sexual conduct:

(1) the name and birth date of the juvenile, including any of the juvenile's known aliases or street names;

(2) the type of act for which the juvenile was adjudicated delinquent and date of the offense; and

(3) the date and county of the adjudication.

(b) The bureau shall retain data on a juvenile until the offender reaches the age of 28. If the offender commits another violation of sections 609.342 to 609.345 as an adult, the bureau shall retain the data for as long as the data would have been retained if the offender had been an adult at the time of the juvenile offense.

(c) The juvenile court shall forward to the bureau the following data on individuals convicted as extended jurisdiction juveniles:

(1) the name and birthdate of the offender, including any of the juvenile's known aliases or street names;

(2) the crime committed by the offender and the date of the crime; and

(3) the date and county of the conviction.

The court shall notify the bureau whenever it executes an extended jurisdiction juvenile's adult sentence under section 260.126, subdivision 5.

(d) The bureau shall retain the extended jurisdiction juvenile data for as long as the data would have been retained if the offender had been an adult at the time of the offense. Data retained on individuals under this subdivision are private data under section 13.02, except that extended jurisdiction juvenile data becomes public data under section 13.87, subdivision 2, when the juvenile court notifies the bureau that the individual's adult sentence has been executed under section 260.126, subdivision 5.

Sec. 7. Minnesota Statutes 1995 Supplement, section 299C.10, subdivision 1, is amended to read:

Subdivision 1. [LAW ENFORCEMENT DUTY.] (a) It is hereby made the duty of the sheriffs of the respective counties ~~and~~, of the police officers in cities of the first, second, and third classes, under the direction of the chiefs of police in such cities, and of community corrections agencies operating secure juvenile detention facilities to take or cause to be taken immediately finger and

thumb prints, photographs, distinctive physical mark identification data, and such other identification data as may be requested or required by the superintendent of the bureau; of all persons arrested for a felony, gross misdemeanor, of all juveniles committing felonies as distinguished from those committed by adult offenders, of all persons reasonably believed by the arresting officer to be fugitives from justice, of all persons in whose possession, when arrested, are found concealed firearms or other dangerous weapons, burglar tools or outfits, high-power explosives, or articles, machines, or appliances usable for an unlawful purpose and reasonably believed by the arresting officer to be intended for such purposes, and within 24 hours thereafter to forward such fingerprint records and other identification data on such forms and in such manner as may be prescribed by the superintendent of the bureau of criminal apprehension.

(b) Effective August 1, 1997, the identification reporting requirements shall also apply to persons committing misdemeanor offenses, including violent and enhanceable crimes, and juveniles committing gross misdemeanors. In addition, the reporting requirements shall include any known aliases or street names of the offenders.

Sec. 8. Minnesota Statutes 1995 Supplement, section 299C.11, is amended to read:

299C.11 [IDENTIFICATION DATA FURNISHED TO BUREAU.]

The sheriff of each county and the chief of police of each city of the first, second, and third classes shall furnish the bureau, upon such form as the superintendent shall prescribe, with such finger and thumb prints, photographs, distinctive physical mark identification data, and other identification data as may be requested or required by the superintendent of the bureau, which may be taken under the provisions of section 299C.10, of persons who shall be convicted of a felony, gross misdemeanor, or who shall be found to have been convicted of a felony or gross misdemeanor, within ten years next preceding their arrest. Upon the determination of all pending criminal actions or proceedings in favor of the arrested person, the arrested person shall, upon demand, have all such finger and thumb prints, photographs, distinctive physical mark identification data, and other identification data, and all copies and duplicates thereof, returned, provided of them, if it is not established that the arrested person has been convicted of any felony, either within or without the state, within the period of ten years immediately preceding such determination.

For purposes of this section, "determination of all pending criminal actions or proceedings in favor of the arrested person" does not include:

(1) the sealing of a criminal record pursuant to section 152.18, subdivision 1, 242.31, or ~~609.168~~ chapter 609A; ~~or~~

(2) the arrested person's successful completion of a diversion program;

(3) an order of discharge under section 609.165; or

(4) a pardon granted under section 638.02.

Sec. 9. Minnesota Statutes 1994, section 299C.13, is amended to read:

299C.13 [INFORMATION FURNISHED TO PEACE OFFICERS.]

Upon receipt of information data as to any arrested person, the bureau shall immediately ascertain whether the person arrested has a criminal record or is a fugitive from justice, and shall at once inform the arresting officer of the facts ascertained. Upon application by any sheriff, chief of police, or other peace officer in the state, or by an officer of the United States or by an officer of another state, territory, or government duly authorized to receive the same and effecting reciprocal interchange of similar information with the division, it shall be the duty of the bureau to furnish all information in its possession pertaining to the identification of any person. If the bureau has a sealed record on the arrested person, it shall notify the requesting peace officer of that fact and of the right to seek a court order to open the record for purposes of law enforcement. A criminal justice agency shall be notified, upon request, of the existence and contents of a sealed record containing conviction information about an applicant for employment. For purposes of this section

a "criminal justice agency" means courts or a government agency that performs the administration of criminal justice under statutory authority.

Sec. 10. [609A.01] [SEALING OF CRIMINAL RECORDS.]

Subdivision 1. [DEFINITION.] "Sealing of records" means that only under court order or statutory authority may the record's existence be disclosed or may the record be opened. "Sealing of records" does not include the destruction of records or their return to the subject of the records.

Subd. 2. [SCOPE OF CHAPTER.] This chapter provides the grounds and procedure for the sealing of records under sections 13.82 and 152.18, subdivision 1.

Sec. 11. [609A.02] [GROUNDS FOR ORDER SEALING RECORDS.]

Subdivision 1. [CERTAIN CONTROLLED SUBSTANCE OFFENSES.] Upon the dismissal and discharge of proceedings against a person under section 152.18, subdivision 1, for violation of section 152.024, 152.025, or 152.027 for possession of a controlled substance, or on other grounds permitted by law, the person may petition under section 609A.03 for the sealing of all records relating to the arrest, indictment or information, trial and dismissal and discharge.

Subd. 2. [JUVENILES PROSECUTED AS ADULTS.] A petition for the sealing of a conviction record may be filed under section 609A.03 by a person who has been committed to the custody of the commissioner of corrections upon conviction of a crime following certification to district court under section 260.125, if the person:

(1) is finally discharged by the commissioner; or

(2) has been placed on probation by the court under section 609.135 and has been discharged from probation after satisfactory fulfillment of it.

Subd. 3. [SEALING PROHIBITED.] Records of a conviction of an offense for which registration is required under section 243.166 may not be sealed.

Sec. 12. [609A.03] [PETITION TO SEAL CRIMINAL RECORDS.]

Subdivision 1. [PETITION; FILING FEE.] An individual who is the subject of a criminal record who is seeking the sealing of the record shall file a petition under this section and pay a filing fee in the amount required under section 357.021, subdivision 2, clause (1). If less than six months have elapsed since completion of the criminal proceedings or discharge of a sentence for which the sealing of records is sought, the petition may be filed with the court that had jurisdiction over the criminal proceedings and no filing fee is required. The filing fee may be waived in cases of indigency.

Subd. 2. [CONTENTS OF PETITION.] A petition for sealing records must be signed under oath by the petitioner and shall state the following:

(1) the petitioner's full name and all other legal names or aliases by which the petitioner has been known at any time;

(2) the petitioner's date of birth;

(3) all of the petitioner's addresses from the date of the offense or alleged offense in connection with which the order sealing the records is sought, to the date of the petition;

(4) why the order is sought, if it is for employment or licensure purposes, the statutory or other legal authority under which it is sought, and why it should be granted;

(5) the details of the offense for which the order is sought, including date and jurisdiction of the occurrence, court file number, and date of conviction or of dismissal;

(6) in the case of a conviction, what steps the petitioner has taken since the time of the offense toward personal rehabilitation, including treatment, work, or other personal history that demonstrates rehabilitation;

(7) petitioner's criminal conviction record indicating all convictions for misdemeanors, gross misdemeanors, or felonies in this state, and for all comparable convictions in any other state, federal court, or foreign country, whether the convictions occurred before or after the offense for which the order is sought; and

(8) all prior requests by the petitioner, whether for the present offense or for any other offenses, in this state or any other state or federal court, for pardon, expungement, or sealing of a criminal record, whether granted or not, and all stays of adjudication or imposition of sentence involving the petitioner.

Subd. 3. [SERVICE OF PETITION.] The petition for sealing records and a proposed order shall be served by mail on the state and local government agencies and jurisdictions whose records would be affected by the proposed order. Service shall also be made by mail on the attorney for each agency and jurisdiction.

Subd. 4. [HEARING.] A hearing on the petition shall be held not sooner than 60 days after service of the petition.

Subd. 5. [NATURE OF REMEDY; STANDARD; FIREARMS RESTRICTION.] (a) Except as provided in paragraph (b), the sealing of a criminal record is an extraordinary remedy to be granted only upon clear and convincing evidence that it would yield a benefit to the petitioner commensurate with the disadvantages to the public and public safety of:

(1) sealing the record; and

(2) burdening the court and public authorities to issue, enforce, and monitor the order.

(b) If the petitioner is requesting the sealing of a criminal record for which there was no conviction or finding by a court of probable cause to believe the offense was committed, the court shall grant the petition to seal the record unless the agency or jurisdiction whose records would be affected establishes by clear and convincing evidence that the interests of the public and public safety outweigh the disadvantages to the petitioner of not sealing the record.

(c) An order sealing the record of a conviction for a crime of violence as defined in section 624.712, subdivision 5, must provide that the person is not entitled to ship, transport, possess, or receive a firearm until ten years have elapsed since the order was entered and during that time the person was not convicted of any other crime of violence. Any person whose record of conviction is sealed under this section and who thereafter receives a relief of disability under United States Code, title 18, section 925, is not subject to the restriction in this paragraph.

Subd. 6. [ORDER CONCERNING CONTROLLED SUBSTANCE OFFENSES.] If the court orders the sealing of the record of proceedings under section 152.18, the effect of the order shall be to restore the person, in the contemplation of the law, to the status the person occupied before the arrest, indictment, or information. The person shall not be held guilty of perjury or otherwise of giving a false statement if the person fails to acknowledge the arrest, indictment, information, or trial in response to any inquiry made for any purpose.

Subd. 7. [LIMITATIONS OF ORDER.] Notwithstanding the issuance of an order sealing records under this chapter:

(1) a sealed record may be opened for purposes of a criminal investigation, prosecution, or sentencing upon an ex parte court order; and

(2) a sealed record of a conviction may be opened for purposes of evaluating a prospective employee in a criminal justice agency without a court order.

Upon request by a criminal justice agency, an agency or jurisdiction subject to an order sealing a record shall inform the requester of the existence of a sealed record and of the right to obtain access to it as provided by this paragraph. For purposes of this subdivision a "criminal justice agency" means courts or a government agency that performs the administration of criminal justice under statutory authority.

Subd. 8. [STAY OF ORDER; APPEAL.] An order sealing a record shall be automatically stayed for 60 days after filing of the order and, if the order is appealed, during the appeal period. A person or an agency or jurisdiction whose records would be affected by the order may appeal the order within 60 days of service of notice of filing of the order. An agency or jurisdiction or officials or employees thereof need not file a cost bond or supersedeas bond in order to further stay the proceedings or file an appeal.

Subd. 9. [DISTRIBUTION OF ORDERS.] If an order sealing a record is issued, the court administrator shall send a copy of it to each agency and jurisdiction whose records are affected by the terms of the order.

Sec. 13. [REPEALER.]

Minnesota Statutes 1994, sections 152.18, subdivision 2; 242.31, subdivision 3; 609.166; 609.167; and 609.168, are repealed.

Sec. 14. [EFFECTIVE DATE; APPLICATION.]

Sections 1, 3, 4, and 8 to 13 are effective August 1, 1996, and apply to requests for the sealing of criminal records initiated on or after that date. Section 5 is effective the day following final enactment. Sections 2, 6, and 7 are effective August 1, 1996, and apply to acts occurring on or after that date."

Amend the title as follows:

Page 1, line 3, delete "expungement" and insert "the sealing" and delete "arrest or"

Page 1, line 4, delete "conviction" and insert "criminal" and delete "expungement" and insert "sealing records"

Page 1, line 5, after the semicolon, insert "authorizing peace officers to issue citations for truancy; requiring that certain juveniles taken into secure custody be formally booked and fingerprinted; requiring that any known street names or aliases of certain juvenile offenders be included in the statewide juvenile information system;"

Page 1, line 6, after "sections" insert "168.36, by adding a subdivision;" and after the first semicolon, insert "260.161, subdivision 1a;"

Page 1, line 8, after the second semicolon, insert "260.132, subdivision 1; 299C.10, subdivision 1;"

And when so amended the bill do pass. Amendments adopted. Report adopted.

Mr. Kelly from the Committee on Judiciary, to which was re-referred

S.F. No. 1887: A bill for an act relating to human services; directing the department of human services to determine and pay certain compensation of the appeals panel along with allowable fees and costs of patient's counsel; extending the state's authority to obtain a lien when covering medical care for a person; adding provisions to notice required for monetary claims; amending Minnesota Statutes 1994, sections 253B.19, subdivision 1; 256.015, subdivision 4; and 256B.042, subdivisions 1 and 4; Minnesota Statutes 1995 Supplement, sections 256.015, subdivisions 1 and 2; 256B.042, subdivision 2; and 256D.045.

Reports the same back with the recommendation that the bill do pass. Report adopted.

Mr. Kelly from the Committee on Judiciary, to which was referred

H.F. No. 2042: A bill for an act relating to the human rights act; providing that making certain equal opportunities in athletic programs available on the basis of sex is not an unfair discriminatory practice; amending Minnesota Statutes 1994, section 363.02, subdivision 4.

Reports the same back with the recommendation that the bill be amended as follows:

Page 1, line 24, delete "whose" and insert a period

Page 1, delete line 25

And when so amended the bill do pass. Amendments adopted. Report adopted.

Mr. Kelly from the Committee on Judiciary, to which was referred

S.F. No. 2686: A bill for an act relating to evidence; allowing the introduction of police reports as evidence in forcible entry and unlawful detains actions to recover possession of premises; amending Minnesota Statutes 1994, section 566.07.

Reports the same back with the recommendation that the bill be amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1994, section 566.07, is amended to read:

566.07 [ANSWER; TRIAL.]

After the return of the summons, at the time and place appointed therein, the defendant, on appearing, may answer the complaint, and all matters in excuse, justification, or avoidance of the allegations thereof shall be set up in the answer; and thereupon the court shall hear and determine the action, unless it shall adjourn the trial as provided in section 566.08, but either party may demand a trial by jury. The proceedings in such action shall be the same as in other civil actions, except as in this chapter otherwise provided. In actions pursuant to section 504.181, the testimony in court of sworn peace officers regarding the peace officer's actions based on information from a confidential, reliable informant is admissible without disclosing the identity of the confidential, reliable informant or facts from which the identity of the confidential, reliable informant could be determined, and without a showing that the informant is unavailable. The court, in scheduling appearances and hearings under this section, shall give priority to any unlawful detainer brought under section 504.181, or on the basis that the tenant is causing a nuisance or seriously endangers the safety of other residents, their property, or the landlord's property.

Sec. 2. [EFFECTIVE DATE.]

Section 1 is effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to evidence; allowing police testimony on information from confidential informants in forcible entry and unlawful detainer actions; amending Minnesota Statutes 1994, section 566.07."

And when so amended the bill do pass. Amendments adopted. Report adopted.

Mr. Metzen from the Committee on Governmental Operations and Veterans, to which was re-referred

S.F. No. 1861: A bill for an act relating to the environment; modifying provisions relating to the management of waste and solid waste assessments and taxes; amending Minnesota Statutes 1994, sections 115A.03, subdivision 21, and by adding subdivisions; 115A.50; 115A.916; 115A.919, by adding a subdivision; 115A.923, subdivision 1a; 115A.93, subdivision 3; 115A.9301, by adding a subdivision; 115A.965, subdivision 3; and 115D.09; Minnesota Statutes 1995 Supplement, sections 115A.072, subdivision 1; 115A.411, subdivision 2; 115A.554; 115A.965, subdivision 1; 115A.981, subdivision 3; 116.07, subdivision 10; and 297A.45, subdivisions 2 and 3; proposing coding for new law in Minnesota Statutes, chapter 115A; repealing Minnesota Statutes 1994, sections 115A.072, subdivision 3; 115A.154; 115A.156; 115A.48, subdivisions 2 and 5; 115A.53; 115A.913, subdivision 5; 115A.9162; and 115A.991; Minnesota Statutes 1995 Supplement, sections 115A.0715; 115A.55, subdivision 3; and 115D.05.

Reports the same back with the recommendation that the bill be amended as follows:

Page 2, line 30, after "materials" insert ", including commingled recyclable materials,"

Page 9, line 4, delete "$....." and insert "$1"

Page 22, lines 19 and 20, delete "and other mixed municipal solid waste"

Page 22, lines 21 and 22, delete "resource recovery"

And when so amended the bill do pass.

Pursuant to Joint Rule 2.03, the bill was referred to the Committee on Rules and Administration.

Mr. Lessard from the Committee on Environment and Natural Resources, to which was referred

H.F. No. 2332: A bill for an act relating to water; modifying permit requirements; approving a consumptive use of water; amending Minnesota Statutes 1995 Supplement, sections 103G.245, subdivisions 3 and 5.

Reports the same back with the recommendation that the bill be amended as follows:

Page 2, line 8, after "use" insert "under a permit"

Page 2, line 9, delete "at the Koch Refining"

Page 2, line 10, delete "Company" and after "Rosemount" insert "and Inver Grove Heights"

Page 2, line 13, after "water" insert "and approval by the commissioner of natural resources"

And when so amended the bill do pass. Amendments adopted. Report adopted.

Mr. Johnson, D.J. from the Committee on Taxes and Tax Laws, to which was referred

S.F. No. 2304: A bill for an act relating to taxation; making technical and administrative changes, corrections, and clarifications; amending Minnesota Statutes 1994, sections 10A.31, subdivision 3a; 239.761, subdivision 5; 270.07, subdivision 1; 273.02, subdivision 3; 275.07, subdivision 4; 278.01, by adding a subdivision; 278.08; 287.06; 290.01, subdivision 4a; 290.06, subdivision 22; 290.0922, subdivision 1; 290.17, subdivision 2; 296.01, subdivisions 2 and 13; 296.02, by adding a subdivision; 296.025, subdivision 6; 296.141, subdivision 5; 296.15, by adding a subdivision; 296.17, subdivision 7; and 477A.011, subdivision 3; Minnesota Statutes 1995 Supplement, sections 41A.09, subdivision 2a; 273.13, subdivision 25; 296.02, subdivision 1; 296.025, subdivision 1; and 296.12, subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 290A; repealing Minnesota Statutes 1994, sections 273.1316; and 296.25, subdivision 1a.

Reports the same back with the recommendation that the bill be amended as follows:

Page 1, line 27, after "party" insert "as defined in section 10A.01, subdivision 12,"

Page 2, after line 26, insert:

"Sec. 2. Minnesota Statutes 1994, section 270.067, subdivision 2, is amended to read:

Subd. 2. [PREPARATION; SUBMISSION.] The commissioner of revenue shall prepare a tax expenditure budget for the state. The tax expenditure budget report shall be submitted to the legislature ~~as a supplement to the governor's budget and at the same time as provided for submission of the budget pursuant to section 16A.11, subdivision 1~~ by February 1 of each even-numbered year."

Page 9, line 13, after "performed" insert "by the employee"

Page 9, line 26, delete "5" and insert "3 to 6"

Page 11, after line 13, insert:

"Sec. 2. Minnesota Statutes 1994, section 270.271, is amended to read:

270.271 [TIMELY MAILING TREATED AS TIMELY FILING AND PAYING.]

Subdivision 1. [DATE OF DELIVERY.] When a document, including a return, claim, or statement, is required to be filed, or a payment is required to be made to the commissioner, or to a county for the payment of real or personal property taxes, within a prescribed period, or on or before a prescribed date, and if the document or payment is delivered by United States mail after the period or the date to the place prescribed for filing or payment, then the date of the United States postmark stamped on the cover in which the document or payment is mailed shall be considered the date of delivery or of payment, as the case may be.

Subd. 2. [MAILING REQUIREMENTS.] Subdivision 1 applies only if:

(1) the postmark date falls within the prescribed period or on or before the prescribed date,

(i) for filing (including any extension granted for the filing) of the document, or

(ii) for making the payment (including any extension granted for making the payment); and

(2) the document or payment was within the time prescribed in clause (1), deposited in the mail in the United States in an envelope or other appropriate wrapper, postage prepaid, properly addressed to the office of the department of revenue, or the county for the payment of real or personal property taxes, with which the document is required to be filed or to which payment is required to be made.

Subd. 3. [UNITED STATES POSTAL SERVICE POSTMARK.] Only the postmark of the United States Postal Service, rather than those of private postage meters, qualifies as proof of timely mailing under this section. If the document or payment is sent by United States registered mail, the date of registration shall be treated as the postmark date. If the document or payment is sent by United States certified mail and the sender's receipt is postmarked by the postal employee to whom the envelope containing such document or payment is presented, the date of the United States postmark on the receipt shall be treated as the postmark date of the document or payment.

Subd. 4. [RECEIPT DATE OTHERWISE GOVERNS.] In any case in which the document or payment is not treated as timely filed or paid under this section, the date of receipt by the commissioner, or the county for the payment of real or personal property taxes, and not the postmark date, shall govern for purposes of determining the amount of any penalties for late filing or payment."

Pages 11 to 20, delete section 3 and insert:

"Sec. 4. Minnesota Statutes 1995 Supplement, section 273.124, subdivision 1, is amended to read:

Subdivision 1. [GENERAL RULE.] (a) Residential real estate that is occupied and used for the purposes of a homestead by its owner, who must be a Minnesota resident, is a residential homestead.

Agricultural land, as defined in section 273.13, subdivision 23, that is occupied and used as a homestead by its owner, who must be a Minnesota resident, is an agricultural homestead.

Dates for establishment of a homestead and homestead treatment provided to particular types of property are as provided in this section.

Property of a trustee, beneficiary, or grantor of a trust is not disqualified from receiving homestead benefits if the homestead requirements under this chapter are satisfied.

The assessor shall require proof, as provided in subdivision 13, of the facts upon which classification as a homestead may be determined. Notwithstanding any other law, the assessor may at any time require a homestead application to be filed in order to verify that any property classified as a homestead continues to be eligible for homestead status. Notwithstanding any other law to the contrary, the department of revenue may, upon request from an assessor, verify whether an individual who is requesting or receiving homestead classification has filed a Minnesota income tax return as a resident for the most recent taxable year for which the information is available.

When there is a name change or a transfer of homestead property, the assessor may reclassify the property in the next assessment unless a homestead application is filed to verify that the property continues to qualify for homestead classification.

(b) For purposes of this section, homestead property shall include property which is used for purposes of the homestead but is separated from the homestead by a road, street, lot, waterway, or other similar intervening property. The term "used for purposes of the homestead" shall include but not be limited to uses for gardens, garages, or other outbuildings commonly associated with a homestead, but shall not include vacant land held primarily for future development. In order to receive homestead treatment for the noncontiguous property, the owner shall apply for it to the assessor by July 1 of the year when the treatment is initially sought. After initial qualification for the homestead treatment, additional applications for subsequent years are not required.

(c) Residential real estate that is occupied and used for purposes of a homestead by a relative of the owner is a homestead but only to the extent of the homestead treatment that would be provided if the related owner occupied the property. For purposes of this paragraph and paragraph (f), "relative" means a parent, stepparent, child, stepchild, grandparent, grandchild, brother, sister, uncle, or aunt. This relationship may be by blood or marriage. Property that has been classified as seasonal recreational residential property at any time during which it has been owned by the current owner or spouse of the current owner will not be reclassified as a homestead unless it is occupied as a homestead by the owner; this prohibition also applies to property that, in the absence of this paragraph, would have been classified as seasonal recreational residential property at the time when the residence was constructed. Neither the related occupant nor the owner of the property may claim a property tax refund under chapter 290A for a homestead occupied by a relative. In the case of a residence located on agricultural land, only the house, garage, and immediately surrounding one acre of land shall be classified as a homestead under this paragraph, except as provided in paragraph (d).

(d) Agricultural property that is occupied and used for purposes of a homestead by a relative of the owner, is a homestead, only to the extent of the homestead treatment that would be provided if the related owner occupied the property, and only if all of the following criteria are met:

(1) the relative who is occupying the agricultural property is a son, daughter, father, or mother of the owner of the agricultural property or a son or daughter of the spouse of the owner of the agricultural property,

(2) the owner of the agricultural property must be a Minnesota resident,

(3) the owner of the agricultural property must not receive homestead treatment on any other agricultural property in Minnesota, and

(4) the owner of the agricultural property is limited to only one agricultural homestead per family under this paragraph.

Neither the related occupant nor the owner of the property may claim a property tax refund under chapter 290A for a homestead occupied by a relative qualifying under this paragraph. For purposes of this paragraph, "agricultural property" means the house, garage, other farm buildings and structures, and agricultural land.

Application must be made to the assessor by the owner of the agricultural property to receive homestead benefits under this paragraph. The assessor may require the necessary proof that the requirements under this paragraph have been met.

(e) In the case of property owned by a property owner who is married, the assessor must not deny homestead treatment in whole or in part if only one of the spouses occupies the property and the other spouse is absent due to: (1) marriage dissolution proceedings, (2) legal separation, (3) employment or self-employment in another location, (4) residence in a nursing home or boarding care facility, or (5) other personal circumstances causing the spouses to live separately, not including an intent to obtain two homestead classifications for property tax purposes. To qualify under clause (3), the spouse's place of employment or self-employment must be at least 50 miles distant from the other spouse's place of employment, and the homesteads must be at least 50 miles distant from each other. Homestead treatment, in whole or in part, shall not be denied to the spouse of an owner if he or she previously occupied the residence with the owner and the absence of the owner is due to one of the exceptions provided in this paragraph.

(f) If an individual is purchasing property with the intent of claiming it as a homestead and is required by the terms of the financing agreement to have a relative shown on the deed as a coowner, the assessor shall allow a full homestead classification. This provision only applies to first-time purchasers, whether married or single, or to a person who had previously been married and is purchasing as a single individual for the first time. The application for homestead benefits must be on a form prescribed by the commissioner and must contain the data necessary for the assessor to determine if full homestead benefits are warranted."

Page 20, after line 21, insert:

"Sec. 6. Minnesota Statutes 1995 Supplement, section 275.08, subdivision 1b, is amended to read:

Subd. 1b. The amounts certified to be levied against net tax capacity under section 275.07 by an individual local government unit~~, except for any amounts certified under sections 124A.03, subdivision 2a, and 275.61,~~ shall be divided by the total net tax capacity of all taxable properties within the local government unit's taxing jurisdiction. The resulting ratio, the local government's local tax rate, multiplied by each property's net tax capacity shall be each property's net tax capacity tax for that local government unit before reduction by any credits.

Any amount certified to the county auditor ~~under section 124A.03, subdivision 2a, or 275.61, after the dates given in those sections,~~ to be levied against market value shall be divided by the total ~~estimated~~ referendum market value of all taxable properties within the taxing district. The resulting ratio, the taxing district's new referendum tax rate, multiplied by each property's ~~estimated~~ referendum market value shall be each property's new referendum tax before reduction by any credits. For the purposes of this subdivision, "referendum market value" means the market value as defined in section 124A.02, subdivision 3b.

Sec. 7. Minnesota Statutes 1994, section 275.61, is amended to read:

275.61 [REFERENDUM LEVY; MARKET VALUE.]

For local governmental subdivisions other than school districts, any levy, including the issuance of debt obligations payable in whole or in part from property taxes, required to be approved and approved by the voters at a general or special election for taxes payable in 1993 and thereafter, shall be levied against the referendum market value of all taxable property within the governmental subdivision, as defined in section 124A.02, subdivision 3b. Any levy amount subject to the requirements of this section shall be certified separately to the county auditor under section 275.07.

The ballot shall state the maximum amount of the increased levy as a percentage of market value and the amount that will be raised by the new referendum tax rate in the first year it is to be levied."

Page 20, line 26, after "the" insert "exempt status," and after "valuation" insert a comma

Page 20, line 27, before the comma, insert "other than by an abatement or a court decision"

Page 20, line 29, before the first comma, insert "or after July 1 in the case of property subject to section 273.125, subdivision 4"

Page 20, line 30, delete "shall have" and insert "has"

Page 20, line 31, after the third "the" insert "property's exempt status,"

Page 20, line 32, after "classification" insert a comma

Page 22, after line 12, insert:

"Sec. 11. Minnesota Statutes 1995 Supplement, section 290A.04, subdivision 2h, is amended to read:

Subd. 2h. (a) If the gross property taxes payable on a homestead increase more than 12 percent over the net property taxes payable in the prior year on the same property that is owned and occupied by the same owner on January 2 of both years, and the amount of that increase is $100 or more for taxes payable in ~~1995 and~~ 1996 and 1997, a claimant who is a homeowner shall be allowed an additional refund equal to 60 percent of the amount of the increase over the greater of 12 percent of the prior year's net property taxes payable or $100 for taxes payable in ~~1995 and~~ 1996 and 1997. This subdivision shall not apply to any increase in the gross property taxes payable attributable to improvements made to the homestead after the assessment date for the prior year's taxes. This subdivision shall not apply to any increase in the gross property taxes payable attributable to the termination of valuation exclusions under section 273.11, subdivision 16.

The maximum refund allowed under this subdivision is $1,000.

(b) For purposes of this subdivision, the following terms have the meanings given:

(1) "Net property taxes payable" means property taxes payable minus refund amounts for which the claimant qualifies pursuant to subdivision 2 and this subdivision.

(2) "Gross property taxes" means net property taxes payable determined without regard to the refund allowed under this subdivision.

(c) In addition to the other proofs required by this chapter, each claimant under this subdivision shall file with the property tax refund return a copy of the property tax statement for taxes payable in the preceding year or other documents required by the commissioner.

(d) On or before December 1, 1995, the commissioner shall estimate the cost of making the payments provided by this subdivision for taxes payable in 1996. Notwithstanding the open appropriation provision of section 290A.23, if the estimated total refund claims for taxes payable in 1996 exceed $5,500,000, the commissioner shall first reduce the 60 percent refund rate enough, but to no lower a rate than 50 percent, so that the estimated total refund claims do not exceed $5,500,000. If the commissioner estimates that total claims will exceed $5,500,000 at a 50 percent refund rate, the commissioner shall also reduce the $1,000 maximum refund amount by enough so that total estimated refund claims do not exceed $5,500,000.

The determinations of the revised thresholds by the commissioner are not rules subject to chapter 14.

(e) Upon request, the appropriate county official shall make available the names and addresses of the property taxpayers who may be eligible for the additional property tax refund under this section. The information shall be provided on a magnetic computer disk. The county may recover its costs by charging the person requesting the information the reasonable cost for preparing the data. The information may not be used for any purpose other than for notifying the homeowner of potential eligibility and assisting the homeowner, without charge, in preparing a refund claim."

Page 22, line 15, delete "such money"

Page 22, after line 18, insert:

"Sec. 13. Minnesota Statutes 1995 Supplement, section 297A.02, subdivision 4, is amended to read:

Subd. 4. [MANUFACTURED HOUSING AND PARK TRAILERS.] Notwithstanding the provisions of subdivision 1, for sales at retail of ~~new~~ manufactured homes used for residential purposes and new or used park trailers, as defined in section 168.011, subdivision 8, paragraph (b), the excise tax is imposed upon 65 percent of the sales price of the home or park trailer."

Page 22, after line 30, insert:

"Sec. 15. Laws 1994, chapter 587, article 3, section 21, is amended to read:

Sec. 21. [REPEALER.]

(a) Minnesota Statutes 1992, sections 3.862 and 477A.012, subdivision 6 are repealed.

(b) Minnesota Statutes 1992, sections 16A.711, 273.1381, 273.1398, subdivision 7~~, and 477A.0132, as amended by Laws 1994, chapter 416, article 1, section 60~~; and Minnesota Statutes 1993 Supplement, sections 16A.712, 256E.06, subdivision 12, 273.166, subdivision 4, 290A.23, subdivision 2, 477A.03, subdivision 1, and Laws 1973, chapter 650, article 24, section 6, as amended by Laws 1974, chapter 257, section 4 are repealed.

Sec. 16. [SECTION REMAINS IN EFFECT.]

As required by Minnesota Statutes, section 645.36, it is specifically provided that Minnesota Statutes 1994, section 477A.0132, as amended by Laws 1995, chapter 264, article 8, section 15, is revived."

Page 22, delete section 11

Page 23, line 2, delete "5, 10, and 11" and insert "4, and 9"

Page 23, line 3, delete "6" and insert "5"

Page 23, line 4, delete "7" and insert "10"

Page 23, line 6, after the period, insert "Section 11 is effective for refunds for taxes payable in 1997 only." and delete "8" and insert "12"

Page 23, line 8, delete "9" and insert "13 is effective for sales made after December 31, 1996. Section 14"

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 6, after the first semicolon, insert "270.067, subdivision 2;" and after the second semicolon, insert "270.271;"

Page 1, line 7, after the semicolon, insert "275.61;"

Page 1, line 15, delete "273.13, subdivision" and insert "273.124, subdivision 1; 275.08, subdivision 1b; 290A.04, subdivision 2h;"

Page 1, line 16, delete "25;" and delete "and"

Page 1, line 17, after the semicolon, insert "and 297A.02, subdivision 4; Laws 1994, chapter 587, article 3, section 21;"

Page 1, line 19, delete "sections 273.1316; and" and insert "section"

And when so amended the bill do pass. Amendments adopted. Report adopted.

Ms. Berglin from the Committee on Health Care, to which was re-referred

S.F. No. 221: A bill for an act relating to insurance; health plans; requiring coverage for

treatment of Lyme disease; providing for a study by the commissioner of health; amending Minnesota Statutes 1995 Supplement, section 62A.136; proposing coding for new law in Minnesota Statutes, chapter 62A.

Reports the same back with the recommendation that the bill be amended as follows:

Page 1, after line 8, insert:

"Section 1. Minnesota Statutes 1994, section 62A.047, is amended to read:

62A.047 [CHILDREN'S HEALTH SUPERVISION SERVICES AND PRENATAL CARE SERVICES.]

A policy of individual or group health and accident insurance regulated under this chapter, or individual or group subscriber contract regulated under chapter 62C, health maintenance contract regulated under chapter 62D, or health benefit certificate regulated under chapter 64B, issued, renewed, or continued to provide coverage to a Minnesota resident, must provide coverage for child health supervision services and prenatal care services. The policy, contract, or certificate must specifically exempt reasonable and customary charges for child health supervision services and prenatal care services from a deductible, copayment, or other coinsurance or dollar limitation requirement. This section does not prohibit the use of policy waiting periods or preexisting condition limitations for these services. Minimum benefits may be limited to one visit payable to one provider for all of the services provided at each visit cited in this section subject to the schedule set forth in this section. Nothing in this section applies to a commercial health insurance policy issued as a companion to a health maintenance organization contract, a policy designed primarily to provide coverage payable on a per diem, fixed indemnity, or nonexpense incurred basis, or a policy that provides only accident coverage.

"Child health supervision services" means pediatric preventive services, appropriate immunizations, developmental assessments, and laboratory services appropriate to the age of a child from birth to age ~~six~~ 18 as defined by Standards of Child Health Care issued by the American Academy of Pediatrics. Reimbursement must be made for at least five child health supervision visits from birth to 12 months, three child health supervision visits from 12 months to 24 months, once a year from 24 months to ~~72 months~~ age 18.

"Prenatal care services" means the comprehensive package of medical and psychosocial support provided throughout the pregnancy, including risk assessment, serial surveillance, prenatal education, and use of specialized skills and technology, when needed, as defined by Standards for Obstetric-Gynecologic Services issued by the American College of Obstetricians and Gynecologists."

Pages 1 and 2, delete section 3

Page 2, line 10, delete "2" and insert "3"

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 2, after "plans;" insert "extending coverage of children's health supervision services to age 18;"

Page 1, line 3, delete "providing for"

Page 1, delete line 4 and insert "amending Minnesota Statutes 1994, section 62A.047;"

And when so amended the bill do pass. Amendments adopted. Report adopted.

Mr. Merriam from the Committee on Finance, to which was re-referred

S.F. No. 2802: A bill for an act relating to natural resources; providing an appropriation for snowmobile grants-in-aid; appropriating money.

Reports the same back with the recommendation that the bill do pass. Report adopted.

Mr. Merriam from the Committee on Finance, to which was re-referred

S.F. No. 1884: A bill for an act relating to education; clarifying education finance statutes; clarifying school transportation statutes; clarifying revenue used in calculation of community education and early childhood education reserve accounts; modifying name of high school graduation incentives program; repealing law addressing relationship between technical colleges and school districts; modifying fall payment date of endowment fund earnings; clarifying adjustment of aids and levies for reduced pupil unit weight for secondary students; modifying funding adjustment for open enrollment and other alternative attendance programs; converting referendum authority to an allowance per pupil unit; clarifying that district may convert to ongoing referendum; allowing county apportionment amounts to be recovered from state aids; adjusting general education aid for pupils attending charter schools; clarifying the elimination of the capital expenditure and transportation funds; modifying the special education due process hearing; modifying the LEP funding formula to allow the base year to roll forward; modifying calculation of assurance of mastery aid to use fund balance pupil units; clarifying tuition for special education excess cost revenue; providing for adjustments for alternative attendance programs in general revenue for purposes of computing excess cost revenue; providing for the computation of secondary vocational-disabled revenue using current year data; modifying the interagency early childhood intervention system; requiring that community action programs participate in family services collaboratives; removing exclusion of school buses from bonding authority and limiting total levy for equipment and facilities bonds; providing for clarification and consistency of facilities bonding; repealing the open enrollment transportation appeal requirement; modifying post-secondary enrollment options program to include no payment for no student attendance in class; expanding the number of districts receiving year-round school/extended week or day pilot program grants; eliminating the private alternative program report; excluding transportation revenue from general education revenue for charter schools; providing for changes in transportation funding for charter schools; removing obsolete references to equipment revenue; modifying special education and limited English proficiency aid for a charter school; clarifying approved costs for a magnet school facility; clarifying statutory operating debt and adjusting the reporting date; appropriating money; amending Minnesota Statutes 1994, sections 120.062, subdivision 9; 120.17, subdivision 9, and by adding a subdivision; 120.1701, subdivision 10; 120.73, subdivision 1; 121.8355, subdivision 1; 121.906; 123.35, by adding a subdivision; 123.39, subdivision 8b; 123.932, subdivisions 1b, 1c, 1e, and 11; 123.933, as amended; 123.935, subdivisions 2 and 7; 124.09; 124.155, subdivision 1; 124.17, subdivision 1e, and by adding subdivisions; 124.195, subdivision 8; 124.239, subdivision 5, and by adding subdivisions; 124.2711, subdivision 6; 124.2713, subdivision 10; 124.273, by adding subdivisions; 124.276; 124.311, subdivisions 1, 4, and 5; 124.86, subdivisions 1, 2, and by adding subdivisions; 124.91, subdivision 1, and by adding a subdivision; 124A.02, subdivision 25; 124A.03, subdivision 3b, and by adding a subdivision; 124A.0311, subdivision 3; 124A.035, subdivision 4; 124A.036, by adding a subdivision; 124A.22, by adding a subdivision; 124A.28, subdivision 1, and by adding a subdivision; 124A.291; 124C.45, by adding a subdivision; 124C.498, subdivision 3; 125.05, subdivision 1a, and by adding a subdivision; 125.70; 125.701; 125.703; 125.704; 125.705, subdivision 1; 126.22, subdivision 1; 126.531, subdivision 3; 126.83; 128D.11, subdivisions 3, 5, 8, and 10; 169.4504, by adding a subdivision; 256.736, subdivision 11; 276.11, by adding a subdivision; Minnesota Statutes 1995 Supplement, sections 120.064, subdivision 9; 120.17, subdivisions 3a, 3b, and 6; 120.1701, subdivision 20; 120.181; 120.74, subdivision 1; 121.904, subdivisions 4a and 4c; 121.911, subdivision 5; 121.917, subdivision 4; 123.3514, subdivisions 6 and 6b; 123.39, subdivision 6; 123.7991, subdivision 2; 124.155, subdivision 2; 124.17, subdivisions 1 and 1d; 124.195, subdivision 12; 124.223, subdivision 4; 124.225, subdivisions 8l, 14, 16, and 17; 124.243, subdivision 2; 124.2445; 124.2455; 124.248, subdivisions 1, 1a, and 3; 124.2727, subdivision 6d; 124.273, subdivisions 1c and 1d; 124.314, subdivision 2; 124.3201, subdivisions 1, 2, 3, and by adding a subdivision; 124.3202; 124.323, subdivisions 1 and 2; 124.574, subdivisions 2f and 2g; 124.918, subdivision 2; 124A.03, subdivision 2; 124A.0311, subdivision 2; 124A.22, subdivisions 2a, 10, and 13b; 124A.23, subdivision 4; 124C.498, subdivision 2; 124C.74, subdivisions 2 and 3; 126.22, subdivisions 3, 5, and 8; 126.23; 128B.03, subdivision 3a; 134.46; 169.01, subdivision 6; 237.065; 325G.203, subdivision 11; and 631.40, subdivision 1a; Laws 1993, chapter 224, article 1, section 34, subdivisions 2 and 3; article 12,

sections 39, as amended, and 41, as amended; Laws 1995, First Special Session chapter 3, article 1, section 61; article 2, sections 51, subdivision 7; 52; and 53; article 5, section 20, subdivisions 5, 6, and 7; article 6, section 17, subdivisions 2, 4, and by adding subdivisions; article 7, section 5, subdivision 4; article 8, sections 25, subdivisions 2 and 18; and 27; article 12, sections 8, subdivision 1; and 12, subdivision 7; article 14, section 5; article 15, section 26, subdivisions 7 and 8; proposing coding for new law in Minnesota Statutes, chapters 120; 121; and 125; repealing Minnesota Statutes 1995 Supplement, section 124.155, subdivision 2; Laws 1991, chapter 265, article 4, section 27; and Laws 1993, chapter 224, article 1, section 34, subdivision 1.

Reports the same back with the recommendation that the bill be amended as follows:

Page 29, line 17, delete "$2,967,498,000" and insert "$2,967,718,000"

Page 29, line 18, delete "$3,020,771,000" and insert "$3,020,991,000"

Page 118, line 9, delete "expended" and insert "June 30, 1998"

Page 118, line 16, delete "10" and insert "9, 10,"

Page 150, line 1, delete the new language

Page 150, line 2, reinstate the stricken "June 30," and delete "expended" and insert "1998"

Page 153, line 5, delete "does not cancel and"

Page 153, line 6, delete "expended" and insert "June 30, 1998"

And when so amended the bill do pass. Amendments adopted. Report adopted.

Mr. Novak from the Committee on Jobs, Energy and Community Development, to which was re-referred

S.F. No. 1811: A bill for an act relating to housing; providing for waiver of fees and surcharges imposed on motor vehicle registration data requests under certain circumstances; authorizing eviction of tenants who unlawfully purchase controlled substances on leased premises; clarifying the standard of proof in eviction proceedings relating to illegal drug activity; specifying the types of evidence that are admissible in these proceedings; amending Minnesota Statutes 1994, sections 168.345, subdivision 3, and by adding a subdivision; and 504.181, subdivisions 1, 2, and by adding a subdivision.

Reports the same back with the recommendation that the bill be amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1994, section 168.345, subdivision 3, is amended to read:

Subd. 3. [REQUESTS FOR INFORMATION; SURCHARGE ON FEE.] Except as otherwise provided in subdivision 4, the commissioner shall impose a surcharge of 50 cents on each fee charged by the commissioner under section 13.03, subdivision 3, for copies or electronic transmittal of public information concerning motor vehicle registrations. This surcharge only applies to a fee imposed in responding to a request made in person or by mail, or to a request for transmittal through a computer modem. The surcharge does not apply to the request of an individual for information concerning vehicles registered in that individual's name. The commissioner shall forward the surcharges collected under this subdivision to the commissioner of finance on a monthly basis. Upon receipt, the commissioner of finance shall credit the surcharges to the general fund.

Sec. 2. Minnesota Statutes 1994, section 168.345, is amended by adding a subdivision to read:

Subd. 4. [EXCEPTION TO FEE AND SURCHARGE.] Notwithstanding section 13.03 or subdivision 3, no fee or surcharge shall be imposed in responding to a request for public information concerning motor vehicle registrations if the requester gives the commissioner a signed statement that:

(1) the requester seeks the information on behalf of a community-based, nonprofit organization which has been designated by the local law enforcement agency to be a requester; and

(2) the information is needed in order to identify suspected prostitution law violators, controlled substance law violators, or health code violators.

The commissioner may not require a requester to make a certain minimum number of data requests nor limit a requester to a certain maximum number of data requests.

Sec. 3. Minnesota Statutes 1994, section 504.012, is amended to read:

504.012 [WRITTEN LEASE REQUIRED; PENALTY.]

An owner of a multiunit building, with 12 or more residential units, shall have a written lease for each unit rented to a residential tenant. Notwithstanding any other state law or city ordinance to the contrary, a landlord may ask for the tenant's full name and date of birth on the lease and application. An owner who fails to provide a lease, as required under this section, is guilty of a petty misdemeanor. The definitions of "owner," "tenant," and "building" in section 566.18 apply to this section.

Sec. 4. Minnesota Statutes 1994, section 504.181, subdivision 1, is amended to read:

Subdivision 1. [COVENANT NOT TO ALLOW DRUGS.] In every lease or license of residential premises, whether in writing or parol, the lessee or licensee covenants that:

(1) the lessee or licensee will not unlawfully allow controlled substances in those premises; and

(2) the common area and curtilage will not be used by the lessee or licensee or others acting under the lessee's or licensee's control to manufacture, sell, give away, barter, deliver, exchange, distribute, purchase, or possess a controlled substance in violation of any criminal provision of chapter 152.

The covenant is not violated when a person other than the lessee or licensee possesses or allows controlled substances in the premises, common area, or curtilage, unless the lessee or licensee knew or had reason to know of that activity.

Sec. 5. Minnesota Statutes 1994, section 504.30, subdivision 4, is amended to read:

Subd. 4. [COURT FILE INFORMATION.] (a) If a tenant screening service includes information from a court file on an individual in a tenant report, the report must provide the full name and date of birth of the individual in any case where the court file includes the individual's full name and date of birth, and the outcome of the court proceeding must be accurately recorded in the tenant report. Whenever the court supplies information from a court file on an individual, in whatever form, the court shall include the full name and date of birth of the individual, if that is indicated on the court file or summary and information on the outcome of the court proceeding, including the specific basis of the court's decision, coded as provided in subdivision 4a for the type of action, when it becomes available. The tenant screening service is not liable under section 504.31 if the tenant screening service reports complete and accurate information as provided by the court.

(b) A tenant screening service shall not provide tenant reports containing information on unlawful detainer actions in the second and fourth judicial districts, unless the tenant report accurately records the outcome of the proceeding or other disposition of the unlawful detainer action such as settlement, entry of a judgment, default, or dismissal of the action.

Sec. 6. Minnesota Statutes 1994, section 504.30, is amended by adding a subdivision to read:

Subd. 4a. [UNLAWFUL DETAINER ACTION CODING.] The court shall indicate on the court file or any summary of a court file the specific basis of the court's decision in an unlawful detainer action according to codes developed by the court that, at a minimum, indicate if the basis of the court's decision is nonpayment of rent, a violation of the covenants under section 504.18 or 504.181, other breach of a lease agreement, or a counterclaim for possession of the premises under section 566.34.

Sec. 7. Minnesota Statutes 1994, section 566.05, is amended to read:

566.05 [COMPLAINT AND SUMMONS.]

The person complaining shall file a complaint with the court, stating the full name and date of birth of the person against whom the complaint is made, unless it is not known, describing the premises of which possession is claimed, stating the facts which authorize the recovery, and praying for restitution thereof. The lack of the full name and date of birth of the person against whom the complaint is made does not deprive the court of jurisdiction or make the complaint invalid. The court shall issue a summons, commanding the person against whom the complaint is made to appear before the court on a day and at a place stated in the summons. The appearance shall be not less than seven nor more than 14 days from the day of issuing the summons. In scheduling appearances under this section, the court shall give priority to any unlawful detainer brought under section 504.181, or on the basis that the tenant is causing a nuisance or seriously endangers the safety of other residents, their property, or the landlord's property. A copy of the complaint shall be attached to the summons, which shall state that the copy is attached and that the original has been filed.

Sec. 8. [STUDY REQUESTED.]

The Hennepin and Ramsey county attorneys offices shall convene a working group to study and explore options for dealing with negative community impacts of chronic drug dealing and nuisance activity including:

(1) barriers to full implementation of current nuisance law;

(2) community and criminal justice system response to drug offenders and drug addicted persons including drug courts;

(3) response to chronic substance abusers;

(4) fraudulent rental histories created by tenants, landlords, and screening services; and

(5) facilitating a greater role and responsibility for neighborhood organizations in combating negative community impacts of drug and nuisance behavior.

The county attorneys are requested to consult with representatives of the housing court, landlords, tenants, legal aid, neighborhood community crime prevention, law enforcement community crime prevention, and anyone else the county attorneys determine would be helpful, and report to the legislature the results of the study and any recommendations by December 15, 1996.

Sec. 9. [EFFECTIVE DATE.]

Sections 3 and 4 are effective August 1, 1996, and apply to leases entered into, renewed, or modified on or after that date. Section 7 is effective August 1, 1996, and applies to any unlawful detainer action brought against a tenant whose tenancy begins on or after that date or for a tenant whose lease is renewed or modified on or after that date. Section 8 is effective the day after final enactment."

Amend the title as follows:

Page 1, line 6, delete from "clarifying" through page 1, line 9, to "proceedings" and insert "regulating court file information for tenant screening and unlawful detainer purposes"

Page 1, line 11, delete the second "and" and insert "504.012;"

Page 1, delete line 12 and insert "subdivision 1; 504.30, subdivision 4, and by adding a subdivision; and 566.05."

And when so amended the bill do pass. Amendments adopted. Report adopted.

Ms. Berglin from the Committee on Health Care, to which was referred

H.F. No. 2190: A bill for an act relating to health; providing for the cancellation of recodification efforts; repealing Laws 1994, chapter 625, article 5, section 5, as amended.

Reports the same back with the recommendation that the bill be amended as follows:

Page 1, after line 5, insert:

"Section 1. Minnesota Statutes 1994, section 62A.65, subdivision 3, is amended to read:

Subd. 3. [PREMIUM RATE RESTRICTIONS.] No individual health plan may be offered, sold, issued, or renewed to a Minnesota resident unless the premium rate charged is determined in accordance with the following requirements:

(a) Premium rates must be no more than 25 percent above and no more than 25 percent below the index rate charged to individuals for the same or similar coverage, adjusted pro rata for rating periods of less than one year. The premium variations permitted by this paragraph must be based only upon health status, claims experience, and occupation. For purposes of this paragraph, health status includes refraining from tobacco use or other actuarially valid lifestyle factors associated with good health, provided that the lifestyle factor and its effect upon premium rates have been determined by the commissioner to be actuarially valid and have been approved by the commissioner. Variations permitted under this paragraph must not be based upon age or applied differently at different ages. This paragraph does not prohibit use of a constant percentage adjustment for factors permitted to be used under this paragraph.

(b) Premium rates may vary based upon the ages of covered persons only as provided in this paragraph and subdivision 3a. In addition to the variation permitted under paragraph (a), each health carrier may use an additional premium variation based upon age of up to plus or minus 50 percent of the index rate.

(c) A health carrier may request approval by the commissioner to establish no more than three geographic regions and to establish separate index rates for each region, provided that the index rates do not vary between any two regions by more than 20 percent. Health carriers that do not do business in the Minneapolis/St. Paul metropolitan area may request approval for no more than two geographic regions, and clauses (2) and (3) do not apply to approval of requests made by those health carriers. The commissioner may grant approval if the following conditions are met:

(1) the geographic regions must be applied uniformly by the health carrier;

(2) one geographic region must be based on the Minneapolis/St. Paul metropolitan area;

(3) for each geographic region that is rural, the index rate for that region must not exceed the index rate for the Minneapolis/St. Paul metropolitan area; and

(4) the health carrier provides actuarial justification acceptable to the commissioner for the proposed geographic variations in index rates, establishing that the variations are based upon differences in the cost to the health carrier of providing coverage.

(d) Health carriers may use rate cells and must file with the commissioner the rate cells they use. Rate cells must be based upon the number of adults or children covered under the policy and may reflect the availability of Medicare coverage. The rates for different rate cells must not in any way reflect generalized differences in expected costs between principal insureds and their spouses.

(e) In developing its index rates and premiums for a health plan, a health carrier shall take into account only the following factors:

(1) actuarially valid differences in rating factors permitted under paragraphs (a) and (b); and

(2) actuarially valid geographic variations if approved by the commissioner as provided in paragraph (c).

(f) All premium variations must be justified in initial rate filings and upon request of the

commissioner in rate revision filings. All rate variations are subject to approval by the commissioner.

(g) The loss ratio must comply with the section 62A.021 requirements for individual health plans.

(h) The rates must not be approved, unless the commissioner has determined that the rates are reasonable. In determining reasonableness, the commissioner shall consider the growth rates applied under section 62J.04, subdivision 1, paragraph (b), to the calendar year or years that the proposed premium rate would be in effect, actuarially valid changes in risks associated with the enrollee populations, and actuarially valid changes as a result of statutory changes in Laws 1992, chapter 549.

Sec. 2. Minnesota Statutes 1994, section 62A.65, is amended by adding a subdivision to read:

Subd. 3a. [CHILD PREMIUM RATES.] Separate premium rates for coverage of a child may, at the option of the health carrier and with the approval of the commissioner, be below the rates that would otherwise be permitted under subdivision 3, paragraph (b). Those separate rates are not considered for purposes of determining the index rate. The maximum age of a child eligible for these separate rates may be any age selected by the health carrier and approved by the commissioner.

Sec. 3. Minnesota Statutes 1995 Supplement, section 62A.65, subdivision 5, is amended to read:

Subd. 5. [PORTABILITY OF COVERAGE.] (a) No individual health plan may be offered, sold, issued, or with respect to children age 18 or under renewed, to a Minnesota resident that contains a preexisting condition limitation, preexisting condition exclusion, or exclusionary rider, unless the limitation or exclusion is permitted under this subdivision, provided that, except for children age 18 or under, underwriting restrictions may be retained on individual contracts that are issued without evidence of insurability as a replacement for prior individual coverage that was sold before May 17, 1993. The individual may be subjected to an 18-month preexisting condition limitation, unless the individual has maintained continuous coverage as defined in section 62L.02. The individual must not be subjected to an exclusionary rider. An individual who has maintained continuous coverage may be subjected to a one-time preexisting condition limitation of up to 12 months, with credit for time covered under qualifying coverage as defined in section 62L.02, at the time that the individual first is covered under an individual health plan by any health carrier. Credit must be given for all qualifying coverage with respect to all preexisting conditions, regardless of whether the conditions were preexisting with respect to any previous qualifying coverage. The individual must not be subjected to an exclusionary rider. Thereafter, the individual must not be subject to any preexisting condition limitation, preexisting condition exclusion, or exclusionary rider under an individual health plan by any health carrier, except an unexpired portion of a limitation under prior coverage, so long as the individual maintains continuous coverage as defined in section 62L.02. For purposes of the 12-month and 18-month preexisting condition limitations referred to in this paragraph, "preexisting condition" has the meaning given in section 62L.02, subdivision 23.

(b) A health carrier must offer an individual health plan to any individual previously covered under a group health plan issued by that health carrier, regardless of the size of the group, so long as the individual maintained continuous coverage as defined in section 62L.02. The offer must not be subject to underwriting, except as permitted under this paragraph. A health plan issued under this paragraph must be a qualified plan as defined in section 62E.02 and must not contain any preexisting condition limitation, preexisting condition exclusion, or exclusionary rider, except for any unexpired limitation or exclusion under the previous coverage. The individual health plan must cover pregnancy on the same basis as any other covered illness under the individual health plan. The initial premium rate for the individual health plan must comply with ~~subdivision 3~~ subdivisions 3 and 3a. The premium rate upon renewal must comply with subdivision 2. In no event shall the premium rate exceed 90 percent of the premium charged for comparable individual coverage by the Minnesota comprehensive health association, and the premium rate must be less than that amount if necessary to otherwise comply with this section. An individual health plan

offered under this paragraph to a person satisfies the health carrier's obligation to offer conversion coverage under section 62E.16, with respect to that person. Coverage issued under this paragraph must provide that it cannot be canceled or nonrenewed as a result of the health carrier's subsequent decision to leave the individual, small employer, or other group market. Section 72A.20, subdivision 28, applies to this paragraph.

Sec. 4. Minnesota Statutes 1995 Supplement, section 62J.042, subdivision 4, is amended to read:

Subd. 4. [MONITORING AND ENFORCEMENT.] Health care providers shall submit to the commissioner of health, in the form and at the times required by the commissioner, all information the commissioner determines to be necessary to implement and enforce this section. The commissioner shall regularly audit all health clinics employing or contracting with over 100 physicians. The commissioner shall also audit, at times and in a manner that does not interfere with delivery of patient care, a sample of smaller clinics and other health care providers. Providers that exceed revenue limits based on two-year average revenue data shall be required by the commissioner to pay back the amount exceeding the revenue limits during the following calendar year.

Pharmacists may adjust their revenue figures for increases in drug product costs that are set by the manufacturer. The commissioner shall consult with pharmacy groups, including pharmacies, wholesalers, drug manufacturers, health plans, and other interested parties, to determine the methodology for measuring and implementing the interim growth limits while taking into account the adjustments for drug product costs.

The commissioner shall monitor providers meeting the growth limits based on their current fees on an annual basis. The fee charged for each service must be based on a weighted average across 12 months and compared to the weighted average for the previous 12-month period. The percentage increase in the average fee from 1993 to 1994, and from 1994 to 1995, from 1995 to 1996, and from 1996 to 1997 is subject to the growth limits established under section 62J.04, subdivision 1, paragraph (b). ~~The percentage increase in the average fee from 1995 to 1996, and from 1996 to 1997 is subject to the change in the regional consumer price index for urban consumers for the previous year published in the State Register in January of the year that the growth limit is in effect.~~ The audit process may include a review of the provider's monthly fee schedule, and a random claims analysis for the provider during different parts of the year to monitor variations in fees. The commissioner shall require providers that exceed growth limits, based on annual fees, to pay back during the following calendar year the amount of fees received exceeding the limit.

The commissioner shall notify each provider that has exceeded its revenue or fee limit, at least 30 days before taking action, and shall provide each provider with ten days to provide an explanation for exceeding the revenue or fee limit. The commissioner shall review the explanation and may change a determination if the commissioner determines the explanation to be valid.

The commissioner may approve a different repayment schedule for a health care provider that takes into account the provider's financial condition.

A provider may appeal the commissioner's order to pay back the amount exceeding the revenue or fee limit by mailing a written notice of appeal to the commissioner within 30 days after the commissioner's order was mailed. The contested case and judicial review provisions of chapter 14 apply to the appeal. The provider shall pay the amount specified by the commissioner either to the commissioner or into an escrow account until final resolution of the appeal. Notwithstanding sections 3.762 to 3.765, each party is responsible for its own fees and expenses, including attorneys fees, for the appeal. Any amount required to be paid back under this section shall be deposited in the health care access fund.

Sec. 5. Minnesota Statutes 1994, section 62J.25, is amended to read:

62J.25 [MANDATORY MEDICARE ASSIGNMENT.]

(a) Effective January 1, 1993, a health care provider ~~authorized to participate in the Medicare~~

~~program~~ shall not charge to or collect from a Medicare beneficiary who is a Minnesota resident any amount in excess of 115 percent of the Medicare-approved amount for any Medicare-covered service provided.

(b) Effective January 1, 1994, a health care provider ~~authorized to participate in the Medicare program~~ shall not charge to or collect from a Medicare beneficiary who is a Minnesota resident any amount in excess of 110 percent of the Medicare-approved amount for any Medicare-covered service provided.

(c) Effective January 1, 1995, a health care provider ~~authorized to participate in the Medicare program~~ shall not charge to or collect from a Medicare beneficiary who is a Minnesota resident any amount in excess of 105 percent of the Medicare-approved amount for any Medicare-covered service provided.

(d) Effective January 1, 1996, a health care provider ~~authorized to participate in the Medicare program~~ shall not charge to or collect from a Medicare beneficiary who is a Minnesota resident any amount in excess of the Medicare-approved amount for any Medicare-covered service provided.

(e) This section does not apply to ambulance services as defined in section 144.801, subdivision 4.

Sec. 6. Minnesota Statutes 1995 Supplement, section 62L.02, subdivision 11, is amended to read:

Subd. 11. [DEPENDENT.] "Dependent" means an eligible employee's spouse, unmarried child who is under the age of 19 years, unmarried child under the age of 25 years who is a full-time student as defined in section 62A.301, dependent child of any age who is handicapped and who meets the eligibility criteria in section 62A.14, subdivision 2, or any other person whom state or federal law requires to be treated as a dependent for purposes of health plans. For the purpose of this definition, a child includes a child for whom the employee or the employee's spouse has been appointed legal guardian or a grandchild who is financially dependent upon a covered grandparent and who resides with that covered grandparent.

Sec. 7. Minnesota Statutes 1994, section 62L.02, subdivision 15, is amended to read:

Subd. 15. [HEALTH BENEFIT PLAN.] "Health benefit plan" means a policy, contract, or certificate offered, sold, issued, or renewed by a health carrier to a small employer for the coverage of medical and hospital benefits. Health benefit plan includes a small employer plan. Health benefit plan does not include coverage that is:

(1) limited to disability or income protection coverage;

(2) automobile medical payment coverage;

(3) supplemental to liability insurance;

(4) designed solely to provide payments on a per diem, fixed indemnity, or non-expense-incurred basis;

(5) credit accident and health insurance as defined in section 62B.02;

(6) designed solely to provide dental or vision care;

(7) blanket accident and sickness insurance as defined in section 62A.11;

(8) accident-only coverage;

(9) a long-term care policy as defined in section 62A.46;

(10) issued as a supplement to Medicare, as defined in sections 62A.31 to 62A.44, or policies, contracts, or certificates that supplement Medicare issued by health maintenance organizations or those policies, contracts, or certificates governed by section 1833 ~~or 1876~~ of the federal Social Security Act, United States Code, title 42, section 1395, et seq., as amended;

(11) workers' compensation insurance; or

(12) issued solely as a companion to a health maintenance contract as described in section 62D.12, subdivision 1a, so long as the health maintenance contract meets the definition of a health benefit plan.

For the purpose of this chapter, a health benefit plan issued to eligible employees of a small employer who meets the participation requirements of section 62L.03, subdivision 3, is considered to have been issued to a small employer. A health benefit plan issued on behalf of a health carrier is considered to be issued by the health carrier.

Sec. 8. Minnesota Statutes 1995 Supplement, section 62L.045, subdivision 1, is amended to read:

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

(a) "Association" means:

(1) an association as defined in section 60A.02;

(2) a group or organization of political subdivisions;

(3) ~~an educational cooperative service unit~~ a service cooperative created under section ~~123.58~~ 123.582; or

(4) a joint self-insurance pool authorized under section 471.617, subdivision 2.

(b) "Qualified association" means an association, as defined in this subdivision, that:

(1) is registered with the commissioner of commerce;

(2) provides health plan coverage through a health carrier that participates in the small employer market in this state, other than through associations, to the extent that the association purchases health plan coverage rather than self-insures;

(3) has and adheres to membership and participation criteria and health ~~plan~~ coverage eligibility criteria that are not designed to disproportionately include or attract small employers that are likely to have low costs of health coverage or to disproportionately exclude or repel small employers that are likely to have high costs of health coverage; and

(4) permits any small employer that meets its membership, participation, and eligibility criteria to become a member and to obtain health ~~plan~~ coverage through the association.

Sec. 9. Minnesota Statutes 1994, section 62L.09, subdivision 3, is amended to read:

Subd. 3. [REENTRY PROHIBITION.] Except as provided in this subdivision, a health carrier that ceases to do business in the small employer market after July 1, 1993, is prohibited from writing new business in the small employer market in this state for a period of five years from the date of notice to the commissioner. This subdivision applies to any health maintenance organization that ceases to do business in the small employer market in one service area with respect to that service area only. Nothing in this subdivision prohibits an affiliated health maintenance organization from continuing to do business in the small employer market in that same service area. The commissioner of commerce or the commissioner of health may permit a health carrier that ceases to do business in the small employer market in this state after July 1, 1993, to begin writing new business in the small employer market if:

(1) since the carrier ceased doing business in the small employer market, legislative action has occurred that has significantly changed the effect on the carrier of its decision to cease doing business in the small employer market; and

(2) the commissioner deems it appropriate.

Sec. 10. Minnesota Statutes 1995 Supplement, section 62L.12, subdivision 2, is amended to read:

Subd. 2. [EXCEPTIONS.] (a) A health carrier may sell, issue, or renew individual conversion policies to eligible employees otherwise eligible for conversion coverage under section 62D.104 as a result of leaving a health maintenance organization's service area.

(b) A health carrier may sell, issue, or renew individual conversion policies to eligible employees otherwise eligible for conversion coverage as a result of the expiration of any continuation of group coverage required under sections 62A.146, 62A.17, 62A.21, 62C.142, 62D.101, and 62D.105.

(c) A health carrier may sell, issue, or renew conversion policies under section 62A.65, subdivision 5, paragraph (b), or 62E.16 to eligible employees.

(d) A health carrier may sell, issue, or renew individual continuation policies to eligible employees as required.

(e) A health carrier may sell, issue, or renew individual health plans if the coverage is appropriate due to an unexpired preexisting condition limitation or exclusion applicable to the person under the employer's group health plan or due to the person's need for health care services not covered under the employer's group health plan.

(f) A health carrier may sell, issue, or renew an individual health plan, if the individual has elected to buy the individual health plan not as part of a general plan to substitute individual health plans for a group health plan nor as a result of any violation of subdivision 3 or 4.

(g) Nothing in this subdivision relieves a health carrier of any obligation to provide continuation or conversion coverage otherwise required under federal or state law.

(h) Nothing in this chapter restricts the offer, sale, issuance, or renewal of coverage issued as a supplement to Medicare under sections 62A.31 to 62A.44, or policies or contracts that supplement Medicare issued by health maintenance organizations, or those contracts governed by section 1833 ~~or 1876~~ of the federal Social Security Act, United States Code, title 42, section 1395 et. seq., as amended.

(i) Nothing in this chapter restricts the offer, sale, issuance, or renewal of individual health plans necessary to comply with a court order.

(j) For purposes of this subdivision, "conversion policy" or "conversion coverage" includes coverage described in section 62A.65, subdivision 5, paragraph (b).

Sec. 11. Minnesota Statutes 1994, section 62L.14, subdivision 7, is amended to read:

Subd. 7. [COMPENSATION.] Public directors may be reimbursed by the association for reasonable and necessary expenses incurred by them in performing their duties as directors~~, but shall not otherwise be compensated by the association for their services~~ and may be compensated by the association at a rate of up to $55 per day spent on authorized association activities.

Sec. 12. Minnesota Statutes 1995 Supplement, section 62M.09, subdivision 5, is amended to read:

Subd. 5. [WRITTEN CLINICAL CRITERIA.] A utilization review organization's decisions must be supported by written clinical criteria and review procedures in compliance with section 62M.07~~, paragraph (c)~~. Clinical criteria and review procedures must be established with appropriate involvement from actively practicing physicians. A utilization review organization must use written clinical criteria, as required, for determining the appropriateness of the certification request. The utilization review organization must have a procedure for ensuring, at a minimum, the annual evaluation and updating of the written criteria based on sound clinical principles.

Sec. 13. Minnesota Statutes 1995 Supplement, section 62N.076, subdivision 3, is amended to read:

Subd. 3. [PERMITTED INVESTMENT.] (a) An integrated service network ~~shall make investments~~ may invest only in securities or property designated by law as permitted for domestic life insurance companies~~; this restriction includes compliance~~. Except as provided in paragraph (b), an integrated service network must comply with percentage limitations that apply to domestic life insurance companies. ~~A~~

(b) An integrated service network may~~, however,~~ invest in real estate, including leasehold improvements, for the convenience and accommodation of its operations, including the home office, branch offices, medical facilities, and field operations, in excess of the percentage permitted for a domestic life insurance company~~, but not to~~. The investment in real estate described in this paragraph may exceed 25 percent of ~~its~~ the integrated service network's total admitted assets only if:

(1) the total of real estate assets and assets described in section 62D.044, clause (17), does not exceed the total combined percentage limitations allowed under this paragraph and section 62D.044, clause (17); or

(2) the commissioner determines that the percentage is insufficient to provide convenient accommodation of the network's business.

Sec. 14. Minnesota Statutes 1995 Supplement, section 62N.077, subdivision 2, is amended to read:

Subd. 2. [SECURITY FOR GUARANTEE.] (a) If the guaranteeing organization is regulated for solvency by the commissioner of commerce or health, the guarantee must be treated as a liability for purposes of solvency regulation of the guaranteeing organization. If the guaranteeing organization becomes insolvent, a claim by the network on the guarantee must be at least of equal priority with claims of enrollees or other policy holders of the insolvent guaranteeing organization.

(b) If the guaranteeing organization is not regulated for solvency by the commissioner of commerce or health, the organization must maintain assets~~, except if, when calculated in combination with the assets described in section 62D.044, clause (17), the total of those assets and the real estate assets described in this subdivision do not exceed the total combined percent limitations allowable under this section and section 62D.044, clause (17), or except if permitted by the commissioner upon a finding that the percentage of the integrated service network's admitted assets is insufficient to provide convenient accommodation of the network's business acceptable to the commissioner,~~ with a market value at least equal to the amount of the guarantee, in a custodial or other controlled account on terms acceptable to the commissioner of health.

Sec. 15. Minnesota Statutes 1994, section 62N.25, subdivision 5, is amended to read:

Subd. 5. [BENEFITS.] Community integrated service networks must offer the health maintenance organization benefit set, as defined in chapter 62D, and other laws applicable to entities regulated under chapter 62D~~, except that the community integrated service network may impose a deductible, not to exceed $1,000 per person per year, provided that out-of-pocket expenses on covered services do not exceed $3,000 per person or $5,000 per family per year. The deductible must not apply to preventive health services as described in Minnesota Rules, part 4685.0801, subpart 8~~. Community networks and chemical dependency facilities under contract with a community network shall use the assessment criteria in Minnesota Rules, parts 9530.6600 to 9530.6660, when assessing enrollees for chemical dependency treatment.

Sec. 16. Minnesota Statutes 1995 Supplement, section 62Q.01, subdivision 3, is amended to read:

Subd. 3. [HEALTH PLAN.] "Health plan" means a health plan as defined in section 62A.011; or a policy, contract, or certificate issued by a community integrated service network~~;~~ or by an integrated service network.

Sec. 17. Minnesota Statutes 1995 Supplement, section 256.9358, subdivision 4, is amended to read:

Subd. 4. [INELIGIBILITY.] Families with children whose gross monthly income is above the amount specified in subdivision 3 are not eligible for the plan. Beginning October 1, 1994, an individual or households with no children whose gross income is greater than 125 percent of the federal poverty guidelines are ineligible for the plan, unless the definition of "eligible persons" has been expanded by the commissioner of human services in accordance with section 256.9354, subdivision 5.

Sec. 18. [INSTRUCTION TO REVISOR.]

The revisor of statutes is instructed to change the heading before Minnesota Statutes 1995 Supplement, section 62J.2930, to "Data Collection and Research Initiatives.""

Page 1, line 6, delete "Section 1" and insert "Sec. 19" and after "[REPEALER.]" insert:

"(a) Minnesota Statutes 1994, section 62N.33, is repealed effective retroactively to July 1, 1995.

(b) Laws 1993, chapter 247, article 4, section 8; Laws 1995, chapter 96, section 2; chapter 234, article 3, section 3; chapter 248, article 10, section 15; and First Special Session chapter 3, article 13, section 2, are repealed."

Page 1, line 7, before "Laws" insert "(c)"

Page 1, line 9, delete "2" and insert "20"

Page 1, line 10, delete "1" and insert "19"

Amend the title as follows:

Page 1, delete lines 2 to 4 and insert "relating to health insurance; making technical changes; clarifying the definition of dependents; allowing re-entry into the small employer market under certain circumstances; establishing compensation for the reinsurance association; providing for the cancellation of recodification efforts; amending Minnesota Statutes 1994, sections 62A.65, subdivision 3, and by adding a subdivision; 62J.25; 62L.02, subdivision 15; 62L.09, subdivision 3; 62L.14, subdivision 7; and 62N.25, subdivision 5; Minnesota Statutes 1995 Supplement, sections 62A.65, subdivision 5; 62J.042, subdivision 4; 62L.02, subdivision 11; 62L.045, subdivision 1; 62L.12, subdivision 2; 62M.09, subdivision 5; 62N.076, subdivision 3; 62N.077, subdivision 2; 62Q.01, subdivision 3; and 256.9358, subdivision 4; repealing Minnesota Statutes 1994, section 62N.33; Laws 1993, chapter 247, article 4, section 8; Laws 1994, chapter 625, article 5, section 5, as amended; Laws 1995, chapters 96, section 2; 234, article 3, section 3; 248, article 10, section 15; and First Special Session chapter 3, article 13, section 2."

And when so amended the bill do pass. Amendments adopted. Report adopted.

Mr. Metzen from the Committee on Governmental Operations and Veterans, to which was re-referred

S.F. No. 2503: A bill for an act relating to exotic species; recodifying, modifying, and expanding provisions relating to regulation and management of harmful exotic species; authorizing rulemaking; providing penalties; amending Minnesota Statutes 1994, sections 97A.105, subdivision 1; 97A.211, subdivisions 1 and 2; Minnesota Statutes 1995 Supplement, sections 84.027, subdivision 13; 97A.205; and 97A.221, subdivision 1; proposing coding for new law as Minnesota Statutes, chapter 84D; repealing Minnesota Statutes 1994, sections 84.966; 84.967; 84.968, subdivision 2; 84.969; 84.9692, subdivisions 3, 4, 5, and 6; and 103G.617; Minnesota Statutes 1995 Supplement, sections 18.316; 18.317; 84.968, subdivision 1; 84.9691; 84.9692, subdivisions 1, 1a, and 2; and 86B.401, subdivision 11.

Reports the same back with the recommendation that the bill be amended as follows:

Page 10, line 3, after "purchased" insert "or traded" and after "commercial" insert "or hobbyist"

Page 14, after line 6, insert:

"Sec. 14. [CERTAIN SPECIES NOT SUBJECT TO CHAPTER.]

This chapter does not apply to:

(1) pathogens and terrestrial arthropods regulated under Minnesota Statutes, sections 18.44 to 18.61; or

(2) mammals and birds defined by statute as livestock."

Page 14, line 8, delete "13" and insert "14"

Renumber the sections in sequence

And when so amended the bill do pass. Amendments adopted. Report adopted.

Mr. Metzen from the Committee on Governmental Operations and Veterans, to which was referred

S.F. No. 820: A bill for an act relating to retirement; correctional employees retirement plan of the Minnesota state retirement system; transferring various employment positions in the departments of corrections and human services from coverage by the general state employees retirement plan or the teachers retirement association to the correctional employees retirement plan; amending Minnesota Statutes 1994, sections 352.91, by adding subdivisions; and 352.92, subdivision 2.

Reports the same back with the recommendation that the bill be amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1994, section 352.90, is amended to read:

352.90 [POLICY.]

It is the policy of the legislature to provide special retirement benefits and contributions for certain correctional employees who may be required to retire at an early age because they lose the mental or physical capacity required to maintain the safety, security, discipline, and custody of inmates at state ~~adult~~ correctional facilities or of patients at the Minnesota security hospital or at the Minnesota sexual psychopathic personality treatment center.

Sec. 2. Minnesota Statutes 1994, section 352.91, subdivision 1, is amended to read:

Subdivision 1. [QUALIFYING JOBS.] "Covered correctional service" means~~: (1) services~~ service performed ~~on, before, or after July 1, 1973,~~ by a state employee, as defined in section 352.01, employed at a state correctional facility, the Minnesota security hospital, or the Minnesota sexual psychopathic personality treatment center as ~~an attendant guard, attendant guard supervisor, correctional captain, correctional counselor I, correctional counselor II, correctional counselor III, correctional counselor IV, correctional lieutenant, correctional officer, correctional sergeant, director of attendant guards, and guard farmer garden, provided the employee was employed in the position on July 1, 1973, or after; (2) services performed before July 1, 1973, by an employee covered under clause (1) in a position classified as a houseparent, special schools counselor, shop instructor, or guard instructor; and (3) services performed before July 1, 1973, in a position listed in clause (1) and positions classified as houseparent, guard instructor, and guard farmer dairy, by a person employed on July 1, 1973, in a position classified as a license plant manager, prison industry lead supervisor (general, metal fabricating and foundry), prison industry supervisor, food service manager, prison farmer supervisor, prison farmer assistant supervisor, or rehabilitation therapist employed at the Minnesota security hospital. However, an employee is not covered under sections 352.91 to 352.951 if first employed after July 1, 1973, and because of age could not acquire sufficient service to qualify for an annuity as a correctional employee~~:

(1) a corrections officer 1;

(2) a corrections officer 2;

(3) a corrections officer 3;

(4) a corrections officer supervisor;

(5) a corrections officer 4;

(6) a corrections captain;

(7) a security counselor; or

(8) a security counselor lead.

Sec. 3. Minnesota Statutes 1994, section 352.91, subdivision 2, is amended to read:

Subd. 2. [~~TEACHING,~~ MAINTENANCE~~,~~ AND TRADES.] "Covered correctional service" also means service rendered at any time by state employees as ~~special teachers,~~ maintenance personnel~~,~~ and members of trades certified by the commissioner of employee relations as being regularly engaged in rehabilitation, treatment, custody, or supervision of inmates ~~employed~~ at ~~the~~ a Minnesota correctional ~~facility-St. Cloud, the Minnesota correctional facility-Stillwater and the Minnesota correctional facility-Shakopee on or after July 1, 1974, other than any employees who are age 62 or older as of July 1, 1974. Effective the first payroll period after June 1, 1980, or the date of initial employment in covered correctional service, whichever is later, "covered correctional service" also includes those employees of the Minnesota correctional facility-Lino Lakes and the employees of any other adult state correctional facility which may be established, who perform covered correctional service after June 1, 1980. "Special teacher" also includes the classifications of facility educational administrator and supervisor~~ facility, or of patients at the Minnesota security hospital or at the Minnesota sexual psychopathic personality treatment center.

Sec. 4. Minnesota Statutes 1994, section 352.91, is amended by adding a subdivision to read:

Subd. 2a. [SPECIAL TEACHERS.] "Covered correctional service" also means service rendered by a state employee as a special teacher employed by the department of corrections or by the department of human services at a security unit, provided that at least 75 percent of the employee's working time is spent in direct contact with inmates or patients and the fact of this direct contact is certified to the executive director by the appropriate commissioner, unless the person elects to retain the current retirement coverage under section 11.

Sec. 5. Minnesota Statutes 1994, section 352.91, subdivision 3b, is amended to read:

Subd. 3b. [OLDER EMPLOYEES FORMERLY EXCLUDED.] "Covered correctional service" also means service performed by certain state employees in positions usually covered by this section who: (1) were excluded by law from coverage between July 1973 and July 1980; (2) were age 45 or over when hired; (3) ~~are~~ were state employees on March 26, 1986; and (4) ~~elect~~ who elected coverage~~. Eligible employees who elect coverage must file written notice of their election with the director~~ before July 1, 1986. An employee who did not elect coverage before July 1, 1986, is not covered by the correctional retirement plan, even if the employee's employment classification may be considered to be covered correctional service under another subdivision of this section.

Sec. 6. Minnesota Statutes 1994, section 352.91, is amended by adding a subdivision to read:

Subd. 3c. [NURSING PERSONNEL.] (a) "Covered correctional service" means service by a state employee in one of the employment positions at a correctional facility or at the Minnesota security hospital specified in paragraph (b), provided that at least 75 percent of the employee's working time is spent in direct contact with inmates or patients and the fact of this direct contact is certified to the executive director by the appropriate commissioner, unless the person elects to retain the current retirement coverage under section 11.

(b) The employment positions are as follows:

(1) registered nurse - senior;

(2) registered nurse;

(3) registered nurse - principal; and

(4) licensed practical nurse 2.

Sec. 7. Minnesota Statutes 1994, section 352.91, is amended by adding a subdivision to read:

Subd. 3d. [OTHER CORRECTIONAL PERSONNEL.] (a) "Covered correctional service" means service by a state employee in one of the employment positions at a correctional facility or at the Minnesota security hospital specified in paragraph (b), provided that at least 75 percent of the employee's working time is spent in direct contact with inmates or patients and the fact of this direct contact is certified to the executive director by the appropriate commissioner, unless the person elects to retain the current retirement coverage under section 11.

(b) The employment positions are as follows: baker, chemical dependency counselor supervisor, chief cook, cook, cook coordinator, corrections behavior therapist, corrections behavior therapist specialist, corrections parent education coordinator, corrections security caseworker, corrections security caseworker career, corrections teaching assistant, dentist, electrician supervisor, general repair worker, library/information research services specialist, library information research services specialist senior, plumber supervisor, psychologist 3, recreation therapist, recreation therapist coordinator, recreation program assistant, recreation therapist senior, stores clerk senior, water treatment plant operator, work therapy technician, work therapy assistant, work therapy program coordinator.

Sec. 8. Minnesota Statutes 1994, section 352.91, subdivision 4, is amended to read:

Subd. 4. [CERTIFICATION PROCEDURE FOR ADDITIONAL POSITIONS.] Upon the recommendation of the commissioner of corrections or the commissioner of human services, whichever is the appropriate employing authority, with the approval of the legislative advisory committee and with notification to and receipt of comments from the legislative commission on pensions and retirement, the commissioner of employee relations may certify additional ~~civil service classifications~~ positions at a state correctional ~~or security hospital facilities~~ facility, the Minnesota security hospital, or the Minnesota sexual psychopathic personality treatment center to the executive director of the Minnesota state retirement system as positions rendering covered correctional service. The commissioner of corrections and the commissioner of human services must establish, in writing, a set of criteria upon which to base a recommendation for certifying additional civil service classifications as rendering covered correctional service.

Sec. 9. Minnesota Statutes 1994, section 352.91, is amended by adding a subdivision to read:

Subd. 5. [CORRECTION OF ERRORS.] (a) If it is determined that an employee should have been covered by the correctional retirement plan but was placed in the general employees retirement plan or teachers retirement association in error, the commissioner of corrections or the commissioner of human services must report the error to the executive director of the Minnesota state retirement system. The service must be properly credited under the correctional employees retirement plan for a period of not to exceed five years before the date on which the commissioner of corrections or human services notifies the executive director of the Minnesota state retirement system in writing or five years from the date on which an employee requests, in writing, the applicable department to determine if the person has appropriate retirement plan coverage, whichever is earlier. If the error covers more than a five-year period, the service before the five-year period must remain under the plan originally credited the service. The employee shall pay the difference between the employee contributions actually paid during the five-year period and what should have been paid under the correctional employees retirement plan. The department making the error shall pay to the correctional employees retirement plan an amount equal to the difference in the present value of accrued retirement benefits caused by the change in coverage after subtracting the amount paid by the employee. Calculation of this amount must be made by the executive director of the Minnesota state retirement system using the applicable preretirement interest rate specified in section 356.215, subdivision 4d, and the mortality table adopted for the Minnesota state retirement system. The calculation must assume continuous future service in the correctional employees retirement plan until the employee would reach the age eligible for normal

retirement. The calculation must also assume a future salary history that includes annual salary increases at the salary increase rate or rates specified in section 356.215, subdivision 4d.

(b) If an employee was covered under the correctional employees retirement plan, but it is determined that the person should have been covered under the general employees retirement plan, the error must be corrected if written notification is provided to the employee and the executive director of the Minnesota state retirement system within three years of the date on which the coverage was improperly started. The difference in employee and employer contributions actually paid to the correctional employees retirement plan in excess of the amount that should have been paid to the general employees retirement plan must be refunded to the employee and the employer paying the additional contributions.

Sec. 10. Minnesota Statutes 1994, section 352.92, subdivision 2, is amended to read:

Subd. 2. [EMPLOYER CONTRIBUTIONS.] ~~(a)~~ In lieu of employer contributions payable under section 352.04, subdivision 3, the employer shall contribute for covered correctional employees an amount equal to ~~6.27~~ 6.75 percent of salary.

~~(b) By January 1 of each year, the board of directors shall report to the legislative commission on pensions and retirement, the chair of the committee on appropriations of the house of representatives, and the chair of the committee on finance of the senate on the amount raised by the employer and employee contribution rates in effect and whether the total amount is less than, the same as, or more than the actuarial requirement determined under section 356.215.~~

Sec. 11. [TEMPORARY PROVISION; ELECTION TO RETAIN RETIREMENT COVERAGE.]

(a) An employee in a position specified as qualifying under sections 4, 6, and 7, may elect to retain coverage under the general employees retirement plan of the Minnesota state retirement system or the teachers retirement association, or may elect to have coverage transferred to and to contribute to the correctional employees retirement plan. An employee electing to participate in the correctional employees retirement plan shall begin making contributions to the correctional plan beginning the first full pay period after June 30, 1996, or the first full pay period following filing of their election to transfer coverage to the correctional employees retirement plan, whichever is later. The election to retain coverage or to transfer coverage must be made in writing by the person on a form prescribed by the executive director of the Minnesota state retirement system and must be filed with the executive director no later than December 31, 1996.

(b) An employee failing to make an election by December 15, 1996, must be notified by certified mail by the executive director of the Minnesota state retirement system or of the teachers retirement association, whichever applies, of the deadline to make a choice. A person who does not submit an election form must continue coverage in the general employees retirement plan or the teachers retirement association, whichever applies, and forfeits all rights to transfer retirement coverage to the correctional employees retirement plan.

(c) The election to retain coverage in the general employee retirement plan or the teachers retirement association or the election to transfer retirement coverage to the correctional employees retirement plan is irrevocable once it is filed with the executive director.

Sec. 12. [COVERAGE FOR PRIOR STATE SERVICE FOR CERTAIN PERSONS.]

Subdivision 1. [ELECTION OF PRIOR STATE SERVICE COVERAGE.] (a) An employee who has future retirement coverage transferred to the correctional employees retirement plan under sections 4, 6, and 7, and who does not elect to retain general state employee retirement plan or teachers retirement association coverage is entitled to elect to obtain prior service credit for eligible state service performed on or after July 1, 1975, and before the first day of the first full pay period beginning after June 30, 1996, with the department of corrections or with the department of human services at the Minnesota security hospital. All prior service credit must be purchased.

(b) Eligible state service with the department of corrections or with the department of human

services is any prior period of continuous service on or after July 1, 1975, performed as an employee of the department of corrections or of the department of human services that would have been eligible for the correctional employees retirement plan coverage under sections 4, 6, and 7, if that prior service had been performed after the first day of the first full pay period beginning after June 30, 1996, rather than before that date. Service is continuous if there has been no period of discontinuation of eligible state service for a period greater than 180 calendar days.

(c) The department of corrections or the department of human services, whichever applies, shall certify eligible state service to the executive director of the Minnesota state retirement system.

(d) A covered correctional plan employee employed on July 1, 1996, who has past service in a job classification covered under section 4, 6, or 7, on July 1, 1996, is entitled to purchase the past service if the applicable department certifies that the employee met the eligibility requirements for coverage. The employee must make the additional employee contributions under section 9. Payments for past service must be completed by September 30, 1998.

Subd. 2. [PAYMENT FOR PRIOR SERVICE.] (a) An employee electing to obtain prior service credit under subdivision 1 must pay an additional employee contribution for that prior service except for any period of time that the employee was a member of the basic program of the teachers retirement association. The additional member contribution is the contribution differential percentage applied to the actual salary paid to the employee during the period of the prior eligible state service, plus interest at the rate of six percent per annum, compounded annually. The contribution differential percentage is the difference between 4.9 percent of salary and the applicable employee contribution rate of the general state employees retirement plan or the teachers retirement association during the prior eligible state service.

(b) The additional member contribution must be paid only in a lump sum. Payment must accompany the election to obtain prior service credit. No election or payment may be made by the person or accepted by the executive director after September 30, 1998.

Subd. 3. [TRANSFER OF ASSETS.] Assets must be transferred from the teachers retirement association or the general state employees retirement plan, whichever applies, to the correctional employees retirement plan in an amount equal to the present value of benefits earned under the general employees retirement plan or the teachers retirement plan, whichever applies, for each employee transferring to the correctional employees retirement plan, as determined by the actuary retained by the legislative commission on pensions and retirement in accordance with Minnesota Statutes, section 356.215, multiplied by the accrued liability funding ratio of active members as derived from the most recent actuarial valuation prepared by the commission-retained actuary. The transfer of assets must be made within 45 days after the employee elects to transfer coverage to the correctional employees retirement plan.

Subd. 4. [EFFECT OF THE ASSET TRANSFER.] Upon the transfer of assets in subdivision 3, service credit in the general state employees plan of the Minnesota state retirement system or the teachers retirement association, whichever applies, is forfeited and may not be reinstated. The service credit and transferred assets must be credited to the correctional employees retirement plan.

Subd. 5. [COUNSELING.] (a) The commissioners of corrections, human services, and employee relations, and the executive directors of the Minnesota state retirement system and teachers retirement association have the joint responsibility of providing affected employees of the department of corrections or the department of human services with appropriate and timely retirement and related benefit counseling.

(b) Counseling must include the anticipated impact of the retirement coverage change on the person's future retirement benefit amounts, future retirement eligibility, future applicability of mandatory retirement laws, and future postemployment insurance coverage.

(c) The commissioners of corrections and human services must consult with the appropriate collective bargaining agents of the affected employees regarding the content, form, and timing of the counseling required by this section.

Sec. 13. [TRANSITIONAL PROVISION; RETENTION OF CERTAIN RIGHTS.]

(a) Nothing in this act may be considered to restrict the entitlement of a person under state law to repay a previously taken refund of employee or member contributions to a Minnesota public pension plan if all qualifying requirements are met.

(b) The period of correctional employees retirement plan contributions, plus interest, must be restored upon the repayment of the appropriate refund amount if the service was correctional employees retirement plan covered service on the date when the service was rendered or on the date when the refund was taken.

Sec. 14. [EARLY RETIREMENT INCENTIVE.]

This section applies to an employee who has future retirement coverage transferred to the correctional employee retirement plan under sections 4, 6, and 7, and who is at least 55 years old on the effective date of sections 4, 6, and 7. That employee may participate in a health insurance early retirement incentive available under the terms of a collective bargaining agreement in effect on the day before the effective date of sections 4, 6, and 7, notwithstanding any provision of the collective bargaining agreement that limits participation to persons who select the option during the payroll period in which their 55th birthday occurs. A person selecting the health insurance early retirement incentive under this section must retire by the later of September 30, 1996, or within the pay period following the time at which the person has at least three years of covered correctional service, including any purchased service credit. An employee meeting this criteria who wishes to extend the person's employment must do so under Minnesota Statutes, section 43A.34, subdivision 3.

Sec. 15. [APPROPRIATION.]

$..... is appropriated to the department of human services and $..... is appropriated to the department of corrections to fund the additional employer contributions associated with these changes in the membership of the correctional employees retirement plan.

Sec. 16. [REPEALER.]

Minnesota Statutes 1994, section 352.91, subdivision 3, is repealed.

Sec. 17. [EFFECTIVE DATE.]

Sections 1 to 16 are effective on the first day of the first full pay period beginning after June 30, 1996."

Amend the title as follows:

Page 1, line 8, after the semicolon, insert "appropriating money;"

Page 1, line 9, after "sections" insert "352.90;" and before "by" insert "subdivisions 1, 2, 3b, 4, and"

Page 1, line 10, before the period, insert "; repealing Minnesota Statutes 1994, section 352.91, subdivision 3"

And when so amended the bill do pass and be re-referred to the Committee on Finance.

Pursuant to Joint Rule 2.03, the bill was referred to the Committee on Rules and Administration.

Mr. Metzen from the Committee on Governmental Operations and Veterans, to which was re-referred

S.F. No. 2143: A bill for an act relating to education; removing mandates from higher education; requiring increased accountability and performance for funding; amending Minnesota Statutes 1994, sections 15.43, subdivisions 2 and 3; 16B.01, subdivision 2; 16B.21, subdivisions 1

and 3; 16B.33, subdivisions 1, 3, and 4; 16B.35, by adding a subdivision; 16B.36, subdivision 1; 16B.37, subdivision 1; 16B.41, subdivision 2; 16B.482; 16B.49; 16B.531; 16B.54, subdivision 1; 16B.85, subdivision 2; 43A.05, subdivision 4; 43A.10, subdivision 3; 123.70, subdivision 10; 135A.033; 135A.14, as amended; 137.37; 169.448, subdivision 2; 201.1611; and 248.07, subdivision 7; Minnesota Statutes 1995 Supplement, sections 16B.17, subdivision 6; 16B.465, subdivision 4; 43A.06, subdivision 1; 135A.181, subdivision 2; 136A.101, subdivision 10; 136F.06, subdivisions 1 and 2; 136F.12; 136F.16, subdivision 3; 136F.18; 136F.30; 136F.36, subdivision 2; 136F.44, subdivision 2; 136F.50; 136F.53, subdivisions 1 and 3; 136F.58; 136F.71, by adding a subdivision; 136F.72, subdivision 3; 136F.80, subdivision 2; and 169.441, subdivision 5; Laws 1995, chapter 212, article 2, section 20, subdivisions 1 and 2; proposing coding for new law in Minnesota Statutes, chapters 135A; 136A; and 136F; repealing Minnesota Statutes 1994, sections 137.03; 137.05; 137.06; 137.07; 137.08; 137.11; 137.14; 137.15; and 137.33; Minnesota Statutes 1995 Supplement, section 136F.59, subdivision 1.

Reports the same back with the recommendation that the bill be amended as follows:

Page 4, lines 35 and 36, reinstate the stricken language and before the period, insert "and the Minnesota state colleges and universities"

Page 5, line 23, after "[APPLICATION.]" insert "(1)"

Page 5, line 26, after the comma, insert "the University of Minnesota, and the Minnesota state colleges and universities,"

Page 5, lines 28 to 30, delete the new language

Page 5, after line 35, insert:

"(2) Upon the undertaking, by the University of Minnesota or the Minnesota state colleges and universities, of a project either:

(i) involving renovation, repair, replacement, or rehabilitation, which does not significantly alter the design of the structure, with an estimated cost greater than $1,250,000, or a planning project with estimated fees greater than $125,000, or

(ii) involving new construction or significant structural design changes, with an estimated cost greater than $1,000,000, or a planning project with estimated fees greater than $100,000, the user agency shall submit a request for selection of a primary designer in the manner provided in clause (1).

(3) A user agency may utilize the designer selection board to select a primary designer for projects below the limits specified in clauses (1) and (2).

(4) In the event a project involves an emergency building system repair where the use of these procedures would involve risk to public health or safety or to the condition of the building, the user agency is not required to utilize the designer selection board under this section."

Page 6, lines 3 and 4, reinstate the stricken language and before "may" insert "or the Minnesota state colleges and universities"

Page 7, line 21, reinstate the stricken comma

Page 7, delete line 22 and insert "or the University of Minnesota and the Minnesota state colleges and universities for projects under ~~its~~ their"

Page 7, line 23, reinstate the stricken language

Page 31, line 30, before the period, insert "and in seeking to facilitate election day registration of students under section 201.061, subdivision 3"

And when so amended the bill do pass and be re-referred to the Committee on Finance. Amendments adopted. Report adopted.

Mr. Metzen from the Committee on Governmental Operations and Veterans, to which was referred

H.F. No. 2152: A bill for an act relating to transportation; abolishing specific highway service sign program and directing commissioner of transportation to adopt rules to administer highway service signs; eliminating limitation on funding advances for completing county state-aid highways in cities; prohibiting motor vehicle from closely following ambulance responding to emergency; providing for turnbacks to local governments of legislative routes Nos. 232, 261, 300, 326, and 385; amending Minnesota Statutes 1994, sections 162.08, subdivision 5; 169.18, subdivision 8; and 169.59, subdivision 4; proposing coding for new law in Minnesota Statutes, chapter 160; repealing Minnesota Statutes 1994, sections 160.292, subdivisions 1, 2, 3, 4, 5, 8, 9, and 10; 160.293; 160.294; 160.295; 160.296; and 160.297; Minnesota Statutes 1995 Supplement, section 160.292, subdivisions 6, 7, and 7a.

Reports the same back with the recommendation that the bill be amended as follows:

Page 1, line 24, after "program" insert "that is no more restrictive than the current program"

Page 1, delete lines 26 to 28 and insert "applicant shall pay a fee to the commissioner of transportation to cover all costs for fabricating, installing, maintaining, replacing, and removing."

And when so amended the bill do pass. Amendments adopted. Report adopted.

Ms. Piper from the Committee on Family Services, to which was referred

S.F. No. 2308: A bill for an act relating to human services; appropriating money.

Reports the same back with the recommendation that the bill be amended as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1

APPROPRIATIONS

Section 1. [HEALTH AND HUMAN SERVICES APPROPRIATIONS.]

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

SUMMARY BY FUND

APPROPRIATIONS	1996	1997	BIENNIAL TOTAL
General	$ (118,432,000)	$ (54,042,000)	$ (172,474,000)
State Government Special Revenue	50,000	100,000	150,000
TOTAL	$ (118,382,000)	$ (53,942,000)	$ (172,324,000)

	APPROPRIATIONS Available for the Year Ending June 30	
	1996	1997
Sec. 2. COMMISSIONER OF HUMAN SERVICES		

Subdivision 1. Total Appropriation	(118,432,000)	(56,072,000)

This appropriation is added to the appropriation in Laws 1995, chapter 207, article 1, section 2.

[DHS SPENDING CAP.] The 1998-1999 general fund spending in the department of human services is limited to $2,584,294,000 in fiscal year 1998 and $2,817,992,000 in fiscal year 1999. Policy changes made to meet this spending cap will include the effects on both revenues and expenditures. Changes from end of session revenue estimates shall be counted against this expenditures limit. Expenditures in the department may exceed these estimates only if forecast caseloads increase. After consultation with the legislature, the commissioner of finance may also adjust these limits to recognize any errors or omissions in the workpapers used to generate the figure.

Subd. 2. Life Skills Self-Sufficiency	
(3,462,000)	900,000

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

(a) Chemical Dependency Consolidated Treatment	
(3,462,000)	(1,346,000)
(b) Deaf and Hard-of-Hearing Services Grants	
-0-	100,000
(c) Community Social Services Grants	
-0-	36,000
(d) Aging Grants	
-0-	1,050,000
(e) Administration and Other Grants	
-0-	1,060,000

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

[ADULT DAY CARE.] Of this appropriation, $350,000 in fiscal year 1997 is for grants to counties to expand or upgrade adult day care services and adult day care facilities. This appropriation is available until expended but shall not become part of the base appropriation for the biennium beginning July 1, 1997. The commissioner shall distribute grants to counties outside the metropolitan area where there is a need for expanded or improved services or facilities, and the commissioner may require a local match from the adult day care nonprofit agency. The county shall award grants to adult day care agencies in order for the agency to physically upgrade the facility, which will result in the expansion of the number of clients served in adult day care, expand the type of services offered, or enable programs to service persons with greater needs.

[SENIOR PROGRAMS.] For fiscal year 1997, of this appropriation, $150,000 is for volunteer programs for retired senior citizens established under Minnesota Statutes, section 256.9753, $150,000 is for the foster grandparent program established under Minnesota Statutes, section 256.976, and $150,000 is for the senior companion program established under Minnesota Statutes, section 256.977. This appropriation shall not become part of the base for the 1997-1999 biennial budget.

[SENIOR NUTRITION PROGRAM.] Of this appropriation, $600,000 in fiscal year 1997 is for senior nutrition programs. The funds shall be used to support congregate dining sites and home-delivered meals and may be used for nutrition support services, which include transportation to deliver home-delivered meals, purchased food and medications to the seniors' residence, vouchers for food purchases at selected restaurants, food stamp outreach, transportation of seniors to congregate dining sites, and other appropriate services to support senior nutrition programs. This appropriation shall not become part of the base for the 1997-1999 biennial budget.

[SOCIAL SERVICES INFORMATION SYSTEM.] Of this appropriation, $710,000 in fiscal year 1997 is for the social services information system. This appropriation shall not become part of the base for the 1997-1999 biennial budget.

Subd. 3. Children's Program -0- 1,500,000

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

(a) Subsidized Adoption Grants

-0- 1,500,000

Subd. 4. Economic Self-Sufficiency

General

(13,982,000) (16,053,000)

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

(a) AFDC Grants

(13,092,000) (16,794,000)

(b) General Assistance Grants

958,000 2,597,000

(c) Minnesota Supplemental Aid

(740,000) (699,000)

(d) Minnesota Family Investment Plan (MFIP) Grants

-0- 64,000

(e) Child Care Fund Entitlement Grants

(1,258,000) (1,321,000)

(f) Administration and Other Grants

150,000 100,000

Subd. 5. Health Care

General

(100,248,000) (38,959,000)

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

(a) Group Residential Housing Grants

(3,318,000) (4,501,000)

(b) MA Long-Term Care Facilities

(19,995,000) (3,307,000)

(c) MA Long-Term Care Waivers and Home Care

(2,313,000) 9,948,000

(d) MA Managed Care and Fee-for-Service

(21,453,000) (11,529,000)

(e) General Assistance Medical Care

(53,639,000) (30,375,000)

(f) Administration and Other Grants

470,000 805,000

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

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

[COUNTY WAIVERED SERVICES RESERVE.] Notwithstanding the provisions of Minnesota Statutes, section 2656B.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 waivered services funding for persons with mental retardation or related conditions which enables the counties to maintain a reserve. The reserve may not exceed five percent of the agency's total annual allocation of home- and community-based waivered services funds. The reserve may be utilized to assure ability to meet changing needs of current recipients, to assure the health and safety needs of current recipients, or to provide short-term care emergency intervention to eligible waiver recipients.

[PREADMISSION SCREENING TRANSFER.] Effective the day following final enactment, up to $40,000 of the appropriation for preadmission screening and alternative care for fiscal year 1996 may be transferred to the health care administration account to pay the state's share of

county claims for conducting nursing home assessments for persons with mental illness or mental retardation as required by Public Law Number 100-203.

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

[JOINT PURCHASER DEMONSTRATION PROJECT.] Of this appropriation, $250,000 for fiscal year 1997 is for the following purposes: (1) $50,000 is for an actuarial study of mental health services covered by the capitated payment to health plans; and (2) $200,000 is for a grant to the Minnesota counties' research foundation for the purpose of providing technical assistance to counties interested in developing a joint purchaser demonstration project.

[HIV/AIDS DRUG REIMBURSEMENT PROGRAM.] Of this appropriation, $65,000 in fiscal year 1997 is for the HIV/AIDS drug reimbursement program and shall be added to federal funds available for that program.

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

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

General

(740,000) (3,460,000)

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

(a) Mental Health Grants - Children

(700,000) (2,300,000)

(b) Mental Health Grants - Adults

(40,000) (1,160,000)

[CRISIS SERVICES.] Crisis services for developmentally disabled persons in each regional center catchment area, including crisis beds and mobile intervention teams, shall be at Brainerd, Cambridge, Fergus Falls, St. Peter, and Willmar regional centers in accordance with the agreement reached in 1990, and codified in Minnesota Statutes, section 252.025. The program design must be negotiated and agreed to by the affected exclusive representatives. The parties also must meet and discuss ways to provide the highest quality services, while maintaining or increasing cost effectiveness.

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

Sec. 3. COMMISSIONER OF HEALTH

Subdivision 1. Total Appropriation	-0-	2,030,000
Summary by Fund		
General	-0-	2,030,000

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

Subd. 2. Health Systems Development	-0-	2,000,000

[CORE PUBLIC HEALTH FUNCTIONS.] Of this appropriation, $1,814,000 in fiscal year 1997 is for core public health functions. Of this amount, up to five percent is available to the commissioner for administrative and technical support of community health boards. Funds distributed shall not be used to displace current appropriations or to provide individual personal health care services which compete with or duplicate services otherwise available through the prepaid medical assistance program. These funds shall be distributed on a pro rata basis according to the existing community health

services subsidy formula to those community health service areas which are participating in the state's prepaid medical assistance program. This appropriation shall not become part of the base for the 1997-1999 biennial budget.

[BIRTH DEFECTS REGISTRY.] Of this appropriation, $186,000 in fiscal year 1997 is for the birth defects registry system under Minnesota Statutes, section 144.2215. This appropriation shall not become part of the base for the 1997-1999 biennial budget.

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

Subd. 3. Health Quality Assurance	-0-	30,000

[ASSESSMENT PROCESS.] Of this appropriation, $30,000 in fiscal year 1997 is for purposes of administering the assessment process established in Minnesota Statutes, section 62A.310. This appropriation shall not become part of the base for the 1997-1999 biennial budget. The commissioner may accept donations from non-state sources to pay the cost of these assessments. The commissioner of health must present to the legislature by January 15, 1997, a plan to continue this function after June 30, 1997, without a general fund appropriation.

Sec. 4. HEALTH-RELATED BOARDS

Subdivision 1. Total Appropriation	50,000	100,000

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

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

[NO SPENDING IN EXCESS OF

REVENUES.] The commissioner of finance shall not permit the allotment, encumbrance, or expenditure of money appropriated in this section in excess of the anticipated biennial revenues or accumulated surplus revenues from fees collected by the boards. Neither this provision nor Minnesota Statutes, section 214.06, applies to transfers from the general contingent account, if the amount transferred does not exceed the amount of surplus revenue accumulated by the transferee during the previous five years.

Subd. 2. Board of Medical Practice	50,000	100,000

Sec. 5. [CARRYOVER LIMITATION.]

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

Sec. 6. [SUNSET OF UNCODIFIED LANGUAGE.]

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

ARTICLE 2

HEALTH AND CONTINUING CARE RELATED TO

MEDICAL ASSISTANCE AND GENERAL ASSISTANCE MEDICAL CARE

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

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

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

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

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

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

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

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

(3) status as a local government unit as defined in section 62D.02, subdivision 11, an Indian

tribal government, an Indian health service unit, or community health board as defined in chapter 145A; or

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

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

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

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

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

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

Sec. 3. Minnesota Statutes 1995 Supplement, section 256B.055, subdivision 12, is amended to read:

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

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

A child with serious emotional disturbance requires a level of care provided in a hospital if the commissioner determines that the individual requires 24-hour supervision because the person exhibits recurrent or frequent suicidal or homicidal ideation or behavior, recurrent or frequent psychosomatic disorders or somatopsychic disorders that may become life threatening, recurrent or frequent severe socially unacceptable behavior associated with psychiatric disorder, ongoing and chronic psychosis or severe, ongoing and chronic developmental problems requiring

continuous skilled observation, or severe disabling symptoms for which office-centered outpatient treatment is not adequate, and which overall severely impact the individual's ability to function.

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

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

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

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

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

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

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

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

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

(g) Children eligible for medical assistance services under section 256B.055, subdivision 12, as of June 30, 1995, must be screened according to the criteria in this subdivision prior to January 1,

1996. Children found to be ineligible may not be removed from the program until ~~January 1, 1996~~ July 1, 1997.

Sec. 4. Minnesota Statutes 1995 Supplement, section 256B.0575, is amended to read:

256B.0575 [AVAILABILITY OF INCOME FOR INSTITUTIONALIZED PERSONS.]

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) if one of the following circumstances apply:

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

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

For purposes of this paragraph, a person is determined to be residing in a licensed nursing home, regional treatment center, or medical institution if the person is expected to remain for a period of one full calendar month or more.

Sec. 5. Minnesota Statutes 1995 Supplement, section 256B.0595, subdivision 1, is amended to read:

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

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

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

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

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

(f) For purposes of this section, long-term care services include services in a nursing facility, services that are eligible for payment according to section 256B.0625, subdivision 2, because they

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

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

Sec. 6. Minnesota Statutes 1994, section 256B.0595, is amended by adding a subdivision to read:

Subd. 1a. [PROHIBITED TRANSFERS.] (a) Notwithstanding any contrary provisions of this section, this subdivision applies to transfers involving recipients of medical assistance that are made on or after its effective date and to all transfers involving persons who apply for medical assistance on or after its effective date, regardless of when the transfer occurred. A person, a person's spouse, or any person, court, or administrative body with legal authority to act in place of, on behalf of, at the direction of, or upon the request of the person or the person's spouse, may not give away, sell, dispose of, or reduce ownership or control of any income, asset, or interest therein for less than fair market value for the purpose of establishing or maintaining medical assistance eligibility for the person. For purposes of determining eligibility for medical assistance services, any transfer of such income or assets for less than fair market value within 60 months before or any time after a person applies for medical assistance may be considered. Any such transfer is presumed to have been made for the purpose of establishing or maintaining medical assistance eligibility, and the person is ineligible for medical assistance services for the period of time determined under subdivision 2a, unless the person furnishes convincing evidence to establish that the transaction was exclusively for another purpose, or unless the transfer is permitted under subdivision 3a or 4a.

(b) Any transfer made prior to the 60-month period referred to in paragraph (a) is also presumed to have been made for the purposes of establishing medical assistance eligibility, and the provisions of paragraph (a), including the period of ineligibility, apply, unless the person furnishes convincing evidence to establish that the transaction was exclusively for another purpose, or unless the transfer is permitted under subdivision 3a or 4a.

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

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

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

Sec. 7. Minnesota Statutes 1995 Supplement, section 256B.0595, subdivision 2, is amended to read:

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

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

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

Sec. 8. Minnesota Statutes 1994, section 256B.0595, is amended by adding a subdivision to read:

Subd. 2a. [PERIOD OF INELIGIBILITY.] (a) Notwithstanding any contrary provisions of this section, this subdivision applies to transfers involving recipients of medical assistance that are made on or after its effective date and to all transfers involving persons who apply for medical assistance on or after its effective date, regardless of when the transfer occurred. For any uncompensated transfer occurring within 60 months prior to the date of application, at any time after application, or while eligible, the number of months of cumulative ineligibility for medical assistance services shall be the total uncompensated value of the assets and income transferred

divided by the statewide average per person nursing facility payment made by the state in effect on the date of application. The amount used to calculate the average per person payment shall be adjusted each July 1 to reflect average payments for the previous calendar year. For applicants, the period of ineligibility begins with the month in which the person applied for medical assistance and satisfied all other requirements for eligibility, or the month the local agency becomes aware of the transfer, if later. For recipients, the period of ineligibility begins in the month the agency becomes aware of the transfer, except that penalty periods for transfers made during a period of ineligibility as determined under this section shall begin in the month following the existing period of ineligibility. If the transfer was not reported to the local agency at the time of application, and the applicant received medical assistance services during what would have been the period of ineligibility if the transfer had been reported, a cause of action exists against the transferee for the cost of medical assistance services provided during the period of ineligibility, or for the uncompensated amount of the transfer that was not recovered from the transferor through the implementation of a penalty period under this subdivision, whichever is less. The action may be brought by the state or the local agency responsible for providing medical assistance under chapter 256G. The total uncompensated value is the fair market value of the income or asset at the time it was given away, sold, or disposed of, less the amount of compensation received.

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

Sec. 9. Minnesota Statutes 1995 Supplement, section 256B.0595, subdivision 3, is amended to read:

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

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

(i) spouse;

(ii) child who is under age 21;

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

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

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

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

(3) the local agency grants a waiver of ~~the excess resources created by the uncompensated transfer~~ a penalty resulting from a transfer for less than fair market value because denial of eligibility would cause undue hardship for the individual, based on imminent threat to the individual's health and well-being.

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

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

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

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

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

Sec. 10. Minnesota Statutes 1994, section 256B.0595, is amended by adding a subdivision to read:

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

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

(i) spouse;

(ii) child who is under age 21;

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

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

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

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

(3) the local agency grants a waiver of a penalty resulting from a transfer for less than fair market value because denial of eligibility would cause undue hardship for the individual and there exists an imminent threat to the individual's health and well-being.

(b) When a waiver is granted under paragraph (a), clause (3), a cause of action exists against the person to whom the homestead was transferred for that portion of medical assistance services granted within 60 months of the date the transferor applied for medical assistance and satisfied all other requirements for eligibility,

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

Sec. 11. Minnesota Statutes 1995 Supplement, section 256B.0595, subdivision 4, is amended to read:

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

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

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

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

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

(5) the local agency determines that denial of eligibility for long-term care services would work an undue hardship and grants a waiver of ~~excess assets~~ a penalty resulting from a transfer for less than fair market value based on an imminent threat to the individual's health and well-being. When a waiver is granted, a cause of action exists against the person to whom the assets were transferred for that portion of long-term care services granted within:

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

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

(iii) 36 months of a transfer if transferred in any other manner after August 10, 1993,

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

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

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

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

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

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

(3) the assets or income were transferred to a trust for the sole benefit of the individual's child who is blind or permanently and totally disabled as determined in the supplemental security income program and the trust reverts to the state upon the disabled child's death to the extent medical assistance has paid for services for the child; or

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

(5) the local agency determines that denial of eligibility for medical assistance services would work an undue hardship and grants a waiver of a penalty resulting from a transfer for less than fair market value because there exists an imminent threat to the individual's health and well-being. When a waiver is granted, a cause of action exists against the person to whom the assets were transferred for that portion of medical assistance services granted within 60 months of the date the transferor applied for medical assistance and satisfied all other requirements for eligibility, or the amount of the uncompensated transfer, whichever is less, together with the costs incurred due to the action. The action shall be brought by the state unless the state delegates this responsibility to the local agency responsible for providing medical assistance under this chapter.

Sec. 13. Minnesota Statutes 1994, section 256B.0595, is amended by adding a subdivision to read:

Subd. 7. [CAUSE OF ACTION.] There is a rebuttable presumption that a transferee in a transaction governed by subdivision 1a acted with the intent and purpose of assisting the person to qualify for medical assistance services if the transfer was for less than fair market value and was made prior to the 60-month period under subdivision 1a. The presumption is not rebuttable when the person who receives medical assistance services is a resident of a long-term care facility or is receiving that level of care in the community at the time of the transfer. A cause of action exists against the transferee for the cost of medical assistance services provided to the person who receives medical assistance services, or for the uncompensated amount of the transfer, whichever is less. The action may be brought by the state or the local agency responsible for providing medical assistance under chapter 256G. There shall be no recovery for medical assistance payment of medical assistance services as a result of the transfer of any property or resource that is an exception to the transfer prohibition listed in subdivisions 3a and 4a.

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

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

Sec. 15. Minnesota Statutes 1995 Supplement, section 256B.0628, subdivision 2, is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 16. [256B.07] [MEDICARE MAXIMIZATION PROGRAM.]

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

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

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

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

Subd. 3. [REFERRALS TO MEDICARE CERTIFIED PROVIDERS REQUIRED.] Non-Medicare certified and nonparticipating Medicare certified home care service providers must refer dual eligible recipients to Medicare certified providers when Medicare is determined to be

the appropriate payer for supplies and equipment or services. Non-Medicare certified and nonparticipating Medicare certified home care service providers will be terminated from participation in the medical assistance program for failure to make such referrals.

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

Subd. 5. [ADVISORY COMMITTEE.] The commissioner shall establish an advisory committee comprised of home care services recipients, providers, county public health nurses, home care and county nursing associations, and department of human services staff to make recommendations to the Medicare Maximization Program. The recommendations shall include: nursing practice issues as they relate to home care services funded by Medicare and medical assistance; and streamlining assessment, prior authorization, and up-front payer determination processes to achieve administrative efficiencies.

Sec. 17. Minnesota Statutes 1995 Supplement, section 256B.15, is amended by adding a subdivision to read:

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

Sec. 18. Minnesota Statutes 1994, section 256B.35, subdivision 1, is amended to read:

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

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

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

Sec. 19. Minnesota Statutes 1994, section 256B.37, subdivision 5, is amended to read:

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

Sec. 20. Minnesota Statutes 1995 Supplement, section 256B.69, subdivision 3a, is amended to read:

Subd. 3a. [COUNTY AUTHORITY.] The commissioner, when implementing the general assistance medical care, ~~or~~ medical assistance or MinnesotaCare 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. Prior to the development of the request for proposal, there shall be established a mutually agreed upon timetable. ~~This process shall in no way delay the department's ability to secure and finalize contracts for the medical assistance prepayment program.~~ The prepaid medical assistance and general assistance medical care program shall not be expanded to any county that has not begun enrollment as of March 1, 1996, until July 1, 1997, unless the expansion is approved by the county board. Additional services and additional target populations shall not be expanded in the counties currently implementing a prepaid medical assistance program until July 1, 1997, unless the expansion is approved by the county board. The prepaid MinnesotaCare program may not begin enrollment until July 1, 1997, unless eligibility to the MinnesotaCare program is expanded to include single adults and households without children who have gross family incomes up to 150 percent of the federal poverty guidelines. If eligibility is expanded, then enrollment for the prepaid MinnesotaCare program may begin on the date that the expansion is effective.

Sec. 21. Minnesota Statutes 1995 Supplement, section 256B.69, subdivision 4, is amended to read:

Subd. 4. [LIMITATION OF CHOICE.] The commissioner shall develop criteria to determine when limitation of choice may be implemented in the experimental counties. The criteria shall ensure that all eligible individuals in the county have continuing access to the full range of medical assistance services as specified in subdivision 6. The commissioner shall exempt the following persons from participation in the project, in addition to those who do not meet the criteria for limitation of choice: (1) persons eligible for medical assistance according to section 256B.055, subdivision 1; (2) persons eligible for medical assistance due to blindness or disability as determined by the social security administration or the state medical review team, unless: (i) they are 65 years of age or older, or (ii) they are eligible for medical assistance according to section 256B.055, subdivision 12, or (iii) unless they reside in Itasca county or they reside in a county in which the commissioner conducts a pilot project under a waiver granted pursuant to section 1115 of the Social Security Act; (3) recipients who currently have private coverage through a health maintenance organization; (4) recipients who are eligible for medical assistance by spending down excess income for medical expenses other than the nursing facility per diem expense; ~~and~~ (5) recipients who receive benefits under the Refugee Assistance Program, established under United States Code, title 8, section 1522(e); (6) effective the day following final enactment, children who, prior to enrollment in the prepaid medical assistance program, are both determined to be severely emotionally disturbed and receiving case management services according to section 256B.0625, subdivision 20; and (7) effective the day following final enactment, adults who, prior to enrollment in the prepaid medical assistance program, are both determined to be seriously and persistently mentally ill and received case management services according to section 256B.0625,

subdivision 20. Children under age 21 who are in foster placement may enroll in the project on an elective basis. Individuals excluded under clauses (5) and (6) may choose to enroll on an elective basis. The commissioner may allow persons with a one-month spenddown who are otherwise eligible to enroll to voluntarily enroll or remain enrolled, if they elect to prepay their monthly spenddown to the state. Beginning on or after July 1, 1997, the commissioner may require those individuals to enroll in the prepaid medical assistance program who otherwise would have been excluded under clauses (1) and (3) under Minnesota Rules, part 9500.1452, items H, K, and L. Before limitation of choice is implemented, eligible individuals shall be notified and after notification, shall be allowed to choose only among demonstration providers. The commissioner may assign an individual with private coverage through a health maintenance organization, to the same health maintenance organization for medical assistance coverage, if the health maintenance organization is under contract for medical assistance in the individual's county of residence. After initially choosing a provider, the recipient is allowed to change that choice only at specified times as allowed by the commissioner. If a demonstration provider ends participation in the project for any reason, a recipient enrolled with that provider must select a new provider but may change providers without cause once more within the first 60 days after enrollment with the second provider.

Sec. 22. Minnesota Statutes 1995 Supplement, section 256B.69, subdivision 5b, is amended to read:

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

Sec. 23. Minnesota Statutes 1995 Supplement, section 256B.69, subdivision 21, is amended to read:

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

Sec. 24. [256D.045] [SOCIAL SECURITY NUMBER REQUIRED.]

To be eligible for general assistance under sections 256D.01 to 256D.21, an individual must provide the individual's social security number to the county agency or submit proof that an application has been made. The provisions of this section do not apply to the determination of eligibility for emergency general assistance under section 256D.06, subdivision 2. This provision applies to eligible children under the age of 18 effective July 1, 1997.

Sec. 25. Minnesota Statutes 1994, section 325F.71, subdivision 2, is amended to read:

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

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

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

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

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

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

Sec. 26. Minnesota Statutes 1994, section 524.2-403, is amended to read:

524.2-403 [EXEMPT PROPERTY.]

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

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

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

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

(c) If encumbered chattels are selected and the value in excess of security interests, plus that of other exempt property, is less than $10,000, or if there is not $10,000 worth of exempt property in the estate, the surviving spouse or children are entitled to other personal property of the estate, if any, to the extent necessary to make up the $10,000 value.

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

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

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

Sec. 27. Minnesota Statutes 1994, section 524.3-801, is amended to read:

524.3-801 [NOTICE TO CREDITORS.]

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

(b)(1) Within three months after: (i) the date of the first publication of the notice; or (ii) June

16, 1989, whichever is later, the personal representative may determine, in the personal representative's discretion, that it is or is not advisable to conduct a reasonably diligent search for creditors of the decedent who are either not known or not identified. If the personal representative determines that a reasonably diligent search is advisable, the personal representative shall conduct the search.

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

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

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

Sec. 28. Minnesota Statutes 1994, section 256I.05, is amended by adding a subdivision to read:

Subd. 7c. [DEMONSTRATION PROJECT.] The commissioner is authorized to pursue a demonstration project under federal food stamp regulation for the purpose of gaining federal reimbursement of food and nutritional costs currently paid by the state group residential housing program. Any revenues received from this demonstration project may be retained to offset the costs of development, implementation, administration, and group residential housing expenditures.

Sec. 29. Laws 1995, chapter 207, article 6, section 125, subdivision 6, is amended to read:

~~Subd. 6. Section 91, the amendment to section 256B.69, subdivision 4, requiring children eligible for medical assistance under section 256B.055, subdivision 12, to participate in managed care, is effective July 1, 1996.~~

Sec. 30. Laws 1995, chapter 207, article 6, section 125, subdivision 8, is amended to read:

Subd. 8. Section 48, section 256B.0625, subdivision 19a, is effective July 1, ~~1996~~ 1997.

Sec. 31. Laws 1995, chapter 207, article 6, section 125, subdivision 9, is amended to read:

Subd. 9. Section 52, section 256B.0627, subdivision 1, paragraph (c), is effective ~~January 1, 1996~~ July 1, 1997; paragraph (d) is effective ~~January 1, 1996~~ July 1, 1997, except the deletions relating to responsible party are effective July 1, ~~1996~~ 1997; and the stricken paragraph (d), the deletion of the definition of responsible party, is effective July 1, ~~1996~~ 1997.

Sec. 32. Laws 1995, chapter 207, article 6, section 125, subdivision 11, is amended to read:

Subd. 11. Section 54, section 256B.0627, subdivision 4, paragraph (a), is effective July 1, ~~1996~~ 1997; and paragraph (b), clauses (2) and (3), are effective ~~January 1, 1996~~ July 1, 1997; and the stricken language in clause (1) and the stricken language in the stricken clause (4), are effective July 1, ~~1996~~ 1997.

Sec. 33. Laws 1995, chapter 207, article 6, section 125, subdivision 12, is amended to read:

Subd. 12. Section 55, section 256B.0627, subdivision 5, paragraph (a), clause (2), is effective ~~January 1, 1996~~ July 1, 1997; paragraph (d) is effective ~~January 1, 1996~~ July 1, 1997; paragraph (e), clause (2)(i), the new language relating to the registered nurse supervision is effective ~~January 1, 1996~~ July 1, 1997; paragraph (e), clause (2)(i)A, B, C, D, and E, are effective July 1, ~~1996~~ 1997; paragraph (e), clause (2)(ii), is effective July 1, ~~1996~~ 1997; paragraph (e), clause (2)(iii), the new language relating to county public health nurse, is effective ~~January 1, 1996~~ July 1, 1997, and the stricken language relating to the seizure activity provision, is effective July 1, ~~1996~~ 1997; paragraph (e), clause (2), the language striking items (v) to (viii), is effective July 1, ~~1996~~ 1997; paragraph (h), is effective ~~January 1, 1996~~ July 1, 1997; and paragraph (i), clause (2), the stricken language relating to the foster care license holder, and the language in the stricken clause (3) relating to the responsible party, is effective July 1, ~~1996~~ 1997.

Sec. 34. Laws 1995, chapter 207, article 8, section 35, is amended to read:

Sec. 35. Laws 1993, First Special Session chapter 1, article 7, section 51, subdivision 5, is amended to read:

Subd. 5. Sections 42 and 43 are effective July 1, 1996 and shall sunset June 30, 1997.

Sec. 35. [JOINT PURCHASER DEMONSTRATION PROJECTS.]

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

Subd. 2. [AUTHORIZATION.] A county or group of counties may establish a county-based joint purchaser demonstration project, for services provided to eligible individuals under medical assistance, except medical assistance recipients who are age 65 or older who reside in the Twin Cities seven-county metropolitan area, general assistance medical care, MinnesotaCare, state health and social service grants, and county-funded programs for these or other participants. As part of a project, the county may explore the option of direct contracting with local providers, provider networks, or public providers. If a county or group of counties implement direct contracting, the county or counties shall be considered a health plan company for purposes of Minnesota Statutes, section 62Q.19, and must meet the requirements of Minnesota Statutes,

section 62Q.19. At the option of the county board, the project may include county employees, other units of local government, and private employers. Groups of counties participating in a joint purchaser demonstration project must execute a joint powers agreement in accordance with Minnesota Statutes, section 471.59, for purposes of the demonstration project.

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

Subd. 4. [PROJECT SCOPE.] A county or group of counties may establish a demonstration project or projects to provide all covered services to the categorically and medically needy families with children or may establish a demonstration project to provide mental health services, chemical dependency services, services to the elderly, if the county is located outside the Twin Cities seven-county metropolitan area, or services to the developmentally disabled, or any combination thereof. If the county establishes a demonstration project to provide mental health services and the county is participating in a mental health collaborative under Minnesota Statutes, sections 245.491 to 245.496, families must have the opportunity to be enrolled in one network.

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

Subd. 6. [CONSUMER CHOICE.] In order to maintain an opportunity for choice, a county or counties must contract with two or more service delivery networks, unless there are less than two licensed health maintenance organizations, integrated service networks, or community integrated service networks willing to provide services in the county or counties. If only one network is providing services within the county or counties, the project must demonstrate that enrollees have a choice of providers within the existing network.

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

Subd. 8. [NOTICE OF INTENT; PROJECT PROPOSALS.] (a) In counties where the state has entered into a managed care contract, a county board or a group of county boards must notify the commissioner of human services of their intent to participate in a joint purchaser demonstration project no later than June 20, 1996. The notice of intent must include a transition plan describing the county or counties' plan for moving the enrollees into the demonstration project. The transition plan may not propose returning current prepaid medical assistance, prepaid general assistance medical care, or prepaid MinnesotaCare enrollees to fee-for-service coverage for any period of time during the transition period. In counties where the prepayment program is not currently being

implemented, a county board or group of county boards must notify the commissioner of human services of their intent to participate in a joint purchaser demonstration project by February 1, 1997. By February 1, 1997, each county board must inform the commissioner whether the county intends on participating in a demonstration project.

(b) By July 1, 1997, each county board wishing to participate in a demonstration project must submit a final proposal that demonstrates the ability to provide services beginning on January 1, 1998, in accordance with this section. For any geographic area and for any population for which the state has not received a final proposal by July 1, 1997, nothing shall prohibit the implementation of the prepaid medical assistance, prepaid general assistance medical care, and prepaid MinnesotaCare programs. The commissioner must accept or reject final proposals on or before September 1, 1997. The commissioner must authorize any proposal that satisfies the criteria listed in subdivision 14 subject to federal approval. The commissioner must negotiate the contract for the joint purchaser demonstration project with the appropriate county or counties by September 1, 1997, for implementation effective January 1, 1998.

(c) In counties in which the prepaid medical assistance, prepaid general assistance medical care, or prepaid MinnesotaCare program is operating, the commissioner may continue or extend those contracts until the county negotiated contracts become effective and enrollment begins. In counties in which the prepaid medical assistance or prepaid general assistance medical care programs are not currently operating, and enrollment under this subdivision does not begin by January 1, 1998, nothing shall prohibit the implementation of the prepaid medical assistance, prepaid general assistance medical care, and prepaid MinnesotaCare programs.

Subd. 9. [PROJECT REPORTING.] (a) Counties that intend to participate in a demonstration project must report to the legislative oversight commission on health care access by January 15, 1997, with recommendations for reserve requirements for local provider networks; project reporting data, including data necessary to assess enrollee needs, satisfaction, outcomes, and utilization of services for the purpose of project evaluation; and state and county risk sharing methodology options.

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

Subd. 10. [PAYMENT RATES.] The commissioner of human services shall determine payment by the state to the joint purchaser demonstration projects. The total payment must be reduced by five percent of the estimated fee-for-service costs for Medicare recipients and by ten percent of the estimated fee-for-service costs for all other recipients. The commissioner shall develop per member, per month payment rates for each project year, in consultation with an independent actuary, to ensure that the cost of services under these demonstration projects does not exceed the prepaid medical assistance, prepaid general assistance medical care, and the prepaid MinnesotaCare program rates under existing methodology. Payments to counties shall be made in accordance with Minnesota Statutes, section 256B.69.

Subd. 11. [FEDERAL WAIVER.] The commissioner of human services shall apply by August 1, 1996, for any new federal waivers or any modifications to existing waivers necessary to implement this section. The chairs of the senate health care committee and health care and family services finance division, house of representatives health and human services committee and health and human services finance division, and one minority member from the house of representatives and senate appointed by the rules of the house and senate, and three county commissioners appointed by the association of Minnesota counties shall participate in developing the waiver application and in waiver negotiations, including negotiations to interpret the current waivers. No payments shall be made to any county under this section, and no recipient shall be disenrolled from the prepaid medical assistance or general assistance medical care program under this section without prior federal approval.

Subd. 12. [ALTERNATIVE METHODS.] Upon federal waiver approval to proceed with these projects, the commissioner of human services may approve alternative methods to meet the intent of existing rules and statutes relating to services for eligible persons. The commissioner shall ensure that in no case are the rights and protections afforded under these rules and statutes abridged. The commissioner shall not waive the rights or procedural protections under Minnesota Statutes, sections 245.825; 245.91 to 245.97; 252.41, subdivision 9; 256.045; 256B.092; 626.556; and 626.557, including the county agency's responsibility to arrange for appropriate services and procedures for the monitoring of psychotropic medications.

Subd. 13. [ACTUARIAL STUDY.] The commissioner of human services shall contract with an independent actuary to prepare an analysis of the amount of funding for mental health services, which is included in the capitated payment to health plans compared to the utilization amount of expenditures for mental health services.

Subd. 14. [STANDARDS AND CRITERIA.] Any demonstration project must demonstrate the ability to:

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

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

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

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

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

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

Sec. 36. [HOME TELEMEDICINE DEMONSTRATION PROJECT.]

Subdivision 1. [PROJECT ESTABLISHED.] The commissioner of human services shall implement a medical assistance demonstration project using telemedicine devices to monitor recipients in their own homes as an alternative to hospital care, nursing home care, or home nursing visits. The devices must: (1) be capable of providing video and audio communication between the recipient's home and a central monitoring station using regular telephone lines and (2) be equipped to monitor blood pressure, heart rate, and other vital signs. The central monitoring station must be staffed by a registered nurse. The project must be budget-neutral or result in a net state savings.

Subd. 2. [OBJECTIVES.] The objective of the demonstration project is to determine if home telemedicine services can be a high quality, lower cost alternative to in-person home visits from nurses or other health care personnel. The project may serve acute care patients, including patients who need home care following hospital stays; chronic care patients, including patients identified as high users of health care services and high functioning former nursing facility residents or persons at risk of nursing home placement; and other persons identified by the commissioner as likely to be served in a cost-effective manner under the project.

Subd. 3. [TIMELINES.] The commissioner shall publish a request for proposals for the demonstration project by August 31, 1996, and must implement the project by December 1, 1996.

Subd. 4. [REPORT.] The commissioner must report to the legislature by March 15, 1997, the preliminary results of the demonstration project, including a recommendation on expansion of the project and a recommendation on whether home telemedicine services should be made a medical assistance reimbursable service. The commissioner must issue a final report to the legislature by December 15, 1997. The report must include information on whether the project improved patient

access to care by eliminating or reducing nursing personnel travel time; reduced emergency room visits; reduced unnecessary hospitalizations; enabled the expansion of home IV therapy; and reduced nursing home admissions or resulted in nursing home discharges.

Sec. 37. [REPEALER.]

Minnesota Statutes 1995 Supplement, section 256B.15, subdivision 5, is repealed.

Sec. 38. [EFFECTIVE DATE; APPLICATION.]

(a) Sections 6 [256B.0595, subdivision 1a], 8 [256B.0595, subdivision 2a], 10 [256B.0595, subdivision 3a], 12 [256B.0595, subdivision 4a], 13 [256B.0595, subdision 7], 17 [256B.15, subdivision 2a], and 37 are effective the day following final enactment to the extent permitted by federal law. If any provisions of these sections are prohibited by federal law, those provisions shall become effective when federal law is changed to permit their application or a waiver is received. The commissioner of human services shall notify the revisor of statutes when federal law is enacted or a waiver is received and publish a notice in the State Register. The commissioner must include the notice in the first State Register published after the effective date of the federal changes.

(b) If, by July 1, 1996, any provisions of these sections are not effective because of prohibitions in federal law, the commissioner shall apply to the federal government for a waiver of those prohibitions, and those provisions shall become effective upon receipt of a federal waiver, notification to the revisor of statutes, and publication of a notice in the State Register to that effect.

(c) Section 26 [524.2-403] applies to estates of decedents dying on or after its effective date. Section 27 [524.3-801] applies to estates where the notice under Minnesota Statutes, section 524.3-801, paragraph (a), was first published on or after its effective date. Section 27 [524.3-801] does not affect any right or duty to provide notice to known creditors, including a local agency, before its effective date.

(d) Sections 7 [256B.0595, subdivision 2], 9 [256B.0595, subdivision 3], and 11 [256B.0595, subdivision 4] are effective the day following final enactment.

(e) Section 5 [256B.0595, subdivision 1] is effective retroactive to October 1, 1993.

(f) Section 16 [256B.07, subdivision 3], is effective upon federal approval of this requirement.

(g) Section 21 [256B.69, subdivision 4] is effective upon approval by the health care financing administration.

(h) Sections 4 [256B.0575] and 18 [256B.35, subdivision 1] are effective upon receipt of federal approval, retroactive to January 1, 1996.

ARTICLE 3

LONG-TERM CARE

Section 1. Minnesota Statutes 1995 Supplement, section 144A.071, subdivision 4a, is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

remodeling, or renovation. The provisions contained in section 144A.073 regarding the upgrading of facilities do not apply to facilities that satisfy these requirements;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(w) to relocate 36 beds in Crow Wing county and 4 beds from Hennepin county to a 160 bed facility in Crow Wing county, provided the all affected beds are under common ownership.

Sec. 2. Minnesota Statutes 1994, section 256B.37, is amended by adding a subdivision to read:

Subd. 5b. [EXCEPTION FOR MANAGED CARE PAYMENTS.] For a nursing facility that receives a third-party payment in excess of the medical assistance payment rate and (1) the facility has entered into a contractual managed care arrangement with a third party, and (2) the payment is for services provided as part of the contractual managed care arrangement, the excess payment shall be exempt from the requirements of subdivisions 5 and 5a.

Sec. 3. Minnesota Statutes 1995 Supplement, section 256B.431, subdivision 2j, is amended to read:

Subd. 2j. [HOSPITAL-ATTACHED NURSING FACILITY STATUS.] (a) For the purpose of setting rates under Minnesota Rules, parts 9549.0010 to 9549.0080, for rate years beginning after June 30, 1989, a hospital-attached nursing facility means a nursing facility which meets the requirements of clauses (1) to (3):

(1) the nursing facility is recognized by the federal Medicare program to be a hospital-based nursing facility for purposes of being subject to higher cost limits accorded hospital-based nursing facilities under the Medicare program, or, prior to June 30, 1983, was classified as a hospital-attached nursing facility under Minnesota Rules, parts 9510.0010 to 9510.0480;

(2) the nursing facility's cost report filed under Minnesota Rules, parts 9549.0010 to 9549.0080, shall use the same cost allocation principles and methods used in the reports filed for the Medicare program except as provided in clause (3); and

(3) direct identification of costs to the nursing facility cost center will be permitted only when the comparable hospital costs have also been directly identified to a cost center which is not allocated to the nursing facility.

(b) For rate years beginning after June 30, 1989, a nursing facility and hospital, which have applied for hospital-based nursing facility status under the federal Medicare program during the reporting year or the nine-month period following the nursing facility's reporting year, shall be considered a hospital-attached nursing facility for purposes of setting payment rates under Minnesota Rules, parts 9549.0010 to 9549.0080, for the rate year following the reporting year or the nine-month period in which the facility made its Medicare application. The nursing facility must file its cost report or an amended cost report for that reporting year before the following rate year using Medicare principles and Medicare's recommended cost allocation methods had the Medicare program's hospital-based nursing facility status been granted to the nursing facility. For each subsequent rate year, the nursing facility must meet the definition requirements in paragraph (a). If the nursing facility is denied hospital-based nursing facility status under the Medicare program, the nursing facility's payment rates for the rate years the nursing facility was considered

to be a hospital-attached nursing facility pursuant to this paragraph shall be recalculated treating the nursing facility as a non-hospital-attached nursing facility.

(c) For rate years beginning on or after July 1, 1995, a nursing facility shall be considered a hospital attached nursing facility for purposes of setting payment rates under Minnesota Rules, parts 9549.0010 to 9549.0080 and this section if it meets the requirements of paragraphs (a) and (b), and

(1) the hospital and nursing facility are physically attached or connected by a tunnel or skyway; ~~or~~

(2) the nursing facility was recognized by the Medicare program as hospital attached as of January 1, 1995, and this status has been maintained continuously; or

(3) the nursing facility was recognized by the Medicare program as hospital attached in December 1994, and the nursing facility and the hospital merged on June 1, 1995.

Sec. 4. Minnesota Statutes 1994, section 256B.431, is amended by adding a subdivision to read:

Subd. 2s. [PAYMENTS IN EXCESS OF MEDICAL ASSISTANCE RATE.] For rate years beginning on or after July 1, 1996, a nursing facility that receives a per diem payment that is in excess of the medical assistance payment rate and (1) is related to routine nursing facility care, and (2) is from a third party through a contractual managed care arrangement, must offset to the nursing category on the provider's cost report either: (i) 90 percent of the per diem payment in excess of the medical assistance payment rate; or (ii) the directly identified costs associated with the per diem payment in excess of the medical assistance rate. The cost of nonroutine nursing facility care shall be determined using the medical assistance allowed charge for each unit of nonroutine service provided to the nursing facility resident while the resident is covered under the managed care contract.

Sec. 5. Minnesota Statutes 1995 Supplement, section 256B.431, subdivision 25, is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

(1) subtracting the allowable difference from $4.50 and dividing the result by $4.50;

(2) multiplying 0.20 by the ratio resulting from clause (1), and then;

(3) adding 0.50 to the result from clause (2); and

(4) multiplying the result from clause (3) times the allowable difference.

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

(f) For rate years beginning on or after July 1, 1995, the forecasted price index for a nursing facility's allowable operating cost per diems shall be determined under clauses (1) to (3) using the change in the Consumer Price Index-All Items (United States city average) (CPI-U) or the change in the Nursing Home Market Basket, both as forecasted by Data Resources Inc., whichever is applicable. The commissioner shall use the indices as forecasted in the fourth quarter of the calendar year preceding the rate year, subject to subdivision 2l, paragraph (c). If, as a result of federal legislative or administrative action, the methodology used to calculate the Consumer Price Index-All Items (United States city average) (CPI-U) changes, the commissioner shall develop a conversion factor or other methodology to convert the CPI-U index factor that results from the new methodology to an index factor that approximates, as closely as possible, the index factor that would have resulted from application of the original CPI-U methodology prior to any changes in methodology. The commissioner shall use the conversion factor or other methodology to calculate an adjusted inflation index. The adjusted inflation index must be used to calculate payment rates under this section instead of the CPI-U index specified in paragraph (d). If the commissioner is required to develop an adjusted inflation index, the commissioner shall report to the legislature as part of the next budget submission the fiscal impact of applying this index.

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

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

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

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

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

Sec. 6. Minnesota Statutes 1994, section 256B.48, subdivision 1, is amended to read:

Subdivision 1. [PROHIBITED PRACTICES.] A nursing facility is not eligible to receive medical assistance payments unless it refrains from all of the following:

(a) Charging private paying residents rates for similar services which exceed those which are approved by the state agency for medical assistance recipients as determined by the prospective

desk audit rate, except under the following circumstances: the nursing facility may (1) charge private paying residents a higher rate for a private room, ~~and~~ (2) charge for special services which are not included in the daily rate if medical assistance residents are charged separately at the same rate for the same services in addition to the daily rate paid by the commissioner, and (3) notwithstanding chapter 144A, sections 256B.37, 256B.433, and 256B.47, receive an additional third-party payment in excess of the medical assistance rate when (i) the third party has entered into a contractual managed care arrangement with the nursing facility, and (ii) the payment is for services provided as part of the contractual managed care arrangement. Services covered by the payment rate must be the same regardless of payment source. Special services, if offered, must be available to all residents in all areas of the nursing facility and charged separately at the same rate. Residents are free to select or decline special services. Special services must not include services which must be provided by the nursing facility in order to comply with licensure or certification standards and that if not provided would result in a deficiency or violation by the nursing facility. Services beyond those required to comply with licensure or certification standards must not be charged separately as a special service if they were included in the payment rate for the previous reporting year. A nursing facility that charges a private paying resident a rate in violation of this clause is subject to an action by the state of Minnesota or any of its subdivisions or agencies for civil damages. A private paying resident or the resident's legal representative has a cause of action for civil damages against a nursing facility that charges the resident rates in violation of this clause. The damages awarded shall include three times the payments that result from the violation, together with costs and disbursements, including reasonable attorneys' fees or their equivalent. A private paying resident or the resident's legal representative, the state, subdivision or agency, or a nursing facility may request a hearing to determine the allowed rate or rates at issue in the cause of action. Within 15 calendar days after receiving a request for such a hearing, the commissioner shall request assignment of an administrative law judge under sections 14.48 to 14.56 to conduct the hearing as soon as possible or according to agreement by the parties. The administrative law judge shall issue a report within 15 calendar days following the close of the hearing. The prohibition set forth in this clause shall not apply to facilities licensed as boarding care facilities which are not certified as skilled or intermediate care facilities level I or II for reimbursement through medical assistance.

(b) Requiring an applicant for admission to the facility, or the guardian or conservator of the applicant, as a condition of admission, to pay any fee or deposit in excess of $100, loan any money to the nursing facility, or promise to leave all or part of the applicant's estate to the facility.

(c) Requiring any resident of the nursing facility to utilize a vendor of health care services chosen by the nursing facility.

(d) Providing differential treatment on the basis of status with regard to public assistance.

(e) Discriminating in admissions, services offered, or room assignment on the basis of status with regard to public assistance or refusal to purchase special services. Admissions discrimination shall include, but is not limited to:

(1) basing admissions decisions upon assurance by the applicant to the nursing facility, or the applicant's guardian or conservator, that the applicant is neither eligible for nor will seek public assistance for payment of nursing facility care costs; and

(2) engaging in preferential selection from waiting lists based on an applicant's ability to pay privately or an applicant's refusal to pay for a special service.

The collection and use by a nursing facility of financial information of any applicant pursuant to a preadmission screening program established by law shall not raise an inference that the nursing facility is utilizing that information for any purpose prohibited by this paragraph.

(f) Requiring any vendor of medical care as defined by section 256B.02, subdivision 7, who is reimbursed by medical assistance under a separate fee schedule, to pay any amount based on utilization or service levels or any portion of the vendor's fee to the nursing facility except as payment for renting or leasing space or equipment or purchasing support services from the nursing facility as limited by section 256B.433. All agreements must be disclosed to the commissioner upon request of the commissioner. Nursing facilities and vendors of ancillary services that are

found to be in violation of this provision shall each be subject to an action by the state of Minnesota or any of its subdivisions or agencies for treble civil damages on the portion of the fee in excess of that allowed by this provision and section 256B.433. Damages awarded must include three times the excess payments together with costs and disbursements including reasonable attorney's fees or their equivalent.

(g) Refusing, for more than 24 hours, to accept a resident returning to the same bed or a bed certified for the same level of care, in accordance with a physician's order authorizing transfer, after receiving inpatient hospital services.

The prohibitions set forth in clause (b) shall not apply to a retirement facility with more than 325 beds including at least 150 licensed nursing facility beds and which:

(1) is owned and operated by an organization tax-exempt under section 290.05, subdivision 1, clause (i); and

(2) accounts for all of the applicant's assets which are required to be assigned to the facility so that only expenses for the cost of care of the applicant may be charged against the account; and

(3) agrees in writing at the time of admission to the facility to permit the applicant, or the applicant's guardian, or conservator, to examine the records relating to the applicant's account upon request, and to receive an audited statement of the expenditures charged against the applicant's individual account upon request; and

(4) agrees in writing at the time of admission to the facility to permit the applicant to withdraw from the facility at any time and to receive, upon withdrawal, the balance of the applicant's individual account.

The prohibitions set forth in paragraphs (c) and (f) shall not apply to nursing facilities that receive a third-party payment in excess of the medical assistance rate when (1) the third party has entered into a contractual managed care arrangement with the nursing facility, and (2) the payment is for services provided as part of the contractual managed care arrangement.

For a period not to exceed 180 days, the commissioner may continue to make medical assistance payments to a nursing facility or boarding care home which is in violation of this section if extreme hardship to the residents would result. In these cases the commissioner shall issue an order requiring the nursing facility to correct the violation. The nursing facility shall have 20 days from its receipt of the order to correct the violation. If the violation is not corrected within the 20-day period the commissioner may reduce the payment rate to the nursing facility by up to 20 percent. The amount of the payment rate reduction shall be related to the severity of the violation and shall remain in effect until the violation is corrected. The nursing facility or boarding care home may appeal the commissioner's action pursuant to the provisions of chapter 14 pertaining to contested cases. An appeal shall be considered timely if written notice of appeal is received by the commissioner within 20 days of notice of the commissioner's proposed action.

In the event that the commissioner determines that a nursing facility is not eligible for reimbursement for a resident who is eligible for medical assistance, the commissioner may authorize the nursing facility to receive reimbursement on a temporary basis until the resident can be relocated to a participating nursing facility.

Certified beds in facilities which do not allow medical assistance intake on July 1, 1984, or after shall be deemed to be decertified for purposes of section 144A.071 only.

Sec. 7. Minnesota Statutes 1995 Supplement, section 256B.501, subdivision 5b, is amended to read:

Subd. 5b. [ICF/MR OPERATING COST LIMITATION AFTER SEPTEMBER 30, 1995.] (a) For the rate ~~years~~ year beginning on October 1, 1995, ~~and October 1, 1996~~ and for rate years beginning on or after October 1, 1997, the commissioner shall limit the allowable operating cost per diems, as determined under this subdivision and the reimbursement rules, for high cost ICF's/MR. Prior to indexing each facility's operating cost per diems for inflation, the

commissioner shall group the facilities into eight groups. The commissioner shall then array all facilities within each grouping by their general operating cost per service unit per diems.

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

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

(d) For the rate years beginning on or after October 1, 1995, the commissioner shall establish maximum overall general operating cost per service unit limits for facilities according to clauses (1) to (8). Each facility's allowable historical general operating costs and client assessment information obtained from client assessments completed under subdivision 3g for the reporting year ending December 31, 1994 (the base year), shall be used for establishing the overall limits. If a facility's proportion of temporary care resident days to total resident days exceeds 80 percent, the commissioner must exempt that facility from the overall general operating cost per service unit limits in clauses (1) to (8). For this purpose, "temporary care" means care provided by a facility to a client for less than 30 consecutive resident days.

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

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

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

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

(i) small class A metropolitan;

(ii) large class A metropolitan;

(iii) small class B metropolitan;

(iv) large class B metropolitan;

(v) small class A nonmetropolitan;

(vi) large class A nonmetropolitan;

(vii) small class B nonmetropolitan; and

(viii) large class B nonmetropolitan.

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

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

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

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

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

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

(8) Annually, facilities shall be arrayed using the method described in clauses (5) and (7). Each facility with a cost per service unit at or above its group's first cost per service unit limit, but less than the second cost per service unit limit for that group, shall be limited to 98 percent of its total operating cost per diems then add the forecasted inflation index in subdivision 3c, clause (1). Each facility with a cost per service unit at or above the second cost per service unit limit will be limited to 97 percent of its total operating cost per diems, then add the forecasted inflation index in subdivision 3c, clause (1).

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

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

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

Sec. 8. Minnesota Statutes 1995 Supplement, section 256B.501, subdivision 5c, is amended to read:

Subd. 5c. [OPERATING COSTS AFTER SEPTEMBER 30, ~~1979~~ 1999.] (a) In general, the commissioner shall establish maximum standard rates for the prospective reimbursement of facility costs. The maximum standard rates must take into account the level of reimbursement which is adequate to cover the base-level costs of economically operated facilities. In determining the base-level costs, the commissioner shall consider geographic location, types of facilities (class A or class B), minimum staffing standards, resident assessment under subdivision 3g, and other factors as determined by the commissioner.

(b) The commissioner ~~shall~~ may also develop additional incentive-based payments which, if

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

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

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

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

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

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

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

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

Sec. 9. Minnesota Statutes 1994, section 256B.501, is amended by adding a subdivision to read:

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

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

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

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

Sec. 10. Minnesota Statutes 1994, section 256I.05, subdivision 1c, is amended to read:

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

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

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

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

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

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

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

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

(1) they are licensed by the commissioner of health as a boarding care home;

(2) they are not certified for the purposes of the medical assistance program;

(3) at least 50 percent of their residents are diagnosed with mental illness;

(4) they have at least 16 beds; and

(5) they provide medication administration to residents.

An increase under this paragraph must not exceed an amount equivalent to the 1995 medical assistance reimbursement rate for nursing home resident class A, in the geographic grouping in which the facility is located, as established under Minnesota Rules, parts 9520.0500 to 9549.0058.

Sec. 11. [RATE ADJUSTMENT.]

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

(1) be limited to provisions of services to no more than 42 such persons;

(2) not exceed 200 percent of the statewide average rate as calculated in accordance with Minnesota Statutes, section 252.46, subdivision 4, paragraph (b);

(3) become effective July 1, 1996; and

(4) be used as the basis for calculating the rate maximum for that vendor for calendar year 1997 in accordance with the requirements of Minnesota Statutes, section 252.46, subdivision 3.

Sec. 12. [DOWNSIZING PILOT PROJECT.]

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

(1) alternative services for the residents being relocated;

(2) timelines for resident relocation and decertification of beds; and

(3) adjustment of the facility's operating cost rate under Minnesota Rules, part 9553.0075, as necessary to implement the project.

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

Sec. 13. [NURSING FACILITY REIMBURSEMENT FOR FISCAL YEAR 1997.]

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

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

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

(2) is between .5 standard deviation and 1.0 standard deviation above the median of the array, the commissioner shall limit the nursing facility's allowable operating cost per diem for each case

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

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

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

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

(e) For the rate year beginning July 1, 1996, the operating cost limits established in Minnesota Statutes, section 256B.431, subdivisions 2, 2b, 2i, 3c, and 22, paragraph (d), and any previously effective corresponding limits in law or rule shall not apply, except that these cost limits shall still be calculated for purposes of determining efficiency incentive per diems.

(f) For the rate year beginning July 1, 1996, the commissioner shall exempt all rule 80 facilities from any limits described in Minnesota Statutes, section 256B.431, subdivision 25, paragraph (b), clause (3), that affect care-related operating per diems. For the rate year beginning July 1, 1996, the operating cost per diem referred to in paragraph (b), clause (3), is the sum of the care-related and other operating cost per diems for a given case mix class. Any reductions to the combined operating per diem shall be divided proportionately between the care-related and other operating per diems.

Sec. 14. [ICF/MR REIMBURSEMENT OCTOBER 1, 1996, TO OCTOBER 1, 1997.]

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

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

ARTICLE 4

HEALTH DEPARTMENT AND

HEALTH PLAN REGULATIONS

Section 1. [62A.310] [ASSESSMENT OF PROPOSED HEALTH COVERAGE MANDATES.]

Subdivision 1. [DEFINITIONS.] For the purpose of this section, the following terms have the meanings given them:

(1) "mandated health benefit proposal" means a proposal that would statutorily require a health plan to do the following:

(i) provide coverage, or increase the amount of coverage, for the treatment of a particular disease, condition, or other health care need; or

(ii) provide coverage, or increase the amount of coverage, of a particular type of health care treatment or service or of equipment, supplies, or drugs used in connection with a health care treatment or service;

(2) "commissioner" means the commissioner of health; and

(3) "health plan" means a health plan as defined in section 62A.011, subdivision 3, but includes coverage listed in section 62A.011, subdivision 3, clauses (7) and (10), within the definition.

Subd. 2. [HEALTH COVERAGE MANDATE ASSESSMENT PROCESS ESTABLISHED.] The commissioner of health, in consultation with the commissioners of commerce, human services, and employee relations, shall establish and administer a process for the review, assessment, and cost benefit analysis of mandated health benefit proposals. The purpose of the process is to provide the legislature with a cost benefit analysis of the social and financial impact of each mandated health benefit proposal before legislative action is taken.

Subd. 3. [REQUESTS FOR ASSESSMENT.] Whenever a legislative measure containing a mandated health benefit proposal is introduced as a bill or offered as an amendment to a bill, or is likely to be introduced or offered as an amendment, the chairs of the standing committees having jurisdiction over the proposal shall request that the commissioner complete an assessment of the proposal prior to any committee action by either house of the legislature. Any person or organization may also request that the commissioner complete an assessment. If multiple requests are received, the commissioner shall consult with the chairs of the standing legislative committees having jurisdiction over mandated health benefit proposals to prioritize the requests.

Subd. 4. [ASSESSMENT OF PROPOSED MANDATES; REPORT TO THE LEGISLATURE.] The commissioner shall conduct an assessment of each mandated health benefit proposal selected for assessment and submit a report to the legislature no later than 180 days after the request. The commissioner shall, in consultation with the chairs of the standing committees having jurisdiction over the proposal, develop a reporting date for each proposal to be assessed. If the commissioners of health and commerce determine that the assessment of a particular mandated health benefit proposal should be completed entirely or in part by the commissioner of commerce, the commissioners may agree to have the commissioner of commerce complete the assessment and submit the report to the legislature. The commissioner responsible for completing an assessment may seek the assistance and advice of consultants, contractors, researchers, or other persons or organizations with relevant expertise and may request advice or analysis from the health technology advisory committee.

Subd. 5. [NONLEGISLATIVE SOLUTIONS.] If, in the course of reviewing a mandated health benefit proposal, the commissioner determines that the problem can be solved without legislation through the exercise of existing state regulatory authority or other actions, the commissioner may take action to resolve the problem. The commissioner shall inform the chairs of the standing committees having jurisdiction over the mandated health benefit proposal of any nonlegislative action taken.

Subd. 6. [PUBLIC HEARINGS.] The commissioner shall solicit comments and recommendations on a mandated health benefit proposal from any interested persons and organizations and may schedule public hearings. The commissioner shall also seek the comments and recommendations of representatives of health care consumers and employers. The commissioner shall summarize the various comments and recommendations received in the commissioner's report to the legislature.

Subd. 7. [ADVICE AND RECOMMENDATIONS OF THE MINNESOTA HEALTH CARE COMMISSION.] The commissioner shall seek the advice and recommendations of the Minnesota health care commission regarding a mandated health benefit proposal and shall include a summary of the commission's advice and recommendations in the commissioner's report to the legislature.

Sec. 2. [144.2215] [BIRTH DEFECTS REGISTRY SYSTEM.]

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

Sec. 3. [REPORT ON THE BIRTH DEFECTS REGISTRY SYSTEM.]

The commissioner of health shall submit to the legislature a final report by January 31, 1997, on the development of the birth defects registry system.

Sec. 4. [REQUESTS FOR HEALTH COVERAGE MANDATE ASSESSMENTS.]

The commissioner of health shall conduct an assessment of the following proposed mandated health benefits:

(1) hearing loss screening for newborns;

(2) prostate cancer screening; and

(3) alternative medicine.

The assessments must be conducted in accordance with Minnesota Statutes, section 62A.310, and a report must be submitted to the legislature by December 15, 1996.

Sec. 5. [MEDICAL EDUCATION AND RESEARCH TRUST FUND.]

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

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

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

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

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

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

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

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

(b) By January 1, 1997, the commissioner may appoint a 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 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, nursing, employers, and other relevant stakeholders, including consumers. The committee is governed by Minnesota Statutes, section 15.059, for membership terms and removal of members and will sunset on June 30, 1999.

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

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

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

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

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

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

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

(7) a statement identifying unfunded costs; and

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

(d) The commissioner shall distribute medical education funds to all qualifying applicants based on the following basic criteria: (1) total medical education funds available; (2) total trainees in each eligible education program; (3) the statewide average cost per trainee, by type of trainee, in each medical education program; and (4) a program incentive factor to be determined each year by the commissioner in consultation with the advisory committee. The program incentive factor should reflect the priorities and needs of the state in terms of health care workforce. The incentive factor may not be used if the commissioner finds (i) that workforce needs and priorities have not been adequately documented, or (ii) if market forces are adequately addressing workforce requirements. Funds distributed shall not be used to displace current funding appropriations from federal or state sources.

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

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

(2) the type of programs and residencies funded;

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

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

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

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

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

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

(1) voluntary contributions by employers or other entities;

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

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

(g) The 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;

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

(3) workforce requirements and state priorities.

ARTICLE 5

DEPARTMENT OF HUMAN SERVICES TECHNICAL AND POLICY CHANGES

Section 1. Minnesota Statutes 1994, section 62D.04, subdivision 5, is amended to read:

Subd. 5. [PARTICIPATION; GOVERNMENT PROGRAMS.] Health maintenance organizations shall, as a condition of receiving and retaining a certificate of authority, participate in the medical assistance, general assistance medical care, and MinnesotaCare programs. ~~The participation required from health maintenance organizations shall be pursuant to rules adopted under section 256B.0644~~ A health maintenance organization is required to submit proposals in good faith to serve individuals eligible for the above programs in a geographic region of the state if, at the time of publication of a request for proposal, the percentage of recipients in the public programs in the region who are enrolled in the health maintenance organization is less than the HMO's percentage of the total number of individuals enrolled in HMOs in the same region. Geographic regions shall be defined by the commissioner of human services in the request for proposals.

Sec. 2. Minnesota Statutes 1994, section 62N.10, subdivision 4, is amended to read:

Subd. 4. [PARTICIPATION; GOVERNMENT PROGRAMS.] Integrated service networks shall, as a condition of licensure, participate in the medical assistance, general assistance medical care, and MinnesotaCare programs. An integrated service network, including a community integrated service network is required to submit proposals in good faith to serve persons who are eligible for the above programs if, at the time of publication of a request for proposal, the percentage of recipients in the public programs in the region who are enrolled in the integrated service network is less than the integrated service network's percentage of the total number of individuals enrolled in integrated service networks in the same region. Geographic regions shall be defined by the commissioner of human services in the request for proposals. ~~The commissioner shall adopt rules specifying the participation required of the networks. The rules must be consistent with Minnesota Rules, parts 9505.5200 to 9505.5260, governing participation by health maintenance organizations in public health care programs.~~

Sec. 3. Minnesota Statutes 1994, section 144.0722, is amended by adding a subdivision to read:

Subd. 2a. [SEMIANNUAL ASSESSMENT BY NURSING FACILITIES.] Notwithstanding Minnesota Rules, part 9549.0059, subpart 2, item B, the individual dependencies items 21 to 24 and 28 are required to be completed in accordance with the Facility Manual for Completing Case Mix Requests for Classification, July 1987, issued by the Minnesota department of health.

Sec. 4. Minnesota Statutes 1994, section 144.0722, is amended by adding a subdivision to read:

Subd. 4a. [REASSESSMENT.] Upon the request of a resident, the nursing facility must conduct another resident assessment if an assessment was conducted within three months of the request which resulted in a higher classification due to a significant change in the physical or mental health of the resident. Any resident requesting a reassessment under this subdivision shall be responsible for the cost of the assessment.

Sec. 5. Minnesota Statutes 1994, section 245.462, subdivision 4, is amended to read:

Subd. 4. [CASE MANAGER.] "Case manager" means an individual employed by the county or other entity authorized by the county board to provide case management services specified in section 245.4711. A case manager must have a bachelor's degree in one of the behavioral sciences or related fields from an accredited college or university and have at least 2,000 hours of supervised experience in the delivery of services to adults with mental illness, must be skilled in the process of identifying and assessing a wide range of client needs, and must be knowledgeable about local community resources and how to use those resources for the benefit of the client. The case manager shall meet in person with a mental health professional at least once each month to obtain clinical supervision of the case manager's activities. Case managers with a bachelor's degree but without 2,000 hours of supervised experience in the delivery of services to adults with mental illness must complete 40 hours of training approved by the commissioner of human services in case management skills and in the characteristics and needs of adults with serious and persistent mental illness and must receive clinical supervision regarding individual service delivery from a mental health professional at least once each week until the requirement of 2,000 hours of supervised experience is met. Clinical supervision must be documented in the client record.

Until June 30, ~~1996~~ 1999, a refugee who does not have the qualifications specified in this subdivision may provide case management services to adult refugees with serious and persistent mental illness who are members of the same ethnic group as the case manager if the person: (1) is actively pursuing credits toward the completion of a bachelor's degree in one of the behavioral sciences or a related field from an accredited college or university; (2) completes 40 hours of training as specified in this subdivision; and (3) receives clinical supervision at least once a week until the requirements of obtaining a bachelor's degree and 2,000 hours of supervised experience are met.

Sec. 6. Minnesota Statutes 1994, section 245.4871, subdivision 4, is amended to read:

Subd. 4. [CASE MANAGER.] (a) "Case manager" means an individual employed by the county or other entity authorized by the county board to provide case management services specified in subdivision 3 for the child with severe emotional disturbance and the child's family. A case manager must have experience and training in working with children.

(b) A case manager must:

(1) have at least a bachelor's degree in one of the behavioral sciences or a related field from an accredited college or university;

(2) have at least 2,000 hours of supervised experience in the delivery of mental health services to children;

(3) have experience and training in identifying and assessing a wide range of children's needs; and

(4) be knowledgeable about local community resources and how to use those resources for the benefit of children and their families.

(c) The case manager may be a member of any professional discipline that is part of the local system of care for children established by the county board.

(d) The case manager must meet in person with a mental health professional at least once each month to obtain clinical supervision.

(e) Case managers with a bachelor's degree but without 2,000 hours of supervised experience in the delivery of mental health services to children with emotional disturbance must:

(1) begin 40 hours of training approved by the commissioner of human services in case management skills and in the characteristics and needs of children with severe emotional disturbance before beginning to provide case management services; and

(2) receive clinical supervision regarding individual service delivery from a mental health professional at least once each week until the requirement of 2,000 hours of experience is met.

(f) Clinical supervision must be documented in the child's record. When the case manager is not a mental health professional, the county board must provide or contract for needed clinical supervision.

(g) The county board must ensure that the case manager has the freedom to access and coordinate the services within the local system of care that are needed by the child.

(h) Until June 30, ~~1996~~ 1999, a refugee who does not have the qualifications specified in this subdivision may provide case management services to child refugees with severe emotional disturbance of the same ethnic group as the refugee if the person:

(1) is actively pursuing credits toward the completion of a bachelor's degree in one of the behavioral sciences or related fields at an accredited college or university;

(2) completes 40 hours of training as specified in this subdivision; and

(3) receives clinical supervision at least once a week until the requirements of obtaining a bachelor's degree and 2,000 hours of supervised experience are met.

Sec. 7. [252B.01] [RULE CONSOLIDATION.]

Subdivision 1. [SCOPE.] For programs or services licensed pursuant to Minnesota Rules, parts 9525.0215 to 9525.0355; 9525.0500 to 9525.0660; 9525.1500 to 9525.1690; and 9525.2000 to 9525.2140, the following standards apply and supersede the requirements of the applicable rule parts for staff qualification, orientation, and training.

Subd. 2. [STAFF QUALIFICATIONS.] (a) The license holder must ensure that staff is competent through training, experience, and education to meet the consumer's needs as written in the individual service plan. The staff qualifications must be documented.

(b) Delivery and evaluation of services provided by the license holder to a consumer must be coordinated by a designated person. This designated person or coordinator must minimally have a four-year degree in a field related to service provision and one-year work experience with consumers with mental retardation or related conditions, a two-year degree in a field related to service provision and two years work experience with consumers with mental retardation or related conditions, or a certificate of competence from an accredited program in the area of developmental disabilities and two years work experience with consumers with mental retardation or related conditions. The coordinator must provide supervision, support, and evaluation of activities that include:

(1) oversight of the license holder's responsibilities designated in the individual service plan;

(2) instructions and assistance to staff implementing the individual service plan areas;

(3) evaluation of the effectiveness of service delivery, methodologies, and progress on consumer outcomes based on the condition set for objective change; and

(4) review of incident and emergency reports, identification of incident patterns, and implementation of corrective action as necessary to reduce occurrences.

(c) The coordinator is responsible for taking necessary actions to facilitate the accomplishment of the outcomes for each consumer as specified in the consumer's individual service plan.

(d) The license holder must provide for adequate supervision for direct care staff to ensure implementation of the individual service plan.

Subd. 3. [STAFF ORIENTATION.] (a) Within 60 days of hiring staff who provide direct service, the license holder must provide 30 hours of orientation. Direct care staff must complete 15 of the 30 hours before providing any direct service to a consumer without direct supervision. If the staff person has received orientation training from a license holder licensed under this chapter, the 15-hour requirement may be reduced to eight hours.

(b) The 30 hours of orientation must combine supervised on-the-job training with coverage of the material in clauses (1) to (7);

(1) review of the consumer's complete individual service plan to achieve an understanding of the consumer as a unique individual;

(2) review and instructions regarding the license holder's policies and procedures including their location and access;

(3) emergency procedures;

(4) explanation of specific job functions including implementing objectives from the consumer's individual service plan;

(5) explanation of responsibilities related to sections 626.556 and 626.557, and Minnesota Rules, parts 9555.8000 to 9555.8500, including requirements of rules promulgated thereunder; sections 245A.01 to 245A.16, the human services licensing act; and Minnesota Rules, parts 9525.2700 to 9525.2810, governing use of aversive and deprivation procedures;

(6) medication administration as it applies to the individual consumer; and

(7)consumer rights;

(8) other topics necessary as determined by the consumer's individual service plan or other areas identified by the license holder.

(c) The license holder must document each employee's orientation received.

Subd. 4. [STAFF TRAINING.] (a) The license holder shall ensure that direct service staff annually complete hours of training equal to one percent of the number of hours the staff person worked. If direct service staff have received training from a license holder, the training may also count towards training requirements for other services and of other license holders.

(b) The license holder must document the training completed by each employee.

(c) Training shall address the staff competencies necessary to address the consumer needs as identified in the consumer's individual service plan and ensure consumer health, safety, and protection of rights. Training may also include other areas identified by the license holder.

Sec. 8. [252B.02] [RESIDENTIAL BASED HABILITATION SERVICES.]

Residential service sites controlled by license holders licensed under Minnesota Rules, parts 9525.2000 to 9525.2140, for four or fewer adults are exempt from compliance with Minnesota Rules, parts 9555.5505; 9555.5515; 9555.5605; 9555.5705; and 9555.6125, subparts 4 to 6. The provisions of this chapter do not apply to foster care homes that do not provide residential habilitation services funded under the home- and community-based waiver programs defined in section 256B.092.

Sec. 9. Minnesota Statutes 1994, section 253B.11, subdivision 2, is amended to read:

Subd. 2. [FACILITIES.] Each county or a group of counties shall maintain or provide by contract a facility for confinement of persons held temporarily for observation, evaluation, diagnosis, treatment, and care. When the confinement is provided at a regional center, the commissioner shall charge the county of financial responsibility for the costs of confinement of persons hospitalized under section 253B.05, subdivisions 1 and 2, and section 253B.07, subdivision 6, except that the commissioner shall bill the responsible prepaid plan for medically necessary hospitalizations for individuals enrolled in a prepaid plan under contract to provide medical assistance, general assistance medical care, or MinnesotaCare services. If the prepaid plan determines under the terms of the medical assistance, general assistance medical care, or MinnesotaCare contract that a hospitalization was not medically necessary, the county is responsible. "County of financial responsibility" means the county in which the person resides at the time of confinement or, if the person has no residence in this state, the county which initiated the confinement. The charge shall be based on the commissioner's determination of the cost of care pursuant to section 246.50, subdivision 5. When there is a dispute as to which county is the county of financial responsibility, the county charged for the costs of confinement shall pay for

them pending final determination of the dispute over financial responsibility. Disputes about the county of financial responsibility shall be submitted to the commissioner to be settled in the manner prescribed in section 256G.09.

Sec. 10. Minnesota Statutes 1995 Supplement, section 256.045, subdivision 3, is amended to read:

Subd. 3. [STATE AGENCY HEARINGS.] (a) State agency hearings are available for the following: (1) any person applying for, receiving or having received public assistance or a program of social services granted by the state agency or a county agency under sections 252.32, 256.031 to 256.036, and 256.72 to 256.879, chapters 256B, 256D, 256E, 261, or the federal Food Stamp Act whose application for assistance is denied, not acted upon with reasonable promptness, or whose assistance is suspended, reduced, terminated, or claimed to have been incorrectly paid; (2) any patient or relative aggrieved by an order of the commissioner under section 252.27; (3) a party aggrieved by a ruling of a prepaid health plan; ~~or~~ (4) an applicant aggrieved by an adverse decision to an application for a hardship waiver under section 256B.15; or (5) any individual or facility determined by a lead agency to have maltreated a vulnerable adult under section 626.557 after they have exercised their right to administrative reconsideration under section 626.557. Individuals and organizations specified in this section may contest the specified action, decision, or final disposition before the state agency by submitting a written request for a hearing to the state agency within 30 days after receiving written notice of the action, decision, or final disposition, or within 90 days of such written notice if the applicant, recipient, patient, or relative shows good cause why the request was not submitted within the 30-day time limit.

The hearing for an individual or facility under clause (4) is the only administrative appeal to the final lead agency disposition specifically, including a challenge to the accuracy and completeness of data under section 13.04.

For purposes of this section, bargaining unit grievance procedures are not an administrative appeal.

(b) Except for a prepaid health plan, a vendor of medical care as defined in section 256B.02, subdivision 7, or a vendor under contract with a county agency to provide social services under section 256E.08, subdivision 4, is not a party and may not request a hearing under this section, except if assisting a recipient as provided in subdivision 4.

(c) An applicant or recipient is not entitled to receive social services beyond the services included in the amended community social services plan developed under section 256E.081, subdivision 3, if the county agency has met the requirements in section 256E.081.

Sec. 11. Minnesota Statutes 1994, section 256.9355, subdivision 3, is amended to read:

Subd. 3. [EFFECTIVE DATE OF COVERAGE.] The effective date of coverage is the first day of the month following the month in which eligibility is approved and the first premium payment has been received. The effective date of coverage for eligible newborns or eligible newly adoptive children added to a family receiving covered health services is the date of entry into the family. The effective date of coverage for other new recipients added to the family receiving covered health services is the first day of the month following the month in which eligibility is approved and the first premium payment has been received. The premium must be received eight working days prior to the end of the month for coverage to begin the following month. Benefits are not available until the day following discharge if an enrollee is hospitalized on the first day of coverage. Notwithstanding any other law to the contrary, benefits under sections 256.9351 to 256.9361 are secondary to a plan of insurance or benefit program under which an eligible person may have coverage and the commissioner shall use cost avoidance techniques to ensure coordination of any other health coverage for eligible persons. The commissioner shall identify eligible persons who may have coverage or benefits under other plans of insurance or who become eligible for medical assistance.

Sec. 12. Minnesota Statutes 1995 Supplement, section 256.969, subdivision 1, is amended to read:

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

(b) For fiscal years beginning on or after July 1, 1993, the commissioner of human services shall not provide automatic annual inflation adjustments for hospital payment rates under medical assistance, nor under general assistance medical care, except that the inflation adjustments under paragraph (a) for medical assistance, excluding general assistance medical care, shall apply ~~for the biennium ending June 30, 1997~~ through calendar year 1997. The commissioner of finance shall include as a budget change request in each biennial detailed expenditure budget submitted to the legislature under section 16A.11 annual adjustments in hospital payment rates under medical assistance and general assistance medical care, based upon the hospital cost index.

Sec. 13. Minnesota Statutes 1995 Supplement, section 256.969, subdivision 2b, is amended to read:

Subd. 2b. [OPERATING PAYMENT RATES.] In determining operating payment rates for admissions occurring on or after the rate year beginning January 1, 1991, and every two years after, or more frequently as determined by the commissioner, the commissioner shall obtain operating data from an updated base year and establish operating payment rates per admission for each hospital based on the cost-finding methods and allowable costs of the Medicare program in effect during the base year. Rates under the general assistance medical care ~~program~~, medical assistance, and MinnesotaCare programs shall not be rebased to more current data on January 1, 1997. The base year operating payment rate per admission is standardized by the case mix index and adjusted by the hospital cost index, relative values, and disproportionate population adjustment. The cost and charge data used to establish operating rates shall only reflect inpatient services covered by medical assistance and shall not include property cost information and costs recognized in outlier payments.

Sec. 14. Minnesota Statutes 1995 Supplement, section 256.969, subdivision 10, is amended to read:

Subd. 10. [SEPARATE BILLING BY CERTIFIED REGISTERED NURSE ANESTHETISTS.] Hospitals may exclude certified registered nurse anesthetist costs from the operating payment rate as allowed by section 256B.0625, subdivision 11. To be eligible, a hospital must notify the commissioner in writing by October 1 of ~~the year preceding the rate year~~ even-numbered years of the request to exclude certified registered nurse anesthetist costs. The hospital must agree that all hospital claims for the cost and charges of certified registered nurse anesthetist services will not be included as part of the rates for inpatient services provided during the rate year. In this case, the operating payment rate shall be adjusted to exclude the cost of certified registered nurse anesthetist services.

For admissions occurring on or after July 1, 1991, and until the expiration date of section 256.9695, subdivision 3, services of certified registered nurse anesthetists provided on an inpatient basis may be paid as allowed by section 256B.0625, subdivision 11, when the hospital's base year did not include the cost of these services. To be eligible, a hospital must notify the commissioner in writing by July 1, 1991, of the request and must comply with all other requirements of this subdivision.

Sec. 15. Minnesota Statutes 1994, section 256B.03, is amended by adding a subdivision to read:

Subd. 3. [AMERICAN INDIAN HEALTH FUNDING.] Notwithstanding subdivision 1 and sections 256B.0625 and 256D.03, paragraph (f), the commissioner may make payments to federally recognized Indian tribes with a reservation in the state to provide medical assistance to Indian tribal members who reside on the reservation. The payments may be made in the form of a block grant or other payment mechanism determined in consultation with the tribe. To the extent that the payment mechanism differs from the manner in which payments are otherwise made under the program, payments may not exceed state fiscal year 1995 expenditures for the same population, as adjusted by the forecast.

For purposes of this subdivision, "Indian tribe" means a tribe, band, or nation, or other organized group or community of Indians that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians and for which a reservation exists as is consistent with Public Law Number 100-485, as amended.

For purposes of this subdivision, "state fiscal year 1995 expenditures" include state and federal payments made for administration of the program and for covered services.

Sec. 16. Minnesota Statutes 1995 Supplement, section 256B.0625, subdivision 17, is amended to read:

Subd. 17. [TRANSPORTATION COSTS.] (a) Medical assistance covers transportation costs incurred solely for obtaining emergency medical care or transportation costs incurred by nonambulatory persons in obtaining emergency or nonemergency medical care when paid directly to an ambulance company, common carrier, or other recognized providers of transportation services. For the purpose of this subdivision, a person who is incapable of transport by taxicab or bus shall be considered to be nonambulatory.

(b) Medical assistance covers special transportation, as defined in Minnesota Rules, part 9505.0315, subpart 1, item F, if the provider receives and maintains a current physician's order by the recipient's attending physician certifying that the recipient ~~is so mentally or physically impaired as to be unable to~~ has a physical or mental impairment that would prohibit the recipient from safely ~~access~~ accessing and ~~use~~ using a bus, taxi, other commercial transportation, or private automobile. The commissioner shall establish maximum medical assistance reimbursement rates for special transportation services for persons who need a wheelchair lift van or stretcher-equipped vehicle and for those who do not need a wheelchair lift van or stretcher-equipped vehicle. The average of these two rates must not exceed $14 for the base rate and $1.10 per mile. Special transportation provided to nonambulatory persons who do not need a wheelchair lift van or stretcher-equipped vehicle, may be reimbursed at a lower rate than special transportation provided to persons who need a wheelchair lift van or stretcher-equipped vehicle.

Sec. 17. Minnesota Statutes 1995 Supplement, section 256B.0625, subdivision 30, is amended to read:

Subd. 30. [OTHER CLINIC SERVICES.] (a) Medical assistance covers rural health clinic services, federally qualified health center services, nonprofit community health clinic services, public health clinic services, and the services of a clinic meeting the criteria established in rule by the commissioner. Rural health clinic services and federally qualified health center services mean services defined in United States Code, title 42, section 1396d(a)(2)(B) and (C). Payment for rural health clinic and federally qualified health center services shall be made according to applicable federal law and regulation.

(b) A federally qualified health center that is beginning initial operation shall submit an estimate of budgeted costs and visits for the initial reporting period in the form and detail required by the commissioner. A federally qualified health center that is already in operation shall submit an initial report using actual costs and visits for the initial reporting period. Within 90 days of the end of its reporting period, a federally qualified health center shall submit, in the form and detail required by the commissioner, a report of its operations, including allowable costs actually incurred for the period and the actual number of visits for services furnished during the period, and other information required by the commissioner. Federally qualified health centers that file Medicare cost reports shall provide the commissioner with a copy of the most recent Medicare cost report filed with the Medicare program intermediary for the reporting year which support the costs claimed on their cost report to the state.

(c) In order to continue cost-based payment under the medical assistance program according to paragraphs (a) and (b), a federally qualified health center or rural health clinic must apply for designation as an essential community provider within six months of final adoption of rules by the department of health according to section 62Q.19, subdivision 7. For those federally qualified health centers and rural health clinics that have applied for essential community provider status within the six-month time prescribed, medical assistance payments will continue to be made according to paragraphs (a) and (b) for the first three years ~~of essential community provider status~~

after application. For federally qualified health centers and rural health clinics that either do not apply within the time specified above~~, that are denied essential community provider status by the department of health,~~ or who have had essential community provider status for three years, medical assistance payments for health services provided by these entities shall be according to the same rates and conditions applicable to the same service provided by health care providers that are not federally qualified health centers or rural health clinics. This paragraph takes effect only if the Minnesota health care reform waiver is approved by the federal government, and remains in effect for as long as the Minnesota health care reform waiver remains in effect. When the waiver expires, this paragraph expires, and the commissioner of human services shall publish a notice in the State Register and notify the revisor of statutes.

Sec. 18. Minnesota Statutes 1994, section 256B.0627, subdivision 1, as amended by Laws 1995, chapter 207, article 6, sections 52 and 125, subdivision 9, is amended to read:

Subdivision 1. [DEFINITION.] (a) "Assessment" means a review and evaluation of a recipient's need for home care services conducted in person. Assessments for private duty nursing shall be conducted by a private duty nurse. Assessments for home health agency services shall be conducted by a home health agency nurse. Assessments for personal care services shall be conducted by the county public health nurse or a certified public health nurse under contract with the county. Assessments for medical assistance home care services for mental retardation or related conditions and alternative care services for developmentally disabled home- and community-based waiver recipients may be conducted by the county public health nurse to assure coordination and avoid duplication. Assessments must be completed on forms provided by the commissioner within 30 days of a request for home care services by a recipient or responsible party.

(b) "Care plan" means a written description of personal care assistant services developed by the agency nurse with the recipient or responsible party to be used by the personal care assistant with a copy provided to the recipient or responsible party.

(c) "Home care services" means a health service, determined by the commissioner as medically necessary, that is ordered by a physician and documented in a ~~care~~ service plan that is reviewed by the physician at least once every 60 days for the provision of home health services, or private duty nursing, or at least once every 365 days for personal care. Home care services are provided to the recipient at the recipient's residence that is a place other than a hospital or long-term care facility or as specified in section 256B.0625.

(d) "Medically necessary" has the meaning given in Minnesota Rules, parts 9505.0170 to 9505.0475.

(e) "Personal care assistant" means a person who: (1) is at least 18 years old, except for persons 16 to 18 years of age who participated in a school-based job training program or have completed other comparable training approved by the personal care provider organization; (2) is able to ~~read, write, and speak English, or~~ effectively communicate ~~with sign language, as well as communicate~~ with the recipient and personal care provider organization; (3) effective July 1, 1996, has completed one of the training requirements as specified in Minnesota Rules, part 9505.0335, subpart 3, items A to D; (4) has the ability to, and provides covered personal care services according to the recipient's care plan, responds appropriately to recipient needs, and reports changes in the recipient's condition to the supervising registered nurse; (5) is not a consumer of personal care services; and (6) is subject to criminal background checks. An individual who has ~~ever~~ been convicted of a crime specified in Minnesota Rules, part 4668.0020, subpart 14, or a comparable crime in another jurisdiction is disqualified from being a personal care assistant, unless the individual meets the rehabilitation criteria specified in Minnesota Rules, part 4668.0020, subpart 15.

(f) "Personal care provider organization" means an organization enrolled to provide personal care services under the medical assistance program that complies with the following: (1) owners who have a five percent interest or more, and managerial officials are subject to a criminal history check as provided in section 245A.04 ~~at the time of application~~. This applies to currently enrolled personal care provider organizations and those agencies seeking enrollment as a personal care

provider organization. An organization will be barred from enrollment if an owner or managerial official of the organization has ever been convicted of a crime specified in Minnesota Rules, part 4668.0020, subpart 14, or a comparable crime in another jurisdiction, unless the owner or managerial official meets the rehabilitation criteria specified in Minnesota Rules, part 4668.0020, subpart 15; (2) the organization must maintain a surety bond and liability insurance throughout the duration of enrollment and provides proof thereof. The insurer must notify the department of human services of the cancellation or lapse of policy; and (3) the organization must maintain documentation of services as specified in Minnesota Rules, part 9505.2175, subpart 7, as well as evidence of compliance with personal care assistant training requirements.

(g) "Service plan" means a written description of the services needed based on the assessment developed by the nurse who conducts the assessment together with the recipient. The service plan shall include a description of the covered home care services, frequency and duration of services, and expected outcomes and goals. The recipient and the provider chosen by the recipient or responsible party must be given a copy of the completed service plan within 30 calendar days of the request for home care services by the recipient or responsible party.

(h) "Skilled nurse visits" are provided in a recipient's residence under a plan of care or service plan that specifies a level of care which the nurse is qualified to provide. These services are:

(1) nursing services according to the written plan of care or service plan and accepted standards of medical and nursing practice in accordance with chapter 148;

(2) services which due to the recipient's medical condition may only be safely and effectively provided by a registered nurse or a licensed practical nurse;

(3) assessments performed only by a registered nurse;

(4) teaching and training the recipient, the recipient's family, or other caregivers requiring the skills of a registered nurse or licensed practical nurse.

Sec. 19. Minnesota Statutes 1994, section 256B.0627, subdivision 5, as amended by Laws 1995, chapter 207, article 6, sections 55 and 125, subdivision 12, is amended to read:

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

(a) [LIMITS ON SERVICES WITHOUT PRIOR AUTHORIZATION.] A recipient may receive the following ~~amounts of~~ home care services during a calendar year:

~~(1) a total of 40 home health aide visits or skilled nurse visits under section 256B.0625, subdivision 6a; and~~

~~(2)~~ assessments and reassessments done to determine a recipient's need for personal care services.

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

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

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

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

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

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

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

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

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

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

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

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

(1) [HOME HEALTH SERVICES.] All home health services provided by a licensed nurse or a home health aide ~~that exceed the limits established in paragraph (a)~~ must be prior authorized by the commissioner or the commissioner's designee. Prior authorization must be based on medical necessity and cost-effectiveness when compared with other care options. When home health services are used in combination with personal care and private duty nursing, the cost of all home care services shall be considered for cost-effectiveness. The commissioner shall limit nurse and home health aide visits to no more than one visit each per day.

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

(A) up to 1.75 times the average number of direct care hours provided in nursing facilities for the recipient's comparable case mix level; or

(B) up to 2.625 times the average number of direct care hours provided in nursing facilities for recipients who have complex medical needs or are dependent in at least seven activities of daily living and need physical assistance with eating or have a neurological diagnosis but in no case shall the dollar amount authorized exceed the statewide weighted average nursing facility payment rate for fiscal year 1995; or

(C) up to the amount the commissioner would pay, as of July 1, 1991, plus any inflation adjustment provided for home care services, for care provided in a regional treatment center for recipients referred to the commissioner by a regional treatment center preadmission evaluation team. For purposes of this clause, home care services means all services provided in the home or community that would be included in the payment to a regional treatment center; or

(D) up to the amount medical assistance would reimburse for facility care for recipients referred to the commissioner by a preadmission screening team established under section 256B.0911 or 256B.092; and

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

(ii) The number of direct care hours shall be determined according to the annual cost report submitted to the department by nursing facilities. The average number of direct care hours, for the report year 1993, as established by July 11, 1994, shall be calculated and incorporated into the home care limits on July 1, 1996. 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 and with adjustments, additions, and clarifications that are necessary to reflect the needs and conditions of recipients who need home care. The commissioner shall establish these forms and protocols under this section and shall use an advisory group, including representatives of recipients, providers, and counties, for consultation in establishing and revising the forms and protocols.

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

(A) daily tube feedings;

(B) daily parenteral therapy;

(C) wound or decubiti care;

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

(E) catheterization;

(F) ostomy care;

(G) quadriplegia; or

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

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

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

(ii) the cares are outside of the scope of services that can be provided by a home health aide or personal care assistant.

The commissioner may authorize:

(A) up to two times the average amount of direct care hours provided in nursing facilities statewide for case mix classification "K" as established by the annual cost report submitted to the department by nursing facilities in May 1992;

(B) private duty nursing in combination with other home care services up to the total cost allowed under clause (2);

(C) up to 16 hours per day if the recipient requires more nursing than the maximum number of direct care hours as established in item (A) and the recipient meets the hospital admission criteria established under Minnesota Rules, parts 9505.0500 to 9505.0540.

The commissioner may authorize up to 16 hours per day of medically necessary private duty nursing services or up to 24 hours per day of medically necessary private duty nursing services until such time as the commissioner is able to make a determination of eligibility for recipients who are cooperatively applying for home care services under the community alternative care program developed under section 256B.49, or until it is determined by the appropriate regulatory agency that a health benefit plan is or is not required to pay for appropriate medically necessary health care services. Recipients or their representatives must cooperatively assist the commissioner in obtaining this determination. Recipients who are eligible for the community alternative care program may not receive more hours of nursing under this section than would otherwise be authorized under section 256B.49.

(4) [VENTILATOR-DEPENDENT RECIPIENTS.] If the recipient is ventilator-dependent, the monthly medical assistance authorization for home care services shall not exceed what the commissioner would pay for care at the highest cost hospital designated as a long-term hospital under the Medicare program. For purposes of this clause, home care services means all services provided in the home that would be included in the payment for care at the long-term hospital. "Ventilator-dependent" means an individual who receives mechanical ventilation for life support at least six hours per day and is expected to be or has been dependent for at least 30 consecutive days.

(f) [PRIOR AUTHORIZATION; TIME LIMITS.] The commissioner or the commissioner's designee shall determine the time period for which a prior authorization shall be effective. If the recipient continues to require home care services beyond the duration of the prior authorization, the home care provider must request a new prior authorization. Under no circumstances, other than the exceptions in paragraph (b), shall a prior authorization be valid prior to the date the commissioner receives the request or for more than 12 months. A recipient who appeals a reduction in previously authorized home care services may continue previously authorized services, other than temporary services under paragraph (h), pending an appeal under section 256.045. The commissioner must provide a detailed explanation of why the authorized services are reduced in amount from those requested by the home care provider.

(g) [APPROVAL OF HOME CARE SERVICES.] The commissioner or the commissioner's designee shall determine the medical necessity of home care services, the level of caregiver according to subdivision 2, and the institutional comparison according to this subdivision, the cost-effectiveness of services, and the amount, scope, and duration of home care services reimbursable by medical assistance, based on the assessment, primary payer coverage determination information as required, the ~~care~~ service plan, the recipient's age, the cost of services, the recipient's medical condition, and diagnosis or disability. The commissioner may publish additional criteria for determining medical necessity according to section 256B.04.

(h) [PRIOR AUTHORIZATION REQUESTS; TEMPORARY SERVICES.] The agency nurse, the independently enrolled private duty nurse, or county public health nurse may request a temporary authorization for home care services by telephone. The commissioner may approve a temporary level of home care services based on the assessment, and service or care plan information, and primary payer coverage determination information as required. Authorization for a temporary level of home care services including nurse supervision is limited to the time specified by the commissioner, but shall not exceed 45 days, unless extended because the county public health nurse has not completed the required assessment and service plan, or the commissioner's determination has not been made. The level of services authorized under this provision shall have no bearing on a future prior authorization.

(i) [PRIOR AUTHORIZATION REQUIRED IN FOSTER CARE SETTING.] Home care services provided in an adult or child foster care setting must receive prior authorization by the department according to the limits established in paragraph (a).

The commissioner may not authorize:

(1) home care services that are the responsibility of the foster care provider under the terms of the foster care placement agreement and administrative rules. Requests for home care services for recipients residing in a foster care setting must include the foster care placement agreement and determination of difficulty of care;

(2) home care services when the number of foster care residents is greater than four; or

(3) home care services when combined with foster care payments, other than room and board payments that exceed the total amount that public funds would pay for the recipient's care in a medical institution.

Sec. 20. Minnesota Statutes 1994, section 256B.0627, is amended by adding a subdivision to read:

Subd. 7. [NONCOVERED HOME CARE SERVICES.] The following home care services are not eligible for payment under medical assistance:

(1) skilled nurse visits for the sole purpose of supervision of the home health aide;

(2) a skilled nursing visit:

(i) only for the purpose of monitoring medication compliance with an established medications program for a recipient; or

(ii) to administer or assist with medication administration, including injections, prefilling syringes for injections, or oral medication setup of an adult recipient when, as determined and documented by the registered nurse, the need can be met by an available pharmacy or the recipient is physically and mentally able to self-administer or prefill a medication;

(3) home care services to a recipient who is eligible for covered services including hospice, if elected by the recipient, under the Medicare program or any other insurance held by the recipient;

(4) services to other members of the recipient's household;

(5) a visit made by a skilled nurse solely to train other home health agency workers;

(6) any home care service included in the daily rate of the community-based residential facility where the recipient is residing;

(7) nursing and rehabilitation therapy services that are reasonably assessable to a recipient outside their place of residence; excluding assessment, counseling and education, and personal care;

(8) any home health agency service, excluding personal care assistant services and private duty nursing services, which is performed in a place other than the recipient's residence; and

(9) Medicare evaluation or administrative nursing visit on dual-eligible recipients that do not qualify for Medicare visit billing.

Sec. 21. Minnesota Statutes 1995 Supplement, section 256B.0913, subdivision 5, is amended to read:

Subd. 5. [SERVICES COVERED UNDER ALTERNATIVE CARE.] (a) Alternative care funding may be used for payment of costs of:

(1) adult foster care;

(2) adult day care;

(3) home health aide;

(4) homemaker services;

(5) personal care;

(6) case management;

(7) respite care;

(8) assisted living;

(9) residential care services;

(10) care-related supplies and equipment;

(11) meals delivered to the home;

(12) transportation;

(13) skilled nursing;

(14) chore services;

(15) companion services;

(16) nutrition services; ~~and~~

(17) training for direct informal caregivers; and

(18) telemedicine devices to monitor recipients in their own homes as an alternative to hospital care, nursing home care, or home visits.

(b) The county agency must ensure that the funds are used only to supplement and not supplant services available through other public assistance or services programs.

(c) Unless specified in statute, the service standards for alternative care services shall be the same as the service standards defined in the elderly waiver. Persons or agencies must be employed by or under a contract with the county agency or the public health nursing agency of the local board of health in order to receive funding under the alternative care program.

(d) The adult foster care rate shall be considered a difficulty of care payment and shall not include room and board. The adult foster care daily rate shall be negotiated between the county agency and the foster care provider. The rate established under this section shall not exceed 75 percent of the state average monthly nursing home payment for the case mix classification to which the individual receiving foster care is assigned, and it must allow for other alternative care services to be authorized by the case manager.

(e) Personal care services may be provided by a personal care provider organization. A county agency may contract with a relative of the client to provide personal care services, but must ensure nursing supervision. Covered personal care services defined in section 256B.0627, subdivision 4, must meet applicable standards in Minnesota Rules, part 9505.0335.

(f) ~~Costs for supplies and equipment that exceed $150 per item per month must have prior approval from the commissioner.~~ A county may use alternative care funds to purchase medical supplies and equipment without prior approval from the commissioner when: (1) there is no other funding source; (2) the supplies and equipment are specified in the individual's care plan as medically necessary to enable the individual to remain in the community according to the criteria in Minnesota Rules, part 9505.0210, item A; and (3) the supplies and equipment represent an effective and appropriate use of alternative care funds. A county may use alternative care funds to purchase supplies and equipment from a non-Medicaid certified vendor if the cost for the items is

less than that of a Medicaid vendor. A county is not required to contract with a provider of supplies and equipment if the monthly cost of the supplies and equipment is less than $250.

(g) For purposes of this section, residential care services are services which are provided to individuals living in residential care homes. Residential care homes are currently licensed as board and lodging establishments and are registered with the department of health as providing special services. Residential care services are defined as "supportive services" and "health-related services." "Supportive services" means the provision of up to 24-hour supervision and oversight. Supportive services includes: (1) transportation, when provided by the residential care center only; (2) socialization, when socialization is part of the plan of care, has specific goals and outcomes established, and is not diversional or recreational in nature; (3) assisting clients in setting up meetings and appointments; (4) assisting clients in setting up medical and social services; (5) providing assistance with personal laundry, such as carrying the client's laundry to the laundry room. Assistance with personal laundry does not include any laundry, such as bed linen, that is included in the room and board rate. Health-related services are limited to minimal assistance with dressing, grooming, and bathing and providing reminders to residents to take medications that are self-administered or providing storage for medications, if requested. Individuals receiving residential care services cannot receive both personal care services and residential care services.

(h) For the purposes of this section, "assisted living" refers to supportive services provided by a single vendor to clients who reside in the same apartment building of three or more units. Assisted living services are defined as up to 24-hour supervision, and oversight, supportive services as defined in clause (1), individualized home care aide tasks as defined in clause (2), and individualized home management tasks as defined in clause (3) provided to residents of a residential center living in their units or apartments with a full kitchen and bathroom. A full kitchen includes a stove, oven, refrigerator, food preparation counter space, and a kitchen utensil storage compartment. Assisted living services must be provided by the management of the residential center or by providers under contract with the management or with the county.

(1) Supportive services include:

(i) socialization, when socialization is part of the plan of care, has specific goals and outcomes established, and is not diversional or recreational in nature;

(ii) assisting clients in setting up meetings and appointments; and

(iii) providing transportation, when provided by the residential center only.

Individuals receiving assisted living services will not receive both assisted living services and homemaking or personal care services. Individualized means services are chosen and designed specifically for each resident's needs, rather than provided or offered to all residents regardless of their illnesses, disabilities, or physical conditions.

(2) Home care aide tasks means:

(i) preparing modified diets, such as diabetic or low sodium diets;

(ii) reminding residents to take regularly scheduled medications or to perform exercises;

(iii) household chores in the presence of technically sophisticated medical equipment or episodes of acute illness or infectious disease;

(iv) household chores when the resident's care requires the prevention of exposure to infectious disease or containment of infectious disease; and

(v) assisting with dressing, oral hygiene, hair care, grooming, and bathing, if the resident is ambulatory, and if the resident has no serious acute illness or infectious disease. Oral hygiene means care of teeth, gums, and oral prosthetic devices.

(3) Home management tasks means:

(i) housekeeping;

(ii) laundry;

(iii) preparation of regular snacks and meals; and

(iv) shopping.

Assisted living services as defined in this section shall not be authorized in boarding and lodging establishments licensed according to sections 157.03 and 157.15 to 157.22.

(i) For the purposes of this section, reimbursement for assisted living services and residential care services shall be a monthly rate negotiated and authorized by the county agency. The rate shall not exceed the nonfederal share of the greater of either the statewide or any of the geographic groups' weighted average monthly medical assistance nursing facility payment rate of the case mix resident class to which the 180-day eligible client would be assigned under Minnesota Rules, parts 9549.0050 to 9549.0059. For alternative care assisted living projects established under Laws 1988, chapter 689, article 2, section 256, monthly rates may not exceed 65 percent of the greater of either statewide or any of the geographic groups' weighted average monthly medical assistance nursing facility payment rate of the case mix resident class to which the 180-day eligible client would be assigned under Minnesota Rules, parts 9549.0050 to 9549.0059. The rate may not cover rent and direct food costs.

(j) For purposes of this section, companion services are defined as nonmedical care, supervision and oversight, provided to a functionally impaired adult. Companions may assist the individual with such tasks as meal preparation, laundry and shopping, but do not perform these activities as discrete services. The provision of companion services does not entail hands-on medical care. Providers may also perform light housekeeping tasks which are incidental to the care and supervision of the recipient. This service must be approved by the case manager as part of the care plan. Companion services must be provided by individuals or nonprofit organizations who are under contract with the local agency to provide the service. Any person related to the waiver recipient by blood, marriage or adoption cannot be reimbursed under this service. Persons providing companion services will be monitored by the case manager.

(k) For purposes of this section, training for direct informal caregivers is defined as a classroom or home course of instruction which may include: transfer and lifting skills, nutrition, personal and physical cares, home safety in a home environment, stress reduction and management, behavioral management, long-term care decision making, care coordination and family dynamics. The training is provided to an informal unpaid caregiver of a 180-day eligible client which enables the caregiver to deliver care in a home setting with high levels of quality. The training must be approved by the case manager as part of the individual care plan. Individuals, agencies, and educational facilities which provide caregiver training and education will be monitored by the case manager.

Sec. 22. Minnesota Statutes 1994, section 256B.0913, subdivision 7, is amended to read:

Subd. 7. [CASE MANAGEMENT.] The lead agency shall appoint a social worker from the county agency or a registered nurse from the county public health nursing service of the local board of health to be the case manager for any person receiving services funded by the alternative care program. The case manager must ensure the health and safety of the individual client and is responsible for the cost-effectiveness of the alternative care individual care plan. The county may allow a case manager to delegate certain aspects of the case management activity to another individual employed by the county provided there is oversight of the individual by the case manager. The case manager may not delegate those aspects which require professional judgment including assessments, reassessments, and care plan development.

Sec. 23. Minnesota Statutes 1994, section 256B.0915, subdivision 1b, is amended to read:

Subd. 1b. [PROVIDER QUALIFICATIONS AND STANDARDS.] The commissioner must enroll qualified providers of elderly case management services under the home and community-based waiver for the elderly under section 1915(c) of the Social Security Act. The enrollment process shall ensure the provider's ability to meet the qualification requirements and standards in this subdivision and other federal and state requirements of this service. An elderly

case management provider is an enrolled medical assistance provider who is determined by the commissioner to have all of the following characteristics:

(1) the legal authority for alternative care program administration under section 256B.0913;

(2) the demonstrated capacity and experience to provide the components of case management to coordinate and link community resources needed by the eligible population;

(3) administrative capacity and experience in serving the target population for whom it will provide services and in ensuring quality of services under state and federal requirements;

(4) the legal authority to provide preadmission screening under section 256B.0911, subdivision 4;

(5) a financial management system that provides accurate documentation of services and costs under state and federal requirements; ~~and~~

(6) the capacity to document and maintain individual case records under state and federal requirements; and

(7) the county may allow a case manager to delegate certain aspects of the case management activity to another individual employed by the county provided there is oversight of the individual by the case manager. The case manager may not delegate those aspects which require professional judgment including assessments, and care plan development.

Sec. 24. Minnesota Statutes 1995 Supplement, section 256B.0915, subdivision 3, is amended to read:

Subd. 3. [LIMITS OF CASES, RATES, REIMBURSEMENT, AND FORECASTING.] (a) The number of medical assistance waiver recipients that a county may serve must be allocated according to the number of medical assistance waiver cases open on July 1 of each fiscal year. Additional recipients may be served with the approval of the commissioner.

(b) The monthly limit for the cost of waivered services to an individual waiver client shall be the statewide average payment rate of the case mix resident class to which the waiver client would be assigned under 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 waivered services exceeds the monthly limit established in this paragraph, the annual cost of the waivered services shall be determined. In this event, the annual cost of waivered 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 waivered services for a person who is a nursing facility resident at the time of requesting a determination of eligibility for elderly or disabled waivered services shall not exceed the monthly payment for the resident class assigned under Minnesota Rules, parts 9549.0050 to 9549.0059, for that resident in the nursing facility where the resident currently resides. The following costs must be included in determining the total monthly costs for the waiver client:

(1) cost of all waivered services, including extended medical supplies and equipment; and

(2) cost of skilled nursing, home health aide, and personal care services reimbursable by medical assistance.

(c) Medical assistance funding for skilled nursing services, private duty nursing, home health aide, and personal care services for waiver recipients must be approved by the case manager and included in the individual care plan.

(d) ~~Expenditures for extended medical supplies and equipment that cost over $150 per month~~

For both the elderly waiver and the nursing facility disabled ~~waiver must have the commissioner's prior approval~~ waivers, a county may purchase extended supplies and equipment without prior approval from the commissioner when there is no other funding source and the supplies and equipment are specified in the individual's care plan as medically necessary to enable the individual to remain in the community according to the criteria in Minnesota Rules, part 9505.0210, items A and B. A county is not required to contract with a provider of supplies and equipment if the monthly cost of the supplies and equipment is less than $250.

(e) For the fiscal year beginning on July 1, 1993, and for subsequent fiscal years, the commissioner of human services shall not provide automatic annual inflation adjustments for home and community-based waivered 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 waivered services, based on the forecasted percentage change in the Home Health Agency Market Basket of Operating Costs, for the fiscal year beginning July 1, compared to the previous fiscal year, unless otherwise adjusted by statute. The Home Health Agency Market Basket of Operating Costs is published by Data Resources, Inc. The forecast to be used is the one published for the calendar quarter beginning January 1, six months prior to the beginning of the fiscal year for which rates are set. The adult foster care rate shall be considered a difficulty of care payment and shall not include room and board.

(f) The adult foster care daily rate for the elderly and disabled waivers shall be negotiated between the county agency and the foster care provider. The rate established under this section shall not exceed the state average monthly nursing home payment for the case mix classification to which the individual receiving foster care is assigned; the rate must allow for other waiver and medical assistance home care services to be authorized by the case manager.

(g) The assisted living and residential care service rates for elderly and community alternatives for disabled individuals (CADI) waivers shall be made to the vendor as a monthly rate negotiated with the county agency. The rate shall not exceed the nonfederal share of the greater of either the statewide or any of the geographic groups' weighted average monthly medical assistance nursing facility payment rate of the case mix resident class to which the elderly or disabled client would be assigned under Minnesota Rules, parts 9549.0050 to 9549.0059. For alternative care assisted living projects established under Laws 1988, chapter 689, article 2, section 256, monthly rates may not exceed 65 percent of the greater of either the statewide or any of the geographic groups' weighted average monthly medical assistance nursing facility payment rate for the case mix resident class to which the elderly or disabled client would be assigned under Minnesota Rules, parts 9549.0050 to 9549.0059. The rate may not cover direct rent or food costs.

(h) The county shall negotiate individual rates with vendors and may be reimbursed for actual costs up to the greater of the county's current approved rate or 60 percent of the maximum rate in fiscal year 1994 and 65 percent of the maximum rate in fiscal year 1995 for each service within each program.

(i) On July 1, 1993, the commissioner shall increase the maximum rate for home-delivered meals to $4.50 per meal.

(j) Reimbursement for the medical assistance recipients under the approved waiver shall be made from the medical assistance account through the invoice processing procedures of the department's Medicaid Management Information System (MMIS), only with the approval of the client's case manager. The budget for the state share of the Medicaid expenditures shall be forecasted with the medical assistance budget, and shall be consistent with the approved waiver.

(k) Beginning July 1, 1991, the state shall reimburse counties according to the payment schedule in section 256.025 for the county share of costs incurred under this subdivision on or after January 1, 1991, for individuals who are receiving medical assistance.

Sec. 25. Minnesota Statutes 1995 Supplement, section 256B.093, subdivision 3, is amended to read:

Subd. 3. [TRAUMATIC BRAIN INJURY PROGRAM DUTIES.] The department shall fund

administrative case management under this subdivision using medical assistance administrative funds. The traumatic brain injury program duties include:

(1) recommending to the commissioner in consultation with the medical review agent according to Minnesota Rules, parts 9505.0500 to 9505.0540, the approval or denial of medical assistance funds to pay for out-of-state placements for traumatic brain injury services and in-state traumatic brain injury services provided by designated Medicare long-term care hospitals;

(2) coordinating the traumatic brain injury home and community-based waiver;

(3) approving traumatic brain injury waiver eligibility or care plans or both;

(4) providing ongoing technical assistance and consultation to county and facility case managers to facilitate care plan development for appropriate, accessible, and cost-effective medical assistance services;

(5) providing technical assistance to promote statewide development of appropriate, accessible, and cost-effective medical assistance services and related policy;

(6) providing training and outreach to facilitate access to appropriate home and community-based services to prevent institutionalization;

(7) facilitating appropriate admissions, continued stay review, discharges, and utilization review for neurobehavioral hospitals and other specialized institutions;

(8) providing technical assistance on the use of prior authorization of home care services and coordination of these services with other medical assistance services;

(9) developing a system for identification of nursing facility and hospital residents with traumatic brain injury to assist in long-term planning for medical assistance services. Factors will include, but are not limited to, number of individuals served, length of stay, services received, and barriers to community placement; and

(10) providing information, referral, and case consultation to access medical assistance services for recipients without a county or facility case manager. Direct access to this assistance may be limited due to the structure of the program.

Sec. 26. Minnesota Statutes 1995 Supplement, section 256B.15, subdivision 5, is amended to read:

Subd. 5. [UNDUE HARDSHIP.] Any person entitled to notice in subdivision 1a has a right to apply for waiver of the claim based upon undue hardship. Any claim pursuant to this section may be fully or partially waived because of undue hardship. Undue hardship does not include action taken by the decedent which divested or diverted assets in order to avoid estate recovery. Any waiver of a claim must benefit the person claiming undue hardship. The commissioner shall have authority to hear claimant appeals, pursuant to section 256.045, when an application for a hardship waiver is denied in whole or part.

Sec. 27. Minnesota Statutes 1995 Supplement, section 256B.432, subdivision 2, is amended to read:

Subd. 2. [EFFECTIVE DATE.] For rate years beginning on or after July 1, 1990, the central, affiliated, or corporate office cost allocations in subdivisions 3 to 6 must be used when determining medical assistance rates under ~~sections~~ section 256B.431 ~~and 256B.50~~.

Sec. 28. Minnesota Statutes 1995 Supplement, section 256B.434, subdivision 2, is amended to read:

Subd. 2. [REQUESTS FOR PROPOSALS.] (a) No later than August 1, 1995, 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 facility or the state of Minnesota. The commissioner shall consider all nursing facilities with a current state nursing home or boarding care home license as eligible to respond to the request for proposals. The request for proposal shall not restrict the ability of the certified boarding care home to respond to the request for proposal whether through licensing definitions or requiring Medicare participation. 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 furthers 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;

(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. 29. Minnesota Statutes 1995 Supplement, section 256B.434, subdivision 9, is amended to read:

Subd. 9. [MANAGED CARE CONTRACTS FOR OTHER SERVICES.] (a) 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 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. Nursing facilities that have entered into alternative payment demonstration project contracts shall be considered eligible demonstration providers as defined in section 256B.69, subdivision 2, except that the nursing facility would not be subject to the service delivery provisions of section 256B.69, subdivision 6.

Sec. 30. Minnesota Statutes 1995 Supplement, section 256B.434, subdivision 10, is amended to read:

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

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

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

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

Sec. 31. Minnesota Statutes 1995 Supplement, section 256B.49, subdivision 6, is amended to read:

Subd. 6. [ADMISSION CERTIFICATION.] In determining an individual's eligibility for the community alternative care (CAC) waiver program, and an individual's eligibility for medical

assistance under section 256B.055, subdivision 12, paragraph (b), the commissioner may review or contract for review of the individual's medical condition to determine level of care using criteria in Minnesota Rules, parts 9505.0520 to 9505.0540.

For purposes of this subdivision, a person requires long-term care in an inpatient hospital setting if the person has an ongoing condition that is expected to last one year or longer, and would require continuous or frequent hospitalizations during that period, but for the provision of home care services under this section.

Sec. 32. Minnesota Statutes 1995 Supplement, section 256B.49, subdivision 7, is amended to read:

Subd. 7. [PERSONS WITH DEVELOPMENTAL DISABILITIES OR RELATED CONDITIONS.] Individuals who apply for services under the community alternatives for disabled individuals (CADI) waiver program or the traumatic brain injury nursing facility waiver program who have developmental disabilities or related conditions must be screened for the appropriate institutional level of care in accordance with section 256B.092.

Sec. 33. Minnesota Statutes 1994, section 256B.49, is amended by adding a subdivision to read:

Subd. 9. [CASE MANAGEMENT SERVICES.] The county may allow a case manager to delegate certain aspects of the case management activity to another individual employed by the county provided there is oversight of the individual by the case manager. The case manager may not delegate those aspects which require professional judgment including assessments, reassessments, and care plan development.

Sec. 34. Minnesota Statutes 1995 Supplement, section 256B.69, subdivision 6, is amended to read:

Subd. 6. [SERVICE DELIVERY.] (a) Each demonstration provider shall be responsible for the health care coordination for eligible individuals. Demonstration providers:

(1) shall authorize and arrange for the provision of all needed health services including but not limited to the full range of services listed in sections 256B.02, subdivision 8, and 256B.0625 ~~and for children eligible for medical assistance under section 256B.055, subdivision 12, home care services and personal care assistant services~~ in order to ensure appropriate health care is delivered to enrollees;

(2) shall accept the prospective, per capita payment from the commissioner in return for the provision of comprehensive and coordinated health care services for eligible individuals enrolled in the program;

(3) may contract with other health care and social service practitioners to provide services to enrollees; and

(4) shall institute recipient grievance procedures according to the method established by the project, utilizing applicable requirements of chapter 62D. Disputes not resolved through this process shall be appealable to the commissioner as provided in subdivision 11.

(b) Demonstration providers must comply with the standards for claims settlement under section 72A.201, subdivisions 4, 5, 7, and 8, when contracting with other health care and social service practitioners to provide services to enrollees. A demonstration provider must pay a clean claim, as defined in Code of Federal Regulations, title 42, section 447.45(b), within 30 business days of the date of acceptance of the claim.

Sec. 35. Minnesota Statutes 1995 Supplement, section 256D.03, subdivision 4, is amended to read:

Subd. 4. [GENERAL ASSISTANCE MEDICAL CARE; SERVICES.] (a) For a person who is eligible under subdivision 3, paragraph (a), clause (3), general assistance medical care covers, except as provided in paragraph (c):

(1) inpatient hospital services;

(2) outpatient hospital services;

(3) services provided by Medicare certified rehabilitation agencies;

(4) prescription drugs and other products recommended through the process established in section 256B.0625, subdivision 13;

(5) equipment necessary to administer insulin and diagnostic supplies and equipment for diabetics to monitor blood sugar level;

(6) eyeglasses and eye examinations provided by a physician or optometrist;

(7) hearing aids;

(8) prosthetic devices;

(9) laboratory and X-ray services;

(10) physician's services;

(11) medical transportation;

(12) chiropractic services as covered under the medical assistance program;

(13) podiatric services;

(14) dental services;

(15) outpatient services provided by a mental health center or clinic that is under contract with the county board and is established under section 245.62;

(16) day treatment services for mental illness provided under contract with the county board;

(17) prescribed medications for persons who have been diagnosed as mentally ill as necessary to prevent more restrictive institutionalization;

(18) case management services for a person with serious and persistent mental illness who would be eligible for medical assistance except that the person resides in an institution for mental diseases;

(19) psychological services, medical supplies and equipment, and Medicare premiums, coinsurance and deductible payments;

(20) medical equipment not specifically listed in this paragraph when the use of the equipment will prevent the need for costlier services that are reimbursable under this subdivision;

(21) services performed by a certified pediatric nurse practitioner, a certified family nurse practitioner, a certified adult nurse practitioner, a certified obstetric/gynecological nurse practitioner, or a certified geriatric nurse practitioner in independent practice, if the services are otherwise covered under this chapter as a physician service, and if the service is within the scope of practice of the nurse practitioner's license as a registered nurse, as defined in section 148.171; and

(22) services of a certified public health nurse or a registered nurse practicing in a public health nursing clinic that is a department of, or that operates under the direct authority of, a unit of government, if the service is within the scope of practice of the public health nurse's license as a registered nurse, as defined in section 148.171.

(b) Except as provided in paragraph (c), for a recipient who is eligible under subdivision 3, paragraph (a), clause (1) or (2), general assistance medical care covers the services listed in paragraph (a) with the exception of special transportation services.

(c) Gender reassignment surgery and related services are not covered services under this subdivision unless the individual began receiving gender reassignment services prior to July 1, 1995.

(d) In order to contain costs, the commissioner of human services shall select vendors of medical care who can provide the most economical care consistent with high medical standards and shall where possible contract with organizations on a prepaid capitation basis to provide these services. The commissioner shall consider proposals by counties and vendors for prepaid health plans, competitive bidding programs, block grants, or other vendor payment mechanisms designed to provide services in an economical manner or to control utilization, with safeguards to ensure that necessary services are provided. Before implementing prepaid programs in counties with a county operated or affiliated public teaching hospital or a hospital or clinic operated by the University of Minnesota, the commissioner shall consider the risks the prepaid program creates for the hospital and allow the county or hospital the opportunity to participate in the program in a manner that reflects the risk of adverse selection and the nature of the patients served by the hospital, provided the terms of participation in the program are competitive with the terms of other participants considering the nature of the population served. Payment for services provided pursuant to this subdivision shall be as provided to medical assistance vendors of these services under sections 256B.02, subdivision 8, and 256B.0625~~, and for contracts beginning on or after July 1, 1995, shall be discounted ten percent from comparable fee for service payments~~. For payments made during fiscal year 1990 and later years, the commissioner shall consult with an independent actuary in establishing prepayment rates, but shall retain final control over the rate methodology. Notwithstanding the provisions of subdivision 3, an individual who becomes ineligible for general assistance medical care because of failure to submit income reports or recertification forms in a timely manner, shall remain enrolled in the prepaid health plan and shall remain eligible for general assistance medical care coverage through the last day of the month in which the enrollee became ineligible for general assistance medical care.

(e) The commissioner of human services may reduce payments provided under sections 256D.01 to 256D.21 and 261.23 in order to remain within the amount appropriated for general assistance medical care, within the following restrictions.

For the period July 1, 1985 to December 31, 1985, reductions below the cost per service unit allowable under section 256.966, are permitted only as follows: payments for inpatient and outpatient hospital care provided in response to a primary diagnosis of chemical dependency or mental illness may be reduced no more than 30 percent; payments for all other inpatient hospital care may be reduced no more than 20 percent. Reductions below the payments allowable under general assistance medical care for the remaining general assistance medical care services allowable under this subdivision may be reduced no more than ten percent.

For the period January 1, 1986 to December 31, 1986, reductions below the cost per service unit allowable under section 256.966 are permitted only as follows: payments for inpatient and outpatient hospital care provided in response to a primary diagnosis of chemical dependency or mental illness may be reduced no more than 20 percent; payments for all other inpatient hospital care may be reduced no more than 15 percent. Reductions below the payments allowable under general assistance medical care for the remaining general assistance medical care services allowable under this subdivision may be reduced no more than five percent.

For the period January 1, 1987 to June 30, 1987, reductions below the cost per service unit allowable under section 256.966 are permitted only as follows: payments for inpatient and outpatient hospital care provided in response to a primary diagnosis of chemical dependency or mental illness may be reduced no more than 15 percent; payments for all other inpatient hospital care may be reduced no more than ten percent. Reductions below the payments allowable under medical assistance for the remaining general assistance medical care services allowable under this subdivision may be reduced no more than five percent.

For the period July 1, 1987 to June 30, 1988, reductions below the cost per service unit allowable under section 256.966 are permitted only as follows: payments for inpatient and outpatient hospital care provided in response to a primary diagnosis of chemical dependency or mental illness may be reduced no more than 15 percent; payments for all other inpatient hospital

care may be reduced no more than five percent. Reductions below the payments allowable under medical assistance for the remaining general assistance medical care services allowable under this subdivision may be reduced no more than five percent.

For the period July 1, 1988 to June 30, 1989, reductions below the cost per service unit allowable under section 256.966 are permitted only as follows: payments for inpatient and outpatient hospital care provided in response to a primary diagnosis of chemical dependency or mental illness may be reduced no more than 15 percent; payments for all other inpatient hospital care may not be reduced. Reductions below the payments allowable under medical assistance for the remaining general assistance medical care services allowable under this subdivision may be reduced no more than five percent.

There shall be no copayment required of any recipient of benefits for any services provided under this subdivision. A hospital receiving a reduced payment as a result of this section may apply the unpaid balance toward satisfaction of the hospital's bad debts.

(f) Any county may, from its own resources, provide medical payments for which state payments are not made.

(g) Chemical dependency services that are reimbursed under chapter 254B must not be reimbursed under general assistance medical care.

(h) The maximum payment for new vendors enrolled in the general assistance medical care program after the base year shall be determined from the average usual and customary charge of the same vendor type enrolled in the base year.

(i) The conditions of payment for services under this subdivision are the same as the conditions specified in rules adopted under chapter 256B governing the medical assistance program, unless otherwise provided by statute or rule.

Sec. 36. Minnesota Statutes 1994, section 256I.04, subdivision 1, is amended to read:

Subdivision 1. [INDIVIDUAL ELIGIBILITY REQUIREMENTS.] An individual is eligible for and entitled to a group residential housing payment to be made on the individual's behalf if the county agency has approved the individual's residence in a group residential housing setting and the individual meets the requirements in paragraph (a) or (b).

(a) The individual is aged, blind, or is over 18 years of age and disabled as determined under the criteria used by the title II program of the Social Security Act, and meets the resource restrictions and standards of the supplemental security income program, and the individual's countable income after deducting the exclusions and disregards of the SSI program and the medical assistance personal needs allowance under section 256B.35 is less than the monthly rate specified in the county agency's agreement with the provider of group residential housing in which the individual resides.

(b) The individual meets a category of eligibility under section 256D.05, subdivision 1, paragraph (a), and the individual's resources are less than the standards specified by section 256D.08, and the individual's countable income as determined under sections 256D.01 to 256D.21, less the medical assistance personal needs allowance under section 256B.35 is less than the monthly rate specified in the county agency's agreement with the provider of group residential housing in which the individual resides.

Sec. 37. Minnesota Statutes 1995 Supplement, section 256I.04, subdivision 2b, is amended to read:

Subd. 2b. [GROUP RESIDENTIAL HOUSING AGREEMENTS.] Agreements between county agencies and providers of group residential housing must be in writing and must specify the name and address under which the establishment subject to the agreement does business and under which the establishment, or service provider, if different from the group residential housing establishment, is licensed by the department of health or the department of human services; the specific license or registration from the department of health or the department of human services

held by the provider and the number of beds subject to that license; the address of the location or locations at which group residential housing is provided under this agreement; the per diem and monthly rates that are to be paid from group residential housing funds for each eligible resident at each location; the number of beds at each location which are subject to the group residential housing agreement; whether the license holder is a not-for-profit corporation under section 501(c)(3) of the Internal Revenue Code; and a statement that the agreement is subject to the provisions of sections 256I.01 to 256I.06 and subject to any changes to those sections. Group residential housing agreements may be terminated with or without cause by either the county or the provider with two calendar months prior notice.

Sec. 38. Minnesota Statutes 1995 Supplement, section 256I.04, subdivision 3, is amended to read:

Subd. 3. [MORATORIUM ON THE DEVELOPMENT OF GROUP RESIDENTIAL HOUSING BEDS.] (a) County agencies shall not enter into agreements for new group residential housing beds with total rates in excess of the MSA equivalent rate except: (1) for group residential housing establishments meeting the requirements of subdivision 2a, clause (2) with department approval; (2) for group residential housing establishments licensed under Minnesota Rules, parts 9525.0215 to 9525.0355, provided the facility is needed to meet the census reduction targets for persons with mental retardation or related conditions at regional treatment centers; (3) to ensure compliance with the federal Omnibus Budget Reconciliation Act alternative disposition plan requirements for inappropriately placed persons with mental retardation or related conditions or mental illness; (4) up to 80 beds in a single, specialized facility located in Hennepin county that will provide housing for chronic inebriates who are repetitive users of detoxification centers and are refused placement in emergency shelters because of their state of intoxication. Planning for the specialized facility must have been initiated before July 1, 1991, in anticipation of receiving a grant from the housing finance agency under section 462A.05, subdivision 20a, paragraph (b); or (5) notwithstanding the provisions of subdivision 2a, for up to 180 supportive housing units in Anoka, Dakota, Hennepin, or Ramsey county for homeless adults with a mental illness, a history of substance abuse, or human immunodeficiency virus or acquired immunodeficiency syndrome. For purposes of this section, "homeless adult" means a person who is living on the street or in a shelter or is evicted from a dwelling unit or discharged from a regional treatment center, community hospital, or residential treatment program and has no appropriate housing available and lacks the resources and support necessary to access appropriate housing. At least 70 percent of the supportive housing units must serve homeless adults with mental illness, substance abuse problems, or human immunodeficiency virus or acquired immunodeficiency syndrome who are about to be or, within the previous six months, has been discharged from a regional treatment center, or a state-contracted psychiatric bed in a community hospital, or a residential mental health or chemical dependency treatment program. If a person meets the requirements of subdivision 1, paragraph (a), and receives a federal Section 8 housing subsidy, the group residential housing rate for that person is limited to the supplementary rate under section 256I.05, subdivision 1a, and is determined by subtracting the amount of the person's countable income that exceeds the MSA equivalent rate from the group residential housing supplementary rate. A resident in a demonstration project site who no longer participates in the demonstration program shall retain eligibility for a group residential housing payment in an amount determined under section 256I.06, subdivision 8, using the MSA equivalent rate. Service funding under section 256I.05, subdivision 1a, ~~must~~ will end June 30, 1997, if federal matching funds are available and the services can be provided through a managed care entity. If federal matching funds are not available, then service funding will continue under section 256I.05, subdivision 1a. ~~Effective July 1, 1997, services to persons in these settings must be provided through a managed care entity. This provision is subject to the availability of matching federal funds.~~

(b) A county agency may enter into a group residential housing agreement for beds with rates in excess of the MSA equivalent rate in addition to those currently covered under a group residential housing agreement if the additional beds are only a replacement of beds with rates in excess of the MSA equivalent rate which have been made available due to closure of a setting, a change of licensure or certification which removes the beds from group residential housing payment, or as a result of the downsizing of a group residential housing setting. The transfer of available beds from one county to another can only occur by the agreement of both counties.

Sec. 39. [RECOMMENDATIONS ON HOME CARE PROVIDED IN FOSTER CARE SETTINGS.]

The commissioner of human services, in consultation with counties, home care providers, foster care providers, and representatives of home care recipients who are both children and adults, shall review the provision of home care services to children and adults living in licensed foster care settings. By November 15, 1996, the commissioner shall report to the legislature on recommendations for standards to determine home care service authorization for foster care residents, which will assure appropriate care for recipients while avoiding duplication of services and payment.

Sec. 40. [COMMISSIONER TASK FORCE.]

The commissioner, in consultation with representatives of affected organizations, including counties, providers, and advocacy groups shall develop proposed legislation consolidating Minnesota Rules, parts 9525.0125 to 9525.0355; 9525.0500 to 9525.0660; 9525.1500 to 9525.1690; and 9525.2000 to 9525.2140, new regulatory strategies to determine compliance with the new consolidated standard, and strategies to develop a consumer information system and educational materials. The purpose of the rule consolidation and regulatory strategies are to eliminate duplication, outmoded provisions and unnecessary paperwork, while protecting safety, health, rights, and protection for persons using the services licensed under the above parts. The purpose of the consumer information systems and educational materials are to provide easy access to information for consumers and interested parties to make informed choices about service delivery. The commissioner shall provide recommended legislation to consolidate these rules and regulate the provisions of the rules more efficiently to the legislative oversight commission on health care access by November 15, 1996.

Sec. 41. [HEALTH CARE DELIVERY SYSTEM.]

Subdivision 1. [OBJECTIVES.] It is the intent of the legislature to re-evaluate the current public assistance health care programs established under Minnesota Statutes, chapters 256, 256B, and 256D, and to determine whether there is a more efficient and cost-effective way to provide quality health care services to families and individuals who do not have access to or cannot pay for health care coverage. In re-evaluating the current system, it is the legislature's intent to encourage individuals to obtain health care and maintain health; to emphasize the provision of primary and preventive care; to allow access to health care by those who require it; to promote competition and cost-efficiency and to reduce incentives among providers and payers to shift costs; to provide incentives for care management and coordination; to provide incentives to maintain individuals in family and community settings; and to accommodate changes in available funding and to facilitate the development of new strategies in the purchasing and delivery of health care services.

Subd. 2. [STUDY.] The commissioner of human services, in conjunction with the legislative oversight commission on health care access, shall study the following issues:

(1) eligibility requirements, including insurance barriers and other methods to prevent the erosion of private coverage;

(2) income and asset limits;

(3) benefit sets, including acute, chronic, and long-term care services;

(4) recommendations on whether the system should be based on premiums or whether spenddowns should continue;

(5) enrollee cost sharing and its effect on affordability and access;

(6) retroactive eligibility and coverage of uncompensated health care;

(7) performance standards and outcome measurements; and

(8) consumer protections, including appeals process and accountability.

The commissioner shall provide progress reports to the legislative oversight commission on health care access on a monthly basis. A final report, including draft legislation, shall be submitted to the legislative oversight committee by November 15, 1996.

Sec. 42. [REPEALER.]

Minnesota Rules, part 9505.5230, is repealed effective July 1, 1996.

Minnesota Statutes 1995 Supplement, section 256B.69, subdivision 4a, is repealed.

Sec. 43. [EFFECTIVE DATES.]

Section 15 [256B.03, subdivision 3] is effective October 1, 1996, or upon receipt of any necessary federal approval, whichever date is later.

Sections 1 [62D.04, subdivision 5] and 2 [62N.10, subdivision 4] are effective for requests for proposals issued on or after July 1, 1996.

Section 29 [256B.434, subdivision 9] is effective December 15, 1995, for any nursing facility contract signed after December 15, 1995."

Delete the title and insert:

"A bill for an act relating to human services, including provisions for health and human services administration; life skills self-sufficiency; children's programs; economic self-sufficiency; health care; community mental health and state-operated services; health plan and continuing care relating to medical assistance and general medical assistance care; prohibiting certain asset transfers within 60 months of application for assistance; establishing a penalty period that begins with the month of application; changing the method for determining the length of penalty period; reducing the limit on monthly uncompensated transfers that shall be disregarded; allowing estate claims against the estate of a predeceased spouse in certain situations; creating a cause of action against transferees in certain circumstances; requiring the personal representative to serve notice on the commissioner of human services under certain circumstances; long-term care; technical changes; health plan regulations; permitting the establishment of a medical education and research fund; appropriating money; amending Minnesota Statutes 1994, sections 62D.04, subdivision 5; 62N.10, subdivision 4; 144.0722, by adding subdivisions; 245.462, subdivision 4; 245.4871, subdivision 4; 253B.11, subdivision 2; 256.9355, subdivision 3; 256B.03, by adding a subdivision; 256B.0595, by adding subdivisions; 256B.0627, subdivisions 1, 5, and by adding a subdivision; 256B.0913, subdivision 7; 256B.0915, subdivision 1b; 256B.35, subdivision 1; 256B.37, subdivision 5, and by adding a subdivision; 256B.431, by adding a subdivision; 256B.48, subdivision 1; 256B.49, by adding a subdivision; 256B.501, by adding a subdivision; 256I.04, subdivision 1; and 256I.05, subdivision 1c, and by adding a subdivision; 325F.71, subdivision 2; 524.2-403; and 524.3-801; Minnesota Statutes 1995 Supplement, sections 62Q.19, subdivisions 1 and 5; 144A.071, subdivision 4a; 256.045, subdivision 3; 256.969, subdivisions 1, 2b, and 10; 256B.055, subdivision 12; 256B.0575; 256B.0595, subdivisions 1, 2, 3, and 4; 256B.0625, subdivisions 17 and 30; 256B.0628, subdivision 2; 256B.0913, subdivision 5; 256B.0915, subdivision 3; 256B.093, subdivision 3; 256B.15, subdivision 5, and by adding a subdivision;; 256B.431, subdivisions 2j and 25; 256B.432, subdivision 2; 256B.434, subdivisions 2, 9, and 10; 256B.49, subdivisions 6 and 7; 256B.501, subdivisions 5b and 5c; 256B.69, subdivisions 3a, 4, 5b, 6, and 21; 256D.03, subdivision 4; and 256I.04, subdivisions 2b and 3; Laws 1995, chapters 207, articles 6, section 125, subdivisions 6, 8, 9, 11, and 12; and 8, section 35; proposing coding for new law in Minnesota Statutes, chapters 62A; 144; 252B; 256B; and 256D; repealing Minnesota Statutes 1995 Supplement, sections 256B.15, subdivision 5; and 256B.69, subdivision 4a."

And when so amended the bill do pass and be re-referred to the Committee on Finance. Amendments adopted. Report adopted.

Mr. Vickerman from the Committee on Metropolitan and Local Government, to which was re-referred

S.F. No. 2691: A bill for an act relating to transportation; changing the gasoline excise rate and special fuel excise tax rate; indexing the rate of taxation on gasoline and special fuels; establishing transportation policy for the metropolitan area; requiring a performance audit of the metropolitan transportation system; expanding the metropolitan council's authority over metropolitan area highways; requiring the council to establish a community-based transit demonstration program; providing a service incentive for opt-outs; allowing metropolitan council to impose a metropolitan area sales tax; limiting metropolitan council transit taxing authority; providing for legislative auditor to prepare a best practices report; requiring the council to prepare a transit redesign plan for 1997; requiring legislative report; appropriating money; amending Minnesota Statutes 1994, sections 296.02, by adding a subdivision; 473.167, subdivision 1; 473.388, by adding a subdivision; and 473.446, subdivisions 1 and 8; Minnesota Statutes 1995 Supplement, sections 296.02, subdivision 1b; and 296.025, subdivision 1b; proposing coding for new law in Minnesota Statutes, chapter 473; repealing Minnesota Statutes 1994, section 473.446, subdivisions 1a and 3.

Reports the same back with the recommendation that the bill be amended as follows:

Page 3, line 9, delete from "and" through page 3, line 12, to "act" and insert "state law and council policy"

Page 3, line 13, delete "(3)" and insert "(2)"

Page 3, line 15, delete "(4)" and insert "(3)"

Page 3, line 17, delete "(5)" and insert "(4)"

Page 3, line 20, delete "December 31, 1996" and insert "March 31, 1997"

Page 6, line 28, after "(5)" insert "in 1997"

Page 6, line 29, delete "to exceed" and insert "less than"

Page 6, line 31, delete "1995" and insert "1996 and in 1998 and thereafter, to provide an amount not less than the allowable amount calculated for the previous year multiplied by an index for market valuation changes equal to the total market valuation of all taxable property within the metropolitan area for the current taxes payable year divided by the total market valuation of all taxable property within the metropolitan area for the previous taxes payable year"

Page 6, line 33, delete "473.386" and insert "sections 473.386, 473.399 to 473.3998, and 473.4051"

Pages 6 to 10, delete sections 10 and 11 and insert:

"Sec. 10. Minnesota Statutes 1995 Supplement, section 473.446, subdivision 1, is amended to read:

Subdivision 1. [TAXATION WITHIN TRANSIT TAXING DISTRICT.] For the purposes of sections 473.405 to 473.449 and the metropolitan transit system, except as otherwise provided in this subdivision, the council ~~shall~~ may levy each year upon all taxable property within the metropolitan transit taxing district, defined in subdivision 2, a ~~transit~~ tax consisting of:

(a) an amount which shall be used for payment of ~~the expenses of operating transit and paratransit service and to provide for payment of~~ obligations issued by the council under section 473.436, subdivision 6;

(b) an additional amount, if any, the council determines to be necessary to provide for the full and timely payment of its certificates of indebtedness and other obligations ~~outstanding on July 1, 1985,~~ to which property taxes ~~under this section~~ have been pledged; and

(c) an additional amount necessary to provide full and timely payment of certificates of indebtedness, bonds, including refunding bonds or other obligations issued or to be issued under section 473.39 ~~by the council for purposes of acquisition and betterment of property and other improvements of a capital nature~~ and to which the council has specifically pledged tax levies ~~under this clause~~.

~~The property tax levied by the council for general purposes under clause (a) must not exceed the following amount for the years specified:~~

~~(1) for taxes payable in 1995, the council's property tax levy limitation for general transit purposes is equal to the former regional transit board's property tax levy limitation for general transit purposes under this subdivision, for taxes payable in 1994, multiplied by an index for market valuation changes equal to the total market valuation of all taxable property located within the metropolitan transit taxing district for the current taxes payable year divided by the total market valuation of all taxable property located within the metropolitan transit taxing district for the previous taxes payable year; and~~

~~(2) for taxes payable in 1996 and subsequent years, the product of (i) the council's property tax levy limitation for general transit purposes for the previous year determined under this subdivision multiplied by (ii) an index for market valuation changes equal to the total market valuation of all taxable property located within the metropolitan transit taxing district for the current taxes payable year divided by the total market valuation of all taxable property located within the metropolitan transit taxing district for the previous taxes payable year.~~

~~For the taxes payable year 1995, the index for market valuation changes shall be multiplied by an amount equal to the sum of the regional transit board's property tax levy limitation for the taxes payable year 1994 and $160,665. The $160,665 increase shall be a permanent adjustment to the levy limit base used in determining the regional transit board's property tax levy limitation for general purposes for subsequent taxes payable years.~~

~~For the purpose of determining the council's property tax levy limitation for general transit purposes under this subdivision, "total market valuation" means the total market valuation of all taxable property within the metropolitan transit taxing district without valuation adjustments for fiscal disparities (chapter 473F), tax increment financing (sections 469.174 to 469.179), and high voltage transmission lines (section 273.425).~~

~~The county auditor shall reduce the tax levied pursuant to this subdivision on all property within statutory and home rule charter cities and towns that receive full-peak service and limited off-peak service by an amount equal to the tax levy that would be produced by applying a rate of 0.510 percent of net tax capacity on the property. The county auditor shall reduce the tax levied pursuant to this subdivision on all property within statutory and home rule charter cities and towns that receive limited peak service by an amount equal to the tax levy that would be produced by applying a rate of 0.765 percent of net tax capacity on the property. The amounts so computed by the county auditor shall be submitted to the commissioner of revenue as part of the abstracts of tax lists required to be filed with the commissioner under section 275.29. Any prior year adjustments shall also be certified in the abstracts of tax lists. The commissioner shall review the certifications to determine their accuracy and may make changes in the certification as necessary or return a certification to the county auditor for corrections. The commissioner shall pay to the council the amounts certified by the county auditors on the dates provided in section 273.1398. There is annually appropriated from the general fund in the state treasury to the department of revenue the amounts necessary to make these payments.~~

~~For the purposes of this subdivision, "full-peak and limited off-peak service" means peak period regular route service, plus weekday midday regular route service at intervals longer than 60 minutes on the route with the greatest frequency; and "limited peak period service" means peak period regular route service only.~~

~~For the purposes of property taxes payable in the following year, the council shall annually determine which cities and towns qualify for the 0.510 percent or 0.765 percent tax capacity rate reduction and shall certify this list to the county auditor of the county wherein such cities and towns are located on or before September 15. No changes may be made to the annual list after September 15.~~

The council may levy the tax without limitation to pay the principal and interest due on bonds, certificates of indebtedness, or other obligations issued by the council before January 1, 1997, under section 473.39 or 473.436. After January 1, 1997, the council may levy the tax only if the metropolitan area sales tax under section 473.440 is levied at a rate of one-half of one percent and

if anticipated revenues from the metropolitan area sales tax are not sufficient to pay the principal and interest due on any bonds, certificates of indebtedness, or other obligations issued by the council after January 1, 1997, under section 473.39 or 473.436. After January 1, 1997, the tax levy must not exceed the annual principal and interest due on obligations issued under section 473.39 or 473.436. The taxes under this subdivision must be levied and collected in the manner specified in section 473.13, subdivision 2.

Sec. 11. Minnesota Statutes 1995 Supplement, section 473.446, subdivision 8, is amended to read:

Subd. 8. [~~STATE REVIEW~~ LEVY CERTIFICATION.] The commissioner of revenue shall certify the council's levy limitation under this section to the council by August 1 of the levy year. The council must certify its proposed property tax levy under this section to the commissioner of revenue by September 1 of the levy year. ~~The commissioner of revenue shall annually determine whether the property tax for transit purposes certified by the council for levy following the adoption of its proposed budget is within the levy limitation imposed by subdivision 1. The commissioner shall also annually determine whether the transit tax imposed on all taxable property within the metropolitan transit area but outside of the metropolitan transit taxing district is within the levy limitation imposed by subdivision 1a. The determination must be completed prior to September 10 of each year. If current information regarding market valuation in any county is not transmitted to the commissioner in a timely manner, the commissioner may estimate the current market valuation within that county for purposes of making the calculations.~~"

Page 11, delete section 14

Page 11, lines 29 and 30, delete "subdivisions 1a and 3" and insert "subdivision 3; Minnesota Statutes 1995 Supplement, section 473.446, subdivision 1a"

Page 11, line 32, delete "7 to 11 and 13 to 15" and insert " 4 to 11, 13, and 14"

Page 11, line 35, delete "Section 1 is" and insert "Sections 1 to 3 are"

Page 12, line 1, delete "and 11" and insert ", 11, and 15"

Page 12, line 2, delete "14 to 16" and insert "12 to 14"

Renumber the sections in sequence

Amend the title as follows:

Page 1, lines 16 and 17, delete "requiring legislative report;"

Page l, line 19, after the second semicolon, insert "and"

Page 1, line 20, delete "and 473.446, subdivisions 1 and"

Page 1, line 21, delete "8;"

Page 1, line 22, delete "and" and after the second "1b;" insert "and 473.446, subdivisions 1 and 8;"

Page 1, line 25, delete "subdivisions 1a and" and insert "subdivision" and before the period, insert "; Minnesota Statutes 1995 Supplement, section 473.446, subdivision 1a"

And when so amended the bill do pass and be re-referred to the Committee on Taxes and Tax Laws.

Pursuant to Joint Rule 2.03, the bill was referred to the Committee on Rules and Administration.

Mr. Lessard from the Committee on Environment and Natural Resources, to which was referred

H.F. No. 2125: A bill for an act relating to the environment; repealing obsolete air quality and wastewater treatment rules; amending Minnesota Rules, parts 7009.0080; 7035.2835, subpart 3; 7050.0185, subpart 8; 7050.0210, subpart 17; and 7077.0100; proposing coding for new law in Minnesota Statutes, chapter 116; repealing Minnesota Rules, parts 7011.0400; 7011.0405; 7011.0410; 7077.0500; 7077.0505; 7077.0510; 7077.0515; 7077.0520; 7077.0525; 7077.0530; 7077.0535; 7077.0540; 7077.0545; 7077.0550; 7077.0555; 7077.0560; 7077.0600; 7077.0605; 7077.0610; 7077.0615; 7077.0620; 7077.0625; 7077.0630; 7077.0635; 7077.0640; 7077.0645; 7077.0650; 7077.0655; and 7077.0660.

Reports the same back with the recommendation that the bill be amended as follows:

Pages 1 to 6, delete sections 1 to 5

Page 6, delete sections 7 to 9 and insert:

"Sec. 2. [RULE VARIANCE.]

The pollution control agency may issue a permit without regard to the maximum annual geometric mean standards for particulate matter or the primary maximum 24 hour concentrate standard for particulate matter."

Page 7, line 2, delete "6 and 7" and insert "1 and 2"

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 2, delete everything after the semicolon and insert "allowing the pollution control agency to issue an air quality permit without regard to certain particulate standards;"

Page 1, delete lines 3 to 5

Page 1, line 6, delete "7077.0100;"

Page 1, line 7, delete everything after "116" and insert a period

Page 1, delete lines 8 to 14

And when so amended the bill do pass. Amendments adopted. Report adopted.

Mr. Lessard from the Committee on Environment and Natural Resources, to which was referred

H.F. No. 2276: A bill for an act relating to state government; adding authority for the board of water and soil resources to accept and administer federal grants, donations, gifts, and other contributions to achieve authorized objectives of the agency; amending Minnesota Statutes 1994, sections 103B.101, subdivision 9; and 103C.401, subdivision 1.

Reports the same back with the recommendation that the bill be amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1994, section 103B.101, subdivision 9, is amended to read:

Subd. 9. [POWERS AND DUTIES.] (a) In addition to the powers and duties prescribed elsewhere, the board shall:

(1) coordinate the water and soil resources planning activities of counties, soil and water conservation districts, watershed districts, watershed management organizations, and any other local units of government through its various authorities for approval of local plans, administration of state grants, and by other means as may be appropriate;

(2) facilitate communication and coordination among state agencies in cooperation with the

environmental quality board, and between state and local units of government, in order to make the expertise and resources of state agencies involved in water and soil resources management available to the local units of government to the greatest extent possible;

(3) coordinate state and local interests with respect to the study in southwestern Minnesota under United States Code, title 16, section 1009;

(4) develop information and education programs designed to increase awareness of local water and soil resources problems and awareness of opportunities for local government involvement in preventing or solving them;

(5) provide a forum for the discussion of local issues and opportunities relating to water and soil resources management;

(6) adopt an annual budget and work program that integrate the various functions and responsibilities assigned to it by law; and

(7) report to the governor and the legislature by October 15 of each even-numbered year with an assessment of board programs and recommendations for any program changes and board membership changes necessary to improve state and local efforts in water and soil resources management.

(b) The board may accept grants, gifts, donations, or contributions in money, services, materials, or interests in property from any source to achieve an authorized purpose. The board may enter into a contract or agreement necessary or appropriate to accomplish the transfer. The board may use or expend money, services, materials, or interests in property accepted under this paragraph to accomplish an authorized purpose. Money accepted under this paragraph is appropriated to the board for the purpose for which the money was granted.

Sec. 2. Minnesota Statutes 1994, section 103C.401, subdivision 1, is amended to read:

Subdivision 1. [POWERS AND DUTIES.] In addition to the powers and duties of the state board provided by other law, the state board shall:

(1) ~~receive and disburse any grants made available to the state by the United States Department of Agriculture under the preferred program developed under United States Code, title 16, sections 2001 to 2009;~~

~~(2)~~ offer to assist the district boards to implement their programs;

~~(3)~~ (2) keep the district boards of the state informed of the activities and experience of other districts and facilitate cooperation and an interchange of advice and experience among the districts;

~~(4)~~ (3) coordinate the programs and activities of the districts with appropriate agencies by advice and consultation;

~~(5)~~ (4) approve or disapprove the plans or programs of districts relating to the use of state funds administered by the state board;

~~(6)~~ (5) secure the cooperation and assistance of agencies in the work of the districts and develop a program to advise and assist appropriate agencies in obtaining state and federal funds for erosion, sedimentation, flooding, and agriculturally related pollution control programs;

~~(7)~~ (6) develop and implement a public information program concerning the districts' activities and programs, the problems and preventive practices relating to erosion control, sedimentation, agriculturally related pollution, flood prevention, and the advantages of formation of districts in areas where their organization is desirable;

~~(8)~~ (7) divide and consolidate districts without a hearing or a referendum to confine districts within county limits, without allowing a district, if feasible and practicable, to contain less than four full or fractional congressional townships;

~~(9)~~ (8) assist the statewide program to inventory and classify the types of soils in the state as determined by the Minnesota cooperative soil survey;

~~(10)~~ (9) identify research needs and cooperate with other public agencies in research concerning the nature and extent of erosion, sedimentation, flooding and agriculturally related pollution, the amounts and sources of sediment and pollutants delivered to the waters of the state, and long-term soil productivity;

~~(11)~~ (10) develop structural, land use management practice, and other programs to reduce or prevent soil erosion, sedimentation, flooding, and agriculturally related pollution;

~~(12)~~ (11) develop a system of priorities to identify the erosion, flooding, sediment, and agriculturally related pollution problem areas that most need control systems; and

~~(13)~~ (12) ensure compliance with statewide programs and policies established by the state board by advice, consultation, and approval of grant agreements with the districts."

Delete the title and insert:

"A bill for an act relating to state government; adding authority for the board of water and soil resources to accept and administer federal grants, donations, gifts, and other contributions to achieve authorized objectives of the agency; appropriating money; amending Minnesota Statutes 1994, sections 103B.101, subdivision 9; and 103C.401, subdivision 1."

And when so amended the bill do pass and be re-referred to the Committee on Finance. Amendments adopted. Report adopted.

Mr. Lessard from the Committee on Environment and Natural Resources, to which was referred

S.F. No. 2172: A bill for an act relating to the environment; increasing the amount of reimbursement available for cleanup of petroleum releases by certain responsible persons; amending Minnesota Statutes 1995 Supplement, section 115C.09, subdivision 3.

Reports the same back with the recommendation that the bill be amended as follows:

Page 1, after line 7, insert:

"Section 1. Minnesota Statutes 1995 Supplement, section 115C.08, subdivision 4, is amended to read:

Subd. 4. [EXPENDITURES.] (a) Money in the fund may only be spent:

(1) to administer the petroleum tank release cleanup program established in this chapter;

(2) for agency administrative costs under sections 116.46 to 116.50, sections 115C.03 to 115C.06, and costs of corrective action taken by the agency under section 115C.03, including investigations;

(3) for costs of recovering expenses of corrective actions under section 115C.04;

(4) for training, certification, and rulemaking under sections 116.46 to 116.50;

(5) for agency administrative costs of enforcing rules governing the construction, installation, operation, and closure of aboveground and underground petroleum storage tanks;

(6) for reimbursement of the harmful substance compensation account under subdivision 5 and section 115B.26, subdivision 4; ~~and~~

(7) for administrative and staff costs as set by the board to administer the petroleum tank release program established in this chapter; and

(8) for corrective action performance audits under section 115C.093.

(b) Money in the fund is appropriated to the board to make reimbursements or payments under this section."

Page 1, delete lines 20 to 26 and insert:

"(3) 90 percent of the total reimbursable costs on the first $250,000 and 100 percent of the cumulative total reimbursable costs in excess of $250,000 at all sites in which the responsible person had interest, and for which the commissioner has not issued a closure letter as of the effective date of this clause, if the responsible person:

(i) did not own more than three locations within the state at which motor fuel was dispensed into motor vehicles;

(ii) dispensed less than 1,000,000 gallons of petroleum at each location in each of the last three calendar years; and

(iii) has discontinued operation of all petroleum retail operations."

Page 2, delete lines 1 and 2

Page 4, after line 33, insert:

"Sec. 3. [115C.093] [CORRECTIVE ACTION PERFORMANCE AUDITS.]

The board shall conduct performance audits of corrective actions for which reimbursement is sought under section 1, paragraph (a), clause (3), and may conduct audits of other corrective actions. A performance audit conducted under this section must evaluate the adequacy of the corrective actions, the validity of the corrective action costs, and whether alternative methods or technologies could have been used to carry out the corrective actions at a lower cost. The board shall report the results of audits conducted under this section to the chairs of the senate committees on environment and natural resources and commerce and consumer protection, the finance division of the senate committee on environment and natural resources, and the house of representatives committees on environment and natural resources, environment and natural resources finance, and commerce, tourism, and consumer affairs. Money in the fund is appropriated to the board for the purposes of this section."

Page 4, delete line 35 and insert:

"Sections 1 to 3 are effective the day following final enactment."

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 4, after the semicolon, insert "requiring corrective action performance audits in certain circumstances;"

Page 1, line 5, delete "section" and insert "sections 115C.08, subdivision 4; and"

Page 1, line 6, before the period, insert "; proposing coding for new law in Minnesota Statutes, chapter 115C"

And when so amended the bill do pass. Amendments adopted. Report adopted.

Mr. Lessard from the Committee on Environment and Natural Resources, to which was referred

S.F. No. 2376: A bill for an act relating to state land; modifying the provisions for the correction of boundary lines; modifying the provisions relating to the sale of trust lands; authorizing the commissioner of natural resources to pay certain outstanding real estate taxes and assessments; authorizing the commissioner of natural resources to transfer improvements on state-owned land; authorizing the commissioner of natural resources to sell certain land;

authorizing the private sale of certain land; appropriating money; amending Minnesota Statutes 1994, sections 84.0273; 92.06, subdivisions 1 and 4; and 92.16, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 92; and 94.

Reports the same back with the recommendation that the bill be amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1994, section 84.0273, is amended to read:

84.0273 [~~CORRECTION~~ ESTABLISHMENT OF BOUNDARY LINES RELATING TO CERTAIN STATE LANDHOLDINGS.]

In order to ~~correct errors in legal descriptions~~ resolve boundary line issues affecting the ownership interests of the state and adjacent landowners, the commissioner of natural resources may, in the name of the state upon terms the commissioner deems appropriate, convey, ~~without monetary consideration,~~ by a boundary line agreement, quitclaim deed, or other appropriate instrument in such form as the attorney general approves, such rights, titles, and interests of the state in state lands for such rights, titles and interests in adjacent lands as are necessary for the purpose of ~~correcting legal descriptions of~~ establishing boundaries. A notice of the proposed conveyance and a brief statement of the reason therefor shall be published once in the State Register by the commissioner between 15 and 30 days prior to conveyance. The provisions of this section are not intended to replace or supersede laws relating to land exchange or disposal of surplus state property.

Sec. 2. Minnesota Statutes 1994, section 92.06, subdivision 1, is amended to read:

Subdivision 1. [TERMS.] (a) The terms of payment on the sale of state public lands must be as follows: The purchaser shall pay in cash at the time of sale the appraised value of all timber and costs determined by the commissioner to be associated with the sale including survey, appraisal, publication, deed tax, filing fee, and similar costs. At least 15 percent of the purchase price of the land exclusive of timber and associated costs must be paid in cash at the time of sale. The balance of the purchase price must be paid in no more than 20 equal annual installments. Payments must be made by June 1 each year following the year in which the purchase was made, with interest at the rate in effect at the time of sale, calculated under this subdivision, on the unpaid balances. Any installment of principal or interest may be paid in advance, but part payment of an installment will not be accepted. For the purpose of computing interest, any installment of principal not paid on June 1 shall be credited on the following June 1. The purchaser may pay the balance due on a sale within 30 days of the sale with no interest due.

(b) Interest on unpaid balances must be computed as annual simple interest. The rate of interest must be based on average effective interest rates on mortgage loans as provided in paragraph (c).

(c) On or before December 31 of each year, the commissioner of natural resources shall determine the rate from the average effective interest rate on loans closed using the office of thrift supervision series, formerly the federal home loan bank board series, or its successor agency, for the most recent calendar month, reported on a monthly basis in the latest statistical release of the board of governors of the federal reserve system. This yield, rounded to the nearest quarter of one percent, is the annual interest rate for sales of state land during the succeeding calendar year.

(d) For state land sales in calendar year 1993 after July 1, 1993, the rate is eight percent, which is the September 1992 average from the office of thrift supervision series, rounded to the nearest quarter of one percent.

Sec. 3. Minnesota Statutes 1994, section 92.06, subdivision 4, is amended to read:

Subd. 4. [IMPROVEMENTS, WHEN PAYMENT NOT NECESSARY.] If a person has made improvements to the land and if: (1) the commissioner believes that person settled the land in good faith as homestead land under the laws of the United States before it was certified to the state, ~~or if~~ (2) the improvements were lawfully made by that person as a lessee of the state, or (3) the commissioner determines, based on clear and convincing evidence provided by the person, that the

improvements were made by the person as an inadvertent trespasser, then the value of the improvements must be separately appraised and, if the settler ~~or~~, lessee, or inadvertent trespasser purchases the land, the settler ~~or~~, lessee, or inadvertent trespasser is not required to pay for the improvements. If another person purchases the land, that person must pay the owner of the improvements, in addition to all other required payments, the appraised amount for the improvements. Payment for improvements must be made within 15 days of the auction sale, either in cash or upon terms and conditions agreeable to the owner of the improvements. If payment for improvements is not made in cash, and if there is no agreement between the parties within 15 days of the auction sale, the commissioner may:

(1) sell the property to the second highest qualified bidder if that bidder submitted to the commissioner's representative, at the auction sale, a written request to buy the property at a specified price; or

(2) void the sale and reoffer the property at a subsequent sale.

This subdivision does not apply unless the owner of the improvements makes a verified application to the commissioner showing entitlement to the improvements before the first state public sale at which the land is offered for sale. The applicant must appear at the sale and offer to purchase the land for at least its appraised value including all timber on it, and make the purchase if no higher bid is received. Actions or other proceedings involving the land in question begun before the sale must have been completed.

Sec. 4. Minnesota Statutes 1994, section 92.16, subdivision 1, is amended to read:

Subdivision 1. [CONTENTS; DEFAULT, RESALE.] At the time of the sale the commissioner shall execute, acknowledge, and deliver to the purchaser a certificate of sale, numbered and made assignable, certifying the description of the land sold, its quantity, the price per acre, the consideration paid and to be paid, and the time and terms of payment. A certificate must not be delivered until the sum required by law to be paid at the time of the sale is paid. ~~The sum includes costs determined by the commissioner to be associated with the sale such as survey, appraisal, publication, deed tax, filing fee, and similar costs.~~ If the purchaser fails to pay the sum, the commissioner may ~~immediately~~ reoffer the land for sale, but a bid may not be accepted from the person failing to pay the original offer. If the purchaser pays in full at the time of sale, the commissioner is not required to issue a certificate of sale.

Sec. 5. [92.80] [PAYMENT OF TAXES AND ASSESSMENTS.]

Subdivision 1. [CANCELLATION OF SALES CONTRACT.] If the state acquires an interest in real property prior to the cancellation of a state sales contract or upon completion of the cancellation process by advertisement or court order, the state must make provision to pay all taxes, interests, costs, penalties, and assessments. The commissioner of natural resources must request the contract vendee to make a good faith attempt to pay the debt. If the commissioner determines that the vendee is unwilling or unable to pay the debt, the commissioner may pay the debt and seek redress against the vendee.

Subd. 2. [VOLUNTARY AND INVOLUNTARY REVERSIONS.] (a) If a grantee on a state sales contract or state deed requests the state to exercise its reversionary interest in real property, the grantee must pay all real estate taxes, costs, interest, penalties, and assessments on the property prior to reversion.

(b) If a grantee on a state sales contract or state deed breaches the contractual terms of the contract or deed, the commissioner of natural resources must request the grantee to make a good faith attempt to pay all real estate taxes, costs, interest, penalties, and assessments on the property prior to reversion. If the commissioner determines that the grantee is unwilling or unable to pay the debt, the commissioner may pay the debt and seek redress against the grantee.

Sec. 6. Minnesota Statutes 1994, section 94.10, subdivision 2, is amended to read:

Subd. 2. (a) Lands certified as surplus by the head of a department or agency other than the department of natural resources shall be offered for public sale by the commissioner of

administration as provided in this paragraph. After complying with subdivision 1 and before any public sale of surplus state-owned land is made, the commissioner of administration shall publish a notice thereof at least once in each week for four successive weeks in a legal newspaper and also in a newspaper of general distribution in the city or county in which the real property to be sold is situated, which notice shall specify the time and place at which the sale will commence, a general description of the lots or tracts to be offered, and a general statement of the terms of sale. Each tract or lot shall be sold separately and shall be sold for not less than the appraised value thereof. Parcels remaining unsold after the offering may be sold to anyone agreeing to pay the appraised value thereof. The sale shall continue until all parcels are sold or until the commissioner orders a reappraisal or withdraws the remaining parcels from sale.

(b) Lands certified as surplus by the commissioner of natural resources shall be offered for public sale by the commissioner of natural resources in the manner provided in paragraph (a) for sales by the commissioner of administration.

(c) Except as provided in section 94.11, the cost of any survey or appraisal as provided in subdivision 1 shall be added to and made a part of the appraised value of the lands to be sold, whether to any political subdivision of the state or to a private purchaser as provided in this subdivision.

Sec. 7. [94.55] [TRANSFER OF STATE-OWNED IMPROVEMENTS.]

The commissioner may sell or transfer an improvement located on state-owned lands, the compensation for which shall be determined by the commissioner. The transfer shall be accomplished by a bill of sale, describing the improvement transferred and the terms and conditions of the transfer. Proceeds resulting from the transfer must be deposited in the state treasury and credited to the land acquisition account established in section 94.165.

Sec. 8. [SALE OF STATE FOREST LAND.]

(a) Notwithstanding Minnesota Statutes, section 89.01, subdivision 5, the commissioner of natural resources may sell school trust and acquired state land in the Richard J. Dorer Memorial Hardwood State Forest described in this section in the manner for sale of trust fund and acquired lands under Minnesota Statutes, chapter 92 or 94.

(b) The land that may be sold is described as follows:

(1) Township 110 N, Range 12 W, Section 28, the SE 1/4 of the SW 1/4 containing 40 acres more or less and the SW 1/4 of the SE 1/4 containing 40 acres more or less, in Wabasha County;

(2) Township 107 N, Range 8 W, Section 16, the NE 1/4 of the SE 1/4 containing 40 acres more or less, the SW 1/4 of the SE 1/4 containing 40 acres more or less, in Winona County;

(3) Township 106 N, Range 5 W, Section 30, the SE 1/4 of the SE 1/4 containing 40 acres more or less, in Winona County;

(4) Township 106 N, Range 6 W, Section 36, the NE 1/4 of the SE 1/4 containing 40 acres more or less, in Winona County; and

(5) Township 104 N, Range 6 W, Section 6, the SW 1/4 of the NW 1/4 containing 38.28 acres more or less, in Houston County.

Sec. 9. [SALE OF TRUST FUND LAND IN HUBBARD COUNTY.]

(a) Notwithstanding Minnesota Statutes, section 92.45, the commissioner of natural resources may sell the state trust fund land bordering on public waters described in paragraph (c) in accordance with the procedures in Minnesota Statutes, chapter 92.

(b) The conveyance shall be in a form approved by the attorney general.

(c) The land that may be sold is located in Hubbard County and is described as: that part of the Southeast Quarter of the Southeast Quarter of Section 8, Township 144 North, Range 32 West,

Hubbard County, Minnesota, lying easterly of the Necktie River and northerly of the centerline of county state-aid highway No. 16, containing up to 5 acres, more or less.

(d) The sale will result in the elimination of a trespass situation with the adjacent landowner who built a house on the property in 1989.

Sec. 10. [SALE OF STATE LAND IN OTTER TAIL COUNTY.]

(a) Notwithstanding the public sale requirements of Minnesota Statutes, sections 94.09 and 94.10, the commissioner of natural resources may sell by private sale, for a consideration not less than its value, the land described in paragraph (c), under the remaining provisions of Minnesota Statutes, chapter 94.

(b) The conveyance shall be in a form approved by the attorney general.

(c) The land that may be sold is located in Otter Tail County and is described as: all that part of the Southwest Quarter of the Southeast Quarter of Section 22, Township 137, Range 42, Otter Tail County, Minnesota described as follows: beginning at the South Quarter corner of said Section 22; thence on an assumed bearing of North 0 degrees 31 minutes 36 seconds East along the west line of said Southwest Quarter of the Southeast Quarter, a distance of 442.58 feet; thence South 19 degrees 29 minutes 47 seconds East a distance of 108.74 feet; thence southeasterly on a tangential curve, concave to the northeast, having a radius of 498.22 feet and a central angle of 69 degrees 43 minutes 29 seconds, for an arc distance of 606.30 feet to the easterly line of a tract of land described in Book 392 of Deeds, page 509, Office of the Otter Tail County Recorder; thence South 10 degrees 03 minutes 49 seconds West along said easterly line, a distance of 14.18 feet to the southeast corner of said tract of land described in Book 392 of Deeds, page 509; thence North 89 degrees 20 minutes 11 seconds West along the south line of said Section 22, a distance of 500.80 feet to the point of beginning, containing 1.44 acres more or less, subject to easements and reservations of public record, if any. The grantor, for itself, its successors and assigns, reserves an easement for use and maintenance of the existing ditch over and across the above described parcel, being a strip of land 33 feet in width lying 16.5 feet on each side of the centerline of the existing ditch running in a southwesterly direction from the township road to the west line of said Southwest Quarter of the Southeast Quarter.

(d) The commissioner has determined that the land is no longer useful for any natural resource purpose, or any other public purpose, and intends to sell this unneeded land to the adjoining landowner to resolve an inadvertent trespass.

Sec. 11. [SALE OF STATE WILDLIFE LAND IN WASHINGTON COUNTY.]

(a) Notwithstanding Minnesota Statutes, sections 94.09 and 94.10, and the public hearing requirement in Minnesota Statutes, section 97A.135, subdivision 2a, the commissioner of natural resources may sell land in a wildlife management area, described in this section, by private sale for a consideration not less than the appraised value, in accordance with the remaining provisions of Minnesota Statutes, chapter 94, and section 97A.135.

(b) The conveyance shall be in a form approved by the attorney general.

(c) The deed must contain a restrictive covenant that prohibits the placement or construction of additional buildings or structures, including corrals and animal shelters or pens, on the property conveyed in this section. The cost for constructing and maintaining any fencing on the property to be conveyed shall be the sole responsibility of the purchaser.

(d) The land that may be sold is in the Hardwood Creek wildlife management area in Washington County and is described as: the South 487 feet of the North 520 feet of the West 770 feet of the Northwest Quarter of the Southeast Quarter (NW 1/4 SE 1/4), Section Twenty-seven (27), Township Thirty-two (32) North, Range Twenty-one (21) West EXCEPT the North 440 feet of the West 650 feet of said NW 1/4 SE 1/4.

(e) The conveyance in this section will provide the adjacent landowner with a buffer between the landowner's buildings and public hunting activities on the adjacent wildlife area that surrounds

the site and eliminate a problem with a portion of the landowner's barn that lies on the existing state property.

Sec. 12. [SALE OF STATE LAND IN CROW WING COUNTY.]

(a) Notwithstanding Minnesota Statutes, section 92.45, the commissioner of natural resources may sell acquired state land bordering public waters described in this section in accordance with Minnesota Statutes, section 85.015, subdivision 1, paragraph (b), and chapter 94.

(b) The land that may be sold is located in Crow Wing County and is described as follows:

(1) Lot 3, Block 5, Plat of Paul Bunyan Trail, Nisswa Addition; and

(2) Lot 5, Block 5, Plat of Paul Bunyan Trail, Nisswa Addition.

Sec. 13. [SALE OF LEASED LANDS.]

(a) Notwithstanding Minnesota Statutes, sections 89.01, subdivision 5, and 92.45, the commissioner of natural resources, under terms and conditions the commissioner determines, may sell land subject to a lease listed in paragraph (c), if requested by the lessee, under the remaining provisions of Minnesota Statutes, chapter 92. The commissioner may include in a sale under this section land contiguous to the land subject to the lease if the commissioner determines that sale of the contiguous land:

(1) is necessary to address natural resource management concerns;

(2) is in the best interest of the permanent school fund; or

(3) is necessary to comply with local shoreland requirements.

(b) The commissioner may hold a public hearing before selling land under this section. The cost of the public hearing must be added to the costs to be paid by the buyer of the land.

(c) Paragraph (a) applies to the following leases:

(1) lease number 144-11-0438;

(2) lease number 144-11-0380;

(3) lease number 144-11-0393;

(4) lease number 144-11-0031;

(5) lease number 144-11-0099;

(6) lease number 144-11-0298;

(7) lease number 144-11-0168;

(8) lease number 144-15-0019;

(9) lease number 144-15-0388; and

(10) lease number 144-11-0195."

Delete the title and insert:

"A bill for an act relating to state land; modifying provisions for the establishment of boundary lines; modifying provisions relating to the sale of trust lands; authorizing the commissioner of natural resources to pay certain outstanding real estate taxes and assessments; authorizing the commissioner of natural resources to transfer improvements on state-owned land; authorizing the commissioner of natural resources to sell certain land; authorizing the private sale of certain land; amending Minnesota Statutes 1994, sections 84.0273; 92.06, subdivisions 1 and 4; 92.16, subdivision 1; and 94.10, subdivision 2; proposing coding for new law in Minnesota Statutes, chapters 92; and 94."

And when so amended the bill do pass and be re-referred to the Committee on Finance. Amendments adopted. Report adopted.

Mr. Lessard from the Committee on Environment and Natural Resources, to which was referred

H.F. No. 2411: A bill for an act relating to game and fish; prohibiting trespassing on agricultural land for outdoor recreation; prohibiting trespassing on certain private land for outdoor recreation; modifying posting requirements; modifying provisions for retrieving dogs and wounded game; prohibiting hunting in certain areas; providing civil penalties; establishing an appeals procedure; directing the disposition of penalty amounts; amending Minnesota Statutes 1994, section 94B.001, subdivisions 2, 3, 4, 5, 6, 7, and by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 97B.

Reports the same back with the recommendation that the bill be amended as follows:

Page 1, after line 14, insert:

"Section 1. Minnesota Statutes 1994, section 97A.301, subdivision 1, is amended to read:

Subdivision 1. [MISDEMEANOR.] ~~Unless a different penalty is prescribed~~ Except as otherwise provided, a person is guilty of a misdemeanor if that person:

(1) takes, buys, sells, transports or possesses a wild animal in violation of the game and fish laws;

(2) aids or assists in committing the violation;

(3) knowingly shares in the proceeds of the violation;

(4) fails to perform a duty or comply with a requirement of the game and fish laws;

(5) knowingly makes a false statement related to an affidavit regarding a violation of the game and fish laws; or

(6) violates or attempts to violate a rule under the game and fish laws."

Page 2, lines 3, 11, and 20, delete "8" and insert "9"

Page 2, after line 24, insert:

"(1) state "no trespassing" or similar term;"

Page 2, line 25, strike "(1)" and insert "(2)"

Page 2, line 26, strike "(2)" and insert "(3)"

Page 2, line 28, strike "(3)" and insert "(4)"

Page 2, line 34, after "(c)" insert "As an alternative to the posting requirements in paragraph (b), an owner, occupant, or lessee of private land may post in accordance with Minnesota Statutes 1994, section 97B.001, subdivision 4, paragraph (b)."

Page 4, line 12, delete "the" and insert "every"

Page 4, line 29, after the comma, insert "including the penalty in section 97A.301, subdivision 1,"

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 10, delete "sections" and insert "sections 97A.301, subdivision 1; and"

And when so amended the bill do pass. Amendments adopted. Report adopted.

Ms. Piper from the Committee on Family Services, to which was referred

S.F. No. 2347: A bill for an act relating to human services; creating a new intensive employment program for recipients of assistance; proposing coding for new law in Minnesota Statutes, chapter 256.

Reports the same back with the recommendation that the bill be amended as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1

MNJOBS PROGRAM

Section 1. [256.7381] [MNJOBS PROGRAM.]

Subdivision 1. [CITATION.] Sections 256.7381 to 256.7387 may be cited as the MNJOBS program.

Subd. 2. [DEFINITIONS.] As used in sections 256.7381 to 256.7387, the following words have the meanings given them.

(a) "Recipient" means an individual who is receiving AFDC.

(b) "Caretaker" means a parent or eligible adult, including a pregnant woman, who is part of the assistance unit that has applied for or is receiving AFDC or a grant.

(c) "Child support" means a voluntary or court-ordered payment by a noncustodial parent.

(d) "Commissioner" means the commissioner of human services.

(e) "Employability development plan" or "EDP" means a plan developed by the recipient, with advice from the employment advisor, for the purposes of identifying an employment goal, improving work skills through certification or education, training or skills recertification, and which addresses barriers to employment.

(f) "Employment advisor" means a provider staff person who is qualified to assist the participant to develop a job search or employability development plan, match the participant with existing job openings, refer the participant to employers, and has an extensive knowledge of employers in the area.

(g) "Financial specialist" means a program staff who is trained to explain the benefits offered under the program, determine eligibility for different assistance programs, and broker other resources.

(h) "Participant" means a recipient who is required to participate in the MNJOBS program.

(i) "Program" means the MNJOBS program.

(j) "Provider" means an employment and training agency certified by the commissioner of economic security under section 268.871, subdivision 1.

(k) "Suitable employment" means employment which meets conditions set forth in section 256.736, subdivision 1, clause (h).

Subd. 3. [ESTABLISHING THE MNJOBS PROGRAM.] At the request of a county or counties, the commissioners of human services and economic security shall develop and establish the MNJOBS program, which requires recipients of AFDC to meet the requirements of the program. The purpose of the program is to:

(1) ensure that the participant is working as soon as possible;

(2) promote a greater opportunity for economic self-support, participation, and mobility in the work force; and

(3) minimize the risk for long-term welfare dependency.

Subd. 4. [COUNTY DESIGN; MNJOBS PROGRAM.] The commissioner shall issue a notice to counties to submit a plan for developing and implementing a MNJOBS program. The plan must be consistent with provisions of the program.

The commissioner shall not approve a county plan that would have an adverse impact on the Minnesota family investment program (MFIP) or the MFIP evaluation. However, this does not preclude MFIP counties from operating a MNJOBS program. If the plan meets the requirements of the program, the commissioner shall approve the county plan and the county may implement the plan. No county may implement a MNJOBS program without an approved modification to its local service unit plan in accordance with section 268.88.

Subd. 5. [PROGRAM ADMINISTRATION.] The program must be administered in a way that, in addition to the county agency, other sectors in the community, such as employers from the public and private sectors, not-for-profit organizations, educational and social service agencies, labor unions, and community-based organizations, are involved.

Subd. 6. [PROGRAM DESIGN.] The purpose of the program is to enable immediate labor force participation and assist families in achieving self-sufficiency. The program plan must meet the following principles:

(1) work is the primary means of economic support;

(2) the individual's employment potential is reviewed during the development of the EDP;

(3) public aid such as cash and medical assistance, child care, child support, and other cash benefits are used to support intensive job search and immediate work; and

(4) maximum use is made of tax credits to supplement income.

Subd. 7. [WAIVER REQUESTS.] The commissioner shall request all waivers of federal law and regulation as soon as possible to implement the program. Upon obtaining all necessary federal waivers, the commissioner shall amend the state plans for the AFDC and the jobs opportunities and basic skills program (JOBS), and supportive services plan to coordinate these programs under the MNJOBS program for the approved counties, and shall seek approval of state plan amendments.

Subd. 8. [DUTIES OF COMMISSIONER.] In addition to any other duties imposed by law, the commissioner shall:

(1) request all waivers to implement the program;

(2) establish the MNJOBS program;

(3) provide systems development and staff training;

(4) accept and supervise the disbursement of any funds that may be provided from other sources for use in the program;

(5) direct a study to safeguard the interests of children;

(6) approve county MNJOBS plans; and

(7) allocate program funds.

Subd. 9. [DUTIES OF COUNTY AGENCY.] The county agency shall:

(1) collaborate with the commissioners of human services, economic security, and other agencies to develop, implement, and evaluate the demonstration of the program;

(2) operate the program in partnership with private and public employers, workforce councils, labor unions, and employment, educational, and social service agencies, and according to subdivision 5; and

(3) ensure that program components such as client orientation, immediate job search, job development, creation of community work experience jobs, job placements, and postplacement follow-up are implemented according to the MNJOBS program.

Subd. 10. [DUTIES OF PARTICIPANT.] To be eligible for AFDC, a participant shall cooperate with the county agency, the provider, and the participant's employer in all aspects of the program.

Sec. 2. [256.7382] [PROGRAM PARTICIPANTS; PROGRAM EXPECTATIONS.]

All recipients selected for participation are expected to meet the requirements of the program. In determining who may participate in the program, priority must be given to individuals who are on the county's project STRIDE waiting list, and also individuals who have applied for AFDC, and are subsequently determined to be eligible for STRIDE. An individual who is enrolled in STRIDE, and is making satisfactory progress towards completing the goals in the individual's approved EDP, may continue with the existing EDP, and is not required to participate in the MNJOBS program, but may volunteer to participate in the program.

Caretakers who are exempt from the program may volunteer to participate in the program.

The program shall supersede the STRIDE program in counties that operate a MNJOBS program, except in MFIP counties, where STRIDE will be continued for families assigned to certain research groups.

Sec. 3. [256.7383] [PROGRAM REQUIREMENTS.]

Subdivision 1. [NOTIFICATION OF PROGRAM.] At the time of the face-to-face interview, the applicant or recipient being recertified must be given a written referral to the orientation and an appointment date for the EDP. Orientation must be completed within ten days of the face-to-face interview. The applicant or recipient must also be given the following information:

(1) notification that, as part of continued receipt of AFDC, the recipient is required to attend orientation, to be followed immediately by an assessment;

(2) the program provider, the date, time, and location of the scheduled program orientation;

(3) the procedures for qualifying for and receiving benefits under the program;

(4) the immediate availability of supportive services, including, but not limited to, child care, transportation, medical assistance, and other work-related aid;

(5) the rights, responsibilities, and obligations of participants in the program, including, but not limited to, the grounds for exemptions and deferrals, the consequences for refusing or failing to participate fully, and the appeal process; and

(6) a determination of whether the applicant or recipient is exempt from job search activity.

Subd. 2. [PROGRAM ORIENTATION.] The county agency or the provider must give a face-to-face orientation regarding the program within ten days after the date of face-to-face interview. The orientation must be designed to inform the recipient of:

(1) the importance of locating and obtaining a job as soon as possible;

(2) benefits to be provided to support work;

(3) how other supportive services such as medical assistance, child care, transportation, and other work-related aid shall be available to support job search and work;

(4) the consequences for failure without good cause to comply with program requirements; and

(5) the appeal process.

Subd. 3. [ASSESSMENT AND EMPLOYMENT DEVELOPMENT PLAN.] At the end of orientation, the provider must assign an employment advisor and a financial specialist to the recipient. Working with the recipient, the employment advisor must assess the recipient and develop an EDP based on the recipient's existing educational level, available program resources, existing job markets, prior employment, work experience, and transferable work skills, unless exempt under subdivision 7. The EDP must require caretakers to participate in initial job search activities for up to four consecutive weeks for at least 30 hours per week and accept suitable employment if offered during participation in the program. The job search activities must commence within 30 days of the face-to-face interview.

Subd. 4. [JOB SEARCH ACTIVITIES.] The following job search activities may be included in the job search plan:

(a) Job clubs, which shall consist of both of the following:

(1) job search workshops, which shall be group training sessions where participants learn various job finding skills, including training in basic job seeking skills, job development skills, job interviewing skills, understanding employer requirements and expectations, and how to enhance self-esteem, self-image, and confidence; and

(2) supervised job search, which shall include, but not be limited to, access to phone banks in a clean and well-lighted place, job orders, direct referrals to employers, or other organized methods of seeking work which are overseen, reviewed, and critiqued by a trained employment professional. The amount and type of activity required during this supervised job search period shall be determined by the employment and training service provider and the participant, based on the participant's employment history and need for support services as defined in section 256.736, subdivision 1a, paragraph (i), and shall be consistent with regulations developed by the employment and service training provider.

(b) Unsupervised job search, where the individual shall seek work in the individual's own way, and make periodic progress reports no less frequently than every two weeks to the employment and training service provider.

(c) Job placement, which shall include, but not be limited to, referrals to jobs listed by employers.

(d) Job development, which shall be active assistance in seeking employment provided to a participant by a training employment professional on a one-to-one basis.

(e) Employment counseling, which shall be counseling aimed at helping a person reach an informed decision on an appropriate employment goal.

Subd. 5. [ACTIVITIES FOLLOWING INTENSE JOB SEARCH ACTIVITIES.] (a) On completion of initial job search activities, or determination that those services are not required, the participant shall continue in additional job search activities or be assigned to one or more of the following activities as needed to attain the participant's employment goal:

(1) job training, which shall include, but is not limited to, training employer-specific jobs skills in a classroom or on-site setting, including training provided by local private industry council programs;

(2)(i) community work experience, which shall include work for a public or nonprofit agency that helps to provide basic job skills; enhance existing job skills in a position related to a participant's experience, training, or education; or provide a needed community service. Community work experience must be operated in accordance with section 256.737; and

(ii) the continuation of the participant seeking employment during the community work experience assignment. The participant may request job search services;

(3) adult basic education, which shall include reading, writing, arithmetic, high school

proficiency or general education development certificate instruction, and English-as-a-second-language (ESL), including vocational ESL, to the extent necessary to attain the participant's employment goal. Vocational ESL shall be intensive instruction in English for non-English-speaking participants, coordinated with specific job training; or

(4) college and community college education, when that education provides employment skills training that can reasonably be expected to lead to employment and be limited to two years.

(b) The assignment to one or more of the program activities as required in paragraph (a), shall be based on the EDP developed after an assessment. The EDP shall be based, at a minimum, on consideration of the individual's existing education level, employment experience and goals, available program resources, and local labor market opportunities. The assessment and EDP must comply with section 256.736, subdivision 10, clauses (14) and (15).

(c) A participant who lacks basic literacy or mathematics skills, a high school diploma or general education development certificate, or English language skills, may be assigned to participate in adult basic education, as appropriate and necessary for achievement of the individual's employment goal.

(d) Except as provided in paragraph (a), a participant shall not be assigned to a program component for a time that exceeds one year, or with respect to classroom education or training, one academic year. The one-year period may be extended, one time only, for a period not to exceed six months if it is reasonable to expect that the component will be completed within the extended period and the individual has been unable to complete the component due to any of the following circumstances:

(1) the individual's basic skills needs required more class time than was estimated at the commencement of the component;

(2) the school or college did not offer required classes in a sequence that permitted completion of the component program within the prescribed time period; or

(3) the individual had a personal or family crisis that resulted in the inability to complete the component without the additional six-month period of attendance.

(e) Participation in activities assigned pursuant to this section may be sequential or concurrent. The provider may require concurrent participation in the assigned activities if it is appropriate to the participant's abilities, consistent with the participant's EDP, and the activities can be concurrently scheduled. However, to the extent possible, activities should be full time. The combined hours of participation in assigned concurrent activities shall not exceed 32 hours per week for an individual who has primary responsibility for personally providing care to a child under six years of age or 40 hours per week for any other individual. The maximum number of hours any participant may be required to participate in activities under this subdivision is a number equal to the amount of AFDC payable to the recipient divided by the greater of the federal minimum wage or the applicable state minimum wages.

Subd. 6. [IMMEDIATE JOB SEARCH.] A recipient is required to begin job search activities within 30 days after the face-to-face interview for at least 30 hours per week for up to four weeks, unless exempt under subdivision 7, subject to the provisions of subdivision 8, or deferred under subdivision 9. For purposes of the program, the limit on job search child care under section 256H.11, subdivision 1, does not apply. For a recipient who is working at least 20 hours per week, job search must consist of 12 hours per week for up to eight weeks. The recipient is required to carry out the other activities under the EDP developed under subdivision 3.

Subd. 7. [EXEMPTION CATEGORIES.] The recipient is exempted from mandatory participation in all activities except orientation, if the recipient belongs to any of the following groups:

(1) caretakers under age 20 who have not completed a high school education and are attending high school or an equivalency program under section 256.736, subdivision 3b;

(2) individuals who are age 60 or older;

(3) individuals who are suffering from a professionally certified permanent or temporary illness, injury, or incapacity which is expected to continue for more than 30 days and which prevents the person from obtaining or retaining employment;

(4) caretakers whose presence in the home is needed because of illness or incapacity of another member in the household;

(5) women who are pregnant, if it has been medically verified that the child is expected to be born within the next six months;

(6) caretakers or other caretaker relatives of a child under the age of three years who personally provide full-time care for the child. In AFDC-UP cases, only one parent or other relative may qualify for this exemption;

(7) individuals employed at least 30 hours per week;

(8) individuals for whom participation would require a round trip commuting time by available transportation of more than two hours, excluding transporting of children for child care;

(9) a child under age 16, or a child age 16 or 17 who is attending elementary or secondary school or a secondary-level vocational or technical school full time; or

(10) individuals experiencing a personal or family crisis which make them incapable of participating in the program, as determined by the county.

Subd. 8. [AFDC-UP RECIPIENTS.] All recipients under the AFDC-UP program are required to meet the requirements of the job search program under section 256.736, subdivision 14, and the community work experience program under section 256.737.

Subd. 9. [EMPLOYABILITY DEVELOPMENT PLAN.] The recipient may be deferred from the requirement to conduct at least 30 hours of job search per week for up to four consecutive weeks, if during the development of the EDP, the recipient is determined to:

(1) be within two years of completing a post-secondary training program that is likely to lead to employment provided the recipient is attending school full time. The recipient must agree to develop and carry out an EDP which includes jobs search immediately after the training is completed;

(2) be in treatment for chemical dependency, be a victim of domestic abuse, or be homeless, provided that the recipient agrees to develop an EDP, and immediately follow through with the activities in the EDP. The EDP must include specific outcomes that the recipient must achieve for the duration of the EDP and activities that are needed to address the issues identified. Under this clause, the recipient may be deferred for up to three months;

(3) lack proficiency in English which is a barrier to employment, provided such individuals are successfully participating in an ESL program. Caretakers can be deferred for ESL for no longer than 12 months. The EDP shall establish an education plan which assigns caretakers to ESL programs available in the community that provide the quickest advancement of the caretaker's language skills; or

(4) need refresher courses for purposes of obtaining professional certification or licensure, provided the plans are approved in the EDP.

Subd. 10. [DUTY TO REPORT.] The participant must immediately inform the provider of any changes related to the participant's employment status.

Sec. 4. [256.7384] [COMMUNITY WORK EXPERIENCE PROGRAM FOR SINGLE-PARENT FAMILIES.]

To the extent that funds are available or appropriated, recipients who are participating in the program and are not working in unsubsidized employment within 24 months are required to participate in a community work experience program in accordance with section 256.737.

Sec. 5. [256.7385] [MOVE TO A DIFFERENT COUNTY.]

If the recipient who is required to participate in the program moves to a different county, the benefits and enabling services agreed upon in the EDP must be provided by the pilot county where the recipient originated. If the recipient is moving to a different county and has failed to comply with the requirements of the program, the recipient is not eligible for AFDC for at least six months from the date of the move.

Sec. 6. [256.7386] [SANCTIONS AND APPEAL PROCESS.]

The same sanctions and appeals imposed and available to recipients of AFDC under this chapter shall be imposed and available to participants in the MNJOBS program.

Sec. 7. [256.7387] [PROGRAM FUNDING.]

(a) [FUNDING.] After ensuring that all persons required to participate in the county's food stamp employment and training program will be served under that program, any remaining unexpended state funds from the county's food stamp employment and training program allocation for that fiscal year may be combined with the county's Project STRIDE allocation for that same fiscal year and are available to administer the program.

(b) [TRANSFER OF ACCESS CHILD CARE FUNDS.] Any unencumbered ACCESS funds of a county participating in the program shall be transferred to the county's base sliding fee fund to be used to provide child care to AFDC recipients beyond the one-year transition period.

Sec. 8. [INCOME DISREGARDS.]

A participating county may utilize the county's own funds in order to provide higher income disregards to recipients participating in the program.

Sec. 9. [WAIVER AUTHORITY.]

The commissioner of human services is authorized to seek all necessary waivers to implement sections 1 to 8. The waiver requests must be submitted by the commissioner as part of the federal waiver package authorized by Laws 1995, chapter 178, article 2, section 46.

Sec. 10. [EFFECTIVE DATE.]

Section 9 is effective July 1, 1996. For purposes of sections 1 to 8, the commissioner may allow the implementation of the MNJOBS program in counties that have been approved by the commissioner as early as April 1, 1997, but no later than July 1, 1997.

ARTICLE 2

MFIP AND INCOME ASSISTANCE CHANGES BASED ON FEDERAL REFORM

Section 1. [MFIP; LEGISLATIVE POLICY.]

Subdivision 1. [LEGISLATIVE FINDINGS.] The legislature recognizes that:

(1) changes in federal law and federal funding may necessitate changes to Minnesota's public assistance programs;

(2) Minnesota is in the process of testing and evaluating the Minnesota family investment plan, a program that will change public assistance programs in Minnesota; and

(3) the Minnesota family investment plan embodies the principles that should guide Minnesota in implementing changes necessitated by federal law and federal funding.

Subd. 2. [WELFARE REFORM PROPOSAL.] (a) The commissioner shall present the 1997 legislature with a proposal to modify the Minnesota family investment plan for statewide implementation. The proposed program must be designed around the following goals:

(1) to support work;

(2) to foster personal responsibility;

(3) to support the family;

(4) to simplify the welfare system;

(5) to prevent dependency; and

(6) to enable families to achieve sustained self-sufficiency.

(b) The proposed program shall provide assistance to all families with minor children and individuals who meet program eligibility rules and comply with program requirements and may set limits on the number of years or months of assistance.

(c) In designing the proposal, the commissioner shall consider:

(1) evaluation results from the Minnesota family investment plan; and

(2) program and fiscal analysis of the impact of federal laws, including proposals to simplify or block grant the food stamp program.

(d) The commissioner shall consider the following additional policy options in developing the proposal:

(1) consolidate all income assistance programs into a single program;

(2) integrate the food stamp program more closely with income assistance program;

(3) provide disregards of earned income that are not time limited;

(4) contingent on inclusion of clause (3), provide an initial period of assistance, not to exceed six months, after which the grant standard for all assistance units would be reduced. After this initial period:

(i) assistance units in which all adults are incapacitated, as defined by the commissioner, would receive a supplement that raises the unit's grant standard back to the standard of the initial period;

(ii) assistance units not included in item (i) could earn back a portion of the grant reduction by participating in employment and training services; and

(iii) for assistance units not included in item (i), earnings equal to the grant reduction would be entirely disregarded in determining benefits;

(5) pay child support directly to custodial parents receiving income assistance and budget all or part of the child support amount against the income assistance benefit;

(6) address the question of providing assistance to Minnesota residents who are legal noncitizens;

(7) divert applicants from using public assistance through early intervention focused on meeting immediate needs; and

(8) implement an outcome-based quality assurance program that measures the effectiveness of transitional support services by defining target groups, program goals, outcome indicators, data collection methods, and performance targets.

Sec. 2. [INCOME ASSISTANCE PROGRAMS; FEDERAL POLICY INITIATIVE.]

If the 104th Congress makes significant policy or funding changes that affect income assistance, the commissioner of human services shall develop a proposal that includes recommendations for the legislature which address these changes.

Further, the commissioners of human services, health, economic security, and children, families, and learning, shall, upon request of a county, work with and jointly develop a proposal

that permits the county to merge funding and services in order to meet the individual needs of eligible clients. The proposal and draft legislation are due to the chairs of the senate family services committee and health and human services finance division, and the house of representatives human services committee and health and human services finance division by December 1, 1996.

ARTICLE 3

ASSISTANCE PROGRAM CHANGES

Section 1. Minnesota Statutes 1994, section 53A.09, is amended to read:

53A.09 [POWERS; LIMITATIONS; PROHIBITIONS.]

Subdivision 1. [DEPOSITS; ESCROW ACCOUNTS.] A currency exchange may not accept money or currency for deposit, or act as bailee or agent for persons, firms, partnerships, associations, or corporations to hold money or currency in escrow for others for any purpose. However, a currency exchange may act as agent for the issuer of money orders or travelers' checks.

Subd. 2. [GAMBLING ESTABLISHMENTS.] A currency exchange located on the premises of a gambling establishment as defined in section 256.9831, subdivision 1, may not cash a warrant that bears a restrictive endorsement under section 256.9831, subdivision 3.

Sec. 2. Minnesota Statutes 1994, section 256.031, is amended by adding a subdivision to read:

Subd. 1a. [USE OF FEDERAL AUTHORITY.] Federal authority as cited in sections 256.031 to 256.0361 and section 256.047 is reference to the United States Code, title 42, section 601, United States Code, title 42, section 602, section 402 of the Social Security Act, and Code of Federal Regulations, title 45, as constructed on the day prior to their federal repeal.

Sec. 3. Minnesota Statutes 1994, section 256.033, is amended by adding a subdivision to read:

Subd. 6. [RECOVERY OF ATM ERRORS.] For recipients receiving benefits via electronic benefit transfer, if the recipient is overpaid as a result of an automated teller machine (ATM) dispensing funds in error to the recipient, the agency may recover the ATM error by immediately withdrawing funds from the recipient's electronic benefit transfer account, up to the amount of the error.

Sec. 4. Minnesota Statutes 1994, section 256.034, is amended by adding a subdivision to read:

Subd. 6. [PAYMENT METHODS.] Minnesota family investment plan grant payments may be issued in the form of warrants immediately redeemable in cash, electronic benefits transfer, or by direct deposit into the recipient's account in a financial institution.

Sec. 5. Minnesota Statutes 1994, section 256.035, subdivision 1, is amended to read:

Subdivision 1. [EXPECTATIONS.] All families eligible for assistance under the family investment plan who are assigned to a test group in the evaluation as provided in section 256.031, subdivision 3, paragraph (d), are expected to be in transitional status as defined in section 256.032, subdivision 12. To be considered in transitional status, families must meet the following expectations:

(a) For a family headed by a single adult parental caregiver, the expectation is that the parental caregiver will independently pursue self-sufficiency until the family has received assistance for 24 months within the preceding 36 months. Beginning with the 25th month of assistance, the parent must be developing or complying with the terms of the family support agreement.

(b) For a family with a minor parental caregiver or a family whose parental caregiver is 18 or 19 years of age and does not have a high school diploma or its equivalent, the expectation is that, concurrent with the receipt of assistance, the parental caregiver must be developing or complying with a family support agreement. The terms of the family support agreement must include compliance with section 256.736, subdivision 3b. However, if the assistance unit does not comply with section 256.736, subdivision 3b, the sanctions in subdivision 3 apply.

(c) For a family with two adult parental caregivers, the expectation is that at least one parent will independently pursue self-sufficiency until the family has received assistance for six months within the preceding 12 months. Beginning with the seventh month of assistance, one parent must be developing or complying with the terms of the family support agreement. To the extent of available resources and provided the other caregiver is proficient in English, the commissioner may require that both caregivers in a family with two adult parental caregivers, in which the youngest child has attained the age of six and is not in kindergarten, must be developing or complying with the terms of a family support agreement by the seventh month on assistance. A caregiver shall be determined proficient in English if the county agency, or its employment and training service provider, determines that the person has sufficient English language capabilities to become suitably employed.

If the other caretaker is enrolled in an education or training program that can reasonably be expected to lead to employment, as of the effective date of this section, and is limited to one year, the other caretaker is exempt from job search and work experience.

Sec. 6. Minnesota Statutes 1994, section 256.035, subdivision 6a, is amended to read:

Subd. 6a. [CASE MANAGEMENT SERVICES.] (a) The county agency will provide case management services to caregivers required to develop and comply with a family support agreement as provided in subdivision 1. For minor parents, the responsibility of the case manager shall be as defined in section 256.736, subdivision 3b. Sanctions for failing to develop or comply with the terms of a family support agreement shall be imposed according to subdivision 3. When a minor parent reaches age 17, or earlier if determined necessary by the social service agency, the minor parent shall be referred for case management services.

(b) Case managers shall provide the following services:

(1) the case manager shall provide or arrange for an assessment of the family and caregiver's needs, interests, and abilities according to section 256.736, subdivision 11, paragraph (a), clause (1);

(2) the case manager shall coordinate services according to section 256.736, subdivision 11, paragraph (a), clause (3);

(3) the case manager shall develop an employability plan according to subdivision 6b;

(4) the case manager shall develop a family support agreement according to subdivision 6c; and

(5) the case manager shall monitor the caregiver's compliance with the employability plan and the family support agreement as required by the commissioner.

(c) Case management counseling and personal assistance services may continue for up to six months following the caregiver's achievement of employment goals. Funds for specific employment and training services may be expended for up to 90 days after the caregiver loses eligibility for financial assistance.

Sec. 7. Minnesota Statutes 1995 Supplement, section 256.0475, is amended by adding a subdivision to read:

Subd. 2a. [INTENSIVE ESL.] "Intensive ESL" means an English as a second language program that offers at least 20 hours of class per week.

Sec. 8. Minnesota Statutes 1995 Supplement, section 256.048, subdivision 1, is amended to read:

Subdivision 1. [EXPECTATIONS.] The requirement for a caregiver to develop a family support agreement is tied to the structure of the family and the length of time on assistance according to paragraphs (a) to (c).

(a) In a family headed by a single adult parental caregiver who has received AFDC, family general assistance, MFIP, or a combination of AFDC, family general assistance, and MFIP

assistance for 12 or more months within the preceding 24 months, the parental caregiver must be developing and complying with the terms of the family support agreement commencing with the 13th month of assistance.

(b) For a family with a minor parental caregiver or a family whose parental caregiver is 18 or 19 years of age and does not have a high school diploma or its equivalent, the parental caregiver must be developing and complying with a family support agreement concurrent with the receipt of assistance. The terms of the family support agreement must include compliance with section 256.736, subdivision 3b. If the parental caregiver fails to comply with the terms of the family support agreement, the sanctions in subdivision 4 apply. When the requirements in section 256.736, subdivision 3b, have been met, a caregiver has fulfilled the caregiver's obligation. County agencies must continue to offer MFIP-R services if the caregiver wants to continue with an employability plan. Caregivers who fulfill the requirements of section 256.736, subdivision 3b, are subject to the expectations of paragraphs (a) and (c).

(c) In a family with two adult parental caregivers, at least one of whom has received AFDC, family general assistance, MFIP, or a combination of AFDC, family general assistance, and MFIP assistance for six or more months within the preceding 12 months, one parental caregiver must be developing and complying with the terms of the family support agreement commencing with the seventh month of assistance. The family and MFIP-R staff will designate the parental caregiver who will develop the family support agreement based on which parent has the greater potential to increase family income through immediate employment. To the extent of available resources and provided the other caregiver is proficient in English, the commissioner may require that both caregivers in a family with two adult parental caregivers, in which the youngest child has attained the age of six and is not in kindergarten, must be developing or complying with the terms of a family support agreement by the seventh month on assistance. A caregiver shall be determined proficient in English if the county agency, or its employment and training service provider, determines that the person has sufficient English language capabilities to become suitably employed.

If the other caretaker is enrolled in an education or training program that can reasonably be expected to lead to employment, as of the effective date of this section, and is limited to one year, the other caretaker is exempt from job search and work experience.

Sec. 9. Minnesota Statutes 1995 Supplement, section 256.048, subdivision 4, is amended to read:

Subd. 4. [SANCTION.] The county agency must reduce an assistance unit's assistance payment by ten percent of the transitional standard for the applicable family size when a caregiver, who is not exempt from the expectations in this section, fails to attend a mandatory briefing, fails to attend scheduled meetings with MFIP-R staff, terminates employment without good cause, or fails to develop or comply with the terms of the caregiver's family support agreement. MFIP-R staff must send caregivers a notice of intent to sanction. For the purpose of this section, "notice of intent to sanction" means MFIP-R staff must provide written notification to the caregiver that the caregiver is not fulfilling the requirement to develop or comply with the family support agreement. This notification must inform the caregiver of the right to request a conciliation conference within ten days of the mailing of the notice of intent to sanction or the right to request a fair hearing under section 256.045. If a caregiver requests a conciliation conference, the county agency must postpone implementation of the sanction pending completion of the conciliation conference. If the caregiver does not request a conciliation conference within ten calendar days of the mailing of the notice of intent to sanction, the MFIP-R staff must notify the county agency that the assistance payment should be reduced.

Upon notification from MFIP-R staff that an assistance payment should be reduced, the county agency must send a notice of adverse action to the caregiver stating that the assistance payment will be reduced in the next month following the ten-day notice requirement and state the reason for the action. For the purpose of this section, "notice of adverse action" means the county agency must send a notice of sanction, reduction, suspension, denial, or termination of benefits before taking any of those actions. The caregiver may request a fair hearing under section 256.045, upon notice of intent to sanction or notice of adverse action, but the conciliation conference is available only upon notice of intent to sanction.

Sec. 10. Minnesota Statutes 1995 Supplement, section 256.048, subdivision 6, is amended to read:

Subd. 6. [PRE-EMPLOYMENT AND EMPLOYMENT SERVICES.] The county agency must provide services identified in clauses (1) to (10). Services include:

(1) a required briefing for all nonmandatory caregivers assigned to MFIP-R, which includes a review of the information presented at an earlier MFIP-R orientation pursuant to subdivision 5, and an overview of services available under MFIP-R pre-employment and employment services, an overview of job search techniques, and the opportunity to volunteer for MFIP-R job search activities and basic education services;

(2) a briefing for all mandatory caregivers assigned to MFIP-R, which includes a review of the information presented at an earlier MFIP-R orientation pursuant to subdivision 5, and an overview of services available under MFIP-R pre-employment and employment services;

(3) an MFIP assessment that meets the requirements of section 256.736, subdivision 10, paragraph (a), clause (14), and addresses caregivers' skills, abilities, interests, and needs;

(4) development, together with the caregiver, of an employability plan and family support agreement according to subdivision 7;

(5) coordination of services including child care, transportation, education assistance, and social services necessary to enable caregivers to fulfill the terms of the employability plan and family support agreement;

(6) provision of ~~full-time English as a second language (~~intensive ESL~~)~~ classes;

(7) provision of a broad range of employment and pre-employment services including basic skills testing, interest and aptitude testing, career exploration, job search activities, community work experience program under section 256.737, or on-the-job training under section 256.738;

(8) evaluation of the caregiver's compliance with the employability plan and family support agreement and support and recognition of progress toward employment goals;

(9) provision of postemployment follow-up for up to six months after caregivers become exempt or exit MFIP-R due to employment if requested by the caregiver; and

(10) approval of education and training program activities.

Sec. 11. Minnesota Statutes 1995 Supplement, section 256.048, subdivision 13, is amended to read:

Subd. 13. [EDUCATION AND TRAINING ACTIVITIES; BASIC EDUCATION.] Basic education, including adult basic education, high school or general equivalency diploma~~, or ESL~~ may be included in the family support agreement when a caregiver is actively participating in job search activities as specified in the family support agreement, or employed at least 12 hours per week. The concurrent work requirement for basic education does not apply to caregivers under subdivision 1, paragraph (b), who are attending secondary school full time. Six months of basic education activities may be included in the family support agreement, and extension of basic education activities, including intensive ESL, is contingent upon review and approval by MFIP-R staff.

Non-English-speaking caregivers have the option to participate in ~~full-time~~ intensive ESL activities for up to six months ~~prior to participation in job search~~ with approval of MFIP-R staff, provided the caregiver also works or participates in job search. For caregivers participating in intensive ESL, hours spent in intensive ESL, employment, and job search must equal at least 30 hours per week, or 20 hours per week for a single parent caregiver with a child under age six.

Sec. 12. Minnesota Statutes 1994, section 256.73, subdivision 1, is amended to read:

Subdivision 1. [DEPENDENT CHILDREN.] Assistance shall be given under sections 256.72 to 256.87 to or on behalf of any dependent child who:

(1) ~~Resides~~ Has resided in Minnesota for at least 30 days or, if residing in the state for less than 30 days, the child or the child's caretaker relative meets one of the criteria specified in subdivision 1b;

(2) Is otherwise eligible; the child shall not be denied aid because of conditions of the home in which the child resides.

Sec. 13. Minnesota Statutes 1994, section 256.73, is amended by adding a subdivision to read:

Subd. 1a. [USE OF CODE OF FEDERAL REGULATIONS.] In the event that federal block grant legislation eliminates the federal regulatory basis for AFDC, the state shall continue to determine eligibility for Minnesota's AFDC program using the provisions of the Code of Federal Regulations, title 45, as constructed on the day prior to their federal repeal, except as expressly superseded in sections 256.72 to 256.87, or as superseded by federal law, or as modified by state rule or by regulatory waivers granted to the state.

Sec. 14. Minnesota Statutes 1994, section 256.73, is amended by adding a subdivision to read:

Subd. 1b. [RESIDENCY CRITERIA.] A child or caretaker relative who has resided in Minnesota for less than 30 days is considered to be a Minnesota resident if:

(1) either the child or the caretaker relative was born in the state;

(2) either the child or the caretaker relative has, in the past, resided in this state for at least 365 consecutive days;

(3) either the child or the caretaker relative came to this state to join a close relative who has resided in this state for at least one year. For purposes of this clause, "close relative" means a parent, grandparent, brother, sister, spouse, or child; or

(4) the caretaker relative came to this state to accept a bona fide offer of employment and was eligible to accept the employment.

A county agency may waive the 30-day residency requirement in cases of emergency or where unusual hardship would result from denial of assistance. The county agency must report to the commissioner within 30 days on any waiver granted under this section.

Sec. 15. Minnesota Statutes 1995 Supplement, section 256.73, subdivision 8, is amended to read:

Subd. 8. [RECOVERY OF OVERPAYMENTS AND ATM ERRORS.] (a) Except as provided in subdivision 8a, if an amount of aid to families with dependent children assistance is paid to a recipient in excess of the payment due, it shall be recoverable by the county agency. The agency shall give written notice to the recipient of its intention to recover the overpayment.

(b) When an overpayment occurs, the county agency shall recover the overpayment from a current recipient by reducing the amount of aid payable to the assistance unit of which the recipient is a member for one or more monthly assistance payments until the overpayment is repaid. All county agencies in the state shall reduce the assistance payment by three percent of the assistance unit's standard of need or the amount of the monthly payment, whichever is less, for all overpayments whether or not the overpayment is due solely to agency error. For recipients receiving benefits via electronic benefit transfer, if the overpayment is a result of an automated teller machine (ATM) dispensing funds in error to the recipient, the agency may recover the ATM error by immediately withdrawing funds from the recipient's electronic benefit transfer account, up to the amount of the error. If the overpayment is due solely to having wrongfully obtained assistance, whether based on a court order, the finding of an administrative fraud disqualification hearing or a waiver of such a hearing, or a confession of judgment containing an admission of an intentional program violation, the amount of this reduction shall be ten percent. In cases when there is both an overpayment and underpayment, the county agency shall offset one against the other in correcting the payment.

(c) Overpayments may also be voluntarily repaid, in part or in full, by the individual, in addition to the above aid reductions, until the total amount of the overpayment is repaid.

(d) The county agency shall make reasonable efforts to recover overpayments to persons no longer on assistance in accordance with standards adopted in rule by the commissioner of human services. The county agency need not attempt to recover overpayments of less than $35 paid to an individual no longer on assistance if the individual does not receive assistance again within three years, unless the individual has been convicted of fraud under section 256.98.

Sec. 16. Minnesota Statutes 1994, section 256.736, subdivision 1a, is amended to read:

Subd. 1a. [DEFINITIONS.] As used in this section and section 256.7365, the following words have the meanings given them:

(a) "AFDC" means aid to families with dependent children.

(b) "AFDC-UP" means that group of AFDC clients who are eligible for assistance by reason of unemployment as defined by the commissioner under section 256.12, subdivision 14.

(c) "Caretaker" means a parent or eligible adult, including a pregnant woman, who is part of the assistance unit that has applied for or is receiving AFDC.

(d) "Case manager" means the county agency's employment and training service provider who provides the services identified in sections 256.736 to 256.739 according to subdivision 12.

(e) "Employment and training services" means programs, activities, and services related to job training, job placement, and job creation, including job service programs, job training partnership act programs, wage subsidies, remedial and secondary education programs, post-secondary education programs excluding education leading to a post-baccalaureate degree, and vocational education programs, ~~work readiness programs,~~ job search, counseling, case management, community work experience programs, displaced homemaker programs, self-employment programs, grant diversion, employment experience programs, youth employment programs, community investment programs, refugee employment and training programs, and counseling and support activities necessary to stabilize the caretaker or the family.

~~(e)~~ (f) "Employment and training service provider" means a public, private, or nonprofit agency certified by the commissioner of economic security to deliver employment and training services under section 268.0122, subdivision 3, and section 268.871, subdivision 1.

~~(f)~~ (g) "Minor parent" means a ~~caretaker relative who is the~~ person who is under age 18 who is either the birth parent of ~~the dependent~~ a minor child or children in the assistance unit and who is under the age of 18 or is eligible for AFDC as a pregnant woman.

~~(g)~~ (h) "Targeted groups" or "targeted caretakers" means recipients of AFDC or AFDC-UP designated as priorities for employment and training services under subdivision 16.

~~(h)~~ (i) "Suitable employment" means employment which:

(1) is within the recipient's physical and mental capacity;

(2) meets health and safety standards established by the Occupational Safety and Health Administration and the department of economic security;

(3) pays hourly gross earnings which are not less than the federal or state minimum wage for that type of employment, whichever is applicable;

(4) does not result in a net loss of income. Employment results in a net loss of income when the income remaining after subtracting necessary work-related expenses from the family's gross income, which includes cash assistance, is less than the cash assistance the family was receiving at the time the offer of employment was made. For purposes of this definition, "work expenses" means the amount withheld or paid for; state and federal income taxes; social security withholding taxes; mandatory retirement fund deductions; dependent care costs; transportation costs to and from work at the amount allowed by the Internal Revenue Service for personal car mileage; costs of work uniforms, union dues, and medical insurance premiums; costs of tools and equipment used on the job; $1 per work day for the costs of meals eaten during employment; public liability

insurance required by an employer when an automobile is used in employment and the cost is not reimbursed by the employer; and the amount paid by an employee from personal funds for business costs which are not reimbursed by the employer;

(5) offers a job vacancy which is not the result of a strike, lockout, or other bona fide labor dispute;

(6) requires a round trip commuting time from the recipient's residence of less than two hours by available transportation, exclusive of the time to transport children to and from child care;

(7) does not require the recipient to leave children under age 12 unattended in order to work, or if child care is required, such care is available; and

(8) does not discriminate at the job site on the basis of age, sex, race, color, creed, marital status, status with regard to public assistance, disability, religion, or place of national origin.

~~(i)~~ (j) "Support services" means programs, activities, and services intended to stabilize families and individuals or provide assistance for family needs related to employment or participation in employment and training services, including child care, transportation, housing assistance, personal and family counseling, crisis intervention services, peer support groups, chemical dependency counseling and treatment, money management assistance, and parenting skill courses.

Sec. 17. Minnesota Statutes 1994, section 256.736, subdivision 3b, is amended to read:

Subd. 3b. [MANDATORY ASSESSMENT AND SCHOOL ATTENDANCE FOR CERTAIN CUSTODIAL PARENTS.] This subdivision applies to the extent permitted under federal law and regulation.

(a) [DEFINITIONS.] The definitions in this paragraph apply to this subdivision.

(1) "Custodial parent" means a recipient of AFDC who is the natural or adoptive parent of a child living with the custodial parent.

(2) "School" means:

(i) an educational program which leads to a high school diploma. The program or coursework may be, but is not limited to, a program under the post-secondary enrollment options of section 123.3514, a regular or alternative program of an elementary or secondary school, a technical college, or a college;

(ii) coursework for a general educational development (GED) diploma of not less than six hours of classroom instruction per week; or

(iii) any other post-secondary educational program that is approved by the public school or the county agency ~~under subdivision 11~~.

(b) [ASSESSMENT AND PLAN; REQUIREMENT; CONTENT.] The county agency must examine the educational level of each custodial parent under the age of 20 to determine if the recipient has completed a high school education or its equivalent. If the custodial parent has not completed a high school education or its equivalent and is not exempt from the requirement to attend school under paragraph (c), the county agency must complete an individual assessment for the custodial parent. The assessment must be performed as soon as possible but within 60 days of determining AFDC eligibility for the custodial parent. The assessment must provide an initial examination of the custodial parent's educational progress and needs, literacy level, child care and supportive service needs, family circumstances, skills, and work experience. In the case of a custodial parent under the age of 18, the assessment must also consider the results of the early and periodic screening, diagnosis and treatment (EPSDT) screening, if available, and the effect of a child's development and educational needs on the parent's ability to participate in the program. The county agency must advise the parent that the parent's first goal must be to complete an appropriate educational option if one is identified for the parent through the assessment and, in consultation with educational agencies, must review the various school completion options with the parent and assist the parent in selecting the most appropriate option.

(c) [RESPONSIBILITY FOR ASSESSMENT AND PLAN.] For custodial parents who are under age 18, the assessment and the employability plan must be completed by the county social services agency, as specified in section 257.33. For custodial parents who are age 18 or 19, the assessment and employability plan must be completed by the case manager. The social services agency or the case manager shall consult with representatives of educational agencies required to assist in developing educational plans under section 126.235.

(d) [EDUCATION DETERMINED TO BE APPROPRIATE.] If the case manager or county social services agency identifies an appropriate educational option, it must develop an employability plan in consultation with the custodial parent which reflects the assessment. The plan must specify that participation in an educational activity is required, what school or educational program is most appropriate, the services that will be provided, the activities the parent will take part in including child care and supportive services, the consequences to the custodial parent for failing to participate or comply with the specified requirements, and the right to appeal any adverse action. The employability plan must, to the extent possible, reflect the preferences of the participant.

(e) [EDUCATION DETERMINED TO BE NOT APPROPRIATE.] If the case manager determines that there is no appropriate educational option for a custodial parent who is age 18 or 19, the case manager shall indicate the reasons for the determination. The case manager shall then notify the county agency which must refer the custodial parent to ~~case management services under subdivision 11~~ the Project STRIDE program for completion of an employability plan and mandatory participation in employment and training services. If the custodial parent fails to participate or cooperate with ~~case management~~ employment and training services and does not have good cause for the failure, the county agency shall apply the sanctions listed in subdivision 4, beginning with the first payment month after issuance of notice. If the county social services agency determines that school attendance is not appropriate for a custodial parent under age 18, the county agency shall refer the custodial parent to social services for services as provided in section 257.33.

(f) [SCHOOL ATTENDANCE REQUIRED.] Notwithstanding subdivision 3, a custodial parent must attend school if all of the following apply:

(1) the custodial parent is less than 20 years of age;

(2) transportation services needed to enable the custodial parent to attend school are available;

(3) licensed or legal nonlicensed child care services needed to enable the custodial parent to attend school are available;

(4) the custodial parent has not already received a high school diploma or its equivalent; and

(5) the custodial parent is not exempt because the custodial parent:

(i) is ill or incapacitated seriously enough to prevent attendance at school;

(ii) is needed in the home because of the illness or incapacity of another member of the household; this includes a custodial parent of a child who is younger than six weeks of age;

(iii) works 30 or more hours a week; or

(iv) is pregnant if it has been medically verified that the child's birth is expected within the next six months.

(g) [ENROLLMENT AND ATTENDANCE.] The custodial parent must be enrolled in school and meeting the school's attendance requirements. If enrolled, the custodial parent is considered to be attending when the school is not in regular session, including during holiday and summer breaks.

(h) [GOOD CAUSE FOR NOT ATTENDING SCHOOL.] The county agency shall not impose the sanctions in subdivision 4 if it determines that a custodial parent has good cause for not being enrolled or for not meeting the school's attendance requirements. The county agency shall

determine whether good cause for not attending or not enrolling in school exists, according to this paragraph:

(1) Good cause exists when the county agency has verified that the only available school program requires round trip commuting time from the custodial parent's residence of more than two hours by available means of transportation, excluding the time necessary to transport children to and from child care.

(2) Good cause exists when the custodial parent has indicated a desire to attend school, but the public school system is not providing for the education and alternative programs are not available.

(i) [FAILURE TO COMPLY.] The case manager and social services agency shall establish ongoing contact with appropriate school staff to monitor problems that custodial parents may have in pursuing their educational plan and shall jointly seek solutions to prevent parents from failing to complete education. If the school notifies the county agency that the custodial parent is not enrolled or is not meeting the school's attendance requirements, or appears to be facing barriers to completing education, the information must be conveyed to the case manager for a custodial parent age 18 or 19, or to the social services agency for a custodial parent under age 18. The case manager or social services agency shall reassess the appropriateness of school attendance as specified in paragraph (f). If after consultation, school attendance is still appropriate and the case manager or social services agency determines that the custodial parent has failed to enroll or is not meeting the school's attendance requirements and the custodial parent does not have good cause, the case manager or social services agency shall inform the custodial parent's financial worker who shall apply the sanctions listed in subdivision 4 beginning with the first payment month after issuance of notice.

(j) [NOTICE AND HEARING.] A right to notice and fair hearing shall be provided in accordance with section 256.045 and the Code of Federal Regulations, title 45, section 205.10.

(k) [SOCIAL SERVICES.] When a custodial parent under the age of 18 has failed to attend school, is not exempt, and does not have good cause, the county agency shall refer the custodial parent to the social services agency for services, as provided in section 257.33.

(l) [VERIFICATION.] No less often than quarterly, the financial worker must verify that the custodial parent is meeting the requirements of this subdivision. Notwithstanding section 13.32, subdivision 3, when the county agency notifies the school that a custodial parent is subject to this subdivision, the school must furnish verification of school enrollment, attendance, and progress to the county agency. The county agency must not impose the sanctions in paragraph (i) if the school fails to cooperate in providing verification of the minor parent's education, attendance, or progress.

Sec. 18. Minnesota Statutes 1994, section 256.736, subdivision 4, is amended to read:

Subd. 4. [CONDITIONS OF CERTIFICATION.] The commissioner of human services shall:

(1) in consultation with the commissioner of children, families, and learning, arrange for or provide any caretaker or child ~~required to participate~~ who participates in employment and training services pursuant to this section with child-care services, transportation, and other necessary family services;

(2) provide that in determining a recipient's needs the additional expenses attributable to participation in a program are taken into account in grant determination to the extent permitted by federal regulation;

(3) provide that the county board shall impose the sanctions in clause (4) when the county board:

(a) determines that a custodial parent under the age of 16 who is required to attend school under subdivision 3b has, without good cause, failed to attend school; or

(b) determines that subdivision 3c applies to a minor parent and the minor parent has, without good cause, failed to cooperate with development of a social service plan or to participate in

execution of the plan, to live in a group or foster home, or to participate in a program that teaches skills in parenting and independent living;

(4) to the extent permissible by federal law, impose the following sanctions for a recipient's failure to participate in the requirements of subdivision 3b or 3c:

(a) for the first failure, 50 percent of the grant provided to the family for the month following the failure shall be made in the form of protective or vendor payments;

(b) for the second and subsequent failures, the entire grant provided to the family must be made in the form of protective or vendor payments. Assistance provided to the family must be in the form of protective or vendor payments until the recipient complies with the requirement; and

(c) when protective payments are required, the county agency may continue payments to the caretaker if a protective payee cannot reasonably be found;

(5) provide that the county board shall impose the sanctions in clause (6) when the county board:

(a) determines that a caretaker or child required to participate in employment and training services has been found by the employment and training service provider to have failed without good cause to participate in appropriate employment and training services, to comply with the recipient's employability development plan, or to have failed without good cause to accept, through the job search program described in subdivision 14, or the provisions of an employability development plan if the caretaker is a custodial parent age 18 or 19 and subject to the requirements of subdivision 3b, a bona fide offer of public or other employment;

(b) determines that a custodial parent aged 16 to 19 who is required to attend school under subdivision 3b has, without good cause, failed to enroll or attend school; or

(c) determines that a caretaker has, without good cause, failed to attend orientation;

(6) to the extent required by federal law, impose the following sanctions for a recipient's failure to participate in required employment and training services, to comply with the recipient's employability development plan, to accept a bona fide offer of public or other employment, to enroll or attend school under subdivision 3b, or to attend orientation:

(a) for the first failure, the needs of the noncompliant individual shall not be taken into account in making the grant determination, until the individual complies with the requirements;

(b) for the second failure, the needs of the noncompliant individual shall not be taken into account in making the grant determination until the individual complies with the requirement or for three consecutive months, whichever is longer;

(c) for subsequent failures, the needs of the noncompliant individual shall not be taken into account in making the grant determination until the individual complies with the requirement or for six consecutive months, whichever is longer;

(d) aid with respect to a dependent child who has been sanctioned under this paragraph shall be continued for the parent or parents of the child if the child is the only child receiving aid in the family, the child continues to meet the conditions of section 256.73, and the family is otherwise eligible for aid;

(e) if the noncompliant individual is a parent or other relative caretaker, payments of aid for any dependent child in the family must be made in the form of protective or vendor payments. When protective payments are required, the county agency may continue payments to the caretaker if a protective payee cannot reasonably be found. When protective payments are imposed on ~~assistance units whose basis of eligibility is unemployed parent or incapacitated parent~~ a two-parent family, cash payments may continue to the ~~nonsanctioned~~ caretaker in the assistance unit who remains eligible for AFDC, subject to paragraph (g);

(f) If, after removing a caretaker's needs from the grant, only dependent children remain

eligible for AFDC, the standard of assistance shall be computed using the special children standard;

(g) if the noncompliant individual is a ~~principal wage earner in a family whose basis of eligibility is the unemployment of a~~ parent in a two-parent family and the ~~nonprincipal wage earner~~ other parent is not participating in an approved employment and training service, the needs of both ~~the principal and nonprincipal wage earner~~ parents must not be taken into account in making the grant determination; and

(7) Request approval from the secretary of health and human services to use vendor payment sanctions for persons listed in paragraph (5), clause (b). If approval is granted, the commissioner must begin using vendor payment sanctions as soon as changes to the state plan are approved.

Sec. 19. Minnesota Statutes 1995 Supplement, section 256.736, subdivision 10, is amended to read:

Subd. 10. [COUNTY DUTIES.] (a) To the extent of available state appropriations, county boards shall:

(1) refer all mandatory and eligible volunteer caretakers permitted to participate under subdivision 3a to an employment and training service provider for participation in employment and training services;

(2) identify to the employment and training service provider the target group of which the referred caretaker is a member, if any, and whether the person's participation is mandatory or voluntary;

(3) provide ~~all~~ caretakers with an orientation which meets the requirements in subdivisions 10a and 10b;

(4) work with the employment and training service provider to encourage ~~voluntary~~ participation ~~by caretakers in the target groups~~ in employment and training services;

(5) work with the employment and training service provider to collect data as required by the commissioner;

(6) to the extent permissible under federal law, require all caretakers coming into the AFDC program to attend orientation;

(7) encourage ~~nontarget~~ caretakers to develop a plan to obtain self-sufficiency;

(8) notify the commissioner of the caretakers ~~required to~~ who participate in employment and training services;

(9) inform appropriate caretakers of opportunities available through the head start program and encourage caretakers to have their children screened for enrollment in the program where appropriate;

(10) provide transportation assistance using available funds to caretakers who participate in employment and training programs;

(11) ensure that the required services of orientation, ~~job search,~~ services to custodial parents under the age of 20 who have not completed high school or an equivalent program, job search, educational activities, and work experience for ~~AFDC-UP~~ two-parent families~~, and case management services~~ are made available to appropriate caretakers under this section, ~~except that payment for case management services is governed by subdivision 13~~ and that services are provided to volunteer caretakers to the extent resources permit;

(12) explain in its local service unit plan under section 268.88 how it will ensure that ~~target~~ caretakers determined to be in need of social services are provided with such social services. The plan must specify how the case manager and the county social service workers will ensure delivery of needed services;

(13) to the extent allowed by federal laws and regulations, provide a job search program as defined in subdivision 14, a community work experience program as defined in section 256.737, grant diversion as defined in section 256.739, and on-the-job training as defined in section 256.738. A county may also provide another work and training program approved by the commissioner and the secretary of the United States Department of Health and Human Services. Planning and approval for employment and training services listed in this clause must be obtained through submission of the local service unit plan as specified under section 268.88. A county is not required to provide a community work experience program if the county agency is successful in placing at least ~~40~~ 60 percent of the monthly average of all caretakers who are subject to the job search requirements of subdivision 14 in grant diversion or on-the-job training program;

(14) prior to participation, provide an assessment of each AFDC recipient who is required or volunteers to participate in an approved employment and training service. The assessment must include an evaluation of the participant's (i) educational, child care, and other supportive service needs; (ii) skills and prior work experience; and (iii) ability to secure and retain a job which, when wages are added to child support, will support the participant's family. The assessment must also include a review of the results of the early and periodic screening, diagnosis and treatment (EPSDT) screening and preschool screening under chapter 123, if available; the participant's family circumstances; and, in the case of a custodial parent under the age of 18, a review of the effect of a child's development and educational needs on the parent's ability to participate in the program;

(15) develop an employability development plan for each recipient for whom an assessment is required under clause (14) which:

(i) reflects the assessment required by clause (14);

(ii) takes into consideration the recipient's physical capacity, skills, experience, health and safety, family responsibilities, place of residence, proficiency, child care and other supportive service needs;

(iii) is based on available resources and local employment opportunities;

(iv) specifies the services to be provided by the employment and training service provider;

(v) specifies the activities the recipient will participate in, including the worksite to which the caretaker will be assigned, if the caretaker is subject to the requirements of section 256.737, subdivision 2;

(vi) specifies necessary supportive services such as child care;

(vii) reflects the effort to arrange mandatory activities so that the activities do not interfere with access to available English as a second language classes and to the extent possible, reflects the preferences of the participant;

(viii) includes a written agreement between the county agency and the caretaker that outlines a reasonable schedule for completing the plan, including specific completion deadlines, and confirms that

(A) there is a market for full-time employees with this education or training where the caretaker will or is willing to reside upon completion of the program;

(B) the average wage level for employees with this education or training is greater than the caretaker can earn without this education or training;

(C) the caretaker has the academic ability to successfully complete the program; and

(D) there is a reasonable expectation that the caretaker will complete the training program based on such factors as the caretaker's previous education, training, work history, current motivation, and changes in previous circumstances; and

(ix) specifies the recipient's long-term employment goal which shall lead to self-sufficiency.

Caretakers shall be counseled to set realistic attainable goals, taking into account the long-term needs of the caretaker and the caretaker's family;

(16) provide written notification to and obtain the written concurrence of the appropriate exclusive bargaining representatives with respect to job duties covered under collective bargaining agreements and assure that no work assignment under this section or sections 256.737, 256.738, and 256.739, or the Minnesota parent's fair share mandatory community work experience program results in: (i) termination, layoff, or reduction of the work hours of an employee for the purpose of hiring an individual under this section or sections 256.737, 256.738, and 256.739; (ii) the hiring of an individual if any other person is on layoff from the same or a substantially equivalent job; (iii) any infringement of the promotional opportunities of any currently employed individual; (iv) the impairment of existing contracts for services or collective bargaining agreements; or (v) except for on-the-job training under section 256.738, a participant filling an established unfilled position vacancy. If an exclusive bargaining representative and a county or public service employer disagree regarding whether job duties are covered under a collective bargaining agreement, the exclusive bargaining representative or the county or public service employer may petition the bureau of mediation services, and the bureau shall determine if the job duties are covered by a collective bargaining agreement; ~~and~~

(17) assess each caretaker in ~~an AFDC-UP~~ a two-parent family who is under age 25, has not completed high school or a high school equivalency program, and who would otherwise be required to participate in a work experience placement under section 256.737 to determine if an appropriate secondary education option is available for the caretaker. If an appropriate secondary education option is determined to be available for the caretaker, the caretaker must, in lieu of participating in work experience, enroll in and meet the educational program's participation and attendance requirements. "Secondary education" for this paragraph means high school education or education designed to prepare a person to qualify for a high school equivalency certificate, basic and remedial education, and English as a second language education. A caretaker required to participate in secondary education who, without good cause, fails to participate shall be subject to the provisions of subdivision 4a and the sanction provisions of subdivision 4, clause (6). For purposes of this clause, "good cause" means the inability to obtain licensed or legal nonlicensed child care services needed to enable the caretaker to attend, inability to obtain transportation needed to attend, illness or incapacity of the caretaker or another member of the household which requires the caretaker to be present in the home, or being employed for more than 30 hours per week; and

(18) provide counseling and other personal follow-up support as needed for up to six months after the participant loses AFDC eligibility to assist the person to maintain employment or to secure new employment.

(b) Funds available under this subdivision may not be used to assist, promote, or deter union organizing.

(c) A county board may provide other employment and training services that it considers necessary to help caretakers obtain self-sufficiency.

(d) Notwithstanding section 256G.07, when a target caretaker relocates to another county to implement the provisions of the caretaker's ~~case management contract or other~~ written employability development plan approved by the county human service agency, ~~its case manager~~ or its employment and training service provider, the county that approved the plan is responsible for the costs of ~~case management and other~~ services required to carry out the plan~~, including employment and training services~~. The county agency's responsibility for the costs ends when all plan obligations have been met, when the caretaker loses AFDC eligibility for at least 30 days, or when approval of the plan is withdrawn for a reason stated in the plan, whichever occurs first. Responsibility for the costs of child care must be determined under chapter 256H. A county human service agency may pay for the costs of ~~case management,~~ child care~~,~~ and other services required in an approved employability development plan when the nontarget caretaker relocates to another county or when a target caretaker again becomes eligible for AFDC after having been ineligible for at least 30 days.

Sec. 20. Minnesota Statutes 1995 Supplement, section 256.736, subdivision 10a, is amended to read:

Subd. 10a. [ORIENTATION.] (a) Each county agency must provide an orientation to all caretakers within its jurisdiction in the time limits described in this paragraph:

(1) within 60 days of being determined eligible for AFDC for caretakers ~~with a continued absence or incapacitated parent basis of eligibility~~ who are permitted to volunteer for services under subdivision 3a; or

(2) within 30 days of being determined eligible for AFDC for caretakers ~~with an unemployed parent basis of eligibility~~ who are required to participate in services under subdivision 3a.

(b) Caretakers are required to attend an in-person orientation if the caretaker is a member of one of the groups listed in subdivision 3a, paragraph (a), unless the caretaker is exempt from registration under subdivision 3 and the caretaker's exemption basis will not expire within 60 days of being determined eligible for AFDC, or the caretaker is enrolled at least half time in any recognized school, training program, or institution of higher learning and the in-person orientation cannot be scheduled at a time that does not interfere with the caretaker's school or training schedule. The county agency shall require attendance at orientation of caretakers described in subdivision 3a, paragraph (b) or (c), if the commissioner determines that the groups are eligible for participation in employment and training services.

(c) The orientation must consist of a presentation that informs caretakers of:

(1) the identity, location, and phone numbers of employment and training and support services available in the county;

(2) the types and locations of child care services available through the county agency that are accessible to enable a caretaker to participate in educational programs or employment and training services;

(3) the child care resource and referral program designated by the commissioner providing education and assistance to select child care services and a referral to the child care resource and referral when assistance is requested;

(4) the obligations of the county agency and service providers under contract to the county agency;

(5) the rights, responsibilities, and obligations of participants;

(6) the grounds for exemption from mandatory employment and training services or educational requirements;

(7) the consequences for failure to participate in mandatory services or requirements, including the requirement that volunteer participants comply with their employability development plan;

(8) the method of entering educational programs or employment and training services available through the county;

(9) the availability and the benefits of the early and periodic, screening, diagnosis and treatment (EPSDT) program and preschool screening under chapter 123;

(10) their eligibility for transition year child care assistance when they lose eligibility for AFDC due to their earnings;

(11) their eligibility for extended medical assistance when they lose eligibility for AFDC due to their earnings; ~~and~~

(12) the availability of the federal earned income tax credits and the state working family tax credits; and

(13) the availability and benefits of the Head Start program.

(d) All orientation programs should provide information to caretakers on parenting, nutrition, household management, food preparation, and other subjects relevant to promoting family integration and self-sufficiency and provide detailed information on community resources available for training sessions on these topics.

(e) Orientation must encourage recipients to view AFDC as a temporary program providing grants and services to individuals who set goals and develop strategies for supporting their families without AFDC assistance. The content of the orientation must not imply that a recipient's eligibility for AFDC is time limited. Orientation may be provided through audio-visual methods, but the caretaker must be given an opportunity for face-to-face interaction with staff of the county agency or the entity providing the orientation, and an opportunity to express the desire to participate in educational programs and employment and training services offered through the county agency.

(f) County agencies shall not require caretakers to attend orientation for more than three hours during any period of 12 continuous months. The county agency shall also arrange for or provide needed transportation and child care to enable caretakers to attend.

The county or, under contract, the county's employment and training service provider shall mail written orientation materials containing the information specified in paragraph (c), clauses (1) to (3) and (8) to ~~(12)~~ (13), to each caretaker exempt from attending an in-person orientation or who has good cause for failure to attend after at least two dates for their orientation have been scheduled. The county or the county's employment and training service provider shall follow up with a phone call or in writing within two weeks after mailing the material.

(g) Persons required to attend orientation must be informed of the penalties for failure to attend orientation, support services to enable the person to attend, what constitutes good cause for failure to attend, and rights to appeal. Persons required to attend orientation must be offered a choice of at least two dates for their first scheduled orientation. No person may be sanctioned for failure to attend orientation until after a second failure to attend.

(h) Good cause for failure to attend an in-person orientation exists when a caretaker cannot attend because of:

(1) temporary illness or injury of the caretaker or of a member of the caretaker's family that prevents the caretaker from attending an orientation during the hours when the orientation is offered;

(2) a judicial proceeding that requires the caretaker's presence in court during the hours when orientation is scheduled; or

(3) a nonmedical emergency that prevents the caretaker from attending an orientation during the hours when orientation is offered. "Emergency" for the purposes of this paragraph means a sudden, unexpected occurrence or situation of a serious or urgent nature that requires immediate action.

(i) Caretakers must receive a second orientation only when:

(1) there has been a 30-day break in AFDC eligibility; and

(2) the caretaker has not attended an orientation within the previous 12-month period, excluding the month of reapplication for AFDC.

Sec. 21. Minnesota Statutes 1994, section 256.736, subdivision 12, is amended to read:

Subd. 12. [~~CASE MANAGERS~~ EMPLOYMENT AND TRAINING SERVICE PROVISION.] (a) Counties may directly employ case managers to provide the employment and training services in this section if the county is certified as an employment and training service provider under section 268.0122, or may contract for ~~case management~~ services with a certified employment and training service provider. Uncertified counties and contracting agencies may provide ~~case management~~ services only if they demonstrate the ability to coordinate employment, training, education, and support services. The commissioner of economic security shall determine whether or not an uncertified county or agency has demonstrated such ability.

(b) Counties that employ case managers must ensure that the case managers have the skills and knowledge necessary to perform the variety of tasks described in ~~subdivision 11~~ this section. Counties that contract with another agency for ~~case management~~ services must specify in the contract the skills and knowledge needed by the case managers. At a minimum, case managers must:

(1) have a thorough knowledge of training, education, and employment opportunities;

(2) have training or experience in understanding the needs of AFDC clients and their families; and

(3) be able to formulate creative individualized ~~contracts~~ employability development plans.

Sec. 22. Minnesota Statutes 1995 Supplement, section 256.736, subdivision 14, is amended to read:

Subd. 14. [JOB SEARCH.] (a) Each county agency must establish and operate a job search program as provided under this section. Unless all caretakers in the household are exempt, one nonexempt caretaker in each ~~AFDC-UP~~ two-parent AFDC household must be referred to and begin participation in the job search program within 30 days of being determined eligible for AFDC. If the assistance unit contains more than one nonexempt caretaker, the caretakers may determine which caretaker shall participate. The designation may be changed only once annually at the annual redetermination of eligibility. If no designation is made or if the caretakers cannot agree, the county agency shall designate the caretaker having earned the greater of the incomes, including in-kind income, during the 24-month period immediately preceding the month of application for AFDC benefits as the caretaker that must participate. When no designation is made or the caretakers cannot agree and neither caretaker had earnings or the earnings were identical for each caretaker, then the county agency shall designate the caretaker who must participate. A caretaker is exempt from job search participation if:

(1) the caretaker is exempt from registration under subdivision 3, except that the second caretaker cannot be exempt to provide child care or care to an ill or incapacitated household member if the first caretaker is sanctioned for failure to comply or is exempt under any other exemption category, provided the first caretaker is capable of providing the needed care; or

(2) the caretaker is under age 25, has not completed a high school diploma or an equivalent program, and is participating in a secondary education program as defined in subdivision 10, paragraph (a), clause (17), which is approved by the employment and training service provider in the employability development plan.

(b) The job search program must provide four consecutive weeks of job search activities for no less than 20 hours per week but not more than 32 hours per week. The employment and training service provider shall specify for each participating caretaker the number of weeks and hours of job search to be conducted and shall report to the county agency if the caretaker fails to cooperate with the job search requirement. A person for whom lack of proficiency in English, as determined by an appropriate evaluation, is a barrier to employment, can choose to attend an available intensive, functional work literacy program for a minimum of 20 hours in place of the 20 hours of job search activities. The caretaker's employability development plan must include the length of time needed in the program, specific outcomes, attendance requirements, completion dates, and employment goals as they pertain to the intensive literacy program.

(c) The job search program may provide services to ~~non-AFDC-UP~~ caretakers who are not in two-parent families.

(d) After completion of job search requirements in this section, if the caretaker is not employed, nonexempt caretakers shall be placed in and must participate in and cooperate with the work experience program under section 256.737, the on-the-job training program under section 256.738, or the grant diversion program under section 256.739. Caretakers must be offered placement in a grant diversion or on-the-job training program, if either such employment is available, before being required to participate in a community work experience program under section 256.737. When a nonexempt caretaker fails to cooperate with the job search program, the work experience

program, the on-the-job training program, or the community work experience program and is subject to the sanction provisions of subdivision 4, the second caretaker in the assistance unit, unless exempt, must also be removed from the grant unless that second caretaker has been referred to and has started participating in the job search program and subsequently in the work experience program, the on-the-job training program, or the community work experience program prior to the date the sanction begins for the first caretaker. The second caretaker is ineligible for AFDC until the first caretaker's sanction ends or the second caretaker cooperates with the requirements.

(e) The commissioner may require that, to the extent of available resources and provided the second caretaker is proficient in English, both caretakers in a two-parent AFDC family where all children are over age six and are not in kindergarten participate in job search and work experience. A caretaker shall be determined proficient in English if the county agency, or its employment and training service provider, determines that the person has sufficient English language capabilities to become suitably employed.

If the second caretaker is enrolled in an education or training program that can reasonably be expected to lead to employment, as of the effective date of this section, and is limited to one year, the second caretaker is exempt from job search and work experience.

Sec. 23. Minnesota Statutes 1995 Supplement, section 256.736, subdivision 16, is amended to read:

Subd. 16. [ALLOCATION AND USE OF MONEY.] (a) State money appropriated for employment and training services under this section must be allocated to counties as specified in paragraphs (b) to (l).

(b) For purposes of this subdivision, "targeted caretaker" means a recipient who:

(1) is a custodial parent under the age of 24 who: (i) has not completed a high school education and at the time of application for AFDC is not enrolled in high school or in a high school equivalency program; or (ii) had little or no work experience in the preceding year;

(2) is a member of a family in which the youngest child is within two years of being ineligible for AFDC due to age; or

(3) has received 36 months or more of AFDC over the last 60 months.

(c) One hundred percent of the money appropriated for case management services ~~as described in subdivision 11~~ must be allocated to counties based on the average number of cases in each county described in clause (1). Money appropriated for employment and training services as described in subdivision 1a, paragraph (d), other than case management services, must be allocated to counties as follows:

(1) Forty percent of the state money must be allocated based on the average number of cases receiving AFDC in the county which either have been open for 36 or more consecutive months or have a caretaker who is under age 24 and who has no high school or general equivalency diploma. The average number of cases must be based on counts of these cases as of March 31, June 30, September 30, and December 31 of the previous year.

(2) Twenty percent of the state money must be allocated based on the average number of cases receiving AFDC in the county which are not counted under clause (1). The average number of cases must be based on counts of cases as of March 31, June 30, September 30, and December 31 of the previous year.

(3) Twenty-five percent of the state money must be allocated based on the average monthly number of assistance units in the county receiving AFDC-UP for the period ending December 31 of the previous year.

(4) Fifteen percent of the state money must be allocated at the discretion of the commissioner based on participation levels for target group members in each county.

(d) No more than 15 percent of the money allocated under paragraph (b) and no more than 15 percent of the money allocated under paragraph (c) may be used for administrative activities.

(e) At least 55 percent of the money allocated to counties under paragraph (c) must be used for employment and training services for caretakers in the target groups, and up to 45 percent of the money may be used for employment and training services for nontarget caretakers. One hundred percent of the money allocated to counties for case management services must be used to provide those services to caretakers in the target groups.

(f) Money appropriated to cover the nonfederal share of costs for bilingual case management services to refugees for the employment and training programs under this section are allocated to counties based on each county's proportion of the total statewide number of AFDC refugee cases. However, counties with less than one percent of the statewide number of AFDC refugee cases do not receive an allocation.

(g) Counties, the department of economic security, and entities under contract with either the department of economic security or the department of human services for provision of STRIDE related services shall bill the commissioner of human services for any expenditures incurred by the county, the county's employment and training service provider, or the department of economic security that may be reimbursed by federal money. The commissioner of human services shall bill the United States Department of Health and Human Services and the United States Department of Agriculture for the reimbursement and appropriate the reimbursed money to the county, the department of economic security, or employment and training service provider that submitted the original bill. The reimbursed money must be used to expand employment and training services.

(h) The commissioner of human services shall review county expenditures of case management and employment and training block grant money at the end of the third quarter of the biennium and each quarter after that, and may reallocate unencumbered or unexpended money allocated under this section to those counties that can demonstrate a need for additional money. Reallocation of funds must be based on the formula set forth in paragraph (a), excluding the counties that have not demonstrated a need for additional funds.

(i) The county agency may continue to provide case management and supportive services to a participant for up to 90 days after the participant loses AFDC eligibility and may continue providing a specific employment and training service for the duration of that service to a participant if funds for the service are obligated or expended prior to the participant losing AFDC eligibility.

(j) One hundred percent of the money appropriated for an unemployed parent work experience program under section 256.737 must be allocated to counties based on the average monthly number of assistance units in the county receiving AFDC-UP for the period ending December 31 of the previous year.

(k) The commissioner may waive the requirement of paragraph (e) that case management funds be spent only on case management services in order to permit the development of a unified STRIDE funding allocation for each county agency. The unified allocation may be expended by the county agency for case management and employment and training activities in the proportion determined necessary to streamline administrative procedures and enhance program performance. The commissioner, in consultation with the commissioner of economic security, may also grant a waiver from program spending limits in paragraphs (d) and (e) to any county which can demonstrate increased program effectiveness through a written request to the department. Counties which request a waiver of the spending limits in paragraphs (d) and (e) shall amend their local service unit plans and receive approval of the plans prior to commencing the waiver. The commissioners of human services and economic security shall annually evaluate the effectiveness of all waivers approved under this subdivision.

(l) Effective July 1, 1995, the commissioner of human services shall begin developing a performance model for the purpose of analyzing each county's performance in the provision of STRIDE employment and training services. Beginning February 1, 1997, and each year thereafter, the commissioner of human services shall inform each county of the county's performance based upon the following measures:

(1) employment rate at termination of STRIDE eligibility;

(2) wage rate at termination of STRIDE eligibility;

(3) average annual cost per placement calculated by dividing the total STRIDE expenditures by the number of participants placed in unsubsidized employment;

(4) AFDC-UP participation rate;

(5) percentage of 18- and 19-year-old custodial parents subject to secondary education requirements of subdivision 3b who complete secondary education or equivalent course of study; and

(6) achievement of federally mandated JOBS participation rate.

Performance measures (1), (2), and (3) shall be adjusted to reflect local conditions.

County agencies must take the results of these performance measures into consideration when selecting employment and training service providers.

Sec. 24. Minnesota Statutes 1995 Supplement, section 256.737, subdivision 7, is amended to read:

Subd. 7. [INJURY PROTECTION FOR WORK EXPERIENCE PARTICIPANTS.] (a) Payment of any claims resulting from an alleged injury or death of a recipient participating in a community work experience program established and operated by a county or a tribal JOBS program pursuant to this section shall be determined in accordance with this section. This determination method applies to work experience programs established under aid to families with dependent children, work readiness, Minnesota parent's fair share, and to obligors participating in community services pursuant to section 518.551, subdivision 5a, in a county with an approved community investment program.

(b) Claims that are subject to this section shall be investigated by the county agency or the tribal JOBS program responsible for supervising the work to determine whether the claimed injury occurred, whether the claimed medical expenses are reasonable, and whether the loss is covered by the claimant's insurance. If insurance coverage is established, the county agency or tribal JOBS program shall submit the claim to the appropriate insurance entity for payment. The investigating county agency or tribal JOBS program shall submit all valid claims, in the amount net of any insurance payments, to the department of human services.

(c) The department of human services shall submit all claims for impairment compensation to the commissioner of labor and industry. The commissioner of labor and industry shall review all submitted claims and recommend to the department of human services an amount of compensation comparable to that which would be provided under the impairment compensation schedule of section 176.101, subdivision 3b.

(d) The department of human services shall approve a claim of $1,000 or less for payment if appropriated funds are available, if the county agency or tribal JOBS program responsible for supervising the work has made the determinations required by this section, and if the work program was operated in compliance with the safety provisions of this section. The department shall pay the portion of an approved claim of $1,000 or less that is not covered by the claimant's insurance within three months of the date of submission. On or before February 1 of each legislative session, the department shall submit to the appropriate committees of the senate and the house of representatives a list of claims of $1,000 or less paid during the preceding calendar year and shall be reimbursed by legislative appropriation for any claims that exceed the original appropriation provided to the department to operate this program. Any unspent money from this appropriation shall carry over to the second year of the biennium, and any unspent money remaining at the end of the second year shall be returned to the state general fund.

On or before February 1 of each year, the department shall submit to the appropriate committees of the senate and the house of representatives a list of claims in excess of $1,000 and a list of claims of $1,000 or less that were submitted to but not paid by the department of human services, together with any recommendations of appropriate compensation. These claims shall be

heard and determined by the appropriate committees of the senate and house of representatives and, if approved, shall be paid under the legislative claims procedure.

(e) Compensation paid under this section is limited to reimbursement for reasonable medical expenses and impairment compensation for disability in like amounts as allowed in section 176.101, subdivision 3b. Compensation for injuries resulting in death shall include reasonable medical expenses and burial expenses in addition to payment to the participant's estate in an amount up to $200,000. No compensation shall be paid under this section for pain and suffering, lost wages, or other benefits provided in chapter 176. Payments made under this section shall be reduced by any proceeds received by the claimant from any insurance policy covering the loss. For the purposes of this section, "insurance policy" does not include the medical assistance program authorized under chapter 256B or the general assistance medical care program authorized under chapter 256D.

(f) The procedure established by this section is exclusive of all other legal, equitable, and statutory remedies against the state, its political subdivisions, or employees of the state or its political subdivisions. The claimant shall not be entitled to seek damages from any state ~~or~~, county, tribal, or reservation insurance policy or self-insurance program.

(g) A claim is not valid for purposes of this subdivision if the local agency responsible for supervising the work cannot verify to the department of human services:

(1) that appropriate safety training and information is provided to all persons being supervised by the agency under this subdivision; and

(2) that all programs involving work by those persons comply with federal Occupational Safety and Health Administration and state department of labor and industry safety standards. A claim that is not valid because of failure to verify safety training or compliance with safety standards will not be paid by the department of human services or through the legislative claims process and must be heard, decided, and paid, if appropriate, by the local government unit or tribal JOBS program responsible for supervising the work of the claimant.

(h) This program is effective July 1, 1995. Claims may be submitted on or after November 1, 1995.

Sec. 25. Minnesota Statutes 1995 Supplement, section 256.76, subdivision 1, is amended to read:

Subdivision 1. Upon the completion of the investigation the county agency shall decide whether the child is eligible for assistance under the provisions of sections 256.72 to 256.87 and determine the amount of the assistance and the date on which the assistance begins. A decision on an application for assistance must be made as promptly as possible and no more than 30 days from the date of application. Notwithstanding section 393.07, the county agency shall not delay approval or issuance of assistance pending formal action of the county board of commissioners. The first month's grant shall be based upon that portion of the month from the date of application, or from the date that the applicant meets all eligibility factors, whichever occurs later, provided that on the date that assistance is first requested, the county agency shall inquire and determine whether the person requesting assistance is in immediate need of food, shelter, clothing, or other emergency assistance. If an emergency need is found to exist, the applicant shall be granted assistance pursuant to section 256.871 within a reasonable period of time. ~~It~~ The county shall make a grant of assistance which shall be binding upon the county and be complied with by the county until the grant is modified or vacated. The county agency shall notify the applicant of its decision in writing. The assistance shall be paid monthly to the applicant or to the vendor of medical care upon order of the county agency from funds appropriated to the county agency for this purpose.

Sec. 26. Minnesota Statutes 1995 Supplement, section 256.81, is amended to read:

256.81 [COUNTY AGENCY, DUTIES.]

(1) The county agency shall keep such records, accounts, and statistics in relation to aid to families with dependent children as the state agency shall prescribe.

(2) Each grant of aid to families with dependent children shall be paid to the recipient by the county agency unless paid by the state agency. Payment must be ~~by check or electronic means~~ in the form of a warrant immediately redeemable in cash, electronic benefits transfer, or by direct deposit into the recipient's account in a financial institution, except in those instances in which the county agency, subject to the rules of the state agency, determines that payments for care shall be made to an individual other than the parent or relative with whom the dependent child is living or to vendors of goods and services for the benefit of the child because such parent or relative is unable to properly manage the funds in the best interests and welfare of the child. There is a presumption of mismanagement of funds whenever a recipient is more than 30 days in arrears on payment of rent, except when the recipient has withheld rent to enforce the recipient's right to withhold the rent in accordance with federal, state, or local housing laws. In cases of mismanagement based solely on failure to pay rent, the county may vendor the rent payments to the landlord. At the request of a recipient, the state or county may make payments directly to vendors of goods and services, but only for goods and services appropriate to maintain the health and safety of the child, as determined by the county.

(3) The state or county may ask the recipient to give written consent authorizing the state or county to provide advance notice to a vendor before vendor payments of rent are reduced or terminated. Whenever possible under state and federal laws and regulations and if the recipient consents, the state or county shall provide at least 30 days notice to vendors before vendor payments of rent are reduced or terminated. If 30 days notice cannot be given, the state or county shall notify the vendor within three working days after the date the state or county becomes aware that vendor payments of rent will be reduced or terminated. When the county notifies a vendor that vendor payments of rent will be reduced or terminated, the county shall include in the notice that it is illegal to discriminate on the grounds that a person is receiving public assistance and the penalties for violation. The county shall also notify the recipient that it is illegal to discriminate on the grounds that a person is receiving public assistance and the procedures for filing a complaint. The county agency may develop procedures, including using the MAXIS system, to implement vendor notice and may charge vendors a fee not exceeding $5 to cover notification costs.

(4) A vendor payment arrangement is not a guarantee that a vendor will be paid by the state or county for rent, goods, or services furnished to a recipient, and the state and county are not liable for any damages claimed by a vendor due to failure of the state or county to pay or to notify the vendor on behalf of a recipient, except under a specific written agreement between the state or county and the vendor or when the state or county has provided a voucher guaranteeing payment under certain conditions.

(5) The county shall be paid from state and federal funds available therefor the amount provided for in section 256.82.

(6) Federal funds available for administrative purposes shall be distributed between the state and the counties in the same proportion that expenditures were made except as provided for in section 256.017.

(7) The affected county may require that assistance paid under the AFDC emergency assistance program in the form of a rental unit damage deposit, less any amount retained by the landlord to remedy a tenant's default in payment of rent or other funds due to the landlord pursuant to a rental agreement, or to restore the premises to the condition at the commencement of the tenancy, ordinary wear and tear excepted, be returned to the county when the individual vacates the premises or paid to the recipient's new landlord as a vendor payment. The vendor payment of returned funds shall not be considered a new use of emergency assistance.

Sec. 27. [256.9831] [BENEFITS; GAMBLING ESTABLISHMENTS.]

Subdivision 1. [DEFINITION.] For purposes of this section "gambling establishment" means a bingo hall licensed under section 349.164, a racetrack licensed under section 240.06 or 240.09, a casino operated under a tribal-state compact under section 3.9221, or any other establishment that receives at least 50 percent of its gross revenue from the conduct of gambling.

Subd. 2. [FINANCIAL TRANSACTION CARDS.] The commissioner shall take all actions necessary to insure that no person may obtain benefits under chapter 256 or 256D through the use

of a financial transaction card, as defined in section 609.821, subdivision 1, paragraph (a), at a terminal located in or attached to a gambling establishment.

Subd. 3. [WARRANTS.] The commissioner shall take all actions necessary to insure that warrants issued to pay benefits under chapter 256 or 256D bear a restrictive endorsement that prevents their being cashed in a gambling establishment.

Sec. 28. Minnesota Statutes 1995 Supplement, section 256D.02, subdivision 12a, is amended to read:

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

~~(1)~~ by showing that the applicant maintains a residence at a verified address, other than a place of public accommodation. An applicant may verify a residence address by presenting a valid state driver's license, a state identification card, a voter registration card, a rent receipt, a statement by the landlord, apartment manager, or homeowner verifying that the individual is residing at the address, or other form of verification approved by the commissioner~~;~~. An applicant who has been in the state for less than 30 days shall be considered a resident if the applicant can provide documentation

~~(2) by providing written documentation~~

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

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

~~(4) by providing other persuasive evidence to show that the applicant is a resident of the state, according to rules adopted by the commissioner~~ (3) that the applicant has come to this state to accept a bona fide offer of employment for which the applicant is eligible. A county agency may waive the 30-day residency requirement in cases of emergencies, including medical emergencies, or where unusual hardship would result from denial of assistance. The county agency must report to the commissioner within 30 days on any waiver granted under this section.

Sec. 29. Minnesota Statutes 1995 Supplement, 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 ~~sections~~ section 256D.01, subdivision 1a, ~~and 256D.051,~~ 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. 30. Minnesota Statutes 1995 Supplement, 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, ~~or 256D.051~~ but for whom the aid would further the purposes established in the general assistance program in accordance with rules adopted by the commissioner pursuant to the administrative

procedure act. The Minnesota department of human services may maintain client records and issue these payments, providing the cost of benefits is paid by the counties to the department of human services in accordance with sections 256.01 and 256.025, subdivision 3.

Sec. 31. Minnesota Statutes 1995 Supplement, section 256D.03, subdivision 3, is amended to read:

Subd. 3. [GENERAL ASSISTANCE MEDICAL CARE; ELIGIBILITY.] (a) General assistance medical care may be paid for any person who is not eligible for medical assistance under chapter 256B, including eligibility for medical assistance based on a spenddown of excess income according to section 256B.056, subdivision 5, and:

(1) who is receiving assistance under section 256D.05 ~~or 256D.051~~, 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. However, if a disregard of $30 and one-third of the remainder described in section 256.74, subdivision 1, clause (4), has been applied to the wage earner's income, the disregard shall not be applied again until the wage earner's income has not been considered in an eligibility determination for general assistance, general assistance medical care, medical assistance, or aid to families with dependent children for 12 consecutive months. The earned income and work expense deductions for a person who does not reside with a dependent child under age 21 shall be the same as the method used to determine eligibility for a person under section 256D.06, subdivision 1, except the disregard of the first $50 of earned income is not allowed; or

(3) who 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).

(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. 32. Minnesota Statutes 1995 Supplement, section 256D.05, subdivision 1, is amended to read:

Subdivision 1. [ELIGIBILITY.] (a) Each person or family whose income and resources are less than the standard of assistance established by the commissioner and who is a resident of the state shall be eligible for and entitled to general assistance if the person or family is:

(1) a person who is suffering from a professionally certified permanent or temporary illness, injury, or incapacity which is expected to continue for more than 30 days and which prevents the person from obtaining or retaining employment;

(2) a person whose presence in the home on a substantially continuous basis is required because of the professionally certified illness, injury, incapacity, or the age of another member of the household;

(3) a person who has been placed in, and is residing in, a licensed or certified facility for purposes of physical or mental health or rehabilitation, or in an approved chemical dependency domiciliary facility, if the placement is based on illness or incapacity and is pursuant to a plan developed or approved by the county agency through its director or designated representative;

(4) a person who resides in a shelter facility described in subdivision 3;

(5) a person not described in clause (1) or (3) who is diagnosed by a licensed physician, 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 item, 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, in accordance with permanent rules adopted by the commissioner, to be learning disabled, provided that if a rehabilitation plan for the person is developed or approved by the county agency, the person is following the plan;

(10) a child under the age of 18 who is not living with a parent, stepparent, or legal custodian, but only if: the child is legally emancipated or living with an adult with the consent of an agency acting as a legal custodian; the child is at least 16 years of age and the general assistance grant is approved by the director of the county agency or a designated representative as a component of a social services case plan for the child; or the child is living with an adult with the consent of the child's legal custodian and the county agency. For purposes of this clause, "legally emancipated" means a person under the age of 18 years who: (i) has been married; (ii) is on active duty in the uniformed services of the United States; (iii) has been emancipated by a court of competent jurisdiction; or (iv) is otherwise considered emancipated under Minnesota law, and for whom county social services has not determined that a social services case plan is necessary, for reasons other than that the child has failed or refuses to cooperate with the county agency in developing the plan;

(11) a woman in the last trimester of pregnancy who does not qualify for aid to families with dependent children. A woman who is in the last trimester of pregnancy who is currently receiving aid to families with dependent children may be granted emergency general assistance to meet emergency needs;

(12) a person who is eligible for displaced homemaker services, programs, or assistance under section 268.96, but only if that person is enrolled as a full-time student;

(13) a person who lives more than two hours round-trip traveling time from any potential suitable employment;

(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) a family as defined in section 256D.02, subdivision 5, which is ineligible for the aid to families with dependent children program.

(ii) unless ~~all adults in the family are~~ exempt under section 256D.051, subdivision 3a, ~~one~~ each adult in the ~~family~~ unit must participate in and cooperate with the food stamp employment and training program under section 256D.051 each month that the ~~family~~ unit receives general assistance benefits. ~~If the household contains more than one nonexempt adult, the adults may determine which adult must participate. The designation may be changed once annually at the annual redetermination of eligibility. If no designation is made or if the adults cannot agree, the county agency shall designate the adult having earned the greater of the incomes, including in-kind income, during the 24-month period immediately preceding the month of application for general assistance, as the adult that must participate. When there are no earnings or when earnings are identical for each adult, the county agency shall designate which adult must participate.~~ The recipient's participation must begin ~~on~~ 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 ~~the~~ 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 for two months or until compliance is achieved, whichever is shorter, 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.

(b) Persons or families who are not state residents but who are otherwise eligible for general assistance may receive emergency general assistance to meet emergency needs.

(c) As a condition of eligibility under paragraph (a), clauses (1), (3), (5), (8), and (9), the recipient must complete an interim assistance agreement and must apply for other maintenance benefits as specified in section 256D.06, subdivision 5, and must comply with efforts to determine the recipient's eligibility for those other maintenance benefits.

(d) The burden of providing documentation for a county agency to use to verify eligibility for general assistance or 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. 33. Minnesota Statutes 1995 Supplement, section 256D.051, subdivision 1, is amended to read:

Subdivision 1. [FOOD STAMP EMPLOYMENT AND TRAINING PROGRAM.] The commissioner shall implement a food stamp employment and training program in order to meet the food stamp employment and training participation requirements of the United States Department of Agriculture. Unless ~~all adult members of the food stamp household are~~ exempt under subdivision 3a, ~~one nonexempt~~ each adult recipient in ~~each household~~ the unit must participate in the food stamp employment and training program each month that the ~~household~~ person is eligible for food stamps ~~, up to a maximum period of six calendar months during any 12 consecutive calendar month period. If the household contains more than one nonexempt adult, the adults may determine which adult must participate. The designation may be changed only once annually at the annual redetermination of eligibility. If no designation is made or if the adults cannot agree, the county agency shall designate the adult having earned the greater of the incomes, including in-kind income, during the 24-month period immediately preceding the month of application for food stamp benefits, as the adult that must participate. When there are no earnings or when earnings are identical for each adult, the county agency shall designate the adult that must participate~~. The person's participation in food stamp employment and training services must begin ~~on~~ no later than the first day of the calendar month following the ~~date~~ determination of eligibility for food stamps. With the county agency's consent, and to the extent of available resources, the person may voluntarily continue to participate in food stamp employment and training services for up to three additional consecutive months immediately following ~~the end of the six-month mandatory participation period~~ termination of food stamp benefits in order to complete the provisions of the person's employability development plan.

Sec. 34. Minnesota Statutes 1995 Supplement, section 256D.051, subdivision 6, is amended to read:

Subd. 6. [SERVICE COSTS.] Within the limits of available resources, the commissioner shall reimburse county agency expenditures for providing food stamp employment and training services including direct participation expenses and administrative costs. State food stamp employment and training funds shall be used only to pay the county agency's and food stamp employment and training service provider's actual costs of providing participant support services, direct program services, and program administrative costs for persons who participate in such employment and training services. The average annual reimbursable cost for providing food stamp employment and training services to a recipient for whom an individualized employability development plan is not completed must not exceed $60 for the food stamp employment and training services, and ~~$240~~ $340 for necessary recipient support services such as transportation or child care needed to

participate in food stamp employment and training program. If an individualized employability development plan has been completed, the average annual reimbursable cost for providing food stamp employment and training services must not exceed ~~$300~~ $400 for all services and costs necessary to implement the plan, including the costs of training, employment search assistance, placement, work experience, on-the-job training, other appropriate activities, the administrative and program costs incurred in providing these services, and necessary recipient support services such as tools, clothing, and transportation needed to participate in food stamp employment and training services. The county agency may expend additional county funds over and above the dollar limits of this subdivision without state reimbursement.

Sec. 35. Minnesota Statutes 1995 Supplement, section 256D.055, is amended to read:

256D.055 [COUNTY DESIGN; WORK FOCUSED PROGRAM.]

The commissioner of human services shall issue a request for proposals from counties to submit a plan for developing and implementing a county-designed program. The plan shall be for first-time applicants for aid to families with dependent children (AFDC) and family general assistance (FGA) and must emphasize the importance of becoming employed and oriented into the work force in order to become self-sufficient. The plan must target public assistance applicants who are most likely to become self-sufficient quickly with short-term assistance or services such as child care, child support enforcement, or employment and training services.

The plan may include vendor payments, mandatory job search, refocusing existing county or provider efforts, or other program features. The commissioner may approve a county plan which allows a county to use other program funding for the county work focus program in a more flexible manner. Nothing in this section shall allow payments made to the public assistance applicant to be less than the amount the applicant would have received if the program had not been implemented, or reduce or eliminate a category of eligible participants from the program without legislative approval.

The commissioner shall not approve a county plan that would have an adverse impact on the Minnesota family investment plan demonstration. If the plan is approved by the commissioner, the county may implement the plan. If the plan is approved by the commissioner, but a federal waiver is necessary to implement the plan, the commissioner shall apply for the necessary federal waivers. ~~If by July 1, 1996, at least four counties have not proposed a work focused plan, the commissioner of human services may pursue the work first plan as provided under sections 256.7351 to 256.7359. However, a county with a work focus plan that has been approved under this section may implement the plan.~~

Sec. 36. Minnesota Statutes 1994, section 256D.06, is amended by adding a subdivision to read:

Subd. 8. [RECOVERY OF ATM ERRORS.] For recipients receiving benefits via electronic benefit transfer, if the recipient is overpaid as a result of an automated teller machine (ATM) dispensing funds in error to the recipient, the agency may recover the ATM error by immediately withdrawing funds from the recipient's electronic benefit transfer account, up to the amount of the error.

Sec. 37. Minnesota Statutes 1995 Supplement, section 256D.09, subdivision 1, is amended to read:

Subdivision 1. [PRESUMPTIVE ELIGIBILITY; ~~VENDOR~~ PAYMENTS.] Until the county agency has determined the initial eligibility of the applicant in accordance with section 256D.07 ~~or 256D.051~~, grants for emergency general assistance must be in the form of vouchers or vendor payments unless the county agency determines that a cash grant will best resolve the applicant's need for emergency assistance. Thereafter, grants of general assistance must be paid in cash, by electronic benefit transfer, or by direct deposit into the recipient's account in a financial institution, on the first day of the month, except as allowed in this section.

Sec. 38. Minnesota Statutes 1994, section 256D.10, is amended to read:

256D.10 [HEARINGS PRIOR TO REDUCTION; TERMINATION; SUSPENSION OF GENERAL ASSISTANCE GRANTS.]

No grant of general assistance except one made pursuant to section 256D.06, subdivision 2; ~~256D.051, subdivisions 1, paragraph (d), and 1a, paragraph (b);~~ or 256D.08, subdivision 2, shall be reduced, terminated or suspended unless the recipient receives notice and is afforded an opportunity to be heard prior to any action by the county agency.

Nothing herein shall deprive a recipient of the right to full administrative and judicial review of an order or determination of a county agency as provided for in section 256.045 subsequent to any action taken by a county agency after a prior hearing.

Sec. 39. Minnesota Statutes 1994, section 256D.49, subdivision 3, is amended to read:

Subd. 3. [OVERPAYMENT OF MONTHLY GRANTS AND RECOVERY OF ATM ERRORS.] When the county agency determines that an overpayment of the recipient's monthly payment of Minnesota supplemental aid has occurred, it shall issue a notice of overpayment to the recipient. If the person is no longer receiving Minnesota supplemental aid, the county agency may request voluntary repayment or pursue civil recovery. If the person is receiving Minnesota supplemental aid, the county agency shall recover the overpayment by withholding an amount equal to three percent of the standard of assistance for the recipient or the total amount of the monthly grant, whichever is less. For recipients receiving benefits via electronic benefit transfer, if the overpayment is a result of an automated teller machine (ATM) dispensing funds in error to the recipient, the agency may recover the ATM error by immediately withdrawing funds from the recipient's electronic benefit transfer account, up to the amount of the error. Residents of nursing homes, regional treatment centers, and facilities with negotiated rates shall not have overpayments recovered from their personal needs allowance.

Sec. 40. Minnesota Statutes 1994, section 256E.08, subdivision 8, is amended to read:

Subd. 8. [REPORTING BY COUNTIES.] Beginning in calendar year 1980 each county shall submit to the commissioner of human services a financial accounting of the county's community social services fund, and other data required by the commissioner under section 256E.05, subdivision 3, paragraph (g), shall include:

(a) A detailed statement of income and expenses attributable to the fund in the preceding quarter; and

(b) A statement of the source and application of all money used for social services programs by the county during the preceding quarter, including the ~~number of clients served and~~ expenditures for each service provided, as required by the commissioner of human services.

In addition, each county shall submit to the commissioner of human services no later than February 15 of each year, a detailed balance sheet of the community social development fund for the preceding calendar year.

If county boards have joined or designated human service boards for purposes of providing community social services programs, the county boards may submit a joint statement or the human service board shall submit the statement, as applicable.

Sec. 41. Minnesota Statutes 1994, section 336.3-206, is amended to read:

336.3-206 [RESTRICTIVE ENDORSEMENT.]

(a) An endorsement limiting payment to a particular person or otherwise prohibiting further transfer or negotiation of the instrument is not effective to prevent further transfer or negotiation of the instrument.

(b) An endorsement stating a condition to the right of the endorsee to receive payment does not affect the right of the endorsee to enforce the instrument. A person paying the instrument or taking it for value or collection may disregard the condition, and the rights and liabilities of that person are not affected by whether the condition has been fulfilled.

(c) If an instrument bears an endorsement (i) described in section 336.4-201(b), or (ii) in blank or to a particular bank using the words "for deposit," "for collection," or other words indicating a purpose of having the instrument collected by a bank for the endorser or for a particular account, the following rules apply:

(1) A person, other than a bank, who purchases the instrument when so endorsed converts the instrument unless the amount paid for the instrument is received by the endorser or applied consistently with the endorsement.

(2) A depositary bank that purchases the instrument or takes it for collection when so endorsed converts the instrument unless the amount paid by the bank with respect to the instrument is received by the endorser or applied consistently with the endorsement.

(3) A payor bank that is also the depositary bank or that takes the instrument for immediate payment over the counter from a person other than a collecting bank converts the instrument unless the proceeds of the instrument are received by the endorser or applied consistently with the endorsement.

(4) Except as otherwise provided in paragraph (3), a payor bank or intermediary bank may disregard the endorsement and is not liable if the proceeds of the instrument are not received by the endorser or applied consistently with the endorsement.

(d) Except for an endorsement covered by subsection (c), if an instrument bears an endorsement using words to the effect that payment is to be made to the endorsee as agent, trustee, or other fiduciary for the benefit of the endorser or another person, the following rules apply:

(1) Unless there is notice of breach of fiduciary duty as provided in section 336.3-307, a person who purchases the instrument from the endorsee or takes the instrument from the endorsee for collection or payment may pay the proceeds of payment or the value given for the instrument to the endorsee without regard to whether the endorsee violates a fiduciary duty to the endorser.

(2) A subsequent transferee of the instrument or person who pays the instrument is neither given notice nor otherwise affected by the restriction in the endorsement unless the transferee or payor knows that the fiduciary dealt with the instrument or its proceeds in breach of fiduciary duty.

(e) The presence on an instrument of an endorsement to which this section applies does not prevent a purchaser of the instrument from becoming a holder in due course of the instrument unless the purchaser is a converter under subsection (c) or has notice or knowledge of breach of fiduciary duty as stated in subsection (d).

(f) In an action to enforce the obligation of a party to pay the instrument, the obligor has a defense if payment would violate an endorsement to which this section applies and the payment is not permitted by this section.

(g) Nothing in this section prohibits or limits the effectiveness of a restrictive endorsement made under section 256.9831, subdivision 3.

Sec. 42. [TOTAL HOUSEHOLD INCOME CONSIDERED.]

The commissioner of human services shall study the feasibility of including all of the income of unrelated adults living in an AFDC household that would be their proportionate share of the household's costs for housing, electricity, and heating when determining a family's eligibility for the program and report back to the legislature by January 15, 1997.

Sec. 43. [WAIVER AUTHORITY.]

The commissioner of human services shall seek federal waivers as necessary to implement sections 12, 14, and 28.

Sec. 44. [SEVERABILITY.]

If any provision of sections 12, 14, 28, or 43 is found to be unconstitutional or void by a court of competent jurisdiction, all remaining provisions of the law shall remain valid and shall be given full effect.

Sec. 45. [APPROPRIATION.]

$..... is appropriated from the general fund to the commissioner of human services to be added to the AFDC child care entitlement fund to provide child care for two-parent families that are mandatory participants under Minnesota Statutes, chapter 256.

Sec. 46. [REPEALER.]

Minnesota Statutes 1994, section 256.736, subdivisions 10b and 11; Minnesota Statutes 1995 Supplement, section 256.736, subdivision 13, are repealed.

Sec. 47. [EFFECTIVE DATE.]

Sections 28 to 31 and 38 are retroactive to July 1, 1995.

ARTICLE 4

CHILD CARE

Section 1. [APPROPRIATION.]

$..... is appropriated from the general fund to the commissioner of children, families, and learning for purposes of increasing the funding to the basic sliding fee child care program under Minnesota Statutes, section 256H.03, to be available for the fiscal year ending June 30, 1997."

Delete the title and insert:

"A bill for an act relating to human services; proposing reform measures; making changes to the Minnesota family investment plan program; case management services to caregivers; defining "intensive ESL"; requiring family support agreement for some families on assistance; providing recovery of AFDC due to an ATM error; defining case manager and two-parent families; adding provisions for employment and training services; adding provisions to food stamp employment and training program; establishing the MNJOBS program; requiring the commissioner to take steps to prevent assistance recipients from obtaining assistance via an ATM or cashing assistance checks at gambling establishments; providing injury protection for tribal JOBS programs; appropriating money to the sliding fee child care program; appropriating money for the AFDC child care entitlement program; amending Minnesota Statutes 1994, sections 53A.09; 256.031, by adding a subdivision; 256.033, by adding a subdivision; 256.034, by adding a subdivision; 256.035, subdivisions 1 and 6a; 256.73, subdivision 1, and by adding subdivisions; 256.736, subdivisions 1a, 3b, 4, and 12; 256D.06, by adding a subdivision; 256D.10; 256D.49, subdivision 3; 256E.08, subdivision 8; and 336.3-206; Minnesota Statutes 1995 Supplement, sections 256.0475, by adding a subdivision; 256.048, subdivisions 1, 4, 6, and 13; 256.73, subdivision 8; 256.736, subdivisions 10, 10a, 14, and 16; 256.737, subdivision 7; 256.76, subdivision 1; 256.81; 256D.02, subdivision 12a; 256D.03, subdivisions 2, 2a, and 3; 256D.05, subdivision 1; 256D.051, subdivisions 1 and 6; 256D.055; and 256D.09, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 256; repealing Minnesota Statutes 1994, section 256.736, subdivisions 10b and 11; Minnesota Statutes 1995 Supplement, section 256.736, subdivision 13."

And when so amended the bill do pass and be re-referred to the Committee on Finance. Amendments adopted. Report adopted.

Ms. Flynn from the Committee on Transportation and Public Transit, to which was referred

H.F. No. 2068: A bill for an act relating to highways; designating the POW/MIA Memorial Highway.

Reports the same back with the recommendation that the bill do pass. Report adopted.

Ms. Flynn from the Committee on Transportation and Public Transit, to which was referred

S.F. No. 2391: A bill for an act relating to highways; appropriating money to the commissioner of transportation for a grant to Shingobee township in Cass county for improvement of a certain road.

Reports the same back with the recommendation that the bill do pass and be re-referred to the Committee on Finance.

Pursuant to Joint Rule 2.03, the bill was referred to the Committee on Rules and Administration.

Ms. Flynn from the Committee on Transportation and Public Transit, to which was referred

S.F. No. 2702: A bill for an act relating to transportation; appropriating money for metropolitan area and transportation purposes.

Reports the same back with the recommendation that the bill be amended as follows:

Delete everything after the enacting clause and insert:

"ARTICLE I

TRANSPORTATION APPROPRIATIONS

Section 1. [TRANSPORTATION AND OTHER AGENCIES APPROPRIATIONS.]

The sums in the columns headed "APPROPRIATIONS" are appropriated from the general fund, or another named fund, to the agencies and for the purposes specified to be available for the fiscal year ending June 30, 1997.

SUMMARY BY FUND

	1997
General Fund	$.,...,...
Trunk Highway Fund	42,760,200

	APPROPRIATIONS Available for the Year Ending June 30, 1997
Sec. 2. DEPARTMENT OF TRANSPORTATION	42,629,000

SUMMARY BY FUND

	1997
General Fund	...,...
Trunk Highway Fund	42,629,000

For the purpose of Laws 1995, chapter 254, article 1, section 93, paragraph (a), "contracts for highway construction or maintenance" includes contracts for design engineering and construction engineering.

(a) State Road Construction

37,019,000

$37,019,000 is appropriated from the trunk

highway fund for state road construction in fiscal year 1997 and is added to the appropriation in Laws 1995, chapter 265, article 2, section 2, subdivision 7, clause (a).

(b) Design Engineering
and Construction Engineering

5,610,000

$5,610,000 is appropriated from the trunk highway fund for design engineering and construction engineering and is added to the appropriations in Laws 1995, chapter 265, article 2, section 2, subdivision 7, clauses (d) and (e), as needed.

(c) Greater Minnesota Transit Assistance

..,...,...

$...,... is appropriated from
the general fund for greater Minnesota
transit assistance.

Any unencumbered balance from Laws 1995, article 2, section 2, subdivision 3, clause (a), for greater Minnesota transit assistance remaining the first year does not cancel but is available for the second year of the biennium.

(d) General Management

200,000

$200,000 is appropriated from the general fund for the purpose of convening a telecommuting community dialogue process to gather information on existing telecommunication systems, conduct public opinion polls via the Internet, and develop recommendations on improving the integration and coordination of telecommunication systems. The department shall report findings and recommendations to the legislature by February 15, 1997. This appropriation is available on receipt by the commissioner of matching contributions of money from nonstate sources.

(e) Shingobee Road

100,000

$100,000 is appropriated from the general fund for the purpose of making a grant to the town of Shingobee in Cass county to improve the Ah-Gwah-Ching cutoff road. The appropriation is available if the commissioner determines that the Shingobee town board has made a commitment to establish the road as a town road upon completion of the improvement.

(f) Stone Arch Bridge

110,000

$110,000 is appropriated from the general fund for the purpose of repairing the Stone Arch bridge in Minneapolis.

Sec. 3. METROPOLITAN COUNCIL TRANSIT $.,...,...

$.,...,... is appropriated from the general fund for metropolitan transit operations in fiscal year 1997 and is added to the appropriation in Laws 1995, chapter 265, article 2, section 3.

Sec. 4. DEPARTMENT OF PUBLIC SAFETY 1,126,200

SUMMARY BY FUND

	1997
General Fund	$ 995,000
Trunk Highway Fund	131,200

(a) Radio Communication Operators

131,200

$131,200 is appropriated from the trunk highway fund for four additional radio communication operators.

(b) Critical Operation Systems

995,000

$995,000 is appropriated from the general fund for critical operations systems.

Sec. 5. TRANSFER

$50,000 is transferred from the Minnesota critical habitat private sector matching account in the reinvest in Minnesota resources fund to the highway user tax distribution fund to reimburse the highway user tax distribution fund for the appropriation made to fund the critical habitat license plate program.

Sec. 6. Minnesota Statutes 1995 Supplement, section 168.1296, subdivision 5, is amended to read:

Subd. 5. [CONTRIBUTION AND FEES CREDITED.] Contributions under subdivision 1, clause (5), and fees under subdivision 1, clause (2), must be paid to the registrar and credited to the Minnesota critical habitat private sector matching account established in section 84.943. ~~The~~ All other fees collected under this section must be deposited in the highway user tax distribution fund.

ARTICLE II

TRANSPORTATION CAPITAL IMPROVEMENT APPROPRIATIONS

The sums in the column under "APPROPRIATIONS" are appropriated from the bond proceeds fund, or another named fund, to the state agencies or officials indicated, to be spent to acquire and to better public land and buildings and other public improvements of a capital nature, as specified in this act.

APPROPRIATIONS

Section 1. DEPARTMENT OF TRANSPORTATION FACILITY PROJECTS

(a) Trunk Highway Facility Projects 20,530,000

$20,530,000 is appropriated from the trunk highway fund.

(1) For construction documents, construction, furnishing, and equipping of Bemidji headquarters building to replace the existing facility. The new facility will house the district staff, support services, design, construction, right-of-way, materials engineering, maintenance, radio shop, inventory center, vehicle maintenance, vehicle storage, bridge maintenance, and building services 9,000,000

(2) Repair, replace, construct, or develop additions to chemical and salt storage buildings at 29 department of transportation locations statewide 1,014,000

(3) For schematic design, design development, construction documents, construction, furnishing, and equipping of an addition to the Rochester district office and state patrol center 1,260,000

(4) Construct, furnish, and equip a new equipment storage building on a new site in Pipestone to replace the existing facility 520,000

(5) Construct, furnish, and equip a new equipment storage building on a new site in Deer Lake to combine and replace existing operations at Togo and Effie 644,000

(6) Construct, furnish, and equip a new equipment storage building on a new site in Rushford to replace the existing facility 663,000

(7) For construction documents, construction, furnishing, and equipping of an addition to the central services building at Fort Snelling for heated storage 855,000

(8) Schematic design, design development, and construction documents for projects at Duluth, St. Cloud, Jordan, Fort Snelling, Golden Valley, and a new record building 677,000

(9) Design, construction, equipping, and furnishing of an addition to the Garrison truck station and related improvements 206,000

(10) For construction documents, construction, furnishing, and equipping of an addition to the Hastings truck station 1,362,000

(11) Construct, furnish, and equip a new

equipment storage building on a new site in Gaylord to replace the existing facility	680,000
(12) Remove asbestos from various department of transportation buildings statewide	225,000
(13) Construct, furnish, and equip a new equipment storage building on a new site in Hibbing to replace the existing facility	1,237,000
(14) Design, construction, equipping, and furnishing of an addition to the Long Prairie truck station and related improvements	215,000
(15) Design, construction, equipping, and furnishing of an addition to the Forest Lake truck station and related improvements	451,000
(16) Design, construction, equipping, and furnishing of an addition to the Erskine truck station and related improvements	300,000
(17) Design, construction, equipping, and furnishing of an addition to the Dilworth truck station and related improvements	514,000
(18) Construct, furnish, and equip class II safety rest areas in Fillmore county, Cook county, and Kanabec county	120,000
(19) Construct pole-type storage buildings at department of transportation locations throughout the state	387,000
(20) Land acquisition at Fort Snelling next to the central services complex when it is made available as surplus property by the federal government	200,000
(21) Projects in this section are exempt from the requirements of Minnesota Statutes, section 16B.335.	
(b) Public Safety Project	1,185,000
$1,185,000 is appropriated from the trunk highway fund for capital improvements to license exam stations, grounds, and facilities at Arden Hills, Eagan, and Plymouth."	

Amend the title as follows:

Page 1, line 3, before the period, insert "; amending Minnesota Statutes 1995 Supplement, section 168.1296, subdivision 5"

And when so amended the bill do pass and be re-referred to the Committee on Finance. Amendments adopted. Report adopted.

SECOND READING OF SENATE BILLS

S.F. Nos. 2208, 2114, 2793, 2254, 1887, 2686, 2304, 221, 2802, 1884, 1811, 2503 and 2172 were read the second time.

SECOND READING OF HOUSE BILLS

H.F. Nos. 2042, 2332, 2190, 2152, 2125, 2411 and 2068 were read the second time.

MOTIONS AND RESOLUTIONS

Mr. Berg moved that the name of Mr. Janezich be added as a co-author to S.F. No. 560. The motion prevailed.

Mr. Ourada moved that his name be stricken as a co-author to S.F. No. 1661. The motion prevailed.

Mr. Kleis moved that the name of Mrs. Fischbach be added as a co-author to S.F. No. 1892. The motion prevailed.

Mr. Ourada moved that his name be stricken as a co-author to S.F. No. 2053. The motion prevailed.

Mr. Johnson, D.J. moved that the name of Mr. Novak be added as a co-author to S.F. No. 2381. The motion prevailed.

Mr. Metzen moved that his name be stricken as a co-author to S.F. No. 2568. The motion prevailed.

Ms. Pappas moved that the name of Mr. Kleis be added as a co-author to S.F. No. 2805. The motion prevailed.

Ms. Flynn moved that her name be stricken as chief author, shown as a co-author, and the name of Mr. Hottinger be added as chief author to S.F. No. 2837. The motion prevailed.

Mr. Price moved that the name of Mrs. Pariseau be added as a co-author to S.F. No. 2840. The motion prevailed.

Mr. Laidig and Ms. Krentz introduced--

Senate Resolution No. 101: A Senate resolution congratulating Stillwater Junior High School on being named a Blue Ribbon school by the United States Department of Education.

Referred to the Committee on Rules and Administration.

Mr. Chmielewski moved that the name of Mr. Sams be added as a co-author to S.F. No. 1630. The motion prevailed.

Messrs. Moe, R.D. and Johnson, D.E. introduced--

Senate Resolution No. 102: A Senate resolution relating to mileage; setting the miles traveled by members of the Senate in going to and returning from the Capitol.

BE IT RESOLVED, by the Senate of the State of Minnesota:

That Senate Resolution No. 20 relating to mileage, Senate Permanent Journal pages 48-50, as amended by Senate Resolution No. 25, page 214, be amended as follows:

Page 1, line 17, delete:

BERTRAM, Joe, Sr. 210

Page 1, after line 24, insert:

FISCHBACH, Michelle 182

Mr. Moe, R.D. moved the adoption of the foregoing resolution. The motion prevailed. So the resolution was adopted.

Mr. Moe, R.D. moved that H.F. No. 2380 be withdrawn from the Committee on Rules and Administration and re-referred to the Committee on Finance. The motion prevailed.

Mr. Moe, R.D. moved that S.F. No. 1861 be withdrawn from the Committee on Rules and Administration and re-referred to the Committee on Taxes and Tax Laws. The motion prevailed.

Mr. Frederickson moved that S.F. No. 2208, on General Orders, be stricken and re-referred to the Committee on Taxes and Tax Laws. The motion prevailed.

Mr. Moe, R.D. moved that S.F. No. 2691 be withdrawn from the Committee on Rules and Administration and re-referred to the Committee on Taxes and Tax Laws. The motion prevailed.

Ms. Flynn moved that S.F. No. 2119, No. 30 on General Orders, be stricken and returned to its author. The motion prevailed.

Ms. Berglin moved that S.F. No. 1811, on General Orders, be stricken and re-referred to the Committee on Finance. The motion prevailed.

Mr. Morse moved that S.F. No. 2172, on General Orders, be stricken and re-referred to the Committee on Finance. The motion prevailed.

INTRODUCTION AND FIRST READING OF SENATE BILLS

The following bills were read the first time and referred to the committees indicated.

Ms. Pappas introduced--

S.F. No. 2845: A bill for an act relating to taxation; providing for payment of sales and use tax on solid waste collection and disposal services retroactively for certain years.

Referred to the Committee on Taxes and Tax Laws.

Mr. Scheevel and Mrs. Pariseau introduced--

S.F. No. 2846: A bill for an act relating to motor vehicles; providing a tax reduction for motor vehicles powered primarily by alternative fuels; amending Minnesota Statutes 1994, section 168.013, by adding a subdivision.

Referred to the Committee on Transportation and Public Transit.

Ms. Runbeck introduced--

S.F. No. 2847: A bill for an act relating to crime; providing that videotaping another person without approval is harassment; amending Minnesota Statutes 1994, section 609.749, subdivision 2.

Referred to the Committee on Crime Prevention.

Ms. Pappas and Mr. Johnson, D.J. introduced--

S.F. No. 2848: A bill for an act relating to taxation; repealing certain obsolete laws and removing obsolete references; amending Minnesota Statutes 1994, sections 290.0922, subdivision 3; 290.095, subdivision 3; 297A.15, subdivisions 5 and 6; 297A.21, subdivision 4; 297A.211, subdivision 3; 297A.24, subdivision 1; 297A.2572; 297A.2573; 297A.44, subdivision 1; 297A.46; and 298.01, subdivision 4e; Minnesota Statutes 1995 Supplement, section 297A.45, subdivisions 2, 3, and 4; repealing Minnesota Statutes 1994, sections 290.06, subdivision 21; 290.092; 295.37; 295.39; 295.40; 295.41; 295.42; 295.43; 297A.14, subdivision 3; and 297A.24, subdivision 2.

Referred to the Committee on Taxes and Tax Laws.

Messrs. Stumpf, Pogemiller and Ms. Wiener introduced--

S.F. No. 2849: A bill for an act relating to education; appropriating money for education and related purposes to the higher education services office, the board of trustees of the Minnesota state colleges and universities, and the board of regents of the University of Minnesota; amending Laws 1994, chapter 643, section 69, subdivision 1.

Referred to the Committee on Finance.

MEMBERS EXCUSED

Messrs. Berg, Chmielewski, Mondale, Sams, Stevens and Terwilliger were excused from the Session of today.

ADJOURNMENT

Mr. Moe, R.D. moved that the Senate do now adjourn until 8:00 a.m., Thursday, February 22, 1996. The motion prevailed.

Patrick E. Flahaven, Secretary of the Senate

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