

STATE OF MINNESOTA

EIGHTY-SECOND SESSION — 2001

 FORTY-SECOND DAY

SAINT PAUL, MINNESOTA, FRIDAY, APRIL 27, 2001

The House of Representatives convened at 9:00 a.m. and was called to order by Steve Sviggum, Speaker of the House.

Prayer was offered by Pastor Lori Walber, Our Savior's Reformed Church, Brooklyn Park, Minnesota.

The members of the House gave the pledge of allegiance to the flag of the United States of America.

The roll was called and the following members were present:

Abeler	Dorn	Holberg	Lenczewski	Paulsen	Swapinski
Anderson, B.	Eastlund	Holsten	Leppik	Pawlenty	Swenson
Anderson, I.	Entenza	Howes	Lieder	Paymar	Sykora
Bakk	Erhardt	Huntley	Lindner	Pelowski	Thompson
Bernardy	Erickson	Jacobson	Lipman	Penas	Tingelstad
Biernat	Evans	Jaros	Luther	Peterson	Tuma
Bishop	Finseth	Jennings	Mahoney	Pugh	Vandevor
Boudreau	Folliard	Johnson, J.	Mares	Rhodes	Wagenius
Bradley	Fuller	Johnson, R.	Mariani	Rifenberg	Walz
Buesgens	Gerlach	Johnson, S.	Marko	Rukavina	Wasiluk
Carlson	Gleason	Juhnke	McElroy	Ruth	Wenzel
Cassell	Goodno	Kahn	McGuire	Schumacher	Westerberg
Clark, J.	Goodwin	Kalis	Molnau	Seagren	Westrom
Clark, K.	Gray	Kelliher	Mulder	Seifert	Wilkin
Daggett	Greiling	Kielkucki	Mullery	Sertich	Winter
Davids	Gunther	Knoblach	Murphy	Skoe	Wolf
Davnie	Haas	Koskinen	Nornes	Skoglund	Workman
Dawkins	Hackbarth	Krinkie	Opatz	Slawik	Spk. Sviggum
Dehler	Harder	Kubly	Osskopp	Smith	
Dempsey	Hausman	Kuisle	Osthoff	Solberg	
Dibble	Hilstrom	Larson	Otremba	Stanek	
Dorman	Hilty	Leighton	Ozment	Stang	

A quorum was present.

Abrams, Marquart, Milbert, Ness and Walker were excused.

The Chief Clerk proceeded to read the Journal of the preceding day. Ruth moved that further reading of the Journal be suspended and that the Journal be approved as corrected by the Chief Clerk. The motion prevailed.

REPORTS OF CHIEF CLERK

S. F. No. 2343 and H. F. No. 2489, which had been referred to the Chief Clerk for comparison, were examined and found to be identical with certain exceptions.

SUSPENSION OF RULES

Leppik moved that the rules be so far suspended that S. F. No. 2343 be substituted for H. F. No. 2489 and that the House File be indefinitely postponed. The motion prevailed.

REPORTS OF STANDING COMMITTEES

Seagren from the Committee on K-12 Education Finance to which was referred:

H. F. No. 82, A bill for an act relating to education finance; concentrating a portion of the reserved revenue for staff development on induction and mentorship activities for new teachers; amending Minnesota Statutes 2000, section 122A.61, subdivision 1.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"ARTICLE 1**GENERAL EDUCATION REVENUE**

Section 1. Minnesota Statutes 2000, section 123B.143, subdivision 1, is amended to read:

Subdivision 1. [CONTRACT; DUTIES.] All districts maintaining a classified secondary school must employ a superintendent who shall be an ex officio nonvoting member of the school board. The authority for selection and employment of a superintendent must be vested in the board in all cases. An individual employed by a board as a superintendent shall have an initial employment contract for a period of time no longer than three years from the date of employment. Any subsequent employment contract must not exceed a period of three years. A board, at its discretion, may or may not renew an employment contract. A board must not, by action or inaction, extend the duration of an existing employment contract. Beginning 365 days prior to the expiration date of an existing employment contract, a board may negotiate and enter into a subsequent employment contract to take effect upon the expiration of the existing contract. A subsequent contract must be contingent upon the employee completing the terms of an existing contract. If a contract between a board and a superintendent is terminated prior to the date specified in the contract, the board may not enter into another superintendent contract with that same individual that has a term that extends beyond the date specified in the terminated contract. A board may terminate a superintendent during the term of an employment contract for any of the grounds specified in section 122A.40, subdivision 9 or 13. A superintendent shall not rely upon an employment contract with a board to assert any other continuing contract rights in the position of superintendent under section 122A.40. Notwithstanding the provisions of sections 122A.40, subdivision 10 or 11, 123A.32, 123A.75, or any other law to the contrary, no individual shall have a right to employment as a superintendent based on order of employment in any district. If two or more districts enter into an agreement for the purchase or sharing of the services of a superintendent, the contracting districts have

the absolute right to select one of the individuals employed to serve as superintendent in one of the contracting districts and no individual has a right to employment as the superintendent to provide all or part of the services based on order of employment in a contracting district. The superintendent of a district shall perform the following:

(1) visit and supervise the schools in the district, report and make recommendations about their condition when advisable or on request by the board;

(2) recommend to the board employment and dismissal of teachers;

(3) superintend school grading practices and examinations for promotions;

(4) make reports required by the commissioner;

(5) by January 10, submit an annual report to the commissioner in a manner prescribed by the commissioner, in consultation with school districts, ~~identifying the expenditures that the district requires to ensure an 80 percent and a 90 percent student passage rate on the basic standards test taken in the eighth grade, identifying the amount of expenditures that the district requires to ensure a 99 percent student passage rate on the basic standards test by 12th grade, and to identify~~ how much the district is cross-subsidizing programs with special education, basic skills, and general education revenue; and

(6) perform other duties prescribed by the board.

Sec. 2. Minnesota Statutes 2000, section 123B.42, subdivision 3, is amended to read:

Subd. 3. [COST; LIMITATION.] (a) The cost per pupil of the textbooks, individualized instructional or cooperative learning materials, and standardized tests provided for in this section for each school year must not exceed the statewide average expenditure per pupil, adjusted pursuant to clause (b), by the Minnesota public elementary and secondary schools for textbooks, individualized instructional materials and standardized tests as computed and established by the department by ~~March~~ February 1 of the preceding school year from the most recent public school year data then available.

(b) The cost computed in clause (a) shall be increased by an inflation adjustment equal to the percent of increase in the formula allowance, pursuant to section 126C.10, subdivision 2, from the second preceding school year to the current school year.

(c) The commissioner shall allot to the districts or intermediary service areas the total cost for each school year of providing or loaning the textbooks, individualized instructional or cooperative learning materials, and standardized tests for the pupils in each nonpublic school. The allotment shall not exceed the product of the statewide average expenditure per pupil, according to clause (a), adjusted pursuant to clause (b), multiplied by the number of nonpublic school pupils who make requests pursuant to this section and who are enrolled as of September 15 of the current school year.

Sec. 3. Minnesota Statutes 2000, section 123B.44, subdivision 6, is amended to read:

Subd. 6. [COMPUTATION OF MAXIMUM ALLOTMENTS.] For purposes of computing maximum allotments for each school year pursuant to this section, the average public school expenditure per pupil for health services and the average public school expenditure per secondary pupil for guidance and counseling services shall be computed and established by the department by ~~March~~ February 1 of the preceding school year from the most recent public school year data then available.

Sec. 4. Minnesota Statutes 2000, section 123B.75, subdivision 5, is amended to read:

Subd. 5. [LEVY RECOGNITION.] (a) "School district tax settlement revenue" means the current, delinquent, and manufactured home property tax receipts collected by the county and distributed to the school district.

(b) In June of ~~each year~~ 2001, the school district must recognize as revenue, in the fund for which the levy was made, the lesser of:

(1) the sum of May, June, and July school district tax settlement revenue received in that calendar year plus general education aid according to section 126C.13, subdivision 4, received in July and August of that calendar year; or

(2) the sum of:

(i) 31 percent of the referendum levy certified in the prior calendar year according to section 126C.17, subdivision 9; plus

(ii) the entire amount of the levy certified in the prior calendar year according to sections 124D.86, subdivision 4, for school districts receiving revenue under 124D.86, subdivision 3, clauses (1), (2), and (3); 126C.41, subdivisions 1, 2, and 3, paragraphs (4), (5), and (6); 126C.43, subdivision 2; and 126C.48, subdivision 6.

(c) For fiscal year 2002 and later years, in June of each year, the school district must recognize as revenue, in the fund for which the levy was made, the lesser of:

(1) the sum of May, June, and July school district tax settlement revenue received in that calendar year, plus general education aid according to section 126C.13, subdivision 4, received in July and August of that calendar year; or

(2) the sum of:

(i) the lesser of 50 percent of the referendum levy certified in the prior calendar year according to section 126C.17, subdivision 9; or 31 percent of the referendum levy certified according to section 126C.17, in calendar year 2000; plus

(ii) the entire amount of the levy certified in the prior calendar year according to section 124D.86, subdivision 4, for school districts receiving revenue under sections 124D.86, subdivision 3, clauses (1), (2), and (3); 126C.41, subdivisions 1, 2, and 3, paragraphs (4), (5), and (6); 126C.43, subdivision 2; and 126C.48, subdivision 6.

[EFFECTIVE DATE.] This section is effective June 30, 2001.

Sec. 5. Minnesota Statutes 2000, section 123B.75, is amended by adding a subdivision to read:

Subd. 6b. [GENERAL EDUCATION AID.] If the amount to be recognized as revenue under subdivision 5 exceeds the May, June, and July school district tax settlement revenue received in that calendar year, the district must recognize an amount of general education aid equal to the difference between the total amount to be recognized as revenue under subdivision 5, and the May, June, and July school district tax settlement revenue received in that calendar year as revenue in the previous fiscal year.

[EFFECTIVE DATE.] This section is effective June 30, 2001.

Sec. 6. Minnesota Statutes 2000, section 123B.92, is amended by adding a subdivision to read:

Subd. 11. [TRANSPORTATION RESERVE.] Each school district must reserve all transportation revenue, including the portion of the general education formula identified for transportation, integration, sparsity, nonpublic, and special needs. This revenue may only be spent for transportation purposes. If a school board determines that it has excess funds in its transportation reserve, then the board may adopt a written resolution unreserving any specified portion of the general education basic revenue otherwise reserved for transportation purposes.

Sec. 7. Minnesota Statutes 2000, section 123B.92, is amended by adding a subdivision to read:

Subd. 12. [BUS PURCHASE RESERVE.] Each school district must reserve an amount equal to seven percent of the depreciated value of the district's owned or contracted school bus fleet. Each school district must use this reserve for school bus purchases or other transportation purposes.

Sec. 8. Minnesota Statutes 2000, section 124D.69, subdivision 1, is amended to read:

Subdivision 1. [AID.] If a pupil enrolls in an alternative program, eligible under section 124D.68, subdivision 3, paragraph (d), or subdivision 4, operated by a private organization that has contracted with a school district to provide educational services for eligible pupils under section 124D.68, subdivision 2, the district contracting with the private organization must reimburse the provider an amount equal to at least ~~90~~ 95 percent of the district's average general education less basic skills revenue per pupil unit times the number of pupil units for pupils attending the program. Basic skills revenue shall be paid according to section 126C.10, subdivision 4. Compensatory revenue must be allocated according to section 126C.15, subdivision 2. For a pupil attending the program part time, the revenue paid to the program must be reduced proportionately, according to the amount of time the pupil attends the program, and revenue paid to the district shall be reduced accordingly. Pupils for whom a district provides reimbursement may not be counted by the district for any purpose other than computation of general education revenue. If payment is made to a district or program for a pupil under this section, the department must not make a payment for the same pupil under section 124D.68, subdivision 9.

[EFFECTIVE DATE.] This section is effective for revenue for fiscal years 2002 and later.

Sec. 9. Minnesota Statutes 2000, section 124D.86, subdivision 3, is amended to read:

Subd. 3. [INTEGRATION REVENUE.] (a) For fiscal year 2000 and later fiscal years, integration revenue equals the following amounts:

- (1) for independent school district No. 709, Duluth, \$207 times the adjusted pupil units for the school year;
- (2) for independent school district No. 625, St. Paul, \$446 times the adjusted pupil units for the school year;
- (3) for special school district No. 1, Minneapolis, \$536 times the adjusted pupil units for the school year; and
- (4) for a district not listed in clause (1), (2), or (3) that is required to implement a plan according to the requirements of Minnesota Rules, parts 3535.0100 to 3535.0180, the lesser of
 - (i) the actual cost of implementing the plan during the fiscal year minus the aid received under subdivision 6, or
 - (ii) \$93 times the adjusted pupil units for the school year.

Any money received by districts in clauses (1) to (3) which exceeds the amount received in fiscal year 2000 shall be subject to the budget requirements in subdivision 1a.

(b) Each district that receives integration revenue under paragraph (a) must reserve for integration transportation an amount equal to the amount expended on integration transportation in fiscal year 1998.

Sec. 10. Minnesota Statutes 2000, section 126C.05, subdivision 1, is amended to read:

Subdivision 1. [PUPIL UNIT.] Pupil units for each Minnesota resident pupil in average daily membership enrolled in the district of residence, in another district under sections 123A.05 to 123A.08, 124D.03, 124D.06, 124D.07, 124D.08, or 124D.68; in a charter school under section 124D.10; or for whom the resident district pays tuition under section 123A.18, 123A.22, 123A.30, 123A.32, 123A.44, 123A.488, 123B.88, subdivision 4, 124D.04, 124D.05, 125A.03 to 125A.24, 125A.51, or 125A.65, shall be counted according to this subdivision.

(a) A prekindergarten pupil with a disability who is enrolled in a program approved by the commissioner and has an individual education plan is counted as the ratio of the number of hours of assessment and education service to 825 times 1.25 with a minimum average daily membership of 0.28, but not more than 1.25 pupil units.

(b) A prekindergarten pupil who is assessed but determined not to be handicapped is counted as the ratio of the number of hours of assessment service to 825 times 1.25.

(c) A kindergarten pupil with a disability who is enrolled in a program approved by the commissioner is counted as the ratio of the number of hours of assessment and education services required in the fiscal year by the pupil's individual education program plan to 875, but not more than one.

(d) A kindergarten pupil who is not included in paragraph (c) is counted as .557 of a pupil unit for fiscal year 2000 and thereafter.

(e) A pupil who is in any of grades 1 to 3 is counted as 1.115 pupil units for fiscal year 2000 and thereafter.

(f) A pupil who is any of grades 4 to 6 is counted as 1.06 pupil units for fiscal year 1995 and thereafter.

(g) A pupil who is in any of grades 7 to 12 is counted as 1.3 pupil units.

(h) A pupil who is in the post-secondary enrollment options program is counted as 1.3 pupil units.

Sec. 11. Minnesota Statutes 2000, section 126C.05, subdivision 3, is amended to read:

Subd. 3. [~~COMPENSATION REMEDIAL REVENUE PUPIL UNITS.~~] Compensation (a) Remedial revenue pupil units ~~for fiscal year 1998 and thereafter~~ must be computed according to this subdivision.

~~(a)~~ (b) The compensation remedial revenue concentration percentage for each building in a district equals the product of 100 times the ratio of:

(1) the sum of the number of pupils enrolled in the building eligible to receive free lunch plus one-half of the pupils eligible to receive reduced priced lunch on October 1 of the previous fiscal year; to

(2) the number of pupils enrolled in the building on October 1 of the previous fiscal year.

~~(b)~~ (c) The compensation remedial revenue pupil weighting factor for a building equals the lesser of one or the quotient obtained by dividing the building's compensation revenue concentration percentage by 80.0.

~~(c)~~ (d) The compensation remedial revenue pupil units for a building equals the product of:

(1) the sum of the number of pupils enrolled in the building eligible to receive free lunch and one-half of the pupils eligible to receive reduced priced lunch on October 1 of the previous fiscal year; times

(2) the compensation remedial revenue pupil weighting factor for the building; times

(3) .60.

~~(d)~~ (e) Notwithstanding paragraphs ~~(a)~~ (b) to ~~(c)~~ (d), for charter schools and contracted alternative programs in the first year of operation, compensation remedial revenue pupil units shall be computed using data for the current fiscal year. If the charter school or contracted alternative program begins operation after October 1, compensatory remedial revenue pupil units shall be computed based on pupils enrolled on an alternate date determined by the commissioner, and the compensation remedial revenue pupil units shall be prorated based on the ratio of the number of days of student instruction to 170 days.

(~~e~~) (f) The percentages in this subdivision must be based on the count of individual pupils and not on a building average or minimum.

(g) For fiscal years 2004 and later, statewide total remedial revenue equals the amount of remedial revenue for fiscal year 2003. This amount is included in general education revenue.

Sec. 12. Minnesota Statutes 2000, section 126C.05, subdivision 5, is amended to read:

Subd. 5. [ADJUSTED PUPIL UNITS.] (a) Adjusted pupil units for a district or charter school means the sum of:

(1) the number of pupil units served, according to subdivision 7, plus

(2) pupil units according to subdivision 1 for whom the district or charter school pays tuition under section 123A.18, 123A.22, 123A.30, 123A.32, 123A.44, 123A.488, 123B.88, subdivision 4, 124D.04, 124D.05, 125A.03 to 125A.24, 125A.51, or 125A.65, minus

(3) pupil units according to subdivision 1 for whom the district or charter school receives tuition under section 123A.18, 123A.22, 123A.30, 123A.32, 123A.44, 123A.488, 123B.88, subdivision 4, 124D.04, 124D.05, 125A.03 to 125A.24, 125A.51, or 125A.65.

(b) Adjusted marginal cost pupil units means the greater of:

(1) the sum of ~~.77~~ .50 times the pupil units defined in paragraph (a) for the current school year and ~~.23~~ .50 times the pupil units defined in paragraph (a) for the previous school year; or

(2) the number of adjusted pupil units defined in paragraph (a) for the current school year.

[EFFECTIVE DATE.] This section is effective for revenue for fiscal years 2002 and later.

Sec. 13. Minnesota Statutes 2000, section 126C.05, subdivision 6, is amended to read:

Subd. 6. [RESIDENT PUPIL UNITS.] (a) Resident pupil units for a district means the number of pupil units according to subdivision 1 residing in the district.

(b) Resident marginal cost pupil units means the greater of:

(1) the sum of ~~.77~~ .50 times the pupil units defined in paragraph (a) for the current year and ~~.23~~ .50 times the pupil units defined in paragraph (a) for the previous school year; or

(2) the number of resident pupil units defined in paragraph (a) for the current school year.

[EFFECTIVE DATE.] This section is effective for revenue for fiscal years 2002 and later.

Sec. 14. Minnesota Statutes 2000, section 126C.10, subdivision 1, is amended to read:

Subdivision 1. [GENERAL EDUCATION REVENUE.] For fiscal year ~~2000~~ 2002 and thereafter, the general education revenue for each district equals the sum of the district's basic revenue, basic skills revenue, training and experience revenue, secondary sparsity revenue, elementary sparsity revenue, transportation sparsity revenue, total operating capital revenue, equity revenue, ~~referendum offset adjustment~~, transition revenue, and supplemental revenue.

[EFFECTIVE DATE.] This section is effective for revenue for fiscal year 2002.

Sec. 15. Minnesota Statutes 2000, section 126C.10, subdivision 2, is amended to read:

Subd. 2. [BASIC REVENUE.] (a) The basic revenue for each district equals the formula allowance times the adjusted marginal cost pupil units for the school year. ~~The formula allowance for fiscal year 1998 is \$3,581. The formula allowance for fiscal year 1999 is \$3,530. The formula allowance for fiscal year 2000 is \$3,740. The formula allowance for fiscal year 2001 and subsequent fiscal years is \$3,964. The formula allowance for fiscal year 2002 is \$4,050. The formula allowance for fiscal year 2003 and later is \$4,175.~~

(b) Each district must reserve five percent of the formula allowance times the adjusted marginal cost pupil units for pupil transportation services. If a school board determines that it has excess funds in its transportation reserve, then the board may adopt a written resolution unreserving any specified portion of the general education basic revenue otherwise reserved for transportation purposes.

Sec. 16. Minnesota Statutes 2000, section 126C.10, subdivision 3, is amended to read:

Subd. 3. [~~COMPENSATORY REMEDIAL EDUCATION REVENUE.~~] For fiscal year 2002 and later, the compensatory remedial education revenue for each building in the district equals the formula allowance for fiscal year 2001 times the compensation remedial revenue pupil units computed according to section 126C.05, subdivision 3. Revenue shall be paid to the district and must be allocated according to section 126C.15, subdivision 2.

Sec. 17. Minnesota Statutes 2000, section 126C.10, subdivision 9, is amended to read:

Subd. 9. [SUPPLEMENTAL REVENUE.] (a) A district's supplemental revenue allowance for fiscal year ~~1994~~ 2002 and later fiscal years equals the district's supplemental revenue allowance for fiscal year ~~1993~~ divided by the district's 1992-1993 resident pupil units 2001.

~~(b) A district's supplemental revenue allowance is reduced for fiscal year 1995 and later according to subdivision 12.~~

~~(c) A district's supplemental revenue equals the supplemental revenue allowance, if any, times its adjusted marginal cost pupil units for that year.~~

~~(d) A district may cancel its supplemental revenue by notifying the commissioner of education prior to June 30, 1994. A district that is reorganizing under section 123A.35, 123A.46, or 123A.48 may cancel its supplemental revenue by notifying the commissioner of children, families, and learning before July 1 of the year of the reorganization. If a district cancels its supplemental revenue according to this paragraph, its supplemental revenue allowance for fiscal year 1993 for purposes of subdivision 12 and section 124A.03, subdivision 3b, equals zero.~~

[EFFECTIVE DATE.] This section is effective for revenue for fiscal year 2002.

Sec. 18. Minnesota Statutes 2000, section 126C.10, subdivision 20, is amended to read:

Subd. 20. [TRANSITION REVENUE ~~ADJUSTMENT.~~] A district's transition revenue ~~adjustment~~ equals the district's transition allowance times the adjusted marginal cost pupil units for the school year.

Sec. 19. Minnesota Statutes 2000, section 126C.10, subdivision 21, is amended to read:

Subd. 21. [TRANSITION LEVY ~~ADJUSTMENT.~~] A district's ~~general education levy shall be adjusted by an amount equal to transition levy for fiscal year 2003 and later equals~~ the district's transition revenue times the lesser of 1 or the ratio of its adjusted net tax capacity per adjusted marginal cost pupil unit to \$8,404.

Sec. 20. Minnesota Statutes 2000, section 126C.10, subdivision 22, is amended to read:

Subd. 22. [~~TRANSITION AID ADJUSTMENT.~~] A district's transition aid ~~adjustment~~ is the difference between the transition revenue and the transition levy.

Sec. 21. Minnesota Statutes 2000, section 126C.10, subdivision 24, is amended to read:

Subd. 24. [EQUITY REVENUE.] (a) A school district qualifies for equity revenue if:

(1) the school district's adjusted marginal cost pupil unit amount of basic revenue, supplemental revenue, transition revenue, and referendum revenue is less than the value of the school district at or immediately above the ~~90th~~ 95th percentile of school districts ~~in its equity region~~ for those revenue categories; and

(2) the school district's administrative offices are not located in a city of the first class on July 1, 1999.

(b) Equity revenue for a qualifying district ~~that receives referendum revenue under section 126C.17, subdivision 4,~~ equals the product of (1) the district's adjusted marginal cost pupil units for that year; times (2) the sum of (i) ~~\$10~~ \$8, plus (ii) ~~\$30~~ \$64, times the school district's equity index computed under subdivision 27; ~~times (3) the school district's small school index number under subdivision 29.~~

(c) Equity revenue ~~for a qualifying district that does not receive referendum revenue under section 126C.17, subdivision 4,~~ equals the product of the district's adjusted marginal cost pupil units for that year times \$10 ~~must not exceed \$150 times the adjusted marginal cost pupil units for that year.~~

[EFFECTIVE DATE.] This section is effective for revenue for fiscal year 2002 and later.

Sec. 22. Minnesota Statutes 2000, section 126C.10, subdivision 25, is amended to read:

Subd. 25. [~~REGIONAL STATEWIDE EQUITY GAP.~~] The ~~regional~~ statewide equity gap equals the difference between the value of the school district at or immediately above the fifth percentile of adjusted general revenue per adjusted marginal cost pupil unit and the value of the school district at or immediately above the ~~90th~~ 95th percentile of adjusted general revenue per adjusted marginal cost pupil unit.

[EFFECTIVE DATE.] This section is effective for revenue for fiscal year 2002 and later.

Sec. 23. Minnesota Statutes 2000, section 126C.10, subdivision 27, is amended to read:

Subd. 27. [DISTRICT EQUITY INDEX.] A district's equity index equals the ratio of the sum of the district equity gap amount to the ~~regional~~ statewide equity gap amount.

[EFFECTIVE DATE.] This section is effective for revenue for fiscal year 2002 and later.

Sec. 24. Minnesota Statutes 2000, section 126C.10, is amended by adding a subdivision to read:

Subd. 29. [SMALL SCHOOL INDEX.] The small school index for a district with 1,500 or fewer adjusted marginal cost pupil units for that school year equals one plus the product of two and the ratio of 200 to the district's adjusted marginal cost pupil units for that year. The small school index for a district with more than 1,500 adjusted marginal cost pupil units for that year equals 1.0.

[EFFECTIVE DATE.] This section is effective for revenue for fiscal year 2002 and later.

Sec. 25. Minnesota Statutes 2000, section 126C.12, subdivision 2, is amended to read:

Subd. 2. [~~INSTRUCTOR-DEFINED DEFINITIONS.~~] Primary instructor (a) "Classroom teacher" means a public employee licensed by the board of teaching who is authorized to teach all subjects to children in any grade in kindergarten through grade 6 and whose duties are full-time regular classroom instruction, excluding a teacher for

whom federal aids are received or for whom categorical aids are received pursuant to under section 125A.76 or who is an itinerant teacher or provides instruction outside of the regular classroom. Except as provided in section 122A.68, subdivision 6, ~~instructor classroom teacher~~ does not include supervisory and support personnel, ~~except school social workers as defined in section 122A.15.~~ An instructor A classroom teacher whose duties are less than full-time instruction must be included as an equivalent only for the number of hours of instruction in grades kindergarten through 6 grade 3.

(b) "Class size" means the districtwide ratio at each grade level of the number of full-time students in kindergarten through grade 3 served at least 40 percent of the time in regular classrooms to the number of full-time classroom teachers in kindergarten through grade 3, determined as of October 1 of each school year.

Sec. 26. Minnesota Statutes 2000, section 126C.12, subdivision 3, is amended to read:

Subd. 3. [INSTRUCTION CONTACT TIME.] Instruction may be provided by a ~~primary instructor, classroom teacher or~~ by a team of ~~instructors classroom teachers,~~ or by a teacher resident supervised by a ~~primary instructor classroom teacher.~~ The district must maximize ~~instructor classroom teacher~~ to learner average instructional contact time in the core subjects of reading and mathematics.

Sec. 27. Minnesota Statutes 2000, section 126C.12, subdivision 4, is amended to read:

Subd. 4. [REVENUE USE.] (a) ~~Revenue must be used according to either paragraph (b) or (c):~~

~~(b) Revenue must be used to reduce and maintain the district's instructor to learner ratios average class size in kindergarten through grade 6 3 to a level of + 17 to +7 1 on average in each of the respective grades. The district must prioritize the use of the revenue to attain this level initially in kindergarten and grade 1 and then through the subsequent grades as revenue is available.~~

~~(c) The revenue may be used to prepare and use an individualized learning plan for each learner. (b) A district must not increase the district wide instructor-to-learner ratios districtwide class sizes in other grades as a result of reducing instructor-to-learner ratios class sizes in kindergarten through grade 6 3. Revenue may not be used to provide instructor preparation time. A district may use a portion of the revenue reserved under this section to employ up to the same number of full-time equivalent education assistants or aides as the district employed during the 1992-1993 school year under Minnesota Statutes 1992, section 124.331, subdivision 2 through fiscal year 2002. Beginning in fiscal year 2003, class size reduction revenue may only be reserved to employ classroom teachers contributing to lower class sizes in kindergarten through grade 3.~~

Sec. 28. Minnesota Statutes 2000, section 126C.12, subdivision 5, is amended to read:

Subd. 5. [ADDITIONAL REVENUE USE.] If the board of a district determines that the district has achieved and is maintaining the ~~instructor-to-learner ratios~~ class sizes specified in subdivision 4 ~~and is using individualized learning plans,~~ the board may use the revenue to:

(1) reduce class size in grades 4, 5, and 6; or

~~(2) purchase instructional material and services, or provide staff development needed for reduced instructor-to-learner ratios. If additional revenue remains, the district must use the revenue to improve program offerings, including programs provided through interactive television, throughout the district or other general education purposes technology.~~

Sec. 29. Minnesota Statutes 2000, section 126C.12, is amended by adding a subdivision to read:

Subd. 6. [ANNUAL REPORT.] By December 1 of each year, districts receiving revenue under subdivision 1 shall make available to the public a report on the amount of revenue the district has received and the use of the revenue. This report shall be in the form and manner determined by the commissioner and shall include the district average

class sizes in kindergarten through grade 6 as of October 1 of the current school year and the class sizes for each site serving kindergarten through grade 6 students in the district. A copy of the report shall be filed with the commissioner by December 15.

Sec. 30. Minnesota Statutes 2000, section 126C.13, subdivision 1, is amended to read:

Subdivision 1. [GENERAL EDUCATION TAX RATE.] The commissioner must establish the general education tax rate by July 1 of each year for levies payable in the following year. The general education tax capacity rate must be a rate, rounded up to the nearest hundredth of a percent, that, when applied to the adjusted net tax capacity for all districts, raises the amount specified in this subdivision. The general education tax rate must be the rate that raises ~~\$1,330,000,000~~ \$1,361,000,000 for fiscal year 2001, and later fiscal years. The general education tax rate may not be changed due to changes or corrections made to a district's adjusted net tax capacity after the tax rate has been established.

Sec. 31. Minnesota Statutes 2000, section 126C.15, subdivision 1, is amended to read:

Subdivision 1. [USE OF THE REVENUE.] The basic skills revenue under section 126C.10, subdivision 4, and the portion of the transition revenue adjustment under section 126C.10, subdivision 20, attributable to the compensatory transition allowance under section 126C.10, subdivision 19, paragraph (b), must be reserved and used to meet the educational needs of pupils who enroll under-prepared to learn and whose progress toward meeting state or local content or performance standards is below the level that is appropriate for learners of their age. Any of the following may be provided to meet these learners' needs:

- (1) direct instructional services under the assurance of mastery program according to section 124D.66;
- (2) remedial instruction in reading, language arts, mathematics, other content areas, or study skills to improve the achievement level of these learners;
- (3) additional teachers and teacher aides to provide more individualized instruction to these learners through individual tutoring, lower instructor-to-learner ratios, or team teaching;
- (4) a longer school day or week during the regular school year or through a summer program that may be offered directly by the site or under a performance-based contract with a community-based organization;
- (5) comprehensive and ongoing staff development consistent with district and site plans according to section 122A.60, for teachers, teacher aides, principals, and other personnel to improve their ability to identify the needs of these learners and provide appropriate remediation, intervention, accommodations, or modifications;
- (6) instructional materials and technology appropriate for meeting the individual needs of these learners;
- (7) programs to reduce truancy, encourage completion of high school, enhance self-concept, provide health services, provide nutrition services, provide a safe and secure learning environment, provide coordination for pupils receiving services from other governmental agencies, provide psychological services to determine the level of social, emotional, cognitive, and intellectual development, and provide counseling services, guidance services, and social work services;
- (8) bilingual programs, bicultural programs, and programs for learners of limited English proficiency;
- (9) all day kindergarten;
- (10) extended school day and extended school year programs; and

(11) substantial parent involvement in developing and implementing remedial education or intervention plans for a learner, including learning contracts between the school, the learner, and the parent that establish achievement goals and responsibilities of the learner and the learner's parent or guardian; ~~and~~

~~(12) other methods to increase achievement, as needed.~~

Sec. 32. Minnesota Statutes 2000, section 126C.15, subdivision 2, is amended to read:

Subd. 2. [BUILDING ALLOCATION.] (a) A district must allocate its compensatory revenue to each school building in the district where the children who have generated the revenue are served.

(b) Notwithstanding paragraph (a), ~~for fiscal years 1999, 2000, and 2001, upon approval by the commissioner,~~ a district may allocate up to five percent of the amount of compensatory revenue that the district ~~would have received under Minnesota Statutes 1996, section 124A.22, subdivision 3, for fiscal year 1998, computed using a basic formula allowance of \$3,581 during the previous fiscal year~~ to school sites according to a plan adopted by the school board.

(c) For the purposes of this section and section 126C.05, subdivision 3, "building" means education site as defined in section 123B.04, subdivision 1.

(d) If the pupil is served at a site other than one owned and operated by the district, the revenue shall be paid to the district and used for services for pupils who generate the revenue.

Sec. 33. Minnesota Statutes 2000, section 126C.15, subdivision 5, is amended to read:

Subd. 5. [ANNUAL EXPENDITURE REPORT.] Each year a district that receives basic skills revenue must submit a report identifying the expenditures it incurred to meet the needs of eligible learners under subdivision 1. The report must conform to uniform financial and reporting standards established for this purpose. Using valid and reliable data and measurement criteria, the report also must determine whether increased expenditures raised student achievement levels.

Sec. 34. Minnesota Statutes 2000, section 126C.16, is amended by adding a subdivision to read:

Subd. 4. [REFERENDUM ALLOWANCE ADJUSTMENT.] Beginning in fiscal year 2003, the referendum allowance determined for a district under subdivision 3 is increased by an amount equal to the reduction in the district's referendum allowance for fiscal year 2001 under section 126C.17, subdivision 2. The increased allowance, as adjusted according to section 126C.17, subdivision 2, shall be used in computing a district's referendum revenue for all later years for which the revenue is authorized.

Sec. 35. Minnesota Statutes 2000, section 126C.17, subdivision 1, is amended to read:

Subdivision 1. [REFERENDUM ALLOWANCE.] A district's referendum revenue allowance equals the ~~referendum revenue authority for that year divided by its resident marginal cost pupil units for that school year~~ sum of the allowance under section 126C.16, subdivision 2, plus any additional allowance per resident marginal cost pupil unit authorized under subdivision 9 for fiscal year 2002 and later.

[EFFECTIVE DATE.] This section is effective for revenue for fiscal year 2002.

Sec. 36. Minnesota Statutes 2000, section 126C.17, subdivision 2, is amended to read:

Subd. 2. [REFERENDUM ALLOWANCE LIMIT.] (a) Notwithstanding subdivision 1, a district's referendum allowance must not exceed the greater of:

(1) the district's referendum allowance for fiscal year 1994 multiplied by the inflation factor established in paragraph (b);

(2) ~~25~~ 35 percent of the formula allowance; or

(3) for a newly reorganized district created after July 1, 1994, the sum of the referendum revenue authority for the reorganizing districts for the fiscal year preceding the reorganization, divided by the sum of the resident marginal cost pupil units of the reorganizing districts for the fiscal year preceding the reorganization.

(b) The operating referendum inflation factor equals the ratio of the consumer price index for urban consumers as prepared by the United States Department of Labor, for the most recently available year to the Consumer Price Index for urban consumers for 1994.

Sec. 37. Minnesota Statutes 2000, section 126C.17, subdivision 5, is amended to read:

Subd. 5. [REFERENDUM EQUALIZATION REVENUE.] (a) A district's referendum equalization revenue equals the referendum equalization allowance times the district's resident marginal cost pupil units for that year.

(b) The referendum equalization allowance equals \$350 for fiscal year 2000 and \$415 for fiscal year years 2001 and 2002, \$515 for fiscal year 2003, and \$615 for fiscal year 2004 and later.

(c) Referendum equalization revenue must not exceed a district's total referendum revenue for that year.

[EFFECTIVE DATE.] This section is effective for revenue for fiscal year 2003 and later.

Sec. 38. Minnesota Statutes 2000, section 126C.17, subdivision 6, is amended to read:

Subd. 6. [REFERENDUM EQUALIZATION LEVY.] ~~(a) A district's referendum equalization levy for a referendum levied against the referendum market value of all taxable property as defined in section 126C.01, subdivision 3, equals the district's referendum equalization revenue times the lesser of one or the ratio of the district's referendum market value per resident marginal cost pupil unit to \$476,000.~~

~~(b) A district's referendum equalization levy for a referendum levied against the net tax capacity of all taxable property equals the district's referendum equalization revenue times the lesser of one or the ratio of the district's adjusted net tax capacity per resident marginal cost pupil unit to \$8,404.~~

[EFFECTIVE DATE.] This section is effective for revenue for fiscal year 2002.

Sec. 39. Minnesota Statutes 2000, section 126C.17, subdivision 9, is amended to read:

Subd. 9. [REFERENDUM REVENUE.] (a) The revenue authorized by section 126C.10, subdivision 1, may be increased in the amount approved by the voters of the district at a referendum called for the purpose. The referendum may be called by the board or shall be called by the board upon written petition of qualified voters of the district. The referendum must be conducted one or two calendar years before the increased levy authority, if approved, first becomes payable. Only one election to approve an increase may be held in a calendar year. Unless the referendum is conducted by mail under paragraph (g), the referendum must be held on the first Tuesday after the first Monday in November. The ballot must state the maximum amount of the increased revenue per resident marginal cost pupil unit, the estimated referendum tax rate as a percentage of referendum market value in the first year it is to be levied, and that the revenue must be used to finance school operations. The ballot may state a schedule, determined by the board, of increased revenue per resident marginal cost pupil unit that differs from year to year over the number of years for which the increased revenue is authorized. If the ballot contains a schedule showing different amounts, it must also indicate the estimated referendum tax rate as a percent of referendum market value for the amount specified for the first year and for the maximum amount specified in the schedule. The ballot may state that existing referendum levy authority is expiring. In this case, the ballot may also compare the proposed levy authority to the existing expiring levy authority, and express the proposed increase as the amount, if any, over

the expiring referendum levy authority. The ballot must designate the specific number of years, not to exceed ten, for which the referendum authorization applies. The notice required under section 275.60 may be modified to read, in cases of renewing existing levies:

"BY VOTING "YES" ON THIS BALLOT QUESTION, YOU MAY BE VOTING FOR A PROPERTY TAX INCREASE."

The ballot may contain a textual portion with the information required in this subdivision and a question stating substantially the following:

"Shall the increase in the revenue proposed by (petition to) the board of, School District No. ..., be approved?"

If approved, an amount equal to the approved revenue per resident marginal cost pupil unit times the resident marginal cost pupil units for the school year beginning in the year after the levy is certified shall be authorized for certification for the number of years approved, if applicable, or until revoked or reduced by the voters of the district at a subsequent referendum.

(b) The board must prepare and deliver by first class mail at least 15 days but no more than 30 days before the day of the referendum to each taxpayer a notice of the referendum and the proposed revenue increase. The board need not mail more than one notice to any taxpayer. For the purpose of giving mailed notice under this subdivision, owners must be those shown to be owners on the records of the county auditor or, in any county where tax statements are mailed by the county treasurer, on the records of the county treasurer. Every property owner whose name does not appear on the records of the county auditor or the county treasurer is deemed to have waived this mailed notice unless the owner has requested in writing that the county auditor or county treasurer, as the case may be, include the name on the records for this purpose. The notice must project the anticipated amount of tax increase in annual dollars and annual percentage for typical residential homesteads, agricultural homesteads, apartments, and commercial-industrial property within the school district.

The notice for a referendum may state that an existing referendum levy is expiring and project the anticipated amount of increase over the existing referendum levy in the first year, if any, in annual dollars and annual percentage for typical residential homesteads, agricultural homesteads, apartments, and commercial-industrial property within the district.

The notice must include the following statement: "Passage of this referendum will result in an increase in your property taxes." However, in cases of renewing existing levies, the notice may include the following statement: "Passage of this referendum may result in an increase in your property taxes."

(c) A referendum on the question of revoking or reducing the increased revenue amount authorized pursuant to paragraph (a) may be called by the board and shall be called by the board upon the written petition of qualified voters of the district. A referendum to revoke or reduce the levy amount must be based upon the dollar amount, local tax rate, or amount per resident marginal cost pupil unit, that was stated to be the basis for the initial authorization. Revenue approved by the voters of the district pursuant to paragraph (a) must be received at least once before it is subject to a referendum on its revocation or reduction for subsequent years. Only one revocation or reduction referendum may be held to revoke or reduce referendum revenue for any specific year and for years thereafter.

(d) A petition authorized by paragraph (a) or (c) is effective if signed by a number of qualified voters in excess of 15 percent of the registered voters of the district on the day the petition is filed with the board. A referendum invoked by petition must be held on the date specified in paragraph (a).

(e) The approval of 50 percent plus one of those voting on the question is required to pass a referendum authorized by this subdivision.

(f) At least 15 days before the day of the referendum, the district must submit a copy of the notice required under paragraph (b) to the commissioner and to the county auditor of each county in which the district is located. Within 15 days after the results of the referendum have been certified by the board, or in the case of a recount, the certification of the results of the recount by the canvassing board, the district must notify the commissioner of the results of the referendum.

~~(g) Except for a referendum held under subdivision 11, any referendum under this section held on a day other than the first Tuesday after the first Monday in November must be conducted by mail in accordance with section 204B.46. Notwithstanding paragraph (b) to the contrary, in the case of a referendum conducted by mail under this paragraph, the notice required by paragraph (b) must be prepared and delivered by first class mail at least 20 days before the referendum.~~

Sec. 40. Minnesota Statutes 2000, section 126C.17, subdivision 10, is amended to read:

Subd. 10. [SCHOOL REFERENDUM LEVY; MARKET VALUE.] ~~Notwithstanding the provisions of subdivision 9, A school referendum levy approved after November 1, 1992, for taxes payable in 1993 and thereafter, must be levied against the referendum market value of all taxable property as defined in section 126C.01, subdivision 3. Any referendum levy amount subject to the requirements of this subdivision must be certified separately to the county auditor under section 275.07.~~

~~All other provisions of subdivision 9 that do not conflict with this subdivision apply to referendum levies under this subdivision.~~

[EFFECTIVE DATE.] This section is effective for revenue for fiscal year 2002.

Sec. 41. Minnesota Statutes 2000, section 126C.17, subdivision 11, is amended to read:

Subd. 11. [REFERENDUM DATE.] (a) Except for a referendum held under paragraph (b), any referendum under this section held on a day other than the first Tuesday after the first Monday in November must be conducted by mail in accordance with section 204B.46. Notwithstanding subdivision 9, paragraph (b), to the contrary, in the case of a referendum conducted by mail under this paragraph, the notice required by subdivision 9, paragraph (b), must be prepared and delivered by first-class mail at least 20 days before the referendum.

(b) In addition to the referenda allowed in subdivision 9, clause (a), the commissioner may authorize a referendum for a different day.

~~(a) The commissioner may grant authority to a district to hold a referendum on a different day if the district is in statutory operating debt and has an approved plan or has received an extension from the department to file a plan to eliminate the statutory operating debt.~~

~~(b) The commissioner may grant authority for a district to hold a referendum on a different day if: (1) the district will conduct a bond election under chapter 475 on that same day; and (2) the proceeds of the referendum will provide only additional operating revenue complementing the purpose for which bonding authority is sought. The commissioner may only grant authority under this paragraph if the district demonstrates to the commissioner's satisfaction that the district's ability to operate the new facility or achieve efficiencies with the purchases connected to the proceeds of the bond sale will be significantly affected if the operating referendum is not conducted until the November general election. Authority under this paragraph expires November 30, 1998.~~

~~(c) The commissioner must approve, deny, or modify each district's request for a referendum levy on a different day within 60 days of receiving the request from a district.~~

Sec. 42. Minnesota Statutes 2000, section 126C.23, subdivision 5, is amended to read:

Subd. 5. [DATA REPORTING.] Each district must report to the commissioner ~~the estimated amount of general education and referendum initially allocated to each building under subdivision 2 and the amount of any reallocations under subdivision 3 by January 30 of the current fiscal year, and the actual amount of general education and~~

referendum revenue initially allocated to each building under subdivision 2 and the amount of any reallocations under subdivision 3 by January 30 of the next fiscal year.

Sec. 43. Minnesota Statutes 2000, section 126C.41, subdivision 3, is amended to read:

Subd. 3. [RETIREMENT LEVIES.] ~~(1) In addition to the excess levy authorized in 1976 any district within a city of the first class which was authorized in 1975 to make a retirement levy under Minnesota Statutes 1974, section 275.127 and chapter 422A may levy an amount per pupil unit which is equal to the amount levied in 1975 payable 1976, under Minnesota Statutes 1974, section 275.127 and chapter 422A, divided by the number of pupil units in the district in 1976-1977.~~

~~(2) In 1979 and each year thereafter, any district which qualified in 1976 for an extra levy under paragraph (1) shall be allowed to levy the same amount as levied for retirement in 1978 under this clause reduced each year by ten percent of the difference between the amount levied for retirement in 1971 under Minnesota Statutes 1971, sections 275.127 and 422.01 to 422.54 and the amount levied for retirement in 1975 under Minnesota Statutes 1974, section 275.127 and chapter 422A.~~

~~(3)~~ (a) In 1991 and each year thereafter, a district to which this subdivision applies may levy an additional amount required for contributions to the Minneapolis employees retirement fund as a result of the maximum dollar amount limitation on state contributions to the fund imposed under section 422A.101, subdivision 3. The additional levy must not exceed the most recent amount certified by the board of the Minneapolis employees retirement fund as the district's share of the contribution requirement in excess of the maximum state contribution under section 422A.101, subdivision 3.

~~(4)~~ (b) For taxes payable in 1994 and thereafter, special school district No. 1, Minneapolis, and independent school district No. 625, St. Paul, may levy for the increase in the employer retirement fund contributions, under Laws 1992, chapter 598, article 5, section 1.

~~(5)~~ (c) If the employer retirement fund contributions under section 354A.12, subdivision 2a, are increased for fiscal year 1994 or later fiscal years, special school district No. 1, Minneapolis, and independent school district No. 625, St. Paul, may levy in payable 1994 or later an amount equal to the amount derived by applying the net increase in the employer retirement fund contribution rate of the respective teacher retirement fund association between fiscal year 1993 and the fiscal year beginning in the year after the levy is certified to the total covered payroll of the applicable teacher retirement fund association. If an applicable school district levies under this paragraph, they may not levy under paragraph ~~(4)~~ (b).

~~(6)~~ (d) In addition to the levy authorized under paragraph ~~(5)~~ (c), special school district No. 1, Minneapolis, may also levy payable in 1997 or later an amount equal to the contributions under section 423A.02, subdivision 3, and may also levy in payable 1994 or later an amount equal to the state aid contribution under section 354A.12, subdivision 3b. Independent school district No. 625, St. Paul, may levy payable in 1997 or later an amount equal to the supplemental contributions under section 423A.02, subdivision 3.

Sec. 44. Minnesota Statutes 2000, section 126C.43, subdivision 3, is amended to read:

Subd. 3. [TAX LEVY FOR ~~UNPAID~~ JUDGMENT.] ~~A school district may levy the amounts necessary to pay the district's obligations judgments against the school district and, if the school district is a member of an intermediate school district, the district's proportionate share of the judgments against the intermediate school district, under section 126C.47 123B.25 that became final after the date the district certified its proposed levy in the previous year. With the approval of the commissioner, a district may spread this levy over a period not to exceed three years.~~

Sec. 45. Minnesota Statutes 2000, section 127A.41, subdivision 5, is amended to read:

Subd. 5. [DISTRICT APPEAL OF AID REDUCTION; INSPECTION OF DISTRICT SCHOOLS AND ACCOUNTS AND RECORDS.] Public schools shall at all times be open to the inspection of the commissioner. The accounts and records of any district must be open to inspection by the state auditor, or the commissioner for the

purpose of audits conducted under this section. Each district shall keep for a minimum of three years at least the following: (1) identification of the annual session days held, together with a record of the length of each session day, (2) a record of each pupil's daily attendance, with entrance and withdrawal dates, and (3) identification of the ~~pupils transported who are reported for transportation aid to-and-from school transportation category for each pupil as defined in section 123B.92, subdivision 1.~~

Sec. 46. Minnesota Statutes 2000, section 127A.50, subdivision 2, is amended to read:

Subd. 2. [~~APPROPRIATION AND ESTIMATED NET SAVINGS.~~] The amounts necessary to pay any positive net adjustments under this section to any school district are appropriated annually from the general fund to the commissioner of children, families, and learning. ~~The estimated net general fund savings under this section is \$29,819,000 in fiscal year 1998, and \$26,997,000 in each fiscal year thereafter.~~

Sec. 47. Laws 1992, chapter 499, article 7, section 31, as amended by Laws 1998, chapter 398, article 1, section 39, Laws 1999, chapter 241, article 1, section 54, and Laws 2000, chapter 489, article 2, section 28, is amended to read:

Sec. 31. [~~REPEALER.~~]

~~Minnesota Statutes 1990, sections 124A.02, subdivision 24; 124A.23, subdivisions 2 and 3; 124A.26, subdivisions 2 and 3; 124A.27; 124A.28; and 124A.29, subdivision 2; and Minnesota Statutes 1991 Supplement, sections 124A.02, subdivisions 16 and 23; 124A.03, subdivisions 1b, 1c, 1d, 1e, 1f, 1g, 1h, and 1i; 124A.04; 124A.22, subdivisions 2, 3, 4, 4a, 4b, 8, and 9; 124A.23, subdivisions 1, 4, and 5; 124A.24; 124A.26, subdivision 1; and 124A.29, subdivision 1, are repealed effective June 30, 2004; Laws 1991, chapter 265, article 7, section 35, is repealed.~~

Sec. 48. Laws 2000, chapter 489, article 2, section 34, is amended to read:

Sec. 34. [~~TRAINING AND EXPERIENCE REPLACEMENT REVENUE.~~]

(a) For fiscal year 2001 only, a school district's training and experience replacement revenue equals the sum of the following:

(1) the ratio of the amount of training and experience revenue the district would have received for fiscal year 1999 calculated using the training and experience index in Minnesota Statutes 1996, section 124A.04, to its resident pupil units for that year, times the district's adjusted marginal cost pupil units for fiscal year 2001, times .06; plus

(2) the difference between .47 times the training and experience revenue the district would have received for fiscal year 1999, calculated using the training and experience index in Minnesota Statutes 1996, section 124A.04, and the amount calculated in Minnesota Statutes, section 126C.10, subdivision 5, for fiscal year 2001, but not less than zero.

(b) This revenue is paid entirely in fiscal year 2001 based on estimated data.

(c) By January 31, 2002, the department of children, families, and learning shall recalculate the revenue for each district using actual data, and shall adjust the general education aid paid to school districts for fiscal year 2002 by the amount of the difference between the estimated revenue and the actual revenue.

Sec. 49. Laws 2000, chapter 489, article 2, section 36, is amended to read:

Sec. 36. [~~FISCAL YEARS 2003 2004 TO 2007 2008 AIRPORT RUNWAY IMPACT PUPIL UNIT AID; RICHFIELD.~~]

Subdivision 1. [~~AIRPORT IMPACT ZONE PUPIL UNITS, DEFINITION.~~] For the purposes of this section, "airport impact zone pupil units" means the number of pupil units, according to Minnesota Statutes 1999 Supplement, section 126C.05, subdivision 1, in school year 1998-1999 that were attributable to the airport impact zone, as defined in Laws 1999, chapter 243, article 16, section 35, subdivision 1.

Subd. 2. [FISCAL YEAR ~~2003~~ 2004.] For fiscal year ~~2003~~ 2004 only, independent school district No. 280, Richfield, is eligible for declining pupil unit aid equal to the product of 70 percent of the airport impact zone pupil units times the general education formula allowance for fiscal year ~~2003~~ 2004.

Subd. 3. [FISCAL YEAR ~~2004~~ 2005.] For fiscal year ~~2004~~ 2005 only, independent school district No. 280, Richfield, is eligible for declining pupil unit aid equal to the product of 70 percent of the airport impact zone pupil units times the general education formula allowance for fiscal year ~~2004~~ 2005.

Subd. 4. [FISCAL YEAR ~~2005~~ 2006.] For fiscal year ~~2005~~ 2006 only, independent school district No. 280, Richfield, is eligible for declining pupil unit aid equal to the product of 52.5 percent of the airport impact zone pupil units times the general education formula allowance for fiscal year ~~2005~~ 2006.

Subd. 5. [FISCAL YEAR ~~2006~~ 2007.] For fiscal year ~~2006~~ 2007 only, independent school district No. 280, Richfield, is eligible for declining pupil unit aid equal to the product of 35 percent of the airport impact zone pupil units times the general education formula allowance for fiscal year ~~2006~~ 2007.

Subd. 6. [FISCAL YEAR ~~2007~~ 2008.] For fiscal year ~~2007~~ 2008 only, independent school district No. 280, Richfield, is eligible for declining pupil unit aid equal to the product of 17.5 percent of the airport impact zone pupil units times the general education formula allowance for fiscal year ~~2007~~ 2008.

Sec. 50. Laws 2000, chapter 489, article 2, section 37, subdivision 3, is amended to read:

Subd. 3. [FISCAL YEAR 2001 CALCULATION.] (a) For fiscal year 2001, a school district's sparsity correction revenue equals .5 times the difference between sparsity revenue in fiscal year 2001 calculated according to Laws 1999, chapter 241, article 1, sections 18 and 19, and the sparsity revenue the district would have received for fiscal year 2001 had these sections of law not been approved.

(b) This revenue is paid entirely in fiscal year 2001 based on estimated data.

(c) By January 31, 2002, the department of children, families, and learning shall recalculate the revenue for each district using actual data, and shall adjust the general education aid paid to school districts for fiscal year 2002 by the amount of the difference between the estimated revenue and the actual revenue.

Sec. 51. Laws 2000, chapter 489, article 2, section 39, subdivision 2, is amended to read:

Subd. 2. [SPARSITY CORRECTION REVENUE.] For sparsity correction revenue:

\$1,030,000	. . . . .	2000
\$515,000	. . . . .	2001

The 2000 appropriation is available until June 30, 2001.

[EFFECTIVE DATE.] This section is effective the day following final enactment.

Sec. 52. Laws 2000, chapter 489, article 3, section 25, subdivision 5, is amended to read:

Subd. 5. [SPECIAL EDUCATION CROSS-SUBSIDY REVENUE.] For special education cross-subsidy revenue:

\$7,898,000	. . . . .	2000
\$18,396,000	. . . . .	2001

The 2000 appropriation is available until June 30, 2001.

[EFFECTIVE DATE.] This section is effective the day following final enactment.

Sec. 53. [LEGISLATIVE TASK FORCE ON REDUCING THE COMPLEXITY OF KINDERGARTEN THROUGH GRADE 12 EDUCATION FUNDING STATUTES AND RULES.]

(a) The legislative task force on reducing the complexity of kindergarten through grade 12 education funding consists of 13 members. The speaker of the house of representatives shall appoint four members from the house, two of whom must be from the minority caucus. The subcommittee on committees of the senate committee on rules and administration shall appoint four members from the senate, two of whom must be from the minority caucus. The task force membership shall also consist of the following persons or their designees:

(1) the commissioner of the department of children, families, and learning;

(2) the executive director of the Minnesota school boards association and the executive director of the Minnesota association of school administrators;

(3) the executive director of the Minnesota association of school business officials; and

(4) the parent of a school-age child appointed by the governor.

(b) The task force shall study and make recommendations to the legislature by January 15, 2002, on any changes in statutes and rules needed to simplify, clarify, and reduce the complexity of the kindergarten through grade 12 education funding system. The task force shall consider, at least, the following in making its recommendations for changes in statutes and rules:

(1) the extent to which funding system provisions are readily readable and understandable;

(2) the extent to which the funding system can be simplified;

(3) the extent to which regional variations in cost and differentials in market-based wages affect school district costs;

(4) how to define compensatory revenue to most effectively meet the academic needs of poor performing students;

(5) the extent to which references to other sections or provisions of law or rule are minimized;

(6) the extent to which definitional provisions are incorporated in the text of the statutes or rules; and

(7) the extent to which the legislative process of funding kindergarten through grade 12 education can be improved to provide school districts with timely, accurate information concerning legislative decisions.

(c) The task force shall seek the input of various kindergarten through grade 12 education stakeholders as well as the general public in making its recommendations. The task force may call upon the staff of the legislature and the department of children, families, and learning to assist with its duties. Upon submission of its recommendations, the task force expires.

Sec. 54. [DECLINING PUPIL UNIT AID; YELLOW MEDICINE EAST.]

Subdivision 1. [FISCAL YEAR 2002.] For fiscal year 2002, independent school district No. 2190, Yellow Medicine East, is eligible for tornado impact declining enrollment aid equal to \$156,000.

Subd. 2. [FISCAL YEAR 2003.] For fiscal year 2003, independent school district No. 2190, Yellow Medicine East, is eligible for tornado impact declining enrollment aid equal to 75 percent of the fiscal year 2002 appropriation in subdivision 1.

Subd. 3. [FISCAL YEAR 2004.] For fiscal year 2004, independent school district No. 2190, Yellow Medicine East, is eligible for tornado impact declining enrollment aid equal to 50 percent of the fiscal year 2002 appropriation in subdivision 1.

Subd. 4. [FISCAL YEAR 2005.] For fiscal year 2005, independent school district No. 2190, Yellow Medicine East, is eligible for tornado impact declining enrollment aid equal to 25 percent of the fiscal year 2002 appropriation in subdivision 1.

Sec. 55. [SUPPLEMENTAL REVENUE; ANOKA.]

For fiscal year 2002 and later, the supplemental revenue for independent school district No. 11, Anoka, is increased by \$1,000,000.

Sec. 56. [DIRECTION TO COMMISSIONER.]

(a) The commissioner of children, families, and learning is directed to collect the necessary data from each school district to create a cost-based pupil transportation formula based on the following ridership categories:

- (1) regular;
- (2) excess;
- (3) disabled;
- (4) nonpublic;
- (5) desegregation;
- (6) noon kindergarten;
- (7) learning year summer;
- (8) between schools;
- (9) late activity;
- (10) summer school;
- (11) open enrollment;
- (12) student activity trips; and
- (13) enrollment options.

(b) The commissioner must recommend a cost-based pupil transportation formula and report to the legislative committees responsible for kindergarten through grade 12 education finance by February 15, 2002.

(c) The commissioner is directed to identify for each district all transportation revenues.

Sec. 57. [APPROPRIATIONS.]

Subdivision 1. [DEPARTMENT OF CHILDREN, FAMILIES, AND LEARNING.] The sums indicated in this section are appropriated from the general fund to the department of children, families, and learning for the fiscal years designated.

Subd. 2. [GENERAL AND SUPPLEMENTAL EDUCATION AID.] For general and supplemental education aid:

<u>\$3,369,140,000</u>	.....	<u>2002</u>
<u>\$3,465,366,000</u>	.....	<u>2003</u>

The 2002 appropriation includes \$318,932,000 for 2001 and \$3,050,208,000 for 2002.

The 2003 appropriation includes \$328,926,000 for 2002 and \$3,136,440,000 for 2003.

Subd. 3. [TRANSPORTATION AID FOR ENROLLMENT OPTIONS.] For transportation of pupils attending post-secondary institutions according to Minnesota Statutes, section 124D.09, or for transportation of pupils attending nonresident districts according to Minnesota Statutes, section 124D.03:

<u>\$70,000</u>	.....	<u>2002</u>
<u>\$80,000</u>	.....	<u>2003</u>

Any balance in the first year does not cancel but is available in the second year.

Subd. 4. [ABATEMENT AID.] For abatement aid according to Minnesota Statutes, section 127A.49:

<u>\$7,098,000</u>	.....	<u>2002</u>
<u>\$7,692,000</u>	.....	<u>2003</u>

The 2002 appropriation includes \$640,000 for 2001 and \$6,458,000 for 2002.

The 2003 appropriation includes \$717,000 for 2002 and \$6,975,000 for 2003.

Subd. 5. [NONPUBLIC PUPIL AID.] For nonpublic pupil education aid according to Minnesota Statutes, sections 123.79 and 123B.40 to 123B.43:

<u>\$13,881,000</u>	.....	<u>2002</u>
<u>\$14,526,000</u>	.....	<u>2003</u>

The 2002 appropriation includes \$1,330,000 for 2001 and \$12,551,000 for 2002.

The 2003 appropriation includes \$1,395,000 for 2002 and \$13,131,000 for 2003.

Subd. 6. [NONPUBLIC PUPIL TRANSPORTATION.] For nonpublic pupil transportation aid under Minnesota Statutes, section 123B.92, subdivision 9:

<u>\$20,411,000</u>	.....	<u>2002</u>
<u>\$22,276,000</u>	.....	<u>2003</u>

The 2002 appropriation includes \$2,000,000 for 2001 and \$18,411,000 for 2002.

The 2003 appropriation includes \$2,045,000 for 2002 and \$20,231,000 for 2003.

Subd. 7. [CONSOLIDATION TRANSITION AID.] For districts consolidating under Minnesota Statutes, section 123A.485:

<u>\$675,000</u>	: : : : :	<u>2002</u>
<u>\$669,000</u>	: : : : :	<u>2003</u>

The 2002 appropriation includes \$44,000 for 2001 and \$631,000 for 2002.

The 2003 appropriation includes \$70,000 for 2002 and \$599,000 for 2003.

Any balance in the first year does not cancel but is available in the second year.

Subd. 8. [TORNADO IMPACT; YELLOW MEDICINE EAST.] For a grant to independent school district No. 2190, Yellow Medicine East, for tornado impact declining enrollment aid:

<u>\$156,000</u>	: : : : :	<u>2002</u>
<u>\$117,000</u>	: : : : :	<u>2003</u>

Subd. 9. [TORNADO IMPACT; ST. PETER.] For a grant to independent school district No. 508, St. Peter, for tornado impact declining enrollment aid:

<u>\$455,000</u>	: : : : :	<u>2002</u>
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This grant is in lieu of funds authorized under Laws 1999, chapter 241, article 4, section 22.

Sec. 58. [REVISOR INSTRUCTION.]

In the next and subsequent editions of Minnesota Statutes, the revisor shall change all references to "compensatory revenue" to "remedial revenue."

Sec. 59. [REPEALER.]

(a) Minnesota Statutes 2000, sections 123B.05; 124D.07; 126C.01, subdivision 10; 126C.16, subdivision 2; 126C.18; 126C.22; 126C.30; 126C.31; 126C.32; 126C.33; 126C.34; 126C.35; 126C.36; and 127A.44, are repealed.

(b) Minnesota Statutes 2000, sections 126C.10, subdivisions 12, 23, and 28; and 126C.17, subdivision 12, are repealed effective for revenue for fiscal year 2002.

(c) Minnesota Statutes 2000, sections 126C.42, subdivisions 2 and 3; and 126C.47, are repealed effective for taxes payable in 2002.

(d) Minnesota Statutes 2000, section 126C.10, subdivision 3, is repealed for revenue for fiscal year 2004 and later.

ARTICLE 2

EDUCATION EXCELLENCE

Section 1. [120B.12] [READING COMPETENCY; GRANTS.]

Subdivision 1. [LITERACY GOAL.] The legislature wants Minnesota's children to read by the end of the third grade as measured by the Minnesota comprehensive assessment and other general outcome measures.

Subd. 2. [DEFINITION.] For purposes of this section, a "district" may be a local school district, an intermediate district, or an education district.

Subd. 3. [GRANT RECIPIENTS; CRITERIA.] The commissioner may award up to three grants to assist charter schools and sites in district-operated schools in achieving children's reading competency by the end of third grade. Grant recipients must have:

- (1) expertise in early literacy and the teaching of reading or mathematics;
- (2) research-based evidence that the strategies recommended by the grant recipient improve student performance in reading;
- (3) a measurement system for teachers to use that includes an individual student test that is reliable, easy to use, and requires minimal time; and
- (4) an accountability structure for measuring the grant recipient's results.

Subd. 4. [GRANT REQUIREMENTS.] (a) Grant recipients also must meet the requirements of this subdivision.

(b) Grant recipients must collaborate with the commissioner in informing district-operated schools and charter schools about available assistance with reading competency. In awarding a grant, the commissioner may give highest priority to those sites and charter schools in greatest need of assistance based on annual yearly progress reports.

(c) A district that is a grant recipient must assist a minimum of 50 sites, at least 30 of which must have at least 25 percent enrolled students in kindergarten through grade 3 eligible for free or reduced price lunch.

(d) Grant recipients must consult with preschool programs including early childhood family education, learning readiness, Head Start, child care centers, and other programs to ensure that staff at these programs possess skills that are research-based predictors of literacy.

(e) Grant recipients must agree with a site on the reading results the site will achieve over a three-school year period and on the assistance with reading competency the grant recipient will provide. The site council or the school board if there is no site council and the teachers at the site must consent to the agreement.

(f) The agreement must include the timeline for a baseline measurement of each student, the frequency that individual student performance is measured, and the manner for reporting data to the site and the district board.

(g) The agreement also must estimate the amount of grant funds the district will provide to the site, including funds allocated for site planning and collecting student performance data, and the amount of revenue the site will contribute. The agreement must provide that if the district fails to perform according to the agreement, the commissioner will award to the site the funds remaining for the site under the agreement, which the site may use for contracting with a different reading vendor.

(h) The agreement must define the site's responsibilities. If the site does not fulfill its responsibilities, the district may discontinue its services to that site, inform the site of the reason for terminating the agreement, and indicate the funding amount expended for that site.

Subd. 5. [REPORT.] Grant recipients annually must report to the commissioner on the results achieved at each site. The report must include:

- (1) demographic information about the students at the site;
- (2) the service provided to the site;

(3) student performance data for fall, winter, and spring, although all sites may not have fall student performance data in the first year of the program; and

(4) the amount of grant funding expended for the site.

Subd. 6. [APPLICATION PROCESS.] The commissioner shall award one grant by July 1, 2001. The commissioner must award the remaining grants no later than October 1, 2001.

Sec. 2. Minnesota Statutes 2000, section 120B.13, subdivision 1, is amended to read:

Subdivision 1. [PROGRAM STRUCTURE; TRAINING PROGRAMS FOR TEACHERS.] (a) The advanced placement and international baccalaureate programs are well-established academic programs for mature, academically-directed high school students. These programs, in addition to providing academic rigor, offer sound curricular design, accountability, comprehensive external assessment, feedback to students and teachers, and the opportunity for high school students to compete academically on a global level. Advanced placement and international baccalaureate programs allow students to leave high school with the academic skills and self-confidence to succeed in college and beyond. The advanced placement and international baccalaureate programs help provide Minnesota students with world-class educational opportunity.

(b) Critical to schools' educational success is ongoing advanced placement/international baccalaureate-approved teacher training. A secondary teacher assigned by a district to teach an advanced placement or international baccalaureate course or other interested educator may participate in a training program offered by the college board or International Baccalaureate North America, Inc. The state may pay a portion of the tuition, room, and board costs a teacher or other interested educator incurs in participating in a training program. The commissioner shall determine application procedures and deadlines, and select teachers and other interested educators to participate in the training program. The procedures determined by the commissioner shall, to the extent possible, ensure that advanced placement and international baccalaureate courses become available in all parts of the state and that a variety of course offerings are available in school districts. This subdivision does not prevent teacher or other interested educator participation in training programs offered by the college board or International Baccalaureate North America, Inc., when tuition is paid by a source other than the state.

Sec. 3. Minnesota Statutes 2000, section 120B.30, subdivision 1, is amended to read:

Subdivision 1. [STATEWIDE TESTING.] (a) The commissioner, with advice from experts with appropriate technical qualifications and experience and stakeholders, shall include in the comprehensive assessment system, for each grade level to be tested, a test, which shall be aligned with the state's graduation standards and administered annually to all students in the third, fifth, and eighth grades. All elementary and secondary students who take a statewide math test designed for students in grade 3, 4, 5, 6, 7, or 8 are prohibited from using a calculator while taking such a test. The commissioner shall:

(1) ensure that all multiple choice and true/false test items contained in a statewide test have a single correct answer;

(2) include in test items measuring a student's reading comprehension, a variety of print sources in addition to mass media, including fiction or nonfiction literature;

(3) ensure that all statewide tests administered to elementary and secondary students measure students' academic knowledge and not students' values, attitudes, and beliefs; and

(4) establish one or more months during which schools shall administer the tests to students each school year. Only Minnesota basic skills tests in reading, mathematics, and writing shall fulfill students' basic skills testing requirements for a passing state notation. The passing scores of the state tests in reading and mathematics are the equivalent of:

(+) (i) 70 percent correct for students entering grade 9 in 1996; and

~~(2)~~ (ii) 75 percent correct for students entering grade 9 in 1997 and thereafter, as based on the first uniform test administration of February 1998.

Notwithstanding Minnesota Rules, part 3501.0050, subpart 2, at the written request of a parent or guardian, and with the recommendation of the student's teacher, a district may offer the test of basic requirements in reading, math, or writing to an individual student beginning in grade 5. The student must take the same test on the same date as administered to students in eighth grade or higher. Third and fifth grade test results shall be available to districts for diagnostic purposes affecting student learning and district instruction and curriculum, and for establishing educational accountability. The commissioner must disseminate to the public the third and fifth grade test results upon receiving those results.

(b) In addition, at the secondary level, districts shall assess student performance in all required learning areas and selected required standards within each area of the profile of learning. The testing instruments and testing process shall be determined by the commissioner. The results shall be aggregated at the site and district level. The testing shall be administered beginning in the 1999-2000 school year and thereafter.

(c) The commissioner shall report school site and school district student academic achievement levels of the current and two immediately preceding school years. The report shall include students' unweighted mean test scores in each tested subject, the unweighted mean test scores of only those students enrolled in the school by January 1 of the previous school year, and the unweighted test scores of all students except those students receiving limited English proficiency instruction. The report also shall record separately, in proximity to the reported performance levels, the percentages of students who are eligible to receive a free or reduced price school meal, demonstrate limited English proficiency, or are eligible to receive special education services.

(d) In addition to the testing and reporting requirements under paragraphs (a), (b), and (c), the commissioner shall include the following components in the statewide public reporting system:

(1) uniform statewide testing of all third, fifth, eighth, and post-eighth grade students that provides exemptions, only with parent or guardian approval, for those very few students for whom the student's individual education plan team under sections 125A.05 and 125A.06, determines that the student is incapable of taking a statewide test, or for a limited English proficiency student under section 124D.59, subdivision 2, if the student has been in the United States for fewer than 12 months and for whom special language barriers exist, such as the student's native language does not have a written form or the district does not have access to appropriate interpreter services for the student's native language;

(2) educational indicators that can be aggregated and compared across school districts and across time on a statewide basis, including average daily attendance, high school graduation rates, and high school drop-out rates by age and grade level;

(3) students' scores on the American College Test; and

(4) participation in the National Assessment of Educational Progress so that the state can benchmark its performance against the nation and other states, and, where possible, against other countries, and contribute to the national effort to monitor achievement.

(e) Districts must report exemptions under paragraph (d), clause (1), to the commissioner consistent with a format provided by the commissioner.

(f) The commissioner shall make a student's test results, including the student's individual test, on all statewide tests available to the student's school district and the student's parent or guardian.

[EFFECTIVE DATE.] This section is effective the day following final enactment.

Sec. 4. [120B.32] [SCHOOL DISTRICT SYSTEM ACCOUNTABILITY AND EDUCATIONAL IMPROVEMENT PLAN.]

Subdivision 1. [QUALIFYING PLAN.] A district may develop a system accountability and educational improvement plan. The plan must establish comprehensive measures of school district, school site, teacher, and individual student performance consistent with subdivisions 2 to 5.

Subd. 2. [DISTRICT ACCOUNTABILITY.] A school board must approve a system accountability and educational improvement plan. The plan must indicate the data and measures needed for improving educational performance within the district, including baseline data, performance goals, and benchmarks accompanied by specific dates for meeting those benchmarks. A district's performance goals must include student achievement goals and may include other performance goals such as improved school attendance, student discipline, school safety, or parent involvement, or enhancing the knowledge and skills of school staff. The plan also must describe the methods for developing, reviewing, and implementing means to improve educational performance at each school site located within the district.

Subd. 3. [SCHOOL SITE ACCOUNTABILITY.] Each school site must develop a board-approved accountability and educational improvement plan that is aligned with the performance goals contained in the school district accountability and educational improvement plan. While a site plan must be consistent with the district accountability plan, it may establish performance goals and benchmarks that meet or exceed those of the district.

Subd. 4. [TEACHER ACCOUNTABILITY.] A district's accountability and educational improvement plan must identify the district's plan to assess teacher performance. The plan must include clearly defined, research-based teacher professional development standards that permit objective assessment, including classroom observation, consistent with district goals for instruction. The exclusive bargaining representative of the teachers and the school board must agree to the plan. The plan may include:

- (1) teacher professional development standards that emphasize content;
- (2) staff development opportunities for teachers to attain teacher professional development standards; or
- (3) standards and procedures for assessing teachers' professional practice.

The teacher professional development standards must be sufficiently rigorous to effect meaningful professional development and improvement.

Subd. 5. [STUDENT ACCOUNTABILITY.] A district's system accountability and educational improvement plan must include comprehensive measures of student performance and a list of assessment tools the district will use to determine student performance.

[EFFECTIVE DATE.] This section is effective the day following final enactment.

Sec. 5. [120B.33] [ALTERNATIVE TEACHER COMPENSATION; ACCOUNTABILITY AND EDUCATIONAL IMPROVEMENT.]

Subdivision 1. [RESTRUCTURED SYSTEM ESTABLISHED.] A restructured teacher compensation system is established to provide incentives for teachers to continuously improve their knowledge and skills, for school districts to successfully recruit and retain highly qualified teachers, and to support teachers' roles in improving students' educational achievement.

Subd. 2. [TEACHER PROFESSIONAL PAY LADDER.] (a) In order to qualify for funding under this section, all of a district's eligible probationary teachers must be compensated according to the teacher professional pay ladder schedule instead of the existing step and lane salary schedule. The professional pay ladder is as described in this section. A district must include in a teacher professional pay ladder schedule the conditions needed for a teacher

to advance to each subsequent progression. The schedule and conditions must be developed in collaboration with the exclusive bargaining representative of the teachers and approved by the school board. The restructured teacher compensation system must accurately and adequately reflect teachers' level of content knowledge and general pedagogy, include professional standards of best practices, and promote professional growth and expertise. The professional pay ladder must contain an evaluation mechanism at each subsequent progression that is aligned with teacher accountability provisions in section 120B.32, subdivision 4.

(b) The restructured teacher compensation system may provide compensation increases to teachers who attain additional relevant knowledge and skills.

(c) All teachers with fewer than three years of teaching experience who are newly hired in a district that implements a professional pay ladder must be placed on the professional pay ladder.

Subd. 3. [ADDITIONAL DAYS FOR ELIGIBLE PROBATIONARY TEACHER INDUCTION AND MENTORING.] (a) To be eligible to implement a restructured teacher compensation system, participating teachers, which must include eligible probationary teachers, and school districts must agree to increase by at least ten days per school year the number of days devoted to staff development activities. The ten additional days must be:

(1) the equivalent in hours of ten school days, consistent with section 120A.41; and

(2) calculated in terms of the number of days that teachers with continuing contract or tenure rights must work.

Teachers and school districts must use the additional days for establishing and implementing a new teacher induction and mentoring program that provides continuous learning opportunities, ongoing orientation, and sustained teacher support. Teachers and school districts may schedule some additional days during the school year.

(b) Teachers and school districts are encouraged to use the resources of existing educational institutions and organizations to establish and implement the program.

(c) Teachers and school districts may extend the work year of nonparticipating teachers in order to provide induction and mentoring activities for peer review and assessment, and for professional development that aligns with the district's accountability system if the exclusive bargaining representative of the teachers and the school board agree to the terms and conditions under which to extend the work year of nonparticipating teachers providing the mentoring.

[EFFECTIVE DATE.] This section is effective the day following final enactment.

Sec. 6. [120B.34] [ALTERNATIVE COMPENSATION AID.]

A school district that meets the conditions of section 120B.33 is eligible for alternative compensation aid. Alternative compensation aid for a qualifying school district equals \$2,000 times the number of eligible probationary teachers teaching in the school district during the current school year plus \$500 times the number of nonprobationary teachers providing induction and mentoring activities for peer review and assessment during the current school year. For purposes of this section, the number of eligible probationary teachers includes any nontenured licensed teacher or licensed teacher without a continuing contract who is working at least 60 percent of a full-time teacher's hours. This aid is available to a school district only after the school board and the exclusive bargaining representative of the teachers sign and submit to the commissioner of the department of children, families, and learning a written statement that they have developed an alternative teacher compensation proposal based on the system accountability and educational improvement plan under section 120B.32. The aid received under this section must be used for activities under section 120B.33, subdivision 3.

[EFFECTIVE DATE.] This section is effective July 1, 2002.

Sec. 7. Minnesota Statutes 2000, section 120B.35, is amended to read:

120B.35 [STUDENT ACADEMIC ACHIEVEMENT LEVELS.]

Subdivision 1. [VALUE ADDED ASSESSMENT.] (a) "Value added assessment" is the basis for defining adequate yearly progress and for determining student achievement levels and has the components described in paragraphs (b), (c), and (d).

(b) A value added assessment is a statistical system for assessing educational outcomes that relies on measures of student learning to estimate teacher, school, and school district statistical distributions. The system uses available and appropriate data as input to explain differences in prior student attainment so that the impact of the teacher, school, and school district on a student's educational progress is estimated on a constant student attainment basis. The impact that a teacher, school, or school district has on a student's progress, or lack of progress, in making educational advancements or acquiring learning is the "effect" of the teacher, school, or school district on a student's educational progress.

(c) The system includes mixed model methodologies that provide linear unbiased prediction for the effect of the teacher, school, and school district on the student's educational progress. The system adequately provides these estimates for classrooms where a single teacher teaches multiple subjects to the same group of students, for team teaching arrangements, and for other teaching circumstances.

(d) In order to minimize ceiling and floor effects, the metrics used to measure student learning are linear scales that cover the entire range of subjects contained in a school's academic curriculum. A strong relationship exists between the metrics and the academic curriculum for the applicable grade level and subject.

Subd. 2. [STUDENT ACHIEVEMENT LEVELS.] (a) Consistent with subdivision 1, each school year, a school district must determine if the student achievement levels at each school site meet state and local expectations. If student achievement levels at a school site do not meet state and local expectations for two out of three consecutive school years, beginning with the 2000-2001 school year, the district must work with the school site to adopt a plan to raise student achievement levels to meet state and local expectations. ~~The legislature will determine state expectations after receiving a recommendation from the commissioner of children, families, and learning.~~

(b) The department, at a district's request, must assist the district and the school site in developing a plan to improve student achievement. The plan must include parental involvement components.

[EFFECTIVE DATE.] This section is effective for the 2001-2002 school year and later.

Sec. 8. Minnesota Statutes 2000, section 121A.11, is amended by adding a subdivision to read:

Subd. 3. [PLEDGE OF ALLEGIANCE.] (a) All public and charter school students shall recite the pledge of allegiance to the flag of the United States of America one or more times each week. The recitation shall be conducted:

(1) by each individual classroom teacher or the teacher's surrogate; or

(2) over a school intercom system by a person designated by the school principal or other person having administrative control over the school.

A local school board or a charter school board of directors annually, by majority vote, may waive this requirement.

(b) Any student or teacher who objects to reciting the pledge must be excused from participating without penalty.

(c) A local school board or a charter school board of directors that waives the requirement to recite the pledge of allegiance under paragraph (a) may adopt a district or school policy regarding the reciting of the pledge of allegiance.

[EFFECTIVE DATE.] This section is effective the day following final enactment.

Sec. 9. Minnesota Statutes 2000, section 121A.11, is amended by adding a subdivision to read:

Subd. 4. [INSTRUCTION.] Unless this requirement is waived annually by a majority vote of the school board, a school district must instruct students in the proper etiquette toward, correct display of, and respect for the flag, and in patriotic exercises. The instruction must be part of the district's fifth grade social studies curriculum.

[EFFECTIVE DATE.] This section is effective the day following final enactment. Each school district must begin the instruction required under this section no later than the 2002-2003 school year.

Sec. 10. Minnesota Statutes 2000, section 121A.45, subdivision 2, is amended to read:

Subd. 2. [GROUNDS FOR DISMISSAL.] A pupil may be dismissed on any of the following grounds:

(a) willful violation of any reasonable school board regulation. Such regulation must be clear and definite to provide notice to pupils that they must conform their conduct to its requirements;

(b) willful conduct that ~~materially and substantially~~ significantly disrupts the rights of others to an education, or the ability of school personnel to perform their duties, or school sponsored extracurricular activities; or

(c) willful conduct that endangers the pupil or other pupils, or surrounding persons, including school district employees, or property of the school.

Sec. 11. Minnesota Statutes 2000, section 121A.45, is amended by adding a subdivision to read:

Subd. 3. [PARENT NOTIFICATION AND MEETING.] If a pupil's total days of removal from school exceeds ten cumulative days in a school year, the school district shall make reasonable attempts to convene a meeting with the pupil and the pupil's parent or guardian prior to subsequently removing the pupil from school. The purpose of this meeting is to attempt to determine the pupil's need for assessment or other services.

Sec. 12. Minnesota Statutes 2000, section 121A.582, is amended to read:

121A.582 [STUDENT DISCIPLINE; REASONABLE FORCE.]

Subdivision 1. [REASONABLE FORCE STANDARD.] (a) A teacher or school principal, in exercising the person's lawful authority, may use reasonable force when it is necessary under the circumstances to correct or restrain a student or prevent bodily harm or death to another.

(b) A school employee, school bus driver, or other agent of a district, in exercising the person's lawful authority, may use reasonable force when it is necessary under the circumstances to restrain a student or prevent bodily harm or death to another.

(c) Paragraphs (a) and (b) do not authorize conduct prohibited under sections 121A.58 and 121A.67.

Subd. 2. [CIVIL LIABILITY.] (a) A teacher or school principal who, in the exercise of the person's lawful authority, uses reasonable force under the standard in subdivision 1, paragraph (a), has a defense against a civil action for damages under section 123B.25.

(b) A school employee, bus driver, or other agent of a district who, in the exercise of the person's lawful authority, uses reasonable force under the standard in subdivision 1, paragraph (b), has a defense against a civil action for damages under section 123B.25.

Subd. 3. [CRIMINAL PROSECUTION.] (a) A teacher or school principal who, in the exercise of the person's lawful authority, uses reasonable force under the standard in subdivision 1, paragraph (a), has a defense against a criminal prosecution under section 609.06, subdivision 1.

(b) A school employee, bus driver, or other agent of a district who, in the exercise of the person's lawful authority, uses reasonable force under the standard in subdivision 1, paragraph (b), has a defense against a criminal prosecution under section 609.06, subdivision 1.

Subd. 4. [SUPPLEMENTARY RIGHTS AND DEFENSES.] Any right or defense in this section is supplementary to those specified in section 121A.58, 121A.67, 123B.25, or 609.06, subdivision 1.

[EFFECTIVE DATE.] This section is effective the day following final enactment.

Sec. 13. Minnesota Statutes 2000, section 121A.61, subdivision 2, is amended to read:

Subd. 2. [GROUNDS FOR REMOVAL FROM CLASS.] The policy must establish the various grounds for which a student may be removed from a class in the district for a period of time pursuant to under the procedures specified in the policy. The policy must include a procedure for notifying and meeting with a student's parent or guardian to discuss the problem that is causing the student to be removed from class after the student has been removed from class more than ten times in one school year. The grounds in the policy must include at least the following provisions as well as other grounds determined appropriate by the board:

(a) willful conduct ~~which materially and substantially~~ that significantly disrupts the rights of others to an education, including conduct that interferes with a teacher's ability to teach or communicate effectively with students in a class or with the ability of other students to learn;

(b) willful conduct ~~which~~ that endangers surrounding persons, including school district employees, the student or other students, or the property of the school; and

(c) willful violation of any rule of conduct specified in the discipline policy adopted by the board.

Sec. 14. Minnesota Statutes 2000, section 122A.06, is amended by adding a subdivision to read:

Subd. 4. [COMPREHENSIVE, SCIENTIFICALLY BASED READING INSTRUCTION.] "Comprehensive, scientifically based reading instruction" includes instruction and practice in phonemic awareness, phonics and other word-recognition skills, and guided oral reading for beginning readers, as well as extensive silent reading, vocabulary instruction, instruction in comprehension, and instruction that fosters understanding and higher-order thinking for readers of all ages and proficiency levels.

Sec. 15. Minnesota Statutes 2000, section 122A.09, subdivision 4, is amended to read:

Subd. 4. [LICENSE AND RULES.] (a) The board must adopt rules to license public school teachers and interns subject to chapter 14.

(b) The board must adopt rules requiring a person to successfully complete a skills examination in reading, writing, and mathematics as a requirement for initial teacher licensure. Such rules must require college and universities offering a board approved teacher preparation program to provide remedial assistance to persons who did not achieve a qualifying score on the skills examination, including those for whom English is a second language.

(c) The board must adopt rules to approve teacher preparation programs. The board, upon the request of a post-secondary student preparing for teacher licensure or a licensed graduate of a teacher preparation program, shall assist in resolving a dispute between the person and a post-secondary institution providing a teacher preparation program when the dispute involves an institution's recommendation for licensure affecting the person or the person's credentials. At the board's discretion, assistance may include the application of chapter 14.

(d) The board must provide the leadership and shall adopt rules for the redesign of teacher education programs to implement a research based, results-oriented curriculum that focuses on the skills teachers need in order to be effective. The board shall implement new systems of teacher preparation program evaluation to assure program effectiveness based on proficiency of graduates in demonstrating attainment of program outcomes.

(e) The board must adopt rules requiring successful completion of an examination of general pedagogical knowledge and examinations of licensure-specific teaching skills. The rules shall be effective on the dates determined by the board, but not later than September 1, 2001.

(f) The board must adopt rules requiring teacher educators to work directly with elementary or secondary school teachers in elementary or secondary schools to obtain periodic exposure to the elementary or secondary teaching environment.

(g) The board must grant licenses to interns and to candidates for initial licenses.

(h) The board must design and implement an assessment system which requires a candidate for an initial license and first continuing license to demonstrate the abilities necessary to perform selected, representative teaching tasks at appropriate levels.

(i) The board must receive recommendations from local committees as established by the board for the renewal of teaching licenses.

(j) The board must grant life licenses to those who qualify according to requirements established by the board, and suspend or revoke licenses pursuant to sections 122A.20 and 214.10. The board must not establish any expiration date for application for life licenses.

(k) The board must adopt rules that require all licensed teachers who are renewing their continuing license to include in their renewal requirements further preparation in the areas of using positive behavior interventions and in accommodating, modifying, and adapting curricula, materials, and strategies to appropriately meet the needs of individual students and ensure adequate progress toward the state's graduation rule. ~~The rules adopted under this paragraph apply to teachers who renew their licenses in year 2001 and later.~~

(l) In adopting rules to license public school teachers who provide health-related services for disabled children, the board shall adopt rules consistent with license or registration requirements of the commissioner of health and the health-related boards who license personnel who perform similar services outside of the school.

(m) The board must adopt rules that require all licensed teachers who are renewing their continuing license to include in their renewal requirements further reading preparation, consistent with section 122A.06, subdivision 4. The rules do not take effect until they are approved by law.

[EFFECTIVE DATE.] This section is effective for teachers who renew their licenses in year 2004 and later.

Sec. 16. Minnesota Statutes 2000, section 122A.18, subdivision 2, is amended to read:

Subd. 2. [TEACHER AND SUPPORT PERSONNEL QUALIFICATIONS.] (a) The board of teaching must issue licenses under its jurisdiction to persons the board finds to be qualified and competent for their respective positions.

(b) The board must require a person to successfully complete an examination of skills in reading, writing, and mathematics before being granted an initial teaching license to provide direct instruction to pupils in prekindergarten, elementary, secondary, or special education programs. The board must require colleges and universities offering a board approved teacher preparation program to provide remedial assistance that includes a formal diagnostic component to persons enrolled in their institution who did not achieve a qualifying score on the skills examination, including those for whom English is a second language. The colleges and universities must provide assistance in the specific academic areas of deficiency in which the person did not achieve a qualifying score. School districts must provide similar, appropriate, and timely remedial assistance that includes a formal diagnostic component and mentoring to those persons employed by the district who completed their teacher education program outside the state of Minnesota, received a one-year license to teach in Minnesota and did not achieve a qualifying score on the skills examination, including those persons for whom English is a second language. The board of teaching shall report annually to the education committees of the legislature on the total number of teacher candidates during the most recent school year taking the skills examination, the number who achieve a qualifying score on the examination, the number who do not achieve a qualifying score on the examination, the distribution of all candidates' scores, the number of candidates who have taken the examination at least once before, and the number of candidates who have taken the examination at least once before and achieve a qualifying score.

(c) A person who has completed an approved teacher preparation program and obtained a one-year license to teach, but has not successfully completed the skills examination, may renew the one-year license for two additional one-year periods. Each renewal of the one-year license is contingent upon the licensee:

(1) providing evidence of participating in an approved remedial assistance program provided by a school district or post-secondary institution that includes a formal diagnostic component in the specific areas in which the licensee did not obtain qualifying scores; and

(2) attempting to successfully complete the skills examination during the period of each one-year license.

(d) The board of teaching must grant continuing licenses only to those persons who have met board criteria for granting a continuing license, which includes successfully completing the skills examination in reading, writing, and mathematics.

(e) All colleges and universities approved by the board of teaching to prepare persons for teacher licensure must include in their teacher preparation programs a common core of teaching knowledge and skills to be acquired by all persons recommended for teacher licensure. This common core shall meet the standards developed by the interstate new teacher assessment and support consortium in its 1992 "model standards for beginning teacher licensing and development." Amendments to standards adopted under this paragraph are covered by chapter 14. The board of teaching shall report annually to the education committees of the legislature on the performance of teacher candidates on common core assessments of knowledge and skills under this paragraph during the most recent school year.

[EFFECTIVE DATE.] This section is effective for the 2001-2002 school year and later.

Sec. 17. Minnesota Statutes 2000, section 122A.18, subdivision 2a, is amended to read:

Subd. 2a. [READING STRATEGIES.] (a) All colleges and universities approved by the board of teaching to prepare persons for classroom teacher licensure must include in their teacher preparation programs reading best practices that enable classroom teacher licensure candidates to know how to teach reading, such as phonics or other research-based best practices.

(b) Colleges and universities offering board-approved teacher preparation programs must require instruction in the application of comprehensive, scientifically based reading instruction programs, as defined in section 122A.06, subdivision 4.

[EFFECTIVE DATE.] This section is effective for candidates for initial licensure in year 2004 and later.

Sec. 18. Minnesota Statutes 2000, section 122A.18, is amended by adding a subdivision to read:

Subd. 2b. [READING SPECIALIST.] Not later than July 1, 2002, the board of teaching must adopt rules providing for the licensure of reading teachers.

Sec. 19. Minnesota Statutes 2000, section 122A.61, subdivision 1, is amended to read:

Subdivision 1. [STAFF DEVELOPMENT REVENUE.] (a) A district is required to reserve revenue for staff development purposes. An amount equal to at least one percent of the basic revenue under section 126C.10, subdivision 2, must be reserved for teacher mentoring and teacher induction programs according to paragraph (d) and an amount equal to at least ~~two~~ one percent of the basic revenue under section 126C.10, subdivision 2, must be reserved for in-service education for programs under section 120B.22, subdivision 2, for staff development plans, including plans for challenging instructional activities and experiences under section 122A.60, and for curriculum development and programs, other in-service education, teachers' workshops, teacher conferences, the cost of substitute teachers staff development purposes, and other related costs for staff development efforts.

(b) A district may annually waive the requirement to reserve their basic revenue under this section if a majority vote of the licensed teachers in the district and a majority vote of the school board agree to a resolution to waive the requirement. A district in statutory operating debt is exempt from reserving basic revenue according to this section. Districts may expend an additional amount of unreserved revenue for staff development based on their needs.

(c) With the exception of amounts reserved for new teacher mentoring and teacher induction programs, and staff development from revenues allocated directly to school sites, the board must initially allocate 50 percent of the reserved revenue to each school site in the district on a per teacher basis, which must be retained by the school site until used. The board may retain 25 percent to be used for district wide staff development efforts. The remaining 25 percent of the revenue must be used to make grants to school sites for best practices methods. A grant may be used for any purpose authorized under section 120B.22, subdivision 2, 122A.60, or for the costs of curriculum development and programs, other in-service education, teachers' workshops, teacher conferences, substitute teachers for staff development purposes, and other staff development efforts, and determined by the site professional development team. The site professional development team must demonstrate to the school board the extent to which staff at the site have met the outcomes of the program. The board may withhold a portion of initial allocation of revenue if the staff development outcomes are not being met.

(d) A school district must use its reserved revenue for teacher mentoring and teacher induction programs to serve teachers who have taught five or fewer years in the school district. Teacher mentoring and induction activities include programs designed to train teachers to serve as mentors, provide ongoing peer coaching and assessment, assist in developing individual professional development plans, and offer other structured learning experiences to new teachers.

[EFFECTIVE DATE.] This section is effective for revenue for fiscal year 2002 and later.

Sec. 20. [122A.76] [BEST PRACTICES.]

"Best practices" means research-based proven practices.

Sec. 21. Minnesota Statutes 2000, section 123B.03, subdivision 3, is amended to read:

Subd. 3. [DEFINITIONS.] For purposes of this section:

(a) "School" means a school as defined in section 120A.22, subdivision 4, except a home-school, and includes a school receiving tribal contract or grant school aid under section 124D.83; school, for the purposes of this section, also means a service cooperative, a special education cooperative, or an education district under Minnesota Statutes 1997 Supplement, section 123.35, a charter school under section 124D.10, and a joint powers district under section 471.59.

(b) "School hiring authority" means the school principal or other person having general control and supervision of the school.

Sec. 22. Minnesota Statutes 2000, section 124D.10, is amended by adding a subdivision to read:

Subd. 3a. [CONFLICT OF INTEREST.] (a) A member of a charter school board of directors is prohibited from serving as a member of the board of directors or as an employee or agent of or a contractor with an entity with whom the charter school contracts, directly or indirectly, for professional services, goods, or facilities. A violation of this prohibition renders a contract voidable at the option of the commissioner. A member of a charter school board of directors who violates this prohibition shall be individually liable to the charter school for any damage caused by the violation.

(b) An individual may serve as a member of the board of directors if no conflict of interest under paragraph (a) exists.

(c) The conflict of interest provisions under this subdivision do not apply to the standard compensation paid to a teacher employed by the charter school who also serves as a member of the board of directors.

[EFFECTIVE DATE.] This section is effective for the 2001-2002 school year and following.

Sec. 23. Minnesota Statutes 2000, section 124D.10, subdivision 4, is amended to read:

Subd. 4. [FORMATION OF SCHOOL.] (a) A sponsor may authorize one or more licensed teachers under section 122A.18, subdivision 1, to operate a charter school subject to approval by the commissioner. A board must vote on charter school application for sponsorship no later than 90 days after receiving the application. After 90 days, the applicant may apply to the commissioner. If a board elects not to sponsor a charter school, the applicant may appeal the board's decision to the commissioner. If the commissioner authorizes the school, the commissioner must sponsor the school according to this section. The school must be organized and operated as a cooperative under chapter 308A or nonprofit corporation under chapter 317A and the provisions under the applicable chapter shall apply to the school except as provided in this section.

(b) Before the operators may form and operate a school, the sponsor must file an affidavit with the commissioner stating its intent to authorize a charter school. The affidavit must state the terms and conditions under which the sponsor would authorize a charter school. The commissioner must approve or disapprove the sponsor's proposed authorization within 60 days of receipt of the affidavit. Failure to obtain commissioner approval precludes a sponsor from authorizing the charter school that was the subject of the affidavit.

(c) The operators authorized to organize and operate a school, before entering into a contract or other agreement for professional or other services, goods, or facilities, must hold an election for members of the school's board of directors in a timely manner after the school is operating incorporate as a cooperative under chapter 308A or as a nonprofit corporation under chapter 317A and must establish a board of directors composed of at least five members until a timely election for members of the charter school board of directors is held according to the school's articles and bylaws. A charter school board of directors must be composed of at least seven members. Any staff members who are employed at the school, including teachers providing instruction under a contract with a cooperative, and all parents of children enrolled in the school may participate in the election for members of the school's board of directors. Licensed teachers employed at the school, including teachers providing instruction under a contract with a cooperative, must be a majority of the members of the board of directors before the school completes its third year of operation, unless the commissioner waives the requirement for the school a majority of licensed teachers on the board. ~~A provisional board may operate before the election of the school's board of directors.~~ Board of director meetings must comply with chapter 13D.

(d) The granting or renewal of a charter by a sponsoring entity must not be conditioned upon the bargaining unit status of the employees of the school.

(e) The state board for charter schools annually must provide timely financial management training to newly elected members of a charter school board of directors and ongoing training to other members of a charter school board of directors. Training must address ways to:

- (1) proactively assess opportunities for a charter school to maximize all available revenue sources;
- (2) establish and maintain complete, auditable records for the charter school;
- (3) establish proper filing techniques;
- (4) document formal actions of the charter school, including meetings of the charter school board of directors;
- (5) properly manage and retain charter school and student records;
- (6) comply with state and federal payroll recordkeeping requirements; and
- (7) address other similar factors that facilitate establishing and maintaining complete records on the charter school's operations.

[EFFECTIVE DATE.] This section is effective for the 2001-2002 school year and later.

Sec. 24. Minnesota Statutes 2000, section 124D.10, is amended by adding a subdivision to read:

Subd. 6a. [AUDIT REPORT.] The charter school must submit an audit report to the commissioner by December 31 each year. The charter school, with the assistance of the auditor conducting the audit, must include with the report a copy of all charter school agreements for corporate management services. If the entity that provides the professional services to the charter school is exempt from taxation under section 501 of the Internal Revenue Code of 1986, that entity must file with the commissioner by February 15 a copy of the annual return required under section 6033 of the Internal Revenue Code of 1986. If the commissioner receives as part of the audit report a management letter indicating that a material weakness exists in the financial reporting systems of a charter school, the charter school must submit a written report to the commissioner explaining how the material weakness will be resolved. Upon the request of an individual, the charter school must make available in a timely fashion the minutes of meetings of members, the board of directors, and committees having any of the authority of the board of directors, and statements showing the financial result of all operations and transactions affecting income and surplus during the school's last annual accounting period and a balance sheet containing a summary of its assets and liabilities as of the closing date of the accounting period.

[EFFECTIVE DATE.] This section is effective for the 2001-2002 school year and later.

Sec. 25. Minnesota Statutes 2000, section 124D.10, subdivision 15, is amended to read:

Subd. 15. [REVIEW AND COMMENT.] The department must review and comment on the evaluation, by the sponsor, of the performance of a charter school before the charter school's contract is renewed. A sponsor shall monitor and evaluate the fiscal and student performance of the school, and may for this purpose annually assess the school a charter school: (1) in its first, second, or third year of operation up to \$10 \$30 per student up to a maximum of \$3,500 \$10,000; and (2) in its fourth or a subsequent year of operation up to \$10 per student up to a maximum of \$3,500. The information for the review and comment shall be reported by the sponsor to the commissioner of children, families, and learning in a timely manner. Periodically, the commissioner shall report trends or suggestions based on the evaluation of charter school contracts to the education committees of the state legislature.

Sec. 26. Minnesota Statutes 2000, section 124D.10, is amended by adding a subdivision to read:

Subd. 23a. [EXCESSIVE LEASE COSTS; RECOVERY.] (a) This subdivision does not apply to a lease in which:

- (1) the lessor and lessee are not related parties, as defined in this subdivision, as determined in writing by the commissioner prior to the lease becoming effective; or

(2) the lessor and lessee are related parties, but the lessor is a nonprofit corporation under chapter 317A or a cooperative under chapter 308A.

(b) For purposes of this subdivision:

(1) A "related party" is an affiliate or close relative of the other party in question, an affiliate of a close relative, or a close relative of an affiliate.

(2) "Affiliate" means a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, another person.

(3) "Close relative" means an individual whose relationship by blood, marriage, or adoption to another individual is no more remote than first cousin.

(4) "Person" means an individual or entity of any kind.

(5) "Control" includes the terms "controlling," "controlled by," and "under common control with" and means the possession, direct or indirect, of the power to direct or cause the direction of the management, operations, or policies of a person, whether through the ownership of voting securities, by contract, or otherwise.

(c) A lease of real property to be used for a charter school, not excluded in paragraph (a), must contain the following statement: "This lease is subject to Minnesota Statutes, section 124D.10, subdivision 23a."

(d) A lease described in paragraph (c) does not go into effect, and no rent or other payments may be made under the lease, until the commissioner or a party to the lease has recorded with the county recorder or filed with the registrar of titles, whichever is appropriate, a document entitled "Notice of Lien," stating that the commissioner of children, families, and learning of the state of Minnesota claims a lien under this subdivision on the real property, including fixtures. The notice of lien must contain a legal description of the leased real property, be signed and acknowledged by the commissioner, and meet all other applicable requirements for recording or filing. The lessor or lessee, as agreed between them, shall pay the recording or filing fee.

(e) A lease described in paragraph (c) must contain the following clause: "The lessor under this lease hereby grants to the commissioner of children, families, and learning of the state of Minnesota a lien under Minnesota Statutes, section 124D.10, subdivision 23a, on the real property, including fixtures, that is included in this lease. This lien is evidenced by a recorded or filed notice of lien, as required by that subdivision."

(f) A lien granted under this subdivision secures the rights of the commissioner under paragraph (g).

(g) The commissioner may recover from the lessor the amount of rent or other payments made under this lease, to the extent that the rent or other payments exceed the fair market rental value of the real property, as determined by the commissioner. If the lessor is not the holder of fee title to the real property, the commissioner's right of recovery extends to the holder of fee title if the lessor and holder of fee title are related parties as defined in this subdivision.

(h) The lien created under this subdivision applies only to the equity in the real property of the lessor or other party against whom the commissioner has a right of recovery under paragraph (g). The lien created in this subdivision is subordinate to the interest of any mortgagee or other lienholder of the property, whether the mortgage or other lien is prior or subsequent to the recording or filing of the lien created in this subdivision, except that this provision does not apply to a mortgagee or other lienholder that is a related party to the lessor or other party against whom the commissioner has a right of recovery under paragraph (g).

(i) If the parties to a lease to which this subdivision applies fail to record or file the notice of lien, the commissioner may do so at any time.

(j) If, or to the extent that, the commissioner determines that the commissioner has no right of recovery under paragraph (g), the commissioner shall provide to the lessor a release or partial release of this lien. Any recording or filing fees for the release are the responsibility of the lessor.

(k) A decision or action of the commissioner under this subdivision may be appealed under chapter 14.

(l) A lien created under this section may be foreclosed in the manner provided in chapter 581, foreclosure by action, except that there is no redemption period.

[EFFECTIVE DATE.] This section is effective the day following final enactment and applies to any charter school organized as of January 1, 2001.

Sec. 27. Minnesota Statutes 2000, section 124D.11, subdivision 4, is amended to read:

Subd. 4. [BUILDING LEASE AID.] When a charter school finds it economically advantageous to rent or lease a building or land for any instructional purposes and it determines that the total operating capital revenue under section 126C.10, subdivision 13, is insufficient for this purpose, it may apply to the commissioner for building lease aid for this purpose. Criteria for aid approval and revenue uses shall be as defined for the building lease levy in section 126C.40, subdivision 1, paragraphs (a) and (b): The commissioner must review and either approve or deny a lease aid application using the following criteria:

(1) the reasonableness of the price based on current market values;

(2) the appropriateness of the space for the proposed activity;

(3) the extent to which the lease conforms to applicable state laws and rules; and

(4) the appropriateness of the proposed lease in the context of the space needs and financial circumstances of the charter school.

A charter school must not use the building lease aid it receives for custodial, maintenance service, utility, or other operating costs. The amount of building lease aid per pupil unit served for a charter school for any year shall not exceed the lesser of (a) 90 percent of the approved cost or (b) the product of the pupil units served for the current school year times \$1,500.

Sec. 28. Minnesota Statutes 2000, section 124D.11, subdivision 9, is amended to read:

Subd. 9. [PAYMENT OF AIDS TO CHARTER SCHOOLS.] (a) Notwithstanding section 127A.45, subdivision 3, aid payments for the current fiscal year to a charter school not in its first year of operation shall be of an equal amount on each of the 23 payment dates. A charter school in its first year of operation shall receive, on its first payment date, ten percent of its cumulative amount guaranteed for the year and 22 payments of an equal amount thereafter the sum of which shall be 90 percent of the cumulative amount guaranteed.

(b) Notwithstanding section 127A.45, subdivision 3, and paragraph (a), 90 percent of the start-up cost aid under subdivision 8 shall be paid within 45 days after the first day of student attendance for that school year.

(c) In order to receive state aid payments under this subdivision, a charter school in its first three years of operation must submit a quarterly enrollment report to the department of children, families, and learning. The report must list each student by grade, show the student's start and end dates, if any, with the charter school, and for any student participating in a learning year program, the report must list the hours and times of learning year activities. The report must be submitted not more than two weeks after the end of the calendar quarter to the department. The department must develop a web-based reporting form for charter schools to use when submitting enrollment reports. A charter school in its fourth and subsequent year of operation must submit enrollment information to the department in the form and manner requested by the department.

Sec. 29. Minnesota Statutes 2000, section 124D.128, subdivision 1, is amended to read:

Subdivision 1. [PROGRAM ESTABLISHED.] A learning year program provides instruction throughout the year. A pupil may participate in the program and to attain or accelerate attainment of grade level requirements or graduation requirements. A learning year program may begin after the close of the regular school year in June. The program may be for students in one or more grade levels from kindergarten through grade 12.

~~Students may participate in the program if they reside in:~~

- ~~(1) a district that has been designated a learning year site under subdivision 2;~~
- ~~(2) a district that is a member of the same education district as a site; or~~
- ~~(3) a district that participates in the same area learning center program as a site.~~

[EFFECTIVE DATE.] This section is effective the day following final enactment.

Sec. 30. Minnesota Statutes 2000, section 124D.128, subdivision 2, is amended to read:

Subd. 2. [COMMISSIONER DESIGNATION.] (a) An area learning center designated by the state must be a site. To be designated, a district or center must demonstrate to the commissioner that it will:

(1) provide a program of instruction that permits pupils to receive instruction throughout the entire year; and

(2) maintain a record system that, for purposes of section 126C.05, permits identification of membership attributable to pupils participating in the program. The record system and identification must ensure that the program will not have the effect of increasing the total number of pupil units attributable to an individual pupil as a result of a learning year program. The record system must include the date the pupil originally enrolled in a learning year program, the pupil's grade level, the date of each grade promotion, the average daily membership generated in each grade level, the number of credits or standards earned, and the number needed to graduate.

(b) A student who has not completed a school district's graduation requirements may continue to enroll in courses the student must complete in order to graduate until the student satisfies the district's graduation requirements or the student is 21 years old, whichever comes first.

[EFFECTIVE DATE.] This section is effective the day following final enactment.

Sec. 31. Minnesota Statutes 2000, section 124D.128, subdivision 3, is amended to read:

Subd. 3. [STUDENT PLANNING.] A district must inform all pupils and their parents about the learning year program and that participation in the program is optional. A continual learning plan must be developed at least annually for each pupil with the participation of the pupil, parent or guardian, teachers, and other staff; each participant must sign and date the plan. The plan must specify the learning experiences that must occur each during the entire fiscal year and, for secondary students, for graduation. The plan must include:

(1) the pupil's learning objectives and experiences, including courses or credits the pupil plans to complete each year and, for a secondary pupil, the graduation requirements the student must complete;

(2) the assessment measurements used to evaluate a pupil's objectives;

(3) requirements for grade level or other appropriate progression; and

(4) for pupils generating more than one average daily membership in a given grade, an indication of which objectives were unmet.

The plan may be modified to conform to district schedule changes. The district may not modify the plan if the modification would result in delaying the student's time of graduation.

Sec. 32. Minnesota Statutes 2000, section 124D.128, subdivision 6, is amended to read:

Subd. 6. [REVENUE COMPUTATION AND REPORTING.] Aid and levy revenue computations must be based on the total number of hours of education programs for pupils in average daily membership for each fiscal year. ~~For purposes of section 126C.05, Average daily membership shall be computed by dividing the total number of hours of participation for the fiscal year by the minimum number of hours for a year determined for the appropriate grade level under section 126C.05, subdivision 15.~~ Hours of participation that occur after the close of the regular instructional year and before July 1 must be attributed to the following fiscal year. ~~Thirty hours may be used for teacher workshops, staff development, or parent-teacher conferences. As part of each pilot program, the department and each district must report and evaluate the changes needed to adjust the dates of the fiscal year for aid and levy computation and fiscal year reporting.~~ For revenue computation purposes, the learning year program shall generate revenue based on the formulas for the fiscal year in which the services are provided. The dates a participating pupil is promoted must be reported in a timely manner to the department.

~~State aid and levy revenue computation for the learning year programs begins July 1, 1988, for fiscal year 1989:~~

Sec. 33. Minnesota Statutes 2000, section 124D.74, subdivision 1, is amended to read:

Subdivision 1. [PROGRAM DESCRIBED.] American Indian ~~language and culture~~ education programs are programs in public elementary and secondary schools, nonsectarian nonpublic, community, tribal, or alternative schools enrolling American Indian children designed to:

(1) ~~to support post-secondary preparation for pupils;~~

(2) support the academic achievement of American Indian students with identified focus to improve reading and mathematic skills;

(3) make the curriculum more relevant to the needs, interests, and cultural heritage of American Indian pupils;

~~(2) to (4)~~ provide positive reinforcement of the self-image of American Indian pupils; and

~~(3) to (5)~~ develop intercultural awareness among pupils, parents, and staff; and

(6) supplement, not supplant, state and federal educational and cocurricular programs.

Program components may include: ~~instruction in American Indian language, literature, history, and culture development of support components for students in the areas of academic achievement, retention, and attendance; development of support components for staff, including in-service training and technical assistance in methods of teaching American Indian pupils; research projects, including experimentation with and evaluation of methods of relating to American Indian pupils; provision of personal and vocational counseling to American Indian pupils; modification of curriculum, instructional methods, and administrative procedures to meet the needs of American Indian pupils; and establishment of cooperative liaisons with nonsectarian nonpublic, community, tribal or alternative schools offering curricula which reflect American Indian culture~~ supplemental instruction in American Indian language, literature, history, and culture. Districts offering programs may make contracts for the provision of program components by ~~nonsectarian nonpublic, community, tribal or alternative schools~~ establishing cooperative liaisons with tribal programs and American Indian social service agencies. These programs may also be provided as components of early childhood and family education programs.

Sec. 34. Minnesota Statutes 2000, section 124D.74, subdivision 2, is amended to read:

Subd. 2. [VOLUNTARY ENROLLMENT.] Enrollment in American Indian ~~language and culture~~ education programs must be voluntary. School districts and participating schools must make affirmative efforts to encourage participation. They shall encourage parents to visit classes or come to school for a conference explaining the nature of the program and provide visits by school staff to parents' homes to explain the nature of the program.

Sec. 35. Minnesota Statutes 2000, section 124D.74, subdivision 3, is amended to read:

Subd. 3. [ENROLLMENT OF OTHER CHILDREN; SHARED TIME ENROLLMENT.] To the extent it is economically feasible, a district or participating school may make provision for the voluntary enrollment of non-American Indian children in the instructional components of an American Indian ~~language and culture~~ education program in order that they may acquire an understanding of the cultural heritage of the American Indian children for whom that particular program is designed. However, in determining eligibility to participate in a program, priority must be given to American Indian children. American Indian children and other children enrolled in an existing nonpublic school system may be enrolled on a shared time basis in American Indian ~~language and culture~~ education programs.

Sec. 36. Minnesota Statutes 2000, section 124D.74, subdivision 4, is amended to read:

Subd. 4. [LOCATION OF PROGRAMS.] American Indian ~~language and culture~~ education programs must be located in facilities in which regular classes in a variety of subjects are offered on a daily basis. Programs may operate on an extended day or extended year basis.

Sec. 37. Minnesota Statutes 2000, section 124D.74, subdivision 6, is amended to read:

Subd. 6. [NONVERBAL COURSES AND EXTRACURRICULAR ACTIVITIES.] In predominantly nonverbal subjects, such as art, music, and physical education, American Indian children shall participate fully and on an equal basis with their contemporaries in school classes provided for these subjects. Every school district or participating school shall ensure to children enrolled in American Indian ~~language and culture~~ education programs an equal and meaningful opportunity to participate fully with other children in all extracurricular activities. This subdivision shall not be construed to prohibit instruction in nonverbal subjects or extracurricular activities which relate to the cultural heritage of the American Indian children, or which are otherwise necessary to accomplish the objectives described in sections 124D.71 to 124D.82.

Sec. 38. Minnesota Statutes 2000, section 124D.75, subdivision 6, is amended to read:

Subd. 6. [PERSONS ELIGIBLE FOR EMPLOYMENT; EXEMPTIONS.] Any person licensed under this section shall be eligible for employment by a school board or a participating school as a teacher in an American Indian ~~language and culture~~ education program in which the American Indian language or culture in which the person is licensed is taught. A school district or participating school may prescribe only those additional qualifications for teachers licensed under this section as are approved by the board of teaching. Any school board or participating school upon request may be exempted from the licensure requirements of this section in the hiring of one or more American Indian language and culture education teachers for any school year in which compliance would, in the opinion of the commissioner, create a hardship in the securing of the teachers.

Sec. 39. Minnesota Statutes 2000, section 124D.76, is amended to read:

124D.76 [TEACHERS AIDES; COMMUNITY COORDINATORS.]

In addition to employing American Indian language and culture education teachers, each district or participating school providing programs pursuant to sections 124D.71 to 124D.82 may employ teachers' aides. Teachers' aides must not be employed for the purpose of supplanting American Indian language and culture education teachers.

Any district or participating school which conducts American Indian ~~language and culture~~ education programs pursuant to sections 124D.71 to 124D.82 must employ one or more full-time or part-time community coordinators if there are 100 or more students enrolled in the program. Community coordinators shall promote communication understanding, and cooperation between the schools and the community and shall visit the homes of children who are to be enrolled in an American Indian ~~language and culture~~ education program in order to convey information about the program.

Sec. 40. Minnesota Statutes 2000, section 124D.78, subdivision 1, is amended to read:

Subdivision 1. [PARENT COMMITTEE.] School boards and American Indian schools must provide for the maximum involvement of parents of children enrolled in education programs, ~~including language and culture education programs~~; programs for elementary and secondary grades, special education programs, and support services. Accordingly, the board of a school district in which there are ten or more American Indian children enrolled and each American Indian school must establish a parent committee. If a committee whose membership consists of a majority of parents of American Indian children has been or is established according to federal, tribal, or other state law, that committee may serve as the committee required by this section and is subject to, at least, the requirements of this subdivision and subdivision 2.

The parent committee must develop its recommendations in consultation with the curriculum advisory committee required by section 120B.11, subdivision 3. This committee must afford parents the necessary information and the opportunity effectively to express their views concerning all aspects of American Indian education and the educational needs of the American Indian children enrolled in the school or program. The committee must also address the need for adult education programs for American Indian people in the community. The board or American Indian school must ensure that programs are planned, operated, and evaluated with the involvement of and in consultation with parents of children served by the programs.

Sec. 41. Minnesota Statutes 2000, section 124D.81, subdivision 1, is amended to read:

Subdivision 1. [GRANTS; PROCEDURES.] Each fiscal year the commissioner of children, families, and learning must make grants to no fewer than six American Indian ~~language and culture~~ education programs. At least three programs must be in urban areas and at least three must be on or near reservations. The board of a local district, a participating school or a group of boards may develop a proposal for grants in support of American Indian ~~language and culture~~ education programs. Proposals may provide for contracts for the provision of program components by nonsectarian nonpublic, community, tribal, or alternative schools. The commissioner shall prescribe the form and manner of application for grants, and no grant shall be made for a proposal not complying with the requirements of sections 124D.71 to 124D.82. The commissioner must submit all proposals to the state advisory ~~task force committee~~ on American Indian ~~language and culture~~ education programs for its recommendations concerning approval, modification, or disapproval and the amounts of grants to approved programs.

Sec. 42. Minnesota Statutes 2000, section 124D.81, subdivision 3, is amended to read:

Subd. 3. [ADDITIONAL REQUIREMENTS.] Each district receiving a grant under this section must each year conduct a count of American Indian children in the schools of the district; test for achievement; identify the extent of other educational needs of the children to be enrolled in the American Indian ~~language and culture~~ education program; and classify the American Indian children by grade, level of educational attainment, age and achievement. Participating schools must maintain records concerning the needs and achievements of American Indian children served.

Sec. 43. Minnesota Statutes 2000, section 124D.81, subdivision 5, is amended to read:

Subd. 5. [RECORDS.] Participating schools and districts must keep records and afford access to them as the commissioner finds necessary to ensure that American Indian ~~language and culture~~ education programs are implemented in conformity with sections 124D.71 to 124D.82. Each school district or participating school must keep accurate, detailed, and separate revenue and expenditure accounts for pilot American Indian ~~language and culture~~ education programs funded under this section.

Sec. 44. Minnesota Statutes 2000, section 124D.81, subdivision 6, is amended to read:

Subd. 6. [MONEY FROM OTHER SOURCES.] A district or participating school providing American Indian ~~language and culture~~ education programs shall be eligible to receive moneys for these programs from other government agencies and from private sources when the moneys are available.

Sec. 45. Minnesota Statutes 2000, section 124D.81, subdivision 7, is amended to read:

Subd. 7. [EXCEPTIONS.] Nothing in sections 124D.71 to 124D.82 shall be construed as prohibiting a district or school from implementing an American Indian ~~language and culture~~ education program which is not in compliance with sections 124D.71 to 124D.82 if the proposal and plan for that program is not funded pursuant to this section.

Sec. 46. Minnesota Statutes 2000, section 124D.86, subdivision 3, is amended to read:

Subd. 3. [INTEGRATION REVENUE.] For fiscal year 2000 and later fiscal years, integration revenue equals the following amounts:

- (1) ~~for independent school district No. 709, Duluth, \$207 times the adjusted pupil units for the school year;~~
- (2) ~~for independent school district No. 625, St. Paul, \$446 times the adjusted pupil units for the school year;~~
- (3) ~~(2) for special school district No. 1, Minneapolis, \$536 times the adjusted pupil units for the school year; and~~

(3) for a district not listed in clause (1) or (2) that must implement a plan under Minnesota Rules, parts 3535.0100 to 3535.0180, where the district's enrollment of protected students, as defined under Minnesota Rules, part 3535.0110, exceeds 17 percent, and that is located in the rural equity region as defined under section 126C.10, subdivision 28, the lesser of (i) the actual cost of implementing the plan during the fiscal year minus the aid received under subdivision 6, or (ii) \$150 times the adjusted pupil units for the school year;

(4) for a district not listed in clause (1), (2), or (3) that is required to implement a plan according to the requirements of Minnesota Rules, parts 3535.0100 to 3535.0180, the lesser of

- (i) the actual cost of implementing the plan during the fiscal year minus the aid received under subdivision 6, or
- (ii) \$93 times the adjusted pupil units for the school year.

Any money received by districts in clauses (1) to (3) which exceeds the amount received in fiscal year 2000 shall be subject to the budget requirements in subdivision 1a; ~~and~~

(5) for a member district of a multidistrict integration collaborative that files a plan with the commissioner, but is not contiguous to a racially isolated district, integration revenue equals the amount defined in clause (4).

[EFFECTIVE DATE.] This section is effective for aid payable in fiscal year 2002.

Sec. 47. Minnesota Statutes 2000, section 124D.86, subdivision 6, is amended to read:

Subd. 6. [ALTERNATIVE ATTENDANCE PROGRAMS.] (a) The integration aid under subdivision 5 must be adjusted for each pupil residing in a district eligible for integration revenue under subdivision 3, clause (1), (2), or (3), and attending a nonresident district under sections 123A.05 to 123A.08, 124D.03, 124D.06, 124D.07, and 124D.08, that is not eligible for integration revenue under subdivision 3, clause (1), (2), or (3), and has implemented a plan under Minnesota Rules, parts 3535.0100 to 3535.0180, if the enrollment of the pupil in the nonresident district contributes to desegregation or integration purposes. The adjustments must be made according to this subdivision.

(b) Aid paid to a district serving nonresidents must be increased by an amount equal to the revenue per pupil unit of the resident district under subdivision 3, clause (1), (2), or (3), minus the revenue attributable to the pupil in the nonresident district under subdivision 3, ~~clause clauses~~ (4) and (5), for the time the pupil is enrolled in the nonresident district.

[EFFECTIVE DATE.] This section is effective for aid payable in fiscal year 2000, and for taxes payable in 2002.

Sec. 48. Minnesota Statutes 2000, section 126C.05, subdivision 15, is amended to read:

Subd. 15. [LEARNING YEAR PUPIL UNITS.] (a) When a pupil is enrolled in a learning year program under section 124D.128, an area learning center under sections 123A.05 and 123A.06, an alternative program approved by the commissioner, or a contract alternative program under section 124D.68, subdivision 3, paragraph (d), or subdivision 3a, for more than 1,020 hours in a school year for a secondary student, more than 935 hours in a school year for an elementary student, or more than 425 hours in a school year for a kindergarten student without a disability, that pupil may be counted as more than one pupil in average daily membership. The amount in excess of one pupil must be determined by the ratio of the number of hours of instruction provided to that pupil in excess of: (i) the greater of 1,020 hours or the number of hours required for a full-time secondary pupil in the district to 1,020 for a secondary pupil; (ii) the greater of 935 hours or the number of hours required for a full-time elementary pupil in the district to 935 for an elementary pupil in grades 1 through 6; and (iii) the greater of 425 hours or the number of hours required for a full-time kindergarten student without a disability in the district to 425 for a kindergarten student without a disability. Hours that occur after the close of the instructional year in June shall be attributable to the following fiscal year. A kindergarten student must not be counted as more than 1.2 pupils in average daily membership under this subdivision.

(b)(i) To receive general education revenue for a pupil in an alternative program that has an independent study component, a district must meet the requirements in this paragraph. The district must develop, ~~with for~~ for the pupil, a continual learning plan for the pupil. ~~A district must allow a minor pupil's parent or guardian to participate in developing the plan, if the parent or guardian wants to participate. The plan must identify the learning experiences and expected outcomes needed for satisfactory credit for the year and for graduation. The plan must be updated each year consistent with section 124D.128, subdivision 3.~~ Each school district that has a state-approved public alternative program must reserve revenue in an amount equal to at least 90 percent of the district average general education revenue per pupil unit less compensatory revenue per pupil unit times the number of pupil units generated by students attending a state-approved public alternative program. The amount of reserved revenue available under this subdivision may only be spent for program costs associated with the state-approved public alternative program. Compensatory revenue must be allocated according to section 126C.15, subdivision 2.

(ii) General education revenue for a pupil in an approved alternative program without an independent study component must be prorated for a pupil participating for less than a full year, or its equivalent. ~~The district must develop a continual learning plan for the pupil, consistent with section 124D.128, subdivision 3.~~ Each school district that has a state-approved public alternative program must reserve revenue in an amount equal to at least 90 percent of the district average general education revenue per pupil unit less compensatory revenue per pupil unit times the number of pupil units generated by students attending a state-approved public alternative program. The amount of reserved revenue available under this subdivision may only be spent for program costs associated with the state-approved public alternative program. Compensatory revenue must be allocated according to section 126C.15, subdivision 2.

(iii) General education revenue for a pupil in an approved alternative program that has an independent study component must be paid for each hour of teacher contact time and each hour of independent study time completed toward a credit or graduation standards necessary for graduation. Average daily membership for a pupil shall equal the number of hours of teacher contact time and independent study time divided by 1,020.

(iv) For an alternative program having an independent study component, the commissioner shall require a description of the courses in the program, the kinds of independent study involved, the expected learning outcomes of the courses, and the means of measuring student performance against the expected outcomes.

Sec. 49. Minnesota Statutes 2000, section 179A.20, is amended by adding a subdivision to read:

Subd. 2b. [STRUCTURALLY BALANCED SCHOOL DISTRICT CONTRACTS.] (a) A school board must not enter into a contract with the exclusive representative of the teachers that is not structurally balanced for a time period that corresponds to the term of the contract and the following year beginning on the July 1 following the specified end date of that contract. Failure to enter into a contract to implement a proposed contract settlement or an interest arbitration decision that violates the provisions of this subdivision shall not be an unfair labor practice under section 179A.13, subdivision 2. The provisions of section 123B.05 shall not apply to a contract or an interest arbitration decision that is not structurally balanced and that is not approved by the date specified therein.

(b) The school board must make a good-faith determination as to whether a proposed contract settlement is structurally balanced for the time period specified prior to its approval of that contract. The resolution adopted by the school board making the determination that the proposed contract is structurally balanced must include or incorporate written findings and specific calculations to support the determination. The findings and calculations must be available to members of the school board and the public at the meeting at which the resolution is adopted. A copy of the resolution with supporting findings and calculations shall also be attached to the uniform collective bargaining agreement settlement document filed with the commissioner of finance under section 179A.07, subdivision 7.

(c) An arbitrator in an interest arbitration must make a good-faith determination as to whether an interest arbitration decision for a teacher contract is structurally balanced for the time period specified and must prove that structural balance in the decision. The school board must review the arbitrator's decision to determine whether the arbitrator has correctly determined that the arbitration decision is structurally balanced. If the school board makes a good-faith determination that the arbitration decision is not structurally balanced for the time period specified, it must return the decision to the arbitrator with a detailed explanation of why the board has determined that the decision is not structurally balanced. The arbitrator must revise the decision until the school board can make a good-faith determination that the decision is structurally balanced for the time period specified. The resolution adopted by the school board making the determination that the interest arbitration decision is structurally balanced must include or incorporate written findings and specific calculations to support the determination. The findings and calculations must be available to members of the school board and the public at the meeting at which the resolution is adopted. A copy of the resolution with supporting findings and calculations shall also be attached to the uniform collective bargaining agreement settlement document filed with the commissioner of finance under section 179A.07, subdivision 7.

(d) In making a determination as to whether a contract settlement or interest arbitration decision is structurally balanced for the term of the contract and the following year, the board shall review the general fund revenue and expenditure projections for the three-year time period specified based on laws in effect at the time the determination is made.

(1) Revenue projections must be based on the general education and other formulas in effect for the time period specified at the time the determination is made.

(2) Revenue projections must be based on pupil unit projections for the time period specified.

(3) Expenditure projections must be based on the costs of this contract and the projected costs of the contract with the teachers for the third year of the time period specified.

(4) Expenditure projections must be based on the projected seniority of the staff during each year of the time period specified and on current teacher-to-student ratios. The projections must include projected movement through contract steps and lanes each year during the time period specified to reflect increased seniority leading to step changes and increased education or training leading to lane changes.

(5) Expenditure projections must include anticipated costs of fringe benefits, including, but not limited to, health insurance, during each year of the time period specified.

(6) Expenditure projections must include projected staff retirements and the hiring of projected new teachers during the time period specified. The projections must include projected payouts of severance pay, accumulated sick leave or other leave if any, vacation pay if any, and other benefits to retiring employees or employees leaving employment in the district.

(7) Expenditure projections must include all other projected contract-related general fund expenditures for the time period specified.

(e) A school board may determine that a contract with the exclusive representative of the employees is structurally balanced for the time period specified if, taking into account at least the projections specified in paragraph (d) and such other projections as may be necessary, the projected general fund expenditures for each year of the time period specified will not exceed projected general fund revenues for that year.

[EFFECTIVE DATE.] This section is effective the day following final enactment and applies to contracts between school boards and exclusive representatives of teachers for the time period July 1, 2001, to June 30, 2003, and thereafter.

Sec. 50. [ACCESS TO STATEWIDE TESTS AND STUDENTS' TEST RESULTS.]

Subdivision 1. [TEST ACCESS.] Consistent with subdivisions 2 and 3 and Minnesota Statutes, section 120B.30, subdivision 1, paragraph (f), the commissioner of children, families, and learning shall make available copies of the statewide basic skills tests and the Minnesota comprehensive assessments and students' test results.

Subd. 2. [ACCESS TO BASIC SKILLS TESTS.] Beginning in February 2002, the commissioner, on the date the results for the February statewide basic skills tests are released, at the same time also shall:

(1) make available to the public electronic copies of those tests and accompanying answer sheets and mail to districts paper copies of the tests and accompanying answer sheets; and

(2) make available to parents or guardians a copy of their students' answers to the test questions.

The commissioner must release to a student's parent or guardian a copy of the student's actual answer sheet upon receiving a written request from that student's parent or guardian within a reasonable time of the request. The requirements of this paragraph apply only to those statewide basic skills tests administered in February of any year. The commissioner must allow a parent or guardian to examine a statewide basic skills test administered in April or July and the student's accompanying answer sheets upon receiving a written request from that student's parent or guardian.

Subd. 3. [ACCESS TO MINNESOTA COMPREHENSIVE ASSESSMENTS.] Beginning in the 2000-2001 school year, the commissioner shall release copies of Minnesota comprehensive assessments previously administered as follows:

(1) in the 2000-2001 school year, the commissioner shall make available to the public electronic copies of the tests administered in March 1999 and accompanying answer sheets;

(2) in the 2001-2002 school year, the commissioner shall make available to the public electronic copies of the tests administered in March 2000 and March 2001 and accompanying answer sheets; and

(3) in the 2002-2003 school year, the commissioner shall make available to the public electronic copies of the tests administered in March 2002 and accompanying answer sheets.

Beginning in the 2002-2003 school year and later, the commissioner shall release the tests administered in that school year. Beginning in January 2003 and later, the commissioner, on the date the results for the Minnesota comprehensive assessments are released, at the same time also shall:

(1) make available to the public electronic copies of those tests and accompanying answer sheets and mail to districts paper copies of the tests and accompanying answer sheets; and

(2) make available to parents or guardians a copy of their students' answers to the test questions.

The commissioner must release to a student's parent or guardian a copy of the student's actual answer sheet upon receiving a written request from that student's parent or guardian within a reasonable time of the request.

Subd. 4. [TEST ACCESS POLICY.] If statewide elementary or secondary level tests other than the basic skills tests or the Minnesota comprehensive assessments are administered to elementary or secondary students, the commissioner must adopt and publish a policy to provide public or parental access to copies of such tests and to students' accompanying test results, consistent with the provisions of this section.

[EFFECTIVE DATE.] This section is effective the day following final enactment.

Sec. 51. [ALTERNATIVE MODELS FOR DELIVERING EDUCATION; EXPANDING THE FLEXIBLE LEARNING YEAR PROGRAM.]

Subdivision 1. [ESTABLISHMENT; GOAL.] A three-year pilot project is established to permit participating school districts and school sites approved by the commissioner of children, families, and learning under subdivision 2 to use alternative models for delivering education by expanding the flexible learning year program under Minnesota Statutes, sections 124D.12 to 124D.127. The project is intended to explore effective alternatives for delivering education, with the goal of improving instruction and students' educational outcomes and opportunities and increasing the cost-effectiveness of educational programs.

Subd. 2. [ELIGIBILITY; APPLICATIONS.] The commissioner shall make application forms available to school districts and school sites interested in exploring effective alternative models for delivering instruction during a redefined flexible learning year as described in this section. Interested school districts and school sites must have their application to participate in this program first approved by the local school board and a majority of teachers employed in the district or at the site, respectively, after a public hearing on the matter. Applications must be submitted to the commissioner by January 1, 2002. The application must describe how the applicant proposes to realize the goal of this project, including what activities and procedures the applicant proposes to develop and implement and the specific changes in the learning year the applicant requires to accomplish those activities and procedures. The commissioner, consistent with the requirements of this section, shall approve applications before March 1, 2002.

Subd. 3. [EXEMPTIONS.] (a) Notwithstanding other laws or rules to the contrary, a participant in the pilot project under this section is exempt from Minnesota Statutes, sections 120A.40 and 120A.41, through the 2004-2005 school year. Minnesota Statutes, sections 124D.12 to 124D.127, apply through the 2004-2005 school year except to the extent that the provisions of this section or the participant's learning year changes conflict with particular provisions in Minnesota Statutes, sections 124D.12 to 124D.127.

(b) Consistent with this section, a participant may adopt a learning year calendar that allows the participant to suitably fulfill the educational needs of its students using an alternative learning year calendar. The commissioner must provide participants with a formula for computing average daily membership so that all formulas based upon average daily membership are not affected as a result of participating in this pilot project.

Subd. 4. [TECHNICAL ASSISTANCE.] The commissioner, at the request of a participant, must provide technical assistance to the participant. Also, the commissioner must assist participants in developing and implementing a valid and uniform procedure to evaluate the efficacy of their alternative learning year calendar, consistent with the goals of this section.

Subd. 5. [EVALUATION; REPORT.] (a) Participants must complete a formative and summative evaluation of their experiences in delivering education under an alternative learning year calendar. Participants must focus the evaluation on the overall efficacy of the pilot project, including the cost-effectiveness of educational programs and the extent to which students' educational outcomes and opportunities improved. Participants shall use their interim evaluations, with the commissioner's approval, to modify their project where appropriate.

(b) Participants shall submit to the commissioner a progress report by September 1, 2004, and a final report by January 1, 2006, evaluating the cost-effectiveness of educational programs and the extent to which students' educational outcomes and opportunities improved. The commissioner shall compile the reports to present to the committees in the legislature that deal with education policy and education finance by March 1, 2006. When presenting the report, the commissioner must recommend whether or not to continue or expand this pilot project.

[EFFECTIVE DATE.] This section is effective the day following final enactment.

Sec. 52. [FEDERAL FUNDS.]

The commissioner of children, families, and learning shall use federal funds available for reading-related purposes to fund grants under Minnesota Statutes, section 120B.12.

Sec. 53. [INTEGRATION LEVY.]

Subdivision 1. [AUTHORIZATION AMOUNT.] A district eligible for integration revenue under Minnesota Statutes, section 124D.86, subdivision 3, clause (5), is authorized to levy for integration revenue for 2001 payable 2002 taxes an amount up to the district's integration levy limit for fiscal years 2002 and 2003.

Subd. 2. [LEVY RECOGNITION.] Notwithstanding Minnesota Statutes, section 123B.75, subdivision 5, for a district eligible for integration revenue under Minnesota Statutes, section 124D.86, subdivision 3, clause (5), the full amount of integration levy for taxes payable in 2002, attributable to fiscal year 2002, shall be recognized in fiscal year 2002.

Sec. 54. [SCHOOLS' ACADEMIC AND FINANCIAL PERFORMANCE EVALUATION; INDEPENDENT CONTRACTOR.]

(a) To assist taxpayers, educators, school board members, and state and local officials in realizing their commitment to improving student achievement and the management of school systems, the commissioner of children, families, and learning shall contract with an independent school evaluation services contractor to evaluate and report on the academic and financial performance of the state's independent school districts using six core categories of analysis:

(1) school district expenditures;

(2) students' performance outcomes based on multiple indicia including students' test scores, attendance rates, dropout rates, and graduation rates;

(3) return on resources to determine the extent to which student outcomes improve commensurate with increases in district spending;

(4) school district finances, taxes, and debt to establish the context for analyzing the district's return on resources under clause (3);

(5) students' learning environment to establish the context for analyzing the district's return on resources under clause (3); and

(6) school district demographics to establish the socioeconomic context for analyzing the district's return on resources under clause (3).

(b) In order to compare the regional and socioeconomic peers of particular school districts, monitor educational changes over time and identify important educational trends, the contractor shall use the six core categories of analysis to:

(1) identify allocations of baseline and incremental school district spending;

(2) connect student achievement with expenditure patterns;

(3) track school district financial health;

(4) observe school district debt and capital spending levels; and

(5) measure the return on a school district's educational resources.

(c) The contractor under paragraph (a) shall evaluate and report on the academic and financial performance of all school districts.

(d) Consistent with paragraph (a), clause (2), the evaluation and reporting of test scores must distinguish between:

(1) performance-based assessments; and

(2) academic, objective knowledge-based tests.

(e) The contractor must complete its written report and submit it to the commissioner within 360 days of the date on which the contract is signed. The commissioner immediately must make the report available in a readily accessible format to state and local elected officials, members of the public, educators, parents, and other interested individuals. The commissioner, upon receiving an individual's request, also must make available all draft reports prepared by the contractor, consistent with Minnesota Statutes, chapter 13.

Sec. 55. [TECHNICAL ASSISTANCE.]

(a) The department of children, families, and learning or the state board of teaching, at a participant's request, must assist teachers and school districts in designing the teacher professional development standards and training interested parties in assessing whether and at what level teachers are attaining the standards, consistent with Minnesota Statutes, sections 120B.32 and 120B.33.

(b) Teachers and school districts also are encouraged to seek assistance from education districts, education cooperatives, and other education organizations in designing the teacher professional development standards and training teachers and administrators in assessing whether and at what level teachers are attaining the standards, consistent with Minnesota Statutes, sections 120B.32 and 120B.33.

[EFFECTIVE DATE.] This section is effective the day following final enactment.

Sec. 56. [PARTICIPATION IN ATHLETIC ACTIVITIES; MINNESOTA STATE HIGH SCHOOL LEAGUE STUDY.]

The Minnesota state high school league must prepare a written report by February 15, 2002, for the legislative committees charged with overseeing kindergarten through grade 12 education policy that indicates the interest of charter school students in participating in athletic activities available in the students' resident district. The Minnesota state high school league at least must:

(1) survey the students enrolled in the state's charter schools to determine how interested the students are in participating in various athletic activities offered by their resident school district;

(2) review the ability of charter schools to independently or through a cooperative sponsorship provide students with various athletic activities; and

(3) determine whether the league's cooperative sponsorship rules need to be amended to facilitate cooperative sponsorship arrangements involving charter schools. The Minnesota state high school league must cover the costs of this report.

[EFFECTIVE DATE.] This section is effective the day following final enactment.

Sec. 57. [CHARTER SCHOOL CONTRACTS TEMPORARILY PERMITTED.]

Notwithstanding Minnesota Statutes, section 124D.10, subdivision 3a, a school organized as a charter school as of the 2000-2001 school year may enter into a contract of up to \$2,000 annually with a nonteacher board member until June 30, 2003, when such a contract must expire.

Sec. 58. [SCIENCE LICENSURE.]

The board of teaching must issue a teaching license to an applicant who qualifies to teach general science to students in grades five to eight, or who qualifies to teach a specialty in physics, chemistry, life science, or earth and space science to students in grades nine to 12 if the applicant meets other applicable licensure requirements, including the requirements of Minnesota Statutes, section 122A.18, subdivision 8.

[EFFECTIVE DATE.] This section is effective the day following final enactment.

Sec. 59. [APPROPRIATIONS.]

Subdivision 1. [DEPARTMENT OF CHILDREN, FAMILIES, AND LEARNING.] The sums indicated in this section are appropriated from the general fund to the department of children, families, and learning for the fiscal years indicated.

Subd. 2. [EXAMINATION FEES; TEACHER TRAINING AND SUPPORT PROGRAMS.] (a) For students' advanced placement and international baccalaureate examination fees under Minnesota Statutes 2000, section 120B.13, subdivision 3, and the training and related costs for teachers and other interested educators under Minnesota Statutes 2000, section 120B.13, subdivision 1:

<u>\$2,000,000</u>	<u>.....</u>	<u>2002</u>
<u>\$2,000,000</u>	<u>.....</u>	<u>2003</u>

Any funds unexpended in the first year do not cancel and are available in the second year.

(b) The advanced placement program shall receive 75 percent of the appropriation each year and the international baccalaureate program shall receive 25 percent of the appropriation each year. The department, in consultation with representatives of the advanced placement and international baccalaureate programs selected by the advanced placement advisory council and IBMN, respectively, shall determine the amounts of the expenditures each year for examination fees and training and support programs for each program.

(c) Notwithstanding Minnesota Statutes, section 120B.13, subdivision 1, \$375,000 each year is for teachers to attend subject matter summer training programs and follow-up support workshops approved by the advanced placement or international baccalaureate programs. The amount of the subsidy for each teacher attending an advanced placement or international baccalaureate summer training program or workshop shall be the same. The commissioner shall determine the payment process and the amount of the subsidy.

(d) Notwithstanding Minnesota Statutes, section 120B.13, subdivision 3, in each year to the extent of available appropriations, the commissioner shall pay all examination fees for all students sitting for an advanced placement examination, international baccalaureate examination, or both. If this amount is not adequate, the commissioner may pay less than the full examination fee.

Any balance in the first year does not cancel but is available in the second year.

Subd. 3. [IMPLEMENTATION ASSISTANCE.] For grants to school districts for the costs of developing research-based teacher professional development and assessment standards and for training to implement the standards under Minnesota Statutes, sections 120B.32 and 120B.33:

<u>\$1,500,000</u>	<u>.....</u>	<u>2002</u>
<u>\$1,500,000</u>	<u>.....</u>	<u>2003</u>

Districts may apply for a grant amount of \$50 per full-time equivalent instructional staff person or \$2,500, whichever is greater. No grant may exceed \$50,000. Districts receiving grants are encouraged to cooperate with other grant recipients for the purposes of this appropriation.

This appropriation is available until June 30, 2003.

Subd. 4. [ALTERNATIVE COMPENSATION AID.] For alternative compensation aid under Minnesota Statutes, section 120B.34:

<u>\$6,000,000</u>	<u>.....</u>	<u>2002</u>
<u>\$6,000,000</u>	<u>.....</u>	<u>2003</u>

Of the annual appropriations, at least \$2,000,000 must be awarded to school districts whose administrative offices on July 1, 2001, are located in Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, or Washington county, and at least \$2,000,000 must be awarded to school districts whose administrative offices on July 1, 2001, are not located in Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, or Washington county. If applications for funding are not sufficient to distribute the full amount of funding designated for each geographic area, the commissioner may reallocate those funds to the remaining applicant districts, regardless of their location. The commissioner shall award grants based on the order in which the documents required under Minnesota Statutes, section 120B.34, are received. A school district that qualifies for aid in fiscal year 2002 remains eligible for aid in fiscal year 2003.

Any balance in the first year does not cancel but is available in the second year.

Subd. 5. [STATEWIDE TESTING.] For administering tests under Minnesota Statutes, sections 120B.02; 120B.30, subdivision 1; and 120B.35:

<u>\$6,500,000</u>	<u>.....</u>	<u>2002</u>
<u>\$6,500,000</u>	<u>.....</u>	<u>2003</u>

A district may apply to the commissioner for a grant to reimburse the district for test-related costs.

Any balance in the first year does not cancel but is available in the second year.

Subd. 6. [CHARTER SCHOOL BUILDING LEASE AID.] For building lease aid under Minnesota Statutes, section 124D.11, subdivision 4:

<u>\$16,554,000</u>	<u>.....</u>	<u>2002</u>
<u>\$25,176,000</u>	<u>.....</u>	<u>2003</u>

The 2002 appropriation includes \$1,114,000 for 2001 and \$15,440,000 for 2002.

The 2003 appropriation includes \$1,715,000 for 2002 and \$23,461,000 for 2003.

Subd. 7. [CHARTER SCHOOL STARTUP GRANTS.] For charter school startup cost aid under Minnesota Statutes, section 124D.11:

<u>\$2,738,000</u>	<u>2002</u>
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<u>\$3,143,000</u>	<u>2003</u>
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The 2002 appropriation includes \$273,000 for 2001 and \$2,465,000 for 2002.

The 2003 appropriation includes \$274,000 for 2002 and \$2,869,000 for 2003.

Subd. 8. [CHARTER SCHOOL INTEGRATION AID.] For grants to charter schools to promote integration and desegregation under Minnesota Statutes, section 124D.11, subdivision 6, paragraph (e):

<u>\$50,000</u>	<u>2002</u>
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<u>\$50,000</u>	<u>2003</u>
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Any balance in the first year does not cancel but is available in the second year.

Subd. 9. [BEST PRACTICES GRANTS.] For best practices grants:

<u>\$1,000,000</u>	<u>2002</u>
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<u>\$1,000,000</u>	<u>2003</u>
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Of this amount, \$1,000,000 each year is for the Minnesota new teacher project.

Subd. 10. [INTEGRATION AID.] For integration aid:

<u>\$63,231,000</u>	<u>2002</u>
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<u>\$63,742,000</u>	<u>2003</u>
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The 2002 appropriation includes \$5,729,000 for 2001 and \$57,502,000 for 2002.

The 2003 appropriation includes \$6,389,000 for 2002 and \$57,353,000 for 2003.

Subd. 11. [INTEGRATION PROGRAMS.] For minority fellowship grants under Laws 1994, chapter 647, article 8, section 29; minority teacher incentives under Minnesota Statutes, section 122A.65; teachers of color program grants under Minnesota Statutes, section 122A.64; and cultural exchange grants under Minnesota Statutes, section 124D.89:

<u>\$1,000,000</u>	<u>2002</u>
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<u>\$1,000,000</u>	<u>2003</u>
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Any balance in the first year does not cancel but is available in the second year.

In awarding teachers of color program grants, the commissioner must give priority to districts with students who are currently completing their academic program.

Subd. 12. [MAGNET SCHOOL GRANTS.] For magnet school and program grants under Minnesota Statutes, section 124D.871:

<u>\$1,750,000</u>	.....	<u>2002</u>
<u>\$1,050,000</u>	.....	<u>2003</u>

Subd. 13. [MAGNET SCHOOL STARTUP AID.] For magnet school startup aid under Minnesota Statutes, section 124D.88:

<u>\$482,000</u>	.....	<u>2002</u>
<u>\$326,000</u>	.....	<u>2003</u>

The 2002 appropriation includes \$25,000 for 2001 and \$457,000 for 2002.

The 2003 appropriation includes \$51,000 for 2002 and \$275,000 for 2003.

Subd. 14. [INTERDISTRICT DESEGREGATION OR INTEGRATION TRANSPORTATION GRANTS.] For interdistrict desegregation or integration transportation grants under Minnesota Statutes, section 124D.87:

<u>\$2,932,000</u>	<u>2003</u>
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Subd. 15. [AMERICAN INDIAN LANGUAGE AND CULTURE PROGRAMS.] For grants to American Indian language and culture education programs under Minnesota Statutes 2000, section 124D.81, subdivision 1:

<u>\$73,000</u>	<u>2002</u>
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The 2002 appropriation includes \$73,000 for 2001 and \$0 for 2002.

Subd. 16. [AMERICAN INDIAN EDUCATION.] For certain American Indian education programs in school districts:

<u>\$17,000</u>	<u>2002</u>
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The 2002 appropriation includes \$17,000 for 2001 and \$0 for 2002.

Subd. 17. [SUCCESS FOR THE FUTURE.] For American Indian success for the future grants under Minnesota Statutes, section 124D.81:

<u>\$1,797,000</u>	.....	<u>2002</u>
<u>\$1,887,000</u>	.....	<u>2003</u>

The 2002 appropriation includes \$0 for 2001 and \$1,797,000 for 2002.

The 2003 appropriation includes \$200,000 for 2002 and \$1,687,000 for 2003.

Subd. 18. [AMERICAN INDIAN SCHOLARSHIPS.] For American Indian scholarships under Minnesota Statutes, section 124D.84:

<u>\$1,875,000</u>	.....	<u>2002</u>
<u>\$1,875,000</u>	.....	<u>2003</u>

Any balance in the first year does not cancel but is available in the second year.

Subd. 19. [AMERICAN INDIAN TEACHER PREPARATION GRANTS.] (a) For joint grants to assist American Indian people to become teachers under Minnesota Statutes, section 122A.63:

<u>\$190,000</u>	.....	<u>2002</u>
<u>\$190,000</u>	.....	<u>2003</u>

(b) Up to \$70,000 each year is for a joint grant to the University of Minnesota at Duluth and the Duluth school district.

(c) Up to \$40,000 each year is for a joint grant to each of the following:

(1) Bemidji state university and the Red Lake school district;

(2) Moorhead state university and a school district located within the White Earth reservation; and

(3) Augsburg college, independent school district No. 625, St. Paul, and the Minneapolis school district.

(d) Money not used for students at one location may be transferred for use at another location.

(e) Any balance in the first year does not cancel but is available in the second year.

Subd. 20. [TRIBAL CONTRACT SCHOOLS.] For tribal contract school aid under Minnesota Statutes, section 124D.83:

<u>\$2,520,000</u>	.....	<u>2002</u>
<u>\$2,767,000</u>	.....	<u>2003</u>

The 2002 appropriation includes \$192,000 for 2001 and \$2,328,000 for 2002.

The 2003 appropriation includes \$258,000 for 2002 and \$2,509,000 for 2003.

Subd. 21. [EARLY CHILDHOOD PROGRAMS AT TRIBAL SCHOOLS.] For early childhood family education programs at tribal contract schools:

<u>\$68,000</u>	.....	<u>2002</u>
<u>\$68,000</u>	.....	<u>2003</u>

Subd. 22. [FIRST GRADE PREPAREDNESS.] For first grade preparedness grants under Minnesota Statutes, section 124D.081:

<u>\$7,000,000</u>	.....	<u>2002</u>
<u>\$7,000,000</u>	.....	<u>2003</u>

Subd. 23. [SECONDARY VOCATIONAL EDUCATION AID.] For secondary vocational education aid under Minnesota Statutes, section 124D.453:

<u>\$1,242,000</u>	<u>2002</u>
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The 2002 appropriation includes \$1,242,000 for 2001 and \$0 for 2002.

Subd. 24. [YOUTHWORKS PROGRAM.] For youthworks programs under Minnesota Statutes, sections 124D.37 to 124D.45:

<u>\$1,788,000</u>	.....	<u>2002</u>
<u>\$1,788,000</u>	.....	<u>2003</u>

A grantee organization may provide health and child care coverage to the dependents of each participant enrolled in a full-time youth works program to the extent such coverage is not otherwise available.

Any balance in the first year does not cancel but is available in the second year.

Subd. 25. [EDUCATION AND EMPLOYMENT TRANSITIONS PROGRAM GRANTS.] For education and employment transitions programming under Minnesota Statutes, section 124D.46:

<u>\$450,000</u>	.....	<u>2002</u>
<u>\$450,000</u>	.....	<u>2003</u>

\$450,000 each year is for ISEEKS.

Any balance in the first year does not cancel but is available in the second year.

Subd. 26. [LEARN AND EARN GRADUATION ACHIEVEMENT PROGRAM.] For the learn and earn graduation achievement program under Minnesota Statutes, section 124D.32:

<u>\$725,000</u>	<u>2002</u>
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Any balance in the first year does not cancel but is available in the second year.

Subd. 27. [SCHOOL EVALUATION SERVICES.] For contracting with an independent school evaluation services contractor to evaluate and report on school districts' academic and financial performance under section 54:

<u>\$2,500,000</u>	<u>2002</u>
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Subd. 28. [MINNESOTA STUDENT ORGANIZATION FOUNDATION.] For the Minnesota student organization foundation under Minnesota Statutes, section 124D.34:

<u>\$625,000</u>	.....	<u>2002</u>
<u>\$625,000</u>	.....	<u>2003</u>

Any balance in the first year does not cancel but is available in the second year.

Subd. 29. [READING COMPETENCY GRANTS.] For reading competency grants under Minnesota Statutes, section 120B.12:

<u>\$100,000</u>	.....	<u>2002</u>
<u>\$100,000</u>	.....	<u>2003</u>

The commissioner must award one grant to the St. Croix river education district by July 1, 2001.

Sec. 60. [REPEALER.]

(a) Minnesota Statutes 2000, section 124D.85, is repealed.

(b) Minnesota Statutes 2000, section 124D.32, is repealed, effective July 1, 2002.

(c) Minnesota Statutes 2000, sections 124D.128, subdivision 7, and 135A.081, are repealed effective the day following final enactment.

ARTICLE 3

SPECIAL PROGRAMS

Section 1. Minnesota Statutes 2000, section 120B.031, subdivision 11, is amended to read:

Subd. 11. [TECHNOLOGY AND RECORDKEEPING.] (a) Consistent with the requirements of this section, the commissioner must ensure the availability and maintain the ongoing operation of a uniform system for school districts to report profile of learning data at the state and local levels. The commissioner also shall designate to school districts, area learning centers, and charter schools software packages for reporting student performance on the content standards. The commissioner shall ensure that the designated recordkeeping software is capable of transferring student records between schools and school districts and is available to school districts at a minimal cost. ~~The commissioner shall convene an advisory group composed of qualified experts and interested stakeholders to recommend to districts and charter schools recordkeeping practices under the graduation rule.~~ The commissioner also must also report on an ongoing basis on technology needs for efficient daily classroom recordkeeping and accountability reporting.

(b) The commissioner annually shall notify inform the education committees of the legislature ~~that regarding recordkeeping practices under the profile of learning until~~ the requirements in paragraph (a) have been fully met.

[EFFECTIVE DATE.] This section is effective the day following final enactment.

Sec. 2. Minnesota Statutes 2000, section 121A.41, subdivision 10, is amended to read:

Subd. 10. [SUSPENSION.] "Suspension" means an action by the school administration, under rules promulgated by the school board, prohibiting a pupil from attending school for a period of no more than ten school days. If a suspension is longer than five days, the suspending administrator must provide the superintendent with a reason for the longer suspension. This definition does not apply to dismissal from school for one school day or less, except as provided in federal law for a student with a disability. Each suspension action may include a readmission plan. The readmission plan shall include, where appropriate, a provision for implementing alternative educational services upon readmission and may not be used to extend the current suspension. Consistent with section 125A.09, subdivision 3, the readmission plan must not obligate a parent to provide a sympathomimetic medication for the parent's child as a condition of readmission. The school administration may not impose consecutive suspensions against the same pupil for the same course of conduct, or incident of misconduct, except where the pupil will create an immediate and substantial danger to self or to surrounding persons or property, or where the district is in the process of initiating an expulsion, in which case the school administration may extend the suspension to a total of 15 days. In the case of a student with a disability, the student's individual education plan team must meet immediately but not more than ten school days after the date on which the decision to remove the student from the student's current education placement is made. The individual education plan team shall at that meeting: conduct a review of the relationship between the child's disability and the behavior subject to disciplinary action; and determine the appropriateness of the child's education plan.

The requirements of the individual education plan team meeting apply when:

(1) the parent requests a meeting;

(2) the student is removed from the student's current placement for five or more consecutive days; or

(3) the student's total days of removal from the student's placement during the school year exceed ten cumulative days in a school year. The school administration shall implement alternative educational services when the suspension exceeds five days. A separate administrative conference is required for each period of suspension.

[EFFECTIVE DATE.] This section is effective the day following final enactment.

Sec. 3. Minnesota Statutes 2000, section 122A.18, is amended by adding a subdivision to read:

Subd. 2b. [SPECIAL EDUCATION INFORMATION.] All colleges and universities approved by the board of teaching to prepare persons for classroom teacher licensure must include in their teacher preparation programs information on special education laws, teaching strategies, and positive behavior interventions.

[EFFECTIVE DATE.] This section is effective for the 2002-2003 school year and later.

Sec. 4. Minnesota Statutes 2000, section 122A.31, is amended to read:

122A.31 [AMERICAN SIGN LANGUAGE/ENGLISH INTERPRETERS.]

Subdivision 1. [REQUIREMENTS FOR AMERICAN SIGN LANGUAGE/ENGLISH INTERPRETERS.] (a) In addition to any other requirements that a school district establishes, any person employed to provide American sign language/English interpreting or sign transliterating services on a full-time or part-time basis for a school district after July 1, 2000, must:

(1) hold current interpreter and transliterator certificates awarded by the Registry of Interpreters for the Deaf (RID), or the general level interpreter proficiency certificate awarded by the National Association of the Deaf (NAD), or a comparable state certification from the commissioner of children, families, and learning; and

(2) satisfactorily complete an interpreter/transliterator training program affiliated with an accredited educational institution.

~~(b) To provide American sign language/English interpreting or transliterating services on a full-time or part-time basis, a person employed in a school district during the 1999-2000 school year must only comply with paragraph (a), clause (1). The commissioner shall grant a nonrenewable, one-year provisional certificate to individuals who have not attained a current applicable transliterator certificate pursuant to paragraph (a), clause (1). During the one-year provisional period, the interpreter/transliterator must develop and implement an education plan in collaboration with a mentor under paragraph (d). This paragraph shall expire on June 30, 2001.~~

~~(c) New graduates of an interpreter/transliterator program affiliated with an accredited education institution shall be granted a two-year provisional certificate by the commissioner. During the two-year provisional period, the interpreter/transliterator must develop and implement an education plan in collaboration with a mentor under paragraph (d) (c). This paragraph applies to spring semester 2000 graduates and thereafter.~~

~~(d) (c) A mentor of a provisionally certified interpreter/transliterator must be an interpreter/transliterator who has either NAD level IV or V certification or RID certified interpreter and certified transliterator certification and have at least three years interpreting/transliterating experience in any educational setting. The mentor, in collaboration with the provisionally certified interpreter/transliterator, shall develop and implement an education plan designed to meet the requirements of paragraph (a), clause (1), and include a weekly on-site mentoring process.~~

(d) Consistent with the requirements of this paragraph, a person holding a two-year provisional certificate may apply to the commissioner for a time-limited extension. The commissioner, in consultation with the commission serving deaf and hard-of-hearing people, must grant the person a time-limited extension of the provisional certificate based on the following documentation:

(1) letters of support from the person's mentor, a parent of a pupil the person serves, the special education director of the district in which the person is employed, and a representative from the regional service center of the deaf and hard-of-hearing;

(2) records of the person's formal education, training, experience, and progress on the person's education plan; and

(3) an explanation of why an extension is needed.

As a condition of receiving an extension, the person must comply with a plan and the accompanying time line for meeting the requirements of this subdivision. A committee composed of the director of the Minnesota resource center serving deaf and hard-of-hearing, or the director's designee, a representative of the Minnesota association of deaf citizens, a representative of the Minnesota registry of interpreters of the deaf, and other appropriate persons selected by the commissioner must develop the plan and time line for the person receiving the extension.

(e) A school district may ~~not~~ employ only an interpreter/transliterator who has ~~not~~ been certified under paragraph (a); ~~or~~ (b), or ~~(c)~~ for whom a time-limited extension has been granted under paragraph (d).

Subd. 2. [ORAL OR CUED SPEECH TRANSLITERATORS.] (a) In addition to any other requirements that a school district establishes, any person employed to provide oral transliterating or cued speech transliterating services on a full-time or part-time basis for a school district after July 1, 2000, must hold a current applicable transliterator certificate awarded by the national certifying association or comparable state certification from the commissioner of children, families, and learning.

(b) Consistent with the requirements of this paragraph, a person holding a two-year provisional certificate may apply to the commissioner for a time-limited extension. The commissioner, in consultation with the commission serving deaf and hard-of-hearing people, must grant the person a time-limited extension of the provisional certificate based on the following documentation:

(1) letters of support from the person's mentor, a parent of a pupil the person serves, the special education director of the district in which the person is employed, and a representative from the regional service center of the deaf and hard-of-hearing;

(2) records of the person's formal education, training, experience, and progress on the person's education plan; and

(3) an explanation of why an extension is needed.

As a condition of receiving an extension, the person must comply with a plan and the accompanying time line for meeting the requirements of this subdivision. A committee composed of the director of the Minnesota resource center serving deaf and hard-of-hearing, or the director's designee, a representative of the Minnesota association of deaf citizens, a representative of the Minnesota registry of interpreters of the deaf, and other appropriate persons selected by the commissioner must develop the plan and time line for the person receiving the extension.

Subd. 3. [QUALIFIED INTERPRETERS.] The department of children, families, and learning and the resource center: deaf and hard of hearing shall work with existing interpreter/transliterator training programs, other training/educational institutions, and the regional service centers to ensure that ongoing staff development training for educational interpreters/transliterators is provided throughout the state.

Subd. 4. [REIMBURSEMENT.] (a) For purposes of revenue under section 125A.78, the department of children, families, and learning must only reimburse school districts for the services of those interpreters/transliterators who satisfy the standards of competency under this section.

(b) Notwithstanding paragraph (a), a district shall be reimbursed for the services of interpreters with a nonrenewable provisional certificate ~~and~~ interpreters/transliterators employed to mentor the provisional certified interpreters and persons for whom a time-limited extension has been granted under subdivision 1, paragraph (d), or subdivision 2, paragraph (b).

[EFFECTIVE DATE.] This section is effective for the 2001-2002 school year and later.

Sec. 5. Minnesota Statutes 2000, section 122A.61, subdivision 1, is amended to read:

Subdivision 1. [STAFF DEVELOPMENT REVENUE.] A district is required to reserve an amount equal to at least two percent of the basic revenue under section 126C.10, subdivision 2, for in-service education for programs under section 120B.22, subdivision 2, for staff development plans, including plans for challenging instructional activities and experiences under section 122A.60, and for curriculum development and programs, other in-service education, teachers' workshops, teacher conferences, the cost of substitute teachers staff development purposes, preservice and in-service education for special education professionals and paraprofessionals, and other related costs for staff development efforts. A district may annually waive the requirement to reserve their basic revenue under this section if a majority vote of the licensed teachers in the district and a majority vote of the school board agree to a resolution to waive the requirement. A district in statutory operating debt is exempt from reserving basic revenue according to this section. Districts may expend an additional amount of unreserved revenue for staff development based on their needs. With the exception of amounts reserved for staff development from revenues allocated directly to school sites, the board must initially allocate 50 percent of the reserved revenue to each school site in the district on a per teacher basis, which must be retained by the school site until used. The board may retain 25 percent to be used for district wide staff development efforts. The remaining 25 percent of the revenue must be used to make grants to school sites for best practices methods. A grant may be used for any purpose authorized under section 120B.22, subdivision 2, 122A.60, or for the costs of curriculum development and programs, other in-service education, teachers' workshops, teacher conferences, substitute teachers for staff development purposes, and other staff development efforts, and determined by the site professional development team. The site professional development team must demonstrate to the school board the extent to which staff at the site have met the outcomes of the program. The board may withhold a portion of initial allocation of revenue if the staff development outcomes are not being met.

[EFFECTIVE DATE.] This section is effective the day following final enactment.

Sec. 6. Minnesota Statutes 2000, section 124D.65, subdivision 5, is amended to read:

Subd. 5. [SCHOOL DISTRICT LEP REVENUE.] (a) A school district's limited English proficiency programs revenue for fiscal year 2000 equals the state total limited English proficiency programs revenue, minus the amount determined under paragraph (b), times the ratio of the district's adjusted limited English proficiency programs base revenue to the state total adjusted limited English proficiency programs base revenue.

(b) Notwithstanding paragraph (a), if the limited English proficiency programs base revenue for a district equals zero, the limited English proficiency programs revenue equals the sum of the following amounts, computed using current year data:

(1) 68 percent of the salary of one full-time equivalent teacher for each 40 pupils of limited English proficiency enrolled, or 68 percent of the salary of one-half of a full-time teacher in a district with 20 or fewer pupils of limited English proficiency enrolled; and

(2) for supplies and equipment purchased or rented for use in the instruction of pupils of limited English proficiency an amount equal to 47 percent of the sum actually spent by the district but not to exceed an average of \$47 in any one school year for each pupil of limited English proficiency receiving instruction.

(c) A district's limited English proficiency programs revenue for fiscal year 2001 and later equals the product of \$584 times the greater of 20 or the number of adjusted marginal cost pupils of limited English proficiency enrolled in the district during the current fiscal year.

(d) A pupil ceases to generate state limited English proficiency aid in the school year following the school year in which the pupil attains the state cut-off score on a commissioner-provided assessment that measures the pupil's emerging academic English.

[EFFECTIVE DATE.] This section is effective July 1, 2002.

Sec. 7. Minnesota Statutes 2000, section 125A.023, subdivision 4, is amended to read:

Subd. 4. [STATE INTERAGENCY COMMITTEE.] (a) The governor shall convene ~~an 18-member~~ a 19-member interagency committee to develop and implement a coordinated, multidisciplinary, interagency intervention service system for children ages three to 21 with disabilities. The commissioners of commerce, children, families, and learning, health, human rights, human services, economic security, and corrections shall each appoint two committee members from their departments; the association of Minnesota counties shall appoint two county representatives, one of whom must be an elected official, as committee members; and the Minnesota school boards association, the Minnesota administrators of special education, and the school nurse association of Minnesota shall each appoint one committee member. The committee shall select a chair from among its members.

(b) The committee shall:

(1) identify and assist in removing state and federal barriers to local coordination of services provided to children with disabilities;

(2) identify adequate, equitable, and flexible funding sources to streamline these services;

(3) develop guidelines for implementing policies that ensure a comprehensive and coordinated system of all state and local agency services, including multidisciplinary assessment practices for children with disabilities ages three to 21;

(4) develop, consistent with federal law, a standardized written plan for providing services to a child with disabilities;

(5) identify how current systems for dispute resolution can be coordinated and develop guidelines for that coordination;

(6) develop an evaluation process to measure the success of state and local interagency efforts in improving the quality and coordination of services to children with disabilities ages three to 21;

(7) develop guidelines to assist the governing boards of the interagency early intervention committees in carrying out the duties assigned in section 125A.027, subdivision 1, paragraph (b); and

(8) carry out other duties necessary to develop and implement within communities a coordinated, multidisciplinary, interagency intervention service system for children with disabilities.

(c) The committee shall consult on an ongoing basis with the state education advisory committee for special education and the governor's interagency coordinating council in carrying out its duties under this section, including assisting the governing boards of the interagency early intervention committees.

Sec. 8. Minnesota Statutes 2000, section 125A.08, is amended to read:

125A.08 [SCHOOL DISTRICT OBLIGATIONS.]

(a) As defined in this section, every district must ensure the following:

(1) all students with disabilities are provided the special instruction and services which are appropriate to their needs. Where the individual education plan team has determined appropriate goals and objectives based on the student's needs, including the extent to which the student can be included in the least restrictive environment, and

where there are essentially equivalent and effective instruction, related services, or assistive technology devices available to meet the student's needs, cost to the district may be among the factors considered by the team in choosing how to provide the appropriate services, instruction, or devices that are to be made part of the student's individual education plan. The individual education plan team shall consider and may authorize services covered by medical assistance according to section 256B.0625, subdivision 26. The student's needs and the special education instruction and services to be provided must be agreed upon through the development of an individual education plan. The plan must address the student's need to develop skills to live and work as independently as possible within the community. The individual education plan team must consider positive behavioral interventions, strategies, and supports that address behavior for children with attention deficit disorder or attention deficit hyperactivity disorder. By grade 9 or age 14, the plan must address the student's needs for transition from secondary services to post-secondary education and training, employment, community participation, recreation, and leisure and home living. In developing the plan, districts must inform parents of the full range of transitional goals and related services that should be considered. The plan must include a statement of the needed transition services, including a statement of the interagency responsibilities or linkages or both before secondary services are concluded;

(2) children with a disability under age five and their families are provided special instruction and services appropriate to the child's level of functioning and needs;

(3) children with a disability and their parents or guardians are guaranteed procedural safeguards and the right to participate in decisions involving identification, assessment including assistive technology assessment, and educational placement of children with a disability;

(4) eligibility and needs of children with a disability are determined by an initial assessment or reassessment, which may be completed using existing data under United States Code, title 20, section 33, et seq.;

(5) to the maximum extent appropriate, children with a disability, including those in public or private institutions or other care facilities, are educated with children who are not disabled, and that special classes, separate schooling, or other removal of children with a disability from the regular educational environment occurs only when and to the extent that the nature or severity of the disability is such that education in regular classes with the use of supplementary services cannot be achieved satisfactorily;

(6) in accordance with recognized professional standards, testing and evaluation materials, and procedures used for the purposes of classification and placement of children with a disability are selected and administered so as not to be racially or culturally discriminatory; and

(7) the rights of the child are protected when the parents or guardians are not known or not available, or the child is a ward of the state.

(b) For paraprofessionals employed to work in programs for students with disabilities, the school board in each district shall ensure that:

(1) before or immediately upon employment, each paraprofessional develops sufficient knowledge and skills in emergency procedures, building orientation, roles and responsibilities, confidentiality, vulnerability, and reportability, among other things, to begin meeting the needs of the students with whom the paraprofessional works;

(2) annual training opportunities are available to enable the paraprofessional to continue to further develop the knowledge and skills that are specific to the students with whom the paraprofessional works, including understanding disabilities, following lesson plans, and implementing follow-up instructional procedures and activities; and

(3) a districtwide process obligates each paraprofessional to work under the ongoing direction of a licensed teacher and, where appropriate and possible, the supervision of a school nurse.

[EFFECTIVE DATE.] This section is effective the day following final enactment.

Sec. 9. Minnesota Statutes 2000, section 125A.09, subdivision 3, is amended to read:

Subd. 3. [INITIAL ACTION; PARENT CONSENT.] (a) The district must not proceed with the initial formal assessment of a child, the initial placement of a child in a special education program, or the initial provision of special education services for a child without the prior written consent of the child's parent or guardian. The refusal of a parent or guardian to consent may be overridden by the decision in a hearing held pursuant to subdivision 6 at the district's initiative.

(b) A parent, after consulting with health care, education, or other professional providers, may agree or disagree to provide the parent's child with sympathomimetic medications unless section 144.344 applies.

[EFFECTIVE DATE.] This section is effective the day following final enactment.

Sec. 10. Minnesota Statutes 2000, section 125A.11, subdivision 3, is amended to read:

Subd. 3. [AGREEMENT BETWEEN DISTRICTS TO PROVIDE SPECIAL INSTRUCTION AND SERVICES.] For the purposes of this section, any school district may enter into an agreement, upon mutually agreed upon terms and conditions, to provide special instruction and services for children with a disability. In that event, one of the participating units may employ and contract with necessary qualified personnel to offer services in the several districts. Each participating unit must reimburse the employing unit a proportionate amount of the actual cost of providing the special instruction and services, less the amount of state special education aid, ~~which shall be claimed in full by the employing district.~~

Sec. 11. Minnesota Statutes 2000, section 125A.27, subdivision 15, is amended to read:

Subd. 15. [PART H C STATE PLAN.] "Part H C state plan" means the annual state plan application approved by the federal government under the Individuals with Disabilities Education Act, United States Code, title 20, section 1471 et seq. (Part H C, Public Law Number ~~102-119~~ 105-117).

Sec. 12. Minnesota Statutes 2000, section 125A.76, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] For the purposes of this section, the definitions in this subdivision apply.

(a) "Base year" for fiscal year 1998 and later fiscal years means the second fiscal year preceding the fiscal year for which aid will be paid.

(b) "Basic revenue" has the meaning given it in section 126C.10, subdivision 2. For the purposes of computing basic revenue pursuant to this section, each child with a disability shall be counted as prescribed in section 126C.05, subdivision 1.

(c) "Essential personnel" means teachers, cultural liaisons, related services, and support services staff providing direct services to students. Essential personnel may also include special education paraprofessionals or clericals providing support to teachers and students by preparing paperwork and making arrangements related to special education compliance requirements, including parent meetings and individual education plans.

(d) "Average daily membership" has the meaning given it in section 126C.05.

(e) "Program growth factor" means 1.08 for fiscal year 2002, and 1.046 for fiscal year 2003 and later.

Sec. 13. Minnesota Statutes 2000, section 125A.76, subdivision 2, is amended to read:

Subd. 2. [SPECIAL EDUCATION BASE REVENUE.] (a) The special education base revenue equals the sum of the following amounts computed using base year data:

(1) 68 percent of the salary of each essential person employed in the district's program for children with a disability during the fiscal year, ~~not including the share of salaries for personnel providing health-related services counted in clause (8)~~; whether the person is employed by one or more districts or a Minnesota correctional facility operating on a fee-for-service basis;

(2) for the Minnesota state academy for the deaf or the Minnesota state academy for the blind, 68 percent of the salary of each instructional aide assigned to a child attending the academy, if that aide is required by the child's individual education plan;

(3) for special instruction and services provided to any pupil by contracting with public, private, or voluntary agencies other than school districts, in place of special instruction and services provided by the district, 52 percent of the difference between the amount of the contract and the ~~basic revenue of the district for that pupil~~ amount of the basic revenue, as defined in section 126C.10, subdivision 2, special education aid, and any other aid earned on behalf of the child for the fraction of the school day the pupil receives services under the contract;

(4) for special instruction and services provided to any pupil by contracting for services with public, private, or voluntary agencies other than school districts, that are supplementary to a full educational program provided by the school district, 52 percent of the amount of the contract for that pupil;

(5) for supplies and equipment purchased or rented for use in the instruction of children with a disability, ~~not including the portion of the expenses for supplies and equipment used to provide health-related services counted in clause (8)~~; an amount equal to 47 percent of the sum actually expended by the district, or a Minnesota correctional facility operating on a fee-for-service basis, but not to exceed an average of \$47 in any one school year for each child with a disability receiving instruction;

(6) for fiscal years 1997 and later, special education base revenue shall include amounts under clauses (1) to (5) for special education summer programs provided during the base year for that fiscal year; and

(7) for fiscal years 1999 and later, the cost of providing transportation services for children with disabilities under section 123B.92, subdivision 1, paragraph (b), clause (4).

The department shall establish procedures through the uniform financial accounting and reporting system to identify and track all revenues generated from third-party billings as special education revenue at the school district level; include revenue generated from third-party billings as special education revenue in the annual cross-subsidy report; and exclude third-party revenue from calculation of excess cost aid to the districts.

(b) If requested by a school district operating a special education program during the base year for less than the full fiscal year, or a school district in which is located a Minnesota correctional facility operating on a fee-for-service basis for less than the full fiscal year, the commissioner may adjust the base revenue to reflect the expenditures that would have occurred during the base year had the program been operated for the full fiscal year.

(c) Notwithstanding paragraphs (a) and (b), the portion of a school district's base revenue attributable to a Minnesota correctional facility operating on a fee-for-service basis during the facility's first year of operating on a fee-for-service basis shall be computed using current year data.

Sec. 14. Minnesota Statutes 2000, section 260A.01, is amended to read:

260A.01 [TRUANCY PROGRAMS AND SERVICES.]

(a) The programs in this chapter are designed to provide a continuum of intervention and services to support families and children in keeping children in school and combating truancy and educational neglect. School districts, county attorneys, and law enforcement may establish the programs and coordinate them with other community-based truancy services in order to provide the necessary and most effective intervention for children and their families. This continuum of intervention and services involves progressively intrusive intervention, beginning with strong service-oriented efforts at the school and community level and involving the court's authority only when necessary.

(b) Consistent with section 125A.09, subdivision 3, a parent's refusal to provide the parent's child with sympathomimetic medications does not constitute educational neglect.

[EFFECTIVE DATE.] This section is effective the day following final enactment.

Sec. 15. Minnesota Statutes 2000, section 260C.163, subdivision 11, is amended to read:

Subd. 11. [PRESUMPTIONS REGARDING TRUANCY OR EDUCATIONAL NEGLECT.] (a) A child's absence from school is presumed to be due to the parent's, guardian's, or custodian's failure to comply with compulsory instruction laws if the child is under 12 years old and the school has made appropriate efforts to resolve the child's attendance problems; this presumption may be rebutted based on a showing by clear and convincing evidence that the child is habitually truant. A child's absence from school without lawful excuse, when the child is 12 years old or older, is presumed to be due to the child's intent to be absent from school; this presumption may be rebutted based on a showing by clear and convincing evidence that the child's absence is due to the failure of the child's parent, guardian, or custodian to comply with compulsory instruction laws, sections 120A.22 and 120A.24.

(b) Consistent with section 125A.09, subdivision 3, a parent's refusal to provide the parent's child with sympathomimetic medications does not constitute educational neglect.

[EFFECTIVE DATE.] This section is effective the day following final enactment.

Sec. 16. Minnesota Statutes 2000, section 626.556, subdivision 2, is amended to read:

Subd. 2. [DEFINITIONS.] As used in this section, the following terms have the meanings given them unless the specific content indicates otherwise:

(a) "Sexual abuse" means the subjection of a child by a person responsible for the child's care, by a person who has a significant relationship to the child, as defined in section 609.341, or by a person in a position of authority, as defined in section 609.341, subdivision 10, to any act which constitutes a violation of section 609.342 (criminal sexual conduct in the first degree), 609.343 (criminal sexual conduct in the second degree), 609.344 (criminal sexual conduct in the third degree), 609.345 (criminal sexual conduct in the fourth degree), or 609.3451 (criminal sexual conduct in the fifth degree). Sexual abuse also includes any act which involves a minor which constitutes a violation of prostitution offenses under sections 609.321 to 609.324 or 617.246. Sexual abuse includes threatened sexual abuse.

(b) "Person responsible for the child's care" means (1) an individual functioning within the family unit and having responsibilities for the care of the child such as a parent, guardian, or other person having similar care responsibilities, or (2) an individual functioning outside the family unit and having responsibilities for the care of the child such as a teacher, school administrator, or other lawful custodian of a child having either full-time or short-term care responsibilities including, but not limited to, day care, babysitting whether paid or unpaid, counseling, teaching, and coaching.

(c) "Neglect" means:

(1) failure by a person responsible for a child's care to supply a child with necessary food, clothing, shelter, health, medical, or other care required for the child's physical or mental health when reasonably able to do so;

(2) failure to protect a child from conditions or actions which imminently and seriously endanger the child's physical or mental health when reasonably able to do so;

(3) failure to provide for necessary supervision or child care arrangements appropriate for a child after considering factors as the child's age, mental ability, physical condition, length of absence, or environment, when the child is unable to care for the child's own basic needs or safety, or the basic needs or safety of another child in their care;

(4) failure to ensure that the child is educated as defined in sections 120A.22 and 260C.163, subdivision 11, which does not include a parent's refusal to provide the parent's child with sympathomimetic medications, consistent with section 125A.09, subdivision 3;

(5) nothing in this section shall be construed to mean that a child is neglected solely because the child's parent, guardian, or other person responsible for the child's care in good faith selects and depends upon spiritual means or prayer for treatment or care of disease or remedial care of the child in lieu of medical care; except that a parent, guardian, or caretaker, or a person mandated to report pursuant to subdivision 3, has a duty to report if a lack of medical care may cause serious danger to the child's health. This section does not impose upon persons, not otherwise legally responsible for providing a child with necessary food, clothing, shelter, education, or medical care, a duty to provide that care;

(6) prenatal exposure to a controlled substance, as defined in section 253B.02, subdivision 2, used by the mother for a nonmedical purpose, as evidenced by withdrawal symptoms in the child at birth, results of a toxicology test performed on the mother at delivery or the child at birth, or medical effects or developmental delays during the child's first year of life that medically indicate prenatal exposure to a controlled substance;

(7) "medical neglect" as defined in section 260C.007, subdivision 4, clause (5);

(8) chronic and severe use of alcohol or a controlled substance by a parent or person responsible for the care of the child that adversely affects the child's basic needs and safety; or

(9) emotional harm from a pattern of behavior which contributes to impaired emotional functioning of the child which may be demonstrated by a substantial and observable effect in the child's behavior, emotional response, or cognition that is not within the normal range for the child's age and stage of development, with due regard to the child's culture.

(d) "Physical abuse" means any physical injury, mental injury, or threatened injury, inflicted by a person responsible for the child's care on a child other than by accidental means, or any physical or mental injury that cannot reasonably be explained by the child's history of injuries, or any aversive and deprivation procedures that have not been authorized under section 245.825. Abuse does not include reasonable and moderate physical discipline of a child administered by a parent or legal guardian which does not result in an injury. Actions which are not reasonable and moderate include, but are not limited to, any of the following that are done in anger or without regard to the safety of the child:

(1) throwing, kicking, burning, biting, or cutting a child;

(2) striking a child with a closed fist;

(3) shaking a child under age three;

(4) striking or other actions which result in any nonaccidental injury to a child under 18 months of age;

(5) unreasonable interference with a child's breathing;

(6) threatening a child with a weapon, as defined in section 609.02, subdivision 6;

(7) striking a child under age one on the face or head;

(8) purposely giving a child poison, alcohol, or dangerous, harmful, or controlled substances which were not prescribed for the child by a practitioner, in order to control or punish the child; or other substances that substantially affect the child's behavior, motor coordination, or judgment or that results in sickness or internal injury, or subjects the child to medical procedures that would be unnecessary if the child were not exposed to the substances; or

(9) unreasonable physical confinement or restraint not permitted under section 609.379, including but not limited to tying, caging, or chaining.

(e) "Report" means any report received by the local welfare agency, police department, or county sheriff pursuant to this section.

(f) "Facility" means a licensed or unlicensed day care facility, residential facility, agency, hospital, sanitarium, or other facility or institution required to be licensed under sections 144.50 to 144.58, 241.021, or 245A.01 to 245A.16, or chapter 245B; or a school as defined in sections 120A.05, subdivisions 9, 11, and 13; and 124D.10; or a nonlicensed personal care provider organization as defined in sections 256B.04, subdivision 16, and 256B.0625, subdivision 19a.

(g) "Operator" means an operator or agency as defined in section 245A.02.

(h) "Commissioner" means the commissioner of human services.

(i) "Assessment" includes authority to interview the child, the person or persons responsible for the child's care, the alleged perpetrator, and any other person with knowledge of the abuse or neglect for the purpose of gathering the facts, assessing the risk to the child, and formulating a plan.

(j) "Practice of social services," for the purposes of subdivision 3, includes but is not limited to employee assistance counseling and the provision of guardian ad litem and parenting time expeditor services.

(k) "Mental injury" means an injury to the psychological capacity or emotional stability of a child as evidenced by an observable or substantial impairment in the child's ability to function within a normal range of performance and behavior with due regard to the child's culture.

(l) "Threatened injury" means a statement, overt act, condition, or status that represents a substantial risk of physical or sexual abuse or mental injury.

(m) Persons who conduct assessments or investigations under this section shall take into account accepted child-rearing practices of the culture in which a child participates, which are not injurious to the child's health, welfare, and safety.

[EFFECTIVE DATE.] This section is effective the day following final enactment.

Sec. 17. Laws 2000, chapter 489, article 3, section 24, is amended to read:

Sec. 24. [SPECIAL EDUCATION CROSS-SUBSIDY REVENUE.]

(a) For fiscal year 2000, a school district shall receive an amount of revenue equal to \$8.15 times the district's adjusted marginal cost pupil units.

(b) For fiscal year 2001, a school district shall receive an amount of revenue equal to \$19 times the district's adjusted marginal cost pupil units. Special education cross-subsidy revenue must be used to pay for a district's unfunded special education costs that are currently cross-subsidized by a district's general education revenue.

(c) The fiscal year 2001 revenue is paid entirely in fiscal year 2001 based on estimated data. By January 31, 2002, the department of children, families, and learning shall recalculate the revenue for each district using actual data, and shall adjust the general education aid paid to school districts for fiscal year 2002 by the amount of the difference between the estimated revenue and the actual revenue.

Sec. 18. [INTERAGENCY AUTISM COORDINATING COMMITTEE.]

(a) The commissioner of children, families, and learning shall establish an interagency committee to coordinate state efforts related to serving children with autism. The committee shall include representatives of the departments of children, families, and learning and human services; parents or guardians of children with autism; pediatricians; local public health officials; and representatives of private or nonprofit organizations that advocate on behalf of children with autism.

(b) The interagency autism coordinating committee shall study and recommend by December 1, 2001, to the committees in the legislature charged with early childhood through grade 12 education policy and finance matters a plan for improving efforts at early assessment and identification of autism in young children. The plan must consider:

(1) all existing assessment program options;

(2) public and private funding sources including programmatic funding for early and periodic screening, diagnosis, and treatment; and

(3) current, research-based best practice models.

The plan must be designed to make optimal use of existing public resources.

(c) The committee expires June 30, 2003.

[EFFECTIVE DATE.] This section is effective the day following final enactment.

Sec. 19. [APPROPRIATIONS.]

Subdivision 1. [DEPARTMENT OF CHILDREN, FAMILIES, AND LEARNING.] The sums indicated in this section are appropriated from the general fund to the department of children, families, and learning for the fiscal years designated.

Subd. 2. [SPECIAL EDUCATION AID.] For special education aid according to Minnesota Statutes, section 125A.75:

<u>\$507,448,000</u>	.....	<u>2002</u>
<u>\$531,481,000</u>	.....	<u>2003</u>

The 2002 appropriation includes \$47,400,000 for 2001 and \$460,048,000 for 2002.

The 2003 appropriation includes \$51,116,000 for 2002 and \$480,365,000 for 2003.

Subd. 3. [AID FOR CHILDREN WITH A DISABILITY.] For aid according to Minnesota Statutes, section 125A.75, subdivision 3, for children with a disability placed in residential facilities within the district boundaries for whom no district of residence can be determined:

<u>\$1,877,000</u>	.....	<u>2002</u>
<u>\$2,033,000</u>	.....	<u>2003</u>

If the appropriation for either year is insufficient, the appropriation for the other year is available. Any balance in the first year does not cancel but is available in the second year.

Subd. 4. [TRAVEL FOR HOME-BASED SERVICES.] For aid for teacher travel for home-based services according to Minnesota Statutes, section 125A.75, subdivision 1:

<u>\$135,000</u>	.....	<u>2002</u>
<u>\$138,000</u>	.....	<u>2003</u>

The 2002 appropriation includes \$13,000 for 2001 and \$122,000 for 2002.

The 2003 appropriation includes \$13,000 for 2002 and \$125,000 for 2003.

Subd. 5. [SPECIAL EDUCATION EXCESS COST AID.] For excess cost aid:

<u>\$102,665,000</u>	.....	<u>2002</u>
<u>\$104,773,000</u>	.....	<u>2003</u>

The 2002 appropriation includes \$9,889,000 for 2001 and \$92,776,000 for 2002.

The 2003 appropriation includes \$10,308,000 for 2002 and \$94,465,000 for 2003.

Subd. 6. [LITIGATION COSTS.] For paying the costs a district incurs under Minnesota Statutes, section 125A.75, subdivision 8:

<u>\$375,000</u>	.....	<u>2002</u>
<u>\$375,000</u>	.....	<u>2003</u>

Subd. 7. [TRANSITION PROGRAMS; STUDENTS WITH DISABILITIES.] For aid for transition programs for pupils with disabilities according to Minnesota Statutes, section 124D.454:

<u>\$8,954,000</u>	.....	<u>2002</u>
<u>\$8,939,000</u>	.....	<u>2003</u>

The 2002 appropriation includes \$896,000 for 2001 and \$8,058,000 for 2002.

The 2003 appropriation includes \$895,000 for 2002 and \$8,044,000 for 2003.

Subd. 8. [COURT-PLACED SPECIAL EDUCATION REVENUE.] For reimbursing serving school districts for unreimbursed eligible expenditures attributable to children placed in the serving school district by court action under Minnesota Statutes, section 125A.79, subdivision 4:

<u>\$350,000</u>	.....	<u>2002</u>
<u>\$350,000</u>	.....	<u>2003</u>

Subd. 9. [OUT-OF-STATE TUITION SPECIAL EDUCATION.] For special education out-of-state tuition according to Minnesota Statutes, section 125A.79, subdivision 8:

<u>\$250,000</u>	.....	<u>2002</u>
<u>\$250,000</u>	.....	<u>2003</u>

Subd. 10. [BEST PRACTICES GRANT.] For a best practices grant to intermediate school districts Nos. 287, 916, and 917:

\$1,000,000

2002

The intermediate school districts must use the grant proceeds to train teachers of special needs students under Laws 1998, chapter 398, article 5, section 42.

Subd. 11. [USE OF SYMPATHOMIMETIC MEDICATIONS; STUDY.] For the purpose of contracting with a qualified expert to determine and report, consistent with Minnesota Statutes, chapter 13, the number and overall incidence rate of Minnesota children ages three to 18, by age, grade level, gender, and race, diagnosed with attention deficit disorder (ADD) or attention deficit hyperactivity disorder (ADHD) currently taking sympathomimetic medications such as Ritalin:

\$50,000

2002

In preparing the report, the contractor also must determine the number and overall incidence rate of children not identified with ADD or ADHD currently taking sympathomimetic medications such as Ritalin. The contractor is encouraged to examine the number of children who take sympathomimetic medications at home and not at school, the previous interventions tried with children taking sympathomimetic medications, the types of practitioners who prescribe the sympathomimetic medications, and what pressures families have experienced in terms of providing their children with sympathomimetic medications. The commissioner must submit the report to the education committees of the legislature by February 15, 2002.

ARTICLE 4

FACILITIES AND TECHNOLOGY

Section 1. Minnesota Statutes 2000, section 16B.616, subdivision 4, is amended to read:

Subd. 4. [ENFORCEMENT.] (a) A statutory or home rule charter city that is not covered by the code because of action taken under section 16B.72 or 16B.73 is responsible for enforcement in the city of the code's requirements for bleacher safety. In all other areas where the code does not apply because of action taken under section 16B.72 or 16B.73, the county is responsible for enforcement of those requirements.

(b) Municipalities that have not adopted the code may enforce the code requirements for bleacher safety by either entering into a joint powers agreement for enforcement with another municipality that has adopted the code or contracting for enforcement with a qualified and certified building official or state licensed design professional to enforce the code.

(c) Municipalities, school districts, organizations, individuals, and other persons operating or owning places of public accommodation with bleachers that are subject to the safety requirements in subdivision 3 shall provide a signed certification of compliance to the commissioner by January 1, 2002. For bleachers subject to the exception in subdivision 3, clause (1), entities covered by this paragraph must have on file a bleacher safety management plan and amortization schedule. The certification shall be prepared by a qualified and certified building official or state licensed design professional and shall certify that the bleachers have been inspected and are in compliance with the requirements of this section and are structurally sound. For bleachers owned by a school district or nonpublic school, the person the district or nonpublic school designates to be responsible for buildings and grounds may make the certification.

Sec. 2. Minnesota Statutes 2000, section 123B.53, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] (a) For purposes of this section, the eligible debt service revenue of a district is defined as follows:

(1) the amount needed to produce between five and six percent in excess of the amount needed to meet when due the principal and interest payments on the obligations of the district for eligible projects according to subdivision 2, including the amounts necessary for repayment of energy loans according to section 216C.37 or sections 298.292 to 298.298, debt service loans and capital loans, lease purchase payments under section 126C.40, subdivision 2, alternative facilities levies under section 123B.59, subdivision 5, minus

(2) the amount of debt service excess levy reduction for that school year calculated according to the procedure established by the commissioner.

(b) The obligations in this paragraph are excluded from eligible debt service revenue:

(1) obligations under section 123B.61;

(2) the part of debt service principal and interest paid from the taconite environmental protection fund or northeast Minnesota economic protection trust;

(3) obligations issued under Laws 1991, chapter 265, article 5, section 18, as amended by Laws 1992, chapter 499, article 5, section 24; and

(4) obligations under section 123B.62.

(c) For purposes of this section, if a preexisting school district reorganized under sections 123A.35 to 123A.43, 123A.46, and 123A.48 is solely responsible for retirement of the preexisting district's bonded indebtedness, capital loans or debt service loans, debt service equalization aid must be computed separately for each of the preexisting districts.

(d) For purposes of this section, "revenue eligible for second tier debt equalization" means the eligible debt service revenue according to paragraphs (a) to (c) for projects receiving a positive review and comment according to section 123B.70 and receiving voter approval or school district approval after January 1, 2000, or, for projects not requiring a review and comment, that are approved by the commissioner after January 1, 2000.

Sec. 3. Minnesota Statutes 2000, section 123B.53, subdivision 2, is amended to read:

Subd. 2. [ELIGIBILITY.] (a) The following portions of a district's debt service levy qualify for debt service equalization:

(1) debt service for repayment of principal and interest on bonds issued before July 2, 1992;

(2) debt service for bonds refinanced after July 1, 1992, if the bond schedule has been approved by the commissioner and, if necessary, adjusted to reflect a 20-year maturity schedule; and

(3) debt service for bonds issued after July 1, 1992, for construction projects that have received a positive review and comment according to section 123B.71, if the commissioner has determined that the district has met the criteria under section 126C.69, subdivision 3, ~~except section 126C.69, subdivision 3, paragraph (a), clause (2);~~ and if the bond schedule has been approved by the commissioner and, if necessary, adjusted to reflect a 20-year maturity schedule.

(b) The criterion described in section 126C.69, subdivision 3, paragraph (a), clause (9), does not apply to bonds authorized by elections held before July 1, 1992.

(c) For the purpose of this subdivision the department shall determine the eligibility for sparsity at the location of the new facility, or the site of the new facility closest to the nearest operating school if there is more than one new facility.

(d) Notwithstanding paragraphs (a) to (c), debt service for repayment of principal and interest on bonds issued after July 1, 1997, does not qualify for debt service equalization aid unless the primary purpose of the facility is to serve students in kindergarten through grade 12.

Sec. 4. Minnesota Statutes 2000, section 123B.53, subdivision 4, is amended to read:

Subd. 4. [DEBT SERVICE EQUALIZATION REVENUE.] (a) The debt service equalization revenue of a district equals the sum of the first tier debt service equalization revenue and the second tier debt service equalization revenue.

(b) The first tier debt service equalization revenue of a district equals the greater of zero or the eligible debt service revenue minus the amount raised by a levy of 12 percent times the adjusted net tax capacity of the district minus the second tier debt service equalization revenue of the district.

(c) The second tier debt service equalization revenue of a district equals the greater of zero or the lesser of the eligible debt service revenue minus the amount raised by a levy of 20 percent times the adjusted net tax capacity of the district or the district's revenue eligible for second tier debt equalization.

Sec. 5. Minnesota Statutes 2000, section 123B.53, subdivision 5, is amended to read:

Subd. 5. [EQUALIZED DEBT SERVICE LEVY.] ~~To obtain debt service equalization revenue, a district must levy an amount not to exceed the district's debt service equalization revenue~~ (a) The equalized debt service levy of a district equals the sum of the first tier equalized debt service levy and the second tier equalized debt service levy.

(b) A district's first tier equalized debt service levy equals the district's first tier debt service equalization revenue times the lesser of one or the ratio of:

(1) the quotient derived by dividing the adjusted net tax capacity of the district for the year before the year the levy is certified by the adjusted pupil units in the district for the school year ending in the year prior to the year the levy is certified; to

(2) \$4,000.

(c) A district's second tier equalized debt service levy equals the district's second tier debt service equalization revenue times the lesser of one or the ratio of:

(1) the quotient derived by dividing the adjusted net tax capacity of the district for the year before the year the levy is certified by the adjusted pupil units in the district for the school year ending in the year prior to the year the levy is certified; to

(2) \$10,000.

Sec. 6. Minnesota Statutes 2000, section 123B.54, is amended to read:

123B.54 [DEBT SERVICE APPROPRIATION.]

~~(a) \$33,141,000 in fiscal year 2000, \$29,400,000 in fiscal year 2001, \$26,934,000 in fiscal year 2002, and \$24,540,000 in fiscal year 2003 and each year thereafter is~~ There is annually appropriated from the general fund to the commissioner of children, families, and learning the amounts necessary for payment of debt service equalization aid under section 123B.53.

(b) The appropriations in paragraph (a) must be reduced by the amount of any money specifically appropriated for the same purpose in any year from any state fund.

Sec. 7. Minnesota Statutes 2000, section 123B.57, subdivision 3, is amended to read:

Subd. 3. [HEALTH AND SAFETY REVENUE.] A district's health and safety revenue for a fiscal year equals:

(1) the sum of (a) the total approved cost of the district's hazardous substance plan for fiscal years 1985 through 1989, plus (b) the total approved cost of the district's health and safety program for fiscal year 1990 through the fiscal year to which the levy is attributable, excluding expenditures funded with bonds issued under section 123B.59 or 123B.62, or chapter 475; certificates of indebtedness or capital notes under section 123B.61; levies under section 123B.58, 123B.59, 123B.63, or 126C.40, subdivision 1 or 6; and other federal, state, or local revenues, minus

(2) the sum of (a) the district's total hazardous substance aid and levy for fiscal years 1985 through 1989 under sections 124.245 and 275.125, subdivision 11c, plus (b) the district's health and safety revenue under this subdivision, for years before the fiscal year to which the levy is attributable, ~~plus (c) the amount of other federal, state, or local receipts for the district's hazardous substance or health and safety programs for fiscal year 1985 through the fiscal year to which the levy is attributable.~~

Sec. 8. Minnesota Statutes 2000, section 123B.57, subdivision 6, is amended to read:

Subd. 6. [USES OF HEALTH AND SAFETY REVENUE.] Health and safety revenue may be used only for approved expenditures necessary to correct fire safety hazards, life safety hazards, or for the removal or encapsulation of asbestos from school buildings or property owned or being acquired by the district, asbestos-related repairs, cleanup and disposal of polychlorinated biphenyls found in school buildings or property owned or being acquired by the district, or the cleanup, removal, disposal, and repairs related to storing heating fuel or transportation fuels such as alcohol, gasoline, fuel oil, and special fuel, as defined in section 296A.01, labor and industry regulated facility and equipment hazards, and health, safety, and environmental management. Health and safety revenue must not be used to finance a lease purchase agreement, installment purchase agreement, or other deferred payments agreement. Health and safety revenue must not be used for the construction of new facilities or the purchase of portable classrooms, for interest or other financing expenses, or for energy efficiency projects under section 123B.65. The revenue may not be used for a building or property or part of a building or property used for post-secondary instruction or administration or for a purpose unrelated to elementary and secondary education.

Sec. 9. Minnesota Statutes 2000, section 123B.71, subdivision 1, is amended to read:

Subdivision 1. [CONSULTATION.] A school district shall consult with the commissioner of children, families, and learning before developing any plans and specifications to construct, remodel, or improve the building or site of an educational facility for which the estimated cost exceeds ~~\$100,000~~ \$250,000. This consultation shall occur before a referendum for bonds, solicitation for bids, or use of capital expenditure facilities revenue according to section 126C.10, subdivision 14, clause (2). The commissioner may require the district to participate in a management assistance plan before conducting a review and comment on the project.

Sec. 10. Minnesota Statutes 2000, section 123B.71, subdivision 4, is amended to read:

Subd. 4. [PLAN SUBMITTAL.] For a project for which consultation is required under subdivision 1, the commissioner, after the consultation required in subdivision 1, may require a school district to submit ~~the following preliminary and final plans~~ for approval:

(a) ~~two sets of preliminary plans for each new building or addition, and~~

(b) ~~one set of final plans for each construction, remodeling, or site improvement project.~~ The commissioner shall approve or disapprove the plans within 90 days after submission.

Final plans shall meet all applicable state laws, rules, and codes concerning public buildings, including sections 16B.59 to 16B.73. ~~The department may furnish to a school district plans and specifications for temporary school buildings containing two classrooms or less.~~

Sec. 11. Minnesota Statutes 2000, section 123B.71, subdivision 8, is amended to read:

Subd. 8. [REVIEW AND COMMENT.] A school district, a special education cooperative, or a cooperative unit of government, as defined in section 123A.24, subdivision 2, must not initiate an installment contract for purchase or a lease agreement, hold a referendum for bonds, nor solicit bids for new construction, expansion, or remodeling of an educational facility that requires an expenditure in excess of ~~\$400,000~~ \$500,000 per school site prior to review and comment by the commissioner. The commissioner may exempt a facility maintenance project funded with general education aid and levy or health and safety revenue from this provision after reviewing a written request from a school district describing the scope of work. A school board shall not separate portions of a single project into components to avoid the requirements of this subdivision.

Sec. 12. Minnesota Statutes 2000, section 123B.71, subdivision 9, is amended to read:

Subd. 9. [INFORMATION REQUIRED.] A school board proposing to construct a facility described in subdivision 8 shall submit to the commissioner a proposal containing information including at least the following:

- ~~(a) the geographic area proposed to be served, whether within or outside the boundaries of the school district;~~
- ~~(b) the people proposed to be served, including census findings and projections for the next ten years of the number of preschool and school-aged people in the area;~~
- ~~(c) the reasonably anticipated need for the facility or service to be provided;~~
- ~~(d) a description of the construction in reasonable detail, including: the expenditures contemplated; the estimated annual operating cost, including the anticipated salary and number of new staff necessitated by the proposal; and an evaluation of the energy efficiency and effectiveness of the construction, including estimated annual energy costs; and a description of the telephone capabilities of the facility and its classrooms;~~
- ~~(e) a description of existing facilities within the area to be served and within school districts adjacent to the area to be served; the extent to which existing facilities or services are used; the extent to which alternate space is available, including other school districts, post-secondary institutions, other public or private buildings, or other noneducation community resources; and the anticipated effect that the facility will have on existing facilities and services;~~
- ~~(f) the anticipated benefit of the facility to the area;~~
- ~~(g) if known, the relationship of the proposed construction to any priorities that have been established for the area to be served;~~
- ~~(h) the availability and manner of financing the facility and the estimated date to begin and complete the facility;~~
- ~~(i) desegregation requirements that cannot be met by any other reasonable means;~~
- ~~(j) the relationship of the proposed facility to the cooperative integrated learning needs of the area;~~
- ~~(k) the effects of the proposed facility on the district's operating budget;~~
- ~~(l) the level of collaboration at the facility between the district and other governmental or nonprofit entities; and~~
- ~~(m) the extent to which the district has minimized administrative overhead among facilities.~~

(1) the geographic area and population to be served, preschool through grade 12 student enrollments for the past five years, and student enrollment projections for the next five years;

(2) a list of existing facilities by year constructed, their uses, and an assessment of the extent to which alternate facilities are available within the school district boundaries and in adjacent school districts;

(3) a list of the specific deficiencies of the facility that demonstrate the need for a new or renovated facility to be provided, and a list of the specific benefits that the new or renovated facility will provide to the students, teachers, and community users served by the facility;

(4) the relationship of the project to any priorities established by the school district, educational cooperatives that provide support services, or other public bodies in the service area;

(5) a specification of how the project will increase community use of the facility and whether and how the project will increase collaboration with other governmental or nonprofit entities;

(6) a description of the project, including the specification of site and outdoor space acreage and square footage allocations for classrooms, laboratories, and support spaces; estimated expenditures for the major portions of the project; and the dates the project will begin and be completed;

(7) a specification of the source of financing the project; the scheduled date for a bond issue or school board action; a schedule of payments, including debt service equalization aid; and the effect of a bond issue on local property taxes by the property class and valuation;

(8) an analysis of how the proposed new or remodeled facility will affect school district operational or administrative staffing costs, and how the district's operating budget will cover any increased operational or administrative staffing costs;

(9) a description of the consultation with local or state road and transportation officials on school site access and safety issues, and the ways that the project will address those issues;

(10) a description of how indoor air quality issues have been considered and a certification that the architects and engineers designing the facility will have professional liability insurance;

(11) as required under section 123B.72, for buildings coming into service after July 1, 2002, a certification that the plans and designs for the extensively renovated or new facility's heating, ventilation, and air conditioning systems will meet or exceed code standards; will provide for the monitoring of outdoor airflow and total airflow of ventilation systems; and will provide an indoor air quality filtration system that meets ASHRAE standard 52.1; and

(12) a specification of any desegregation requirements that cannot be met by any other reasonable means.

Sec. 13. Minnesota Statutes 2000, section 126C.63, subdivision 8, is amended to read:

Subd. 8. [MAXIMUM EFFORT DEBT SERVICE LEVY.] "Maximum effort debt service levy" means the lesser of:

(1) a levy in whichever of the following amounts is applicable:

(a) in any district receiving a debt service loan for a debt service levy payable in 2002 and thereafter, or granted a capital loan after January 1, 2001, a levy in total dollar amount computed at a rate of 30 percent of adjusted net tax capacity for taxes payable in 2002 and thereafter;

(b) in any district receiving a debt service loan for a debt service levy payable in 1991 and thereafter, or granted a capital loan after January 1, 1990, a levy in a total dollar amount computed at a rate of 24 percent of adjusted net tax capacity for taxes payable in 1991 and thereafter;

~~(b)~~ (c) in any district granted a debt service loan after July 31, 1981, or granted a capital loan which is approved after July 31, 1981, a levy in a total dollar amount computed as a tax rate of 21.92 percent on the adjusted net tax capacity for taxes payable in 1991 and thereafter; or

(2) a levy in any district for which a capital loan was approved prior to August 1, 1981, a levy in a total dollar amount equal to the sum of the amount of the required debt service levy and an amount which when levied annually will in the opinion of the commissioner be sufficient to retire the remaining interest and principal on any outstanding loans from the state within 30 years of the original date when the capital loan was granted.

The board in any district affected by the provisions of clause (2) may elect instead to determine the amount of its levy according to the provisions of clause (1). If a district's capital loan is not paid within 30 years because it elects to determine the amount of its levy according to the provisions of clause (2), the liability of the district for the amount of the difference between the amount it levied under clause (2) and the amount it would have levied under clause (1), and for interest on the amount of that difference, must not be satisfied and discharged pursuant to Minnesota Statutes 1988, or an earlier edition of Minnesota Statutes if applicable, section 124.43, subdivision 4.

Sec. 14. Minnesota Statutes 2000, section 126C.69, subdivision 2, is amended to read:

Subd. 2. [CAPITAL LOANS ELIGIBILITY.] Beginning July 1, 1999, a district is not eligible for a capital loan unless the district's estimated net debt tax rate as computed by the commissioner after debt service equalization aid would be more than ~~24~~ 30 percent of adjusted net tax capacity. The estimate must assume a 20-year maturity schedule for new debt.

Sec. 15. Minnesota Statutes 2000, section 126C.69, subdivision 3, is amended to read:

Subd. 3. [DISTRICT REQUEST FOR REVIEW AND COMMENT.] A district or a joint powers district that intends to apply for a capital loan must submit a proposal to the commissioner for review and comment according to section 123B.71 by July 1 of an odd-numbered year. The commissioner shall prepare a review and comment on the proposed facility, regardless of the amount of the capital expenditure required to construct the facility. In addition to the information provided under section 123B.71, subdivision 9, the commissioner shall require that predesign packages comparable to those required under section 16B.335 be prepared by the applicant school district. The predesign packages must be sufficient to define the scope, cost, and schedule of the project and must demonstrate that the project has been analyzed according to appropriate space needs standards and also consider the following criteria in determining whether to make a positive review and comment.

(a) To grant a positive review and comment the commissioner shall determine that all of the following conditions are met:

- (1) the facilities are needed for pupils for whom no adequate facilities exist or will exist;
- (2) ~~the district will serve, on average, at least 80 pupils per grade or is eligible for elementary or secondary sparsity revenue~~ there is evidence to indicate that the facilities will have a useful public purpose for at least the term of the bonds;
- (3) no form of cooperation with another district would provide the necessary facilities;
- (4) the facilities are comparable in size and quality to facilities recently constructed in other districts that have similar enrollments;
- (5) the facilities are comparable in size and quality to facilities recently constructed in other districts that are financed without a capital loan;
- (6) the district is projected to ~~maintain or increase its average daily membership over the next five years or is eligible for elementary or secondary sparsity revenue~~ have adequate funds in its general operating budget to support a quality education for its students for at least the next five years;

(7) the current facility poses a threat to the life, health, and safety of pupils, and cannot reasonably be brought into compliance with fire, health, or life safety codes;

(8) the district has made a good faith effort, as evidenced by its maintenance expenditures, to adequately maintain the existing facility during the previous ten years and to comply with fire, health, and life safety codes and state and federal requirements for handicapped accessibility;

(9) the district has made a good faith effort to encourage integration of social service programs within the new facility; ~~and~~

(10) evaluations by boards of adjacent districts have been received; and

(11) the proposal includes a comprehensive technology plan that assures information access for the students, parents, and community.

(b) The commissioner may grant a negative review and comment if:

(1) the state demographer has examined the population of the communities to be served by the facility and determined that the communities have not grown during the previous five years;

(2) the state demographer determines that the economic and population bases of the communities to be served by the facility are not likely to grow or to remain at a level sufficient, during the next ten years, to ensure use of the entire facility;

(3) the need for facilities could be met within the district or adjacent districts at a comparable cost by leasing, repairing, remodeling, or sharing existing facilities or by using temporary facilities;

(4) the district plans do not include cooperation and collaboration with health and human services agencies and other political subdivisions; or

(5) if the application is for new construction, an existing facility that would meet the district's needs could be purchased at a comparable cost from any other source within the area.

Sec. 16. Minnesota Statutes 2000, section 126C.69, subdivision 9, is amended to read:

Subd. 9. [LOAN AMOUNT LIMITS.] (a) A loan must not be recommended for approval for a district exceeding an amount computed as follows:

(1) the amount requested by the district under subdivision 6;

(2) plus the aggregate principal amount of general obligation bonds of the district outstanding on June 30 of the year following the year the application was received, not exceeding the limitation on net debt of the district in section 475.53, subdivision 4, or ~~363~~ 450 percent of its adjusted net tax capacity as most recently determined, whichever is less;

(3) less the maximum net debt permissible for the district on December 1 of the year the application is received, under the limitation in section 475.53, subdivision 4, or ~~363~~ 450 percent of its adjusted net tax capacity as most recently determined, whichever is less;

(4) less any amount by which the amount voted exceeds the total cost of the facilities for which the loan is granted.

(b) The loan may be approved in an amount computed as provided in paragraph (a), clauses (1) to (3), subject to later reduction according to paragraph (a), clause (4).

Sec. 17. Minnesota Statutes 2000, section 126C.69, subdivision 12, is amended to read:

Subd. 12. [CONTRACT.] (a) Each capital loan must be evidenced by a contract between the district and the state acting through the commissioner. The contract must obligate the state to reimburse the district, from the maximum effort school loan fund, for eligible capital expenses for construction of the facility for which the loan is granted, an amount computed as provided in subdivision 9. The commissioner must receive from the district a certified resolution of the board estimating the costs of construction and reciting that contracts for construction of the facilities for which the loan is granted have been awarded ~~and~~ that bonds of the district have been issued and sold in the amount necessary to pay all estimated costs of construction in excess of the amount of the loan, and that all work, when completed, will meet or exceed standards established in the state building code. The contract must obligate the district to repay the loan out of the excesses of its maximum effort debt service levy over its required debt service levy, including interest at a rate equal to the weighted average annual rate payable on Minnesota state school loan bonds issued or reissued for the project ~~and disbursed to the districts on a reimbursement basis, but in no event less than 3-1/2 percent per year on the principal amount from time to time unpaid.~~

(b) The district must each year, as long as it is indebted to the state, levy for debt service (i) the amount of its maximum effort debt service levy or (ii) the amount of its required debt service levy, whichever is greater, except as the required debt service levy may be reduced by a loan under section 126C.68. The district shall remit payments to the commissioner according to section 126C.71.

(c) The commissioner shall supervise the collection of outstanding accounts due the fund and may, by notice to the proper county auditor, require the maximum levy to be made as required in this subdivision. Interest on capital loans must be paid on December 15 of the year after the year the loan is granted and annually in later years. By September 30, the commissioner shall notify the county auditor of each county containing taxable property situated within the district of the amount of the maximum effort debt service levy of the district for that year. The county auditor or auditors shall extend upon the tax rolls an ad valorem tax upon all taxable property within the district in the aggregate amount so certified.

Sec. 18. Minnesota Statutes 2000, section 126C.69, subdivision 15, is amended to read:

Subd. 15. [BOND SALE LIMITATIONS.] A district having an outstanding state loan must not issue and sell any bonds on the public market, except to refund state loans, unless it agrees to make the maximum effort debt service levy in each later year at the higher rate provided in section 126C.63, subdivision 8, and unless it schedules the maturities of the bonds according to section 475.54, subdivision 2. A district that refunds bonds at a lower interest rate may continue to make the maximum effort debt service levy in each later year at the current rate provided in section 126C.63, subdivision 8, if the district can demonstrate to the commissioner's satisfaction that the district's repayments of the state loan will not be reduced below the previous year's level. The district must report each sale to the commissioner.

For a capital loan issued prior to July 1, 2001, after a ~~the~~ district's capital loan has been outstanding for 30 years, the district must not issue bonds on the public market except to refund the loan.

For a capital loan issued on or after July 1, 2001, after the district's capital loan has been outstanding for 20 years, the district must not issue bonds on the public market except to refund the loan.

Sec. 19. Minnesota Statutes 2000, section 136D.281, subdivision 4, is amended to read:

Subd. 4. [REFERENDUM.] (a) The intermediate school board ~~shall not may~~ sell and issue bonds for acquisition or betterment purposes ~~until~~ in an aggregate amount not to exceed \$8,000,000 if:

(1) each member school district board has adopted a resolution authorizing the project;

(2) the intermediate board has prepared and published in a newspaper of general circulation in the district a notice of the public meeting on the intermediate district's intent to sell bonds;

(3) the intermediate board has adopted a resolution authorizing the bonds; and

(4) the question of their issuance has been submitted to the voters of the intermediate school district at a special election held in and for the intermediate district.

(b) The date of the election, the question to be submitted, and all other necessary conduct of the election shall be fixed by the intermediate school board. The election shall be conducted and canvassed under the direction of the intermediate school board in accordance with chapter 205A, insofar as applicable.

(c) If a majority of the total number of votes cast on the question within the intermediate school district is in favor of the question, the intermediate school board may proceed with the sale and issuance of the bonds.

(d) The bonds shall be general obligations of the intermediate school district; however, each member school district must each year certify its proportionate share of the debt service levy on the bonds, with the allocation of its share of that levy determined in accordance with the resolution authorizing the project previously adopted by each member school board. For purposes of section 123B.53, the debt service levies certified for this purpose by an individual member school district shall be considered debt service levies of that school district. By July 1 and December 1 of each year, the school board of each member school district shall transfer to the intermediate school district an amount equal to 50 percent of the debt service levy certified by that member school district in the previous fiscal year to pay its proportionate share.

Sec. 20. Minnesota Statutes 2000, section 136D.741, subdivision 4, is amended to read:

Subd. 4. [REFERENDUM.] (a) The intermediate school board ~~shall not~~ may sell and issue bonds for acquisition or betterment purposes ~~until~~ in an aggregate amount not to exceed \$8,000,000 if:

(1) each member school district board has adopted a resolution authorizing the project;

(2) the intermediate board has prepared and published in a newspaper of general circulation in the district a notice of the public meeting on the intermediate district's intent to sell bonds;

(3) the intermediate board has adopted a resolution authorizing the bonds; and

(4) the question of their issuance has been submitted to the voters of the intermediate school district at a special election held in and for such intermediate district.

(b) The date of such election, the question to be submitted, and all other necessary conduct of such election shall be fixed by the intermediate school board and said election shall be conducted and canvassed under the direction of the intermediate school board in accordance with chapter 205A, insofar as the same may be deemed applicable.

(c) If a majority of the total number of votes cast on the question within the intermediate school district is in favor of the question, the intermediate school board may thereupon proceed with the sale and the issuance of said bonds.

(d) The bonds shall be general obligations of the intermediate school district; however, each member school district must each year certify its proportionate share of the debt service levy on the bonds, with the allocation of its share of that levy determined in accordance with the resolution authorizing the project previously adopted by each member school board. For purposes of section 123B.53, the debt service levies certified for this purpose by an individual member school district shall be considered debt service levies of that school district. By July 1 and December 1 of each year, the school board of each member school district shall transfer to the intermediate school district an amount equal to 50 percent of the debt service levy certified by that member school district in the previous fiscal year to pay its proportionate share.

Sec. 21. Minnesota Statutes 2000, section 136D.88, subdivision 4, is amended to read:

Subd. 4. [REFERENDUM.] (a) The intermediate school board ~~shall not~~ may sell and issue bonds for acquisition or betterment purposes ~~until~~ in an aggregate amount not to exceed \$8,000,000 if:

(1) each member school district board has adopted a resolution authorizing the project;

(2) the intermediate board has prepared and published in a newspaper of general circulation in the district a notice of the public meeting on the intermediate district's intent to sell bonds;

(3) the intermediate board has adopted a resolution authorizing the bonds; and

(4) the question of their issuance has been submitted to the voters of the intermediate school district at a special election held in and for the intermediate district.

(b) The date of the election, the question to be submitted, and all other necessary conduct of the election shall be fixed by the intermediate school board. The election shall be conducted and canvassed under the direction of the intermediate school board in accordance with chapter 205A, insofar as applicable.

(c) If a majority of the total number of votes cast on the question within the intermediate school district is in favor of the question, the intermediate school board may thereupon proceed with the sale and issuance of the bonds.

(d) The bonds shall be general obligations of the intermediate school district; however, each member school district must each year certify its proportionate share of the debt service levy on the bonds, with the allocation of its share of that levy determined in accordance with the resolution authorizing the project previously adopted by each member school board. For purposes of section 123B.53, the debt service levies certified for this purpose by an individual member school district shall be considered debt service levies of that school district. By July 1 and December 1 of each year, the school board of each member school district shall transfer to the intermediate school district an amount equal to 50 percent of the debt service levy certified by that member school district in the previous fiscal year to pay its proportionate share.

Sec. 22. Minnesota Statutes 2000, section 475.53, subdivision 4, is amended to read:

Subd. 4. [SCHOOL DISTRICTS.] Except as otherwise provided by law, no school district shall be subject to a net debt in excess of ~~ten~~ 15 percent of the actual market value of all taxable property situated within its corporate limits, as computed in accordance with this subdivision. The county auditor of each county containing taxable real or personal property situated within any school district shall certify to the district upon request the market value of all such property. Whenever the commissioner of revenue, in accordance with section 127A.48, subdivisions 1 to 6, has determined that the net tax capacity of any district furnished by county auditors is not based upon the market value of taxable property in the district, the commissioner of revenue shall certify to the district upon request the ratio most recently ascertained to exist between such value and the actual market value of property within the district. The actual market value of property within a district, on which its debt limit under this subdivision is based, is (a) the value certified by the county auditors, or (b) this value divided by the ratio certified by the commissioner of revenue, whichever results in a higher value.

Sec. 23. Laws 2000, chapter 489, article 5, section 21, is amended to read:

Sec. 21. [ONE-TIME DEFERRED MAINTENANCE AID.]

(a) For fiscal year 2001 only, a district's one-time deferred maintenance aid is equal to:

(1) \$10 times the adjusted marginal cost pupil units for the school year; plus

(2) \$21.90 times the adjusted marginal cost pupil units for the school year for a district that does not qualify for alternative facilities bonding under Minnesota Statutes, section 123B.59, or under Laws 1999, chapter 241, article 4, section 25.

(b) Aid received under this section must be used for deferred maintenance, to make accessibility improvements, or to make fire, safety, or health repairs.

(c) This aid is paid entirely in fiscal year 2001 based on estimated data. By January 31, 2002, the department of children, families, and learning shall recalculate the aid for each district using actual data, and shall adjust the general education aid paid to school districts for fiscal year 2002 by the amount of the difference between the estimated aid and the actual aid.

Sec. 24. Laws 2000, chapter 489, article 7, section 15, subdivision 3, is amended to read:

Subd. 3. [~~COOPERATIVE SECONDARY FACILITY FACILITIES NEEDS; PLANNING AND EXPENSES.~~] For a grant and administrative expenses to facilitate for facilities and curricular planning for a cooperative secondary facility under a joint powers agreement for school district districts Nos. 411, Balaton, 402, Hendricks, 403, Ivanhoe, 404, Lake Benton, 418, Russell, 584, Ruthton, and 409, Tyler:

\$100,000	2001 2002
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This is a one-time appropriation. This appropriation is available until June 30, 2003.

Sec. 25. [RESTORATION OF DISABLED ACCESS LEVY AUTHORITY.]

Subdivision 1. [PINE CITY.] Notwithstanding the time limits in Minnesota Statutes, section 123B.58, subdivision 3, independent school district No. 578, Pine City, may levy its remaining disabled access levy authority over five or fewer years.

Subd. 2. [SOUTHLAND.] Notwithstanding the time limits in Minnesota Statutes, section 123B.58, subdivision 3, independent school district No. 500, Southland, may levy up to \$66,000 of its remaining disabled access levy authority over five or fewer years.

[EFFECTIVE DATE.] This section is effective the day following final enactment.

Sec. 26. [INTERMEDIATE SCHOOL DISTRICTS; BONDING AUTHORITY WITHOUT VOTER APPROVAL.]

Subdivision 1. [INTERMEDIATE SCHOOL DISTRICT NO. 916.] Notwithstanding Minnesota Statutes, chapter 136D, the school board of intermediate school district No. 916 may sell and issue up to \$1,500,000 in bonds for acquisition and betterment purposes upon adoption of a resolution by the board authorizing the bonds.

The bonds shall be general obligations of the intermediate school district; however, each member school district must each year certify its proportionate share of the debt service levy on the bonds, with the allocation of its share of that levy determined in accordance with the resolution authorizing the project previously adopted by each member school board. For purposes of section 123B.53, the debt service levies certified for this purpose by an individual member school district shall be considered debt service levies of that school district. By July 1 and December 1 of each year, the school board of each member school district shall transfer to the intermediate school district an amount equal to 50 percent of the debt service levy certified by that member school district in the previous fiscal year to pay its proportionate share.

Subd. 2. [INTERMEDIATE SCHOOL DISTRICT NO. 917.] Notwithstanding Minnesota Statutes, chapter 136D, the school board of intermediate school district No. 917 may sell and issue up to \$4,000,000 in bonds for acquisition and betterment purposes upon adoption of a resolution by the board authorizing the bonds.

The bonds shall be general obligations of the intermediate school district; however, each member school district must each year certify its proportionate share of the debt service levy on the bonds, with the allocation of its share of that levy determined in accordance with the resolution authorizing the project previously adopted by each member school board. For purposes of section 123B.53, the debt service levies certified for this purpose by an individual member school district shall be considered debt service levies of that school district. By July 1 and December 1 of each year, the school board of each member school district shall transfer to the intermediate school district an amount equal to 50 percent of the debt service levy certified by that member school district in the previous fiscal year to pay its proportionate share.

Sec. 27. [APPROPRIATIONS.]

Subdivision 1. [DEPARTMENT OF CHILDREN, FAMILIES, AND LEARNING.] The sums indicated in this section are appropriated from the general fund to the department of children, families, and learning for the fiscal years designated.

Subd. 2. [HEALTH AND SAFETY AID.] For health and safety aid according to Minnesota Statutes, section 123B.57, subdivision 5:

<u>\$14,980,000</u>	: : : : :	<u>2002</u>
<u>\$14,550,000</u>	: : : : :	<u>2003</u>

The 2002 appropriation includes \$1,480,000 for 2001 and \$13,500,000 for 2002.

The 2003 appropriation includes \$1,500,000 for 2002 and \$13,050,000 for 2003.

Subd. 3. [DEBT SERVICE AID.] For debt service aid according to Minnesota Statutes, section 123B.53, subdivision 6:

<u>\$25,989,000</u>	: : : : :	<u>2002</u>
<u>\$33,360,000</u>	: : : : :	<u>2003</u>

The 2002 appropriation includes \$2,890,000 for 2001 and \$23,099,000 for 2002.

The 2003 appropriation includes \$2,567,000 for 2002 and \$30,793,000 for 2003.

Subd. 4. [INTERACTIVE TELEVISION (ITV) AID.] For interactive television (ITV) aid under Minnesota Statutes, section 126C.40, subdivision 4:

<u>\$1,418,000</u>	: : : : :	<u>2002</u>
<u>\$129,000</u>	: : : : :	<u>2003</u>

The 2002 appropriation includes \$260,000 for 2001 and \$1,158,000 for 2002.

The 2003 appropriation includes \$129,000 for 2002 and \$0 for 2003.

Subd. 5. [ALTERNATIVE FACILITIES BONDING AID.] For alternative facilities bonding aid, according to Minnesota Statutes, section 123B.59, subdivision 1:

<u>\$19,279,000</u>	: : : : :	<u>2002</u>
<u>\$19,287,000</u>	: : : : :	<u>2003</u>

The 2002 appropriation includes \$1,921,000 for 2001 and \$17,358,000 for 2002.

The 2003 appropriation includes \$1,929,000 for 2002 and \$17,358,000 for 2003.

Subd. 6. [TELECOMMUNICATION ACCESS COST REVENUE.] For telecommunication access cost revenue under Minnesota Statutes, section 125B.25:

<u>\$17,968,000</u>	. . . . .	<u>2002</u>
<u>\$1,852,000</u>	. . . . .	<u>2003</u>

The 2002 appropriation includes \$1,300,000 for 2001 and \$16,668,000 for 2002.

The 2003 appropriation includes \$1,852,000 for 2002 and \$0 for 2003.

If the appropriation amount is insufficient, the commissioner shall reduce the reimbursement rate in Minnesota Statutes, section 125B.25, subdivisions 5 and 6, and the revenue for the 2001-2002 school year shall be prorated. The reimbursement rate shall not exceed 100 percent.

Subd. 7. [FLOODS; DECLINING PUPIL AID.] For declining pupil aid under Laws 1999, chapter 241, article 4, section 23:

<u>\$921,000</u>	<u>2002</u>
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Sec. 28. [REPEALER.]

Minnesota Statutes 2000, sections 123B.71, subdivisions 3 and 10; 136D.281, subdivision 8; 136D.741, subdivision 8; 136D.88, subdivision 8; and 136D.94, are repealed.

ARTICLE 5

NUTRITION; SCHOOL ACCOUNTING; AND OTHER PROGRAMS

Section 1. Minnesota Statutes 2000, section 123B.75, is amended by adding a subdivision to read:

Subd. 10. [RESERVED REVENUE.] (a) In addition to any other reserve accounts authorized to be established pursuant to other law, a school district may establish one or more reserve accounts in the general fund which will contain revenue appropriated to those accounts by the board. Revenue contained in a reserve account may only be used for the purposes specified by the board and shall not be available for other purposes.

(b) A school district must establish a reserve account for secondary vocational programming. A district must reserve up to the amount of secondary vocational revenue that it received in fiscal year 2001.

Sec. 2. Minnesota Statutes 2000, section 123B.80, subdivision 1, is amended to read:

Subdivision 1. [COMMISSIONER'S AUTHORIZATION.] The commissioner may authorize a board to transfer money from any fund or account ~~other than the debt redemption fund~~ to another fund or account according to this section.

Sec. 3. [124D.1156] [FAST BREAK TO LEARNING BREAKFAST PROGRAM.]

Subdivision 1. [ELIGIBILITY.] The commissioner shall provide funding to the 41 targeted breakfast program grant recipients under Laws 1997, First Special Session chapter 4, article 6, section 19, and then to public or nonpublic elementary schools that participate in the federal School Breakfast and Lunch Programs where at least 33 percent of the lunches served to children during the second preceding school year were provided free or at a reduced price. Schools shall not charge student households for fast break to learning meals.

Subd. 2. [PROGRAM.] The fast break to learning school breakfast program enables schools participating in the federal School Breakfast and Lunch Programs to cover the costs for school breakfast without charging student households.

Subd. 3. [PROGRAM REIMBURSEMENT.] State funds are provided to reimburse fast break to learning school breakfasts. Each school year, the state must reimburse schools for the difference between the per meal federal rate of reimbursement and the per meal state average cost. Meals that are reimbursed at a federal rate that is equal to or higher than the state average cost do not qualify for fast break to learning funds. Schools must use the funds to provide school breakfast to school children every day school is in session.

Sec. 4. [124D.1195] [COMMODITY DONATED FOOD REVOLVING FUND.]

A revolving fund is established for the purpose of depositing cash received for commodity donated foods that have been lost, damaged, recalled, or diverted for processing. The state shall use the fund to issue payments for the value of the lost, damaged, recalled, or diverted commodity donated foods and related costs.

Sec. 5. Minnesota Statutes 2000, section 127A.45, subdivision 12, is amended to read:

Subd. 12. [PAYMENT PERCENTAGE FOR CERTAIN AIDS.] One hundred percent of the aid for the current fiscal year must be paid for the following aids: reimbursement for transportation to post-secondary institutions, according to section 124D.09, subdivision 22; aid for the program for adults with disabilities, according to section 124D.56, subdivision 2; ~~school lunch aid, according to section 124D.111;~~ hearing impaired support services aid, according to section 124D.57; Indian post-secondary preparation grants according to section 124D.85; integration grants according to Laws 1989, chapter 329, article 8, section 14, subdivision 3; and debt service aid according to section 123B.53, subdivision 6.

Sec. 6. Minnesota Statutes 2000, section 127A.45, is amended by adding a subdivision to read:

Subd. 14a. [STATE NUTRITION PROGRAMS.] Notwithstanding subdivision 3, the state shall pay 100 percent of the aid for the current year according to sections 124D.111, 124D.115, 124D.1156, and 124D.118 based on submitted monthly vouchers showing meals and milk served.

Sec. 7. Minnesota Statutes 2000, section 475.61, subdivision 3, is amended to read:

Subd. 3. [IRREVOCABILITY.] (a) Tax levies so made and filed shall be irrevocable, except as provided in this subdivision.

(b) For purposes of this subdivision, "excess debt redemption fund balance" means the greater of zero or the balance in the district's debt redemption fund as of June 30 of the fiscal year ending in the year before the year the levy is certified, minus any debt redemption fund balance attributable to refunding of existing bonds, minus the amount of the levy reduction for the current year and the prior year under paragraphs (e) and (f), minus five percent of the district's required debt service levy for the next year.

(c) By July 15 each year, a district shall report to the commissioner of children, families, and learning the amount of the districts' debt redemption fund balance as of June 30 of the prior year attributable to refunding of existing bonds.

(d) By August 15 each year, the commissioner shall determine the excess debt redemption fund balance for each school district, and shall certify the amount of the excess balance to the school district superintendent.

(e) In each year when there is on hand any a district has an excess amount in the debt redemption fund of a school district at the time the district makes its property tax levies, the amount of the excess shall be certified by the school board to the commissioner; balance, the commissioner shall report the amount of the excess to the county auditor and the auditor shall reduce the tax levy otherwise to be included in the rolls next prepared by the amount certified. The commissioner shall prescribe the form and calculation to be used in computing the excess amount.

(f) The school board may, with the approval of the commissioner, retain all or part of the excess amount balance if it is necessary to ensure the prompt and full payment of the obligations and any call premium on the obligations, or will be used for redemption of the obligations in accordance with their terms. A school district requesting authority to retain all or part of the excess balance shall provide written documentation to the commissioner describing the rationale for its request by September 15. A school district that retains an excess may request to transfer the excess to its operating capital account in the general fund under section 123B.80. The school board may, with the approval of the commissioner, specify a tax levy in a higher amount if necessary because of anticipated tax delinquency or for cash flow needs to meet the required payments from the debt redemption fund.

(g) If the governing body, including the governing body of a school district, in any year makes an irrevocable appropriation to the debt service fund of money actually on hand or if there is on hand any excess amount in the debt service fund, the recording officer may certify to the county auditor the fact and amount thereof and the auditor shall reduce by the amount so certified the amount otherwise to be included in the rolls next thereafter prepared.

Sec. 8. [FUND TRANSFERS.]

Subdivision 1. [LAPORTE.] Notwithstanding Minnesota Statutes, section 123B.79 or 123B.80, on June 30, 2001, independent school district No. 306, LaPorte, may permanently transfer up to \$141,000 from the bus purchase account in its transportation fund to its capital expenditure fund without making a levy reduction.

Subd. 2. [CLEVELAND.] Notwithstanding Minnesota Statutes, section 123B.79 or 123B.80, on June 30, 2001, independent school district No. 391, Cleveland, may permanently transfer up to \$107,000 from its reserved operating capital account in its general fund to the undesignated fund balance.

Subd. 3. [LEWISTON.] (a) Notwithstanding Minnesota Statutes, section 123B.79 or 123B.80, for calendar years 2002 through 2012, on June 30 of each year, independent school district No. 857, Lewiston, may permanently transfer up to \$175,000 from its capital accounts in its general fund or from its unrestricted general fund to the debt redemption fund.

(b) The eligible debt service revenue and debt service equalization aid, if any, for independent school district No. 857, Lewiston, must be determined prior to the annual transfer of general fund revenue authorized in subdivision 1.

Subd. 4. [RUSSELL.] Notwithstanding Minnesota Statutes, section 123B.79 or 123B.80, on June 30, 2001, independent school district No. 418, Russell, may permanently transfer up to \$160,000 from its reserved capital accounts in its general fund to the undesignated fund balance.

Subd. 5. [MOUNTAIN LAKE.] Notwithstanding Minnesota Statutes, section 123B.79 or 123B.80, on June 30, 2001, independent school district No. 173, Mountain Lake, may permanently transfer up to \$300,000 from its reserved capital accounts in its general fund to the undesignated fund balance.

Subd. 6. [ISLE.] (a) Notwithstanding Minnesota Statutes, section 123B.79 or 123B.80, on June 30, 2001, upon approval of the commissioner of children, families, and learning, independent school district No. 473, Isle, may permanently transfer up to \$175,000 from its reserved account for disability access to its undesignated general fund balance.

(b) Prior to making the fund transfer, independent school district No. 473, Isle, must demonstrate to the commissioner's satisfaction that the district's school buildings are accessible to students or employees with disabilities.

[EFFECTIVE DATE.] This section is effective the day following final enactment.

Sec. 9. [FUND TRANSFERS; DEBT REDEMPTION FUND.]

Subdivision 1. [ELGIN-MILLVILLE.] Notwithstanding Minnesota Statutes, sections 123B.79, 123B.80, and 475.61, subdivision 4, on June 30, 2001, independent school district No. 806, Elgin-Millville, may permanently transfer up to \$100,000 from its debt redemption fund to its reserved capital accounts in its general fund without making a levy reduction.

Subd. 2. [PINE CITY.] (a) Notwithstanding Minnesota Statutes, sections 123B.79, 123B.80, and 475.61, subdivision 4, on June 30, 2001, independent school district No. 578, Pine City, may permanently transfer up to \$200,000 from its debt redemption fund to its capital account in its general fund without making a levy reduction.

(b) Revenue transferred under this section must be used to purchase a facility for the area learning center.

Subd. 3. [ROCORI.] Notwithstanding Minnesota Statutes, sections 123B.80, 123B.912, and 475.61, subdivision 4, on June 30, 2001, independent school district No. 750, Rocori, may permanently transfer up to \$325,000 from its debt redemption fund to its capital account in its general fund without making a levy reduction.

Subd. 4. [TRI-COUNTY SCHOOLS.] Notwithstanding Minnesota Statutes, sections 123B.79, 123B.80, and 475.61, subdivision 4, on June 30, 2001, independent school district No. 2358, Tri-County schools, may permanently transfer up to \$120,000 from its debt redemption fund to its operating capital account in its general fund without making a levy reduction.

Subd. 5. [WATERTOWN-MAYER.] Notwithstanding Minnesota Statutes, sections 123B.79, 123B.80, and 475.61, subdivision 4, on June 30, 2001, independent school district No. 111, Watertown-Mayer, may permanently transfer up to \$325,000 from its debt redemption fund to its reserved capital accounts in its general fund without making a levy reduction.

Subd. 6. [HOLDINGFORD.] Notwithstanding Minnesota Statutes, sections 123B.79, 123B.80, and 475.61, subdivision 4, on June 30, 2001, independent school district No. 738, Holdingford, may permanently transfer up to \$200,000 from its debt redemption fund to its undesignated general fund balance without making a levy reduction.

Subd. 7. [ROYALTON.] Notwithstanding Minnesota Statutes, sections 123B.79, 123B.80, and 475.61, subdivision 4, on June 30, 2001, independent school district No. 485, Royalton, may permanently transfer up to \$64,000 from its debt redemption fund to its reserved capital accounts in its general fund without making a levy reduction.

Subd. 8. [GLENCOE-SILVER LAKE.] Notwithstanding Minnesota Statutes, sections 123B.79, 123B.80, and 475.61, subdivision 4, on June 30, 2001, independent school district No. 2859, Glencoe-Silver Lake, may permanently transfer up to \$27,000 from its debt redemption fund to its reserved operating capital account in its general fund without making a levy reduction.

Subd. 9. [PILLAGER.] Notwithstanding Minnesota Statutes, sections 123B.79, 123B.80, and 475.61, subdivision 4, on June 30, 2001, independent school district No. 116, Pillager, may permanently transfer up to \$60,000 from its debt redemption fund to its reserved operating capital account in its general fund without making a levy reduction.

[EFFECTIVE DATE.] This section is effective the day following final enactment.

Sec. 10. [OPERATING CAPITAL ACCOUNT DEFICIT; EXCEPTION.]

Notwithstanding Minnesota Statutes, section 123B.78, subdivision 5, independent school district No. 492, Austin, may incur a deficit of up to \$4,200,000 in its reserved capital operating account for the Westcott Field improvement project. The deficit must be eliminated by June 30, 2011. Any donations or contributions received by the district for the Westcott Field improvement project must be deposited in the reserved capital operating account.

[EFFECTIVE DATE.] This section is effective the day following final enactment.

Sec. 11. [APPROPRIATIONS.]

Subdivision 1. [DEPARTMENT OF CHILDREN, FAMILIES, AND LEARNING.] The sums indicated in this section are appropriated from the general fund to the department of children, families, and learning for the fiscal years designated.

Subd. 2. [SCHOOL LUNCH.] (a) For school lunch aid according to Minnesota Statutes, section 124D.111, and Code of Federal Regulations, title 7, section 210.17, and for school milk aid according to Minnesota Statutes, section 124D.118:

<u>\$8,710,000</u>	: : : : :	<u>2002</u>
<u>\$8,950,000</u>	: : : : :	<u>2003</u>

(b) Not more than \$800,000 of the amount appropriated each year may be used for school milk aid.

Subd. 3. [SCHOOL BREAKFAST.] For school breakfast aid under Minnesota Statutes, section 124D.115:

<u>\$640,000</u>	: : : : :	<u>2002</u>
<u>\$700,000</u>	: : : : :	<u>2003</u>

Subd. 4. [SUMMER FOOD SERVICE REPLACEMENT AID.] For summer food service replacement aid under Minnesota Statutes, section 124D.119:

<u>\$150,000</u>	: : : : :	<u>2002</u>
<u>\$150,000</u>	: : : : :	<u>2003</u>

Subd. 5. [FAST BREAK TO LEARNING GRANTS.] For fast break to learning grants under Minnesota Statutes, section 124D.1156:

<u>\$2,500,000</u>	: : : : :	<u>2002</u>
<u>\$2,500,000</u>	: : : : :	<u>2003</u>

Any balance in the first year does not cancel but is available in the second year.

Sec. 12. [REPEALER.]

Minnesota Statutes 2000, section 124D.1155, is repealed.

ARTICLE 6

AGENCY PROVISIONS

Section 1. Minnesota Statutes 2000, section 120A.05, is amended by adding a subdivision to read:

Subd. 14a. [STATE BOARD OF EDUCATION.] "State board of education" or "state board" means the state board of education established under section 127A.03 that is charged with general supervision over educational agencies and other education-related matters.

[EFFECTIVE DATE.] This section is effective January 1, 2002.

Sec. 2. Minnesota Statutes 2000, section 122A.162, is amended to read:

122A.162 [LICENSURE RULES.]

The commissioner may make rules relating to licensure of school personnel not licensed by the board of teaching or board of educational administration.

Sec. 3. Minnesota Statutes 2000, section 122A.163, is amended to read:

122A.163 [TEACHER RULE VARIANCES; COMMISSIONER.]

Notwithstanding any law to the contrary, and only upon receiving the agreement of the state board of teaching or board of educational administration, whichever has jurisdiction over the licensure, the commissioner of children, families, and learning may grant a variance to rules governing licensure of ~~teachers for those teachers persons~~ licensed by the board of teaching or board of educational administration, whichever has jurisdiction. ~~The commissioner may grant a variance, without the agreement of the board of teaching, to rules adopted by the commissioner governing licensure of teachers for those teachers the commissioner licenses.~~

Sec. 4. Minnesota Statutes 2000, section 122A.18, subdivision 1, is amended to read:

Subdivision 1. [AUTHORITY TO LICENSE.] (a) The board of teaching must license teachers, as defined in section 122A.15, subdivision 1, except for supervisory personnel, as defined in section 122A.15, subdivision 2.

(b) ~~The commissioner of children, families, and learning~~ board of educational administration must license supervisory personnel as defined in section 122A.15, subdivision 2, except for athletic coaches.

(c) Licenses under the jurisdiction of the board of teaching and the commissioner of children, families, and learning must be issued through the licensing section of the department.

Sec. 5. Minnesota Statutes 2000, section 122A.18, subdivision 4, is amended to read:

Subd. 4. [EXPIRATION AND RENEWAL.] (a) Each license the department of children, families, and learning issues through its licensing section must bear the date of issue. Licenses must expire and be renewed according to the respective rules the board of teaching, the board of educational administration, or the commissioner of children, families, and learning adopts. Requirements for renewing a license must include showing satisfactory evidence of successful teaching or administrative experience for at least one school year during the period covered by the license in grades or subjects for which the license is valid or completing such additional preparation as the board of teaching prescribes. ~~The commissioner of children, families, and learning~~ board of educational administration shall establish requirements for renewing the licenses of supervisory personnel except athletic coaches. The state board of teaching shall establish requirements for renewing the licenses of athletic coaches.

(b) The board of teaching shall offer alternative continuing relicensure options for teachers who are accepted into and complete the national board for professional teaching standards certification process, and offer additional continuing relicensure options for teachers who earn national board for professional teaching standards certification. Continuing relicensure requirements for teachers who do not maintain national board for professional teaching standards certification are those the board prescribes.

Sec. 6. [122A.191] [DEFINITIONS.]

Subdivision 1. [SCOPE.] For the purposes of sections 122A.191 to 122A.194, the terms defined in this section have the meanings given them, unless another meaning is clearly indicated.

Subd. 2. [BOARD.] "Board" means the board of educational administration.

Subd. 3. [COMMUNITY EDUCATION DIRECTOR.] "Community education director" means a person devoting time to administrative and supervisory duties pertaining to community education and employed as a community education director.

Subd. 4. [PRINCIPAL.] "Principal" means a person who devotes more than 50 percent of the time to administrative or supervisory duties and is employed as an elementary principal, secondary principal, or kindergarten through grade 12 principal. The term also includes assistant principals.

Subd. 5. [SCHOOL ADMINISTRATORS.] "School administrators" means superintendents, principals, special education directors, community education directors, and vocational administrators.

Subd. 6. [SPECIAL EDUCATION DIRECTOR.] "Special education director" means a person devoting time to administrative or supervisory duties for special instruction and services for children and is employed as a special education director. Special education director includes assistant special education directors.

Subd. 7. [SUPERINTENDENT.] "Superintendent" means a school administrator employed pursuant to section 123B.143, subdivision 1, and includes assistant superintendents.

Subd. 8. [VOCATIONAL ADMINISTRATOR.] "Vocational administrator" means a person devoting time to administrative or supervisory duties for vocational education.

Sec. 7. [122A.192] [BOARD OF EDUCATIONAL ADMINISTRATION.]

Subdivision 1. [APPOINTMENT OF MEMBERS; ELIGIBILITY.] The board of educational administration consists of seven members appointed by the governor as follows:

- (1) an elementary school principal employed by a school district;
- (2) a secondary school principal employed by a school district;
- (3) a school superintendent employed by a school district;
- (4) a classroom teacher employed by a school district;
- (5) a community education director or a special education director;
- (6) one higher education representative, who must be a faculty member preparing school administrators; and
- (7) a public member, as defined in section 214.02.

In making appointments, the governor shall solicit recommendations from groups representing persons in clauses (1) to (6).

Subd. 2. [TERMS; COMPENSATION; REMOVAL.] Membership terms, removal of members, and the filling of membership vacancies shall be as provided under section 214.09 except the terms expire July 31. The terms of the initial board members must be determined by lot as follows: one member must be appointed for a term that expires August 1, 2002; one member must be appointed for a term that expires August 1, 2003; two members must be appointed for a term that expires August 1, 2004; and three members must be appointed to terms that expire August 1, 2005. The actual and necessary expenses of all members serving on the board shall be as provided in section 214.09, subdivision 3. Members shall not receive the daily payment under section 214.09, subdivision 3. The employer of a member shall not reduce the member's compensation or benefits for the member's absence from employment when engaging in the business of the board. A member shall not be reappointed for more than one additional term.

Subd. 3. [VACANT POSITION.] The position of a member who leaves Minnesota or whose employment status changes to a category different from that from which appointed shall be deemed vacant.

Subd. 4. [ADMINISTRATION.] The provision of staff, administrative services, and office space; the review and processing of complaints; the setting of fees; the selection and duties of an executive secretary to serve the board; and other provisions relating to board operations are as provided in chapter 214. Fiscal year and reporting requirements shall be as provided under sections 214.07 and 214.08.

Sec. 8. [122A.193] [MEETINGS.]

Subdivision 1. [MEETINGS.] The board of educational administration shall meet regularly at the times and places determined by the board. The board shall nominate and elect a chair and other officers from its membership. Meetings shall be called by the chair or at the written request of any three members.

Subd. 2. [EXECUTIVE SECRETARY.] The board of educational administration may hire an executive secretary and other staff or may arrange to share a director and staff with the board of teaching. If the board hires an executive director, the person is in the unclassified service.

Sec. 9. [122A.194] [DUTIES OF BOARD OF EDUCATIONAL ADMINISTRATION.]

Subdivision 1. [LICENSING.] The board shall license school administrators. The board shall adopt rules to license school administrators in accordance with chapter 14. Other than the rules transferred to the board under section 122A.18, subdivision 4, the board may not adopt or amend rules under this section until the rules are approved by law. The rules shall include the licensing of persons who have successfully completed alternative preparation programs under section 122A.27. The board may enter into agreements with the board of teaching regarding multiple license matters.

Subd. 2. [PREPARATION PROGRAMS.] The board shall review and approve preparation programs for school administrators and alternative preparation programs under section 122A.27.

Subd. 3. [RULES FOR CONTINUING EDUCATION REQUIREMENTS.] The board shall adopt rules establishing continuing education requirements which promote continuous improvement and acquisition of new and relevant skills by school administrators.

Subd. 4. [CODE OF ETHICS.] The board shall adopt by rule a code of ethics covering standards of professional practice, including ethical conduct, professional performance, and methods of enforcement, and advise school administrators in interpreting the code of ethics.

Subd. 5. [COMMISSIONER'S REPRESENTATIVE TO COMMENT ON PROPOSED RULE.] Prior to the adoption of any rule that must be submitted to public hearing, a representative of the commissioner of children, families, and learning shall appear before the board and at any hearing required under section 14.14, subdivision 1, to comment on the cost and educational implications of the proposed rule.

Subd. 6. [REGISTER OF PERSONS LICENSED.] The executive director of the board shall keep a record of the proceedings of the board and a register of all persons licensed under this chapter. The register must show the name, address, license number, and the renewal of the license. The board must on July 1 of each year, or as soon thereafter as is practicable, compile a list of licensed school administrators and transmit a copy of the list to the board. A copy of the register must be available during business hours at the office of the board to any interested person.

Subd. 7. [COMMISSIONER'S ASSISTANCE; BOARD MONEY.] The commissioner shall provide all necessary materials and assistance for the transaction of the business of the board and all money received by the board shall be paid into the state treasury as provided by law. The expenses of administering the board of educational administration shall be paid for from appropriations made to the board of educational administration.

Sec. 10. Minnesota Statutes 2000, section 122A.20, subdivision 2, is amended to read:

Subd. 2. [MANDATORY REPORTING.] A school board must report to the board of teaching, the board of educational administration, or the board of trustees of the Minnesota state colleges and universities, whichever has jurisdiction over the teacher's or administrator's license, when its teacher or administrator is discharged or resigns from employment after a charge is filed with the school board under section 122A.41, subdivisions 6, clauses (1), (2), and (3), and 7, or after charges are filed that are ground for discharge under section 122A.40, subdivision 13, paragraph (a), clauses (1) to (5), or when a teacher or administrator is suspended or resigns while an investigation is pending under section 122A.40, subdivision 13, paragraph (a) clauses (1) to (5); 122A.41, subdivisions 6, clauses (1), (2), and (3), and 7; or 626.556. The report must be made to the appropriate licensing board within ten days after the discharge, suspension, or resignation has occurred. The licensing board to which the report is made must investigate the report for violation of subdivision 1 and the reporting board must cooperate in the investigation. Notwithstanding any provision in chapter 13 or any law to the contrary, upon written request from the licensing board having jurisdiction over the ~~teacher's~~ license, a board or school superintendent shall provide the licensing board with information about the teacher or administrator from the district's files, any termination or disciplinary proceeding, any settlement or compromise, or any investigative file. Upon written request from the appropriate licensing board, a board or school superintendent may, at the discretion of the board or school superintendent, solicit the written consent of a student and the student's parent to provide the licensing board with information that may aid the licensing board in its investigation and license proceedings. The licensing board's request need not identify a student or parent by name. The consent of the student and the student's parent must meet the requirements of chapter 13 and Code of Federal Regulations, title 34, section 99.30. The licensing board may provide a consent form to the district. Any data transmitted to any board under this section is private data under section 13.02, subdivision 12, notwithstanding any other classification of the data when it was in the possession of any other agency.

The licensing board to which a report is made must transmit to the attorney general's office any record or data it receives under this subdivision for the sole purpose of having the attorney general's office assist that board in its investigation. When the attorney general's office has informed an employee of the appropriate licensing board in writing that grounds exist to suspend or revoke a teacher's license to teach, that licensing board must consider suspending or revoking or decline to suspend or revoke the teacher's or administrator's license within 45 days of receiving a stipulation executed by the teacher or administrator under investigation or a recommendation from an administrative law judge that disciplinary action be taken.

Sec. 11. Minnesota Statutes 2000, section 122A.21, is amended to read:

122A.21 [TEACHERS' AND ADMINISTRATORS' LICENSES; FEES.]

Each application for the issuance, renewal, or extension of a license to teach ~~and each application for the issuance, renewal, or extension of a license as supervisory personnel~~ must be accompanied by a processing fee in an amount set by the board of teaching by rule. Each application for the issuance, renewal, or extension of a license as school administrators and supervisors must be accompanied by a processing fee in the same amounts set by the board of teaching. The processing fee for a teacher's license and for the licenses of supervisory personnel must be paid to the executive secretary of the appropriate board of teaching. The executive secretary of the board ~~of teaching~~ shall deposit the fees with the state treasurer, as provided by law, and report each month to the commissioner of finance the amount of fees collected. The fees as set by the board are nonrefundable for applicants not qualifying for a license. However, a fee must be refunded by the state treasurer in any case in which the applicant already holds a valid unexpired license. The board may waive or reduce fees for applicants who apply at the same time for more than one license.

Sec. 12. Minnesota Statutes 2000, section 124D.10, subdivision 1, is amended to read:

Subdivision 1. [PURPOSES.] (a) The purpose of this section is to:

- (1) improve pupil learning;

- (2) increase learning opportunities for pupils;
- (3) encourage the use of different and innovative teaching methods;
- (4) require the measurement of learning outcomes and create different and innovative forms of measuring outcomes;
- (5) establish new forms of accountability for schools; or
- (6) create new professional opportunities for teachers, including the opportunity to be responsible for the learning program at the school site;
- (7) test new and more accountable, results-based forms of oversight and accountability for schools;
- (8) focus state oversight on the role of sponsors of charter schools; or
- (9) encourage school boards to make full use of the opportunities provided by this section.

~~(b) This section does not provide a means to keep open a school that otherwise would be closed. Applicants in these circumstances bear the burden of proving that conversion to a charter school fulfills a purpose specified in this subdivision, independent of the school's closing.~~

Sec. 13. Minnesota Statutes 2000, section 124D.10, is amended by adding a subdivision to read:

Subd. 2a. [STATE BOARD FOR CHARTER SCHOOLS.] (a) The state board for charter schools shall administer laws governing charter schools. The state board shall:

- (1) perform the state role in sponsorship of charter schools;
- (2) encourage the creation of innovative schools;
- (3) provide leadership and support for sponsors to increase innovation, effectiveness, accountability, and fiscal soundness of schools authorized under this section; and
- (4) administer state and federal start-up aid.

The board may establish advisory groups.

(b) The state board shall consist of seven members appointed by the governor with the advice and consent of the senate. Persons appointed to the board shall have demonstrated experience or interest in charter schools. Members must be appointed for staggered terms of six years, with terms beginning August 1 of each year. The terms of the initial board members must be determined by lot as follows: one member must be appointed for a term that expires August 1, 2004; two members must be appointed for terms that expire August 1, 2005; two members must be appointed for terms that expire August 1, 2006; and two members must be appointed to terms that expire August 1, 2007.

(c) The initial chair of the board must be appointed by the governor and successor chairs must be elected by the board members. The chair shall serve a two-year term.

(d) Except as otherwise provided in this section, the membership terms, compensation, removal of members, and filling of vacancies shall be as provided for in section 15.0575.

(e) The state board shall appoint an executive director who shall serve in the unclassified service and may appoint other staff.

Sec. 14. Minnesota Statutes 2000, section 124D.10, subdivision 3, is amended to read:

Subd. 3. [SPONSOR.] A school board; intermediate school district school board; education district organized under sections 123A.15 to 123A.19; charitable organization under section 501(c)(3) of the Internal Revenue Code of 1986 that is a member of the Minnesota council of nonprofits or the Minnesota council on foundations, registered with the attorney general's office, and reports an end-of-year fund balance of at least \$2,000,000; Minnesota private college that grants two- or four-year degrees and is registered with the higher education services office under chapter 136A; community college, state university, or technical college, governed by the board of trustees of the Minnesota state colleges and universities; ~~or the University of Minnesota;~~ or the state board for charter schools may sponsor one or more charter schools.

Sec. 15. Minnesota Statutes 2000, section 124D.10, subdivision 4, is amended to read:

Subd. 4. [FORMATION OF SCHOOL.] (a) A sponsor may authorize one or more licensed teachers under section 122A.18, subdivision 1, to operate a charter school subject to approval by the ~~commissioner~~ state board for charter schools. A board must vote on charter school application for sponsorship no later than 90 days after receiving the application. After 90 days, the applicant may apply to the ~~commissioner~~ state board for charter schools. If a board elects not to sponsor a charter school, the applicant may appeal the board's decision to the ~~commissioner~~ state board for charter schools. If the ~~commissioner~~ state board for charter schools authorizes the school, the ~~commissioner~~ state board must sponsor the school according to this section. The school must be organized and operated as a cooperative under chapter 308A or nonprofit corporation under chapter 317A.

(b) Before the operators may form and operate a school, the sponsor must file an affidavit with the ~~commissioner~~ state board for charter schools stating its intent to authorize a charter school. The affidavit must state the terms and conditions under which the sponsor would authorize a charter school. The ~~commissioner~~ state board for charter schools must approve or disapprove the sponsor's proposed authorization within 60 days of receipt of the affidavit. Failure to obtain ~~commissioner~~ state board approval precludes a sponsor from authorizing the charter school that was the subject of the affidavit.

(c) The operators authorized to organize and operate a school must hold an election for members of the school's board of directors in a timely manner after the school is operating. Any staff members who are employed at the school, including teachers providing instruction under a contract with a cooperative, and all parents of children enrolled in the school may participate in the election. Licensed teachers employed at the school, including teachers providing instruction under a contract with a cooperative, must be a majority of the members of the board of directors, unless the ~~commissioner~~ state board for charter schools waives the requirement for the school. A provisional board may operate before the election of the school's board of directors. Board of director meetings must comply with chapter 13D.

(d) The granting or renewal of a charter by a sponsoring entity must not be conditioned upon the bargaining unit status of the employees of the school.

Sec. 16. Minnesota Statutes 2000, section 124D.10, subdivision 6, is amended to read:

Subd. 6. [CONTRACT.] The sponsor's authorization for a charter school must be in the form of a written contract signed by the sponsor and the board of directors of the charter school. The contract must be completed within 90 days of ~~the commissioner's~~ approval by the state board of charter schools of the sponsor's proposed authorization. The contract for a charter school must be in writing and contain at least the following:

- (1) a description of a program that carries out one or more of the purposes in subdivision 1;
- (2) specific outcomes pupils are to achieve under subdivision 10;
- (3) admission policies and procedures;

- (4) management and administration of the school;
- (5) requirements and procedures for program and financial audits;
- (6) how the school will comply with subdivisions 8, 13, 16, and 23;
- (7) assumption of liability by the charter school;
- (8) types and amounts of insurance coverage to be obtained by the charter school;
- (9) the term of the contract, which may be up to three years; and

(10) if the board of directors or the operators of the charter school provide special instruction and services for children with a disability under sections 125A.03 to 125A.24, and 125A.65, a description of the financial parameters within which the charter school will operate to provide the special instruction and services to children with a disability.

Sec. 17. Minnesota Statutes 2000, section 124D.10, subdivision 8, is amended to read:

Subd. 8. [STATE AND LOCAL REQUIREMENTS.] (a) A charter school shall meet all applicable state and local health and safety requirements.

(b) A school sponsored by a school board may be located in any district, unless the school board of the district of the proposed location disapproves by written resolution. If such a board denies a request to locate within its boundaries a charter school sponsored by another school board, the sponsoring school board may appeal to the commissioner state board for charter schools. If the commissioner state board for charter schools authorizes the school, the commissioner state board must sponsor the school.

(c) A charter school must be nonsectarian in its programs, admission policies, employment practices, and all other operations. A sponsor may not authorize a charter school or program that is affiliated with a nonpublic sectarian school or a religious institution.

(d) Charter schools must not be used as a method of providing education or generating revenue for students who are being home-schooled.

(e) The primary focus of a charter school must be to provide a comprehensive program of instruction for at least one grade or age group from five through 18 years of age. Instruction may be provided to people younger than five years and older than 18 years of age.

(f) A charter school may not charge tuition.

(g) A charter school is subject to and must comply with chapter 363 and section 121A.04.

(h) A charter school is subject to and must comply with the Pupil Fair Dismissal Act, sections 121A.40 to 121A.56, and the Minnesota Public School Fee Law, sections 123B.34 to 123B.39.

(i) A charter school is subject to the same financial audits, audit procedures, and audit requirements as a district. The audit must comply with the requirements of sections 123B.75 to 123B.83, except to the extent deviations are necessary because of the program at the school. The department of children, families, and learning, state board for charter schools, state auditor, or legislative auditor may conduct financial, program, or compliance audits. A charter school determined to be in statutory operating debt under sections 123B.81 to 123B.83 must submit a plan under section 123B.81, subdivision 4.

(j) A charter school is a district for the purposes of tort liability under chapter 466.

Sec. 18. Minnesota Statutes 2000, section 124D.10, subdivision 10, is amended to read:

Subd. 10. [PUPIL PERFORMANCE.] A charter school must design its programs to at least meet the outcomes adopted by the commissioner of children, families, and learning for public school students. In the absence of the commissioner's requirements, the school must meet the outcomes contained in the contract with the sponsor. The achievement levels of the outcomes contained in the contract may exceed the achievement levels of any outcomes adopted by the commissioner for public school students.

Sec. 19. Minnesota Statutes 2000, section 124D.10, subdivision 14, is amended to read:

Subd. 14. [ANNUAL PUBLIC REPORTS.] A charter school must report at least annually to its sponsor and the ~~commissioner~~ state board for charter schools the information required by the sponsor or the ~~commissioner~~ state board. The reports are public data under chapter 13.

Sec. 20. Minnesota Statutes 2000, section 124D.10, subdivision 15, is amended to read:

Subd. 15. [REVIEW AND COMMENT.] The ~~department~~ state board for charter schools must review and comment on the evaluation, by the sponsor, of the performance of a charter school before the charter school's contract is renewed. A sponsor shall monitor and evaluate the fiscal and student performance of the school, and may for this purpose annually assess the school up to \$10 per student up to a maximum of \$3,500. The information for the review and comment shall be reported by the sponsor to the ~~commissioner of children, families, and learning~~ state board in a timely manner. Periodically, the ~~commissioner~~ state board shall report trends or suggestions based on the evaluation of charter school contracts to the education committees of the state legislature. Annually, the state board shall report to the governor and education committees of the legislature on the status of the charter schools formed and operated under this section.

Sec. 21. Minnesota Statutes 2000, section 124D.10, subdivision 19, is amended to read:

Subd. 19. [DISSEMINATE INFORMATION.] The sponsor, the operators, and the ~~department of children, families, and learning~~ state board for charter schools must disseminate information to the public on how to form and operate a charter school and how to utilize the offerings of a charter school. Particular groups to be targeted include low-income families and communities, and students of color.

Sec. 22. Minnesota Statutes 2000, section 124D.10, subdivision 23, is amended to read:

Subd. 23. [CAUSES FOR NONRENEWAL OR TERMINATION OF CHARTER SCHOOL CONTRACT.]
(a) The duration of the contract with a sponsor must be for the term contained in the contract according to subdivision 6. The sponsor may or may not renew a contract at the end of the term for any ground listed in paragraph (b). A sponsor may unilaterally terminate a contract during the term of the contract for any ground listed in paragraph (b). At least 60 days before not renewing or terminating a contract, the sponsor shall notify the board of directors of the charter school of the proposed action in writing. The notice shall state the grounds for the proposed action in reasonable detail and that the charter school's board of directors may request in writing an informal hearing before the sponsor within 14 days of receiving notice of nonrenewal or termination of the contract. Failure by the board of directors to make a written request for a hearing within the 14-day period shall be treated as acquiescence to the proposed action. Upon receiving a timely written request for a hearing, the sponsor shall give reasonable notice to the charter school's board of directors of the hearing date. The sponsor shall conduct an informal hearing before taking final action. The sponsor shall take final action to renew or not renew a contract by the last day of classes in the school year. If the sponsor is a local board, the school's board of directors may appeal the sponsor's decision to the ~~commissioner~~ state board for charter schools.

(b) A contract may be terminated or not renewed upon any of the following grounds:

(1) failure to meet the requirements for pupil performance contained in the contract;

- (2) failure to meet generally accepted standards of fiscal management;
- (3) violations of law; or
- (4) other good cause shown.

If a contract is terminated or not renewed, the school must be dissolved according to the applicable provisions of chapter 308A or 317A, except when the ~~commissioner~~ state board for charter schools approves the decision of a different eligible sponsor to authorize the charter school.

(c) The commissioner or state board for charter schools, after providing reasonable notice to the board of directors of a charter school and the existing sponsor, and after providing an opportunity for a public hearing, may terminate the existing sponsorial relationship if the charter school has a history of:

- (1) financial mismanagement; or
- (2) repeated violations of the law.

Sec. 23. Minnesota Statutes 2000, section 124D.10, subdivision 25, is amended to read:

Subd. 25. [EXTENT OF SPECIFIC LEGAL AUTHORITY.] (a) The board of directors of a charter school may sue and be sued.

(b) The board may not levy taxes or issue bonds.

(c) The ~~commissioner~~ state board for charter schools, a sponsor, members of the board of a sponsor in their official capacity, and employees of a sponsor are immune from civil or criminal liability with respect to all activities related to a charter school they approve or sponsor. The board of directors shall obtain at least the amount of and types of insurance required by the contract, according to subdivision 6.

Sec. 24. [127A.03] [STATE BOARD OF EDUCATION.]

Subdivision 1. [STATE BOARD ESTABLISHED; APPOINTMENTS; MEETINGS; CONFLICT OF INTEREST; ADMINISTRATIVE COSTS.] (a) The department of children, families, and learning is maintained under the direction of a state board of education composed of the following members: ten representative citizens of the state, at least one of whom resides in each congressional district in the state and two of whom serve as members at-large; the chancellor of the Minnesota state colleges and universities or a person appointed by the chancellor; and the president of the University of Minnesota or a person appointed by the president.

(b) Of the ten representative citizens of the state appointed to the state board of education, one member at-large is a student who is enrolled full-time in a Minnesota public high school at the time of the student's appointment and one member at-large previously shall have served as an elected member of a board of education of a school district.

(c) The governor appoints the representative citizen members of the state board with the advice and consent of the senate. The state board of education annually elects one of its members as president, but no member serves as president more than three consecutive years.

(d) The state board of education holds meetings on dates and at places it designates.

(e) No member shall hold any public office, or represent or be employed by any board of education or school district, public or private, and shall not voluntarily have any personal financial interest in any contract with a board of education or school district, or be engaged in any capacity where a conflict of interest may arise.

(f) The administrative costs of the state board of education must be paid out of department of children, families, and learning appropriations.

Subd. 2. [MEMBERSHIP; COMPENSATION.] The membership terms, compensation, removal of members, and filling of vacancies on the state board are as provided in section 15.0575.

Subd. 3. [RESIDENCY REQUIREMENT.] If a member moves out of the congressional district from which the member was appointed, the member ceases to be a member of the state board. The governor appoints a successor within six months thereafter.

[EFFECTIVE DATE.] This section is effective January 1, 2002.

Sec. 25. Minnesota Statutes 2000, section 127A.05, subdivision 1, is amended to read:

Subdivision 1. [APPOINTMENT AND DUTIES.] (a) The department shall be under the administrative control of the commissioner of children, families, and learning which office is established. The ~~governor~~ commissioner is the secretary of the state board of education. The state board of education shall appoint the commissioner under the provisions of section 15.06. For purposes of section 15.06, the state board of education is the appointing authority.

(b) The commissioner serves at the pleasure of the board.

(c) The commissioner shall be a person who possesses educational attainment and breadth of experience in the administration of public education and of the finances pertaining thereto commensurate with the spirit and intent of this code. Notwithstanding any other law to the contrary, the commissioner may appoint two deputy commissioners who shall serve in the unclassified service. The commissioner shall also appoint other employees as may be necessary for the organization of the department. The commissioner shall perform such duties as the law and rules may provide and be held responsible for the efficient administration and discipline of the department. The commissioner is charged with the execution of powers and duties to promote public education in the state and to safeguard the finances pertaining thereto.

[EFFECTIVE DATE.] This section is effective January 1, 2002.

Sec. 26. Minnesota Statutes 2000, section 214.01, subdivision 3, is amended to read:

Subd. 3. [NON-HEALTH-RELATED LICENSING BOARD.] "Non-health-related licensing board" means the board of teaching established pursuant to section 122A.07, the board of educational administration established pursuant to section 122A.192, the board of barber examiners established pursuant to section 154.22, the board of assessors established pursuant to section 270.41, the board of architecture, engineering, land surveying, landscape architecture, geoscience, and interior design established pursuant to section 326.04, the board of accountancy established pursuant to section 326.17, the board of electricity established pursuant to section 326.241, the private detective and protective agent licensing board established pursuant to section 326.33, the board of boxing established pursuant to section 341.01, and the peace officer standards and training board established pursuant to section 626.841.

Sec. 27. Minnesota Statutes 2000, section 214.04, subdivision 1, is amended to read:

Subdivision 1. [SERVICES PROVIDED.] The commissioner of administration with respect to the board of electricity, the commissioner of children, families, and learning with respect to the board of teaching and the board of educational administration, the commissioner of public safety with respect to the board of private detective and protective agent services, and the board of peace officer standards and training, and the commissioner of revenue with respect to the board of assessors, shall provide suitable offices and other space, joint conference and hearing facilities, examination rooms, and the following administrative support services: purchasing service, accounting service, advisory personnel services, consulting services relating to evaluation procedures and techniques, data processing, duplicating, mailing services, automated printing of license renewals, and such other similar services

of a housekeeping nature as are generally available to other agencies of state government. Investigative services shall be provided the boards by employees of the office of attorney general. The commissioner of health with respect to the health-related licensing boards shall provide mailing and office supply services and may provide other facilities and services listed in this subdivision at a central location upon request of the health-related licensing boards. The commissioner of commerce with respect to the remaining non-health-related licensing boards shall provide the above facilities and services at a central location for the remaining non-health-related licensing boards. The legal and investigative services for the boards shall be provided by employees of the attorney general assigned to the departments servicing the boards. Notwithstanding the foregoing, the attorney general shall not be precluded by this section from assigning other attorneys to service a board if necessary in order to insure competent and consistent legal representation. Persons providing legal and investigative services shall to the extent practicable provide the services on a regular basis to the same board or boards.

Sec. 28. Minnesota Statutes 2000, section 214.04, subdivision 3, is amended to read:

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

- (1) dentistry;
- (2) medical practice;
- (3) nursing;
- (4) pharmacy;
- (5) accountancy;
- (6) architecture, engineering, land surveying, landscape architecture, geoscience, and interior design;
- (7) barber examiners;
- (8) cosmetology;
- (9) electricity;
- (10) teaching;
- (11) peace officer standards and training;
- (12) social work;
- (13) marriage and family therapy; ~~and~~
- (14) dietetics and nutrition practice; and
- (15) educational administration.

The executive directors or executive secretaries serving the boards are hired by those boards and are in the unclassified civil service, except for part-time executive directors or executive secretaries, who are not required to be in the unclassified service. Boards not requiring full-time executive directors or executive secretaries may employ

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

Sec. 29. Minnesota Statutes 2000, section 214.12, subdivision 1, is amended to read:

Subdivision 1. [REQUIREMENTS.] The health-related and non-health-related licensing boards may promulgate by rule requirements for renewal of licenses designed to promote the continuing professional competence of licensees. These requirements of continuing professional education or training shall be designed solely to improve professional skills and shall not exceed an average attendance requirement of 50 clock hours per year. All requirements promulgated by the boards shall be effective commencing January 1, 1977, or at a later date as the board may determine. The 50 clock hour limitation shall not apply to the board of teaching and board of educational administration.

Sec. 30. [TRANSFER; DEPARTMENT ASSISTANCE.]

The powers and duties of the department of children, families, and learning with respect to charter schools are transferred to the state board for charter schools under Minnesota Statutes, section 15.039, subdivisions 1, 2, 3, 4, 5, 5a, 6, and 8. The department shall provide all necessary materials and assistance for the transfer from the department to the state board.

Sec. 31. [TRANSFER OF POWERS AND DUTIES.]

The powers, duties, and responsibilities of the commissioner of children, families, and learning with respect to supervisory personnel as defined in Minnesota Statutes, section 122A.15, subdivision 2, are transferred to the board of educational administration under Minnesota Statutes, section 15.039.

Sec. 32. [INITIAL STATE BOARD OF EDUCATION APPOINTMENTS.]

Initial appointments to the state board of education under Minnesota Statutes, section 122A.162, are as follows:

(1) four members, at least one of whom resides in each of four congressional districts and one member at-large serve a two-year term; and

(2) four members, at least one of whom resides in each of the remaining four congressional districts not represented under clause (1) and one member at-large serve a four-year term.

The membership terms, compensation, removal of members, and filling of vacancies on the state board otherwise are as provided in Minnesota Statutes, section 15.0575.

[EFFECTIVE DATE.] This section is effective the day following final enactment.

Sec. 33. [FEE INCREASE APPROVAL; MODIFICATION.]

The fee for licenses issued by the board of educational administration is approved at \$75.

Sec. 34. [DEPARTMENT OF CHILDREN, FAMILIES, AND LEARNING; SCHOOL MEDIA STAFF PERSON.]

The commissioner of children, families, and learning shall designate a staff person as a resource person for providing state-level leadership for school media programs. The commissioner shall pay all costs for that staff person out of existing department appropriations.

Sec. 35. [SCHOOL MEDIA CENTER STUDY.]

The commissioner shall use existing funds to conduct a study of school media centers. The study must:

- (1) make available comprehensive data about school media center staffing, facilities, collections, and technology;
- (2) identify elements of school media programs that contribute to students' educational achievement; and
- (3) recommend best practices for school media programs.

The commissioner, by January 15, 2003, must provide copies of the study to the chairs of the legislature's committees charged with oversight of kindergarten through grade 12 education policy.

[EFFECTIVE DATE.] This section is effective the day following final enactment.

Sec. 36. [APPROPRIATIONS; DEPARTMENT OF CHILDREN, FAMILIES, AND LEARNING.]

Subdivision 1. [DEPARTMENT OF CHILDREN, FAMILIES, AND LEARNING.] Unless otherwise indicated, the sums indicated in this section are appropriated from the general fund to the department of children, families, and learning for the fiscal years designated.

Subd. 2. [DEPARTMENT.] (a) For the department of children, families, and learning:

<u>\$30,164,000</u>	: : : : :	<u>2002</u>
<u>\$30,164,000</u>	: : : : :	<u>2003</u>

Any balance in the first year does not cancel but is available in the second year.

- (b) \$684,000 in 2002 and \$690,000 in 2003 is for the board of teaching.
- (c) \$200,000 each year is for the board of educational administration.
- (d) \$200,000 each year is for the state board for charter schools.
- (e) \$100,000 in fiscal year 2002 and \$200,000 in fiscal year 2003 are for the state board of education.
- (f) \$400,000 in fiscal year 2002 and \$400,000 in fiscal year 2003 are for the office of educational accountability under Minnesota Statutes, section 120B.31, subdivision 3.
- (g) The expenditures of federal grants and aids as shown in the biennial budget document and its supplements are approved and appropriated and shall be spent as indicated.
- (h) In preparing the department budget for fiscal years 2004-2005, the department shall shift all administrative funding from aids appropriations into the appropriation for the department.

Sec. 37. [APPROPRIATIONS; PERPICH CENTER FOR ARTS EDUCATION.]

The sums indicated in this section are appropriated from the general fund to the Perpich center for arts education for the fiscal years designated:

<u>\$7,531,000</u>	: : : : :	<u>2002</u>
<u>\$7,666,000</u>	: : : : :	<u>2003</u>

Any balance in the first year does not cancel but is available in the second year.

Sec. 38. [APPROPRIATIONS; MINNESOTA STATE ACADEMIES.]

The sums indicated in this section are appropriated from the general fund to the Minnesota state academies for the deaf and the blind for the fiscal years designated:

<u>\$10,761,000</u>	.....	<u>2002</u>
<u>\$10,966,000</u>	.....	<u>2003</u>

Any balance in the first year does not cancel but is available in the second year.

Sec. 39. [REVISOR INSTRUCTION; STATE BOARD OF EDUCATIONAL ADMINISTRATION.]

In the next and subsequent editions of Minnesota Statutes, the revisor of statutes shall substitute the term "board of educational administration" for the term "commissioner" or "commissioner of children, families, and learning" in the following sections of Minnesota Statutes: 122A.18, subdivisions 3, 6, and 8; 122A.20, subdivision 1; 122A.23, subdivision 1; 122A.27, subdivisions 1, 4, and 5; 123A.21; 123B.03, subdivision 1; and 125A.67, subdivision 2.

Sec. 40. [REVISOR'S INSTRUCTION; STATE BOARD OF EDUCATION.]

Except as provided in Minnesota Statutes, section 124D.10, establishing a state board for charter schools, and the section transferring powers, duties, and responsibilities for supervisory personnel to the board of educational administration, in the next and subsequent editions of Minnesota Statutes and Minnesota Rules, all references changed from the state board of education to the commissioner of children, families, and learning and all authority transferred from the state board of education to the commissioner of children, families, and learning under Laws 1998, chapter 398, and Laws 1999, chapter 241, shall be changed back to the state board of education. Among other things, and as an illustration only, these changes shall affect the authority to exercise general supervision over educational agencies and adopt or amend administrative rules. In addition, and consistent with the provisions of this article, the revisor of statutes, in consultation with house and senate counsel, shall make other necessary changes affecting the powers and duties of the state board of education, consistent with the law as it appeared in Minnesota Statutes 1996 and Minnesota Statutes 1997 Supplement, and in Minnesota Rules 1997 and supplements. The revisor shall prepare a report to the 2002 legislature showing where these changes were made. The changes identified by the revisor shall be effective January 1, 2002.

[EFFECTIVE DATE.] This section is effective the day following final enactment.

ARTICLE 7

DEFICIENCIES

Section 1. [APPROPRIATIONS; DEFICIENCIES.]

Subdivision 1. [DEPARTMENT OF CHILDREN, FAMILIES, AND LEARNING.] Unless otherwise indicated, the sums indicated in this section are appropriated from the general fund to the department of children, families, and learning for the fiscal years designated for the funding of programs subject to state-aid deficiencies in fiscal year 2001. These appropriations are in addition to any other appropriations for those purposes.

Subd. 2. [GENERAL EDUCATION AID.] For general education aid:

<u>\$19,754,000</u>	<u>2001</u>
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Subd. 3. [SECONDARY VOCATIONAL AID.] For secondary vocational aid:

<u>\$6,000</u>	<u>2001</u>
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Subd. 4. [SPECIAL EDUCATION EXCESS COST AID.] For special education excess cost aid:

\$6,740,000 : : : : : 2001

Subd. 5. [HEALTH AND SAFETY AID.] For health and safety aid:

\$273,000 : : : : : 2001

Subd. 6. [INTERACTIVE TELEVISION AID.] For interactive television aid:

\$6,000 : : : : : 2001

Subd. 7. [ALTERNATIVE FACILITIES BONDING AID.] For alternative facilities bonding aid:

\$68,000 : : : : : 2001

ARTICLE 8

LOCAL ACHIEVEMENT TESTING

Section 1. Minnesota Statutes 2000, section 120B.02, is amended to read:

120B.02 [~~RESULTS-ORIENTED GRADUATION RULE; BASIC SKILLS REQUIREMENTS; PROFILE OF LEARNING.~~]

(a) The legislature is committed to establishing a rigorous, ~~results-oriented~~ graduation rule for Minnesota's public school students. To that end, the commissioner shall use its rulemaking authority under section 127A.05, subdivision 4, to adopt a ~~statewide, results-oriented~~ graduation rule ~~to be implemented starting with students beginning ninth grade in the 1996-1997 school year.~~ The commissioner shall not prescribe in rule or otherwise the delivery system or form of instruction that independent school sites ~~districts~~ must use to meet the requirements contained in this rule. ~~For purposes of this chapter, a school site is a separate facility, or a separate program within a facility that a local school board recognizes as a school site.~~

(b) To successfully accomplish paragraph (a), ~~the commissioner shall set in rule high academic standards for all students. The standards must contain the foundational basic skills requirements in the three core curricular areas of reading, writing, and mathematics while meeting requirements are established by Minnesota Rules, parts 3501.0010 to 3501.0180 and 3501.0200 to 3501.0290, and must be completed for public high school graduation. The standards graduation rule must also provide an opportunity for students to excel by meeting higher academic standards through a profile of learning that uses curricular requirements to allow students to expand their local academic achievement testing under section 120B.35 that measures knowledge and skills beyond the foundational skills. All commissioner actions regarding the graduation rule must be premised on the following:~~

(1) the rule is intended to raise academic expectations for students, teachers, and schools;

(2) any state action regarding the rule must evidence consideration of school district autonomy; and

(3) the department of children, families, and learning, with the assistance of school districts, must make available information about all state initiatives related to the rule to students and parents, teachers, and the general public in a timely format that is appropriate, comprehensive, and readily understandable.

(c) ~~For purposes of adopting the rule, the commissioner, in consultation with the department, recognized psychometric experts in assessment, and other interested and knowledgeable educators, using the most current version of professional standards for educational testing, shall evaluate the alternative approaches to assessment.~~

~~(d) The content of the graduation rule must differentiate between minimum competencies reflected in the basic requirements assessment and rigorous profile of learning standards. When fully implemented, the requirements for high school graduation in Minnesota must include both basic requirements and the required profile of learning. The profile of learning must measure student performance using performance-based assessments compiled over time that integrate higher academic standards, higher order thinking skills, and application of knowledge from a variety of content areas. The profile of learning shall include a broad range of academic experience and accomplishment necessary to achieve the goal of preparing students to function effectively as purposeful thinkers, effective communicators, self-directed learners, productive group participants, and responsible citizens.~~

~~(e) The profile of learning contains the following learning areas:~~

- ~~(1) read, listen, and view;~~
- ~~(2) write and speak;~~
- ~~(3) arts and literature;~~
- ~~(4) mathematical concepts and applications;~~
- ~~(5) inquiry and research;~~
- ~~(6) scientific concepts and applications;~~
- ~~(7) social studies;~~
- ~~(8) physical education and lifetime fitness;~~
- ~~(9) economics and business;~~
- ~~(10) world languages; and~~
- ~~(11) technical and vocational education.~~

~~(f) The commissioner shall periodically review and report on the assessment process and student achievement with the expectation of raising the standards and expanding high school graduation requirements.~~

~~(g) Beginning August 31, 2000, the commissioner must publish, including in electronic format for the Internet, a report, by school site, area learning center, and charter school, of:~~

- ~~(1) the required preparatory content standards;~~
- ~~(2) the high school content standards required for graduation; and~~
- ~~(3) the number of student waivers the district, area learning center, or charter school approves under section 120B.031, subdivisions 4, 5, and 6, based on information each district, area learning center, and charter school provides.~~

~~(h) School districts must integrate required and elective content standards in the scope and sequence of the district curriculum.~~

~~(i) School districts are not required to adopt, and students are not required to participate in, specific provisions of the Goals 2000 and the federal School-to-Work programs, the National Assessment of Educational Progress, and Title I of the Elementary and Secondary Education Act.~~

Sec. 2. Minnesota Statutes 2000, section 120B.30, subdivision 1, is amended to read:

Subdivision 1. [STATEWIDE TESTING.] (a) The commissioner, with advice from experts with appropriate technical qualifications and experience and stakeholders, ~~shall include in the comprehensive assessment system, for each grade level to be tested, a test, which shall be aligned with the state's graduation standards and administered annually to all students in the third, fifth, and eighth grades. The commissioner shall establish one or more months during which schools shall administer the basic skills tests to students each school year. Only Minnesota basic skills tests in reading, mathematics, and writing shall fulfill students' basic skills testing requirements for a passing state notation. The passing scores of the state tests in reading and mathematics are the equivalent of:~~

(1) 70 percent correct for students entering grade 9 in 1996; and

(2) 75 percent correct for students entering grade 9 in 1997 and thereafter, ~~as based on the first uniform test administration of February 1998.~~

Notwithstanding Minnesota Rules, part 3501.0050, subpart 2, at the written request of a parent or guardian, and with the recommendation of the student's teacher, a district may offer the test of basic requirements in reading, math, or writing to an individual student beginning in grade 5. The student must take the same test on the same date as administered to students in eighth grade or higher. ~~Third and fifth grade test results shall be available to districts for diagnostic purposes affecting student learning and district instruction and curriculum, and for establishing educational accountability. The commissioner must disseminate to the public the third and fifth grade test results upon receiving those results:~~

(b) ~~In addition, at the secondary level, districts shall assess student performance in all required learning areas and selected required standards within each area of the profile of learning. The testing instruments and testing process shall be determined by the commissioner. The results shall be aggregated at the site and district level. The testing shall be administered beginning in the 1999-2000 school year and thereafter. A statewide test under this section shall:~~

(1) use a multiple choice format with only one factually correct answer, except for writing, which may include an essay requirement;

(2) test academic, objective knowledge, and not personal characteristics, values, attitudes, or conscientiously held beliefs of students; and

(3) be made available in its entirety, including questions, answer key, and aggregate results, to the public, and the aggregated results shall be reported to the department and the office of educational accountability within 60 days of its administration. Upon request, a parent of a student who participated in the testing program shall receive a copy of each test in its entirety and the results for the child.

(c) The commissioner shall report aggregate school site and school district student academic basic skills achievement levels of the current and two immediately preceding school years. The report shall include students' unweighted mean test scores in each tested subject, the unweighted mean test scores of only those students enrolled in the school by January 1 of the previous school year, and the unweighted test scores of all students except those students receiving limited English proficiency instruction. The report also shall record separately, in proximity to the reported performance levels, the percentages of students who are eligible to receive a free or reduced price school meal, demonstrate limited English proficiency, or are eligible to receive special education services.

(d) In addition to the testing and reporting requirements under paragraphs (a), (b), and (c), the commissioner shall include the following components in ~~the statewide public reporting system:~~

(1) ~~uniform statewide testing of all third, fifth, eighth, and post-eighth grade students that provides exemptions, only with parent or guardian approval, for those very few students for whom the student's individual education plan team under sections 125A.05 and 125A.06, determines that the student is incapable of taking a statewide test, or for~~

a limited English proficiency student under section 124D.59, subdivision 2, if the student has been in the United States for fewer than 12 months and for whom special language barriers exist, such as the student's native language does not have a written form or the district does not have access to appropriate interpreter services for the student's native language;

(2) educational indicators that can be aggregated and compared across school districts and across time on a statewide basis, including average daily attendance, high school graduation rates, and high school drop-out rates by age and grade level; and

(3) (2) students' scores on the American College Test; and

~~(4) participation in the National Assessment of Educational Progress so that the state can benchmark its performance against the nation and other states, and, where possible, against other countries, and contribute to the national effort to monitor achievement.~~

~~(e) Districts must report exemptions under paragraph (d), clause (1), to the commissioner consistent with a format provided by the commissioner, the Preliminary Scholastic Aptitude Test, and the Scholastic Aptitude Test.~~

Sec. 3. Minnesota Statutes 2000, section 120B.31, subdivision 3, is amended to read:

Subd. 3. [EDUCATIONAL ACCOUNTABILITY.] ~~(a)~~ The independent office of educational accountability, as authorized by Laws 1997, First Special Session chapter 4, article 5, section 28, subdivision 2, is established. The office shall advise the education committees of the legislature and the commissioner of children, families, and learning, at least on a biennial basis, on the degree to which ~~the statewide educational accountability testing and reporting system includes a comprehensive assessment framework that measures school accountability for students achieving the goals described in the state's results-oriented graduation rule. The office shall consider whether the statewide system of educational accountability utilizes multiple indicators to provide valid and reliable comparative and contextual data on students, schools, districts, and the state, and if not, recommend ways to improve the accountability reporting system reflect student academic achievement.~~

~~(b)~~ When the office reviews ~~the statewide educational accountability and reporting system~~, it shall also consider:

~~(1) the objectivity and neutrality of the state's educational accountability system; and~~

~~(2) the impact of a testing program on school curriculum and student learning.~~

Sec. 4. Minnesota Statutes 2000, section 120B.35, is amended to read:

120B.35 [STUDENT ACADEMIC ACHIEVEMENT LEVELS.]

Subdivision 1. [LOCAL TESTING.] (a) Each school year, a school district must administer a uniform testing program to determine if the student academic achievement levels at each school site in the third, fifth, and tenth grades meet state and local expectations. If student achievement levels at a school site do not meet state and local expectations for two out of three consecutive school years, ~~beginning with the 2000-2001 school year,~~ the district must work with the school site to adopt a plan to raise student achievement levels to meet state and local expectations. ~~The legislature will determine state expectations after receiving a recommendation from the commissioner of children, families, and learning.~~

(b) The testing program shall measure knowledge in the following subject areas:

(1) for third grade, at least mathematics and language arts, which shall include reading, writing, grammar, vocabulary, and spelling; and

(2) for fifth and tenth grades:

(i) mathematics;

(ii) language arts, which shall include reading, writing, grammar, vocabulary, and spelling;

(iii) science;

(iv) history, which shall include an emphasis on the United States and Minnesota; and

(v) geography.

(c) The testing program shall be selected by the school district and may include nationally normed tests, the placement tests or their equivalents used by Minnesota post-secondary institutions, locally developed tests, or other valid tests. Each test shall be:

(1) in multiple choice question format with only one factually correct answer for each question, except for language arts, which may include an essay requirement;

(2) academic, objective, and not pertain to the personal characteristics, values, attitudes, or conscientiously held beliefs of students;

(3) secure, confidential, timed, and not permit the use of any outside aid or reference, except that calculators may be permitted at the secondary level and special accommodations may be permitted under state or federal law for students with an individualized education plan;

(4) comprehensive enough to include questions that would identify students of academic excellence; and

(5) made available in its entirety, including questions, answer key, and aggregate results, to the public, and be reported to the department and the office of educational accountability, within 60 days of its administration. Upon request, a parent of a student who participated in the testing program shall receive a copy of each test in its entirety and the results for the child.

Subd. 2. [ASSISTANCE.] The department, at a district's request, must assist the district and the school site in developing a plan to improve student achievement. ~~The plan~~ When developing the plan, a district must ~~include~~ consider parental involvement components recommendations.

Sec. 5. [INSTRUCTION TO THE REVISOR.]

The revisor of statutes shall change the headnote names of Minnesota Statutes, section 120B.30 from "STATEWIDE TESTING AND REPORTING SYSTEM" to "STATEWIDE BASIC SKILLS TESTING AND REPORTING" and Minnesota Statutes, section 120B.31 from "SYSTEM ACCOUNTABILITY AND STATISTICAL ADJUSTMENTS" to "OFFICE OF EDUCATIONAL ACCOUNTABILITY."

Sec. 6. [REPEALER.]

(a) Minnesota Statutes 2000, sections 120B.031; and 120B.31, subdivisions 1, 2, and 4, are repealed.

(b) Minnesota Rules, parts 3501.0300; 3501.0310; 3501.0320; 3501.0330; 3501.0340; 3501.0350; 3501.0370; 3501.0380; 3501.0390; 3501.0400; 3501.0410; 3501.0420; 3501.0430; 3501.0440; 3501.0441; 3501.0442; 3501.0443; 3501.0444; 3501.0445; 3501.0446; 3501.0447; 3501.0448; 3501.0449; 3501.0450; 3501.0460; 3501.0461; 3501.0462; 3501.0463; 3501.0464; 3501.0465; 3501.0466; 3501.0467; 3501.0468; and 3501.0469, are repealed.

ARTICLE 9

TECHNICAL AMENDMENTS

Section 1. Minnesota Statutes 2000, section 122A.26, subdivision 3, is amended to read:

Subd. 3. [ENGLISH AS A SECOND LANGUAGE.] Notwithstanding subdivision 2, a person who possesses a bachelor's or master's degree in English as a second language, applied linguistics, or bilingual education, or who possesses a related degree as approved by the commissioner, shall be permitted to teach English as a second language in an adult basic education program that receives funding under section ~~124D.53~~ 124D.531.

Sec. 2. Minnesota Statutes 2000, section 124D.11, subdivision 5, is amended to read:

Subd. 5. [SPECIAL EDUCATION AID.] Except as provided in subdivision 2, special education aid must be paid to a charter school according to section 125A.76, as though it were a school district. The charter school may charge tuition to the district of residence as provided in section 125A.11. ~~The charter school shall allocate its special education levy equalization revenue to the resident districts of the pupils attending the charter school. The districts of residence shall levy as though they were participating in a cooperative, as provided in section 125A.77, subdivision 3.~~

Sec. 3. Minnesota Statutes 2000, section 124D.454, subdivision 11, is amended to read:

Subd. 11. [REVENUE ALLOCATION FROM COOPERATIVE CENTERS AND INTERMEDIATE DISTRICTS.] For purposes of this section ~~and section 125A.77~~, a cooperative center or an intermediate district must allocate its approved expenditures for transition programs for children with a disability among participating school districts. Aid for transition programs for children with a disability for services provided by a cooperative or intermediate district shall be paid to the participating districts.

Sec. 4. Minnesota Statutes 2000, section 125A.17, is amended to read:

125A.17 [LEGAL RESIDENCE OF A CHILD WITH A DISABILITY PLACED IN A FOSTER FACILITY.]

The legal residence of a child with a disability placed in a foster facility for care and treatment is the district in which the child resides when:

- (1) parental rights have been terminated by court order;
 - (2) the parent or guardian is not living within the state;
 - (3) no other district residence can be established; or
 - (4) the parent or guardian having legal custody of the child is an inmate of a Minnesota correctional facility or is a resident of a halfway house under the supervision of the commissioner of corrections;
- ~~is the district in which the child resides.~~ The school board of the district of residence must provide the same educational program for the child as it provides for all resident children with a disability in the district.

Sec. 5. Minnesota Statutes 2000, section 127A.41, subdivision 8, is amended to read:

Subd. 8. [APPROPRIATION TRANSFERS.] If a direct appropriation from the general fund to the department for any education aid or grant authorized in this chapter and chapters 122A, 123A, 123B, 124D, 126C, and 134, excluding appropriations under sections 124D.135, 124D.16, 124D.20, 124D.21, 124D.22, 124D.52, ~~124D.53~~ 124D.531, 124D.54, 124D.55, and 124D.56, exceeds the amount required, the commissioner may transfer the excess to any education aid or grant appropriation that is insufficient. However, section 126C.20 applies to a deficiency

in the direct appropriation for general education aid. Excess appropriations must be allocated proportionately among aids or grants that have insufficient appropriations. The commissioner of finance shall make the necessary transfers among appropriations according to the determinations of the commissioner. If the amount of the direct appropriation for the aid or grant plus the amount transferred according to this subdivision is insufficient, the commissioner shall prorate the available amount among eligible districts. The state is not obligated for any additional amounts.

Sec. 6. Minnesota Statutes 2000, section 127A.41, subdivision 9, is amended to read:

Subd. 9. [APPROPRIATION TRANSFERS FOR COMMUNITY EDUCATION PROGRAMS.] If a direct appropriation from the general fund to the department of children, families, and learning for an education aid or grant authorized under section 124D.135, 124D.16, 124D.20, 124D.21, 124D.22, 124D.52, ~~124D.53~~ 124D.531, 124D.54, 124D.55, or 124D.56 exceeds the amount required, the commissioner of children, families, and learning may transfer the excess to any education aid or grant appropriation that is insufficiently funded under these sections. Excess appropriations shall be allocated proportionately among aids or grants that have insufficient appropriations. The commissioner of finance shall make the necessary transfers among appropriations according to the determinations of the commissioner of children, families, and learning. If the amount of the direct appropriation for the aid or grant plus the amount transferred according to this subdivision is insufficient, the commissioner shall prorate the available amount among eligible districts. The state is not obligated for any additional amounts.

Sec. 7. [REPEALER.]

Laws 2000, chapter 254, section 30; and Laws 2000, chapter 489, article 1, section 18, are repealed."

Delete the title and insert:

"A bill for an act relating to education; providing for kindergarten through grade 12 education including general education revenue; education excellence; special programs; facilities and technology; nutrition, school accounting, and other programs; agency provisions; deficiencies; local achievement testing; and technical amendments; appropriating money; amending Minnesota Statutes 2000, sections 16B.616, subdivision 4; 120A.05, by adding a subdivision; 120B.02; 120B.031, subdivision 11; 120B.13, subdivision 1; 120B.30, subdivision 1; 120B.31, subdivision 3; 120B.35; 121A.11, by adding subdivisions; 121A.41, subdivision 10; 121A.45, subdivision 2, by adding a subdivision; 121A.582; 121A.61, subdivision 2; 122A.06, by adding a subdivision; 122A.09, subdivision 4; 122A.162; 122A.163; 122A.18, subdivisions 1, 2, 2a, 4, by adding subdivisions; 122A.20, subdivision 2; 122A.21; 122A.26, subdivision 3; 122A.31; 122A.61, subdivision 1; 123B.03, subdivision 3; 123B.143, subdivision 1; 123B.42, subdivision 3; 123B.44, subdivision 6; 123B.53, subdivisions 1, 2, 4, 5; 123B.54; 123B.57, subdivisions 3, 6; 123B.71, subdivisions 1, 4, 8, 9; 123B.75, subdivision 5, by adding subdivisions; 123B.80, subdivision 1; 123B.92, by adding subdivisions; 124D.10, subdivisions 1, 3, 4, 6, 8, 10, 14, 15, 19, 23, 25, by adding subdivisions; 124D.11, subdivisions 4, 5, 9; 124D.128, subdivisions 1, 2, 3, 6; 124D.454, subdivision 11; 124D.65, subdivision 5; 124D.69, subdivision 1; 124D.74, subdivisions 1, 2, 3, 4, 6; 124D.75, subdivision 6; 124D.76; 124D.78, subdivision 1; 124D.81, subdivisions 1, 3, 5, 6, 7; 124D.86, subdivisions 3, 6; 125A.023, subdivision 4; 125A.08; 125A.09, subdivision 3; 125A.11, subdivision 3; 125A.17; 125A.27, subdivision 15; 125A.76, subdivisions 1, 2; 126C.05, subdivisions 1, 3, 5, 6, 15; 126C.10, subdivisions 1, 2, 3, 9, 20, 21, 22, 24, 25, 27, by adding a subdivision; 126C.12, subdivisions 2, 3, 4, 5, by adding a subdivision; 126C.13, subdivision 1; 126C.15, subdivisions 1, 2, 5; 126C.16, by adding a subdivision; 126C.17, subdivisions 1, 2, 5, 6, 9, 10, 11; 126C.23, subdivision 5; 126C.41, subdivision 3; 126C.43, subdivision 3; 126C.63, subdivision 8; 126C.69, subdivisions 2, 3, 9, 12, 15; 127A.05, subdivision 1; 127A.41, subdivisions 5, 8, 9; 127A.45, subdivision 12, by adding a subdivision; 127A.50, subdivision 2; 136D.281, subdivision 4; 136D.741, subdivision 4; 136D.88, subdivision 4; 179A.20, by adding a subdivision; 214.01, subdivision 3; 214.04, subdivisions 1, 3; 214.12, subdivision 1; 260A.01; 260C.163, subdivision 11; 475.53, subdivision 4; 475.61, subdivision 3; 626.556, subdivision 2; Laws 1992, chapter 499, article 7, section 31, as amended; Laws 2000, chapter 489, article 2, sections 34, 36, 37, subdivision 3, 39, subdivision 2; Laws 2000, chapter 489, article 3, sections 24, 25, subdivision 5; Laws 2000, chapter 489, article 5, section 21; Laws 2000, chapter 489, article 7, section 15, subdivision 3; proposing coding for new law in Minnesota Statutes, chapters 120B; 122A; 124D; 127A; repealing Minnesota Statutes 2000, sections 120B.031; 120B.31, subdivisions 1, 2, 4; 123B.05; 123B.71, subdivisions 3, 10; 124D.07; 124D.1155; 124D.128, subdivision 7; 124D.32; 124D.85; 126C.01,

subdivision 10; 126C.10, subdivisions 3, 12, 23, 28; 126C.16, subdivision 2; 126C.17, subdivision 12; 126C.18; 126C.22; 126C.30; 126C.31; 126C.32; 126C.33; 126C.34; 126C.35; 126C.36; 126C.42, subdivisions 2, 3; 126C.47; 127A.44; 135A.081; 136D.281, subdivision 8; 136D.741, subdivision 8; 136D.88, subdivision 8; 136D.94; Laws 2000, chapter 254, section 30; Laws 2000, chapter 489, article 1, section 18; Minnesota Rules, parts 3501.0300; 3501.0310; 3501.0320; 3501.0330; 3501.0340; 3501.0350; 3501.0370; 3501.0380; 3501.0390; 3501.0400; 3501.0410; 3501.0420; 3501.0430; 3501.0440; 3501.0441; 3501.0442; 3501.0443; 3501.0444; 3501.0445; 3501.0446; 3501.0447; 3501.0448; 3501.0449; 3501.0450; 3501.0460; 3501.0461; 3501.0462; 3501.0463; 3501.0464; 3501.0465; 3501.0466; 3501.0467; 3501.0468; 3501.0469."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Taxes.

The report was adopted.

Goodno from the Committee on Health and Human Services Finance to which was referred:

H. F. No. 281, A bill for an act relating to civil commitment; modifying a definition; modifying the standard for an emergency hold; extending the potential hospitalization stay under early intervention; requiring certain hearings on neuroleptic medications to be combined with a civil commitment proceeding; amending Minnesota Statutes 2000, sections 253B.02, subdivision 13; 253B.05, subdivision 1; 253B.066, subdivision 1; and 253B.07, subdivision 2.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2000, section 253B.02, subdivision 13, is amended to read:

Subd. 13. [MENTALLY ILL PERSON.] (a) "Mentally ill person" means any person who has an organic disorder of the brain or a substantial psychiatric disorder of thought, mood, perception, orientation, or memory which grossly impairs judgment, behavior, capacity to recognize reality, or to reason or understand, which is manifested by instances of grossly disturbed behavior or faulty perceptions and poses a substantial likelihood of physical harm to self or others as demonstrated by:

(1) a an inability or failure for reasons other than indigence to obtain necessary food, clothing, shelter, or medical care as a result of the impairment; or and it is more probable than not that the person will suffer substantial harm, significant psychiatric deterioration or debilitation, or serious illness, unless appropriate treatment and services are provided;

(2) a recent attempt or threat to physically harm self or others; or

(3) recent and intentional conduct involving significant damage to substantial property.

(b) A person is not mentally ill under this section if the impairment is solely due to:

(1) epilepsy;

(2) mental retardation;

(3) brief periods of intoxication caused by alcohol, drugs, or other mind-altering substances; or

(4) dependence upon or addiction to any alcohol, drugs, or other mind-altering substances.

Sec. 2. Minnesota Statutes 2000, section 253B.03, subdivision 5, is amended to read:

Subd. 5. [PERIODIC ASSESSMENT.] A patient has the right to periodic medical assessment, including assessment of the medical necessity of continuing care and, if the treatment facility declines to provide continuing care, the right to receive specific written reasons why continuing care is declined at the time of the assessment. The treatment facility shall assess the physical and mental condition of every patient as frequently as necessary, but not less often than annually. If the patient refuses to be examined, the facility shall document in the patient's chart its attempts to examine the patient. If a person is committed as mentally retarded for an indeterminate period of time, the three-year judicial review must include the annual reviews for each year as outlined in Minnesota Rules, part 9525.0075, subpart 6.

Sec. 3. Minnesota Statutes 2000, section 253B.03, subdivision 10, is amended to read:

Subd. 10. [NOTIFICATION.] All persons admitted or committed to a treatment facility shall be notified in writing of their rights ~~under this chapter regarding hospitalization and other treatment~~ at the time of admission. This notification must include:

- (1) patient rights specified in this section and section 144.651, including nursing home discharge rights;
- (2) the right to obtain treatment and services voluntarily under this chapter;
- (3) the right to voluntary admission and release under section 253B.04;
- (4) rights in case of an emergency admission under section 253B.05, including the right to documentation in support of an emergency hold and the right to a summary hearing before a judge if the patient believes an emergency hold is improper;
- (5) the right to request expedited review under section 62M.05 if additional days of inpatient stay are denied;
- (6) the right to continuing benefits pending appeal and to an expedited administrative hearing under section 256.045 if the patient is a recipient of medical assistance, general assistance medical care, or MinnesotaCare; and
- (7) the right to an external appeal process under section 62Q.73, including the right to a second opinion.

Sec. 4. Minnesota Statutes 2000, section 253B.03, is amended by adding a subdivision to read:

Subd. 11. [PROXY.] A legally authorized health care proxy, agent, guardian, or conservator may exercise the patient's rights on the patient's behalf.

Sec. 5. Minnesota Statutes 2000, section 253B.04, subdivision 1, is amended to read:

Subdivision 1. [VOLUNTARY ADMISSION AND TREATMENT.] (a) Voluntary admission is preferred over involuntary commitment and treatment. Any person 16 years of age or older may request to be admitted to a treatment facility as a voluntary patient for observation, evaluation, diagnosis, care and treatment without making formal written application. Any person under the age of 16 years may be admitted as a patient with the consent of a parent or legal guardian if it is determined by independent examination that there is reasonable evidence that (1) the proposed patient has a mental illness, or is mentally retarded or chemically dependent; and (2) the proposed patient is suitable for treatment. The head of the treatment facility shall not arbitrarily refuse any person seeking admission as a voluntary patient. In making decisions regarding admissions, the facility shall use clinical admission criteria consistent with the current applicable inpatient admission standards established by the American Psychiatric Association or the American Academy of Child and Adolescent Psychiatry. These criteria must be no more restrictive than, and must be consistent with, the requirements of section 62Q.53. The facility may not refuse to admit a person voluntarily solely because the person does not meet the criteria for involuntary holds under section 253B.05 or the definition of mental illness under section 253B.02, subdivision 13.

(b) In addition to the consent provisions of paragraph (a), a person who is 16 or 17 years of age who refuses to consent personally to admission may be admitted as a patient for mental illness or chemical dependency treatment with the consent of a parent or legal guardian if it is determined by an independent examination that there is reasonable evidence that the proposed patient is chemically dependent or has a mental illness and is suitable for treatment. The person conducting the examination shall notify the proposed patient and the parent or legal guardian of this determination.

Sec. 6. Minnesota Statutes 2000, section 253B.04, subdivision 1a, is amended to read:

Subd. 1a. [VOLUNTARY TREATMENT OR ADMISSION FOR PERSONS WITH MENTAL ILLNESS.] (a) A person with a mental illness may seek or voluntarily agree to accept treatment or admission to a facility. If the mental health provider determines that the person lacks the capacity to give informed consent for the treatment or admission, and in the absence of a health care power of attorney that authorizes consent, the designated agency or its designee may give informed consent for mental health treatment or admission to a treatment facility on behalf of the person.

(b) The designated agency shall apply the following criteria in determining the person's ability to give informed consent:

(1) whether the person demonstrates an awareness of the person's illness, and the reasons for treatment, its risks, benefits and alternatives, and the possible consequences of refusing treatment; and

(2) whether the person communicates verbally or nonverbally a clear choice concerning treatment that is a reasoned one, not based on delusion, even though it may not be in the person's best interests.

(c) The basis for the designated agency's decision that the person lacks the capacity to give informed consent for treatment or admission, and that the patient has voluntarily accepted treatment or admission, must be documented in writing.

(d) A mental health provider that provides treatment in reliance on the written consent given by the designated agency under this subdivision or by a substitute decision-maker appointed by the court is not civilly or criminally liable for performing treatment without consent. This paragraph does not affect any other liability that may result from the manner in which the treatment is performed.

(e) A person who receives treatment or is admitted to a facility under this subdivision or subdivision 1b has the right to refuse treatment at any time or to be released from a facility as provided under subdivision 2. The person or any interested person acting on the person's behalf may seek court review within five days for a determination of whether the person's agreement to accept treatment or admission is voluntary. At the time a person agrees to treatment or admission to a facility under this subdivision, the designated agency or its designee shall inform the person in writing of the person's rights under this paragraph.

(f) This subdivision does not authorize the administration of neuroleptic medications. Neuroleptic medications may be administered only as provided in section 253B.092.

Sec. 7. Minnesota Statutes 2000, section 253B.04, is amended by adding a subdivision to read:

Subd. 1b. [COURT APPOINTMENT OF SUBSTITUTE DECISION-MAKER.] If the designated agency or its designee declines or refuses to give informed consent under subdivision 1a, the person who is seeking treatment or admission, or an interested person acting on behalf of the person, may petition the court for appointment of a substitute decision-maker who may give informed consent for voluntary treatment and services. In making this determination, the court shall apply the criteria in subdivision 1a, paragraph (b).

Sec. 8. Minnesota Statutes 2000, section 253B.05, subdivision 1, is amended to read:

Subdivision 1. [EMERGENCY HOLD.] (a) Any person may be admitted or held for emergency care and treatment in a treatment facility with the consent of the head of the treatment facility upon a written statement by an examiner that:

(1) the examiner has examined the person not more than 15 days prior to admission;

(2) the examiner is of the opinion, for stated reasons, that the person is mentally ill, mentally retarded or chemically dependent, and is in ~~imminent~~ danger of causing injury to self or others if not immediately ~~restrained, detained;~~ and

(3) an order of the court cannot be obtained in time to prevent the anticipated injury.

(b) If the proposed patient has been brought to the treatment facility by another person, the examiner shall make a good-faith effort to obtain a statement of information that is available from that person, which must be taken into consideration in deciding whether to place the proposed patient on an emergency hold. The statement of information must include direct observations of the proposed patient's behaviors, reliable knowledge of recent and past behavior, and information regarding psychiatric history, past treatment, and current mental health providers. The examiner shall also inquire into the existence of health care directives under chapter 145, and advance psychiatric directives under section 253B.03, subdivision 6d.

(c) The examiner's statement shall be: (1) sufficient authority for a peace or health officer to transport a patient to a treatment facility, (2) stated in behavioral terms and not in conclusory language, and (3) of sufficient specificity to provide an adequate record for review. If imminent danger to specific individuals is a basis for the emergency hold, the statement must identify those individuals, to the extent practicable. A copy of the examiner's statement shall be personally served on the person immediately upon admission and a copy shall be maintained by the treatment facility.

Sec. 9. Minnesota Statutes 2000, section 253B.066, subdivision 1, is amended to read:

Subdivision 1. [TREATMENT ALTERNATIVES.] If the court orders early intervention under section 253B.065, subdivision 5, the court may include in its order a variety of treatment alternatives including, but not limited to, day treatment, medication compliance monitoring, and short-term hospitalization not to exceed ~~ten~~ 21 days.

If the court orders short-term hospitalization and the proposed patient will not go voluntarily, the court may direct a health officer, peace officer, or other person to take the person into custody and transport the person to the hospital.

Sec. 10. Minnesota Statutes 2000, section 253B.07, subdivision 1, is amended to read:

Subdivision 1. [PREPETITION SCREENING.] (a) Prior to filing a petition for commitment of or early intervention for a proposed patient, an interested person shall apply to the designated agency in the county of the proposed patient's residence or presence for conduct of a preliminary investigation, except when the proposed patient has been acquitted of a crime under section 611.026 and the county attorney is required to file a petition for commitment. The designated agency shall appoint a screening team to conduct an investigation ~~which shall include.~~ The petitioner may not be a member of the screening team. The investigation must include:

~~(i)~~ (1) a personal interview with the proposed patient and other individuals who appear to have knowledge of the condition of the proposed patient. If the proposed patient is not interviewed, specific reasons must be documented;

~~(ii)~~ (2) identification and investigation of specific alleged conduct which is the basis for application;

~~(iii)~~ (3) identification, exploration, and listing of the specific reasons for rejecting or recommending alternatives to involuntary placement;

(iv) (4) in the case of a commitment based on mental illness, the following information, if it is known or available: information, that may be relevant to the administration of neuroleptic medications, if necessary, including the existence of a declaration under section 253B.03, subdivision 6d, or a health care directive under chapter 145C or a guardian, conservator, proxy, or agent with authority to make health care decisions for the proposed patient; information regarding the capacity of the proposed patient to make decisions regarding administration of neuroleptic medication; and whether the proposed patient is likely to consent or refuse consent to administration of the medication; ~~and~~

(v) (5) seeking input from the proposed patient's health plan company to provide the court with information about services the enrollee needs and the least restrictive alternatives; and

(6) in the case of a commitment based on mental illness, information listed in clause (4) for other purposes relevant to treatment.

(b) In conducting the investigation required by this subdivision, the screening team shall have access to all relevant medical records of proposed patients currently in treatment facilities. Data collected pursuant to this clause shall be considered private data on individuals. The prepetition screening report is not admissible as evidence except by agreement of counsel and is not admissible in any court proceedings unrelated to the commitment proceedings.

(c) The prepetition screening team shall provide a notice, written in easily understood language, to the proposed patient, the petitioner, persons named in a declaration under chapter 145C or section 253B.03, subdivision 6d, and, with the proposed patient's consent, other interested parties. The team shall ask the patient if the patient wants the notice read and shall read the notice to the patient upon request. The notice must contain information regarding the process, purpose, and legal effects of civil commitment and early intervention. The notice must inform the proposed patient that:

(1) if a petition is filed, the patient has certain rights, including the right to a court-appointed attorney, the right to request a second examiner, the right to attend hearings, and the right to oppose the proceeding and to present and contest evidence; and

(2) if the proposed patient is committed to a state regional treatment center or group home, the patient may be billed for the cost of care and the state has the right to make a claim against the patient's estate for this cost.

The ombudsman for mental health and mental retardation shall develop a form for the notice, which includes the requirements of this paragraph.

(d) When the prepetition screening team recommends commitment, a written report shall be sent to the county attorney for the county in which the petition is to be filed. The statement of facts contained in the written report must meet the requirements of subdivision 2, paragraph (b).

(iv) (e) The prepetition screening team shall refuse to support a petition if the investigation does not disclose evidence sufficient to support commitment. Notice of the prepetition screening team's decision shall be provided to the prospective petitioner and to the proposed patient.

(v) (f) If the interested person wishes to proceed with a petition contrary to the recommendation of the prepetition screening team, application may be made directly to the county attorney, who may shall determine whether or not to proceed with the petition. Notice of the county attorney's determination shall be provided to the interested party.

(vi) (g) If the proposed patient has been acquitted of a crime under section 611.026, the county attorney shall apply to the designated county agency in the county in which the acquittal took place for a preliminary investigation unless substantially the same information relevant to the proposed patient's current mental condition, as could be obtained by a preliminary investigation, is part of the court record in the criminal proceeding or is contained in the report of a mental examination conducted in connection with the criminal proceeding. If a court petitions for commitment

pursuant to the rules of criminal or juvenile procedure or a county attorney petitions pursuant to acquittal of a criminal charge under section 611.026, the prepetition investigation, if required by this section, shall be completed within seven days after the filing of the petition.

Sec. 11. Minnesota Statutes 2000, section 253B.07, subdivision 2, is amended to read:

Subd. 2. [THE PETITION.] (a) Any interested person, except a member of the prepetition screening team, may file a petition for commitment in the district court of the county of the proposed patient's residence or presence. If the head of the treatment facility believes that commitment is required and no petition has been filed, the head of the treatment facility shall petition for the commitment of the person.

(b) The petition shall set forth the name and address of the proposed patient, the name and address of the patient's nearest relatives, and the reasons for the petition. The petition must contain factual descriptions of the proposed patient's recent behavior, including a description of the behavior, where it occurred, and the time period over which it occurred. Each factual allegation must be supported by observations of witnesses named in the petition. Petitions shall be stated in behavioral terms and shall not contain judgmental or conclusory statements.

(c) The petition shall be accompanied by a written statement by an examiner stating that the examiner has examined the proposed patient within the 15 days preceding the filing of the petition and is of the opinion that the proposed patient is suffering a designated disability and should be committed to a treatment facility. The statement shall include the reasons for the opinion. In the case of a commitment based on mental illness, the petition and the examiner's statement ~~may~~ shall include, to the extent this information is available, a statement and opinion regarding the proposed patient's need for treatment with neuroleptic medication and the patient's capacity to make decisions regarding the administration of neuroleptic medications, and the reasons for the opinion. If use of neuroleptic medications is recommended, the petition for commitment must include a request for proceedings under section 253B.092. If a petitioner has been unable to secure a statement from an examiner, the petition shall include documentation that a reasonable effort has been made to secure the supporting statement.

Sec. 12. Minnesota Statutes 2000, section 253B.09, subdivision 1, is amended to read:

Subdivision 1. [STANDARD OF PROOF.] (a) If the court finds by clear and convincing evidence that the proposed patient is a mentally ill, mentally retarded, or chemically dependent person and after careful consideration of reasonable alternative dispositions, including but not limited to, dismissal of petition, voluntary outpatient care, voluntary admission to a treatment facility, appointment of a guardian or conservator, or release before commitment as provided for in subdivision 4, it finds that there is no suitable alternative to judicial commitment, the court shall commit the patient to the least restrictive treatment program or alternative programs which can meet the patient's treatment needs consistent with section 253B.03, subdivision 7.

(b) In deciding on the least restrictive program, the court shall consider a range of treatment alternatives including, but not limited to, community-based nonresidential treatment, community residential treatment, partial hospitalization, acute care hospital, and regional treatment center services. The court shall also consider the proposed patient's treatment preferences and willingness to participate voluntarily in the treatment ordered. The court may not commit a patient to a facility or program that is not capable of meeting the patient's needs.

(c) For purposes of findings under this chapter, none of the following constitute a refusal to accept appropriate mental health treatment:

(1) a willingness to take medication but a reasonable disagreement about type or dosage;

(2) a good-faith effort to follow a reasonable alternative treatment plan, including treatment as specified in a valid advance directive under chapter 145C or section 253B.03, subdivision 6d;

(3) an inability to obtain access to appropriate treatment because of inadequate health care coverage or an insurer's refusal or delay in providing coverage for the treatment; or

(4) an inability to obtain access to needed mental health services because the provider will only accept patients who are under a court order or because the provider gives persons under a court order a priority over voluntary patients in obtaining treatment and services."

Delete the title and insert:

"A bill for an act relating to civil commitment; modifying a definition; specifying certain patient rights and examination requirements; expanding voluntary consent procedures; modifying the standard for and collection of information for an emergency hold; requiring certain hearings on neuroleptic medications to be combined with a civil commitment proceeding; amending Minnesota Statutes 2000, sections 253B.02, subdivision 13; 253B.03, subdivisions 5, 10, by adding a subdivision; 253B.04, subdivisions 1, 1a, by adding a subdivision; 253B.05, subdivision 1; 253B.066, subdivision 1; 253B.07, subdivisions 1, 2; 253B.09, subdivision 1."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Ways and Means.

The report was adopted.

Bishop from the Committee on Ways and Means to which was referred:

H. F. No. 351, A bill for an act relating to the operation of state government; crime prevention and judiciary finance; appropriating money for the judicial branch, public defense, human rights, corrections, public safety, crime victims, and related purposes; establishing and expanding grant programs, task forces, and pilot projects; requiring reports and studies; transferring, modifying, and expanding responsibility for various governmental responsibilities; providing procedures and policies for integrated criminal justice information systems; adopting various provisions relating to corrections; imposing, clarifying, and expanding certain criminal and civil provisions and penalties; making certain changes related to sex offenders and sex offender registration; providing for state funding of certain programs and personnel; abolishing the office of the ombudsman for corrections; eliminating the Camp Ripley weekend camp program; increasing certain fees and modifying the allocation of certain fees; establishing a theft prevention advisory board; establishing a felony-level penalty for driving while impaired; modifying certain policies and procedures relating to domestic violence; making technical changes to the driving while impaired laws; amending Minnesota Statutes 2000, sections 2.724, subdivision 3; 8.16, subdivision 1; 13.87, by adding a subdivision; 15A.083, subdivision 4; 169A.03, subdivision 12, by adding subdivisions; 169A.20, subdivision 3; 169A.25; 169A.26; 169A.27; 169A.275, subdivisions 3, 5; 169A.277, subdivision 2; 169A.28, subdivision 2; 169A.283, subdivision 1; 169A.37, subdivision 1; 169A.40, subdivision 3; 169A.41, subdivision 2; 169A.51, subdivision 7; 169A.54, subdivision 6; 169A.60, subdivisions 1, 13, 14; 169A.63, subdivision 1; 171.09; 171.29, subdivision 2; 241.272, subdivision 6; 242.192; 243.166, subdivisions 1, 3, 4a, 6; 243.167, subdivision 1; 243.51, subdivisions 1, 3; 299A.75, subdivision 1, by adding subdivisions; 299C.10, subdivision 1; 299C.11; 299C.147, subdivision 2; 299C.65, subdivisions 1, 2; 299F.058, subdivision 2; 343.20, by adding subdivisions; 343.21, subdivisions 9, 10, by adding a subdivision; 518B.01, subdivisions 2, 3, 6, 14; 609.02, by adding a subdivision; 609.035, subdivision 2; 609.117; 609.224, subdivisions 2, 4; 609.2242, subdivisions 2, 4; 609.487, subdivision 4; 609.495, subdivisions 1, 3; 609.521; 609.748, subdivisions 6, 8; 609.749, subdivisions 4, 5; 611.23; 611.272; 611A.201, subdivision 2; 611A.32, by adding a subdivision; 611A.74, subdivisions 1, 1a; 617.247, subdivisions 3, 4; 626.52; 626.55, subdivision 1; 629.471, subdivision 2; 629.72; Laws 1996, chapter 408, article 2, section 16; proposing coding for new law in Minnesota Statutes, chapters 8; 15A; 169A; 299A; 299C; 518; 518B; 609; 626; repealing Minnesota Statutes 2000, sections 169A.275, subdivision 4; 241.41; 241.42; 241.43; 241.44; 241.441; 241.45; 243.166, subdivision 10; 609.2244, subdivision 4; 626.55, subdivision 2.

Reported the same back with the following amendments:

Page 4, after line 3, insert:

"\$200,000 the first year and \$175,000 the second year are appropriated to the court of appeals for legal research assistance."

Page 9, line 47, after "release" insert "and to provide treatment to these offenders"

Page 14, after line 29, insert:

"\$1,332,000 the first year and \$1,357,000 the second year from the general fund, and notwithstanding Minnesota Statutes, section 161.20, subdivision 3, \$354,000 the first year and \$361,000 the second year from the trunk highway fund are for laboratory analysis related to driving while intoxicated cases."

Page 17, line 8, delete "33,702,000" and insert "31,702,000" and delete "29,713,000" and insert "31,713,000"

Page 17, line 9, delete "\$2,500,000" and insert "\$1,500,000" and delete "\$500,000" and insert "\$1,500,000"

Page 17, line 17, after the period, insert "Of these amounts, \$1,000,000 each year must be reallocated from within the crime victims services center base budget."

Page 17, delete lines 18 to 21

Page 21, line 20, move "35,000" from the column for fiscal year 2003 to the column for fiscal year 2002

Pages 49 to 50, delete section 2

Pages 50 to 53, delete sections 4 and 5

Page 54, delete section 8

Page 120, after line 25, insert:

"ARTICLE 12

MARRIAGE DISSOLUTION, LEGAL SEPARATION, AND ANNULMENT

Section 1. [517A.25] [SIX-MONTH REVIEW.]

(a) A decree of dissolution or legal separation or an order that establishes child custody, parenting time, or support rights and obligations of parents must contain a review date six months after its entry. At the six-month hearing, the court must review:

(1) whether child support is current; and

(2) whether both parties are complying with the parenting time provisions of the order.

(b) At the six-month hearing, the obligor has the burden to present evidence to establish that child support payments are current. A party may request that the public authority provide information to the parties and court regarding child support payments. A party must request the information from the public authority at least 14 days before the hearing. The commissioner of human services must develop a form to be used by the public authority to submit child support payment information to the parties and court.

(c) A hearing need not be held under this section if both parties file an affidavit with the court administrator before the scheduled hearing date indicating that child support is current and that the parties are complying with the parenting time provisions of the order.

(d) Contempt of court and all statutory remedies for child support and parenting time enforcement may be imposed by the court at the six-month hearing for noncompliance by either party.

(e) At least one month before the six-month hearing, a court administrator must send the parties written notice of the hearing. The written notice must include a statement that an obligor has the burden to present evidence at the hearing to establish that child support payments are current. The written notice also must include a statement that a hearing will not be held if both parties submit an affidavit to the court administrator before the hearing date indicating that child support is current and that the parties are in compliance with parenting time provisions.

Sec. 2. Minnesota Statutes 2000, section 518.002, is amended to read:

518.002 [~~USE TERM DISSOLUTION MEANING OF DIVORCE.~~]

~~Wherever the word "Divorce" is, as used in the statutes, it has the same meaning as "dissolution" or "dissolution of marriage."~~

Sec. 3. Minnesota Statutes 2000, section 518.003, subdivision 1, is amended to read:

~~Subdivision 1. [SCOPE.] For the purposes of The definitions in this section apply to this chapter, the following terms have the meanings provided in this section unless the context clearly requires otherwise.~~

Sec. 4. Minnesota Statutes 2000, section 518.005, is amended to read:

518.005 [RULES GOVERNING PROCEEDINGS.]

~~Subdivision 1. [APPLICABLE RULES.] Unless otherwise specifically provided, the rules of civil procedure for the district court apply to all proceedings under this chapter and chapters 517B and 517C.~~

~~Subd. 2. [TITLE.] A proceeding for dissolution of marriage, legal separation, or annulment shall must be entitled "In re the Marriage of and" A custody or support proceeding shall be entitled "In re the (Custody) (Support) of"~~

~~Subd. 3. [NAMES OF PLEADINGS.] The initial pleading in all proceedings under sections 518.002 to 518.66 shall this chapter and chapters 517B and 517C must be denominated a petition. A responsive pleading shall must be denominated an answer. Other pleadings shall must be denominated as provided in the rules of civil procedure.~~

~~Subd. 4. [DECREE; JUDGMENT.] In sections 518.002 to 518.66 this chapter and chapters 517B and 517C, "decree" includes "judgment."~~

~~Subd. 5. [PROHIBITED DISCLOSURE.] In all proceedings under this chapter and chapters 517B and 517C, in which public assistance is assigned under section 256.741 or the public authority provides services to a party or parties to the proceedings, notwithstanding statutory or other authorization for the public authority to release private data on the location of a party to the action, information on the location of one party may not be released by the public authority to the other party if:~~

~~(1) the public authority has knowledge that a protective order with respect to the other party has been entered; or~~

~~(2) the public authority has reason to believe that the release of the information may result in physical or emotional harm to the other party.~~

Subd. 6. [REQUIRED NOTICE.] Every court order or judgment and decree that provides for child support, spousal maintenance, custody, or parenting time must contain the notices required by section 517C.99.

Sec. 5. Minnesota Statutes 2000, section 518.01, is amended to read:

518.01 [VOID MARRIAGES.]

~~All marriages which are~~ A marriage prohibited by section 517.03 ~~shall be absolutely~~ is void, without any decree of dissolution or other legal proceedings; except if a person whose husband or wife has been absent for four successive years, without being known to the person to be living during that time, marries during the lifetime of the absent husband or wife, the marriage ~~shall be~~ is void only from the time that its nullity is duly adjudged. If the absentee is declared dead in accordance with section 576.142, the subsequent marriage ~~shall~~ is not ~~be~~ void.

Sec. 6. Minnesota Statutes 2000, section 518.02, is amended to read:

518.02 [VOIDABLE MARRIAGES.]

A marriage ~~shall~~ must be declared a nullity ~~under the following circumstances if:~~

~~(a) (1)~~ (1) a party lacked capacity to consent to the marriage at the time the marriage was solemnized, ~~either~~ because of: (i) mental incapacity or infirmity ~~and if the other party at the time the marriage was solemnized did not know of the incapacity; or because of~~ (ii) the influence of alcohol, drugs, or other incapacitating substances; or ~~because~~ (iii) consent of either ~~was~~ having been obtained by force or fraud ~~and there was with~~ no subsequent voluntary cohabitation of the parties;

~~(b) (2)~~ (2) a party lacks the physical capacity to consummate the marriage by sexual intercourse and the other party at the time the marriage was solemnized did not know of the incapacity; or

~~(c) (3)~~ (3) a party was under the age for marriage established by section 517.02.

Sec. 7. Minnesota Statutes 2000, section 518.03, is amended to read:

518.03 [ACTION TO ANNUL; DECREE.]

An annulment ~~shall~~ must be commenced ~~and~~ the complaint ~~shall be~~ filed, and proceedings had as in proceedings for dissolution. Upon due proof of the nullity of the marriage, it ~~shall~~ must be adjudged null and void.

The provisions of sections 518.54 to 518.66 relating to property rights of the spouses, maintenance, support, and custody of children on dissolution of marriage are applicable to proceedings for annulment.

Sec. 8. Minnesota Statutes 2000, section 518.04, is amended to read:

518.04 [INSUFFICIENT GROUNDS FOR ANNULMENT.]

No marriage ~~shall~~ may be adjudged a nullity on the ground that one of the parties was under the age of legal consent if it appears that the parties had voluntarily cohabited together as husband and wife after having attained ~~such that age; nor shall~~. The marriage of ~~any~~ an insane person must not be adjudged void after restoration of the insane person to reason, if it appears that the parties freely cohabited together as husband and wife after ~~such~~ the restoration to reason.

Sec. 9. Minnesota Statutes 2000, section 518.05, is amended to read:

518.05 [ANNULMENT; WHEN TO BRING.]

An annulment may be sought by any of the following persons and must be commenced within the times specified, but in no event may an annulment be sought after the death of either party to the marriage:

(a) ~~For a reason set forth in (1) under~~ section 518.02, clause ~~(a) (1)~~, by either party or by the legal representative of the party who lacked capacity to consent, no later than 90 days after the petitioner obtained knowledge of the described condition;

(b) ~~For the reason set forth in (2) under~~ section 518.02, clause ~~(b) (2)~~, by either party no later than one year after the petitioner obtained knowledge of the described condition;

(c) ~~For the reason set forth in (3) under~~ section 518.02, clause ~~(c) (3)~~, by the underaged party; or the party's parent or guardian; before the time the underaged party reaches the age at which the party could have married without satisfying the omitted requirement.

Sec. 10. Minnesota Statutes 2000, section 518.055, is amended to read:

518.055 [PUTATIVE SPOUSE.]

Any person who has cohabited with another to whom the person is not legally married in the good faith belief that the person was married to the other is a putative spouse until knowledge of the fact that the person is not legally married terminates the status and prevents acquisition of further rights. A putative spouse acquires the rights conferred upon a legal spouse, including the right to maintenance following termination of the status, whether or not the marriage is prohibited or declared a nullity. If there is a legal spouse or other putative spouses, rights acquired by a putative spouse do not supersede the rights of the legal spouse or those acquired by other putative spouses, but the court ~~shall~~ must apportion property, maintenance, and support rights among the claimants as appropriate in the circumstances and in the interests of justice.

Sec. 11. Minnesota Statutes 2000, section 518.06, is amended to read:

518.06 [DISSOLUTION OF MARRIAGE; LEGAL SEPARATION; GROUNDS; UNCONTESTED LEGAL SEPARATION.]

Subdivision 1. [MEANING AND EFFECT OF DECREES; GROUNDS.] A dissolution of marriage is the termination of the marital relationship between a husband and wife. A decree of dissolution completely terminates the marital status of both parties. A legal separation is a court determination of the rights and responsibilities of a husband and wife arising out of the marital relationship. A decree of legal separation does not terminate the marital status of the parties.

A dissolution of a marriage ~~shall~~ must be granted ~~by a county or district court when~~ if the court finds that there has been an irretrievable breakdown of the marriage relationship. A ~~decree of~~ legal separation ~~shall~~ must be granted ~~when~~ if the court finds that one or both parties need a legal separation.

Defenses to divorce, dissolution and legal separation, including, but not limited to, condonation, connivance, collusion, recrimination, insanity, and lapse of time, are abolished.

Subd. 3. [UNCONTESTED LEGAL SEPARATION.] If one or both parties petition for a decree of legal separation and neither party contests the granting of the decree nor petitions for a decree of dissolution, the court ~~shall~~ must grant a decree of legal separation.

Sec. 12. Minnesota Statutes 2000, section 518.07, is amended to read:

518.07 [RESIDENCE OF PARTIES.]

~~No~~ A dissolution ~~shall~~ must not be granted unless (1) one of the parties has resided in this state; or ~~has~~ been a member of the armed services stationed in this state; for ~~not less than~~ at least 180 days immediately preceding the commencement of the proceeding; or (2) one of the parties has been a domiciliary of this state for ~~not less than~~ at least 180 days immediately preceding commencement of the proceeding.

Sec. 13. Minnesota Statutes 2000, section 518.09, is amended to read:

518.09 [PROCEEDING; HOW AND WHERE BROUGHT; VENUE.]

A proceeding for dissolution or legal separation may be brought by either or both spouses and ~~shall be~~ is commenced by personal service of the summons and petition venued in the county where either spouse resides. If neither party resides in the state and jurisdiction is based on the domicile of either ~~spouse party~~, the proceeding may be brought in the county where either party is domiciled. If neither party resides or is domiciled in this state and jurisdiction is premised upon one of the parties being a member of the armed services stationed in this state for not less than 180 days immediately preceding the commencement of the proceeding, the proceeding may be brought in the county where the member is stationed. This venue ~~shall be~~ is subject to the court's power ~~of the court~~ to change the place of hearing by consent of the parties, ~~or when~~ if it appears to the court that an impartial hearing cannot be had in the county where the proceedings are pending, ~~or when~~ if the convenience of the parties or the ends of justice would be promoted by the change. No summons ~~shall be~~ is required if a joint petition is filed.

Sec. 14. Minnesota Statutes 2000, section 518.10, is amended to read:

518.10 [REQUISITES OF PETITION.]

~~The~~ A petition for dissolution of marriage or legal separation ~~shall~~ must state and allege:

(~~a~~) (1) the name, address, and, in circumstances in which child support or spousal maintenance will be addressed, social security number of the petitioner and any prior or other name used by the petitioner;

(~~b~~) (2) the name and, if known, the address and, in circumstances in which child support or spousal maintenance will be addressed, social security number of the respondent and any prior or other name used by the respondent and known to the petitioner;

(~~c~~) (3) the place and date of the marriage of the parties;

(~~d~~) (4) in the case of a petition for dissolution, that either the petitioner or the respondent or both:

(~~1~~) (i) has resided in this state for not less than 180 days immediately preceding the commencement of the proceeding; ~~or;~~

(~~2~~) (ii) has been a member of the armed services and has been stationed in this state for not less than 180 days immediately preceding the commencement of the proceeding; ~~or;~~

(~~3~~) (iii) has been a domiciliary of this state for not less than 180 days immediately preceding the commencement of the proceeding;

(~~e~~) (5) the name at the time of the petition and any prior or other name, social security number, age, and date of birth of each living minor or dependent child of the parties born before the marriage or born or adopted during the marriage and a reference to, and the expected date of birth of, a child of the parties conceived during the marriage but not born;

(f) (6) whether or not a separate proceeding for dissolution, legal separation, or custody is pending in a court in this state or elsewhere;

(g) (7) in the case of a petition for dissolution, that there has been an irretrievable breakdown of the marriage relationship;

(h) (8) in the case of a petition for legal separation, that there is a need for a decree of legal separation;

(i) (9) any temporary or permanent maintenance, child support, child custody, disposition of property, attorneys' fees, costs and disbursements applied for without setting forth the amounts; and

(j) (10) whether an order for protection under chapter 518B or a similar law of another state that governs the parties or a party and a minor child of the parties is in effect and, if so, the district court or similar jurisdiction in which it was entered.

The petition ~~shall~~ must be verified by the petitioner or petitioners, and its allegations established by competent evidence.

Sec. 15. Minnesota Statutes 2000, section 518.11, is amended to read:

518.11 [SERVICE; ALTERNATE SERVICE; PUBLICATION.]

(a) Unless a proceeding is brought by both parties, copies of the summons and petition ~~shall~~ must be served on the respondent personally.

(b) ~~When Service is made out of this state and within the United States, it may be proved by the affidavit of the person making the same service. When Service is made without outside of the United States it may be proved by the affidavit of the person making the same service, taken before and certified by any United States minister, charge d'affaires, commissioner, consul or commercial agent, or other consular or diplomatic officer of the United States appointed to reside in such the country, including all deputies a deputy or other representatives representative of such the officer authorized to perform their the officer's duties; or before an officer authorized to administer an oath with the certificate of an officer of a court of record of the country wherein such in which the affidavit is taken as to the identity and authority of the officer taking the same affidavit.~~

(c) If personal service cannot be made, the court may order service of the summons by alternate means. The application for alternate service must include the last known location of the respondent; the petitioner's most recent contacts with the respondent; the last known location of the respondent's employment; the names and locations of the respondent's parents, siblings, children, and other close relatives; the names and locations of other persons who are likely to know the respondent's whereabouts; and a description of efforts to locate those persons.

The court ~~shall~~ must consider the length of time the respondent's location has been unknown, the likelihood that the respondent's location will become known, the nature of the relief sought, and the nature of efforts made to locate the respondent. The court ~~shall~~ must order service by first class mail, forwarding address requested, to any addresses where there is a reasonable possibility that mail or information will be forwarded or communicated to the respondent or, if no address so qualifies, then to the respondent's last known address.

If the petitioner seeks disposition of real estate located ~~within the state of~~ in Minnesota, the court ~~shall~~ must order that the summons, which ~~shall~~ must contain the legal description of the real estate, be published in the county where the real estate is located. The court may also order publication, within or without the state, but only if it might reasonably succeed in notifying the respondent of the proceeding. Also, the court may require the petitioner to make efforts to locate the respondent by telephone calls to appropriate persons. Service ~~shall be~~ is deemed complete 21 days after mailing or 21 days after court-ordered publication.

Sec. 16. Minnesota Statutes 2000, section 518.12, is amended to read:

518.12 [TIME FOR ANSWERING.]

The respondent ~~shall have~~ has 30 days in which to answer the petition. In case of service by publication, the 30 days ~~shall does~~ does not begin to run until the expiration of the period allowed for publication. In the case of a counterpetition for dissolution or legal separation to a petition for dissolution or legal separation, no answer ~~shall be is~~ is required to the counterpetition and the original petitioner ~~shall be is~~ is deemed to have denied each and every statement, allegation, and claim in the counterpetition.

Sec. 17. Minnesota Statutes 2000, section 518.13, is amended to read:

518.13 [FAILURE TO ANSWER; FINDINGS; HEARING.]

Subdivision 1. [DEFAULT.] If the respondent does not appear after service duly made and proved, the court may hear and determine the proceeding as a default matter.

Subd. 2. [DISPUTE OVER IRRETRIEVABLE BREAKDOWN.] If one of the parties has denied under oath or affirmation that the marriage is irretrievably broken, the court ~~shall must~~ must consider all relevant factors, including the circumstances that gave rise to the commencement of the proceeding and the prospect of reconciliation, and ~~shall~~ shall make a finding whether the marriage is irretrievably broken.

A finding of irretrievable breakdown under this subdivision is a determination that there is no reasonable prospect of reconciliation. The finding must be supported by evidence that (i) the parties have lived separate and apart for a period of not less than 180 days immediately preceding the commencement of the proceeding, or (ii) there is serious marital discord adversely affecting the attitude of one or both of the parties toward the marriage.

Subd. 3. [AGREEMENT OVER IRRETRIEVABLE BREAKDOWN.] If both parties by petition or otherwise have stated under oath or affirmation that the marriage is irretrievably broken; or one of the parties has so stated and the other has not denied it, the court, after hearing, ~~shall must~~ must make a finding that the marriage is irretrievably broken.

Subd. 4. [REFEREE; OPEN COURT.] The court or judge, upon application, may refer the proceeding to a referee to take and report the evidence ~~therein~~. Hearings for dissolution of marriage ~~shall must~~ must be heard in open court or before a referee appointed by the court to receive the testimony of the witnesses; or depositions taken as in other equitable actions. However, the court may in its discretion close the hearing.

Subd. 5. [APPROVAL WITHOUT HEARING.] Proposed findings of fact, conclusions of law, order for judgment, and judgment and decree must be submitted to the court for approval and filing without a final hearing in the following situations:

(1) if there are no minor children of the marriage, and (i) the parties have entered into a written stipulation, or (ii) the respondent has not appeared after service duly made and proved by affidavit and at least 20 days have elapsed since the time for answering under section 518.12 expired; or

(2) if there are minor children of the marriage, the parties have signed and acknowledged a stipulation, and all parties are represented by counsel.

Notwithstanding clause (1) or (2), the court ~~shall must~~ must schedule the matter for hearing ~~in any case where~~ if the proposed judgment and decree does not appear to be in the best interests of the minor children or is contrary to the interests of justice.

Sec. 18. Minnesota Statutes 2000, section 518.131, is amended to read:

518.131 [TEMPORARY ORDERS AND RESTRAINING ORDERS.]

Subdivision 1. [PERMISSIBLE ORDERS.] In a proceeding brought for custody, dissolution, or legal separation, or for disposition of property; or maintenance; ~~or child support~~ following the dissolution of a marriage, either party may, by motion, request from the court and the court may grant a temporary order pending the final disposition of the proceeding to or for:

(~~a~~) (1) temporary custody and parenting time regarding the minor children of the parties;

(~~b~~) (2) temporary maintenance of either spouse;

(~~c~~) ~~temporary child support for the children of the parties;~~

(~~d~~) (3) temporary costs and reasonable attorney fees;

(~~e~~) (4) award the temporary use and possession, exclusive or otherwise, of the family home, furniture, household goods, automobiles, and other property of the parties;

(~~f~~) (5) restrain one or both parties from transferring, encumbering, concealing, or disposing of property except in the usual course of business or for the necessities of life, and to account to the court for all such transfers, encumbrances, dispositions, and expenditures made after the order is served or communicated to the party restrained in open court;

(~~g~~) (6) restrain one or both parties from harassing, vilifying, mistreating, molesting, disturbing the peace, or restraining the liberty of the other party or the children of the parties;

(~~h~~) (7) restrain one or both parties from removing any minor child of the parties from the jurisdiction of the court;

(~~i~~) (8) exclude a party from the family home of the parties or from the home of the other party; and

(~~j~~) (9) require one or both of the parties to perform or to not perform ~~such~~ additional acts ~~as that~~ will facilitate the just and speedy disposition of the proceeding; or ~~will~~ protect the parties or their children from physical or emotional harm.

Subd. 2. [IMPERMISSIBLE ORDERS.] ~~No~~ A temporary order ~~shall~~ must not:

(~~a~~) (1) deny parenting time to a ~~noncustodial~~ parent unless the court finds that parenting time by the ~~noncustodial~~ parent is likely to cause physical or emotional harm to the child;

(~~b~~) (2) exclude a party from the family home of the parties unless the court finds that physical or emotional harm to one of the parties or to the children of the parties is likely to result; or that the exclusion is reasonable in the circumstances; or

(~~c~~) (3) vacate or modify an order granted under section 518B.01, subdivision 6, paragraph (a), clause (1), restraining an abusing party from committing acts of domestic abuse, except that the court may hear a motion for modification of an order for protection concurrently with a proceeding for dissolution of marriage upon notice of motion and motion. The notice required by court rule ~~shall~~ must not be waived. If the proceedings are consolidated and the motion to modify is granted, a separate order for modification of an order for protection ~~shall~~ must be issued.

Subd. 3. [EX PARTE RESTRAINING ORDER; LIMITATIONS.] A party may request and the court may make an ex parte restraining order ~~which may include that includes~~ any matter that may be included in a temporary order except it may not:

(a) ~~A restraining order may not~~ (1) exclude either party from the family home of the parties except upon a finding by the court of immediate danger of physical harm to the other party or the children of either party; ~~and or~~

(b) ~~A restraining order may not~~ (2) deny parenting time to either party or grant custody of the minor children to either party except upon a finding by the court of immediate danger of physical harm to the minor children of the parties.

Subd. 4. [HEARING ON RESTRAINING ORDER; DURATION.] A restraining order ~~shall~~ must be personally served upon the party to be restrained ~~and shall be accompanied along~~ with a notice of the time and place of hearing for disposition of the matters contained in the restraining order at a hearing for a temporary order. ~~When~~ If a restraining order has been issued, a hearing on the temporary order ~~shall~~ must be held at the earliest practicable date. The restrained party may upon written notice to the other party advance the hearing date to a time earlier than that noticed by the other party. The restraining order ~~shall continue~~ continues in full force and effect only until the hearing time noticed, unless the court, for good cause and upon notice, extends the time for hearing.

Subd. 5. [DURATION OF TEMPORARY ORDER.] A temporary order ~~shall continue~~ continues in full force and effect until the earlier of its amendment or vacation, dismissal of the main action, or entry of a final decree of dissolution or legal separation.

Subd. 6. [EFFECT OF DISMISSAL OF MAIN ACTION.] If a proceeding for dissolution or legal separation is dismissed, a temporary custody order is vacated unless one of the parties or the child's custodian moves that the proceeding continue as a custody proceeding and the court finds, after a hearing, that the circumstances of the parties and the best interests of the child require that a custody order be issued.

Subd. 7. [GUIDING FACTORS.] The court ~~shall~~ must be guided by the factors set forth in sections ~~518.551~~ (concerning child support), 518.552 (concerning maintenance), 518.17 to 518.175 (concerning custody and parenting time), and 518.14 (concerning costs and attorney fees) in making temporary orders and restraining orders.

Subd. 8. [BASIS FOR ORDER.] Temporary orders ~~shall~~ must be made solely on the basis of affidavits and argument of counsel except upon demand by either party in a motion or responsive motion made within the time limit for making and filing a responsive motion that the matter be heard on oral testimony before the court, or if the court in its discretion orders the taking of oral testimony.

Subd. 9. [PREJUDICIAL EFFECT, REVOCATION; MODIFICATION.] A temporary order or restraining order:

(a) ~~Shall~~ (1) must not prejudice the rights of the parties or the child which are to be adjudicated at subsequent hearings in the proceeding; and

(b) (2) may be revoked or modified by the court before the final disposition of the proceeding upon the same grounds and subject to the same requirements as the initial granting of the order.

Subd. 10. [MISDEMEANOR.] In addition to being punishable by contempt, a violation of a provision of a temporary order or restraining order granting the relief authorized in subdivision 1, ~~clauses (f), (g)~~ clause (6), (7), or (8) is a misdemeanor.

Subd. 11. [TEMPORARY SUPPORT AND MAINTENANCE.] Temporary ~~support and~~ maintenance may be ordered during the time a parenting plan is being developed under section 518.1705.

Sec. 19. Minnesota Statutes 2000, section 518.14, subdivision 1, is amended to read:

Subdivision 1. [GENERAL.] (a) Except as provided in subdivision 2, in a proceeding under this chapter or chapter 517B or 517C, the court ~~shall~~ must award attorney fees, costs, and disbursements in an amount necessary to enable a party to carry on or contest the proceeding, provided if it finds that:

(1) ~~that~~ the fees are necessary for the good-faith assertion of the party's rights in the proceeding and will not contribute unnecessarily to the length and expense of the proceeding;

(2) ~~that~~ the party from whom fees, costs, and disbursements are sought has the means to pay them; and

(3) ~~that~~ the party to whom fees, costs, and disbursements are awarded does not have the means to pay them.

(b) Nothing in this section precludes the court from awarding, in its discretion, additional fees, costs, and disbursements against a party who unreasonably contributes to the length or expense of the proceeding. Fees, costs, and disbursements provided for in this section may be awarded at any point in the proceeding, including a modification proceeding under sections 518.18 and 518.64. The court may adjudge costs and disbursements against either party. The court may authorize the collection of money awarded by execution, ~~or~~ out of property sequestered, or in any other manner within the power of the court. An award of attorney's fees made by the court during the pendency of the proceeding or in the final judgment survives the proceeding and if not paid by the party directed to pay ~~the same them~~ them may be enforced ~~as above provided in the manner provided in this paragraph~~ or by a separate civil action brought in the attorney's own name. If the proceeding is dismissed or abandoned prior to determination and award of attorney's fees, the court may nevertheless award attorney's fees upon the attorney's motion. The award ~~shall also survive~~ survives the proceeding and may be enforced in the ~~same manner as last above provided in this paragraph~~.

Sec. 20. Minnesota Statutes 2000, section 518.148, is amended to read:

518.148 [CERTIFICATION OF DISSOLUTION.]

Subdivision 1. [CERTIFICATE OF DISSOLUTION.] An attorney or pro se party may prepare and submit to the court a separate certificate of dissolution to be attached to the judgment and decree at the time of granting the dissolution of marriage. Upon approval by the court and filing of the certificate of dissolution with the court administrator, the court administrator ~~shall~~ must provide to any party upon request certified copies of the certificate of dissolution.

Subd. 2. [REQUIRED INFORMATION.] The certificate ~~shall~~ must include the following information:

(1) the full caption and file number of the case and the title "Certificate of Dissolution";

(2) the names and any prior or other names of the parties to the dissolution;

(3) the names of any living minor or dependent children as identified in the judgment and decree;

(4) that the marriage of the parties is dissolved;

(5) the date of the judgment and decree; and

(6) the social security number of the parties to the dissolution and the social security number of any living minor or dependent children identified in the judgment and decree.

Subd. 3. [CERTIFICATION.] The certificate of dissolution ~~shall be~~ is conclusive evidence of the facts recited in the certificate.

Sec. 21. Minnesota Statutes 2000, section 518.24, is amended to read:

518.24 [SECURITY; SEQUESTRATION; CONTEMPT.]

~~In all cases when~~ If maintenance ~~or support~~ payments are ordered, the court may require sufficient security to be given for the payment of them according to the terms of the order. Upon neglect or refusal to give security; ~~or upon~~ failure to pay the maintenance ~~or support~~, the court may sequester the obligor's personal estate and the rents and

profits of real estate of the obligor; and appoint a receiver of them. The court may cause the personal estate and the rents and profits of the real estate to be applied according to the terms of the order. The obligor is presumed to have an income from a source sufficient to pay the maintenance or support order. A ~~child support or~~ maintenance order constitutes prima facie evidence that the obligor has the ability to pay the award. If the obligor disobeys the order, it is prima facie evidence of contempt. The court may cite the obligor for contempt under this section, section 518.617, or chapter 588.

Sec. 22. Minnesota Statutes 2000, section 518.25, is amended to read:

518.25 [REMARRIAGE; REVOCATION.]

~~When a dissolution has been granted, and the parties afterward intermarry~~ If two people remarry each other after dissolution of their prior marriage, the court, upon their joint application; and ~~upon~~ upon satisfactory proof of ~~such the~~ such the marriage, may revoke all decrees and orders of dissolution, maintenance, and subsistence ~~which will that do not~~ which will that do not affect the rights of third persons.

Sec. 23. Minnesota Statutes 2000, section 518.54, subdivision 1, is amended to read:

Subdivision 1. [~~TERMS SCOPE.~~] ~~For the purposes of sections 518.54 to 518.66, the terms defined The definitions in this section shall have the meanings respectively ascribed to them apply to sections 517A.30 to 517A.46.~~

Sec. 24. Minnesota Statutes 2000, section 518.54, subdivision 5, is amended to read:

Subd. 5. [MARITAL PROPERTY; EXCEPTIONS.] "Marital property" means ~~property,~~ real or personal property, including vested public or private pension plan benefits or rights, acquired by one or both of the parties; ~~or either of them;~~ to a dissolution, legal separation, or annulment proceeding at any time during the existence of the marriage relation between them, or at any time during which the parties were living together as husband and wife under a purported marriage relationship which is annulled in an annulment proceeding, but prior to the date of valuation under section 518.58, subdivision 1. All property acquired by either spouse subsequent to the marriage and before the valuation date is presumed to be marital property regardless of whether title is held individually or by the spouses in a form of coownership such as joint tenancy, tenancy in common, tenancy by the entirety, or community property. Each spouse ~~shall be~~ is deemed to have a common ownership in marital property that vests not later than the time of the entry of the decree in a proceeding for dissolution or annulment. The extent of the vested interest ~~shall must~~ be determined and made final by the court pursuant to section 518.58. If a title interest in real property is held individually by only one spouse, the interest in the real property of the nontitled spouse is not subject to claims of creditors or judgment or tax liens until the time of entry of the decree awarding an interest to the nontitled spouse. The presumption of marital property is overcome by a showing that the property is nonmarital property.

"Nonmarital property" means property real or personal, acquired by either spouse before, during, or after the existence of their marriage, which;

- (~~a~~) (1) is acquired as a gift, bequest, devise, or inheritance made by a third party to one but not to the other spouse;
- (~~b~~) (2) is acquired before the marriage;
- (~~c~~) (3) is acquired in exchange for or is the increase in value of property which is described in ~~clauses (a), (b), (d), and (e)~~ clause (1), (2), (4), or (5);
- (~~d~~) (4) is acquired by a spouse after the valuation date; or
- (~~e~~) (5) is excluded by a valid antenuptial contract.

Sec. 25. Minnesota Statutes 2000, section 518.54, subdivision 6, is amended to read:

Subd. 6. [INCOME.] "Income" means any form of periodic payment to an individual including, but not limited to, wages, salaries, payments to an independent contractor, workers' compensation, unemployment benefits, and annuity, military ~~and~~ or naval retirement, pension ~~and~~ or disability payments. "Income" does not include benefits received under Title IV-A of the Social Security Act ~~and~~ or chapter 256J ~~are not income under this section.~~

Sec. 26. Minnesota Statutes 2000, section 518.54, subdivision 7, is amended to read:

Subd. 7. [OBLIGEE.] "Obligee" means a person to whom payments for maintenance ~~or support~~ are owed.

Sec. 27. Minnesota Statutes 2000, section 518.54, subdivision 8, is amended to read:

Subd. 8. [OBLIGOR.] "Obligor" means a person obligated to pay maintenance ~~or support~~. ~~A person who is designated as the sole physical custodian of a child is presumed not to be an obligor for purposes of calculating current support under section 518.551 unless the court makes specific written findings to overcome this presumption.~~

Sec. 28. Minnesota Statutes 2000, section 518.55, is amended to read:

518.55 [MAINTENANCE OR SUPPORT MONEY.]

Subdivision 1. [CONTENTS OF ORDER.] Every award of maintenance or support money in a judgment of dissolution or legal separation ~~shall~~ must clearly designate whether ~~the same~~ it is maintenance or support money, or what part of the award is maintenance and what part is support money. An award of payments from future income or earnings of the ~~custodial~~ parent with whom the child resides is presumed to be maintenance and an award of payments from the future income or earnings of the ~~noncustodial~~ other parent is presumed to be support money, unless otherwise designated by the court. In a judgment of dissolution or legal separation the court may determine, as one of the issues of the case, whether or not either spouse is entitled to an award of maintenance notwithstanding that no award is then made, or it may reserve jurisdiction of the issue of maintenance for determination at a later date.

Subd. 3. [NOTICE OF ADDRESS OR RESIDENCE CHANGE.] Every obligor ~~shall~~ must notify the obligee and the public authority responsible for collection, if applicable, of a change of address or residence within 60 days of the address or residence change. Every order for ~~support or~~ maintenance must contain a conspicuous notice complying with section 518.68, subdivision 2. The court may waive or modify the requirements of this subdivision by order if necessary to protect the obligor from contact by the obligee.

Subd. 4. [DETERMINATION OF CONTROLLING ORDER.] The public authority or a party may request the district court to determine a controlling order in situations in which more than one order involving the same obligor and child exists.

Sec. 29. Minnesota Statutes 2000, section 518.552, is amended to read:

518.552 [MAINTENANCE.]

Subdivision 1. [JURISDICTION; GROUNDS.] In a proceeding for dissolution of marriage or legal separation, or in a proceeding for maintenance following dissolution of the marriage by a court which lacked personal jurisdiction over the absent spouse and which has since acquired jurisdiction, the court may grant a maintenance order for either spouse if it finds that the spouse seeking maintenance:

(~~a~~) (1) lacks sufficient property, including marital property apportioned to the spouse, to provide for reasonable needs of the spouse considering the standard of living established during the marriage, especially, but not limited to, a period of training or education; or

(b) (2) is unable to provide adequate self-support, after considering the standard of living established during the marriage and all relevant circumstances, through appropriate employment; or ~~is the custodian of~~ if a child whose ~~resides with the spouse and the child's~~ condition or circumstances make it appropriate that the ~~custodian spouse~~ not be required to seek employment outside the home.

Subd. 2. [AMOUNT; DURATION.] The maintenance order ~~shall~~ must be in amounts and for periods ~~of time~~, either temporary or permanent, ~~as that~~ the court deems just, without regard to marital misconduct; and after considering all relevant factors including:

(a) (1) the financial resources of the party seeking maintenance, including marital property apportioned to the party, and the party's ability to meet needs independently, including the extent to which a provision for support of a child living with the party includes a sum for that party as ~~custodian~~ caretaker;

(b) (2) the time necessary to acquire sufficient education or training to enable the party seeking maintenance to find appropriate employment, and the probability, given the party's age and skills, of completing education or training and becoming fully or partially self-supporting;

(c) (3) the standard of living established during the marriage;

(d) (4) the duration of the marriage and, in the case of a homemaker, the length of absence from employment and the extent to which any education, skills, or experience have become outmoded and earning capacity has become permanently diminished;

(e) (5) the loss of earnings, seniority, retirement benefits, and other employment opportunities forgone by the spouse seeking ~~spousal~~ maintenance;

(f) (6) the age; and the physical and emotional condition of the spouse seeking maintenance;

(g) (7) the ability of the spouse from whom maintenance is sought to meet needs while meeting those of the spouse seeking maintenance; and

(h) (8) the contribution of each party in the acquisition, preservation, depreciation, or appreciation in the amount or value of the marital property, as well as the contribution of a spouse as a homemaker or in furtherance of the other party's employment or business.

Subd. 3. [PERMANENCY OF AWARD.] ~~Nothing in~~ This section ~~shall~~ must not be construed to favor a temporary award of maintenance over a permanent award, ~~where~~ if the factors under subdivision 2 justify a permanent award.

~~Where~~ If there is some uncertainty as to the necessity of a permanent award, the court ~~shall~~ must order a permanent award leaving its order open for later modification.

Subd. 4. [REOPENING MAINTENANCE AWARDS.] Section 518.145, subdivision 2, applies to maintenance awards ~~of spousal maintenance~~.

Subd. 5. [PRIVATE AGREEMENTS.] The parties may expressly preclude or limit modification of maintenance through a stipulation; if the court makes specific findings that the stipulation is fair ~~and~~ equitable, ~~is~~ and supported by consideration described in the findings; and that full disclosure of each party's financial circumstances has occurred. The stipulation must be made a part of the judgment and decree.

Sec. 30. Minnesota Statutes 2000, section 518.58, is amended to read:

518.58 [DIVISION OF MARITAL PROPERTY.]

Subdivision 1. [GENERAL.] Upon a dissolution of a marriage, an annulment, or in a proceeding for disposition of property following a dissolution of marriage by a court which lacked personal jurisdiction over the absent spouse or lacked jurisdiction to dispose of the property and which has since acquired jurisdiction, the court ~~shall~~ must make a just and equitable division of the marital property of the parties without regard to marital misconduct, after making findings regarding the division of the property. The court ~~shall~~ must base its findings on all relevant factors including the length of the marriage, any prior marriage of a party, the age, health, station, occupation, amount and sources of income, vocational skills, employability, estate, liabilities, needs, opportunity for future acquisition of capital assets, and income of each party. The court ~~shall~~ must also consider the contribution of each in the acquisition, preservation, depreciation, or appreciation in the amount or value of the marital property, as well as the contribution of a spouse as a homemaker. It ~~shall be~~ is conclusively presumed that each spouse made a substantial contribution to the acquisition of income and property while they were living together as husband and wife. The court may also award to either spouse the household goods and furniture of the parties, whether or not acquired during the marriage. The court ~~shall~~ must value marital assets for purposes of division between the parties as of the day of the initially scheduled prehearing settlement conference, unless a different date is agreed upon by the parties; or ~~unless~~ the court makes specific findings that another date of valuation is fair and equitable. If there is a substantial change in value of an asset between the date of valuation and the final distribution, the court may adjust the valuation of that asset as necessary to effect an equitable distribution.

Subd. 1a. [TRANSFER, ENCUMBRANCE, CONCEALMENT, OR DISPOSITION OF MARITAL ASSETS.] In contemplation of commencing or during the pendency of a marriage dissolution, separation, or annulment proceeding, ~~or in contemplation of commencing a marriage dissolution, separation, or annulment proceeding,~~ each party owes a fiduciary duty to the other for any profit or loss derived by the party, without the consent of the other, from a transaction or from any use by the party of the marital assets. If the court finds that a party to a marriage, without consent of the other party, has in contemplation of commencing; or during the pendency of; the current dissolution, separation, or annulment proceeding, transferred, encumbered, concealed, or disposed of marital assets except in the usual course of business or for the necessities of life, the court ~~shall~~ must compensate the other party by placing both parties in the same position that they would have been in had the transfer, encumbrance, concealment, or disposal not occurred. The burden of proof under this subdivision is on the party claiming that the other party transferred, encumbered, concealed, or disposed of marital assets in contemplation of commencing or during the pendency of the current dissolution, separation, or annulment proceeding; without consent of the claiming party, and that the transfer, encumbrance, concealment, or disposal was not in the usual course of business or for the necessities of life. In compensating a party under this section, the court, in dividing the marital property, may impute the entire value of an asset and a fair return on the asset to the party who transferred, encumbered, concealed, or disposed of it. Use of a power of attorney; or the absence of a restraining order against the transfer, encumbrance, concealment, or disposal of marital property is not available as a defense under this subdivision.

Subd. 2. [AWARD OF NONMARITAL PROPERTY.] If the court finds that either spouse's resources or property, including the spouse's portion of the marital property as defined in section 518.54, subdivision 5, are so inadequate as to work an unfair hardship, considering all relevant circumstances, the court may, in addition to the marital property, apportion up to one-half of the property otherwise excluded under section 518.54, subdivision 5, clauses (a) to (d), to prevent the unfair hardship. If the court apportions property other than marital property, it ~~shall~~ must make findings in support of the apportionment. The findings ~~shall~~ must be based on all relevant factors including the length of the marriage, any prior marriage of a party, the age, health, station, occupation, amount and sources of income, vocational skills, employability, estate, liabilities, needs, and opportunity for future acquisition of capital assets and income of each party.

Subd. 3. [SALE OR DISTRIBUTION WHILE PROCEEDING PENDING.] (a) If the court finds that it is necessary to preserve the marital assets of the parties, the court may order the sale of the homestead of the parties or the sale of other marital assets, as the individual circumstances may require, during the pendency of a proceeding for a dissolution of marriage or an annulment. If the court orders a sale, it may further provide for the disposition

of the funds received from the sale during the pendency of the proceeding. If liquid or readily liquidated marital property other than property representing vested pension benefits or rights is available, the court, so far as possible, ~~shall~~ must divide the property representing vested pension benefits or rights by the disposition of an equivalent amount of the liquid or readily liquidated property.

(b) The court may order a partial distribution of marital assets during the pendency of a proceeding for a dissolution of marriage or an annulment for good cause shown or upon the request of both parties; ~~provided that~~ as long as the court ~~shall~~ protect ~~protects~~ the interests of the other party.

Subd. 4. [PENSION PLANS.] (a) The division of marital property that represents pension plan benefits or rights in the form of future pension plan payments:

- (1) is payable only to the extent of the amount of the pension plan benefit payable under the terms of the plan;
- (2) is not payable for a period that exceeds the time that pension plan benefits are payable to the pension plan benefit recipient;
- (3) is not payable in a lump sum amount from pension plan assets attributable in any fashion to a spouse with the status of an active member, deferred retiree, or benefit recipient of a pension plan;
- (4) if the former spouse to whom the payments are to be made dies prior to the end of the specified payment period with the right to any remaining payments accruing to an estate or to more than one survivor, is payable only to a trustee on behalf of the estate or the group of survivors for subsequent apportionment by the trustee; and
- (5) in the case of public pension plan benefits or rights, may not commence until the public plan member submits a valid application for a public pension plan benefit and the benefit becomes payable.

(b) ~~The~~ An individual retirement account ~~plans~~ plan established under chapter 354B may provide in its plan document, if published and made generally available, for an alternative marital property division or distribution of individual retirement account plan assets. If an alternative division or distribution procedure is provided, it applies in place of paragraph (a), clause (5).

Sec. 31. Minnesota Statutes 2000, section 518.581, is amended to read:

518.581 [SURVIVING SPOUSE BENEFIT.]

Subdivision 1. [AWARD OF BENEFIT.] If a current or former employee's marriage is dissolved, the court may order the employee, the employee's pension plan, or both, to pay amounts as part of the division of pension rights that the court may make under section 518.58, or as an award of maintenance in the form of a percentage of periodic or other payments or in the form of a fixed dollar amount. The court may, as part of the order, award a former spouse all or part of a survivor benefit unless the plan does not allow by law the payment of a surviving spouse benefit to a former spouse.

Subd. 2. [PAYMENT OF FUNDS BY RETIREMENT PLAN.] (a) If the court has ordered that a spouse has an interest in a pension plan, the court may order the pension plan to withhold payment of a refund upon termination of employment or lump sum distribution to the extent of the spouse's interest in the plan; or to provide survivor benefits ordered by the court.

(b) The court may not order the pension plan to:

- (1) pay more than the equivalent of one surviving spouse benefit, regardless of the number of spouses or former spouses who may be sharing in a portion of the total benefit;

(2) pay surviving spouse benefits under circumstances where the plan member does not have a right to elect surviving spouse benefits;

(3) pay surviving spouse benefits to a former spouse if the former spouse would not be eligible for benefits under the terms of the plan; or

(4) order survivor benefits which, when combined with the annuity or benefit payable to the pension plan member, exceed the actuarial equivalent value of the normal retirement annuity form, determined under the plan documents of the pension plan then in effect and the actuarial assumptions then in effect for calculating optional annuity forms by the pension plan or for calculating the funding requirements of the pension plan if no optional annuity forms are provided by the pension plan.

(c) If more than one spouse or former spouse is entitled to a surviving spouse benefit, the pension plan ~~shall~~ must pay each spouse a portion of the benefit based on the ratio of the number of years the spouse was married to the plan member to the total number of years the plan member was married to spouses who are entitled to the benefit.

Subd. 3. [NOTICE TO FORMER SPOUSE.] A pension plan ~~shall~~ must notify a former spouse of an application by the employee for a refund of pension benefits if the former spouse has filed with the pension plan:

(1) a copy of the court order, including a withholding order, determining the former spouse's rights;

(2) the name and last known address of the employee; and

(3) the name and address of the former spouse.

A pension plan ~~shall~~ must comply with an order, including a withholding order, issued by a court having jurisdiction over dissolution of marriage that is served on the pension plan, if the order states the name, last known address of the payees, and name and address of the former spouse; or if the names and addresses are provided to the pension plan with service of the order.

Subd. 4. [DEFINITIONS.] ~~For purposes of The definitions in this subdivision apply to this section; the following terms have the meanings given in this subdivision.~~

(a) "Current or former employee" or "employee" means an individual who has an interest in a pension plan.

(b) "Surviving spouse benefit" means (1) a benefit a surviving spouse may be eligible for under the laws and bylaws of the pension plan if the employee dies before retirement, or (2) a benefit selected for or available to a surviving spouse under the laws and bylaws of the pension plan upon the death of the employee after retirement.

Sec. 32. Minnesota Statutes 2000, section 518.582, is amended to read:

518.582 [PROCEDURE FOR VALUING PENSION BENEFITS OR RIGHTS.]

Subdivision 1. [APPOINTMENT OF ACTUARY.] ~~Each~~ A court of this state ~~that has~~ with jurisdiction to decide marriage dissolution matters may appoint a qualified person experienced in the valuation of pension benefits and rights to function as an expert witness in valuing pension benefits or rights.

Subd. 2. [STANDARDS.] A court appointed actuary ~~shall~~ must determine the present value of pension benefits or rights that are marital property of the parties to the action based on the applicable plan documents of the pension plan and the applicable actuarial assumptions specified for use in calculating optional annuity forms by the pension plan or for funding the pension plan, if reasonable, or as specified by the court. The court appointed actuary ~~shall~~ must report to the court and to the parties the present value of the pension benefits or rights that are marital property.

Subd. 3. [COMPENSATION.] The court appointed actuary may be compensated at a rate established by the court. The compensation of the court appointed actuary ~~shall~~ must be allocated between the parties as the court directs.

Subd. 4. [STIPULATION.] In lieu of valuing pension benefits or rights through use of the court appointed actuary, the parties may stipulate the present value of pension benefits or rights that are marital property.

Sec. 33. Minnesota Statutes 2000, section 518.62, is amended to read:

518.62 [TEMPORARY MAINTENANCE.]

Temporary maintenance ~~and temporary support~~ may be awarded as provided in section 518.131. The court may also award to either party to the proceeding, having due regard to all the circumstances and the party awarded the custody of the children, the right to the exclusive use of the household goods and furniture of the parties pending the proceeding and the right to the use of the homestead of the parties, exclusive or otherwise, pending the proceeding. The court may order either party to remove from the homestead of the parties upon proper application to the court for an order pending the proceeding.

Sec. 34. Minnesota Statutes 2000, section 518.64, subdivision 1, is amended to read:

Subdivision 1. [AUTHORITY.] After an order for temporary or permanent maintenance ~~or support money, temporary or permanent~~, or for the appointment of trustees to receive property awarded as maintenance ~~or support money~~, the court may from time to time, on motion of either of the parties, a copy of which is served on the public authority responsible for ~~child~~ support enforcement if payments are made through it, or on motion of the public authority responsible for support enforcement, modify the order respecting the amount of maintenance ~~or support money, and the its payment of it, and also respecting the~~ or appropriation and payment of the principal and income of property held in trust, and may make an order respecting these matters which it might have made in the original proceeding, ~~except as herein otherwise provided~~ subject to subdivisions 2 to 5. A party or the public authority also may bring a motion for contempt of court if the obligor is in arrears in ~~support or~~ maintenance payments.

Sec. 35. Minnesota Statutes 2000, section 518.64, subdivision 2, is amended to read:

Subd. 2. [MODIFICATION.] (a) The terms of an order respecting maintenance ~~or support~~ may be modified upon a showing of one or more of the following: (1) substantially increased or decreased earnings of a party; (2) substantially increased or decreased need of a party ~~or the child or children that are the subject of these proceedings~~; (3) receipt of assistance under the AFDC program formerly codified under sections 256.72 to 256.87 or 256B.01 to 256B.40, or chapter 256J or 256K; (4) a change in the cost of living for either party as measured by the federal bureau of statistics, any of which makes the terms unreasonable and unfair; (5) extraordinary medical expenses of the child not provided for under section 518.171; or (6) the addition of work-related or education-related child care expenses of the obligee or a substantial increase or decrease in existing work-related or education-related child care expenses.

~~On a motion to modify support, the needs of any child the obligor has after the entry of the support order that is the subject of a modification motion shall be considered as provided by section 518.551, subdivision 5f.~~

~~(b) It is presumed that there has been a substantial change in circumstances under paragraph (a) and the terms of a current support order shall be rebuttably presumed to be unreasonable and unfair if:~~

~~(1) the application of the child support guidelines in section 518.551, subdivision 5, to the current circumstances of the parties results in a calculated court order that is at least 20 percent and at least \$50 per month higher or lower than the current support order;~~

~~(2) the medical support provisions of the order established under section 518.171 are not enforceable by the public authority or the custodial parent;~~

~~(3) health coverage ordered under section 518.171 is not available to the child for whom the order is established by the parent ordered to provide; or~~

~~(4) the existing support obligation is in the form of a statement of percentage and not a specific dollar amount.~~

~~(e) (b) On a motion for modification of maintenance, including a motion for the extension of the duration of a maintenance award, the court shall must apply, in addition to all other relevant factors, the factors for an award of maintenance under section 518.552 that exist at the time of the motion. On a motion for modification of support, the court:~~

~~(1) shall apply section 518.551, subdivision 5, and shall not consider the financial circumstances of each party's spouse, if any; and~~

~~(2) shall not consider compensation received by a party for employment in excess of a 40-hour work week, provided that the party demonstrates, and the court finds, that:~~

~~(i) the excess employment began after entry of the existing support order;~~

~~(ii) the excess employment is voluntary and not a condition of employment;~~

~~(iii) the excess employment is in the nature of additional, part-time employment, or overtime employment compensable by the hour or fractions of an hour;~~

~~(iv) the party's compensation structure has not been changed for the purpose of affecting a support or maintenance obligation;~~

~~(v) in the case of an obligor, current child support payments are at least equal to the guidelines amount based on income not excluded under this clause; and~~

~~(vi) in the case of an obligor who is in arrears in child support payments to the obligee, any net income from excess employment must be used to pay the arrearages until the arrearages are paid in full.~~

~~(d) (c) A modification of support or maintenance, including interest that accrued pursuant to section 548.091, may be made retroactive only with respect to any period during which the petitioning party has pending a motion for modification but only from the date of service of notice of the motion on the responding party and on the public authority if public assistance is being furnished or the county attorney is the attorney of record. However, modification may be applied to an earlier period if the court makes express findings that:~~

~~(1) the party seeking modification was precluded from serving a motion by reason of a significant physical or mental disability, a material misrepresentation of another party, or fraud upon the court and that the party seeking modification, when no longer precluded, promptly served a motion;~~

~~(2) the party seeking modification was a recipient of federal Supplemental Security Income (SSI), Title II Older Americans, Survivor's Disability Insurance (OASDI), other disability benefits, or public assistance based upon need during the period for which retroactive modification is sought; or~~

~~(3) the order for which the party seeks amendment was entered by default, the party shows good cause for not appearing, and the record contains no factual evidence, or clearly erroneous evidence regarding the individual obligor's ability to pay.~~

The court may provide that a reduction in the amount allocated for child care expenses based on a substantial decrease in the expenses is effective as of the date the expenses decreased.

~~(e)~~ (d) Except for an award of the right of occupancy of the homestead, ~~provided in~~ under section 518.63, all divisions of real and personal property provided by section 518.58 ~~shall be~~ are final, and may be revoked or modified only ~~where~~ if the court finds the existence of conditions that justify reopening a judgment under the laws of this state, including motions under section 518.145, subdivision 2. The court may impose a lien or charge on the divided property at any time while the property, or subsequently acquired property, is owned by the parties or either of them, for the payment of maintenance or support ~~money~~, or may sequester the property ~~as is provided by~~ under section 518.24.

~~(f)~~ (e) The court need not hold an evidentiary hearing on a motion for modification of maintenance or support.

~~(g)~~ (f) Section 518.14 ~~shall govern~~ governs the award of attorney fees for motions brought under this subdivision.

Sec. 36. Minnesota Statutes 2000, section 518.641, is amended to read:

518.641 [COST-OF-LIVING ADJUSTMENTS IN MAINTENANCE ~~OR CHILD SUPPORT ORDER.~~]

Subdivision 1. [REQUIREMENT.] An order for maintenance ~~or child support shall~~ must provide for a biennial adjustment in the amount to be paid based on a change in the cost of living. An order that provides for a cost-of-living adjustment ~~shall~~ must specify the cost-of-living index to be applied and the date on which the cost-of-living adjustment ~~shall become~~ becomes effective. The court may use the consumer price index for all urban consumers, Minneapolis-St. Paul (CPI-U), the consumer price index for wage earners and clerical, Minneapolis-St. Paul (CPI-W), or another cost-of-living index published by the department of labor which it specifically finds is more appropriate. Cost-of-living increases under this section ~~shall~~ must be compounded. The court may also increase the amount by more than the cost-of-living adjustment by agreement of the parties or by making further findings. The adjustment becomes effective on the first of May of the year in which it is made, for cases in which payment is made to the public authority. For cases in which payment is not made to the public authority, application for an adjustment may be made in any month but no application for an adjustment may be made sooner than two years after the date of the dissolution decree. A court may waive the requirement of the cost-of-living clause if it expressly finds that the obligor's occupation or income, or both, does not provide for cost-of-living adjustment or that the order for maintenance ~~or child support~~ has a provision such as a step increase that has the effect of a cost-of-living clause. The court may waive a cost-of-living adjustment in a maintenance order if the parties so agree in writing. ~~The commissioner of human services may promulgate rules for child support adjustments under this section in accordance with the rulemaking provisions of chapter 14.~~ Notice of this statute must comply with section 518.68, subdivision 2.

Subd. 2. [CONDITIONS.] No adjustment under this section may be made unless the order provides for it and ~~until~~

(a) the following conditions are met:

~~(a)~~ (1) the obligee serves notice of the application for adjustment by mail on the obligor at the obligor's last known address at least 20 days before the effective date of the adjustment;

~~(b)~~ (2) the notice to the obligor informs the obligor of the date on which the adjustment in payments will become effective; and

~~(c)~~ (3) after receipt of notice and before the effective day of the adjustment, the obligor fails to request a hearing on the issue of whether the adjustment should take effect, and ex parte, to stay imposition of the adjustment pending outcome of the hearing; or

~~(d)~~ (b) the public authority sends notice of its application for adjustment to the obligor at the obligor's last known address at least 20 days before the effective date of the adjustment, and the notice informs the obligor of the date on which the adjustment will become effective and the procedures for contesting the adjustment according to section 484.702.

Subd. 3. [RESULT OF HEARING.] If, at a hearing pursuant to this section, the obligor establishes an insufficient cost of living or other increase in income that prevents fulfillment of the adjusted maintenance ~~or child support~~ obligation, the court may direct that all or part of the adjustment not take effect. If, at the hearing, the obligor does not establish this insufficient increase in income, the adjustment ~~shall~~ must take effect as of the date it would have become effective had no hearing been requested.

Subd. 4. [~~FORM.~~] ~~The department of human services shall prepare and make available to the court and obligors a form to be submitted to the department by the obligor in support of a request for hearing under this section regarding a child support order.~~

~~Subd. 5.~~ [REQUEST FOR COST-OF-LIVING CLAUSE.] A motion for enforcement or modification of an existing maintenance ~~or child support~~ order ~~shall~~ must include a request for a cost-of-living clause. The court may deny the request only upon an express finding that the obligor's occupation, income, or both, does not provide for a cost-of-living adjustment or that the existing maintenance ~~or child support~~ order either has a cost-of-living clause or sets forth a step increase which has the effect of a cost-of-living adjustment.

Sec. 37. Minnesota Statutes 2000, section 518.642, is amended to read:

518.642 [OVERPAYMENTS.]

If ~~child support or~~ maintenance is not assigned under section 256.741; and an obligor has overpaid a ~~child support or~~ maintenance obligation because of a modification or error in the amount owed, the public authority ~~shall~~ must:

(1) apply the amount of the overpayment to reduce the amount of any ~~child support or~~ maintenance-related arrearages or debts owed to the obligee; and

(2) if an overpayment exists after the reduction of any arrearage or debt, reduce the amount of the ~~child support~~ maintenance remitted to the obligee by an amount no greater than 20 percent of the current monthly ~~support or~~ maintenance obligation and remit this amount to the obligor until the overpayment is reduced to zero.

Sec. 38. [518.643] [MAINTENANCE PAYMENT ENFORCEMENT.]

The enforcement requirements and procedures in sections 518.551, subdivisions 1, 12, 13, 13a, and 14, 518.5511, 518.6111, 518.614, 518.615, 518.616, and 518.617, apply to maintenance payments as well as child support obligations.

Sec. 39. Minnesota Statutes 2000, section 518.646, is amended to read:

518.646 [NOTICE OF ORDER.]

~~Whenever these laws require~~ If a law requires service of a court's order on an employer, union, or payor of funds, service of a verified notice of order may be made in lieu ~~thereof of the order.~~ The verified notice ~~shall~~ must contain the title of the action, the name of the court, the court file number, the date of the court order, and ~~shall recite~~ the operative provisions of the order.

Sec. 40. Minnesota Statutes 2000, section 518.65, is amended to read:

518.65 [PROPERTY; SALE, PARTITION.]

In order to effect a division or award of property ~~as is provided by~~ under section 518.58, the court may order property sold or partitioned. Personal property may be ordered sold in the manner directed by the court; and real estate may be partitioned in the manner provided by Minnesota Statutes 1949, chapter 558.

Sec. 41. [INSTRUCTION TO REVISOR.]

The revisor of statutes must renumber the sections in Minnesota Statutes 2000 listed in column A as indicated in column B and correct cross-references to those sections throughout Minnesota Statutes and Minnesota Rules.

<u>A</u>	<u>B</u>
<u>518.002</u>	<u>517A.02, subd. 5</u>
<u>518.003</u>	<u>517A.01</u>
<u>518.005</u>	<u>517A.02</u>
<u>518.01</u>	<u>517A.05</u>
<u>518.02</u>	<u>517A.08</u>
<u>518.03</u>	<u>517A.09</u>
<u>518.04</u>	<u>517A.10</u>
<u>518.05</u>	<u>517A.11</u>
<u>518.055</u>	<u>517A.12</u>
<u>518.06</u>	<u>517A.15</u>
<u>518.07</u>	<u>517A.16</u>
<u>518.09</u>	<u>517A.17</u>
<u>518.091</u>	<u>517A.18</u>
<u>518.10</u>	<u>517A.19</u>
<u>518.11</u>	<u>517A.20</u>
<u>518.12</u>	<u>517A.21</u>
<u>518.13</u>	<u>517A.22</u>
<u>518.131</u>	<u>517A.03</u>
<u>518.14</u>	<u>517A.04</u>
<u>518.145</u>	<u>517A.23</u>
<u>518.146</u>	<u>517A.24</u>
<u>518.148</u>	<u>517A.26</u>
<u>518.191</u>	<u>517A.27</u>
<u>518.195</u>	<u>517A.28</u>
<u>518.24</u>	<u>517A.29</u>
<u>518.25</u>	<u>517A.30</u>
<u>518.27</u>	<u>517A.31</u>
<u>518.54, subd. 1</u>	<u>517A.32, subd. 1</u>
<u>518.54, subd. 2a</u>	<u>517A.32, subd. 2</u>
<u>518.54, subd. 2b</u>	<u>517A.32, subd. 3</u>
<u>518.54, subd. 3</u>	<u>517A.32, subd. 4</u>
<u>518.54, subd. 4</u>	<u>517A.32, subd. 5</u>
<u>518.54, subd. 5</u>	<u>517A.32, subd. 6</u>
<u>518.54, subd. 6</u>	<u>517A.32, subd. 7</u>
<u>518.54, subd. 7</u>	<u>517A.32, subd. 8</u>
<u>518.54, subd. 8</u>	<u>517A.32, subd. 9</u>
<u>518.54, subd. 9</u>	<u>517A.32, subd. 10</u>
<u>518.54, subd. 10</u>	<u>517A.32, subd. 11</u>
<u>518.54, subd. 11</u>	<u>517A.32, subd. 12</u>
<u>518.54, subd. 12</u>	<u>517A.32, subd. 13</u>
<u>518.55</u>	<u>517A.34</u>
<u>518.552</u>	<u>517A.33</u>
<u>518.58</u>	<u>517A.35</u>
<u>518.581</u>	<u>517A.36</u>
<u>518.582</u>	<u>517A.37</u>
<u>518.583</u>	<u>517A.38</u>
<u>518.62</u>	<u>517A.40</u>

<u>518.63</u>	<u>517A.41</u>
<u>518.64</u>	<u>517A.42</u>
<u>518.641, subd. 1</u>	<u>517A.43, subd. 1</u>
<u>518.641, subd. 2</u>	<u>517A.43, subd. 2</u>
<u>518.641, subd. 3</u>	<u>517A.43, subd. 3</u>
<u>518.641, subd. 4</u>	<u>517A.43, subd. 4</u>
<u>518.642</u>	<u>517A.44</u>
<u>518.646</u>	<u>517A.06</u>
<u>518.65</u>	<u>517A.46</u>
<u>518.68</u>	<u>517A.07</u>

Sec. 42. [REPEALER.]

Minnesota Statutes 2000, section 518.64, subdivisions 4, 4a, and 5, are repealed.

ARTICLE 13

CUSTODY, PARENTING TIME, AND VISITATION

GENERAL

Section 1. [517B.01] [DEFINITIONS.]

Subdivision 1. [SCOPE.] The definitions in this section apply to this chapter.

Sec. 2. [517B.03] [TEMPORARY ORDERS RELATING TO CUSTODY AND PARENTING TIME.]

(a) A temporary order for custody or parenting time may be sought under section 518.131.

(b) A party seeking a temporary custody order must submit with moving papers an affidavit setting forth facts supporting the requested order. The party must give notice and a copy of the affidavit to other parties to the proceeding, who may file opposing affidavits.

Sec. 3. [517B.04] [CUSTODY AND PARENTING TIME NOTICES.]

A court order or judgment and decree concerning custody of or parenting time with a minor child must contain the notice set out in section 517C.99, subdivision 3.

Sec. 4. [517B.05] [ATTORNEY FEES, COSTS, AND DISBURSEMENTS.]

Attorney fees, costs, and disbursements must be awarded in a proceeding under this chapter as provided by section 518.14.

Sec. 5. [517B.17] [CUSTODY OF CHILDREN.]

Subdivision 1. [CUSTODY ORDER.] Upon adjudging the nullity of a marriage, in a dissolution or legal separation proceeding, or in a child custody proceeding, the court must make a further order as it deems just and proper concerning:

(1) the legal custody of each minor child of the parties, which must be sole or joint; and

(2) their physical custody and residence.

Subd. 2. [STANDARD; PREFERENCE PROHIBITED.] In determining custody, the court must consider the best interests of the child and must not prefer one parent over the other solely on the basis of the sex of the parent.

Subd. 3. [THE BEST INTERESTS OF THE CHILD; FACTORS.] "The best interests of the child" means all relevant factors to be considered and evaluated by the court including:

- (1) the wishes of the child's parent or parents as to custody;
- (2) the reasonable preference of the child, if the court deems the child to be of sufficient age to express a preference;
- (3) the child's primary caretaker;
- (4) the intimacy of the relationship between each parent and the child;
- (5) the interaction and interrelationship of the child with a parent or parents, siblings, and any other person who may significantly affect the child's best interests;
- (6) the child's adjustment to home, school, and community;
- (7) the length of time the child has lived in a stable, satisfactory environment and the desirability of maintaining continuity;
- (8) the permanence, as a family unit, of the existing or proposed home;
- (9) the mental and physical health of all individuals involved; except that a disability, as defined in section 363.01, of a parent or the child is not determinative of the custody of the child, unless the proposed custodial arrangement is not in the best interest of the child;
- (10) the capacity and disposition of the parties to give the child love, affection, and guidance, and to continue educating and raising the child in the child's culture and religion or creed, if any;
- (11) the child's cultural background;
- (12) the effect on the child of the actions of an abuser, if related to domestic abuse, as defined in section 518B.01, that has occurred between the parents or between a parent and another individual, whether or not the individual alleged to have committed domestic abuse is or ever was a family or household member of the parent;
- (13) except in cases in which a finding of domestic abuse as defined in section 518B.01 has been made, the disposition of each parent to encourage and permit frequent and continuing contact by the other parent with the child; and
- (14) evidence of a violation of section 609.507.

Subd. 4. [BEST INTERESTS DETERMINATION.] The court must make detailed findings on each of the factors in subdivision 3 and explain how the factors led to its conclusion and to the determination of the best interests of the child. In determining the best interests of a child, the court may not use one factor in subdivision 3 to the exclusion of all others. The primary caretaker factor may not be used as a presumption in determining the best interests of the child. The court may not consider conduct of a parent that does not affect the parent's relationship to the child.

Sec. 6. [517B.18] [JOINT CUSTODY.]

Subdivision 1. [FACTORS WHEN JOINT CUSTODY IS SOUGHT.] In addition to the factors listed in section 517B.17, if either joint legal or joint physical custody is sought, the court must consider the following relevant factors:

- (1) the ability of parents to cooperate in the rearing of their child;
- (2) methods for resolving disputes regarding any major decision concerning the life of the child, and the parents' willingness to use those methods;
- (3) whether it would be detrimental to the child if one parent were to have sole authority over the child's upbringing; and
- (4) whether domestic abuse, as defined in section 518B.01, has occurred between the parents.

Subd. 2. [PRESUMPTIONS; FINDINGS.] (a) The court must use a rebuttable presumption that upon request of either or both parties, joint legal custody is in the best interests of the child. However, the court must use a rebuttable presumption that joint legal or physical custody is not in the best interests of the child if domestic abuse, as defined in section 518B.01, has occurred between the parents.

(b) If the court awards joint legal or physical custody over the objection of a party, the court must make detailed findings on each of the factors in this section and explain how the factors led to its determination that joint custody would be in the best interests of the child.

Subd. 3. [JOINT CUSTODY; SUPPORT GUIDELINES.] An award of joint legal custody is not a reason for departure from the support guidelines in section 518.551, subdivision 5.

Sec. 7. [517B.19] [CUSTODY; ACCESS RIGHTS OF PARENTS; LIMITATIONS.]

Subdivision 1. [ACCESS; LIMITATIONS.] (a) Whether sole or joint legal custody is ordered, the court must grant the following rights to each of the parties, unless specific findings are made under section 518.68, subdivision 1. Each party:

- (1) has the right of access to, and to receive copies of, a minor child's school, medical, dental, religious training, and other important records and information;
- (2) has the right of access to information regarding health or dental insurance available to a minor child;
- (3) must keep the other party informed as to the name and address of the school a minor child attends;
- (4) must notify the other party, in the case of an accident or serious illness of a minor child, of the accident or illness, and the name of the health care provider and the place of treatment; and
- (5) has the right to reasonable access and telephone contact with a minor child.

(b) Each party has the right to be informed by school officials about a child's welfare, educational progress and status, and to attend school and parent-teacher conferences. The school is not required to hold a separate conference for each party.

(c) The court may waive any of the rights under this subdivision if it finds it is necessary to protect the welfare of a party or child.

Sec. 8. Minnesota Statutes 2000, section 518.003, subdivision 3, is amended to read:

Subd. 3. [CUSTODY.] Unless otherwise agreed by the parties:

(a) "Legal custody" means the right to determine the child's upbringing, including education, health care, and religious training.

(b) "Joint legal custody" means that both parents have equal rights and responsibilities, including the right to participate in major decisions determining the child's upbringing, including education, health care, and religious training.

(c) "Physical custody and residence" means the routine daily care and control and the residence of the child.

(d) "Joint physical custody" means that the routine daily care and control and the residence of the child is structured between the parties.

(e) ~~Wherever used in this chapter, the term~~ "Custodial parent" or "custodian" means the person who has the physical custody of the child at any particular time.

(f) "Custody determination" means a court decision and court orders and instructions providing for the custody of a child, including parenting time, but does not include a decision relating to child support or any other monetary obligation of any person.

(g) "Custody proceeding" includes proceedings in which a custody determination is one of several issues, such as an action for dissolution, divorce, or separation, and includes proceedings involving children who are in need of protection or services, domestic abuse, and paternity.

Sec. 9. Minnesota Statutes 2000, section 518.155, is amended to read:

518.155 [CUSTODY DETERMINATIONS AND PARENTING TIME JURISDICTION.]

Notwithstanding any law to the contrary, a court in which a proceeding for dissolution, legal separation, or child custody has been commenced ~~shall~~ must not issue, revise, modify or amend any order, pursuant to ~~sections~~ section 518.131, 518.165, 518.168, 518.17, 518.175 or 518.18, ~~which that~~ affects the custody of a minor child or the parenting time of a ~~noncustodial~~ parent unless the court has jurisdiction over the matter pursuant to the provisions of chapter 518D.

Sec. 10. Minnesota Statutes 2000, section 518.156, is amended to read:

518.156 [COMMENCEMENT OF CUSTODY PROCEEDING.]

Subdivision 1. [PROCEDURE.] In a court of this state ~~which that~~ has jurisdiction to decide child custody matters, a child custody proceeding is commenced:

(a) by a parent

(1) by filing a petition for dissolution or legal separation; or

(2) ~~where if~~ a decree of dissolution or legal separation has been entered or where none is sought, or ~~when if~~ paternity has been recognized under section 257.75, by filing a petition or motion seeking custody or parenting time with the child in the county where the child is permanently resident or where the child is found or where an earlier order for custody of the child has been entered; or

(b) by a person other than a parent, ~~where~~ if a decree of dissolution or legal separation has been entered or ~~where~~ if none is sought by filing a petition or motion seeking custody or visitation of the child in the county where the child is permanently resident or where the child is found or where an earlier order for custody of the child has been entered. A person seeking visitation pursuant to this paragraph must qualify under one of the provisions of section 257.022.

Subd. 2. [REQUIRED NOTICE.] Written notice of a child custody or parenting time or visitation proceeding ~~shall~~ must be given to the child's parent, guardian, and custodian, who may appear and be heard and may file a responsive pleading. The court may, upon a showing of good cause, permit the intervention of other interested parties.

Sec. 11. Minnesota Statutes 2000, section 518.157, subdivision 1, is amended to read:

Subdivision 1. [IMPLEMENTATION; ADMINISTRATION.] ~~By January 1, 1998;~~ The chief judge of each judicial district or a designee ~~shall~~ must implement one or more parent education programs within the judicial district for the purpose of educating parents about the impact that divorce, the restructuring of families, and judicial proceedings have upon children and families; methods for preventing parenting time conflicts; and dispute resolution options. The chief judge of each judicial district or a designee may require that children attend a separate education program designed to deal with the impact of divorce upon children as part of the parent education program. Each parent education program must enable persons to have timely and reasonable access to education sessions.

Sec. 12. Minnesota Statutes 2000, section 518.157, subdivision 2, is amended to read:

Subd. 2. [MINIMUM STANDARDS; PLAN.] The Minnesota supreme court should promulgate minimum standards for the implementation and administration of a parent education program. The chief judge of each judicial district or a designee ~~shall~~ must submit a plan to the Minnesota conference of chief judges for their approval that is designed to implement and administer a parent education program in the judicial district. The plan must be consistent with the minimum standards promulgated by the Minnesota supreme court.

Sec. 13. Minnesota Statutes 2000, section 518.157, subdivision 3, is amended to read:

Subd. 3. [ATTENDANCE.] In a proceeding under this chapter or sections 257.51 to 257.75 where custody or parenting time is contested, the parents of a minor child ~~shall~~ must attend an orientation and education program that meets the minimum standards promulgated by the Minnesota supreme court. In all other proceedings involving custody, support, or parenting time the court may order the parents of a minor child to attend a parent education program. The program ~~shall~~ must provide the court with names of persons who fail to attend the parent education program as ordered by the court. Persons who are separated or contemplating involvement in a dissolution, paternity, custody, or parenting time proceeding may attend a parent education program without a court order. Participation in a parent education program must occur as early as possible. Parent education programs must offer an opportunity to participate at all phases of a pending or postdecree proceeding. Upon request of a party and a showing of good cause, the court may excuse the party from attending the program. If past or present domestic abuse, as defined in chapter 518B, is alleged, the court ~~shall~~ must not require the parties to attend the same parent education sessions and ~~shall~~ must enter an order setting forth the manner in which the parties may safely participate in the program.

Sec. 14. Minnesota Statutes 2000, section 518.157, subdivision 5, is amended to read:

Subd. 5. [CONFIDENTIALITY.] Unless all parties agree in writing, statements made by a party during participation in a parent education program are inadmissible as evidence for any purpose, including impeachment. No record may be made regarding a party's participation in a parent education program, except a record of attendance at and completion of the program as required under this section. Instructors ~~shall~~ must not disclose information regarding an individual participant obtained as a result of participation in a parent education program. Parent education instructors may not be subpoenaed or called as witnesses in court proceedings.

Sec. 15. Minnesota Statutes 2000, section 518.157, subdivision 6, is amended to read:

Subd. 6. [FEE.] Except as provided in this subdivision, each person who attends a parent education program ~~shall~~ must pay a fee to defray the cost of the program. A party who qualifies for waiver of filing fees under section 563.01 is exempt from paying the parent education program fee and the court ~~shall~~ must waive the fee or direct its payment under section 563.01. Program providers shall implement a sliding fee scale.

Sec. 16. Minnesota Statutes 2000, section 518.158, subdivision 2, is amended to read:

Subd. 2. [EMERGENCY CUSTODY HEARING.] If the parent seeks to remove the child from the home of the relative or if the relative seeks to remove the child from the home of the parent and the applicable factors in subdivision 1 exist, the relative may apply for an ex parte temporary order for custody of the child. The application must include an affidavit made under oath that states with particularity the specific facts and circumstances on which the application is based. The court ~~shall~~ must grant temporary custody if it finds, based on the application, that the applicable factors in subdivision 1 exist. If it finds that the factors in subdivision 1 do not exist, the court ~~shall~~ must order that the child be returned to or remain with the parent. An ex parte temporary custody order under this subdivision is effective for a fixed period not to exceed 14 days. A temporary custody hearing under this chapter must be set for not later than seven days after issuance of the ex parte temporary custody order, except that if the ex parte temporary custody order is based on the grounds under subdivision 1, paragraph (b), clause (2), the temporary custody hearing must be set for not later than 72 hours, excluding Saturdays, Sundays, and holidays, after issuance of the order. The parent must be promptly served with a copy of the ex parte order and the petition and notice of the date for the hearing.

Sec. 17. Minnesota Statutes 2000, section 518.158, subdivision 4, is amended to read:

Subd. 4. [RETURN TO PARENT.] If the court orders permanent custody to a relative under this section, the court ~~shall~~ must set conditions the parent must meet in order to obtain custody. The court may notify the parent that the parent may request assistance from the local social service agency in order to meet the conditions set by the court.

Sec. 18. Minnesota Statutes 2000, section 518.165, is amended to read:

518.165 [GUARDIANS FOR MINOR CHILDREN.]

Subdivision 1. [PERMISSIVE APPOINTMENT OF GUARDIAN AD LITEM.] In all proceedings for child custody or for dissolution or legal separation where custody or parenting time with a minor child is in issue, the court may appoint a guardian ad litem from a panel established by the court to represent the interests of the child. The guardian ad litem ~~shall~~ must advise the court with respect to custody, support, and parenting time.

Subd. 2. [REQUIRED APPOINTMENT OF GUARDIAN AD LITEM.] In all proceedings for child custody or for marriage dissolution or legal separation in which custody or parenting time with a minor child is an issue, if the court has reason to believe that the minor child is a victim of domestic child abuse or neglect, as those terms are defined in sections 260C.007 and 626.556, respectively, the court ~~shall~~ must appoint a guardian ad litem. The guardian ad litem ~~shall~~ must represent the interests of the child and advise the court with respect to custody, support, and parenting time. If the child is represented by a guardian ad litem in any other pending proceeding, the court may appoint that guardian to represent the child in the custody or parenting time proceeding. No guardian ad litem need be appointed if the alleged domestic child abuse or neglect is before the court on a juvenile dependency and neglect petition. Nothing in this subdivision requires the court to appoint a guardian ad litem in any proceeding for child custody, marriage dissolution, or legal separation in which an allegation of domestic child abuse or neglect has not been made.

Subd. 2a. [RESPONSIBILITIES OF GUARDIAN AD LITEM.] A guardian ad litem ~~shall~~ must carry out the following responsibilities:

(1) conduct an independent investigation to determine the facts relevant to the situation of the child and the family, which must include, unless specifically excluded by the court, reviewing relevant documents; meeting with and observing the child in the home setting and considering the child's wishes, as appropriate; and interviewing parents, caregivers, and others with knowledge relevant to the case;

(2) advocate for the child's best interests by participating in appropriate aspects of the case and advocating for appropriate community services when necessary;

(3) maintain the confidentiality of information related to a case, with the exception of sharing information as permitted by law to promote cooperative solutions that are in the best interests of the child;

(4) monitor the child's best interests throughout the judicial proceeding; and

(5) present written reports on the child's best interests that include conclusions and recommendations and the facts upon which they are based.

Subd. 3. [FEES.] (a) A guardian ad litem appointed under either subdivision 1 or 2 may be appointed either as a volunteer or on a fee basis. If a guardian ad litem is appointed on a fee basis, the court ~~shall~~ must enter an order for costs, fees, and disbursements in favor of the child's guardian ad litem. The order may be made against either or both parties, except that any part of the costs, fees, or disbursements which the court finds the parties are incapable of paying ~~shall~~ must be borne by the state courts. The costs of court-appointed counsel to the guardian ad litem ~~shall~~ must be paid by the county in which the proceeding is being held if a party is incapable of paying for them. Until the recommendations of the task force created in Laws 1999, chapter 216, article 7, section 42, are implemented, the costs of court-appointed counsel to a guardian ad litem in the eighth judicial district ~~shall~~ must be paid by the state courts if a party is incapable of paying for them. In no event may the court order that costs, fees, or disbursements be paid by a party receiving public assistance or legal assistance or by a party whose annual income falls below the poverty line as established under United States Code, title 42, section 9902(2).

(b) In each fiscal year, the state treasurer ~~shall~~ must deposit guardian ad litem reimbursements in the general fund and credit them to a separate account with the trial courts. The balance of this account is appropriated to the trial courts and does not cancel but is available until expended. Expenditures by the state court administrator's office from this account must be based on the amount of the guardian ad litem reimbursements received by the state from the courts in each judicial district.

Sec. 19. Minnesota Statutes 2000, section 518.166, is amended to read:

518.166 [INTERVIEWS.]

The court may interview the child in chambers to ascertain the child's reasonable preference as to custodian with which parent the child would reside, if the court deems the child to be of sufficient age to express preference. The court ~~shall~~ must permit counsel to be present at the interview and ~~shall~~ must permit counsel to propound reasonable questions to the child either directly or through the court. The court ~~shall~~ must cause a record of the interview to be made and to be made part of the record in the case unless waived by the parties.

In contested custody proceedings, and in other custody proceedings if a parent or the child's custodian requests, the court may seek the recommendations of professional personnel whether or not they are employed on a regular basis by the court. The recommendations given ~~shall~~ must be in writing and ~~shall~~ must be made available by the court to counsel upon request. Counsel may call for cross-examination of professional personnel consulted by the court.

Sec. 20. Minnesota Statutes 2000, section 518.167, subdivision 3, is amended to read:

Subd. 3. [AVAILABILITY TO COUNSEL.] The court ~~shall~~ must mail the investigator's report to counsel and to any party not represented by counsel at least ten days before the hearing. The investigator ~~shall~~ must maintain and, upon request, make available to counsel and to a party not represented by counsel the investigator's file of underlying data and reports, complete texts of diagnostic reports made to the investigator pursuant to the provisions of subdivision 2, and the names and addresses of all persons whom the investigator has consulted. ~~The investigator and any person the investigator has consulted is subject to other pretrial discovery in accordance with the requirements of the Minnesota Rules of Civil Procedure. Mediation proceedings are not subject to discovery without written consent of both parties. A party to the proceeding may call the investigator and any person whom the investigator has consulted for cross-examination at the hearing. A party may not waive the right of cross-examination before the hearing.~~

Sec. 21. Minnesota Statutes 2000, section 518.167, subdivision 4, is amended to read:

Subd. 4. [~~USE-AT DISCOVERY; HEARING.~~] The investigator and any person the investigator has consulted is subject to other pretrial discovery in accordance with the requirements of the Minnesota Rules of Civil Procedure. Mediation proceedings are not subject to discovery without written consent of both parties. A party to the proceeding may call the investigator and any person whom the investigator has consulted for cross-examination at the hearing. A party may not waive the right of cross-examination before the hearing. The investigator's report may be received in evidence at the hearing.

Sec. 22. Minnesota Statutes 2000, section 518.167, subdivision 5, is amended to read:

Subd. 5. [COSTS.] The court ~~shall~~ must order all or part of the cost of the investigation and report to be paid by either or both parties, based on their ability to pay. Any part of the cost that the court finds the parties are incapable of paying must be borne by the ~~county welfare~~ local social services agency or department of court services that performs the investigation. The court may not order costs under this subdivision to be paid by a party receiving public assistance or legal assistance from a qualified legal services program or by a party whose annual income falls below the poverty line under United States Code, title 42, section 9902(2).

Sec. 23. Minnesota Statutes 2000, section 518.168, is amended to read:

518.168 [HEARINGS.]

(a) Custody proceedings ~~shall~~ must receive priority in being set for hearing.

(b) The court may tax as costs the payment of necessary travel and other expenses incurred by a person whose presence at the hearing the court deems necessary to determine the best interests of the child.

(c) The court without a jury ~~shall~~ must determine questions of law and fact. If it finds that a public hearing may be detrimental to the child's best interests, the court may exclude the public from a custody hearing, but may admit any person who has a direct interest in the particular case.

(d) If the court finds it necessary for the protection of the child's welfare that the record of an interview, report, investigation, or testimony in a custody proceeding not be ~~kept secret~~ disclosed, the court may make an appropriate order sealing the record.

Sec. 24. Minnesota Statutes 2000, section 518.1705, subdivision 6, is amended to read:

Subd. 6. [RESTRICTIONS ON PREPARATION AND CONTENT OF PARENTING PLAN.] (a) Dispute resolution processes other than the judicial process may not be required in the preparation of a parenting plan if a parent is alleged to have committed domestic abuse toward a parent or child who is a party to, or subject of, the matter before the court. In these cases, the court ~~shall~~ must consider the appointment of a guardian ad litem and a parenting plan evaluator.

(b) The court may not require a parenting plan that provides for joint legal custody or use of dispute resolution processes, other than the judicial process; if the court finds that section 518.179 applies, or the court finds that either parent has engaged in the following toward a parent or child who is a party to, or subject of, the matter before the court:

(1) acts of domestic abuse, including physical harm, bodily injury, and infliction of fear of physical harm, assault, terroristic threats, or criminal sexual conduct;

(2) physical, sexual, or a pattern of emotional abuse of a child; or

(3) willful abandonment that continues for an extended period of time or substantial refusal to perform parenting functions.

Sec. 25. Minnesota Statutes 2000, section 518.175, subdivision 1, is amended to read:

Subdivision 1. [GENERAL.] (a) In all proceedings for dissolution or legal separation, subsequent to the commencement of the proceeding and continuing thereafter during the minority of the child, the court ~~shall~~ must, upon the request of either parent, grant ~~such~~ parenting time on behalf of the child and ~~noncustodial~~ the parent ~~as that~~ will enable the child and the ~~noncustodial~~ parent to maintain a child to parent relationship that will be in the best interests of the child. If the court finds, after a hearing, that parenting time is likely to endanger the child's physical or emotional health or impair the child's emotional development, the court ~~shall~~ must restrict parenting time with the ~~noncustodial~~ parent as to time, place, duration, or supervision and may deny parenting time entirely, as the circumstances warrant. The court ~~shall~~ must consider the age of the child and the child's relationship with the ~~noncustodial~~ parent ~~prior to~~ before the commencement of the proceeding. A parent's failure to pay support because of the parent's inability to do so ~~shall~~ is not ~~be~~ sufficient cause for denial of parenting time.

(b) The court may provide that a law enforcement officer or other appropriate person will accompany a party seeking to enforce or comply with parenting time.

(c) Upon request of either party, to the extent practicable an order for parenting time must include a specific schedule for parenting time, including the frequency and duration of visitation and visitation during holidays and vacations, unless parenting time is restricted, denied, or reserved.

(d) The court administrator ~~shall~~ must provide a form for a pro se motion regarding parenting time disputes, which ~~includes~~ must include provisions for indicating the relief requested, an affidavit in which the party may state the facts of the dispute, and a brief description of the parenting time expeditor process under section 518.1751. The form may not include a request for a change of custody. The court ~~shall~~ must provide instructions on serving and filing the motion.

Sec. 26. Minnesota Statutes 2000, section 518.175, subdivision 1a, is amended to read:

Subd. 1a. [DOMESTIC ABUSE; SUPERVISED PARENTING TIME.] (a) If a ~~custodial~~ parent requests supervised parenting time under subdivision 1 or 5 and an order for protection under chapter 518B or a similar law of another state is in effect against the ~~noncustodial~~ other parent to protect the ~~custodial~~ parent with whom the child resides or the child, the judge or judicial officer must consider the order for protection in making a decision regarding parenting time.

(b) The state court administrator, in consultation with representatives of ~~custodial and noncustodial~~ parents and other interested persons, ~~shall~~ must develop standards to be met by persons who are responsible for supervising parenting time. Either parent may challenge the appropriateness of an individual chosen by the court to supervise parenting time.

Sec. 27. Minnesota Statutes 2000, section 518.175, subdivision 2, is amended to read:

Subd. 2. [RIGHTS OF CHILDREN AND ~~NONCUSTODIAL~~ PARENT.] Upon the request of either parent, the court may inform any child of the parties, if eight years of age or older, or otherwise of an age of suitable comprehension, of the rights of the child and ~~the noncustodial~~ each parent under the order or decree or any substantial amendment ~~thereof of it~~. The ~~custodial~~ parent ~~shall with whom the child resides~~ must present the child for parenting time with the ~~noncustodial~~ other parent, at ~~such~~ the times as the court directs.

Sec. 28. Minnesota Statutes 2000, section 518.175, subdivision 3, is amended to read:

Subd. 3. [MOVE TO ANOTHER STATE.] The ~~custodial~~ parent ~~shall with whom the child resides~~ must not move the residence of the child to another state except upon order of the court or with the consent of the ~~noncustodial~~ other parent, ~~when if the noncustodial other parent has been given parenting time by the decree~~. If the purpose of the move is to interfere with parenting time given to the ~~noncustodial~~ other parent by the decree, the court ~~shall~~ must not permit the child's residence to be moved to another state.

Sec. 29. Minnesota Statutes 2000, section 518.175, subdivision 5, is amended to read:

Subd. 5. [MODIFICATION OF PARENTING PLAN OR ORDER FOR PARENTING TIME.] If modification would serve the best interests of the child, the court ~~shall~~ must modify the decision-making provisions of a parenting plan or an order granting or denying parenting time, if the modification would not change the child's primary residence. Except as provided in section 631.52, the court may not restrict parenting time unless it finds that:

(1) parenting time is likely to endanger the child's physical or emotional health or impair the child's emotional development; or

(2) the ~~noncustodial~~ parent has chronically and unreasonably failed to comply with court-ordered parenting time.

If ~~the custodial~~ a parent makes specific allegations that parenting time places the ~~custodial~~ parent or child in danger of harm, the court ~~shall~~ must hold a hearing at the earliest possible time to determine the need to modify the order granting parenting time. Consistent with subdivision 1a, the court may require a third party, including the local social services agency, to supervise the parenting time or may restrict a parent's parenting time if necessary to protect the ~~custodial~~ other parent or child from harm. In addition, if there is an existing order for protection governing the parties, the court ~~shall~~ must consider the use of an independent, neutral exchange location for parenting time.

Sec. 30. Minnesota Statutes 2000, section 518.175, subdivision 6, is amended to read:

Subd. 6. [REMEDIES.] (a) The court may provide for one or more of the following remedies for denial of or interference with court-ordered parenting time as provided under this subdivision. All parenting time orders must include notice of the provisions of this subdivision.

(b) If the court finds that a person parent has been deprived of court-ordered parenting time, the court ~~shall~~ must order the ~~custodial~~ parent who has caused the deprivation to permit additional parenting time to compensate for the allow compensatory parenting time of which the person was deprived to the other parent or the court ~~shall~~ must make specific findings as to why a request for compensatory parenting time is denied. If compensatory parenting time is awarded, additional parenting time must be:

(1) at least of the same type and duration as the deprived parenting time and, at the discretion of the court, may be in excess of or of a different type than the deprived parenting time;

(2) taken within one year after the deprived parenting time; and

(3) at a time acceptable to the person parent deprived of parenting time.

(c) If the court finds that a party has wrongfully failed to comply with a parenting time order or a binding agreement or decision under section 518.1751, the court may:

- (1) impose a civil penalty of up to \$500 on the party;
- (2) require the party to post a bond with the court for a specified period of time to secure the party's compliance;
- (3) award reasonable attorney's fees and costs;
- (4) require the party who violated the parenting time order or binding agreement or decision of the parenting time expeditor to reimburse the other party for costs incurred as a result of the violation of the order or agreement or decision; or
- (5) award any other remedy that the court finds to be in the best interests of the children involved.

A civil penalty imposed under this paragraph must be deposited in the county general fund and must be used to fund the costs of a parenting time expeditor program in a county with this program. In other counties, the civil penalty must be deposited in the state general fund.

(d) If the court finds that a party has been denied parenting time and has incurred expenses in connection with the denied parenting time, the court may require the party who denied parenting time to post a bond in favor of the other party in the amount of prepaid expenses associated with upcoming planned parenting time.

(e) Proof of an unwarranted denial of or interference with duly established parenting time may constitute contempt of court and may be sufficient cause for reversal of custody.

Sec. 31. Minnesota Statutes 2000, section 518.175, subdivision 7, is amended to read:

Subd. 7. [GRANDPARENT VISITATION.] In all proceedings for dissolution or legal separation, after the commencement of the proceeding or at any time after completion of the proceedings, and continuing during the child's minority of the child, the court may make an order granting visitation rights to grandparents under and other individuals as provided by section 257.022, subdivision 2.

Sec. 32. Minnesota Statutes 2000, section 518.175, subdivision 8, is amended to read:

Subd. 8. [ADDITIONAL PARENTING TIME FOR CARE OF CHILD BY NONCUSTODIAL PARENT.] The court may allow additional parenting time to the noncustodial parent to provide child care while the custodial parent is working if this arrangement is reasonable and in the best interests of the child, as defined in section 518.17, subdivision 1. In addition, the court ~~shall~~ must consider:

- (1) the ability of the parents to cooperate;
- (2) methods for resolving disputes regarding the care of the child, and the parents' willingness to use those methods; and
- (3) whether domestic abuse, as defined in section 518B.01, has occurred between the parties.

Sec. 33. Minnesota Statutes 2000, section 518.1751, subdivision 1b, is amended to read:

Subd. 1b. [PURPOSE; DEFINITIONS.] (a) The purpose of a parenting time expeditor is to resolve parenting time disputes by enforcing, interpreting, clarifying, and addressing circumstances not specifically addressed by an existing parenting time order and, if appropriate, to make a determination as to whether the existing parenting time order has been violated. A parenting time expeditor may be appointed to resolve a one-time parenting time dispute or to provide ongoing parenting time dispute resolution services.

(b) For purposes of this section, "parenting time dispute" means a disagreement among parties about parenting time with a child, including a dispute about an anticipated denial of future scheduled parenting time. "Parenting time dispute" includes a claim by a ~~custodial~~ parent that a ~~noncustodial~~ the other parent is not spending time with a child as well as a claim by a ~~noncustodial~~ parent that a ~~custodial~~ the other parent is denying or interfering with parenting time.

(c) A "parenting time expeditor" is a neutral person authorized to use a mediation-arbitration process to resolve parenting time disputes. A parenting time expeditor ~~shall~~ must attempt to resolve a parenting time dispute by facilitating negotiations between the parties to promote settlement ~~and~~. If it becomes apparent that the dispute cannot be resolved by an agreement of the parties, the parenting time expeditor ~~shall~~ must make a decision resolving the dispute.

Sec. 34. Minnesota Statutes 2000, section 518.1751, subdivision 2, is amended to read:

Subd. 2. [APPOINTMENT.] (a) The parties may stipulate to the appointment of a parenting time expeditor or a team of two expeditors without appearing in court by submitting to the court a written agreement identifying the names of the individuals to be appointed by the court; the nature of the dispute; the responsibilities of the parenting time expeditor, including whether the expeditor is appointed to resolve a specific issue or on an ongoing basis; the term of the appointment; and the apportionment of fees and costs. The court ~~shall~~ must review the agreement of the parties.

(b) If the parties cannot agree on a parenting time expeditor, the court ~~shall~~ must provide ~~to the parties~~ them with a copy of the court administrator's roster of parenting time expeditors and require the parties to exchange the names of three potential parenting time expeditors by a specific date. If after exchanging names the parties are unable to agree upon a parenting time expeditor, the court ~~shall~~ must select the ~~parenting time~~ expeditor and, in its discretion, may appoint one expeditor or a team of two ~~expeditors~~. In the selection process the court must give consideration to the financial circumstances of the parties and the fees of those being considered as ~~parenting time~~ expeditors. Preference must be given to persons who agree to volunteer their services or who will charge a variable fee for services based on the ability of the parties to pay for them.

(c) An order appointing a parenting time expeditor must identify the name of the individual to be appointed, the nature of the dispute, the responsibilities of the expeditor including whether the expeditor is appointed to resolve a specific issue or on an ongoing basis, the term of the appointment, the apportionment of fees, and notice that if the parties are unable to reach an agreement with the ~~expeditor's~~ assistance of the expeditor, the expeditor is authorized to make a decision resolving the dispute which is binding upon the parties unless modified or vacated by the court.

Sec. 35. Minnesota Statutes 2000, section 518.1751, subdivision 2a, is amended to read:

Subd. 2a. [FEES.] ~~Prior to~~ Before appointing the parenting time expeditor, the court ~~shall~~ must give the parties notice that the ~~expeditor's fees of the expeditor~~ will be apportioned among the parties. In its order appointing the expeditor, the court ~~shall~~ must apportion the ~~expeditor's fees of the expeditor~~ among the parties, with each party bearing the portion of fees that the court determines is just and equitable under the circumstances. If a party files a pro se motion regarding a parenting time dispute and there is not a an existing court order ~~that provides for apportionment of apportioning~~ the fees of an expeditor, the court administrator may require the party requesting ~~the~~ appointment of an expeditor to pay the ~~expeditor's fees of the expeditor~~ in advance. Neither party may be required to submit a dispute to a ~~visitation~~ an expeditor if the party cannot afford to pay for the fees ~~of an expeditor~~ and an affordable expeditor is not available, unless the other party agrees to pay the fees. After fees are incurred, a party may by motion request that the fees be reapportioned on equitable grounds. The court may consider the resources of the parties, the nature of the dispute, and whether a party acted in bad faith. The court may consider information from the expeditor in determining bad faith.

Sec. 36. Minnesota Statutes 2000, section 518.1751, subdivision 2b, is amended to read:

Subd. 2b. [ROSTER OF PARENTING TIME EXPEDITORS.] ~~Each~~ The court administrator ~~shall~~ must maintain and make available to judicial officers and the public and judicial officers a roster of individuals available to serve as parenting time expeditors, ~~including~~. The roster must include each individual's name, address, telephone number, and fee charged, if any. A court administrator ~~shall~~ must not place on the roster the name of an individual who has not completed the training required in subdivision 2c. If the use of a ~~parenting time an~~ expeditor is initiated by stipulation of the parties, the parties may agree upon a person to serve as an expeditor even if that person has not completed the training described in subdivision 2c. The court may appoint ~~a person to serve~~ as an expeditor ~~even if the a~~ person who is not on the court administrator's roster, but may not appoint a person who has not completed the training described in subdivision 2c, unless so stipulated by the parties. To maintain one's listing on a court administrator's roster of parenting time expeditors, an individual ~~shall~~ must annually submit to the court administrator proof of completion of continuing education requirements.

Sec. 37. Minnesota Statutes 2000, section 518.1751, subdivision 2c, is amended to read:

Subd. 2c. [TRAINING AND CONTINUING EDUCATION REQUIREMENTS.] To qualify for listing on a court administrator's roster of parenting time expeditors, an individual ~~shall~~ must complete a minimum of 40 hours of family mediation training that has been certified by the Minnesota supreme court, ~~which~~. The training must include certified training in domestic abuse issues as required under Rule 114 of the Minnesota General Rules of Practice for the District Courts. ~~To maintain one's listing remain listed~~ on a court administrator's roster of parenting time expeditors, an individual ~~shall~~ must annually attend three hours of continuing education about alternative dispute resolution subjects.

Sec. 38. Minnesota Statutes 2000, section 518.1751, subdivision 3, is amended to read:

Subd. 3. [AGREEMENT OR DECISION.] (a) Within five days of notice of the appointment, or within five days of notice of a subsequent parenting time dispute between the same parties, the parenting time expeditor ~~shall~~ must meet with the parties together or separately and ~~shall~~ make a diligent effort to facilitate an agreement to resolve the dispute. If a parenting time dispute requires immediate resolution, the ~~parenting time~~ expeditor may confer with the parties through a telephone conference or similar means. An expeditor may make a decision without conferring with a party if the expeditor made a good faith effort to confer with the party, but the party chose not to participate in resolution of the dispute.

(b) If the parties do not reach an agreement, the expeditor ~~shall~~ must make a decision resolving the dispute as soon as possible, but not later than five days after receiving all information necessary to make a decision and after the final meeting or conference with the parties. The expeditor is authorized to award compensatory parenting time under section 518.175, subdivision 6, and may recommend to the court that the noncomplying party pay attorney's fees, court costs, and other costs under section 518.175, subdivision 6, paragraph (d), if the parenting time order has been violated. The expeditor ~~shall not lose~~ retains the authority to make a decision if circumstances beyond the expeditor's control make it impracticable to meet the five-day timelines.

(c) Unless the parties mutually agree, the parenting time expeditor ~~shall~~ must not make a decision that is inconsistent with an existing parenting time order, but may make decisions interpreting or clarifying a parenting time order, including the development of a specific schedule when the existing court order grants "reasonable parenting time."

(d) The expeditor ~~shall~~ must put an agreement or decision in writing and provide a copy to the parties. The expeditor may include or omit reasons for the agreement or decision. An agreement of the parties or a decision of the expeditor is binding on the parties unless vacated or modified by the court. If a party does not comply with an agreement of the parties or a decision of the expeditor, any party may bring a motion with the court and ~~shall~~ must attach a copy of the parties' written agreement or decision of the expeditor. The court may enforce, modify, or vacate the agreement of the parties or the decision of the expeditor.

Sec. 39. Minnesota Statutes 2000, section 518.176, is amended to read:

518.176 [JUDICIAL SUPERVISION.]

~~Subdivision 1. Except as otherwise agreed by the parties in writing at the time of the custody order, (a) The custodian parent with whom the child resides may determine the child's upbringing, including education, health care, and religious training, unless:~~

~~(1) otherwise agreed by the parties in writing at the time of the custody order; or~~

~~(2) upon motion by the other parent, the court after hearing, finds, upon motion by the noncustodial parent, that in the absence of a specific limitation of the custodian's authority of the parent with whom the child resides, the child's physical or emotional health is likely to be endangered or the child's emotional development impaired.~~

~~Subd. 2. (b) If both parents or all contestants agree to the order, or if the court finds that in the absence of the order the child's physical or emotional health is likely to be endangered or the child's emotional development impaired, the court may order the local social services agency or the department of court services to exercise continuing supervision over the case under guidelines established by the court to assure that the custodial or parenting time terms of the decree are carried out.~~

Sec. 40. Minnesota Statutes 2000, section 518.177, is amended to read:

518.177 [NOTIFICATION REGARDING DEPRIVATION OF PARENTAL RIGHTS LAW.]

~~Every~~ A court order and judgment and decree concerning custody of or parenting time or visitation with a minor child ~~shall~~ must contain the notice set out in section 518.68, subdivision 2.

Sec. 41. Minnesota Statutes 2000, section 518.178, is amended to read:

518.178 [PARENTING TIME AND SUPPORT REVIEW HEARING.]

Upon motion of either party, the court ~~shall~~ must conduct a hearing to review compliance with the parenting time and child support provisions ~~set forth~~ in a decree of dissolution or legal separation or an order that establishes child custody, parenting time, and support rights and obligations of parents. The state court administrator ~~shall~~ must prepare, and each court administrator ~~shall~~ must make available, simplified pro se forms for reviewing parenting time and child support disputes. The court may impose any parenting time enforcement remedy available under sections 518.175 and 518.1751, and any support enforcement remedy available under section 518.551.

Sec. 42. Minnesota Statutes 2000, section 518.179, subdivision 1, is amended to read:

Subdivision 1. [SEEKING CUSTODY OR PARENTING TIME.] Notwithstanding any contrary provision in section 518.17 or 518.175, if a person seeking child custody or parenting time who has been convicted of a crime described in subdivision 2, ~~the person seeking custody or parenting time~~ has the burden to prove that custody or parenting time by that person is in the best interests of the child if:

- (1) the conviction occurred within the preceding five years;
- (2) the person is currently incarcerated, on probation, or under supervised release for the offense; or
- (3) the victim of the crime was a family or household member as defined in section 518B.01, subdivision 2.

If this section applies, the court may not grant custody or parenting time to the person unless it finds that the custody or parenting time is in the best interests of the child. If the victim of the crime was a family or household member, the standard of proof is clear and convincing evidence. A guardian ad litem must be appointed in any case where this section applies.

Sec. 43. Minnesota Statutes 2000, section 518.18, is amended to read:

518.18 [MODIFICATION OF ORDER.]

(a) Unless agreed to in writing by the parties, no motion to modify a custody order or parenting plan may be made earlier than one year after the date of the entry of a decree of dissolution or legal separation containing a provision dealing with custody, except in accordance with paragraph (c).

(b) If a motion for modification has been heard, whether or not it was granted, unless agreed to in writing by the parties no subsequent motion may be filed within two years after disposition of the prior motion on its merits, except in accordance with paragraph (c).

(c) The time limitations prescribed in paragraphs (a) and (b) ~~shall do~~ not prohibit a motion to modify a custody order or parenting plan if the court finds that there is persistent and willful denial or interference with parenting time, or has reason to believe that the child's present environment may endanger the child's physical or emotional health or impair the child's emotional development.

(d) ~~If the~~ A court that has jurisdiction to determine child custody matters, ~~the court shall~~ must not modify a prior custody order or a parenting plan provision ~~which that~~ specifies the child's primary residence unless it finds, ~~upon the basis of facts, including unwarranted denial of, or interference with, a duly established parenting time schedule, that have arisen since the prior order or that were unknown to the court at the time of the prior order,~~ that a change has occurred in the circumstances of the child or the parties and that the modification is necessary to serve the best interests of the child. The court must make its finding upon the basis of facts, including unwarranted denial of, or interference with, a duly established parenting time schedule, that have arisen since the prior order or that were unknown to the court at the time of the prior order. In applying these standards the court ~~shall~~ must retain the custody arrangement or the parenting plan provision specifying the child's primary residence that was established by the prior order unless:

(i) the court finds that a change in the custody arrangement or primary residence is in the best interests of the child and the parties previously agreed, in a writing approved by a court, to apply the best interests standard in section 518.17 or 257.025, as applicable; and, with respect to agreements approved by a court on or after April 28, 2000, both parties were represented by counsel when the agreement was approved or the court found the parties were fully informed, the agreement was voluntary, and the parties were aware of its implications;

(ii) both parties agree to the modification;

(iii) the child has been integrated into the family of the petitioner with the consent of the other party; or

(iv) the child's present environment endangers the child's physical or emotional health or impairs the child's emotional development and the harm likely to be caused by a change of environment is outweighed by the advantage of a change to the child.

~~In addition,~~ (e) A court may modify a custody order or parenting plan under section 631.52.

~~(e)~~ (f) In deciding whether to modify a prior joint custody order, the court ~~shall~~ must apply the standards set forth in paragraph (d) unless:

(1) the parties agree in writing to the application of a different standard; or

(2) the party seeking the modification is asking the court for permission to move the residence of the child to another state.

~~(f) If a custodial parent has been granted sole physical custody of a minor and the child subsequently lives with the noncustodial parent, and temporary sole physical custody has been approved by the court or by a court-appointed referee; (g) The court may suspend the noncustodial parent's obligor's child support obligation pending the a final custody determination if:~~

- ~~(1) the obligee has been granted sole physical custody of a child;~~
- ~~(2) the child subsequently lives with the obligor; and~~
- ~~(3) a temporary sole custody order has been approved by the court or a court-approved referee.~~

~~The court's A court order denying the suspension of child support under this paragraph must include a written explanation of the reasons why continuation of the child support obligation would be in the best interests of the child.~~

~~(h) A party seeking modification of a custody order must submit with moving papers an affidavit setting forth facts supporting the requested modification. The party must give notice and a copy of the affidavit to other parties to the proceeding, who may file opposing affidavits.~~

Sec. 44. Minnesota Statutes 2000, section 518.612, is amended to read:

518.612 [INDEPENDENCE OF PROVISIONS OF DECREE OR TEMPORARY ORDER.]

~~Failure by a party to make support payments is not a defense to: interference with parenting time; or without the permission of the court or the noncustodial parent removing a child from this state. Nor is interference with parenting time or taking a child from this state without permission of the court or the noncustodial parent a defense to nonpayment of support. If a party fails to make support payments, or interferes with parenting time, or without permission of the court or the noncustodial parent removes a child from this state, the other party may petition the court for an appropriate order.~~

~~(a) An obligor may not assert as a defense to failure to pay child support that the obligee interfered with parenting time or removed the child from the state without permission of the obligor or the court.~~

~~(b) An obligee may not assert as a defense to interference with parenting time or removing the child from the state without permission of the obligor or the court, that the obligor failed to pay child support.~~

~~(c) A party may petition the court for an appropriate order if the other party:~~

- ~~(1) fails to make support payments;~~
- ~~(2) interferes with parenting time; or~~
- ~~(3) removes a child from this state without permission of the court or the other parent.~~

Sec. 45. Minnesota Statutes 2000, section 518.619, is amended to read:

518.619 [CUSTODY OR ~~VISITATION~~ PARENTING TIME; MEDIATION SERVICES.]

Subdivision 1. [MEDIATION PROCEEDING.] Except as provided in subdivision 2, if it appears on the face of the petition or other application for an order or modification of an order for ~~the child~~ custody of a child that custody or parenting time is contested, or that any issue pertinent to a custody or parenting time determination, including parenting time rights, is unresolved, the matter may be set for mediation of the contested issue ~~prior to before~~, concurrent with, or ~~subsequent to the after~~ setting of the matter for hearing. The purpose of the mediation proceeding is to reduce acrimony ~~which that~~ may exist between the parties and to develop an agreement that is supportive of the child's best interests. The mediator ~~shall must~~ use best efforts to effect a settlement of the custody or parenting time dispute, but ~~shall have~~ has no coercive authority.

Subd. 2. [EXCEPTION.] If the court determines that there is probable cause that one of the parties, or a child of a party, has been physically or sexually abused by ~~the other a~~ party, the court ~~shall~~ must not require or refer the parties to mediation or any other process that requires parties to meet and confer without counsel, if any, present.

Subd. 3. [MEDIATOR APPOINTMENT.] In order to participate in a custody mediation, a mediator must be appointed by the family court. A mediator must be a member of the professional staff of a family court, probation department, mental health services agency, or a private mediation service. The mediator must be on a list of mediators approved by the court having jurisdiction of the matter, unless the parties stipulate to a mediator not on the list.

Subd. 4. [MEDIATOR QUALIFICATIONS.] A mediator who performs mediation in contested child custody matters ~~shall~~ must meet the following minimum qualifications:

- (a) (1) knowledge of the court system and the procedures used in contested child custody matters;
- (b) (2) knowledge of other resources in the community to which the parties to contested child custody matters can be referred for assistance;
- (c) (3) knowledge of child development, clinical issues relating to children, the effects of marriage dissolution on children, and child custody research; and
- (d) (4) a minimum of 40 hours of certified mediation training.

Subd. 5. [RECORDS; PRIVATE DATA.] Mediation proceedings ~~shall~~ must be conducted in private. All records of a mediation proceeding ~~shall be~~ are private and not available as evidence in an action for marriage dissolution and related proceedings on any issue in controversy in the dissolution.

Subd. 6. [MEDIATOR RECOMMENDATIONS.] When the parties have not reached agreement as a result of the mediation proceeding, the mediator may recommend to the court that an investigation be conducted under section 518.167, or that other action be taken to assist the parties to resolve the controversy before hearing on the issues. The mediator may not conduct the investigation or evaluation unless: (1) the parties agree in a writing, executed after the termination of mediation, that the mediator may conduct the investigation or evaluation, or (2) there is no other person reasonably available to conduct the investigation or evaluation. The mediator may recommend that mutual restraining orders be issued in appropriate cases, pending determination of the controversy, to protect the well-being of the children involved in the controversy.

Subd. 7. [MEDIATION AGREEMENT.] An agreement reached by the parties as a result of mediation ~~shall~~ must be discussed by the parties with their attorneys, if any, ~~and~~. The approved agreement may then be included in the marital dissolution decree or other stipulation submitted to the court. An agreement reached by the parties as a result of mediation may not be presented to the court nor made enforceable unless the parties and their counsel, if any, consent to its presentation to the court, and the court adopts the agreement.

Subd. 8. [RULES.] Each court ~~shall~~ must adopt rules to implement this section, and ~~shall~~ must compile and maintain a list of mediators.

Sec. 46. [INSTRUCTION TO REVISOR.]

The revisor of statutes must renumber the sections in Minnesota Statutes 2000 listed in column A as indicated in column B and correct cross-references to those sections throughout Minnesota Statutes and Minnesota Rules.

A

B

518.003, subd. 3

517B.01, subd. 2

<u>518.003, subd. 5</u>	<u>517B.01, subd. 3</u>
<u>518.155</u>	<u>517B.02</u>
<u>518.156</u>	<u>517B.13</u>
<u>518.157</u>	<u>517B.06</u>
<u>518.158, subd. 1</u>	<u>517B.22, subd. 2</u>
<u>518.158, subd. 2</u>	<u>517B.22, subd. 3</u>
<u>518.158, subd. 3</u>	<u>517B.22, subd. 4</u>
<u>518.158, subd. 4</u>	<u>517B.22, subd. 5</u>
<u>518.158, subd. 5</u>	<u>517B.22, subd. 1</u>
<u>518.165</u>	<u>517B.08</u>
<u>518.166</u>	<u>517B.14</u>
<u>518.167</u>	<u>517B.15</u>
<u>518.168</u>	<u>517B.16</u>
<u>518.1705</u>	<u>517B.25</u>
<u>518.175, subd. 1</u>	<u>517B.27, subd. 1</u>
<u>518.175, subd. 1a</u>	<u>517B.27, subd. 2</u>
<u>518.175, subd. 2</u>	<u>517B.27, subd. 3</u>
<u>518.175, subd. 3</u>	<u>517B.27, subd. 4</u>
<u>518.175, subd. 5</u>	<u>517B.27, subd. 6</u>
<u>518.175, subd. 6</u>	<u>517B.27, subd. 7</u>
<u>518.175, subd. 7</u>	<u>517B.30</u>
<u>518.175, subd. 8</u>	<u>517B.27, subd. 8</u>
<u>518.1751, subd. 1</u>	<u>517B.28, subd. 1</u>
<u>518.1751, subd. 1a</u>	<u>517B.28, subd. 2</u>
<u>518.1751, subd. 1b</u>	<u>517B.28, subd. 3</u>
<u>518.1751, subd. 2</u>	<u>517B.28, subd. 6</u>
<u>518.1751, subd. 2a</u>	<u>517B.28, subd. 7</u>
<u>518.1751, subd. 2b</u>	<u>517B.28, subd. 4</u>
<u>518.1751, subd. 2c</u>	<u>517B.28, subd. 5</u>
<u>518.1751, subd. 3</u>	<u>517B.28, subd. 8</u>
<u>518.1751, subd. 4</u>	<u>517B.28, subd. 13</u>
<u>518.1751, subd. 4a</u>	<u>517B.28, subd. 9</u>
<u>518.1751, subd. 5</u>	<u>517B.28, subd. 10</u>
<u>518.1751, subd. 5a</u>	<u>517B.28, subd. 11</u>
<u>518.1751, subd. 6</u>	<u>517B.28, subd. 12</u>
<u>518.176</u>	<u>517B.20</u>
<u>518.177</u>	<u>517B.04</u>
<u>518.178</u>	<u>517B.27, subd. 5</u>
<u>518.179</u>	<u>517B.09</u>
<u>518.18</u>	<u>517B.21</u>
<u>518.183</u>	<u>517B.26</u>
<u>518.612</u>	<u>517B.10</u>
<u>518.619</u>	<u>517B.07</u>

Sec. 47. [REPEALER.]

Minnesota Statutes 2000, sections 518.17; and 518.185, are repealed.

ARTICLE 14

CHILD SUPPORT

Section 1. Minnesota Statutes 2000, section 256.9791, is amended to read:

256.9791 [MEDICAL SUPPORT BONUS INCENTIVES.]

Subdivision 1. [BONUS INCENTIVE.] (a) A bonus incentive program is created to increase the identification and enforcement by county agencies of dependent health ~~insurance~~ coverage for ~~persons who are receiving medical assistance under section 256B.055 and~~ children and family units for whom the county agency is providing child support enforcement services.

(b) The bonus shall be awarded to a county child support agency for each ~~person~~ child for whom coverage is identified and enforced by the child support enforcement program when ~~the obligor is under~~ a court order to provide dependent health ~~insurance~~ coverage is in effect.

(c) Bonus incentive funds under this section must be reinvested in the county child support enforcement program and a county may not reduce funding of the child support enforcement program by the amount of the bonus earned.

Subd. 2. [DEFINITIONS.] For the purpose of this section, the following definitions apply.

(a) "Case" means a family unit ~~that is receiving medical assistance under section 256B.055 and~~ for whom the county agency is providing child support enforcement services.

(b) "Commissioner" means the commissioner of the department of human services.

(c) "County agency" means the county child support enforcement agency.

(d) "Coverage" means initial dependent health insurance benefits for a case or ~~individual member~~ child of a case, or medical assistance under section 256B.055 and MinnesotaCare under section 256L.07.

(e) "Enforce" or "enforcement" means obtaining proof of current or future dependent health ~~insurance~~ coverage through an overt act by the county agency.

(f) "Enforceable order" means a child support court order containing the statutory language in section ~~518.171~~ 517C.15 or other language ordering ~~an obligor a~~ parent to provide dependent health ~~insurance~~ coverage.

(g) "Identify" or "identification" means obtaining proof of dependent health ~~insurance~~ coverage through an overt act by the county agency.

Subd. 3. [ELIGIBILITY; REPORTING REQUIREMENTS.] (a) In order for a county to be eligible to claim a bonus incentive payment, the county agency must provide the required information for each ~~public assistance~~ case no later than June 30 of each year to determine eligibility. The public authority shall use the information to establish for each county the number of cases in which (1) the court has established an obligation for coverage ~~by the obligor~~, and (2) coverage was in effect as of June 30.

(b) A county that fails to provide the required information by June 30 of each fiscal year is not eligible for any bonus payments under this section for that fiscal year.

Subd. 4. [RATE OF BONUS INCENTIVE.] The rate of the bonus incentive shall be determined according to paragraph (a).

(a) When a county agency has identified or enforced coverage, the county shall receive \$50 for each ~~additional person~~ child for whom coverage is identified or enforced.

(b) Bonus payments according to paragraph (a) are limited to one bonus for each ~~covered person~~ child each time the county agency identifies or enforces previously unidentified health ~~insurance~~ coverage and apply only to coverage identified or enforced after July 1, 1990.

Subd. 5. [CLAIMS FOR BONUS INCENTIVE.] (a) Beginning July 1, 1990, county agencies shall file a claim for a medical support bonus payment by reporting to the commissioner the following information for each case where dependent health ~~insurance~~ coverage is identified or enforced as a result of an overt act of the county agency:

- (1) child support enforcement system case number or county specific case number;
- (2) names and dates of birth for each ~~person~~ child covered; and
- (3) the effective date of coverage.

(b) The report must be made upon enrollment in coverage but no later than September 30 for coverage identified or established during the preceding fiscal year.

(c) The county agency making the initial contact resulting in the establishment of coverage is the county agency entitled to claim the bonus incentive even if the case is transferred to another county agency prior to the time coverage is established.

(d) Disputed claims must be submitted to the commissioner and the commissioner's decision is final.

Subd. 6. [DISTRIBUTION.] (a) Bonus incentives must be issued to the county agency quarterly, within 45 days after the last day of each quarter for which a bonus incentive is being claimed, and must be paid up to the limit of the appropriation in the order in which claims are received.

(b) Total bonus incentives must be computed by multiplying the number of ~~persons~~ children included in claims submitted in accordance with this section by the applicable bonus payment as determined in subdivision 4.

(c) The county agency must repay any bonus erroneously issued.

(d) A county agency must maintain a record of bonus incentives claimed and received for each quarter.

Sec. 2. [517C.01] [TITLE.]

This chapter may be cited as the "Minnesota Child Support Act."

Sec. 3. [517C.02] [DEFINITIONS.]

Subdivision 1. [SCOPE.] The definitions in this section apply to this chapter.

Subd. 2. [ARREARS.] "Arrears" means amounts owed under a support order that are past due. It includes child support, pregnancy and confinement expenses, attorney fees, and any other obligations addressed in a support order.

Subd. 3. [BUSINESS DAY.] "Business day" means a day on which state offices are open for regular business.

Subd. 4. [CHILD.] "Child" means an individual under 18 years of age, an individual under age 20 who is still attending secondary school, or an individual who, by reason of physical or mental condition, is incapable of self-support.

Subd. 5. [CHILD SUPPORT.] "Child support" means:

(1) an award in a dissolution, legal separation, annulment, or parentage proceeding for the care, support, and education of a child of the marriage or of the parties to the proceeding;

(2) a contribution by parents ordered under section 256.87; or

(3) support ordered under chapter 518B or 518C.

Subd. 6. [DEPOSIT ACCOUNT.] "Deposit account" means funds deposited with a financial institution in the form of a savings account, checking account, NOW account, or demand deposit account.

Subd. 7. [FINANCIAL INSTITUTION.] "Financial institution" means a savings association, bank, trust company, credit union, industrial loan and thrift company, bank and trust company, or savings association, and includes a branch or detached facility of a financial institution.

Subd. 8. [OBLIGEE.] "Obligee" means a person to whom payments for child support are owed.

Subd. 9. [OBLIGOR.] "Obligor" means a person obligated to pay child support. A person who is designated as the sole physical custodian of a child is presumed not to be an obligor for purposes of calculating current support unless the court makes specific written findings to overcome this presumption.

Subd. 10. [PAYMENT.] "Payment" means the payment of child support, child care support, medical support, and related payments required by order of a tribunal, voluntary support, or statutory fees.

Subd. 11. [PAYOR OF FUNDS.] "Payor of funds" means a person or entity that provides funds to an obligor, including an employer as defined under chapter 24 of the Internal Revenue Code, section 3401(d), an independent contractor, payor of workers' compensation benefits or reemployment compensation, or a financial institution as defined in section 13B.06.

Subd. 12. [PUBLIC AUTHORITY.] "Public authority" means the local unit of government, acting on behalf of the state, that is responsible for child support enforcement or the child support enforcement division of the department of human services.

Subd. 13. [SUBSEQUENT CHILD.] "Subsequent child" means a child born after the child who is the subject of the child support proceeding.

Subd. 14. [SUPPORT ORDER.] (a) "Support order" means a judgment, decree, or order, whether temporary, final, or subject to modification, issued by a court or administrative agency of competent jurisdiction that:

(1) provides for the support of a child, including a child who has attained the age of majority under the law of the issuing state;

(2) provides for monetary support, child care, medical support including expenses for confinement and pregnancy, arrears, or reimbursement; and

(3) may include related costs and fees, interest and penalties, income withholding, and other relief.

(b) The definition in paragraph (a) applies to orders issued under this chapter and chapters 256, 257, 518B, and 518C.

Subd. 15. [TRIBUNAL.] "Tribunal" has the meaning given in section 518C.101.

Sec. 4. [517C.03] [PROCEDURAL RULES.]

The supreme court may promulgate rules to be used in child support cases.

Sec. 5. [517C.04] [CHILD SUPPORT ORDERS.]

Subdivision 1. [ORDER.] (a) Upon dissolution of marriage, legal separation, annulment, establishment of paternity, or when otherwise required by statute, the court must order child support as provided by this chapter.

(b) Nothing contained in this chapter limits the power of the court to make appropriate, adequate orders for the support and education of a child of the parties to a dissolution, legal separation, or annulment action if the dissolution, legal separation, or annulment is denied.

Subd. 2. [PROVISIONS.] Child support orders must provide for general child rearing costs, or basic needs, and must also specifically address medical care and child care costs, providing for those costs pursuant to this chapter.

Subd. 3. [AGREEMENTS.] If the parties stipulate or agree to a child support order, the court must review the agreement to ensure it serves the best interests of the child. The supreme court may promulgate rules regarding the review of stipulations and agreements. The court may refuse to accept or may alter an agreement that does not conform with the requirements of this chapter or that is otherwise not in the best interests of the child.

Subd. 4. [PREFERENCE FOR SPECIFIC DOLLAR AMOUNT.] (a) There is a presumption in favor of ordering child support in a specific dollar amount, as opposed to a percentage of income.

(b) The court may order an obligor to pay child support in the form of a percentage share of the obligor's net bonuses, commissions, or other forms of compensation, in addition to, or if the obligor receives no base pay, in lieu of an order for a specific dollar amount.

Subd. 5. [PREFERENCE FOR MONTHLY PAYMENT.] There is a presumption in favor of ordering child support in an amount that reflects an obligor's monthly obligation.

Subd. 6. [PREFERENCE FOR STATIC PAYMENT.] (a) There is a presumption in favor of ordering child support so that an obligor makes the same monthly payments throughout the year, as opposed to payment amounts that fluctuate by season or month. If the obligor is seasonally employed, it is generally the responsibility of the obligor to budget income accordingly.

Subd. 7. [ACCOUNTING FOR CHILD SUPPORT BY OBLIGEE.] (a) Upon the motion of an obligor, a court may order an obligee to account for the use or disposition of child support received. The motion must assert the specific allegations of abuse or misapplication of child support received and that a child's needs are not being met. If the court orders a hearing, the court may order an accounting only if the obligor establishes the specific allegations of abuse or misapplication of child support received and that the child's needs are not being met.

(b) If the court orders an accounting under paragraph (a), the obligee must provide documentation that breaks down monthly expenditures of child support received into the following categories:

(1) housing and utilities;

(2) food;

(3) transportation;

(4) clothing;

(5) health care;

(6) child care and education; and

(7) miscellaneous.

An obligee may account for expenditures on housing, utilities, food, and transportation that are attributable to multiple household members on a per capita basis.

(c) If the court finds that an obligee does not make the accounting required under paragraph (b) or the obligee does not spend the entire child support payment on behalf of the child, the court may:

(1) hold the obligee in contempt of court;

(2) reduce or eliminate the obligor's child support obligation;

(3) order the obligee to make future expenditures on behalf of the child, whether in whole or in part, in a manner that documents the transaction; or

(4) make any other appropriate order to ensure that the needs of the child are met.

(d) If the court determines that an obligor's motion under this section is brought in bad faith, the court may award reasonable attorney fees to the obligee.

Subd. 8. [DEPARTURE.] The court may depart from a presumption in subdivision 4, 5, or 6 if:

(1) all parties agree; or

(2) the presumption would impose an extreme hardship on the obligor and would not be in the best interests of the child.

Subd. 9. [CHILD SUPPORT TO BE DISTINGUISHED FROM MAINTENANCE.] In a judgment of dissolution or legal separation, the court must clearly distinguish between payments ordered for maintenance and payments ordered for child support. An award of payments from future income or earnings of the parent with whom the child resides is presumed to be maintenance and an award of payments from the future income or earnings of the other parent is presumed to be child support, unless otherwise designated by the court.

Subd. 10. [OTHER CUSTODIANS.] If a child resides with a person other than a parent and the court approves of the custody arrangement, the court may order child support payments to be made to the custodian regardless of whether the person has legal custody.

Subd. 11. [EITHER PARENT LIABLE; MARITAL MISCONDUCT IRRELEVANT.] The court may order either or both parents owing a duty of support to a child to pay an amount reasonable or necessary for the child's support, without regard to marital misconduct.

Sec. 6. [517C.05] [TEMPORARY ORDERS.]

Subdivision 1. [MOTION; SCOPE.] In a child support proceeding a party may, by motion, request that the court grant a temporary order pending the final disposition of the proceeding for temporary child support, costs, and reasonable attorney fees. Additionally, to facilitate the just and speedy disposition of the proceeding, the court may require a party to perform or refrain from performing additional acts.

Subd. 2. [DURATION.] A temporary order continues in full force and effect until:

(1) it is amended;

(2) it is vacated;

(3) the main action is dismissed; or

(4) a final decree of dissolution, legal separation, or other final order is entered.

Subd. 3. [FACTORS.] The court must consider the factors set forth in this chapter in making temporary orders.

Subd. 4. [EVIDENCE.] Temporary orders must be made solely on the basis of affidavits and argument of counsel unless:

(1) a party makes a timely motion or responsive motion to hear the matter on oral testimony before the court; or

(2) the court in its discretion orders the taking of oral testimony.

Subd. 5. [LIMITED EFFECT.] A temporary order does not prejudice the rights of the parties or the child that are to be adjudicated at subsequent hearings in the proceeding.

Subd. 6. [MODIFICATION.] A temporary order may be revoked or modified by the court before the final disposition of the proceeding upon the same grounds and subject to the same requirements as the initial granting of the order.

Sec. 7. [517C.06] [DETERMINATION OF CONTROLLING ORDER.]

The public authority or a party may request the court to determine a controlling order when more than one order involving the same obligor and child exists.

Sec. 8. [517C.07] [ATTORNEY FEES; COSTS AND DISBURSEMENTS.]

Subdivision 1. [GENERAL.] (a) Except as provided in section 517C.83, in a proceeding under this chapter, the court must award attorney fees, costs, and disbursements in an amount necessary to enable a party to carry on or contest the proceeding if:

(1) the fees are necessary for the good-faith assertion of the party's rights in the proceeding and will not contribute unnecessarily to the length and expense of the proceeding;

(2) the party from whom fees, costs, and disbursements are sought has the means to pay them; and

(3) the party to whom fees, costs, and disbursements are awarded does not have the means to pay them.

(b) Fees, costs, and disbursements may be awarded at any point during or after a proceeding under this chapter.

(c) The court may assess costs and disbursements against either party.

Subd. 2. [UNREASONABLE ACTIONS.] The court may, in its discretion, assess additional fees, costs, and disbursements against a party who unreasonably contributes to the length or expense of the proceeding.

Subd. 3. [COLLECTION.] The court may authorize the collection of money awarded by execution, or out of property sequestered, or in any other manner within the power of the court. An award of attorney fees survives the proceeding. If the award is not paid by the party directed to pay it, the award may be enforced as provided by this subdivision or by a separate civil action brought in the attorney's own name.

Sec. 9. [517C.10] [EXCHANGE OF INFORMATION.]

Subdivision 1. [DOCUMENTATION.] The parties must timely serve and file documentation of earnings and income. Documentation of earnings and income includes, but is not limited to, pay stubs for the most recent three months, employer statements, or statement of receipts and expenses if self-employed. Documentation of earnings and income also includes copies of each parent's most recent federal tax returns, W-2 forms, 1099 forms, reemployment compensation statements, workers' compensation statements, and all other documents evidencing the receipt of income that provide verification of income over a longer period.

Subd. 2. [ANNUAL EXCHANGE OF TAX RETURNS.] An obligor and obligee must annually provide all other parties with a copy of his or her federal tax return filed with the Internal Revenue Service.

Subd. 3. [NOTICE OF ADDRESS OR RESIDENCE CHANGE.] An obligor must notify other parties of a change of address or residence within 60 days of the address or residence change.

Subd. 4. [NOTICE TO PUBLIC AUTHORITY; PUBLIC ASSISTANCE.] The petitioner must notify the public authority of all proceedings for dissolution, legal separation, determination of parentage, or for the custody of a child, if either party is receiving public assistance or applies for it subsequent to the commencement of the proceeding. The notice must contain the full names of the parties to the proceeding, their social security account numbers, and their birth dates.

Subd. 5. [FAILURE OF NOTICE.] If the court in a dissolution, legal separation, or determination of parentage proceeding, finds before issuing the order for judgment and decree, that notification has not been given to the public authority, the court must set child support according to the guidelines in this chapter. In those proceedings in which no notification has been made pursuant to this section and in which the public authority determines that the judgment is lower than the child support required by the guidelines in this chapter, it must move the court for a redetermination of the support payments ordered so that the support payments comply with the guidelines.

Sec. 10. [517C.11] [PRIVACY PROTECTION; PERSONAL PROTECTION.]

Subdivision 1. [SOCIAL SECURITY NUMBERS; TAX RETURNS.] The social security numbers and tax returns required under this chapter are not accessible to the public, except that they must be disclosed to the other parties to a proceeding as provided in section 517C.10.

Subd. 2. [MODIFICATION OF CERTAIN REQUIREMENTS.] The court may modify or limit the information exchange requirements of this chapter by order if necessary to protect a party from contact by another party.

Subd. 3. [ACCESS TO ADDRESS FOR SERVICE OF PROCESS.] (a) If the public authority is a party or is providing services in a support case, a party may obtain an ex parte order under this subdivision. The party may obtain an ex parte order requiring the public authority to serve legal documents on the other party by mail if the party submits a sworn affidavit to the court stating that:

(1) the party needs to serve legal process in a support proceeding and does not have access to the address of the other party;

(2) the party has made reasonable efforts to locate the other party; and

(3) the other party is not represented by counsel.

(b) The public authority must serve legal documents provided by the moving party at the last known address of the other party upon receipt of a court order under paragraph (a). The public authority must provide for appropriate service and must certify to all parties the date of service by mail. The public authority's proof of service must not include the place or address of service.

(c) The state court administrator must prepare and make available forms for use in seeking access to an address under this subdivision.

Sec. 11. [517C.12] [INCOME.]

Subdivision 1. [DEFINITION.] For purposes of calculating child support under this chapter, "income" means gross income.

Subd. 2. [SOURCES.] For purposes of this chapter, income includes any form of periodic payment to an individual including, but not limited to:

(1) wages;

(2) salaries;

(3) payments to an independent contractor;

(4) workers' compensation;

(5) reemployment compensation;

(6) annuity;

(7) military and naval retirement;

(8) pension and disability payments; and

(9) in-kind payments received by the obligor in the course of employment, self-employment, or operation of a business if the payments reduce the obligor's living expenses.

Subd. 3. [COMMISSIONS; BONUSES.] If the court finds that a party's commissions or bonuses are reliable and predictable, the court may include them in income calculations.

Subd. 4. [SELF-EMPLOYMENT; INDEPENDENT CONTRACTORS.] (a) Income from self-employment is equal to gross receipts minus ordinary and necessary expenses. Ordinary and necessary expenses do not necessarily include amounts allowed by the Internal Revenue Service for accelerated depreciation expenses or investment tax credits or any other business expenses determined by the court to be inappropriate for determining income for purposes of child support. The person seeking to deduct an expense, including depreciation, has the burden of proving, if challenged, that the expense is ordinary and necessary. Income calculated under this section may be different from taxable income.

Subd. 5. [PUBLIC ASSISTANCE EXCLUSIONS.] Benefits received under Title IV-A of the Social Security Act and chapter 256J are not income under this section.

Subd. 6. [OVERTIME.] (a) Income does not include compensation received by a party for employment in excess of a 40-hour work week if:

(1) the excess employment is not within the normal range of hours worked, given the party's employment history;

(2) the excess employment is voluntary and not a condition of employment;

(3) the excess employment is in the nature of additional, part-time or overtime employment compensable by the hour or fraction of an hour; and

(4) the party's compensation structure has not been changed for the purpose of affecting a child support obligation.

(b) The court may presume that a party with seasonal or intermittent income who works periods in excess of a 40-hour work week, but who works a substantially normal number of hours over the course of a year, is working within the normal range of hours worked.

Subd. 7. [INCOME OF A SPOUSE OR OTHER HOUSEHOLD MEMBER.] (a) Income must not include the income of a party's spouse or other household member. The court must not consider the income or resources provided by a spouse or other household member when determining all the earnings, income, and resources of a parent under section 517C.17.

(b) Notwithstanding paragraph (a), the court may issue an order permitting discovery of a spouse or other household member's income information if there is probable cause to believe the spouse or other household member is being used to shelter income from a party. If the court finds that income was improperly or unfairly sheltered, it may impute income to the party or otherwise adjust the support amount in a just and proper manner. However, the court may not under any circumstances consider income or resources properly attributable to a spouse or other household member when setting support.

Subd. 8. [PRIOR ORDERS BEING PAID.] A child support or maintenance order that is currently being paid must be deducted from income.

Sec. 12. [517C.13] [IMPUTED INCOME.]

Subdivision 1. [NONAPPEARANCE OF A PARTY.] If a parent under the jurisdiction of the court does not appear at a court hearing after proper notice of the time and place of the hearing, the court must set income for that parent based on credible evidence before the court or in accordance with subdivision 3. Credible evidence may include documentation of current or recent income, testimony of the other parent concerning recent earnings and income levels, and the parent's wage reports filed with the Minnesota department of economic security under section 268.044.

Subd. 2. [VOLUNTARY UNEMPLOYMENT OR UNDEREMPLOYMENT.] (a) The principles of income imputation apply equally to obligors and obligees.

(b) If the court finds that a parent is voluntarily unemployed or underemployed or was voluntarily unemployed or underemployed during the period for which past support is being sought, support must be calculated based on a determination of imputed income.

(c) A parent is not considered voluntarily unemployed or underemployed upon a showing by the parent that:

(1) the unemployment or underemployment is temporary and will ultimately lead to an increase in income;

(2) the unemployment or underemployment represents a bona fide career change that outweighs the adverse effect of that parent's diminished income on the child;

(3) the parent is a recipient of public assistance under section 256.741; or

(4) the parent is physically or mentally incapacitated.

(d) Imputed income means the estimated earning ability of a parent based on the parent's prior earnings history, education, and job skills, and on availability of jobs within the community for an individual with the parent's qualifications.

Subd. 3. [INSUFFICIENT INFORMATION.] If there is insufficient information to determine actual income or to impute income pursuant to subdivision 1 or 2, the court may calculate support based on full-time employment of 40 hours per week at 150 percent of the federal minimum wage or the Minnesota minimum wage, whichever is higher.

Sec. 13. [517C.14] [PRESUMPTIVE CHILD SUPPORT ORDER; GENERAL.]

Subdivision 1. [REBUTTABLE PRESUMPTION.] The guidelines in sections 517C.12 to 517C.16 are a rebuttable presumption and must be used in all cases when establishing or modifying child support.

Subd. 2. [SUBSTANTIAL UNFAIRNESS; MINIMUM SUPPORT AMOUNT.] (a) If the presumptive support amount derived from the child support worksheet leaves the obligor with income less than 150 percent of the federal poverty guidelines, the worksheet does not apply and the court must order support in a fair and equitable amount that leaves both parties in a substantially similar situation in relation to the federal poverty guidelines considering:

- (1) the factors outlined in section 517C.17;
- (2) tax credits and deductions available to either party; and
- (3) receipt of public assistance by either party.

(b) In any event, the court must order support in an amount not less than \$50 per child per month unless the court finds that the obligor completely lacks an ability to pay due to a circumstance such as a permanent and total disability or incarceration without work release privileges.

(c) For purposes of this section, when determining income relative to the federal poverty guidelines, only children common to the obligor and obligee are included in the household.

Subd. 3. [CHILD SUPPORT CAP.] (a) Except as provided under paragraph (b), a monthly basic needs obligation in a child support order must not exceed:

- (1) \$1,500 for one child;
- (2) \$2,400 for two children;
- (3) \$2,800 for three children; or
- (4) \$2,800 plus \$300 for each additional child over three children.

(b) A court may order a basic needs obligation in a child support order in an amount that exceeds the limit in paragraph (a) if it finds that a child has a disability or other substantial, demonstrated need for the additional support and that the additional support will directly benefit the child.

(c) The dollar amounts in paragraph (a) must be adjusted on July 1 of every even-numbered year to reflect cost-of-living changes. The supreme court must select the index for the adjustment from the indices listed in section 517C.31. The state court administrator must make the changes in the dollar amounts required by this paragraph available to courts and the public on or before April 30 of the year in which the amount is to change.

Subd. 4. [CHILD CARE COSTS.] (a) The court must require verification of employment or school attendance and documentation of child care expenses from the obligee and the public authority, if applicable.

(b) If child care expenses fluctuate during the year because of seasonal employment or school attendance of the obligee or extended periods of parenting time with the obligor, the court must determine child care expenses based on an average monthly cost.

(c) The amount allocated for child care expenses is considered child support but is not subject to a cost-of-living adjustment under section 517C.31.

(d) The amount allocated for child care expenses terminates when either party notifies the public authority that the child care costs have ended and without any legal action on the part of either party. The public authority must verify the information received under this paragraph before authorizing termination. The termination is effective as of the date of the notification. In other cases where there is a substantial increase or decrease in child care expenses, the parties may modify the order under section 517C.31.

(e) The court may allow the parent with whom the child does not reside to care for the child while the parent with whom the child resides is working, as provided in section 517B.27, subdivision 8. Allowing the parent with whom the child does not reside to care for the child under section 517B.27, subdivision 8, is not a reason to deviate from the guidelines.

Subd. 5. [PARENTING TIME ADJUSTMENTS.] (a) For the purpose of applying the proper parenting time adjustment on line 5 of the presumptive support worksheet, the following principles apply:

(1) the label given to a custody arrangement is not determinative of the applicable adjustment;

(2) the actual division of parenting time controls; and

(3) an overnight stay presumptively constitutes a day of caregiving.

(b) A parenting time division approximates joint physical custody if each parent provides, or is responsible for providing, care at least 45 percent of the days in a year.

(c) If each parent provides, or is responsible for providing, care at least 45 percent of the days in a year, the obligor's basic needs obligation on line 5 of the presumptive child support worksheet under section 517C.16, is 50 percent of the difference between the obligor's and obligee's basic needs obligations. The court must make specific written findings in support of a parenting time adjustment.

Subd. 6. [CHILD'S INSURANCE BENEFIT.] In establishing or modifying child support, if a child receives a child's insurance benefit under United States Code, title 42, section 402, because the obligor is entitled to old age or disability insurance benefits, the amount of support ordered must be offset by the amount of the child's benefit. The court must make findings regarding the obligor's income from all sources, the child support amount calculated under this chapter, the amount of the child's benefit, and the obligor's child support obligation. A benefit received by the child in a given month in excess of the child support obligation must not be treated as a payment of arrears or a future payment.

Subd. 7. [MORE THAN SIX CHILDREN.] If a child support proceeding involves more than six children, the court may derive a support order without specifically following the guidelines. However, the court must consider the basic principles encompassed by the guidelines and must consider the needs, resources, and circumstances of both parties.

Sec. 14. [517C.15] [MEDICAL SUPPORT.]

Subdivision 1. [DEFINITIONS.] The definitions in this subdivision apply to this chapter.

(a) "Health care coverage" means health care benefits that are provided by a health plan. Health care coverage does not include any form of medical assistance under chapter 256B or MinnesotaCare under chapter 256L.

(b) "Health carrier" means a carrier as defined in sections 62A.011, subdivision 2, and 62L.02, subdivision 16.

(c) "Health plan" means a plan meeting the definition under section 62A.011, subdivision 3, or a policy, contract, or certificate issued by a community integrated service network licensed under chapter 62N, and includes plans: (1) provided on an individual and group basis, (2) provided by an employer or union, (3) purchased in the private market, (4) available to a person eligible to carry insurance for the child, and (5) provided through a health plan governed under the federal Employee Retirement Income Security Act of 1974 (ERISA), United States Code, title 29, section 1169(a). "Health plan" includes a plan providing for dependent-only, dental, or vision coverage and a plan provided through a party's spouse or parent.

(d) "Medical support" means providing health care coverage for a child by carrying health care coverage for the child or by contributing to the cost of health care coverage, public coverage, unreimbursed medical expenses, and uninsured medical expenses of the child.

(e) "National medical support notice" is an administrative notice issued by the public authority to enforce medical support provisions of a support order in accordance with Code of Federal Regulations, title 45, section 303.32.

(f) "Public coverage" means health care benefits provided by any form of medical assistance under chapter 256B or MinnesotaCare under chapter 256L.

(g) "Uninsured medical expenses" means a child's reasonable and necessary health-related expenses if the child is not covered by a health plan or public coverage when the expenses are incurred.

(h) "Unreimbursed medical expenses" means a child's reasonable and necessary health-related expenses if a child is covered by a health plan or public coverage and the plan or coverage does not pay for the total cost of the expenses when the expenses are incurred. Unreimbursed medical expenses do not include the cost of premiums. Unreimbursed medical expenses include, but are not limited to, deductibles, co-payments, and expenses for orthodontia, prescription eye glasses and contact lenses, and over-the-counter medicine.

Subd. 2. [ORDER.] (a) A completed national medical support notice issued by the public authority or a court order that complies with this section is a qualified medical child support order under the federal Employee Retirement Income Security Act of 1974 (ERISA), United States Code, title 29, section 1169(a).

(b) Every order addressing child support must state:

(1) the names, last known addresses, and social security numbers of the parents and the child that is a subject of the order unless the court prohibits the inclusion of an address or social security number and orders the parent to provide the address and social security number to the administrator of the health plan;

(2) whether appropriate health care coverage for the child is available and, if so, state:

(i) which party must carry health care coverage;

(ii) the cost of premiums and how the cost is allocated between the parties;

(iii) how unreimbursed expenses will be allocated and collected by the parties; and

(iv) the circumstances, if any, under which the obligation to provide health care coverage for the child will shift from one party to the other; and

(3) if appropriate health care coverage is not available for the child, whether a contribution for medical support is required.

(c) The amount ordered for medical support is subject to a cost-of-living adjustment under section 517C.31.

Subd. 3. [DETERMINATION OF APPROPRIATE COVERAGE.] (a) In determining whether a party has appropriate health care coverage for the child, the court must evaluate the health plan using the following factors:

(1) accessible coverage. Dependent health care coverage is accessible if the covered child can obtain services from a health plan provider with reasonable effort by the parent with whom the child resides. Health care coverage is presumed accessible if:

(i) primary care coverage is available within 30 minutes or 30 miles of the child's residence and specialty care coverage is available within 60 minutes or 60 miles of the child's residence;

(ii) the coverage is available through an employer and the employee can be expected to remain employed for a reasonable amount of time; and

(iii) no preexisting conditions exist to delay coverage unduly;

(2) comprehensive coverage. Dependent health care coverage is comprehensive if it includes, at a minimum, medical and hospital coverage and provides for preventive, emergency, acute, and chronic care. If both parties have health care coverage that meets the minimum requirements, the court must determine which health care coverage is more comprehensive by considering whether the coverage includes:

(i) basic dental coverage;

(ii) orthodontics;

(iii) eyeglasses;

(iv) contact lenses;

(v) mental health services; or

(vi) substance abuse treatment;

(3) affordable coverage. Dependent health care coverage is affordable if a party's gross income is 150 percent of the federal poverty guidelines or more and the party's contribution to the health care coverage premium does not exceed five percent of the party's gross income. If a party's gross income is less than 150 percent of the federal poverty guidelines, it is presumed that the party is unable to contribute to the cost of health care coverage unless health care is available at no or low cost to that party; and

(4) the child's special medical needs, if any.

(b) If both parties have health care coverage available for a child, and the court determines under paragraph (a), clauses (1) and (2), that the available coverage is comparable with regard to accessibility and comprehensiveness, the least costly health care coverage is the appropriate health care coverage for the child.

Subd. 4. [COVERAGE.] (a) If a child is presently enrolled in health care coverage, the court must order that the parent who currently has the child enrolled continue that enrollment unless the parties agree otherwise or a party requests a change in coverage and the court determines that other health care coverage is more appropriate.

(b) If a child is not presently enrolled in health care coverage, upon motion of a party or the public authority, the court must determine whether one or both parties have appropriate health care coverage for the child and order the party with appropriate health care coverage available to carry the coverage for the child.

(c) If only one party has appropriate health care coverage available, the court must order that party to carry the coverage for the child.

(d) If both parties have appropriate health care coverage available, the court must order the parent with whom the child resides to carry the coverage for the child, unless:

(1) either party expresses a preference for coverage available through the parent with whom the child does not reside;

(2) the parent with whom the child does not reside is already carrying dependent health care coverage for other children and the cost of contributing to the premiums of the other parent's coverage would cause the parent with whom the child does not reside extreme hardship; or

(3) both parents agree to provide coverage and agree on the allocation of costs.

If the exception in clause (1) or (2) applies, the court must determine which party has the most appropriate coverage available and order that party to carry coverage for the child. If the court determines under subdivision 3, paragraph (a), clauses (1) and (2), that the parties' health care coverage for the child is comparable with regard to accessibility and comprehensiveness, the court must order the party with the least costly health care coverage to carry coverage for the child.

(e) If neither party has appropriate health care coverage available, the court must order the parent with whom the child does not reside to contribute toward the cost of public coverage for the child or the child's uninsured medical expenses in an amount equal to the lesser of:

(1) five percent of gross income; or

(2) the monthly amount the parent with whom the child does not reside would pay for the child's premiums if the parent's income meets the eligibility requirements for public coverage. For purposes of determining the premium amount, a parent's household size is equal to the parent plus the child who is the subject of the child support order. The court may order the parent with whom the child resides to apply for public coverage for the child.

Subd. 5. [CALCULATING MEDICAL SUPPORT; UNREIMBURSED MEDICAL EXPENSES.] (a) The court must calculate the cost of medical support on line 7 of the presumptive child support worksheet under section 517C.16. Unless otherwise agreed by the parties and approved by the court, the court must order that the cost of health care coverage be divided between the obligor and obligee based on their proportionate share of the parties' combined gross income.

(b) If a party's obligation for health care coverage premiums is greater than five percent of the party's gross income, the court may order the other party to contribute more for the cost of the premiums, if doing so would not result in extreme hardship to that party. If an additional contribution causes a party extreme hardship, the court must order the obligor to contribute the lesser of the two amounts under subdivision 4, paragraph (e).

(c) The court must order that all unreimbursed medical expenses be divided between the obligor and obligee based on their proportionate share of the parties' combined gross income.

Subd. 6. [ALLOCATING MEDICAL SUPPORT COSTS.] (a) If the party ordered to carry health care coverage for the child already carries dependent health care coverage for other dependents and would incur no additional premium costs to add the child to the existing coverage, the court must not order the other party to contribute to the premium costs for coverage of the child.

(b) If a party ordered to carry health care coverage for the child does not already carry dependent health care coverage but has other dependents who may be added to the ordered coverage, the full premium costs of the dependent health care coverage must be allocated between the parties in proportion to the party's share of the parties' combined income available for child support, unless the parties agree otherwise.

(c) If a party ordered to carry health care coverage for the child is required to enroll in a health plan so that the child can be enrolled in dependent health care coverage under the plan, the court must allocate the costs of the dependent health care coverage between the parties. The costs of the health care coverage for the party ordered to carry the coverage for the child must not be allocated between the parties.

Subd. 7. [NOTICE TO EMPLOYER BY PUBLIC AUTHORITY OR COURT.] (a) A copy of the national medical support notice or court order for health care coverage must be forwarded by the public authority to the employer within two business days after the date an employee is entered into the work reporting system under section 256.998.

(b) If a party is ordered to carry health care coverage for the child and the public authority provides support enforcement services, the public authority must forward a copy of the national medical support notice or notice of medical support withholding to the party's employer or union and to the health carrier when the conditions under paragraph (d) are met or when ordered by the court.

(c) If the public authority does not provide support enforcement services, the party seeking to enforce the order may forward a copy of the court order for health care coverage for the child to the employer or union of the party ordered to carry coverage and to the health carrier when the conditions under paragraph (d) are met or when ordered by the court.

(d) The public authority or party seeking to enforce the order must forward a copy of the national medical support notice or court order for health care coverage to the employer under paragraphs (b) and (c) if:

(1) the party ordered to carry health care coverage for the child fails to provide written proof to the other party or the public authority, within 30 days of the effective date of the court order, that health care coverage has been obtained for the child;

(2) the other party or the public authority gives written notice to the party ordered to carry health care coverage for the child of intent to enforce medical support. The other party or public authority must mail the written notice to the last known address of the party ordered to carry health care coverage for the child; and

(3) the party ordered to carry health care coverage for the child fails, within 15 days after the date on which the written notice under clause (2) was mailed, to provide written proof to the other party or the public authority that the party has obtained health care coverage for the child.

Subd. 8. [EFFECT OF ORDER.] (a) A new employer or union of a party who is ordered to provide health care coverage for the child must enroll the child in the party's health plan as required by a national medical support notice or court order.

(b) If a health plan administrator receives a completed national medical support notice, the plan administrator must notify the public authority within 40 business days after the date of the notice of the following:

(1) whether coverage is available to the child under the terms of the health plan;

(2) whether the child is covered under the health plan;

(3) the effective date of the child's coverage under the health plan; and

(4) what steps, if any, are required to effectuate the child's coverage under the health plan.

(c) The plan administrator must also provide the public authority and the parties with a notice of enrollment of the child, description of the coverage, and any documents necessary to effectuate coverage.

Subd. 9. [CONTESTING ENROLLMENT.] (a) A party may contest the enrollment of a child in a health plan on the limited grounds that the enrollment is improper due to mistake of fact or that the enrollment meets the requirements of section 517C.26. If the party chooses to contest the enrollment, the party must do so no later than 15 days after the employer notifies the party of the enrollment by doing the following:

- (1) filing a request for hearing according to section 484.702;
 - (2) serving a copy of the request for hearing upon the public authority and the other party; and
 - (3) securing a date for the matter to be heard no later than 45 days after the notice of enrollment.
- (b) The enrollment must remain in place while the party contests the enrollment.

Subd. 10. [EMPLOYER OR UNION REQUIREMENTS.] (a) An employer must send the national medical support notice to its health plan within 20 business days after the date on the national medical support notice.

(b) An employer or union that is included under the federal Employee Retirement Income Security Act of 1974 (ERISA), United States Code, title 29, section 1169(a), may not deny enrollment to the child or to the parent if necessary to enroll the child based on exclusionary clauses described in section 62A.048.

(c) Upon application of the party, or if a court orders a party to carry health insurance coverage for a child, the employer or union and its health plan must enroll the child as a beneficiary in the health plan and withhold any required premiums from the income or wages of the party ordered to carry health care coverage for the child.

(d) If more than one plan is offered by the employer or union and the national medical support notice or court order does not specify the plan to be carried, the plan administrator must notify the parents and the public authority.

(e) If the party ordered to carry health care coverage for the child is not enrolled in the health plan, the employer or union must also enroll the party in the chosen plan if enrollment of the party is necessary to obtain dependent health care coverage under the plan.

(f) Enrollment of dependents and, if necessary, the party ordered to carry health care coverage for the child must be immediate and not dependent upon open enrollment periods. Enrollment is not subject to the underwriting policies under section 62A.048.

(g) Failure of the party ordered to carry health care coverage for the child to execute any documents necessary to enroll the dependent in the health plan does not affect the obligation of the employer or union and health plan to enroll the dependent in a plan. Information and authorization provided by the public authority, or by a party or guardian, is valid for the purposes of meeting enrollment requirements of the health plan.

Subd. 11. [EMPLOYER LIABILITY.] An employer or union that willfully fails to comply with the order is liable for any uninsured medical expenses incurred by the dependents while the dependents were eligible to be enrolled in the health plan and for any other premium costs incurred because the employer or union willfully failed to comply with the order. An employer or union that fails to comply with the order is subject to a finding of contempt and a \$250 civil penalty under section 517C.57 and is also subject to a civil penalty of \$500 to be paid to the party entitled to reimbursement or the public authority. Penalties paid to the public authority are designated for child support enforcement services.

Subd. 12. [DISENROLLMENT; CONTINUATION OF COVERAGE; OPTIONS IN COVERAGE.] (a) A child for whom a party is required to provide health care coverage under this section must be covered as a dependent of the party until the child is emancipated, until further order of the court, or as consistent with the terms of the coverage.

(b) The health carrier, employer, or union may not disenroll or eliminate coverage for the child unless:

(1) the health carrier, employer, or union is provided satisfactory written evidence that the court order is no longer in effect;

(2) the child is or will be enrolled in comparable health care coverage through another health plan that will take effect no later than the effective date of the disenrollment;

(3) the employee is no longer eligible for dependent coverage; or

(4) the required premium has not been paid by or on behalf of the child.

(c) If disenrollment or elimination of coverage of a child under this subdivision is based upon nonpayment of premiums, the health plan must provide 30 days' written notice to the child's parents and the public authority, if the public authority is providing support enforcement services, prior to the disenrollment or elimination of coverage.

(d) A child enrolled in health care coverage under a qualified medical child support order, including a national medical support notice, under this section is a dependent and a qualified beneficiary under the Consolidated Omnibus Budget and Reconciliation Act of 1985 (COBRA), Public Law Number 99-272. Upon expiration of the order, the child is entitled to the opportunity to elect continued coverage that is available under the health plan. Notice must be provided by the employer or union to the parties and the public authority, if it provides child support services, within ten days of the termination date.

(e) If the public authority provides support enforcement services and a plan administrator reports to the public authority that there is more than one coverage option available under the health plan, the public authority, in consultation with the parents, must promptly select coverage from the available options. If the parents fail to cooperate in a reasonable period of time, the public authority must select coverage from the available health plan options.

Subd. 13. [SPOUSAL OR FORMER SPOUSAL COVERAGE.] The court must require the parent with whom the child does not reside to provide dependent health care coverage for the benefit of the parent with whom the child resides if the parent with whom the child does not reside is ordered to provide dependent health care coverage for the parties' child and adding the other parent to the coverage results in no additional premium cost to the parent with whom the child does not reside.

Subd. 14. [PLAN REIMBURSEMENT.] The signature of a parent of the insured child is a valid authorization to a health plan for purposes of processing an insurance reimbursement payment to the provider of the medical services or to the parent if medical services have been prepaid by that parent.

Subd. 15. [CORRESPONDENCE AND NOTICE.] The health plan must send copies of all correspondence regarding the health care coverage to both parents.

Subd. 16. [DISCLOSURE OF INFORMATION.] (a) Parties must provide the public authority with the following information when support enforcement services are provided:

(1) information relating to dependent health care coverage or public coverage available for the benefit of the child for whom support is sought, including all information required to be included in a medical support order under this section;

(2) verification that application for court-ordered health care coverage was made within 30 days of the court's order; and

(3) the reason that a child is not enrolled in court-ordered health care coverage, if a child is not enrolled in coverage or subsequently loses coverage.

(b) Upon request from the public authority under section 256.978, an employer, union, or plan administrator, including an employer subject to the federal Employee Retirement Income Security Act of 1974 (ERISA), United States Code, title 29, section 1169(a), must provide the public authority the following information:

(1) information relating to dependent health care coverage available to a party for the benefit of the child for whom support is sought, including all information required to be included in a medical support order under this section; and

(2) information that will enable the public authority to determine whether a health plan is appropriate for a child, including, but not limited to, all available plan options, any geographic service restrictions, and the location of service providers.

(c) The employer, union, or plan administrator must not release information regarding one party to the other party. The employer, union, or plan administrator must provide both parties with insurance identification cards and all necessary written information to enable the parties to utilize the insurance benefits for the covered dependents.

(d) The public authority is authorized to release to a party's employer, union, or health plan information necessary to obtain or enforce medical support.

(e) An employee must disclose to an employer if medical support is required to be withheld under this section and the employer must begin withholding according to the terms of the order and under section 517C.52. If an employee discloses an obligation to obtain health care coverage and coverage is available through the employer, the employer must make all application processes known to the individual and enroll the employee and dependent in the plan under subdivision 10.

Subd. 17. [APPLICATION FOR CHILD SUPPORT ENFORCEMENT SERVICES.] The public authority must take necessary steps to establish and enforce an order for medical support if the child receives public assistance or a party completes an application for services from the public authority.

Subd. 18. [ENFORCEMENT.] (a) Remedies available for the collection and enforcement of child support apply to medical support. For the purpose of enforcement, the costs of individual or group health or hospitalization coverage, dental coverage, all medical costs ordered by the court to be paid by either party, including health and dental insurance premiums paid by the obligee because of the obligor's failure to obtain coverage as ordered, or liabilities established under this subdivision, are additional support.

(b) If a party owes a basic support obligation for a child and is ordered to carry health care coverage for the child, and the other party is ordered to contribute to the carrying party's cost for coverage, the carrying party's basic support payment must be reduced by the amount of the contributing party's contribution.

(c) If a party owes a basic support obligation for a child and is ordered to contribute to the other party's cost for carrying health care coverage for the child, the contributing party's basic support payment must be increased by the amount of the contribution.

(d) If a party owes no basic support obligation for a child and is ordered to contribute to the other party's cost for carrying health care coverage for the child, the contributing party is subject to income withholding under section 517C.52 for the amount of the contribution to the carrying party's cost for health care coverage for the child.

(e) If a party's court-ordered health care coverage for the child terminates and the child is not enrolled in other health care coverage or public coverage, and a modification motion is not pending, the public authority may remove the offset to the basic support obligation or terminate income withholding instituted against a party under section 517C.52. The public authority must provide notice to the parties of the action taken.

(f) A party may contest the action of the public authority to remove the offset to the basic support obligation or terminate income withholding if the party makes a written request for a hearing within 30 days after receiving written notice. If a party makes a timely request for a hearing, the public authority must schedule a hearing and give written notice of the hearing to the parties at least 14 days before the hearing. The written notice of the hearing must be sent by mail to the parties' last known addresses. The hearing must be conducted in district court or in the expedited child support process if section 484.702 applies. The district court or child support magistrate must determine whether removal of the offset or termination of income withholding is appropriate and, if appropriate, the effective date for the removal or termination. If the party does not request a hearing, the court must order the offset or termination effective the first day of the month following termination of the child's health care coverage.

(g) A party who fails to carry court-ordered dependent health care coverage is liable for the child's uninsured medical expenses unless a court order provides otherwise. A party's failure to carry court-ordered coverage, or to provide other medical support as ordered, is a basis for modification of a support order under section 517C.28.

(h) Payments by the health carrier or employer for services rendered to the dependents that are directed to a party not owed reimbursement must be endorsed over to and forwarded to the vendor or appropriate party or the public authority. A party retaining insurance reimbursement not owed to the party is liable for the amount of the reimbursement.

Subd. 19. [COLLECTING UNREIMBURSED AND UNINSURED MEDICAL EXPENSES.] (a) A request for reimbursement of unreimbursed and uninsured medical expenses must be initiated within two years of the date that the unreimbursed or uninsured medical expenses were incurred. The time period in this paragraph does not apply if the location of the other parent is unknown.

(b) A party seeking reimbursement of unreimbursed and uninsured medical expenses must mail the other party written notice of intent to collect the expenses and an affidavit of health care expenses to the other party at the party's last known address. The affidavit of health care expenses must itemize and document the child's unreimbursed or uninsured medical expenses. A copy of the bills, receipts, and the insurance company's explanation of the benefits must be attached to the affidavit. The written notice must include a statement that the party has 30 days from the date of mailing the notice to pay in full, enter a payment agreement, or file a motion requesting a hearing contesting the matter. If the public authority provides support enforcement services, the written notice also must include a statement that the requesting party must submit the amount due to the public authority for collection.

(c) If, after 30 days, the other party has not paid in full, the parties are unable to enter a payment agreement, or the other party has not filed a motion contesting the matter, and:

(1) if the public authority provides support enforcement services, the requesting party must send the original affidavit, a copy of the written notice, and copies of the bills, receipts, and the insurance company's explanation of the benefits to the public authority. The public authority must serve the other party with a notice of intent to enforce unreimbursed and uninsured medical expenses and file an affidavit of service by mail with the district court administrator. The notice must provide that, unless the other party pays in full, enters into a payment agreement, or files a motion contesting the matter within 14 days of service of the notice, the public authority will commence enforcement under subdivision 20; or

(2) if the public authority does not provide support enforcement services, the requesting party may move the court for enforcement.

(d) If the party who receives notice under paragraph (b) or (c), clause (1), files a timely motion for a hearing contesting the requested reimbursement, a hearing must be scheduled in district court or in the expedited child support process if section 484.702 applies. The contesting party must provide the party seeking reimbursement and the public authority, if the public authority provides support enforcement services, with written notice of the hearing at least 14 days before the hearing by mailing notice of the hearing to the public authority and the party at the party's last known address. The party seeking reimbursement must file the original affidavit of health care expenses with

the court at least five days before the hearing. Based upon the evidence presented, the court must determine liability for the expenses and order that the liable party is subject to enforcement of the expenses as medical support arrears under subdivision 20.

Subd. 20. [ENFORCING AN ORDER FOR MEDICAL SUPPORT ARREARS.] (a) If a party liable for unreimbursed and uninsured medical expenses under subdivision 19 owes a basic support obligation to the party seeking reimbursement of the expenses, the expenses must be collected as medical support arrears as follows:

(1) if income withholding under section 517C.52 is available, medical support arrears must be withheld from a liable party's income or wages pursuant to section 517C.60; or

(2) if income withholding under section 517C.52 is not available, a liable party must pay medical support arrears under the terms of a payment agreement under section 517C.71. If a liable party fails to enter into or comply with a payment agreement, the party seeking reimbursement or the public authority, if it provides support enforcement services, may schedule a hearing to have a court order payment. The party seeking reimbursement or the public authority must provide the liable party with written notice of the hearing at least 14 days before the hearing.

(b) If a party liable for unreimbursed and uninsured medical expenses does not owe a basic support obligation to the party seeking reimbursement, and the party seeking reimbursement owes the liable party child support arrears, the liable party's medical support arrears under subdivision 19 must be deducted from the amount of the child support arrears. If a liable party owes medical support arrears after deducting the amount owed from the amount of the child support arrears owed by the party seeking reimbursement, it must be collected as follows:

(1) if the party seeking reimbursement owes a basic support obligation to the liable party, the basic support obligation must be reduced by 20 percent until the medical support arrears are satisfied;

(2) if the party seeking reimbursement does not owe a basic support obligation to the liable party, the liable party's income must be subject to income withholding under section 517C.52 for an amount required under section 517C.71 until the medical support arrears are satisfied; or

(3) if the party seeking reimbursement does not owe a basic support obligation, and income withholding under section 517C.52 is not available, payment of the medical support arrears must be required under a payment agreement under section 517C.71.

Sec. 15. [517C.16] [PRESUMPTIVE CHILD SUPPORT WORKSHEET.]

The court must use the following worksheet to determine the presumptive child support order:

1. Monthly Income:

a. Obligor:

b. Obligee:

2. Parents' Combined Income: line 1a plus line 1b:

3. Parental Share:

a. Obligor: line 1a divided by line 2:

b. Obligee: line 1b divided by line 2:

4. Basic Needs:a. Shared Responsibility:Parents combined monthly incomex .09+ 300=..... (one child)x 1.61 (two children)=x 1.86 (three children)=x 2.06 (four children)=x 2.26 (five children)=x 2.46 (six children)=b. Obligor Proportionate Responsibility: line 3a multiplied by line 4a:c. Obligee Proportionate Responsibility: line 3b multiplied by line 4a:5. Basic Needs Obligation After Parenting Time Adjustment:Parenting time division approximates joint physical custody:Line 4b- Line 4cx .5=6. Child Care Needs (complete appropriate section):a. Obligor paying for child care: cost of child care (.....) multiplied by line 3b: (deduct from support obligation)b. Obligee paying for child care or obligor's income exceeds eligibility requirements for basic sliding fee child care; not receiving basic sliding fee child care: cost of child care (.....) multiplied by line 3a:c. Obligee receiving basic sliding fee child care: order reimbursement to the state in an amount equal to copayment obligor would make, based on line 1a, if obligor was receiving basic sliding fee child care:7. Medical Support (complete appropriate section):a. Obligor providing health care coverage: line 3b multiplied by cost of health care coverage: (deduct from support obligation)

b. Obligee providing health care coverage: line 3a multiplied by cost of health care coverage:

c. Obligor and obligee do not have appropriate health care coverage: obligor must pay the lesser of the following amounts:

(i) the monthly premium amount obligor would pay if obligor's income meets the income eligibility requirements for public coverage: or

(ii) five percent of obligor's monthly gross income, if obligor's income does not meet the eligibility requirements for public coverage:

8. Presumed child support amount: add (or subtract, when appropriate) amounts from lines 5, 6, and 7:

Sec. 16. [517C.17] [DEVIATIONS.]

Subdivision 1. [GENERAL FACTORS.] In addition to the child support guidelines, the court must take into consideration the following factors in setting or modifying child support or in determining whether to deviate from the guidelines:

(1) all earnings, income, and resources of the parents, including real and personal property, but excluding income from excess employment of the obligor or obligee that meets the criteria of section 517C.12, subdivision 5;

(2) the financial needs and resources, physical and emotional condition, and educational needs of the child to be supported;

(3) the standard of living the child would have enjoyed had the marriage not been dissolved, but recognizing that the parents now have separate households;

(4) which parent receives the income taxation dependency exemption and the financial benefit the parent receives from it;

(5) the parents' debts as provided in subdivision 2;

(6) the obligor's receipt of public assistance under the AFDC program formerly codified under sections 256.72 to 256.82 or 256B.01 to 256B.40 and chapter 256J or 256K; and

(7) the child spends between 33 and 45 percent of overnights with the obligor pursuant to a court order or with the consent of the obligee, which results in an increased financial burden on the obligor.

Subd. 2. [DEBT.] (a) In establishing or modifying a support obligation, the court may consider debts owed to private creditors, but only if:

(1) the right to support has not been assigned under section 256.741;

(2) the court determines that the debt was reasonably incurred for necessary support of the child or parent or for the necessary generation of income. If the debt was incurred for the necessary generation of income, the court may consider only the amount of debt that is essential to the continuing generation of income; and

(3) the party requesting a departure produces a sworn schedule of the debts, with supporting documentation, showing goods or services purchased, the recipient of them, the amount of the original debt, the outstanding balance, the monthly payment, and the number of months until the debt will be fully paid.

(b) A schedule prepared under paragraph (a), clause (3), must contain a statement that the debt will be fully paid after the number of months shown in the schedule, barring emergencies beyond the party's control.

(c) Any further departure below the guidelines that is based on a consideration of debts owed to private creditors must not exceed 18 months in duration. After 18 months the support must increase automatically to the level ordered by the court. This section does not prohibit one or more step increases in support to reflect debt retirement during the 18-month period.

(d) If payment of debt is ordered pursuant to this section, the payment must be ordered to be in the nature of child support.

Subd. 3. [EVIDENCE.] The court may receive evidence on the factors in this section to determine if the guidelines should be exceeded or modified in a particular case.

Subd. 4. [NO DEVIATION WHEN PAYMENTS ARE MADE TO THE PUBLIC AUTHORITY EXCEPT FOR EXTREME HARDSHIP.] If the child support payments are assigned to the public authority, the court may not deviate downward from the child support guidelines unless the court specifically finds that the failure to deviate downward would impose an extreme hardship on the obligor.

Subd. 5. [NO DEPARTURE BASED ON JOINT LEGAL CUSTODY.] An award of joint legal custody is not a reason for departure from the guidelines.

Sec. 17. [517C.18] [WRITTEN FINDINGS.]

Subdivision 1. [NO DEVIATION.] If the court does not deviate from the guidelines, the court must make written findings concerning the amount of the parties' income used as the basis for the guidelines calculation and any other significant evidentiary factors affecting the determination of child support.

Subd. 2. [DEVIATION.] (a) If the court deviates from the guidelines, the court must make written findings giving the amount of support calculated under the guidelines, the reasons for the deviation, and must specifically address the criteria in section 517C.17 and how the deviation serves the best interests of the child.

(b) The court may deviate from the guidelines if both parties agree and the court makes written findings that it is in the best interests of the child, except that in cases where child support payments are assigned to the public authority under section 256.741, the court may deviate downward only as provided in section 517C.17, subdivision 4. Nothing in this section prohibits the court from deviating in other cases.

Subd. 3. [WRITTEN FINDINGS REQUIRED IN EVERY CASE.] The provisions of this section apply whether or not the parties are each represented by independent counsel and have entered into a written agreement. The court must review stipulations presented to it for conformity to the guidelines. The court is not required to conduct a hearing, but the parties must provide the documentation of earnings required under section 517C.10.

Sec. 18. [517C.19] [GUIDELINES REVIEW.]

No later than 2002 and every four years after that, the department of human services must conduct a review of the child support guidelines.

Sec. 19. [517C.20] [EDUCATION TRUST FUND.]

The parties may agree to designate a sum of money above court-ordered child support as a trust fund for the costs of post-secondary education.

Sec. 20. [517C.25] [MODIFICATION; GENERAL.]

Subdivision 1. [AUTHORITY.] After a child support order is established, the court may, on motion of a party, modify the order respecting the amount and payment of support. The court may make an order respecting any matters it had authority to address in the original proceeding, except as otherwise provided in section 517C.29. A party or the public authority also may make a motion for contempt of court if the obligor is in arrears in support payments.

Subd. 2. [GUIDELINES REMAIN APPLICABLE.] On a motion for modification of support, the guidelines in this chapter remain applicable.

Subd. 3. [EVIDENTIARY HEARING NOT REQUIRED.] The court need not hold an evidentiary hearing on a motion for modification of child support.

Subd. 4. [FORM.] The state court administrator must prepare and make available to courts, obligors, and obligees a form to be submitted in support of a motion for a modification of child support or for contempt of court.

Sec. 21. [517C.26] [REOPENING AN ORDER.]

Subdivision 1. [FACTORS.] Upon the motion of a party, the court may rescind a child support order or judgment and may issue a new order or grant other relief as may be just for the following reasons:

- (1) mistake, inadvertence, surprise, or excusable neglect;
- (2) newly discovered evidence that could not have been discovered by due diligence in time to move for a new trial under the rules of civil procedure;
- (3) fraud, whether denominated intrinsic or extrinsic, misrepresentation, or other misconduct of an adverse party;
- (4) the judgment or order is void;
- (5) the judgment has been satisfied, released, or discharged;
- (6) the judgment is based on a prior order that has been reversed or otherwise vacated; or
- (7) it is no longer equitable that the order should have prospective application.

Subd. 2. [PROCEDURE; EFFECT.] The motion must be made within a reasonable time, and, for a reason under subdivision 1, clause (1), (2), or (3), not more than one year after the judgment and decree, order, or proceeding was entered or taken. A motion under this section does not affect the finality of an order or suspend its operation. This section does not limit the power of a court to entertain an independent action to relieve a party from an order or proceeding or to grant relief to a party not actually personally notified as provided in the rules of civil procedure, or to set aside a judgment for fraud upon the court.

Sec. 22. [517C.27] [CHANGE IN CUSTODY OR PARENTING TIME.]

Subdivision 1. [OFFICIAL CHANGE IN CUSTODY.] If an obligee has been granted sole physical custody of a child, the child subsequently lives with the obligor, and temporary sole physical custody has been approved by the court or by a court-appointed referee, the court may suspend the obligor's child support obligation pending the final custody determination. The court's order denying the suspension of child support must include a written explanation of the reasons why continuation of the child support obligation would be in the best interests of the child.

Subd. 2. [UNOFFICIAL CHANGE IN CUSTODY.] The court may conclude that an obligor has satisfied a child support obligation by providing a home, care, and support for the child while the child is living with the obligor, if the court finds that the child was integrated into the family of the obligor with the consent of the obligee and child support payments were not assigned to the public authority.

Subd. 3. [30-DAY CHANGE.] A support order issued under this chapter may provide that during any period of time of 30 consecutive days or longer that the child is residing with the obligor, the amount of support otherwise due under the order may be reduced.

Sec. 23. [517C.28] [SUBSTANTIAL CHANGE IN CIRCUMSTANCES, EARNINGS, OR NEEDS.]

Subdivision 1. [FACTORS.] The terms of a child support order may be modified upon a showing of one or more of the following:

- (1) substantially increased or decreased earnings of a party;
- (2) substantially increased or decreased need of a party or the child that is the subject of these proceedings;
- (3) receipt of assistance under the AFDC program formerly codified under sections 256.72 to 256.87 or 256B.01 to 256B.40 or chapter 256J or 256K;
- (4) a change in the cost of living for either party, as measured by the federal Bureau of Statistics, that makes the terms unreasonable and unfair;
- (5) extraordinary medical expenses of the child not provided for under section 517C.15;
- (6) the addition of work-related or education-related child care expenses of the obligee or a substantial increase or decrease in existing work-related or education-related child care expenses; or
- (7) upon the emancipation of a child if there is still a child under the order. A child support obligation for two or more children that is not a support obligation in a specific amount per child continues in the full amount until modified or until the emancipation of the last child for whose benefit the order was made.

Subd. 2. [PRESUMPTIONS.] It is presumed that there has been a substantial change in circumstances under subdivision 1 and the terms of a current support order are rebuttably presumed to be unreasonable and unfair if:

- (1) when applied to the current circumstances of the parties, the presumptive child support amount derived under this chapter is at least 20 percent and at least \$50 per month higher or lower than the current support order;
- (2) the medical support provisions of the order established under section 517C.15 are not enforceable by the public authority or the obligee;
- (3) health insurance coverage ordered under section 517C.15 is not available to the child for whom the order is established by the parent ordered to provide it; or
- (4) the existing support obligation is in the form of a statement of percentage and not a specific dollar amount.

Subd. 3. [SUBSEQUENT CHILD.] The needs of a subsequent child must not be factored into a support guidelines calculation. The fact that an obligor had an additional child after the entry of a child support order is not grounds for a modification to decrease the amount of support owed. However, the fact that an obligor has a subsequent child must be considered in response to a request by an obligee for a modification to increase child support. In order to deviate from the presumptive support amount derived under this chapter to consider the needs of a subsequent child, the trial court must:

(1) find the obligor's total ability to contribute to dependent children, taking into account the obligor's income and reasonable expenses exclusive of child care. The obligor's expenses must be:

- (i) reduced as appropriate to take into account contributions to those costs by other adults who share the obligor's current household; and
- (ii) apportioned between the parent and a subsequent child with regard to shared benefits, including, but not limited to, housing and transportation;

(2) find the total needs of all the obligor's children, and if these needs are less than the obligor's ability to pay, the needs may become the obligor's child support obligation. When considering the needs of a subsequent child, the trial court must reduce those amounts as appropriate to take into account the ability to contribute to those needs by another parent of the child;

(3) make specific findings on the needs of the child or children who are the subject of the support order under consideration; and

(4) exercise discretion to fairly determine the current support obligation and the contribution left available for other children, considering that the support obligation being determined should be in an amount at least equal to the contribution for a subsequent child.

Sec. 24. [517C.29] [MODIFICATION EFFECTIVE DATE.]

Subdivision 1. [DATE OF MOTION DETERMINATIVE.] A modification of support, including interest that accrued pursuant to section 548.091, may be made effective no sooner than the date of service of notice of the motion for modification on the responding parties.

Subd. 2. [RETROACTIVE MODIFICATION PERMITTED ONLY IN LIMITED CIRCUMSTANCES.] Notwithstanding subdivision 1, modification may be applied to an earlier period if the court makes express findings that:

(1) the party seeking modification was precluded from serving a motion by reason of a significant physical or mental disability, a material misrepresentation of another party, or fraud upon the court; and the party seeking modification, when no longer precluded, promptly served a motion;

(2) the party seeking modification was a recipient of federal Supplemental Security Income (SSI), Title II Older Americans Insurance, Survivor's Disability Insurance (OASDI), other disability benefits, or public assistance based upon need during the period for which retroactive modification is sought; or

(3) the order the party seeks to amend was entered by default, the party shows good cause for not appearing, and the record contains no factual evidence, or clearly erroneous evidence, regarding the obligor's ability to pay.

Subd. 3. [CHILD CARE EXCEPTION.] The court may provide that a reduction in the amount allocated for child care expenses based on a substantial decrease in the expenses is effective as of the date the expenses decreased.

Sec. 25. [517C.30] [TERMINATION OF CHILD SUPPORT.]

Subdivision 1. [DEATH OF OBLIGOR.] Unless otherwise agreed in writing or expressly provided in the order, provisions for the support of a child are not terminated by the death of a parent obligated to support the child. When a parent obligated to pay support dies, the amount of support may be modified, revoked, or commuted to a lump sum payment, to the extent just and appropriate in the circumstances.

Subd. 2. [AUTOMATIC TERMINATION.] (a) Unless a court order provides otherwise, a child support obligation in a specific amount per child terminates automatically and without any action by the obligor to reduce, modify, or terminate the order upon the emancipation of the child.

(b) A child support obligation for two or more children that is not a support obligation in a specific amount per child continues in the full amount until the emancipation of the last child for whose benefit the order was made, or until further order of the court.

(c) The obligor may request a modification of the obligor's child support order upon the emancipation of a child if there are still minor children under the order. The child support obligation shall be determined based on the income of the parties at the time the modification is sought.

Sec. 26. [517C.31] [COST-OF-LIVING ADJUSTMENTS.]

Subdivision 1. [GENERAL.] An order for child support must provide for a biennial adjustment in the amount to be paid based on a change in the cost of living. Cost-of-living adjustments are compounded.

Subd. 2. [REQUEST FOR COST-OF-LIVING CLAUSE.] If an existing support order does not contain a cost-of-living clause, the obligee or public authority may request one. A motion for enforcement or modification of an existing support order must include a request for a cost-of-living clause if the existing support order does not contain one.

Subd. 3. [WAIVER.] A court may waive the requirement of the cost-of-living clause if it expressly finds that the obligor's occupation or income, or both, does not provide for cost-of-living adjustment or that the order for child support has a provision such as a step increase that has the effect of a cost-of-living clause.

Subd. 4. [INDEX; AMOUNT.] (a) An order that provides for a cost-of-living adjustment must specify the cost-of-living index to be applied. The court may use the Consumer Price Index for All Urban Consumers, Minneapolis-St. Paul (CPI-U), the Consumer Price Index for Wage Earners and Clerical, Minneapolis-St. Paul (CPI-W), or another cost-of-living index published by the department of labor that the court specifically finds is more appropriate.

(b) The court may increase the amount by more than the cost-of-living adjustment by agreement of the parties or by making further findings.

Subd. 5. [EFFECTIVE DATE.] If payment is made to the public authority, an adjustment is effective on May 1 of the year it is made. If payment is not made to the public authority, an adjustment may be made in any month but no adjustment may be made sooner than two years after the date of the dissolution decree. A support order must specify the effective date of cost-of-living adjustments.

Subd. 6. [CONDITIONS.] A cost-of-living adjustment may not be made unless:

(1) the support order requires it; and

(2) the obligee or public authority notifies the obligor of the adjustment by mail at the obligor's last known address at least 20 days before the effective date of the adjustment. The notice must inform the obligor of the effective date of the adjustment, the right to contest the adjustment, and the permissible grounds to contest the adjustment.

Subd. 7. [CONTEST; GROUNDS; HEARING.] (a) To contest a cost-of-living adjustment, an obligor must request a hearing before the effective date of the adjustment. The request for a hearing must be made to the court and served on the other parties. The obligor may make an ex parte motion to stay imposition of the adjustment pending outcome of the hearing.

(b) An obligor may contest a cost-of-living adjustment on the grounds that the obligor has an insufficient increase in income to fulfill the adjusted child support obligation.

(c) At a hearing, if the obligor establishes an insufficient increase in income to fulfill the adjusted child support obligation, the court may direct that all or part of the adjustment not take effect.

(d) At a hearing, if the obligor does not establish an insufficient increase in income, the adjustment must take effect as of the date originally specified in the support order.

Subd. 8. [FORM.] The department of human services must prepare and make available to the court and obligors a form to be submitted in support of a request for a hearing under this section.

Subd. 9. [RULES.] The commissioner of human services may promulgate rules for child support adjustments under this section in accordance with the rulemaking provisions of chapter 14.

Sec. 27. [517C.35] [ASSIGNMENT.]

Subdivision 1. [GENERAL.] The court must direct that all payments ordered for support be made to the public authority if the obligee is receiving or has applied for public assistance. Amounts received by the public authority greater than the amount granted to the obligee must be remitted to the obligee pursuant to federal requirements.

Subd. 2. [JUDGMENTS.] The court administrator must enter and docket a judgment obtained by operation of law under section 548.091, subdivision 1, in the name of the public authority to the extent that the obligation has been assigned. When arrearage are reduced to judgment and section 548.091 is not applicable, the court must grant judgment in favor of, and in the name of, the public authority to the extent that the arrearage are assigned. The public authority must file notice of an assignment with the court administrator, who must enter the notice in the docket. The public authority may then enforce a judgment entered before the assignment of rights as if the judgment were granted to it, and in its name, to the extent that the arrearage in that judgment are assigned.

Subd. 3. [PROPERTY LIEN.] The court may make any child support order a lien or charge upon the property of the obligor, either at the time of the entry of the judgment or by subsequent order upon proper application.

Sec. 28. [517C.36] [PARTY STATUS.]

Subdivision 1. [WHEN A PARTY RECEIVES PUBLIC ASSISTANCE.] The public authority is joined as a party if the obligee is receiving, or subsequently applies for, public assistance and rights are assigned under section 256.741, subdivision 2.

Subd. 2. [NO PUBLIC ASSISTANCE; APPLICATION FOR SERVICES.] If the obligee is not receiving public assistance, but has applied for child support services, the public authority has a pecuniary interest, as well as an interest in the welfare of a child. The public authority may intervene as a matter of right in those cases to ensure that child support orders are obtained, enforced, and provide for an appropriate and accurate level of child, medical, and child care support. If the public authority participates in a case where the action taken by the public authority requires the use of an attorney's services, the public authority must be represented by an attorney consistent with the provisions in section 517C.37.

Sec. 29. [517C.37] [ROLE OF THE PUBLIC AUTHORITY.]

Subdivision 1. [PUBLIC AUTHORITY DOES NOT REPRESENT OBLIGOR OR OBLIGEE.] The provision of services under the child support enforcement program that includes services by an attorney or an attorney's representative employed by, under contract to, or representing the public authority does not create an attorney-client relationship with any party other than the public authority. Attorneys employed by or under contract with the public authority have an affirmative duty to inform applicants and recipients of services under the child support enforcement program that no attorney-client relationship exists between the attorney and the applicant or recipient. This section applies to all legal services provided by the child support enforcement program.

Subd. 2. [WRITTEN NOTICE.] The public authority must provide written notice to an applicant or recipient of services that:

- (1) no attorney-client relationship exists between the attorney and the applicant or recipient;
- (2) the rights of the individual as a subject of data are controlled by section 13.04, subdivision 2; and
- (3) the individual has a right to have an attorney represent the individual.

Subd. 3. [POWER TO REPRESENT OTHER PUBLIC AUTHORITIES.] The public authority may act on behalf of a public authority from another jurisdiction. This includes the authority to represent the legal interests of, or execute documents on behalf of, the other public authority in connection with the establishment, enforcement, and collection of child support and collection on judgments.

Sec. 30. [517C.38] [SERVICE FEES.]

Subdivision 1. [OBLIGOR FEE.] When the public authority provides child support collection services either to a public assistance recipient or to a party who does not receive public assistance, the public authority may upon written notice to the obligor charge a monthly collection fee equivalent to the full monthly cost to the county of providing collection services, in addition to the amount of the child support ordered by the court. The fee must be deposited in the county general fund. The service fee assessed is limited to ten percent of the monthly court ordered child support and must not be assessed to obligors who are current in payment of the monthly court ordered child support.

Subd. 2. [OBLIGEE FEE.] An application fee of \$25 must be paid by the person who applies for child support and maintenance collection services, except persons who are receiving public assistance as defined in section 256.741, persons who transfer from public assistance to nonpublic assistance status, and minor parents and parents enrolled in a public secondary school, area learning center, or alternative learning program approved by the commissioner of children, families, and learning.

Subd. 3. [TAX INTERCEPT FEES.] Fees assessed by state and federal tax agencies for collection of overdue support owed to or on behalf of a person not receiving public assistance must be imposed on the person for whom these services are provided. The public authority upon written notice to the obligee must assess a fee of \$25 to the person not receiving public assistance for each successful federal tax interception. The fee must be withheld prior to the release of the funds received from each interception and must be deposited in the general fund.

Subd. 4. [COMPLIANCE WITH FEDERAL LAW.] The limitations of this section on the assessment of fees do not apply to the extent they are inconsistent with the requirements of federal law for receiving funds for the programs under Title IV-A and Title IV-D of the Social Security Act, United States Code, title 42, sections 601 to 613 and 651 to 662.

Sec. 31. [517C.39] [PUBLIC AUTHORITY PROCEDURES FOR CHILD SUPPORT AND PARENTAGE ORDERS.]

The public authority may use the provisions of sections 517C.40 to 517C.44 when support rights are assigned under section 256.741, subdivision 2, or when the public authority is providing services under an application for child support services.

Sec. 32. [517C.40] [NONATTORNEY EMPLOYEE DUTIES.]

Subdivision 1. [DUTIES PERFORMED UNDER SUPERVISION OF COUNTY ATTORNEY.] (a) The county attorney must review and approve as to form and content all pleadings and other legal documents prepared by nonattorney employees of the public authority for use in the expedited child support process.

(b) Under the direction of, and in consultation with, the county attorney, nonattorney employees of the public authority may perform the following legal duties:

(1) meet and confer with parties by mail, telephone, electronic, or other means regarding legal issues;

(2) explain to parties the purpose, procedure, and function of the expedited child support process and the role and authority of nonattorney employees of the public authority regarding legal issues;

(3) prepare pleadings, including, but not limited to, summonses and complaints, notices, motions, subpoenas, orders to show cause, proposed orders, administrative orders, and stipulations and agreements;

(4) issue administrative subpoenas;

(5) prepare judicial notices;

(6) negotiate settlement agreements;

(7) attend and participate as a witness in hearings and other proceedings and, if requested by the child support magistrate, present evidence, agreements and stipulations of the parties, and any other information deemed appropriate by the magistrate;

(8) participate in other activities and perform other duties delegated by the county attorney; and

(9) exercise other powers and perform other duties as permitted by statute or court rule.

Subd. 2. [DUTIES PERFORMED AUTONOMOUSLY.] Nonattorney employees of the public authority may perform the following duties without direction from the county attorney:

(1) gather information on behalf of the public authority;

(2) prepare financial worksheets;

(3) obtain income information from the department of economic security and other sources;

(4) serve documents on parties;

(5) file documents with the court;

(6) meet and confer with parties by mail, telephone, electronic, or other means regarding nonlegal issues;

(7) explain to parties the purpose, procedure, and function of the expedited child support process and the role and authority of nonattorney employees of the public authority regarding nonlegal issues; and

(8) perform other routine nonlegal duties as assigned.

Subd. 3. [PRACTICE OF LAW.] Performance of the duties prescribed in subdivisions 1 and 2 by nonattorney employees of the public authority does not constitute the unauthorized practice of law for purposes of section 481.02.

Sec. 33. [517C.41] [FINANCIAL WORKSHEET.]

Subdivision 1. [PREPARATION.] In cases involving establishment or modification of a child support order, a nonattorney employee of the public authority must prepare a financial worksheet that contains:

(1) names and addresses of the parties;

(2) social security numbers of the parties;

(3) number of members in each party's household and dependents of the parties;

(4) names and addresses of the parties' employers;

(5) gross income of the parties as defined in this chapter;

(6) amounts and sources of any other earnings and income of the parties;

(7) health insurance coverage of parties; and

(8) any other information relevant to the determination of child or medical support under this chapter.

Subd. 2. [INCOME INFORMATION.] In preparing the financial worksheet, the nonattorney employee of the public authority must obtain income information available to the public authority from the department of economic security and serve this information on the parties. The information must be filed with the court or child support magistrate at least five days before a hearing involving child support, medical support, or child care reimbursement issues.

Sec. 34. [517C.42] [NONCONTESTED MATTERS.]

Under the direction of the county attorney and based on agreement of the parties, nonattorney employees may prepare a stipulation, findings of fact, conclusions of law, and proposed order. The documents must be approved and signed by the county attorney as to form and content before submission to the court or child support magistrate for approval.

Sec. 35. [517C.43] [ADMINISTRATIVE AUTHORITY; PARENTAGE; SUPPORT.]

Subdivision 1. [POWERS.] The public authority may take the following actions relating to establishment of paternity or to establishment, modification, or enforcement of support orders, without the necessity of obtaining an order from a judicial or administrative tribunal:

(1) recognize and enforce orders of child support agencies of other states;

(2) upon request for genetic testing by a child, parent, or an alleged parent, and using the procedure in subdivision 2, order the child, parent, or alleged parent to submit to blood or genetic testing for the purpose of establishing paternity;

(3) subpoena financial or other information needed to establish, modify, or enforce a child support order and request sanctions for failure to respond to a subpoena;

(4) upon notice to the obligor, obligee, and the appropriate court, direct the obligor or other payor to change the payee to the central collections unit under section 517C.50;

(5) order income withholding of child support under section 517C.52;

(6) secure assets to satisfy a support debt or arrears by:

(i) intercepting or seizing periodic or lump-sum payments from state or local agencies, including reemployment compensation, workers' compensation payments, judgments, settlements, lotteries, and other lump-sum payments;

(ii) attaching and seizing assets of the obligor held in financial institutions or public or private retirement funds; and

(iii) imposing liens in accordance with section 548.091, and, in appropriate cases, forcing the sale of property and the distribution of proceeds;

(7) for the purpose of securing overdue support, increase the amount of the monthly support payments by an additional amount equal to 20 percent of the monthly support payment to include amounts for debts or arrears; and

(8) subpoena an employer or payor of funds to provide promptly information on the employment, compensation, and benefits of an individual employed by that employer as an employee or contractor, and to request sanctions for failure to respond to the subpoena as provided by law.

Subd. 2. [GENETIC TESTING.] (a) A request for genetic testing by a child, parent, or alleged parent must be supported by a sworn statement by the person requesting genetic testing that:

(1) alleges paternity and sets forth facts establishing a reasonable possibility of the requisite sexual contact between the parties; or

(2) denies paternity and sets forth facts establishing a reasonable possibility of the nonexistence of sexual contact between the alleged parties.

(b) The order for genetic tests may be served anywhere within the state and served outside the state in the same manner as prescribed by law for service of subpoenas issued by the district court of this state.

(c) If the child, parent, or alleged parent fails to comply with the genetic testing order, the public authority may seek to enforce that order in district court through a motion to compel testing.

(d) No results obtained through genetic testing done in response to an order issued under this section may be used in a criminal proceeding.

Subd. 3. [SUBPOENAS.] (a) Subpoenas may be served anywhere within the state and served outside the state in the same manner as prescribed by law for service of process of subpoenas issued by the district court of this state. When a subpoena under this subdivision is served on a third-party recordkeeper, written notice of the subpoena must be mailed to the person who is the subject of the subpoenaed material at the person's last known address within three days of the day the subpoena is served. This notice provision does not apply if there is reasonable cause to believe the giving of the notice may lead to interference with the production of the subpoenaed documents.

(b) A person served with a subpoena may make a written objection to the public authority or court before the time specified in the subpoena for compliance. The public authority or the court may cancel or modify the subpoena, if appropriate. The public authority must pay the reasonable costs of producing the documents, if requested.

(c) Subpoenas are enforceable in the same manner as subpoenas of the district court. Upon motion of the county attorney, the court may issue an order directing the production of the records. A person who fails to comply with the court order is subject to civil or criminal contempt of court.

Subd. 4. [DUE PROCESS.] The administrative actions under this section are subject to due process safeguards, including requirements for notice, opportunity to contest the action, and opportunity to appeal the order to a judge, judicial officer, or child support magistrate.

Sec. 36. [517C.44] [SHARING OF INFORMATION; DATA.]

Subdivision 1. [GENERAL.] The public authority may share available and relevant information on the parties in order to perform its duties under this chapter or under supreme court rules governing the expedited child support hearing process under section 484.702, subject to the limitations of subdivision 3, section 256.87, subdivision 8, and section 257.70.

Subd. 2. [DATA DISCLOSED TO AN ATTORNEY OF THE PUBLIC AUTHORITY.] (a) Data disclosed by an applicant for, or recipient of, child support services to an attorney employed by, or under contract with, the public authority is private data on an individual. However, the data may be disclosed under section 13.46, subdivision 2, clauses (1) to (3) and (6) to (19), and in order to obtain, modify, or enforce child support, medical support, and parentage determinations.

(b) An attorney employed by, or under contract with, the public authority may disclose additional information received from an applicant for, or recipient of, services for other purposes with the consent of the individual applicant for, or recipient of, child support services.

Subd. 3. [PROHIBITED DISCLOSURE.] In all proceedings under this chapter in which public assistance is assigned under section 256.741, or the public authority provides services to a party or parties to the proceedings, notwithstanding statutory or other authorization for the public authority to release private data on the location of a party to the action, information on the location of one party may not be released by the public authority to the other party if:

(1) the public authority has knowledge that a protective order with respect to the other party has been entered; or

(2) the public authority has reason to believe that the release of the information may result in physical or emotional harm to the other party.

Sec. 37. [517C.45] [SUFFICIENCY OF NOTICE.]

Automated child support notices sent by the public authority which do not require service are sufficient notice when issued and mailed by first class mail to the person's last known address.

Sec. 38. [517C.50] [CHILD SUPPORT PAYMENT CENTER; CENTRAL COLLECTIONS UNIT.]

Subdivision 1. [CREATION.] (a) The commissioner of human services must create and maintain a central collections unit to receive, process, and disburse payments, and to maintain a record of payments in cases when:

(1) the public authority is a party;

(2) the public authority provides child support enforcement services to a party; or

(3) payment is collected through income withholding.

(b) The commissioner may contract for services to carry out these provisions if the commissioner first meets and negotiates with the affected exclusive representatives.

Subd. 2. [CREDITOR COLLECTIONS.] The central collections unit under this section is not a third party under chapters 550, 552, and 571 for purposes of creditor collection efforts against child support and maintenance order obligors or obligees, and is not subject to creditor levy, attachment, or garnishment.

Sec. 39. [517C.51] [MANDATORY PAYMENT OF OBLIGATIONS TO CENTRAL COLLECTIONS UNIT.]

Subdivision 1. [GENERAL.] All payments described in section 517C.50 must be made to the central collections unit.

Subd. 2. [LOCAL PAYMENT; TRANSMITTAL.] The public authority must provide a location for obligors to pay child support in each local jurisdiction. When the public authority receives a payment it must transmit the funds to the central collections unit within one working day.

Subd. 3. [INCENTIVES.] Notwithstanding a rule to the contrary, incentives must be paid to the county providing services and maintaining the case to which the payment is applied. Incentive payments awarded for the collection of child support must be based solely upon payments processed by the central collections unit. Incentive payments received by the county under this subdivision must be used for county child support collection efforts.

Subd. 4. [ELECTRONIC FUNDS TRANSFER.] The central collections unit may receive and disburse funds electronically.

Subd. 5. [REQUIRED CONTENT OF ORDER.] A tribunal issuing an order that establishes or modifies a payment must issue an income withholding order in conformity with section 517C.52. The automatic income withholding order must include the name of the obligor, the obligor's social security number, the obligor's date of birth, and the name and address of the obligor's employer. The street mailing address and the electronic mail address for the central collections unit must be included in each automatic income withholding order issued by a tribunal.

Subd. 6. [TRANSMITTAL OF ORDER TO THE PUBLIC AUTHORITY BY THE TRIBUNAL.] The tribunal must transmit a copy of the order establishing or modifying the payment, and a copy of the automatic income withholding order, to the public authority within two working days of the approval of the order by the judge or child support magistrate or other person or entity authorized to sign the automatic withholding order.

Subd. 7. [TRANSMITTAL OF FUNDS FROM THE OBLIGOR OR PAYOR OF FUNDS TO THE CENTRAL COLLECTIONS UNIT.] The obligor or other payor of funds must identify the obligor on the check or remittance by name, payor number, and social security number, and must comply with section 517C.52.

Subd. 8. [SANCTION FOR CHECKS DRAWN ON INSUFFICIENT FUNDS.] A notice may be directed to a person or entity submitting a check drawn on insufficient funds stating that future payments must be made by cash or certified funds. The central collections unit and the public authority may refuse a check from a person or entity that has been given notice that payments must be in cash or certified funds.

Subd. 9. [ADMISSIBILITY OF PAYMENT RECORDS.] A copy of the record of payments maintained by the central collections unit is admissible evidence in all tribunals as proof of payments made through the central collections unit without the need of testimony to prove authenticity.

Subd. 10. [TRANSITION PROVISIONS.] (a) The commissioner of human services must develop a plan for the implementation of the central collections unit. The plan must require that payments be redirected to the central collections unit. Payments may be redirected in groups according to county of origin, county of payment, method of payment, type of case, or any other distinguishing factor designated by the commissioner.

(b) Notice that payments must be made to the central collections unit must be provided to the obligor and to the payor of funds at least 30 days before payments are redirected to the central collections unit. After the notice has been provided to the obligor or payor of funds, mailed payments received by the public authority must be forwarded to the central collections unit. A notice must be sent to the obligor or payor of funds stating that payment application may be delayed and must provide directions to submit future payments to the central collections unit.

Subd. 11. [COLLECTIONS UNIT RECOUPMENT ACCOUNT.] The commissioner of human services may establish a revolving account to cover funds issued in error due to insufficient funds or other reasons. Appropriations for this purpose and all recoupments against payments from the account must be deposited in the collections unit's recoupment account and are appropriated to the commissioner. An unexpended balance in the account does not cancel, but is available until expended.

Sec. 40. [517C.52] [INCOME WITHHOLDING; GENERAL.]

Subdivision 1. [APPLICATION.] Sections 517C.52 to 517C.62 apply to all support orders issued by a court or an administrative tribunal and orders for or notices of withholding issued by the public authority according to section 517C.43, subdivision 1, clause (5).

Subd. 2. [ORDER.] (a) Every support order must address income withholding. Whenever a support order is initially entered or modified, the full amount of the support order must be withheld from the income of the obligor and forwarded to the public authority. Sections 517C.51 to 517C.62 apply regardless of the source of income of the person obligated to pay the child support.

(b) A payor of funds must implement income withholding according to sections 517C.51 to 517C.62 upon receipt of an order for or notice of withholding. The notice of withholding must be on a form provided by the commissioner of human services.

Subd. 3. [NOTICE; INCOME WITHHOLDING AND COLLECTION SERVICES.] (a) The commissioner of human services must prepare and make available to the courts a notice of services that explains child support and maintenance collection services available through the public authority, including income withholding. Upon receiving a petition for dissolution of marriage or legal separation, the court administrator must promptly send the notice of services to the petitioner and respondent at the addresses stated in the petition.

(b) Upon receipt of a support order requiring income withholding, a petitioner or respondent, who is not a recipient of public assistance and does not receive child support services from the public authority, must apply to the public authority for either full child support collection services or for income withholding only services.

(c) For those persons applying for income withholding only services, a monthly service fee of \$15 must be charged to the obligor. This fee is in addition to the amount of the support order and must be withheld through income withholding. The public authority must explain the service options in this section to the affected parties and encourage the application for full child support collection services.

Subd. 4. [CONTRACT FOR SERVICE.] To carry out income withholding, the public authority may contract for services, including the use of electronic funds transfer.

Subd. 5. [ELECTRONIC TRANSMISSION.] Orders or notices for income withholding may be transmitted for enforcement purposes by electronic means.

Sec. 41. [517C.53] [WAIVER OF INCOME WITHHOLDING.]

(a) If child support is not assigned to the public authority, the court may waive income withholding requirements if it finds there are no arrears as of the date of the hearing and:

(1) one party demonstrates and the court finds there is good cause to waive the requirements of sections 517C.51 to 517C.62 or to terminate an order for or notice of income withholding previously entered; or

(2) all parties reach an agreement and the agreement is approved by the court after a finding that the agreement is likely to result in regular and timely payments. The court's findings waiving the requirements of this paragraph must include a written explanation of the reasons why income withholding would not be in the best interests of the child.

(b) In addition to the other requirements in this section, if the case involves a modification of support, the court must make a finding that support has been timely made.

(c) If the court waives income withholding, the obligee or obligor may at any time request subsequent income withholding under section 517C.59.

Sec. 42. [517C.54] [PAYOR OF FUNDS RESPONSIBILITIES.]

Subdivision 1. [ACTIVATION.] An order for or notice of withholding is binding on a payor of funds upon receipt. Withholding must begin no later than the first pay period that occurs after 14 days following the date of receipt of the order for or notice of withholding. In the case of a financial institution, preauthorized transfers must occur in accordance with a court-ordered payment schedule.

Subd. 2. [PROCEDURE.] A payor of funds must withhold from the income payable to the obligor the amount specified in the order or notice of withholding and amounts specified under sections 517C.58 and 517C.63 and must remit the amounts withheld to the public authority within seven business days of the date the obligor is paid the

remainder of the income. The payor of funds must include with the remittance the social security number of the obligor, the case type indicator as provided by the public authority, and the date the obligor is paid the remainder of the income. The obligor is considered to have paid the amount withheld as of the date the obligor received the remainder of the income. A payor of funds may combine all amounts withheld from one pay period into one payment to each public authority, but must separately identify each obligor making payment.

Subd. 3. [RETRALIATION PROHIBITED.] A payor of funds must not discharge, or refuse to hire, or otherwise discipline an employee as a result of wage or salary withholding authorized by this chapter.

Subd. 4. [UPDATED ORDERS.] If more than one order for or notice of withholding exists involving the same obligor and child, the public authority must enforce the most recent order or notice. An order for or notice of withholding that was previously implemented according to this chapter ends as of the date of the most recent order. The public authority must notify the payor of funds to withhold under the most recent withholding order or notice.

Subd. 5. [NOTIFICATION OF TERMINATION.] When an order for or notice of withholding is in effect and the obligor's employment is terminated, the obligor and the payor of funds must notify the public authority of the termination within ten days of the termination date. The termination notice must include the obligor's home address and the name and address of the obligor's new payor of funds, if known.

Subd. 6. [EXPENSES.] A payor of funds may deduct \$1 from the obligor's remaining salary for each payment made pursuant to an order for or notice of withholding under this chapter to cover the expenses of withholding.

Sec. 43. [517C.55] [LUMP-SUM PAYMENTS.]

Subdivision 1. [APPLICATION.] (a) This section applies to lump-sum payments of \$500 or more including, but not limited to, severance pay, accumulated sick pay, vacation pay, bonuses, commissions, or other pay or benefits.

(b) The Consumer Credit Protection Act, United States Code, title 15, section 1673(b), does not apply to lump-sum payments.

Subd. 2. [PAYOR OF FUNDS RESPONSIBILITIES.] Before transmitting a lump-sum payment to an obligor, a payor of funds who has been served with an order for or notice of income withholding under this chapter must:

(1) notify the public authority of the lump-sum payment that is to be paid to the obligor; and

(2) hold the lump-sum payment for 30 days after the date the lump-sum payment would otherwise have been paid to the obligor, notwithstanding sections 176.221, 176.225, 176.521, 181.08, 181.101, 181.11, 181.13, and 181.145, and Minnesota Rules, part 1415.2000, subpart 10.

Subd. 3. [PUBLIC AUTHORITY OPTIONS.] (a) The public authority may direct the payor of funds to pay the lump-sum payment, up to the amount of judgments or arrears, to the public authority if:

(1) a judgment entered pursuant to section 548.091, subdivision 1a, exists against the obligor, or other support arrears exist; and

(2) a portion of the judgment or arrears remains unpaid.

(b) If no judgment or arrears exist, the public authority may seek a court order directing the payor of funds to transmit all or a portion of the lump-sum payment to the public authority for future support. To obtain a court order under this paragraph, the public authority must show a past willful nonpayment of support by the obligor.

Sec. 44. [517C.56] [PAYOR OF FUNDS LIABILITY.]

Subdivision 1. [LIABILITY TO OBLIGEE.] A payor of funds is liable to the obligee for amounts required to be withheld. A payor of funds that fails to withhold or transfer funds in accordance with this chapter is liable to the obligee for interest on the funds at the rate applicable to judgments under section 549.09, computed from the date the funds were required to be withheld or transferred. A payor of funds is liable for reasonable attorney fees of the obligee or public authority incurred in enforcing the liability under this paragraph. A payor of funds that has failed to comply with the requirements of sections 517C.51 to 517C.62 is subject to contempt sanctions under section 517C.57. If the payor of funds is an employer or independent contractor and violates this subdivision, a court may award the obligor twice the wages lost as a result of this violation. If a court finds a payor of funds violated this subdivision, the court must impose a civil fine of not less than \$500.

Subd. 2. [NONLIABILITY FOR COMPLIANCE.] A payor of funds is not subject to civil liability to any individual or agency for taking action in compliance with an income withholding order or notice of withholding that appears regular on its face according to this chapter or chapter 518C.

Sec. 45. [517C.57] [EMPLOYER CONTEMPT.]

Subdivision 1. [ORDERS BINDING.] Notices or orders for income withholding or medical support issued pursuant to this chapter are binding on the employer, trustee, or other payor of funds after the order or notice has been transmitted to the employer, trustee, or payor of funds.

Subd. 2. [CONTEMPT ACTION.] (a) An obligee or the public authority may initiate a contempt action against an employer, trustee, or payor of funds, within the action that created the support obligation, by serving an order to show cause upon the employer, trustee, or payor of funds.

(b) The employer, trustee, or payor of funds is presumed to be in contempt:

(1) if the employer, trustee, or payor of funds has intentionally failed to withhold support after receiving the order or notice for income withholding or notice of enforcement of medical support; or

(2) upon presentation of pay stubs or similar documentation showing that the employer, trustee, or payor of funds withheld support and demonstrating that the employer, trustee, or payor of funds intentionally failed to remit support to the public authority.

Subd. 3. [SANCTIONS.] The employer, trustee, or payor of funds is liable to the obligee or the public authority for amounts required to be withheld that were not paid. The court may enter judgment against the employer, trustee, or payor of funds for support not withheld or remitted. An employer, trustee, or payor of funds found guilty of contempt must be punished by a fine of not more than \$250 as provided in chapter 588. The court may also impose other contempt sanctions authorized under chapter 588.

Sec. 46. [517C.58] [PRIORITY OF INCOME WITHHOLDING ORDERS; MAXIMUM WITHHOLDING.]

Subdivision 1. [PRIORITY.] (a) An order for or notice of withholding under this chapter or execution or garnishment upon a judgment for child support arrears or preadjudicated expenses has priority over an attachment, execution, garnishment, or wage assignment and is not subject to the statutory limitations on amounts levied against the income of the obligor. Amounts withheld from an employee's income must not exceed the maximum permitted under the Consumer Credit Protection Act, United States Code, title 15, section 1673(b).

Subd. 2. [MULTIPLE ORDERS.] If a single employee is subject to multiple withholding orders or multiple notices of withholding for the support of more than one child, the payor of funds must comply with all of the orders or notices to the extent that the total amount withheld from the obligor's income does not exceed the limits imposed under the Consumer Credit Protection Act, United States Code, title 15, section 1673(b), giving priority to amounts designated in each order or notice as current support as follows:

(1) if the total of the amounts designated in the orders for or notices of withholding as current support exceeds the amount available for income withholding, the payor of funds must allocate to each order or notice an amount for current support equal to the amount designated in that order or notice as current support, divided by the total of the amounts designated in the orders or notices as current support, multiplied by the amount of the income available for income withholding; and

(2) if the total of the amounts designated in the orders for or notices of withholding as current support does not exceed the amount available for income withholding, the payor of funds must pay the amounts designated as current support, and must allocate to each order or notice an amount for past due support, equal to the amount designated in that order or notice as past due support, divided by the total of the amounts designated in the orders or notices as past due support, multiplied by the amount of income remaining available for income withholding after the payment of current support.

Sec. 47. [517C.59] [SUBSEQUENT INCOME WITHHOLDING.]

Subdivision 1. [APPLICATION.] This section applies to support orders that do not contain provisions for income withholding.

Subd. 2. [WHEN THE PUBLIC AUTHORITY IS A PARTY.] If the public authority is a party, income withholding under this section takes effect without prior judicial notice to the obligor and without the need for judicial or administrative hearing. Withholding must be initiated when:

(1) the obligor requests it in writing to the public authority;

(2) the obligee or obligor serves on the public authority a copy of the notice of income withholding, a copy of the court's order, an application, and the fee to use the public authority's collection services; or

(3) the public authority commences withholding under section 517C.43.

Subd. 3. [WHEN THE PUBLIC AUTHORITY IS NOT A PARTY.] If the public authority is not a party, income withholding under this section must be initiated when an obligee requests it by making a written motion to the court and the court finds that previous support has not been paid on a timely consistent basis or that the obligor has threatened expressly or otherwise to stop or reduce payments.

Subd. 4. [NOTICE.] Within two days after the public authority commences withholding under this section, the public authority must send to the obligor at the obligor's last known address, notice that withholding has commenced. The notice must include the information provided to the payor of funds in the notice of withholding.

Subd. 5. [CONTEST.] (a) The obligor may contest withholding under this section on the limited grounds that the withholding or the amount withheld is improper due to mistake of fact. An obligor who chooses to contest the withholding must do so no later than 15 days after the employer commences withholding, by doing all of the following:

(1) file a request for an expedited child support hearing under section 484.702, and include in the request the alleged mistake of fact;

(2) serve a copy of the request for contested hearing upon the public authority and the obligee; and

(3) secure a date for the contested hearing no later than 45 days after receiving notice that withholding has commenced.

(b) The income withholding must remain in place while the obligor contests the withholding.

(c) If the court finds a mistake in the amount of the arrears to be withheld, the court must continue the income withholding, but it must correct the amount of the arrears to be withheld.

Sec. 48. [517C.60] [INCOME WITHHOLDING; ARREARS ORDER.]

(a) In addition to ordering income withholding for current support the court may order the payor of funds to withhold amounts to satisfy the obligor's previous arrears in support order payments. Use of this remedy does not exclude the use of other remedies to enforce judgments. The employer or payor of funds must withhold from the obligor's income an additional amount equal to 20 percent of the monthly child support obligation until the arrears are paid.

(b) Notwithstanding any law to the contrary, funds from income sources included in section 517C.12, subdivision 1, whether periodic or lump-sum, are not exempt from attachment or execution upon a judgment for child support arrears.

(c) Absent an order to the contrary, if arrears exist at the time a support order would otherwise terminate, income withholding continues in effect or may be implemented in an amount equal to the support order plus an additional 20 percent of the monthly child support obligation, until all arrears have been paid in full.

Sec. 49. [517C.61] [INTERSTATE INCOME WITHHOLDING.]

(a) Upon receipt of an order for support entered in another state and the specified documentation from an authorized agency, the public authority must implement income withholding. A payor of funds in this state must withhold income under court orders for withholding issued by other states or territories.

(b) An employer receiving an income withholding notice from another state must withhold and distribute the funds as directed in the withholding notice and must apply the law of the obligor's principal place of employment when determining:

- (1) the employer's fee for processing an income withholding notice;
- (2) the maximum amount permitted to be withheld from the obligor's income; and
- (3) deadlines for implementing and forwarding the child support payment.

(c) An obligor may contest withholding under this section pursuant to section 518C.506.

Sec. 50. [517C.62] [ORDER TERMINATING INCOME WITHHOLDING.]

Subdivision 1. [GENERAL PROCEDURE.] (a) An order terminating income withholding must specify the effective date of the order and reference the initial order or decree that establishes the support obligation. An order terminating income withholding must be entered if:

(1) the obligor serves written notice of the application for termination of income withholding by mail upon the obligee at the obligee's last known mailing address, and a duplicate copy of the application is served on the public authority;

(2) the application for termination of income withholding specifies the event that terminates the support obligation, the effective date of the termination of the support obligation, and the applicable provisions of the order or decree that established the support obligation; and

(3) the application includes the complete name of the obligor's payor of funds, the business mailing address, the court action and court file number, and the support and collections file number, if known.

(b) The obligee or the public authority may request a contested hearing on the issue of whether income withholding should continue. The request must be made within 20 days of receiving an application for termination of income withholding. The request must clearly specify the basis for continuing income withholding. The obligee or public authority may make an ex parte motion to stay the service of an order terminating income withholding upon the obligor's payor of funds pending the outcome of the contested hearing.

Subd. 2. [TERMINATION BY THE PUBLIC AUTHORITY.] (a) If the public authority determines that income withholding is no longer applicable, the public authority must notify the obligee and the obligor of intent to terminate income withholding.

(b) Five days after notification to the obligee and obligor, the public authority must issue a notice to the payor of funds terminating income withholding. A court order is not required unless the obligee has requested an expedited child support hearing under section 484.702.

Sec. 51. [517C.63] [CHILD SUPPORT DEPOSIT ACCOUNT; FINANCIAL INSTITUTIONS.]

Subdivision 1. [APPLICATION.] If income withholding is ineffective due to the obligor's method of obtaining income, the court must order the obligor to identify a child support deposit account owned solely by the obligor, or to establish an account, in a financial institution located in this state for the purpose of depositing court-ordered child support payments. The court must order the obligor to execute an agreement with the appropriate public authority for preauthorized transfers from the obligor's child support account payable to an account of the public authority. The court must order the obligor to disclose to the court all deposit accounts owned by the obligor in whole or in part in any financial institution. The court may order the obligor to disclose to the court the opening or closing of any deposit account owned in whole or in part by the obligor within 30 days of the opening or closing. The court may order the obligor to execute an agreement with the appropriate public authority for preauthorized transfers from any deposit account owned in whole or in part by the obligor to the obligor's child support deposit account if necessary to satisfy court-ordered child support payments. The court may order a financial institution to disclose to the court the account number and any other information regarding accounts owned in whole or in part by the obligor. An obligor who fails to comply with this subdivision, fails to deposit funds in at least one deposit account sufficient to pay court-ordered child support, or stops payment or revokes authorization of a preauthorized transfer is subject to contempt of court procedures under chapter 588.

Subd. 2. [TRANSFERS.] A financial institution must execute preauthorized transfers for the deposit accounts of the obligor in the amount specified in the order and amounts required under this section as directed by the public authority. A financial institution is liable to the obligee if funds in any of the obligor's deposit accounts identified in the court order equal the amount stated in the preauthorization agreement but are not transferred by the financial institution in accordance with the agreement.

Sec. 52. [517C.64] [ESCROW ACCOUNT.]

Subdivision 1. [ESTABLISHMENT.] (a) When determining or modifying a support order the court must not order income withholding otherwise required under sections 517C.51 to 517C.62 if:

- (1) the court finds there are no arrears as of the date of the court hearing;
- (2) the obligor establishes a savings account for a sum equal to two months of the monthly child support obligation; and
- (3) the obligor provides proof of the existence of the account to the court and the public authority prior to the issuance of the order. Proof of the establishment must include the financial institution name and address, account number, and the amount of deposit.

(b) An account established under paragraph (a) must:

(1) be at a financial institution;

(2) bear interest; and

(3) authorize the public authority as the sole drawer of funds.

Subd. 2. [DEFAULT.] (a) If a child support payment is ten days or more past due, the obligee may transmit a notice of default to the public authority and apply for child support collection services. The notice must be verified by the obligee and must contain the title of the action, the court file number, the full name and address of the obligee, the name and last known address of the obligor, the obligor's last known employer or other payor of funds, the date of the first unpaid amount, the date of the last unpaid amount, and the total amount unpaid.

(b) Within three working days of receiving a notice of default, the public authority must:

(1) withdraw the funds held at the financial institution under this section; and

(2) send a copy of the notice of default and a notice of intent to implement income withholding by mail to the obligor at the obligor's last known address.

(c) The notice of intent to implement income withholding must state that the support order will be served on the obligor's employer or payor of funds unless within 15 days of the date of the notice the obligor:

(1) requests a hearing on the issue of whether payment was in default as of the date of the notice of default; and

(2) serves notice of the hearing request on the public authority and the obligee.

Subd. 3. [DUTIES OF THE PUBLIC AUTHORITY.] (a) Within three working days of withdrawing sums under subdivision 2, the public authority must remit all amounts not assigned to the public authority to the obligee as current support.

(b) The public authority must also serve a copy of the court's order and the provisions of sections 517C.51 to 517C.62 and this section on the obligor's employer or other payor of funds unless the obligor requests a hearing under subdivision 2, paragraph (c).

(c) The public authority must inform the obligor's employer or other payor of funds of the date the next support payment is due. Income withholding must begin on that date and must reflect the total credits of principal and interest amounts received from the escrow account.

Subd. 4. [HEARING.] (a) If the obligor requests a hearing under subdivision 2, paragraph (c), the court must hold a hearing within 30 days of the date of the notice of default under subdivision 2, paragraph (a).

(b) If the court finds that there was a default, the court must order the immediate withholding of support from the obligor's income.

(c) If the court finds that there was no default, the court must order the reestablishment of the escrow account by either the obligee or obligor and must not order income withholding.

Subd. 5. [TERMINATION OF ESCROW ACCOUNT.] (a) When the support obligation ends under the terms of the order or decree establishing the obligation and the sum held under this section has not otherwise been released, the public authority must release the sum and interest to the obligor if the obligor transmits a notice of termination to the public authority. The notice must be verified by the obligor and must indicate:

(1) the title of the action;

(2) the court file number;

(3) the full name and address of the obligee;

(4) the event that ends the support obligation;

(5) the effective date of the termination of support obligation; and

(6) the applicable provisions of the order or decree that established the support obligation.

(b) The public authority must send a copy of the notice of termination to the obligee.

(c) The obligee or the public authority may request a hearing on the issues of whether the support obligation continues and whether the escrow account should continue. The request must be made and served on the other parties within 20 days of receiving a notice of termination.

Sec. 53. [517C.65] [TRUSTEE.]

Subdivision 1. [APPOINTMENT.] Upon its own motion or upon motion of either party, the court may appoint a trustee, when it is deemed expedient, to receive money ordered to be paid as child support for remittance to the person entitled to receive the payments. The trustee may also receive property that is part of an award for division of marital property. The trustee must hold the property in trust to invest and pay over the income in the manner the court directs, or to pay over the principal sum in the proportions and at the times the court orders. In all cases, the court must consider the situation and circumstances of the recipient, and the children, if any. The trust must give a bond, as the court requires, for the faithful performance of the trust. If it appears that the recipient of money ordered to be paid as support will receive public assistance, the court must appoint the public authority as trustee.

Subd. 2. [RECORDS.] The trustee must maintain records listing the amount of payments, the date when payments are required to be made, and the names and addresses of the parties affected by the order.

Subd. 3. [COMMUNICATION.] The parties affected by the order must inform the trustee of a change of address or of other conditions that may affect the administration of the order.

Subd. 4. [LATE PAYMENT.] If a required support payment is ten days or more overdue, the trustee must send the obligor notice of the arrears by first class mail. If payment of the sum due is not received by the trustee within ten days after sending notice, the trustee must certify the amount due to the public authority, whenever that authority is not the trustee. If the public authority refers the arrears to the county attorney, the county attorney may initiate enforcement proceedings against the obligor for support.

Sec. 54. [517C.66] [OVERPAYMENTS.]

If child support is not assigned under section 256.741, and an obligor has overpaid a child support obligation because of a modification or error in the amount owed, the public authority must:

(1) apply the amount of the overpayment to reduce the amount of child support arrears or debts owed to the obligee; and

(2) if an overpayment exists after the reduction of arrears or debt, reduce the amount of the child support remitted to the obligee by an amount no greater than 20 percent of the current monthly support obligation and remit this amount to the obligor until the overpayment is reduced to zero.

Sec. 55. [517C.67] [ALTERNATE NOTICE OF COURT ORDER.]

Whenever this chapter requires service of a court's order on an employer, union, or payor of funds, service of a verified notice of order may be made in lieu of the order. The verified notice must contain the title of the action, the name of the court, the court file number, the date of the court order, and must recite the operative provisions of the order.

Sec. 56. [517C.70] [CHILD SUPPORT AND PARENTING TIME ARE INDEPENDENT.]

(a) Failure by a party to make support payments is not a defense to:

(1) interference with parenting time rights; or

(2) removing a child from this state without the permission of the court or of a parent who has been given parenting time.

(b) Interference with parenting time rights or taking a child from this state without permission of the court or of a parent who has been given parenting time is not a defense to nonpayment of support.

(c) If a party fails to make support payments, interferes with parenting time rights, or removes a child from this state without permission of the court or of a parent who has been given parenting time, the other party may petition the court for an appropriate order.

Sec. 57. [517C.705] [SIX-MONTH REVIEW.]

A decree or order that establishes child support rights and obligations must contain a review date six months after its entry according to section 517A.25.

Sec. 58. [517C.71] [PAYMENT AGREEMENTS.]

Subdivision 1. [GENERAL REQUIREMENTS.] An obligor who has child support arrears may enter into a payment agreement that addresses payment of both current and overdue support. Payment agreements must:

(1) be in writing;

(2) address both current support and arrears; and

(3) be approved by the court, a child support magistrate, or the public authority.

Subd. 2. [CONSIDERATIONS.] In proposing or approving proposed payment agreements for purposes of this chapter, the court, a child support magistrate, or the public authority must take into consideration the amount of the arrears, the amount of the current support order, any pending request for modification, and the earnings of the obligor. The court, child support magistrate, or public authority must consider the individual financial circumstances of each obligor in evaluating the obligor's ability to pay a proposed payment agreement and must propose a reasonable payment agreement tailored to the individual financial circumstances of each obligor.

Sec. 59. [517C.72] [SEEK EMPLOYMENT ORDERS.]

Subdivision 1. [COURT ORDER.] (a) When the public authority is enforcing a support order, the public authority may seek a court order requiring an obligor to seek employment if:

(1) employment of the obligor cannot be verified;

(2) the obligor has child support arrears amounting to at least three times the obligor's total monthly support payments; and

(3) the obligor is not in compliance with a payment agreement.

(b) Upon proper notice to the obligor, the court may enter a seek employment order if it finds that the obligor has not provided proof of gainful employment and has not consented to an order for income withholding or entered into a payment agreement.

Subd. 2. [CONTENTS OF ORDER.] The order to seek employment must:

(1) order that the obligor seek employment within a determinate amount of time;

(2) order that the obligor file with the public authority a weekly report of at least five new attempts to find employment or of having found employment. The report must include the names, addresses, and telephone numbers of the employers or businesses with whom the obligor attempted to obtain employment and the name of the individual contact at each employer or business to whom the obligor made application for employment or to whom an inquiry was directed;

(3) notify the obligor that failure to comply with the order is evidence of a willful failure to pay support under section 517C.74;

(4) order that the obligor provide the public authority with verification of any reason for noncompliance with the order; and

(5) specify the duration of the order, not to exceed three months.

Sec. 60. [517C.73] [ORDER FOR COMMUNITY SERVICES.]

If the court finds that the obligor earns \$400 or less per month and does not have the ability to provide support based on the guidelines and factors in this chapter, the court may order the obligor to perform community services to fulfill the obligor's support obligation. In ordering community services under this section, the court must consider whether the obligor has the physical capability to perform community services, and must order community services that are appropriate for the obligor's abilities.

Sec. 61. [517C.74] [CONTEMPT PROCEEDINGS FOR NONPAYMENT OF SUPPORT.]

Subdivision 1. [GROUNDS.] If a person against whom an order or decree for support has been entered under this chapter, chapter 256, or a comparable law from another jurisdiction, has child support arrears amounting to at least three times the obligor's total monthly support obligation and is not in compliance with a payment agreement, the person may be cited and punished by the court for contempt under chapter 588 or this section. Failure to comply with a seek employment order entered under section 517C.72 is evidence of willful failure to pay support.

Subd. 2. [COURT OPTIONS.] (a) If a court cites a person for contempt under this section, and the obligor lives in a county that contracts with the commissioner of human services under section 256.997, the court may order the performance of community service work up to 32 hours per week for six weeks for each finding of contempt if the obligor:

(1) is able to work full time;

(2) works an average of less than 32 hours per week; and

(3) has actual weekly gross income averaging less than 40 times the federal minimum hourly wage under United States Code, title 29, section 206(a)(1), or is voluntarily earning less than the obligor has the ability to earn, as determined by the court.

(b) An obligor is presumed to be able to work full time. The obligor has the burden of proving inability to work full time.

Subd. 3. [RELEASE.] A person ordered to do community service work under subdivision 2 may, during the six-week period, apply to the court, an administrative law judge, or the public authority to be released from the community service work requirement if the person:

(1) provides proof to the court, an administrative law judge, or the public authority that the person is gainfully employed and submits to an order for income withholding under section 518.6111;

(2) enters into a payment agreement; or

(3) provides proof to the court, an administrative law judge, or the public authority that, after entry of the order, the person's circumstances have so changed that the person is no longer able to fulfill the terms of the community service order.

Subd. 4. [CONTINUING OBLIGATIONS.] The performance of community service work does not relieve an obligor of a current support obligation or arrears.

Sec. 62. [517C.745] [SECURITY; SEQUESTRATION; CONTEMPT.]

(a) In all cases when support payments are ordered, the court may require sufficient security to be given for the payment of them according to the terms of the order. Upon neglect or refusal to give security, or upon failure to pay the support, the court may sequester the obligor's personal estate and the rents and profits of real estate of the obligor, and appoint a receiver of them. The court may cause the personal estate and the rents and profits of the real estate to be applied according to the terms of the order.

(b) The obligor is presumed to have an income from a source sufficient to pay the support order. A child support order constitutes prima facie evidence that the obligor has the ability to pay the award. If the obligor disobeys the order, it is prima facie evidence of contempt. The court may cite the obligor for contempt under this section, section 517C.74, or chapter 588.

Sec. 63. [517C.75] [DRIVER'S LICENSE SUSPENSION.]

Subdivision 1. [FACTORS WARRANTING SUSPENSION.] An obligor's driver's license must be suspended if:

(1) the obligor has child support arrears amounting to at least three times the obligor's total monthly support obligation and the obligor is not in compliance with a payment agreement; or

(2) the obligor has failed, after receiving notice, to comply with a subpoena relating to a paternity or child support proceeding.

Subd. 2. [MOTION; HEARING; PROCEDURE.] (a) Upon the motion of a party, the court must order the commissioner of public safety to suspend an obligor's driver's license if the court finds that a factor in subdivision 1 exists.

(b) The motion must be properly served and there must be an opportunity for a hearing pursuant to court rules. If a hearing is requested, the obligor must be served written notice of the time and date of the hearing at least 14 days prior to the hearing. The notice must specify the allegations against the obligor. The notice may be served personally or by mail.

(c) The court's order must be stayed for 90 days in order to allow the obligor to enter into a payment agreement. If the obligor has not entered into or is not in compliance with a payment agreement after the 90 days expire, the court's order becomes effective and the commissioner of public safety must suspend the obligor's driver's license.

(d) An obligee may not make a motion under this section within 12 months of a denial of a previous motion under this section.

(e) At a hearing regarding the obligor's failure to comply with a subpoena, the only issues to be considered are mistake of fact and whether the obligor received the subpoena.

Subd. 3. [SUSPENSION INITIATED BY THE PUBLIC AUTHORITY.] (a) The public authority must direct the commissioner of public safety to suspend an obligor's driver's license if the public authority determines that a factor in subdivision 1 exists.

(b) At least 90 days before directing the suspension of a driver's license the public authority must attempt to notify the obligor that it intends to seek suspension and that the obligor must request a hearing within 30 days in order to contest the suspension. The notice must be in writing and mailed to the obligor at the obligor's last known address.

(c) If the obligor makes a written request for a hearing within 30 days, a court hearing must be held. The public authority must then make a motion to the court and schedule a hearing. The matter must then proceed under subdivision 2.

(d) If the public authority does not receive a request for a hearing within 30 days and the obligor does not enter into a payment agreement within 90 days of the date of the notice, the public authority must direct the commissioner of public safety to suspend the obligor's driver's license.

Subd. 4. [FAILURE TO REMAIN IN COMPLIANCE WITH A PAYMENT AGREEMENT.] The license of an obligor who fails to remain in compliance with a payment agreement may be suspended. Notice to the obligor of intent to suspend under this subdivision must be served by first class mail at the obligor's last known address and must include a notice of hearing. The notice must be served upon the obligor not less than ten days before the date of the hearing. If the obligor appears at the hearing and the judge determines that the obligor has failed to comply with a payment agreement, the judge must notify the department of public safety to suspend the obligor's license. If the obligor fails to appear at the hearing, the public authority may notify the department of public safety to suspend the obligor's license.

Subd. 5. [REINSTATEMENT.] An obligor whose driver's license or operating privileges are suspended may provide proof to the public authority that the obligor is in compliance with all payment agreements. Within 15 days of the receipt of that proof, the public authority must inform the commissioner of public safety that the obligor's driver's license or operating privileges should no longer be suspended.

Subd. 6. [REPORT TO THE LEGISLATURE.] On January 15, 2003, and every two years after that, the commissioner of human services must submit a report to the legislature that identifies the following information relevant to the implementation of this section:

- (1) the number of child support obligors notified of an intent to suspend a driver's license;
- (2) the amount collected in payments from the child support obligors notified of an intent to suspend a driver's license;
- (3) the number of cases paid in full and payment agreements executed in response to notification of an intent to suspend a driver's license;
- (4) the number of cases in which there has been notification and no payments or payment agreements;

(5) the number of driver's licenses suspended; and

(6) the cost of implementation and operation of the requirements of this section.

Sec. 64. [517C.76] [OCCUPATIONAL LICENSE SUSPENSION.]

Subdivision 1. [FACTORS WARRANTING SUSPENSION.] An obligor's occupational license must be suspended if:

(1) the obligor has child support arrears amounting to at least three times the obligor's total monthly support obligation and the obligor is not in compliance with a payment agreement; or

(2) the obligor has failed, after receiving notice, to comply with a subpoena relating to a paternity or child support proceeding.

Subd. 2. [MOTION; HEARING; PROCEDURE.] (a) Upon the motion of a party, the court must order a licensing board or agency to suspend an obligor's license under section 214.101 if the court finds that a factor in subdivision 1 exists.

(b) The motion must be properly served and there must be an opportunity for a hearing pursuant to court rules. If a hearing is requested, the obligor must be served written notice of the time and date of the hearing at least 14 days prior to the hearing. The notice must specify the allegations against the obligor. The notice may be served personally or by mail.

(c) The court's order must be stayed for 90 days in order to allow the obligor to enter into a payment agreement. If the obligor has not entered into or is not in compliance with a payment agreement after the 90 days expire, the court's order becomes effective.

(d) At a hearing regarding the obligor's failure to comply with a subpoena, the only issues to be considered are mistake of fact and whether the obligor received the subpoena.

(e) If the obligor is a licensed attorney, the court must report the matter to the lawyer's professional responsibility board for appropriate action in accordance with the Rules of Professional Conduct.

Subd. 3. [SUSPENSION INITIATED BY THE PUBLIC AUTHORITY.] (a) The public authority must direct a licensing board or agency to suspend an obligor's license under section 214.101 if the public authority determines that the factors in subdivision 1 exist.

(b) At least 90 days before directing the suspension of an occupational license, the public authority must attempt to notify the obligor that it intends to seek suspension and that the obligor must request a hearing within 30 days in order to contest the suspension. The notice must be in writing and mailed to the obligor at the obligor's last known address.

(c) If the obligor makes a written request for a hearing within 30 days a court hearing must be held. The public authority must then make a motion to the court and schedule a hearing. The matter must then proceed under subdivision 2.

(d) If the public authority does not receive a request for a hearing within 30 days and the obligor does not execute a payment agreement within 90 days of the date of the notice, the public authority must direct the licensing board or agency to suspend the obligor's license.

(e) If the obligor is a licensed attorney, the public authority may report the matter to the lawyer's professional responsibility board for appropriate action in accordance with the Rules of Professional Conduct.

Subd. 4. [FAILURE TO REMAIN IN COMPLIANCE WITH AN APPROVED PAYMENT AGREEMENT.] The license of an obligor who fails to remain in compliance with a payment agreement may be suspended. Notice to the obligor of an intent to suspend under this subdivision must be served by first class mail at the obligor's last known address and must include a notice of hearing. The notice must be served upon the obligor not less than ten days before the date of the hearing. If the obligor appears at the hearing and the judge determines that the obligor has failed to comply with a payment agreement, the judge must notify the licensing board or agency to suspend the obligor's license. If the obligor fails to appear at the hearing, the public authority may notify the licensing board or agency to suspend the obligor's license.

Subd. 5. [REINSTATEMENT.] An obligor whose occupational license is suspended may provide proof to the public authority that the obligor is in compliance with all payment agreements. Within 15 days of the receipt of that proof, the public authority must inform the licensing board or agency or the lawyer's professional responsibility board that the obligor is no longer ineligible for license issuance, reinstatement, or renewal under this section.

Sec. 65. [517C.77] [DATA ON SUSPENSIONS FOR SUPPORT ARREARS.]

Notwithstanding section 13.03, subdivision 4, paragraph (c), data on an occupational license suspension under section 517C.76 or a driver's license suspension under section 517C.75, that are transferred by the department of human services to respectively the department of public safety or a state, county, or municipal occupational licensing agency must have the same classification at the department of public safety or other receiving agency under section 13.02, as other license suspension data held by the receiving agency. The transfer of the data does not affect the classification of the data in the hands of the department of human services.

Sec. 66. [517C.78] [RECREATIONAL LICENSE SUSPENSION.]

Subdivision 1. [MOTION; FACTORS.] (a) A party may make a motion to suspend the recreational license or licenses of an obligor. The motion must be served on the obligor in person or by first class mail at the obligor's last known address. There must be an opportunity for a hearing. The court may direct the commissioner of natural resources to suspend or bar receipt of the obligor's recreational license or licenses if it finds that:

(1) the obligor has child support arrears amounting to at least six times the obligor's total monthly support payments and the obligor is not in compliance with a payment agreement; or

(2) the obligor has failed, after receiving notice, to comply with a subpoena relating to a paternity or child support proceeding.

(b) Prior to utilizing this section, the court must find that other substantial enforcement mechanisms have been attempted but have not resulted in compliance.

Subd. 2. [AFFECTED LICENSES.] For purposes of this section, a recreational license includes all licenses, permits, and stamps issued centrally by the commissioner of natural resources under sections 97B.301, 97B.401, 97B.501, 97B.515, 97B.601, 97B.715, 97B.721, 97B.801, 97C.301, and 97C.305.

Subd. 3. [REINSTATEMENT.] An obligor whose recreational license has been suspended or barred may provide proof to the court that the obligor is in compliance with all payment agreements. Within 15 days of receipt of that proof, the court must notify the commissioner of natural resources that the obligor's recreational license or licenses must no longer be suspended nor may receipt be barred.

Sec. 67. [517C.79] [MOTOR VEHICLE LIEN.]

Subdivision 1. [FACTORS WARRANTING LIEN.] A lien must be entered on any motor vehicle certificate of title subsequently issued in the name of an obligor if the obligor has child support arrears amounting to at least three times the obligor's total monthly support obligation and the obligor is not in compliance with a payment agreement.

Subd. 2. [MOTION; HEARING; PROCEDURE.] (a) Upon the motion of a party, if the court finds that the factors in subdivision 1 exist, the court must order the commissioner of public safety to enter a lien in the name of the obligee or in the name of the state of Minnesota, as appropriate, under section 168A.05, subdivision 8, on any motor vehicle certificate of title subsequently issued in the name of the obligor.

(b) The motion must be properly served and there must be an opportunity for a hearing pursuant to court rules. If a hearing is requested, the obligor must be served written notice of the time and date of the hearing at least 14 days prior to the hearing. The notice must specify the allegations against the obligor. The notice may be served personally or by mail.

(c) The court's order must be stayed for 90 days in order to allow the obligor to enter into a payment agreement. If the obligor has not entered into or is not in compliance with a payment agreement after the 90 days expires, the court's order becomes effective and the commissioner of public safety must record the lien on any motor vehicle certificate of title subsequently issued in the name of the obligor.

Subd. 3. [LIEN INITIATED BY THE PUBLIC AUTHORITY.] (a) If the public authority determines that the factors in subdivision 1 exist, the public authority must direct the commissioner of public safety to enter a lien in the name of the obligee or in the name of the state of Minnesota, as appropriate, under section 168A.05, subdivision 8, on any motor vehicle certificate of title subsequently issued in the name of the obligor.

(b) At least 90 days before directing the entry of a lien under this section the public authority must attempt to notify the obligor that it intends to record a lien and that the obligor must request a hearing within 30 days in order to contest the action. The notice must be in writing and mailed to the obligor at the obligor's last known address.

(c) If the obligor makes a written request for a hearing within 30 days a court hearing must be held. The public authority must then make a motion to the court and schedule a hearing. The matter must then proceed under subdivision 2.

(d) If the public authority does not receive a request for a hearing within 30 days and the obligor does not enter into a payment agreement within 90 days of the date of the notice, the public authority must direct the commissioner of public safety to record the lien.

Subd. 4. [RELEASE.] An obligor may provide proof to the court or the public authority that the obligor is in compliance with all payment agreements or that the value of the motor vehicle is less than the exemption provided under section 550.37. Within 15 days of the receipt of that proof, the court or public authority must either:

(1) execute a release of security interest under section 168A.20, subdivision 4, and mail or deliver the release to the owner or other authorized person; or

(2) in instances where a lien has not yet been entered, direct the commissioner of public safety not to enter a lien on any motor vehicle certificate of title subsequently issued in the name of the obligor.

Subd. 5. [NONEXEMPT VALUE.] A lien recorded against a motor vehicle certificate of title under this section and section 168A.05, subdivision 8, attaches only to the nonexempt value of the motor vehicle as determined in accordance with section 550.37. The value of a motor vehicle must be determined in accordance with the retail value described in the National Auto Dealers Association Official Used Car Guide, Midwest Edition, for the current year, or in accordance with the purchase price as defined in section 297B.01, subdivision 8.

Sec. 68. [517C.80] [PUBLICATION OF NAMES OF DELINQUENT CHILD SUPPORT OBLIGORS.]

Subdivision 1. [MAKING NAMES PUBLIC.] At least once each year, the commissioner of human services, in consultation with the attorney general, must publish a list of the names and other identifying information of no more than 25 persons who:

(1) are child support obligors;

(2) are at least \$10,000 in arrears;

(3) are not in compliance with a payment agreement regarding both current support and arrears approved by the court, a child support magistrate, or the public authority;

(4) cannot currently be located by the public authority for the purposes of enforcing a support order; and

(5) have not made a support payment except tax intercept payments, in the preceding 12 months.

Subd. 2. [IDENTIFYING INFORMATION.] Identifying information may include the obligor's name, last known address, amount owed, date of birth, photograph, the number of children for whom support is owed, and any additional information about the obligor that would assist in identifying or locating the obligor. The commissioner and attorney general may use posters, media presentations, electronic technology, and other means that the commissioner and attorney general determine are appropriate for dissemination of the information, including publication on the Internet. The commissioner and attorney general may make any or all of the identifying information regarding these persons public. Information regarding an obligor who meets the criteria in this section will only be made public subsequent to that person's selection by the commissioner and attorney general.

Subd. 3. [NOTICE.] (a) Before making public the name of the obligor, the department of human services must send a notice to the obligor's last known address stating the department's intention to make public information on the obligor. The notice must also provide an opportunity to have the obligor's name removed from the list by paying the arrears or by entering into an agreement to pay the arrears, or by providing information to the public authority that there is good cause not to make the information public. The notice must include the final date when the payment or agreement can be accepted.

(b) The department of human services must obtain the written consent of the obligee to make the name of the obligor public.

Subd. 4. [NAMES PUBLISHED IN ERROR.] If the commissioner makes a name public under subdivision 1 in error, the commissioner must also offer to publish a printed retraction and a public apology acknowledging that the name was made public in error. If the person whose name was made public in error elects the public retraction and apology, the retraction and apology must appear in the same medium and the same format as the original notice where the name was listed in error. In addition to the right of a public retraction and apology, a person whose name was made public in error has a civil action for damages caused by the error.

Sec. 69. [517C.81] [COLLECTION; ARREARS.]

Subdivision 1. [COLLECTION OF ARREARS TO CONTINUE AFTER CHILD IS EMANCIPATED.] Remedies available for the collection and enforcement of support in this chapter and chapters 256, 257, and 518C also apply to cases in which a child for whom support is owed is emancipated and the obligor owes past support or has accumulated arrears. Child support arrears under this section include arrears for child support, medical support, child care, pregnancy and birth expenses, and unreimbursed medical expenses as defined in section 517C.15.

Subd. 2. [RETROACTIVE APPLICATION.] This section applies retroactively to support arrears that accrued on or before the date of enactment and to all arrears accruing after the date of enactment.

Subd. 3. [LIMITATIONS.] Past support or pregnancy and confinement expenses ordered for which the obligor has specific court ordered terms for repayment may not be enforced using drivers' and occupational or professional license suspension, credit bureau reporting, and additional income withholding under section 517C.60, unless the obligor fails to comply with the terms of the court order for repayment.

Sec. 70. [517C.82] [CASE REVIEWER.]

The commissioner must make a case reviewer available to obligors and obligees. The reviewer must be available to answer questions concerning the collection process and to review the collection activity taken. A reviewer who reasonably believes that a particular action being taken is unreasonable or unfair may make recommendations to the commissioner and the applicable county in regard to the collection action.

Sec. 71. [517C.83] [ATTORNEY FEES; COLLECTION COSTS.]

Subdivision 1. [GENERAL.] (a) A child support obligee is entitled to recover from the obligor reasonable attorney fees and other collection costs incurred to enforce a child support judgment, as provided in this section.

(b) In order to recover collection costs under this section, the arrears must be at least \$500 and must be at least 90 days past due. In addition, the arrears must be a docketed judgment under sections 548.09 and 548.091.

(c) If the obligor pays in full the judgment rendered under section 548.091 within 20 days of receipt of notice of entry of judgment, the obligee is not entitled to recover attorney fees or collection costs under this section.

Subd. 2. [ENFORCEMENT.] Attorney fees and collection costs obtained under this section are considered child support and entitled to the applicable remedies for collection and enforcement of child support.

Subd. 3. [NOTICE TO PUBLIC AUTHORITY.] If the public authority is a party to a case, an obligee must provide written notice to the public authority within five days of:

- (1) contracting with an attorney or collection entity to enforce a child support judgment; or
- (2) receipting payments received on a child support judgment.

Subd. 4. [NOTICE TO OBLIGOR; HEARING.] (a) The obligee must serve notice of the obligee's intent to recover attorney fees and collections costs by certified or registered mail on the obligor at the obligor's last known address. The notice must include an itemization of the attorney fees and collection costs being sought by the obligee. It must inform the obligor that the fees and costs will become an additional judgment for child support unless, within 20 days of mailing of the notice, the obligor requests a hearing:

- (1) on the reasonableness of the fees and costs; or
- (2) to contest the child support judgment on grounds limited to mistake of fact.

(b) If the obligor requests a hearing, the only issues to be determined by the court are:

- (1) whether the attorney fees or collection costs were reasonably incurred by the obligee for the enforcement of a child support judgment against the obligor; or
- (2) the validity of the child support judgment on grounds limited to mistake of fact.

(c) The fees and costs may not exceed 30 percent of the arrears. The court may modify the amount of attorney fees and costs as appropriate and must enter judgment accordingly.

(d) If the obligor fails to request a hearing within 20 days of mailing of the notice under paragraph (a), the amount of the attorney fees or collection costs requested by the obligee in the notice automatically becomes an additional judgment for child support.

Subd. 5. [FORMS.] The commissioner of human services must prepare and make available to the court and the parties forms for use in providing for notice and requesting a hearing under this section.

Sec. 72. [517C.99] [REQUIRED NOTICES.]

Subdivision 1. [REQUIREMENT.] Every court order or judgment and decree that provides for child support, spousal maintenance, custody, or parenting time must contain certain notices as set out in subdivision 3. The information in the notices must be concisely stated in plain language. The notices must be in clearly legible print, but may not exceed two pages. An order or judgment and decree without the notice remains subject to all statutes. The court may waive all or part of the notice required under subdivision 3 relating to change of address notification and similar information if it finds it is necessary to protect the welfare of a party or child.

Subd. 2. [COPIES OF LAWS AND FORMS.] The district court administrator must make copies of the sections referred to in subdivision 3 available at no charge and must provide forms to request or contest attorney fees, collection costs, and cost-of-living increases.

Subd. 3. [CONTENTS.] The required notices must be substantially as follows:

IMPORTANT NOTICE

1. PAYMENTS TO PUBLIC AUTHORITY

According to Minnesota Statutes, section 517C.35, payments ordered for maintenance and support must be paid to the public authority as long as the person entitled to receive the payments is receiving or has applied for public assistance or has applied for support and maintenance collection services. MAIL PAYMENTS TO:

2. DEPRIVING ANOTHER OF CUSTODIAL OR PARENTAL RIGHTS -- A FELONY

A person may be charged with a felony who conceals a minor child or takes, obtains, retains, or fails to return a minor child from or to the child's parent (or person with custodial or visitation rights), according to Minnesota Statutes, section 609.26. A copy of that section is available from any district court clerk.

3. RULES OF SUPPORT, MAINTENANCE, VISITATION

(a) Payment of support or spousal maintenance is to be as ordered, and the giving of gifts or making purchases of food, clothing, and the like will not fulfill the obligation.

(b) Payment of support must be made as it becomes due, and failure to secure or denial of rights of visitation is NOT an excuse for nonpayment, but the aggrieved party must seek relief through a proper motion filed with the court.

(c) Nonpayment of support is not grounds to deny visitation. The party entitled to receive support may apply for support and collection services, file a contempt motion, or obtain a judgment as provided in Minnesota Statutes, section 548.091.

(d) The payment of support or spousal maintenance takes priority over payment of debts and other obligations.

(e) A party who accepts additional obligations of support does so with the full knowledge of the party's prior obligation under this proceeding.

(f) Child support or maintenance is based on annual income, and it is the responsibility of a person with seasonal employment to budget income so that payments are made throughout the year as ordered.

(g) If there is a layoff or a pay reduction, support may be reduced as of the time of the layoff or pay reduction if a motion to reduce the support is served and filed with the court at that time, but any such reduction must be ordered by the court. The court is not permitted to reduce support retroactively, except as provided in Minnesota Statutes, section 517C.29.

(h) Reasonable visitation guidelines are contained in Appendix B, which is available from the court administrator.

4. PARENTAL RIGHTS REGARDING INFORMATION AND CONTACT

Unless otherwise provided by the court:

(a) Each party has the right of access to and the right to receive copies of school, medical, dental, religious training, and other important records and information about the minor children. Each party has the right of access to information regarding health or dental insurance available to the minor children. Presentation of a copy of this order to the custodian of a record or other information about the minor children constitutes sufficient authorization for the release of the record or information to the requesting party.

(b) Each party must keep the other informed as to the name and address of the school of attendance of the minor children. Each party has the right to be informed by school officials about the children's welfare, educational progress and status, and to attend school and parent teacher conferences. The school is not required to hold a separate conference for each party.

(c) In case of an accident or serious illness of a minor child, each party must notify the other party of the accident or illness, and the name of the health care provider and the place of treatment.

(d) Each party has the right of reasonable access and telephone contact with the minor children.

5. WAGE AND INCOME DEDUCTION OF SUPPORT AND MAINTENANCE

Child support and/or spousal maintenance may be withheld from income, with or without notice to the person obligated to pay, when the conditions of Minnesota Statutes, sections 517C.51 to 517C.62, have been met. A copy of those sections is available from any district court clerk.

6. CHANGE OF ADDRESS OR RESIDENCE

Unless otherwise ordered, each party must notify the other party, the court, and the public authority, if applicable, of the following information within ten days of any change: the residential and mailing address, telephone number, driver's license number, social security number, and name, address, and telephone number of the employer.

7. COST-OF-LIVING INCREASE OF SUPPORT AND MAINTENANCE

Child support and/or spousal maintenance may be adjusted every two years based upon a change in the cost-of-living (using Department of Labor Consumer Price Index, unless otherwise specified in this order) when the conditions of Minnesota Statutes, section 517C.31, are met. Cost-of-living increases are compounded. A copy of Minnesota Statutes, section 517C.31, and forms necessary to request or contest a cost-of-living increase are available from any district court clerk.

8. JUDGMENTS FOR UNPAID SUPPORT

If a person fails to make a child support payment, the payment owed becomes a judgment against the person responsible to make the payment by operation of law on or after the date the payment is due, and the person entitled to receive the payment or the public authority may obtain entry and docketing of the judgment WITHOUT NOTICE to the person responsible to make the payment under Minnesota Statutes, section 548.091. Interest begins to accrue on a payment or installment of child support whenever the unpaid amount due is greater than the current support due, according to Minnesota Statutes, section 548.091, subdivision 1a.

9. JUDGMENTS FOR UNPAID MAINTENANCE

A judgment for unpaid spousal maintenance may be entered when the conditions of Minnesota Statutes, section 548.091, are met. A copy of that section is available from any district court clerk.

10. ATTORNEY FEES AND COLLECTION COSTS FOR ENFORCEMENT OF CHILD SUPPORT

A judgment for attorney fees and other collection costs incurred in enforcing a child support order will be entered against the person responsible to pay support when the conditions of section 517C.07, are met. A copy of section 517C.07 and forms necessary to request or contest these attorney fees and collection costs are available from any district court clerk.

11. VISITATION EXPEDITOR PROCESS

On request of either party or on its own motion, the court may appoint a visitation expeditor to resolve visitation disputes under Minnesota Statutes, section 518.1751. A copy of that section and a description of the expeditor process is available from any district court clerk.

12. VISITATION REMEDIES AND PENALTIES

Remedies and penalties for the wrongful denial of visitation rights are available under Minnesota Statutes, section 518.175, subdivision 6. These include compensatory visitation, civil penalties, bond requirements, contempt, and reversal of custody. A copy of that subdivision and forms for requesting relief are available from any district court clerk.

Sec. 73. [INSTRUCTION TO REVISOR.]

The revisor of statutes must correct internal cross-references to sections that are now in Minnesota Statutes, chapter 517C, throughout Minnesota Statutes and Minnesota Rules.

Sec. 74. [REPEALER.]

Minnesota Statutes 2000, sections 518.111; 518.171; 518.255; 518.54, subdivisions 2, 4a, 13, and 14; 518.551; 518.5513; 518.553; 518.57; 518.575; 518.585; 518.5851; 518.5852; 518.5853; 518.61; 518.6111; 518.614; 518.615; 518.616; 518.617; 518.618; 518.6195; and 518.66, are repealed.

Sec. 75. [EFFECTIVE DATE.]

This act is effective July 1, 2001."

Renumber the sections in sequence and correct the internal references

Delete the title and insert:

"A bill for an act relating to the operation of state government; crime prevention and judiciary finance; appropriating money for the judicial branch, public defense, human rights, corrections, public safety, crime victims, and related purposes; establishing and expanding grant programs, task forces, and pilot projects; requiring reports and studies; transferring, modifying, and expanding responsibility for various governmental responsibilities; providing procedures and policies for integrated criminal justice information systems; adopting various provisions relating to corrections; imposing, clarifying, and expanding certain criminal and civil provisions and penalties; making certain changes related to sex offenders and sex offender registration; providing for state funding of certain programs and personnel; abolishing the office of the ombudsman for corrections; eliminating the Camp Ripley weekend camp program; increasing certain fees and modifying the allocation of certain fees; establishing a theft prevention advisory board; establishing a felony-level penalty for driving while impaired; modifying certain policies and procedures relating to domestic violence; making technical changes to the driving while impaired laws; reforming and recodifying the law relating to marriage dissolution, child custody, child support, maintenance, and property division; clarifying certain medical support bonus incentive provisions; making style and form changes; amending Minnesota Statutes 2000, sections 2.724, subdivision 3; 8.16, subdivision 1; 13.87, by adding a subdivision; 15A.083, subdivision 4; 169A.03, subdivision 12, by adding subdivisions; 169A.20, subdivision 3;

169A.25; 169A.26; 169A.27; 169A.275, subdivisions 3, 5; 169A.277, subdivision 2; 169A.28, subdivision 2; 169A.283, subdivision 1; 169A.37, subdivision 1; 169A.40, subdivision 3; 169A.41, subdivision 2; 169A.51, subdivision 7; 169A.54, subdivision 6; 169A.60, subdivisions 1, 13, 14; 169A.63, subdivision 1; 171.09; 171.29, subdivision 2; 241.272, subdivision 6; 242.192; 243.166, subdivisions 1, 3, 4a, 6; 243.167, subdivision 1; 243.51, subdivisions 1, 3; 256.9791; 299A.75, subdivision 1, by adding subdivisions; 299C.10, subdivision 1; 299C.11; 299C.147, subdivision 2; 299C.65, subdivisions 1, 2; 299F.058, subdivision 2; 343.20, by adding subdivisions; 343.21, subdivisions 9, 10, by adding a subdivision; 518.002; 518.003, subdivisions 1, 3; 518.005; 518.01; 518.02; 518.03; 518.04; 518.05; 518.055; 518.06; 518.07; 518.09; 518.10; 518.11; 518.12; 518.13; 518.131; 518.14, subdivision 1; 518.148; 518.155; 518.156; 518.157, subdivisions 1, 2, 3, 5, 6; 518.158, subdivisions 2, 4; 518.165; 518.166; 518.167, subdivisions 3, 4, 5; 518.168; 518.1705, subdivision 6; 518.175, subdivisions 1, 1a, 2, 3, 5, 6, 7, 8; 518.1751, subdivisions 1b, 2, 2a, 2b, 2c, 3; 518.176; 518.177; 518.178; 518.179, subdivision 1; 518.18; 518.24; 518.25; 518.54, subdivisions 1, 5, 6, 7, 8; 518.55; 518.552; 518.58; 518.581; 518.582; 518.612; 518.619; 518.62; 518.64, subdivisions 1, 2; 518.641; 518.642; 518.646; 518.65; 518B.01, subdivisions 2, 3, 6, 14; 609.02, by adding a subdivision; 609.035, subdivision 2; 609.117; 609.224, subdivisions 2, 4; 609.2242, subdivisions 2, 4; 609.487, subdivision 4; 609.495, subdivisions 1, 3; 609.521; 609.748, subdivisions 6, 8; 609.749, subdivisions 4, 5; 611.23; 611.272; 611A.201, subdivision 2; 611A.32, by adding a subdivision; 611A.74, subdivisions 1, 1a; 617.247, subdivisions 3, 4; 626.52; 626.55, subdivision 1; 629.471, subdivision 2; 629.72; Laws 1996, chapter 408, article 2, section 16; proposing coding for new law in Minnesota Statutes, chapters 8; 169A; 299A; 299C; 518; 518B; 609; 626; proposing coding for new law as Minnesota Statutes, chapters 517A; 517B; 517C; repealing Minnesota Statutes 2000, sections 169A.275, subdivision 4; 241.41; 241.42; 241.43; 241.44; 241.441; 241.45; 243.166, subdivision 10; 518.111; 518.17; 518.171; 518.185; 518.255; 518.54, subdivisions 2, 4a, 13, 14; 518.551; 518.5513; 518.553; 518.57; 518.575; 518.585; 518.5851; 518.5852; 518.5853; 518.61; 518.6111; 518.614; 518.615; 518.616; 518.617; 518.618; 518.6195; 518.64, subdivisions 4, 4a, 5; 518.66; 609.2244, subdivision 4; 626.55, subdivision 2."

With the recommendation that when so amended the bill pass.

The report was adopted.

Sykora from the Committee on Family and Early Childhood Education Finance to which was referred:

H. F. No. 1515, A bill for an act relating to family and early childhood education finance; consolidating MFIP and basic sliding fee child care assistance programs; modifying income eligibility; amending Minnesota Statutes 2000, sections 119B.011, subdivisions 5, 11, 12, 15, 18, by adding subdivisions; 119B.02, subdivisions 1, 2, 3, by adding subdivisions; 119B.061; proposing coding for new law in Minnesota Statutes, chapter 119B; repealing Minnesota Statutes 2000, sections 119B.011, subdivision 20; 119B.03; 119B.04; 119B.05; 119B.06; 119B.07; 119B.08; 119B.09; 119B.10; 119B.11; 119B.12; 119B.13; 119B.14; 119B.15; 119B.16.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"ARTICLE 1

CHILDREN AND FAMILY SUPPORT PROGRAMS

Section 1. Minnesota Statutes 2000, section 119A.51, is amended by adding a subdivision to read:

Subd. 6. [ELIGIBLE LOW-INCOME CHILDREN.] "Eligible low-income children" means children who live in families with incomes up to 100 percent of the federal poverty guidelines.

Sec. 2. Minnesota Statutes 2000, section 119A.52, is amended to read:

119A.52 [DISTRIBUTION OF APPROPRIATION.]

(a) Subdivision 1. [DISTRIBUTION.] The commissioner of children, families, and learning must distribute money appropriated for ~~that purpose~~ this section to (1) Head Start program grantees to expand services and (2) eligible agencies. ~~Agencies that receive money under this section must use the money~~ to serve additional low-income children. ~~Money~~

Subd. 2. [HEAD START GRANTEEES.] Eighty-five percent of the annual appropriation must be allocated to each project eligible Head Start grantee in existence on the effective date of Laws 1989, chapter 282. ~~Migrant grantees, including migrant and Indian reservation grantees must be initially allocated money based on the grantees' share of federal funds. The remaining money must be initially allocated to the remaining local agencies based equally on the agencies' share of federal funds and on the proportion of eligible children in the agencies' service area who are not currently being served. A Head Start grantee must be funded at a per-child rate equal to its contracted, federally funded base level for program accounts 20, 22, and 25 at the start of the fiscal year. In allocating funds under this paragraph, the commissioner of children, families, and learning must assure that each Head Start grantee is allocated no less funding in any fiscal year than was allocated to that grantee in fiscal year 1993. For fiscal years 2002 and 2003, the commissioner must allocate funds appropriated for the purposes of this section to grantees based 40 percent on the grantees' share of federal funds and 60 percent based on unmet need measured by the number of children in poverty ages birth to five as reported in the most recent decennial census or intercensal estimate. The commissioner may make grants for two years. The commissioner may provide additional funding to grantees for start-up costs incurred by grantees due to the increased number of children to be served. Before paying money to the grantees, the commissioner must notify each grantee of its initial allocation, how the money must be used, and the number of low-income children that must be served with the allocation. Each grantee must notify the commissioner of the number of low-income children it will be able to serve. For any grantee that cannot utilize its full allocation, the commissioner must reduce the allocation proportionately. Money available after the initial allocations are reduced must be redistributed to eligible grantees.~~

(b) under subdivision 6. To be eligible for an allocation under this subdivision, a grantee must have a work plan approved under subdivision 5. Head Start grantees may not use state grant funds toward the federally required 25 percent local match.

Subd. 3. [OTHER ELIGIBLE AGENCIES.] ~~Up to 11 (a) No less than 15 percent of the funds appropriated annually may must be used to provide grants to local Head Start other eligible agencies to provide funds for innovative programs designed either to target Head Start resources to particular at-risk groups of children or to provide services in addition to those currently allowable under federal Head Start regulations or expand services in unserved or underserved areas. The commissioner must award funds for innovative programs under this paragraph subdivision on a competitive basis, giving priority to innovative and creative program proposals. The commissioner may establish criteria for agencies to apply to provide services under this subdivision. The criteria must include agencies that:~~

- (1) are not receiving Head Start funds as of June 30, 2001;
- (2) are able to provide services in unserved or underserved areas;
- (3) demonstrate experience with children ages three to five; and
- (4) include a strong learning component.

(b) Eligible agencies receiving funds under this subdivision are not required to meet the federal Head Start standards.

(c) The commissioner must distribute funds to a variety of organization types and geographic locations.

(d) Eligible agencies must apply to the commissioner according to the timelines and on the forms provided by the commissioner. To be eligible for funds, an eligible agency must have an approved work plan and budget under subdivision 5.

(e) The commissioner may make grants for up to two years.

Subd. 4. [SERVICE PRIORITY.] Priority must be given to providing services to children ages three to five for appropriations received under this section. Up to \$1,000,000 in TANF funds appropriated each year for the purposes of this section may be set aside to provide services for children ages zero to three.

Subd. 5. [WORK PLAN.] (a) Beginning in 2002, to be eligible for state appropriations under this section, each grantee must submit a work plan to the commissioner for approval. At a minimum, the work plan must:

(1) be based on community needs;

(2) identify the services to be provided;

(3) include the estimated number of low-income children to be served;

(4) describe the program design and service delivery areas, ensuring fair and equitable access to all services;

(5) describe programming for children ages three to five;

(6) describe programs or plans for children under the age of three, if applicable;

(7) describe partnerships with other programs;

(8) include a plan to maximize children's program time and minimize transition time between programs.

(b) For federal Head Start grantees, the work plan must specify how each Head Start grantee policy council assisted in the development and planning and will assist in the monitoring of the Head Start program and integration of service delivery with other early childhood services within the area.

(c) Head Start grantees and other eligible agencies must submit a work plan and operating budget, including all funding sources used to provide services.

(d) The commissioner may refuse any work plan that does not meet the criteria under this subdivision.

Subd. 6. [REDISTRIBUTION.] The commissioner must develop and implement a plan to redistribute reductions of the initial allocations to grantees under subdivisions 2 and 3 to eligible grantees to serve eligible children. Any amount of the redistribution that is allocated to an eligible grantee must be used according to its approved work plan under subdivision 5.

Subd. 7. [EVALUATION OF OUTCOMES.] (a) The commissioner must require each program receiving revenue under section 119A.52 to participate in the development and use of a common set of outcomes and indicators and in an outcome-based evaluation for Head Start. The outcomes and indicators must include information regarding the following:

(1) parental involvement;

(2) child health;

(3) child development; and

(4) school readiness.

(b) The outcome-based evaluation must include:

(1) a comparison of children and parents participating in Head Start programs and a control group of children and parents who have not participated in Head Start; and

(2) cost per participant and cost per contact hour information.

Sec. 3. Minnesota Statutes 2000, section 119A.53, is amended to read:

119A.53 [FEDERAL REQUIREMENTS.]

Grantees under section 119A.52, subdivision 2, and the commissioner of children, families, and learning shall comply with federal regulations governing the federal head start program and the TANF program, except for ~~innovative programs funded under section 119A.52, paragraph (b)~~ other services that are not required by federal Head Start eligibility regulations but are included in the work plans approved under section 119A.52, subdivision 5, which may operate differently than federal head start regulations, and except that when a state statute or regulation conflicts with a federal statute or regulation, the state statute or regulation prevails.

Sec. 4. Minnesota Statutes 2000, section 119B.011, subdivision 5, is amended to read:

Subd. 5. [CHILD CARE.] "Child care" means the care of a child by someone other than a parent or legal guardian in or outside the child's own home ~~for gain or otherwise,~~ on a regular basis, for any part of a 24-hour day.

Sec. 5. Minnesota Statutes 2000, section 119B.011, subdivision 7, is amended to read:

Subd. 7. [CHILD CARE SERVICES.] "Child care services" means child care provided in family day care homes, group day care homes, nursery schools, day nurseries, child day care centers, head start, all-day every day kindergarten for the portion of kindergarten paid through parent fees, and extended day school age child care programs in or out of the child's home.

Sec. 6. Minnesota Statutes 2000, section 119B.011, subdivision 11, is amended to read:

Subd. 11. [EDUCATION PROGRAM.] "Education program" means remedial or basic education or English as a second language instruction, a program leading to a general equivalency or high school diploma, post-secondary programs excluding postbaccalaureate programs, and other education and training needs as documented in an employment plan, as defined in subdivision 12. ~~The employment plan must outline education and training needs of a recipient, meet state requirements for employment plans, meet the requirements of this chapter, and Minnesota Rules, parts 3400.0010 to 3400.0230, and meet the requirements of programs that provide federal reimbursement for child care services.~~

Sec. 7. Minnesota Statutes 2000, section 119B.011, subdivision 12, is amended to read:

Subd. 12. [EMPLOYMENT PLAN.] "Employment plan" means employment of recipients financially eligible for child care assistance, or other work activities defined under section 256J.49, approved in an employability development, job search support plan, or employment plan that is developed by the county agency, if it is acting as an employment and training service provider, or by an employment and training service provider certified by the commissioner of economic security or an individual designated by the county to provide employment and training services. The plans and designation of a service provider must outline the education and training needs of a recipient, meet the requirements of this chapter and chapter 256J or chapter 256K, Minnesota Rules, parts 3400.0010 to 3400.0230, and other programs that provide federal reimbursement for child care services.

Sec. 8. Minnesota Statutes 2000, section 119B.011, subdivision 15, is amended to read:

Subd. 15. [INCOME.] "Income" means earned or unearned income received by all family members, including public assistance cash benefits and at-home infant care subsidy payments, unless specifically excluded and child support and maintenance distributed to the family under section 256.741, subdivision 15. The following are excluded from income: funds used to pay for health insurance premiums for family members, Supplemental Security Income, scholarships, work-study income, and grants that cover costs or reimbursement for tuition, fees, books, and educational supplies; student loans for tuition, fees, books, supplies, and living expenses; state and federal income and social security taxes attributable to that income level according to state and federal standardized tax tables; state and federal earned income tax credits; in-kind income such as food stamps, energy assistance, foster care assistance, medical assistance, child care assistance, and housing subsidies; earned income of full-time or part-time students up to the age of 19, who have not earned a high school diploma or GED high school equivalency diploma including earnings from summer employment; grant awards under the family subsidy MFIP program; nonrecurring lump sum income only to the extent that it is earmarked and used for the purpose for which it is paid; and any income assigned to the public authority according to section 256.741.

Sec. 9. Minnesota Statutes 2000, section 119B.011, subdivision 18, is amended to read:

Subd. 18. [POST-SECONDARY EDUCATIONAL SYSTEMS INSTITUTION.] "Post-secondary educational systems institution" means ~~the University of Minnesota board of regents and the board of trustees of the Minnesota state colleges and universities~~ any nationally accredited technical college, community college, private college or university, or public college or university.

Sec. 10. Minnesota Statutes 2000, section 119B.011, subdivision 19, is amended to read:

Subd. 19. [PROVIDER.] "Provider" means ~~a child care license holder who operates a family child care home, a group family child care home, a child care center, a nursery school, a day nursery, a school age care program, a license-exempt school age care program operating under the auspices of a local school board or a park or recreation board of a city of the first class that has adopted school age care guidelines which meet or exceed guidelines recommended by the department, or a nonlicensed~~ an individual or child care center or facility, either licensed or unlicensed, providing legal child care services as defined under section 245A.03. A legally unlicensed registered family child care provider who is must be at least 18 years of age, and ~~who is~~ not a member of the MFIP assistance unit or a member of the family receiving child care assistance under this chapter.

Sec. 11. Minnesota Statutes 2000, section 119B.011, is amended by adding a subdivision to read:

Subd. 21. [ANNUAL GROSS INCOME.] "Annual gross income" of the applicant family means the current monthly gross income of the family multiplied by 12, the income for the 12-month period immediately preceding the date of application, or income calculated by the method which provides the most accurate assessment of income available to the family. Self-employment income must be calculated based on gross receipts less operating expenses.

Sec. 12. Minnesota Statutes 2000, section 119B.011, is amended by adding a subdivision to read:

Subd. 22. [FEDERAL POVERTY GUIDELINES.] "Federal poverty guidelines" means the annual poverty guidelines for a family of four, adjusted for family size, published annually by the United States Department of Health and Human Services in the Federal Register.

Sec. 13. Minnesota Statutes 2000, section 119B.011, is amended by adding a subdivision to read:

Subd. 23. [RECOUPMENT OF OVERPAYMENTS.] "Recoupment of overpayments" means the reduction of child care assistance payments to an eligible family in order to correct an overpayment to the family even when the overpayment is due to agency error or other circumstances outside the responsibility or control of the family.

Sec. 14. [119B.014] [ESTABLISHMENT OF CHILD CARE ASSISTANCE PROGRAM.]

Subdivision 1. [CHILD CARE ASSISTANCE PROGRAM.] (a) A child care assistance program is established for the purpose of subsidizing the child care costs of eligible families. The child care assistance program may be funded by county contributions, state appropriations, and federal funds. Child care assistance payments are authorized for eligible families within the limits of available appropriations.

(b) Child care services must be made available as in-kind services.

(c) Families enrolled in the child care assistance program must be continued until they are no longer eligible.

(d) Child care assistance provided through the child care fund is considered assistance to the parent.

Subd. 2. [SPECIAL REVENUE ACCOUNT FOR CHILD CARE.] A child support collection account is established in the special revenue fund for the deposit of collections through the assignment of child support under section 256.741, subdivision 2. The commissioner of human services must deposit all collections made under section 256.741, subdivision 2, in the child support collection account. Money in this account is appropriated to the commissioner for child care assistance under chapter 119B and is in addition to other state and federal appropriations.

Subd. 3. [GENERAL ELIGIBILITY.] (a) To be eligible for the child care assistance program, families must be participating in an authorized activity under subdivision 4 and meet income eligibility requirements under subdivision 5 and requirements under this subdivision.

(b) To be eligible for child care assistance, students enrolled in an education program under section 119B.011, subdivision 11, must be in good standing and be making satisfactory progress toward completion of the program as stipulated in the school's satisfactory progress policy.

(c) All applicants for child care assistance and families currently receiving child care assistance must cooperate in establishment of paternity and enforcement of child support obligations under section 256.741 for all children in the family as a condition of program eligibility.

Subd. 4. [AUTHORIZED ACTIVITIES.] Families must be participating in at least one of the following authorized activities:

(1) employment orientation or job search, or other employment or training activities that are included in an approved employability development plan under chapter 256K;

(2) work activities as required in their job search support or employment plan, or in appeals, hearings, assessments, or orientations under chapter 256J. Child care assistance to support work activities as required under section 256J.49 must be available according to sections 119A.52; 119B.011, subdivision 12; 124D.13; 256E.08; and 611A.32; and titles IVA; IVB; IVE; and XX of the Social Security Act of 1935;

(3) a job search conducted outside of an approved employability development plan under chapter 256K, not to exceed 240 hours of child care assistance per calendar year;

(4) employment outside of an employment plan under section 119B.011, subdivision 12, in which the caregiver works at least an average of 20 hours per week and students not participating in MFIP work at least an average of ten hours per week and receive at least minimum wage for all hours worked. For purposes of this section, work-study programs must be counted as employment;

(5) post-secondary education up to the maximum length of time necessary to complete the credit requirements for an associate or baccalaureate degree as determined by the educational institution, excluding basic or remedial education programs needed to prepare for post-secondary education or employment. Basic or remedial education programs include, but are not limited to, high school, general equivalency diploma, and English as a second language. Programs exempt from this time limit must not run concurrently with a post-secondary program; or

(6) the at-home infant child care program under section 119B.061.

Subd. 5. [INCOME ELIGIBILITY.] (a) Beginning January 1, 2002, all families participating in an authorized activity with an annual gross income at or below 250 percent of the federal poverty guidelines, adjusted for family size, are eligible for child care assistance regardless of MFIP status.

(b) If there is a waiting list for child care assistance under section 119B.025, subdivision 5, the commissioner must make recommendations to the legislature to change income eligibility requirements or make other changes in order to eliminate the waiting list.

Subd. 6. [CONTINUATION OF ASSISTANCE.] All families eligible for and receiving child care assistance under chapter 119B as of December 31, 2001, continue to be eligible for child care assistance until June 30, 2003, provided each family continues to meet all eligibility requirements as of December 31, 2001.

Sec. 15. [119B.017] [ASSISTANCE.]

Subdivision 1. [CALCULATION OF BENEFITS.] (a) Child care assistance must be authorized as provided in clause (1) or (2):

(1) when the caregiver or student works for an hourly wage and the hourly wage is equal to or greater than the applicable minimum wage, child care assistance must be provided for the actual hours of employment, break, and mealtime during the employment and travel time up to two hours per day, and classroom time in the case of students; or

(2) when the caregiver does not work for an hourly wage, child care assistance must be provided for the lesser of:

(i) the amount of child care determined by dividing gross earned income by the applicable minimum wage, up to one hour every eight hours for meals and break time, plus up to two hours per day for travel time, and classroom time; or

(ii) the amount of child care equal to the actual amount of child care used during employment, including break and mealtime during employment, plus up to two hours per day for travel time, and classroom time.

(b) The maximum amount of child care assistance a local agency may authorize in a two-week period is 120 hours per child.

Subd. 2. [STUDENTS.] Counties may not limit the duration of child care assistance for a student except when the student is found to be ineligible under the child care assistance eligibility standards. Any limitation must be based on a student's employment plan in the case of an MFIP recipient and county policies included in the child care fund plan.

Subd. 3. [CONTINUATION OF ASSISTANCE.] (a) If a caregiver who is receiving child care assistance under this chapter moves to another county, continues to participate in an authorized activity, and continues to be eligible for child care assistance under this chapter, the caregiver must receive, without interruption, continued child care assistance from the county in which the family currently resides. The family must notify the new county of residence within 60 days of moving and apply for child care assistance in the new county of residence.

(b) Financially eligible students who have received child care assistance for one academic year must be provided child care assistance in the following academic year.

Subd. 4. [DATE OF ELIGIBILITY FOR ASSISTANCE.] Within the limits of available appropriations:

(1) the date of eligibility for child care assistance under this chapter is the latest of:

(i) the date the application was signed;

(ii) the beginning date of employment, education, or training; or

(iii) the date a determination has been made that the applicant is a participant in employment and training services under chapter 256J or 256K or Minnesota Rules, part 3400.0080, subpart 2;

(2) payment of child care assistance for employed persons on MFIP is effective the date of employment or the date of MFIP eligibility, whichever is later; and

(3) payment of child care assistance for MFIP or work first participants in employment and training services is effective the date of commencement of the services or the date of MFIP or work first eligibility, whichever is later.

Sec. 16. Minnesota Statutes 2000, section 119B.02, subdivision 1, is amended to read:

Subdivision 1. [CHILD CARE SERVICES.] The commissioner ~~shall~~ must:

(1) develop standards for county and human services boards to provide child care services to enable eligible families to participate in employment, training, or education programs. ~~Within the limits of available appropriations, the commissioner shall~~

(2) distribute money to counties, within the limits of available appropriations, to reduce the costs of child care for eligible families. ~~The commissioner shall under section 119B.014;~~

(3) adopt rules under chapter 14 to govern the program in accordance with this section, to implement and coordinate federal program requirements, and to administer the child care development fund. The rules must establish a sliding schedule of fees for parents receiving child care services. The rules ~~shall~~ must provide that ~~money~~ money received as a lump sum payment of child support arrearages ~~shall~~ is not be counted as income to a family in the month received but ~~shall be~~ is prorated over the 12 months following receipt and added to the family income during those months. ~~In the rules adopted under this section, county and human services boards shall be authorized to establish policies for payment of child care spaces for absent children, when the payment is required by the child's regular provider. The rules shall not set a maximum number of days for which absence payments can be made, but instead shall direct the county agency to set limits and pay for absences according to the prevailing market practice in the county. County policies for payment of absences shall be subject to the approval of the commissioner. The commissioner shall;~~

(4) maximize the use of federal money under title I and title IV of Public Law Number 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, and other programs that provide federal or state reimbursement for child care services for low-income families who are in education, training, job search, or other activities allowed under those programs. ~~Money appropriated under this section must be coordinated; and~~

(5) coordinate state child care assistance money with the programs that provide federal reimbursement for child care services to accomplish this purpose. Federal reimbursement obtained reimbursements must be allocated to ~~the county counties~~ that spent money expend funds for federally reimbursable child care that is federally reimbursable under programs that provide federal reimbursement for child care services. The counties shall use the federal money to expand child care services. The commissioner may adopt rules under chapter 14 to implement and coordinate federal program requirements.

Sec. 17. Minnesota Statutes 2000, section 119B.02, subdivision 2, is amended to read:

Subd. 2. [CONTRACTUAL AGREEMENTS WITH TRIBES.] The commissioner may enter into contractual agreements with a federally recognized Indian tribe with a reservation in Minnesota to carry out the responsibilities of county human service agencies to the extent necessary for the tribe to operate child care assistance programs under ~~sections 119B.03 and 119B.05~~ chapter 119B. An agreement may allow for the tribe to be reimbursed for child care assistance services provided under ~~section 119B.05~~ chapter 119B. The commissioner shall consult with the affected county or counties in the contractual agreement negotiations, if the county or counties wish to be included, in order to avoid the duplication of county and tribal child care services. Funding to support child care services under section 119B.03 may be transferred to the federally recognized Indian tribe with a reservation in Minnesota from allocations available to counties in which reservation boundaries lie. ~~When funding is transferred under section 119B.03,~~ The amount ~~shall of the transfer must~~ be commensurate to estimates of the proportion of reservation residents with characteristics ~~identified in section 119B.03, subdivision 6~~ eligible under section 119B.045, to the total population of county residents ~~with those same characteristics eligible under section 119B.045~~.

Sec. 18. Minnesota Statutes 2000, section 119B.02, subdivision 3, is amended to read:

Subd. 3. [SUPERVISION OF COUNTIES.] The commissioner ~~shall~~ must supervise child care programs administered by the counties through standard-setting, technical assistance to the counties, approval of county child care fund plans, and distribution of public money for services. The commissioner ~~shall~~ must provide training and other support services to assist counties in planning for and implementing child care assistance programs. ~~The commissioner shall adopt rules under chapter 14 that establish minimum administrative standards for the provision of child care services by county boards of commissioners.~~

Sec. 19. Minnesota Statutes 2000, section 119B.02, is amended by adding a subdivision to read:

Subd. 6. [FEDERAL MONEY; STATE RECOVERY.] The commissioner must recover from counties any state or federal money that was spent for persons found to be ineligible, except if the recovery is made by a county agency using any method other than recoupment, the county may keep 25 percent of the recovery. If a federal audit exception is taken based on a percentage of federal earnings, all counties must pay a share proportional to their respective federal earnings during the period in question.

Sec. 20. Minnesota Statutes 2000, section 119B.02, is amended by adding a subdivision to read:

Subd. 7. [REPORTS.] The commissioner must specify requirements for reports under the same authority as provided to the commissioner of human services in section 256.01, subdivision 2, paragraph (17).

Sec. 21. Minnesota Statutes 2000, section 119B.02, is amended by adding a subdivision to read:

Subd. 8. [APPROVAL OF CHILD CARE PLAN.] Within 90 days of the date the child care fund plan under section 119B.025, subdivision 7, the commissioner must notify counties whether or not the plan is approved or if corrections or other information is needed to approve the plan. The commissioner must withhold payments to a county until it has an approved plan. Counties must maintain services despite any withholding of payments due to plans not being approved.

Sec. 22. Minnesota Statutes 2000, section 119B.02, is amended by adding a subdivision to read:

Subd. 9. [ALLOCATION PERIOD; NOTICE OF ALLOCATION.] (a) The commissioner must notify county and human service boards of the forms and instructions they must follow in the development of their child care fund plans required under section 119B.025, subdivision 7.

(b) The commissioner must notify county and human services boards of their estimated child care fund program allocation for the two years covered by the plan.

(c) By October 1 of each year, the commissioner must notify all counties of their final child care fund program allocation.

Sec. 23. Minnesota Statutes 2000, section 119B.02, is amended by adding a subdivision to read:

Subd. 10. [QUARTERLY PAYMENTS.] The commissioner may make payments to each county in quarterly installments. The commissioner may certify an advance of up to 25 percent of the allocation. Subsequent payments must be made on a reimbursement basis for reported expenditures and may be adjusted for anticipated spending patterns. Payments may be withheld if quarterly reports are incomplete or untimely.

Sec. 24. Minnesota Statutes 2000, section 119B.02, is amended by adding a subdivision to read:

Subd. 11. [REVIEW OF USE OF FUNDS; REALLOCATION.] (a) After each quarter, the commissioner must review the use of child care assistance program allocations by county. The commissioner may reallocate unexpended or unencumbered money among those counties that have expended their full allocation or may allow a county to expend up to ten percent of its allocation in the subsequent allocation period.

(b) Any unexpended state and federal appropriations from the first year of the biennium may be carried forward to the second year of the biennium.

Sec. 25. Minnesota Statutes 2000, section 119B.02, is amended by adding a subdivision to read:

Subd. 12. [TERMINATION OF ALLOCATION.] The commissioner may withhold, reduce, or terminate the allocation of any county that does not meet the reporting or other requirements of this program. The commissioner must reallocate to other counties money so reduced or terminated. Counties are to maintain services despite any reduction in their allocation due to failure to meet the reporting or other requirements of this program.

Sec. 26. Minnesota Statutes 2000, section 119B.02, is amended by adding a subdivision to read:

Subd. 13. [COMMISSIONER TO ADMINISTER FEDERAL CHILD CARE AND DEVELOPMENT FUND.] The commissioner is authorized and directed to receive, administer, and expend funds available under the child care and development fund under Title VI of Public Law Number 104-193. Supplemental distributions received from the federal government after July 1 of each year shall be submitted for review and appropriations pursuant to section 3.3005.

Sec. 27. Minnesota Statutes 2000, section 119B.02, is amended by adding a subdivision to read:

Subd. 14. [CHILD CARE DEVELOPMENT FUND PLAN DEVELOPMENT; REVIEW.] In an effort to improve state legislative involvement in the development of the Minnesota child care and development fund plan, the commissioner must present a draft copy of the plan to the legislative finance committees that oversee child care assistance funding no less than 30 days prior to the required deadline for submission of the plan to the federal government. The legislature must submit any adjustments to the plan to the commissioner for consideration within ten business days of receiving the draft plan. The commissioner must present a copy of the final plan to the chairs of the legislative finance committees that oversee child care assistance funding no less than four days prior to the deadline for submission of the plan to the federal government.

Sec. 28. Minnesota Statutes 2000, section 119B.02, is amended by adding a subdivision to read:

Subd. 15. [FEDERAL EARNINGS.] The commissioner must allocate any federal earnings to the county to be used to expand child care services to serve additional families under this chapter.

Sec. 29. Minnesota Statutes 2000, section 119B.02, is amended by adding a subdivision to read:

Subd. 16. [ADMINISTRATIVE EXPENSES.] The commissioner must use up to 1/21 of the state and federal funds available for the child care assistance program for the county administrative costs of the delivery of direct services.

Sec. 30. Minnesota Statutes 2000, section 119B.02, is amended by adding a subdivision to read:

Subd. 17. [MAXIMUM RATE DETERMINATION.] The commissioner must determine the maximum rate for each type of care, including special needs and handicapped care and extended day care. The commissioner must annually survey child care providers, including all providers licensed by the department of human services, to determine the 75th percentile of the market rate. The commissioner must implement any resulting rate changes by August 1 of each year. Not less than once every two years, the commissioner must evaluate market practices for payment of absences and must establish policies for payment of absent days that reflect current market practice.

Sec. 31. [119B.025] [DUTIES OF COUNTIES.]

Subdivision 1. [EXTENSION OF EMPLOYMENT OPPORTUNITIES.] The county board must ensure that child care services available to eligible residents are well advertised and that everyone who receives or applies for MFIP cash assistance is informed of training and employment opportunities, programs, and requirements including child care assistance and child care resource and referral services.

Subd. 2. [APPLICATION; ENTRY POINTS.] Each county must make available to applicants two or more methods of applying for the child care assistance program. To meet the requirements of this subdivision, a county may provide alternative methods of applying for assistance, including, but not limited to, a mail application or application sites that are located outside of government offices.

Subd. 3. [CONTRACTS; OTHER USES ALLOWED.] Counties may contract for administration of the program or may arrange for or contract for child care funds to be used by other appropriate programs in accordance with this section and as permitted by federal law and regulations.

Subd. 4. [ASSISTANCE PRIORITY.] (a) Each county must give first priority for child care assistance under the child care assistance program to eligible MFIP families.

(b) Each county must give second priority for child care assistance to eligible non-MFIP families who do not have a high school or general equivalency diploma or who need remedial and basic skill courses in order to pursue employment or education leading to employment and who need child care assistance to participate in the education program. Within this priority, each county must use the following subpriorities for child care assistance:

(1) child care needs of minor parents;

(2) child care needs of parents under 21 years of age; and

(3) child care needs of other parents within the priority group described in this paragraph.

(c) Each county must give third priority to families who continue to be eligible for child care assistance and were receiving child care assistance in a county but have moved to another county. Families must receive, without interruption, continued child care assistance from the county in which they currently live.

(d) If a county projects that its child care allocation is insufficient to meet the needs of all eligible families, it may prioritize among the families that remain to be served after the county has complied with the priority requirements of this section. Counties that have established a priority for families beyond those established under this section must submit the policy in the annual child care fund plan.

Subd. 5. [WAITING LIST.] (a) Each county that receives state or federal child care assistance funds must keep a written record and report to the commissioner the number of eligible families who have applied for a child care subsidy or have requested child care assistance.

(b) Counties must perform a preliminary determination of eligibility when a family requests child care assistance. At a minimum, a county must make a preliminary determination of eligibility based on family size, income, and authorized activity. A family seeking child care assistance must provide the required information to the county.

(c) A family that appears to be eligible must be put on a waiting list if funds are not immediately available. The waiting list must identify individuals in need of child care by priority categories. Counties must review and update their waiting list at least every six months.

Subd. 6. [FEDERAL REIMBURSEMENT.] Counties must maximize their federal reimbursement under federal reimbursement programs for money spent for persons eligible under this chapter.

Subd. 7. [CHILD CARE FUND PLAN.] The county and designated administering agency must submit a child care fund plan to the commissioner. The commissioner must establish the dates by which the county must submit the child care fund plan. The plan must include:

(1) a narrative of the total program for child care services, including all policies and procedures that affect eligible families and are used to administer the child care funds;

(2) the methods used by the county to inform eligible families of the availability of child care assistance and related services;

(3) the provider rates paid for all children with special needs by provider type;

(4) the county prioritization policy for all eligible families under the child care assistance program; and

(5) other information as requested by the department to ensure compliance with the child care fund statutes and rules promulgated by the commissioner.

Subd. 8. [COUNTY CONTRIBUTIONS REQUIRED.] In addition to payments from child care assistance program participants, each county must contribute from county tax or other sources a fixed local match equal to its calendar year 2000 required county contribution. The commissioner must recover funds from the county as necessary to bring county expenditures into compliance with this subdivision.

Subd. 9. [MAINTENANCE OF FUNDING EFFORT.] To receive money through this program, each county must certify, in its annual plan to the commissioner, that the county has not reduced allocations from other federal and state sources, which, in the absence of the child care fund, would have been available for child care assistance. However, the county must continue contributions, as necessary, to maintain on the child care assistance program, families who are receiving assistance on December 31, 2001, until the family loses eligibility for the program or until a family voluntarily withdraws from the program. This subdivision does not affect the local match required for this program under other sections of the law.

Subd. 10. [QUALITY CHILD CARE SERVICES INFORMATION.] Each county must make resources available to parents in choosing quality child care services. A county may require a parent to sign a release stating the parent's knowledge and responsibilities in choosing a legal provider described under section 119B.011. When a county knows that a particular provider is unsafe, or that the circumstances of the child care arrangement chosen by the parent are unsafe, the county may deny a child care subsidy. A county may not restrict access to a general category of provider allowed under section 119B.011, subdivision 19.

Subd. 11. [INCOME REDETERMINATION.] A county must redetermine income when the family's income changes, but no less often than every six months. Income must be verified with documentary evidence. If the applicant does not have sufficient evidence of income, verification must be obtained from the source of the income.

Subd. 12. [PROVIDER NOTICE.] Each county must inform both the family receiving assistance under this chapter and the child care provider of the child care assistance payment amount and how and when payment will be received. If a county sends a family a notice that child care assistance will be terminated, the county must inform the provider that unless the family requests to continue to receive assistance pending an appeal, child care payments will no longer be made. The notice to the provider must not contain any private data on the family or information on why payment will no longer be made.

Subd. 13. [PROVIDER PAYMENTS.] Each county must make vendor payments to the child care provider or pay the parent directly for eligible child care expenses. If payments for child care assistance are made to providers, the provider must bill the county for services provided within ten days of the end of the month of service. If bills are submitted in accordance with the requirements of this subdivision, a county must issue payment to the provider of child care under the child care fund within 30 days of receiving an invoice from the provider. Each county may establish policies that make payments on a more frequent basis. A county's payment policies must be included in the county's child care plan under subdivision 7.

Subd. 14. [ABSENCE PAYMENTS.] County and human services boards are authorized to establish policies for payment of child care spaces for absent children when payments are required by the child's regular provider. The county agency is authorized to set limits and pay for absences according to the prevailing market practice in the county. County policies for payment of absences must be subject to the approval of the commissioner.

Subd. 15. [DOCUMENTATION.] Each county must obtain, from all child care assistance applicants, information documenting all children in the applicant's household eligible for subsidized child care. The documentation may include a social security number, certified copy of a birth certificate, or other similar documentation.

Sec. 32. [119B.035] [PROGRAM INTEGRITY AND FAIR HEARING.]

Subdivision 1. [PROGRAM INTEGRITY.] For the child care assistance program under this chapter, the commissioner must enforce, in cooperation with the commissioner of human services, the requirements for program integrity and fraud prevention investigations under sections 256.046, 256.98, and 256.983.

Subd. 2. [RECOVERY OF OVERPAYMENTS.] (a) A county agency may recover an amount of child care assistance paid to a recipient in excess of the payment due. If the family remains eligible for child care assistance, the overpayment must be recovered through recoupment. If the family no longer remains eligible for child care assistance, the county may choose to initiate efforts to recover overpayments from the family for an overpayment less than \$50. If the overpayment is greater than or equal to \$50, the county must seek voluntary repayment of the overpayment from the family. If the county is unable to recoup the overpayment through voluntary repayment, the county must initiate civil court proceedings to recover the overpayment unless the county's costs to recover the overpayment will exceed the amount of the overpayment.

(b) A family with an outstanding debt under this subdivision is not eligible for child care assistance until: (1) the debt is paid in full; or (2) satisfactory arrangements are made with the county to retire the debt consistent with the requirements of this chapter and Minnesota Rules, chapter 3400, and the family is in compliance with the arrangements.

Subd. 3. [FAIR HEARING ALLOWED.] An applicant or recipient adversely affected by a county agency action may request a fair hearing in accordance with section 256.045.

Subd. 4. [INFORMAL CONFERENCE.] Each county agency must offer an informal conference to applicants and recipients adversely affected by an agency action to attempt to resolve the dispute. Each county agency must advise adversely affected applicants and recipients that a request for a conference with the agency is optional and does not delay or replace the right to a fair hearing.

Sec. 33. [119B.045] [CHILD CARE ASSISTANCE PROGRAM FUNDING.]

Subdivision 1. [ALLOCATION FORMULA.] The state and federal child care assistance funds must be allocated on a calendar year basis. Funds must be allocated first in amounts equal to each county's guaranteed floor according to subdivision 3 with any remaining available funds allocated according to the following formula:

(a) one-third of the funds must be allocated in proportion to each county's total expenditures for the child care assistance program reported during the most recent fiscal year completed at the time of the notice of allocation;

(b) one-third of the funds must be allocated in proportion to each county's most recently reported first, second, and third priority waiting list as defined in section 119B.025, subdivision 4; and

(c) one-third of the funds must be allocated in proportion to each county's most recently reported waiting list as defined in section 119B.025, subdivision 5.

Subd. 2. [ALLOCATION DUE TO INCREASED FUNDING.] When funding increases are implemented within a calendar year, every county must receive an allocation at least equal and proportionate to its original allocation for the same time period. The remainder of the allocation must be recalculated to reflect the funding increase according to formulas identified in subdivision 1.

Subd. 3. [GUARANTEED FLOOR.] (a) Beginning January 1, 2002, each county's guaranteed floor must equal 90 percent of the allocation received in the preceding calendar year for child care assistance programs under chapter 119B.

(b) When the amount of funds available for allocation is less than the amount available in the previous year, each county's previous year allocation must be reduced in proportion to the reduction in the statewide funding for the purpose of establishing the guaranteed floor.

Subd. 4. [CHILD CARE AT-RISK SET-ASIDE.] A child care assistance at-risk set-aside is established to provide child care assistance for families who:

- (1) are eligible for child care assistance;
- (2) are not receiving MFIP cash assistance;
- (3) are employed at least an average of 20 hours per week; and
- (4) have an income at or below 175 percent of the federal poverty guidelines.

Funding in this set-aside must be used only when all other available child care assistance funding in a county has been expended or encumbered. Before expending these funds, the county must make a determination that the family is at risk of using MFIP cash assistance.

Sec. 34. [119B.048] [SLIDING FEE AND PARENT FEES.]

Subdivision 1. [SLIDING FEE.] Child care services to families with incomes at or below 250 percent of the federal poverty guidelines, adjusted for family size, must be made available on a sliding fee basis.

Subd. 2. [PARENT FEES.] A family's monthly parent fees must be a fixed percentage of its annual gross income. Parent fees must apply to families eligible for child care assistance under section 119B.014. Income must be as defined in section 119B.011, subdivision 15. The fixed percent is based on the relationship of the family's annual gross income to the established income eligibility level under section 119B.014. Parent fees must begin at 75 percent of the poverty level. The minimum parent fees for families between 75 percent and 100 percent of poverty level must be \$5 per month. Parent fees must be established in rule and must provide for graduated movement to full payment.

When the provider charge is greater than the maximum provider rate allowed, the parent is responsible for payment of the difference in the rates in addition to any family copayment fee.

Sec. 35. [119B.055] [CHILD CARE PROVIDERS; CHOICE AND RATES.]

Subdivision 1. [PROVIDER CHOICE.] Parents may choose child care providers, as defined under section 119B.011, that best meet the needs of their family.

Subd. 2. [SUBSIDY RESTRICTIONS.] The maximum rate paid for child care assistance under the child care fund may not exceed the 75th percentile rate for like-care arrangements in the county as surveyed by the commissioner. A rate which includes a provider bonus paid under subdivision 3 or a special needs rate paid under subdivision 4 may be in excess of the maximum rate allowed under this subdivision. The department must monitor the effect of this section on provider rates. The county must pay the provider's full charges for every child in care up to the maximum established.

Subd. 3. [PROVIDER RATE BONUS FOR ACCREDITATION.] A family child care provider or child care center with a current early childhood development credential approved by the commissioner must be paid a ten percent bonus above the maximum rate established in subdivision 2, up to the actual provider rate.

Subd. 4. [PROVIDER RATE FOR CARE OF CHILDREN WITH HANDICAPS OR SPECIAL NEEDS.] Counties must reimburse providers for the care of children with handicaps or special needs at a special rate to be approved by the county for care of these children, subject to the approval of the commissioner.

Subd. 5. [RATES CHARGED TO PUBLICLY SUBSIDIZED FAMILIES.] Child care providers receiving reimbursement under this chapter may not charge a rate to clients receiving assistance under this chapter that is higher than the private, full-paying client rate.

Subd. 6. [EMPLOYER-EMPLOYEE RELATIONSHIPS.] Receipt of federal, state, or local funds by a child care provider either directly or through a parent who is a child care assistance recipient does not establish an employer-employee relationship between the county or state and the child care provider.

Sec. 36. Minnesota Statutes 2000, section 119B.061, subdivision 1, is amended to read:

Subdivision 1. [ESTABLISHMENT.] A family in which a parent provides care for the family's infant child may receive a subsidy in lieu of assistance if the family is eligible for, or is receiving assistance under the ~~basic sliding fee~~ child care assistance program. An eligible family must meet the eligibility factors under section ~~119B.09, the income criteria under section 119B.12~~ 119B.014, and the requirements of this section. Subject to federal match and maintenance of effort requirements for the child care and development fund, the commissioner shall establish a pool of up to ~~seven~~ three percent of the annual appropriation for the ~~basic sliding fee~~ child care assistance program to provide assistance under the at-home infant child care program. At the end of a fiscal year, the commissioner may carry forward any unspent funds under this section to the next fiscal year within the same biennium for assistance under the ~~basic sliding fee~~ child care assistance program.

Sec. 37. Minnesota Statutes 2000, section 119B.061, subdivision 2, is amended to read:

Subd. 2. [ELIGIBLE FAMILIES.] (a) A family with an infant under the age of one year is eligible for assistance if:

- (1) the family is not receiving MFIP, other cash assistance, or other child care assistance;
- (2) the family has not previously received all of the one-year exemption from the work requirement for infant care under the MFIP program;
- (3) the family has not previously received a life-long total of ~~12~~ 36 months of assistance under this section; and
- (4) the family is participating in the ~~basic sliding fee~~ child care assistance program or provides verification of participation in an authorized activity at the time of application and meets the program requirements.

(b) A family is limited to 12 months of assistance per child.

Sec. 38. Minnesota Statutes 2000, section 119B.061, subdivision 4, is amended to read:

Subd. 4. [ASSISTANCE.] (a) A family is limited to a lifetime total of ~~12~~ 36 months of assistance under ~~this section subdivision 2.~~ The maximum rate of assistance is equal to ~~75~~ 90 percent of the rate established under section ~~119B.13~~ 119B.055 for care of infants in licensed family child care in the applicant's county of residence. Assistance must be calculated to reflect the parent fee requirement under section ~~119B.12~~ 119B.048 for the family's actual income level and family size while the family is participating in the at-home infant child care program under this section.

(b) A participating family must report income and other family changes as specified in the county's plan under section ~~119B.08, subdivision 3~~ 119B.025, subdivision 7. The family must treat any assistance received under this section as unearned income.

(c) Persons who are admitted to the at-home infant care program retain their position in any ~~basic sliding fee child care assistance~~ program or on any waiting list attained at the time of admittance. If they are on the waiting list, they must advance as if they had not been admitted to the program. Persons leaving the at-home infant care program re-enter the ~~basic sliding fee child care assistance~~ program at the position they would have occupied ~~or on~~ the waiting list or at the position to which they would have advanced. Persons who would have attained eligibility for the ~~basic sliding fee child care assistance~~ program must be given assistance or advance to the top of the waiting list when they leave the at-home infant care program. Persons admitted to the at-home infant care program who are not on a ~~basic sliding fee child care assistance~~ waiting list may apply to the ~~basic sliding fee child care assistance~~ program, and if eligible, be placed on the waiting list.

(d) The time that a family receives assistance under this section must be deducted from the one-year exemption from work requirements under the MFIP program.

(e) Assistance under this section does not establish an employer-employee relationship between any member of the assisted family and the county or state.

(f) The date of eligibility for the at-home infant child care program is the later of the date the infant is born or, in a county with a waiting list, the date the family applies for at-home infant child care.

Sec. 39. Minnesota Statutes 2000, section 119B.061, subdivision 5, is amended to read:

Subd. 5. [IMPLEMENTATION.] ~~(a)~~ The commissioner shall implement the at-home infant child care program under this section through counties that administer the ~~basic sliding fee child care assistance~~ program under section ~~119B.03~~ 119B.014. The commissioner must develop and distribute consumer information on the at-home infant care program to assist parents of infants or expectant parents in making informed child care decisions.

~~(b) The commissioner shall evaluate this program and report the impact to the legislature by January 1, 2000. The evaluation must include data on the number of families participating in the program; the number of families continuing to pursue employment or education while participating in the program; the average income of families prior to, during, and after participation in the program; family size; and single parent and two-parent status.~~

Sec. 40. Minnesota Statutes 2000, section 121A.17, subdivision 1, is amended to read:

Subdivision 1. [EARLY CHILDHOOD DEVELOPMENTAL SCREENING.] Every school board must provide for a mandatory program of early childhood developmental screening for children once before school entrance; ~~targeting children who are between 3-1/2 and four years old. Screening must be targeted to children who are between three and four years old. At the request of the child's parent or legal guardian, a child may be screened as early as age two.~~ This screening program must be established either by one board, by two or more boards acting in cooperation, by service cooperatives, by early childhood family education programs, or by other existing programs. This screening examination is a mandatory requirement for a student to continue attending kindergarten or first grade in a public school. A child need not submit to developmental screening provided by a board if the child's

health records indicate to the board that the child has received comparable developmental screening from a public or private health care organization or, individual health care provider, or Head Start program. Districts are encouraged to reduce the costs of preschool developmental screening programs by utilizing volunteers in implementing the program.

Sec. 41. Minnesota Statutes 2000, section 124D.13, is amended by adding a subdivision to read:

Subd. 13. [PROGRAM EVALUATION.] (a) The commissioner must require each program receiving revenue under section 124D.135 to participate in the development and use of a common set of outcomes and indicators and in an outcome-based evaluation for early childhood family education. The outcomes and indicators must include information regarding the following:

(1) parental awareness of child development;

(2) parental satisfaction;

(3) parental involvement;

(4) child development; and

(5) school readiness.

(b) The outcome-based evaluation must include:

(1) a comparison of children and parents participating in early childhood family education programs and a control group of children and parents who have not participated in early childhood family education; and

(2) cost per participant and cost per contact hour information.

Sec. 42. Minnesota Statutes 2000, section 124D.135, is amended by adding a subdivision to read:

Subd. 8. [RESERVE ACCOUNT LIMIT.] Under this section, the average annual revenue, during the most recent three-year period, in a district's early childhood family education reserve account must not be greater than 25 percent of the district's early childhood family education annual revenue for the prior year. If a district's average early childhood family education reserve, over the most recent three-year period, is in excess of 25 percent of the prior year state revenue, the district's current year early childhood family education state aid and levy authority must be reduced by the excess reserve amount. The commissioner must reallocate aid reduced under this subdivision to other eligible early childhood family education programs.

Sec. 43. Minnesota Statutes 2000, section 124D.135, is amended by adding a subdivision to read:

Subd. 9. [WAIVER.] If a district anticipates that the reserve account may exceed 25 percent because of extenuating circumstances, prior approval to exceed the limit must be obtained in writing from the commissioner.

Sec. 44. Minnesota Statutes 2000, section 124D.15, is amended by adding a subdivision to read:

Subd. 14. [PROGRAM EVALUATION.] (a) The commissioner must require each program receiving revenue under section 124D.16 to participate in the development and use of a common set of outcomes and indicators and in an outcome-based evaluation for school readiness. The outcomes and indicators must include information regarding the following:

(1) kindergarten readiness;

(2) parental satisfaction; and

(3) parental involvement.

(b) The outcome-based evaluation must include:

(1) a comparison of children and parents participating in school readiness programs and a control group of children and parents who have not participated in a school readiness program; and

(2) cost per participation and cost per contact hour information.

Sec. 45. Minnesota Statutes 2000, section 124D.16, subdivision 2, is amended to read:

Subd. 2. [AMOUNT OF AID.] (a) A district is eligible to receive school readiness aid if the program plan as required by subdivision 1 has been approved by the commissioner.

(b) For fiscal year 1998 and thereafter, a district must receive school readiness aid equal to:

(1) the number of eligible four-year-old children in the district on October 1 for the previous school year times the ratio of 50 percent of the total school readiness aid for that year to the total number of eligible four-year-old children reported to the commissioner for ~~that~~ the previous school year; plus

(2) the number of pupils enrolled in the school district from families eligible for the free or reduced school lunch program for the second previous school year times the ratio of 50 percent of the total school readiness aid for that year to the total number of pupils in the state from families eligible for the free or reduced school lunch program for the second previous school year.

Sec. 46. Minnesota Statutes 2000, section 124D.16, is amended by adding a subdivision to read:

Subd. 5. [RESERVE ACCOUNT.] School readiness revenue, which includes aids, fees, grants, and all other revenues received by the district school readiness programs, must be maintained in a reserve account within the community service fund.

Sec. 47. Minnesota Statutes 2000, section 124D.16, is amended by adding a subdivision to read:

Subd. 6. [RESERVE ACCOUNT LIMIT.] Under this section, the average annual revenue, during the most recent three-year period, in a district's school readiness reserve account must not be greater than 25 percent of the district's school readiness annual revenue for the prior year. If a district's average school readiness reserve, over the most recent three-year period, is in excess of 25 percent of the prior year state revenue, the district's current year school readiness state aid must be reduced by the excess reserve amount. The commissioner must reallocate aid reduced under this subdivision to other eligible school readiness programs.

Sec. 48. Minnesota Statutes 2000, section 124D.16, is amended by adding a subdivision to read:

Subd. 7. [WAIVER.] If a district anticipates that the reserve account may exceed 25 percent because of extenuating circumstances, prior approval to exceed the limit must be obtained in writing from the commissioner.

Sec. 49. Minnesota Statutes 2000, section 125A.28, is amended to read:

125A.28 [STATE INTERAGENCY COORDINATING COUNCIL.]

An interagency coordinating council of at least 17, but not more than 25 members is established, in compliance with Public Law Number 102-119, section 682. The members must be appointed by the governor. Council members must elect the council chair. The representative of the commissioner may not serve as the chair. The council must

be composed of at least five parents, including persons of color, of children with disabilities under age 12, including at least three parents of a child with a disability under age seven, five representatives of public or private providers of services for children with disabilities under age five, including a special education director, county social service director, local Head Start director, and a community health services or public health nursing administrator, one member of the senate, one member of the house of representatives, one representative of teacher preparation programs in early childhood-special education or other preparation programs in early childhood intervention, at least one representative of advocacy organizations for children with disabilities under age five, one physician who cares for young children with special health care needs, one representative each from the commissioners of commerce, children, families, and learning, health, human services, a representative from the state agency responsible for child care, and a representative from Indian health services or a tribal council. Section 15.059, subdivisions 2 to 5, apply to the council. The council must meet at least quarterly.

The council must address methods of implementing the state policy of developing and implementing comprehensive, coordinated, multidisciplinary interagency programs of early intervention services for children with disabilities and their families.

The duties of the council include recommending policies to ensure a comprehensive and coordinated system of all state and local agency services for children under age five with disabilities and their families. The policies must address how to incorporate each agency's services into a unified state and local system of multidisciplinary assessment practices, individual intervention plans, comprehensive systems to find children in need of services, methods to improve public awareness, and assistance in determining the role of interagency early intervention committees.

By ~~June~~ September 1, the council must recommend to the governor and the commissioners of children, families, and learning, health, human services, commerce, and economic security policies for a comprehensive and coordinated system.

Notwithstanding any other law to the contrary, the state interagency coordinating council expires on June 30, ~~2001~~ 2003.

Sec. 50. [CHILD CARE DEVELOPMENT FUND STATEWIDE PLAN.]

Subdivision 1. [CHILD CARE DEVELOPMENT FUND STATEWIDE PLAN.] (a) In accordance with the requirements found in Code of Federal Regulations, title 45, part 98, and in conjunction with other federal, state, and local child care and early childhood development programs, the commissioner of children, families, and learning must continue to coordinate the creation of a Minnesota child care and development fund plan to determine statewide grant activities for the 2002-2003 biennium.

(b) The plan must identify grant activities that:

(1) directly respond to federal requirements, including school-age care, infant and toddler care, child care resource and referral, and quality and availability;

(2) promote community partnerships among a variety of family providers as well as child care centers; and

(3) create new opportunities for employer involvement in the provision of child care.

(c) The plan must provide no less than 35 percent of the total funding in each fiscal year for child care development grants for federally required activities, no less than five percent of the total funding in each fiscal year for quality improvement activities with existing early childhood family education programs and child care providers, and no less than 15 percent of the general fund appropriation for child care development for the development of child care facilities under Minnesota Statutes, section 119B.25.

Subd. 2. [CHILD CARE DEVELOPMENT GRANTS.] (a) Total funding for child care development grants consists of money received from state general funds, federal child care development funds, federal TANF funds, and benevolent gifts. Total child care development grant funding is \$10,808,000 in fiscal year 2002 and \$11,123,000 in fiscal year 2003.

(b) In accordance with federal requirements for the development of a comprehensive child care development plan and in an effort to provide for a variety of child care needs statewide, the Minnesota child care and development fund plan must provide, at a minimum:

(1) \$1,000,000 in the 2002-2003 fiscal biennium for early childhood family education programs, under Minnesota Statutes, section 124D.13, in communities throughout the state to enhance the learning experiences of children in family- or center-based child care programs through the provision of supplementary services and resources, staff training, parent education, and assistance with children who have special needs;

(2) \$500,000 from the general fund in the 2002-2003 fiscal biennium for loans to improve or construct child care sites, under Minnesota Statutes, section 119B.25. Each loan must be matched with nonpublic funding on a one-to-one basis;

(3) \$120,000 in the 2002-2003 fiscal biennium for early childhood professional development grants. No less than four grants must be awarded to support child care professional development activities. Two of the grants must focus on the development needs of child care professionals in rural areas and two of the grants must focus on the development needs of child care professionals located in the seven-county metropolitan area. Grants to successful applicants may not exceed \$30,000 per grant;

(4) \$200,000 in the 2002-2003 fiscal biennium for the facilities loan and business program. These funds must be used to heighten business awareness and streamline the process to support the development of new child care facilities in workplace settings. No less than 40 percent of these funds must be used by the commissioner to work with the Minnesota chamber of commerce and its affiliates and other trade organizations to develop a statewide approach to encourage employers to establish tax-deferred child care accounts for their employees;

(5) \$1,000,000 in the 2002-2003 fiscal biennium for the loan forgiveness scholarship program for credit-based education or C.D.A. classes for child care providers that agree to work in the Minnesota child care industry for two years.

Sec. 51. [APPROPRIATIONS.]

Subdivision 1. [DEPARTMENT OF CHILDREN, FAMILIES, AND LEARNING.] The sums indicated in this section are appropriated from the general fund to the department of children, families, and learning for the fiscal years designated, unless otherwise indicated.

Subd. 2. [SCHOOL READINESS PROGRAM REVENUE.] For revenue for school readiness programs according to Minnesota Statutes, sections 124D.15 and 124D.16:

<u>\$10,395,000</u>	: : : : :	<u>2002</u>
<u>\$10,395,000</u>	: : : : :	<u>2003</u>

The 2002 appropriation includes \$1,039,000 for 2001 and \$9,356,000 for 2002.

The 2003 appropriation includes \$1,039,000 for 2002 and \$9,356,000 for 2003.

Any balance in the first year does not cancel but is available in the second year.

Subd. 3. [EARLY CHILDHOOD FAMILY EDUCATION AID.] For early childhood family education aid according to Minnesota Statutes, section 124D.135:

<u>\$20,758,000</u>	.....	<u>2002</u>
<u>\$20,663,000</u>	.....	<u>2003</u>

The 2002 appropriation includes \$2,036,000 for 2001 and \$18,722,000 for 2002.

The 2003 appropriation includes \$2,081,000 for 2002 and \$18,582,000 for 2003.

Any balance in the first year does not cancel but is available in the second year.

Subd. 4. [HEALTH AND DEVELOPMENTAL SCREENING AID.] For health and developmental screening aid according to Minnesota Statutes, sections 121A.17 and 121A.19:

<u>\$2,661,000</u>	.....	<u>2002</u>
<u>\$2,661,000</u>	.....	<u>2003</u>

The 2002 appropriation includes \$266,000 for 2001 and \$2,395,000 for 2002.

The 2003 appropriation includes \$266,000 for 2002 and \$2,395,000 for 2003.

Any balance in the first year does not cancel but is available in the second year.

Subd. 5. [WAY TO GROW.] For grants for existing way to grow programs according to Minnesota Statutes, section 124D.17:

<u>\$475,000</u>	.....	<u>2002</u>
<u>\$475,000</u>	.....	<u>2003</u>

Any balance in the first year does not cancel but is available in the second year.

Subd. 6. [HEAD START PROGRAM.] For Head Start programs according to Minnesota Statutes, section 119A.52:

<u>\$17,375,000</u>	.....	<u>2002</u>
<u>\$17,375,000</u>	.....	<u>2003</u>

The general fund base for fiscal years 2004 and 2005 is \$17,375,000 for each year. Any balance in the first year does not cancel but is available in the second year.

Subd. 7. [SCHOOL AGE CARE AID.] For school age care aid according to Minnesota Statutes, section 124D.22:

<u>\$221,000</u>	.....	<u>2002</u>
<u>\$133,000</u>	.....	<u>2003</u>

The 2002 appropriation includes \$30,000 for 2001 and \$191,000 for 2002.

The 2003 appropriation includes \$21,000 for 2002 and \$112,000 for 2003.

Any balance in the first year does not cancel but is available in the second year.

Subd. 8. [CHILD CARE ASSISTANCE.] For child care assistance according to Minnesota Statutes, section 119B.014:

<u>\$134,252,000</u>	.....	<u>2002</u>
<u>\$130,604,000</u>	.....	<u>2003</u>

Any balance in the first year does not cancel but is available in the second year.

Subd. 9. [CHILD CARE INTEGRITY.] For the administrative costs of program integrity and fraud prevention for child care assistance under chapter 119B:

<u>\$175,000</u>	.....	<u>2002</u>
<u>\$175,000</u>	.....	<u>2003</u>

Any balance in the first year does not cancel but is available in the second year.

Subd. 10. [CHILD CARE DEVELOPMENT.] For child care development grants according to Minnesota Statutes, section 119B.21:

<u>\$1,865,000</u>	.....	<u>2002</u>
<u>\$1,865,000</u>	.....	<u>2003</u>

These funds must be used in accordance with section 50, paragraph (b), clause (2).

Any balance in the first year does not cancel but is available in the second year.

Subd. 11. [EARLY CHILDHOOD PROGRAM EVALUATIONS.] For early childhood program evaluations according to Minnesota Statutes, sections 119A.52, 124D.13, and 124D.15:

<u>\$110,000</u>	.....	<u>2002</u>
<u>\$110,000</u>	.....	<u>2003</u>

Any balance in the first year does not cancel but is available in the second year.

Sec. 52. [FEDERAL TANF TRANSFERS.]

Subdivision 1. [DEPARTMENT OF CHILDREN, FAMILIES, and LEARNING.] The sums indicated in this section are transferred from the federal TANF fund to the child care and development fund and appropriated to the department of children, families, and learning for the fiscal years designated.

Subd. 2. [CHILD CARE ASSISTANCE.] For child care assistance according to Minnesota Statutes, section 119B.014:

<u>\$24,473,000</u>	.....	<u>2002</u>
<u>\$24,038,000</u>	.....	<u>2003</u>

Of this appropriation, \$3,500,000 per year must be used for the child care at-risk set-aside under Minnesota Statutes, section 119B.045, subdivision 4.

Any balance the first year does not cancel but is available in the second year.

Sec. 53. [FEDERAL TANF TRANSFERS.]

Subdivision 1. [DEPARTMENT OF CHILDREN, FAMILIES, AND LEARNING.] The sums indicated in this section are transferred from the federal TANF fund to the Head Start program and appropriated to the department of children, families, and learning for the fiscal years designated. These funds shall be used to provide Head Start services for children ages zero to three.

Subd. 2. [HEAD START PROGRAM.] For Head Start programs according to Minnesota Statutes, section 119A.52:

<u>\$1,000,000</u>	. . . . .	<u>2002</u>
<u>\$1,000,000</u>	. . . . .	<u>2003</u>

The TANF base for fiscal years 2004 and 2005 is \$1,000,000 each year.

Any balance the first year does not cancel but is available in the second year.

Sec. 54. [REPEALER.]

(a) Minnesota Statutes 2000, sections 119B.011, subdivision 20; 119B.03; 119B.04; 119B.05; 119B.06; 119B.07; 119B.08; 119B.09; 119B.10; 119B.11; 119B.12; 119B.13; 119B.14; 119B.15; and 119B.16, are repealed effective December 31, 2001.

(b) Minnesota Statutes 2000, section 124D.16, subdivision 4, is repealed effective July 1, 2001.

ARTICLE 2

PREVENTION

Section 1. Minnesota Statutes 2000, section 119A.12, is amended by adding a subdivision to read:

Subd. 4. [AUTHORITY TO DISBURSE FUNDS.] The commissioner may disburse trust fund money to any public or private nonprofit agency to fund a child abuse prevention program. State funds appropriated for child maltreatment prevention grants may be transferred to the children's trust fund special revenue account and are available to carry out this section.

Sec. 2. Minnesota Statutes 2000, section 119A.12, is amended by adding a subdivision to read:

Subd. 5. [PLAN FOR DISBURSEMENT OF FUNDS.] The commissioner shall develop a plan to disburse money from the trust fund. The plan must ensure that all geographic areas of the state have an equal opportunity to establish prevention programs and receive trust fund money.

Sec. 3. Minnesota Statutes 2000, section 119A.12, is amended by adding a subdivision to read:

Subd. 6. [OPERATIONAL COSTS.] \$120,000 each year is appropriated from the children's trust fund to the special revenue fund for administration and indirect costs of the children's trust fund program.

Sec. 4. Minnesota Statutes 2000, section 119A.13, subdivision 4, is amended to read:

Subd. 4. [RESPONSIBILITIES OF COMMISSIONER.] (a) The commissioner shall:

(1) provide for the coordination and exchange of information on the establishment and maintenance of prevention programs;

(2) develop and publish criteria for receiving trust fund money by prevention programs;

(3) review, approve, and monitor the spending of trust fund money by prevention programs;

(4) provide statewide educational and public informational seminars to develop public awareness on preventing child abuse; to encourage professional persons and groups to recognize instances of child abuse and work to prevent them; to make information on child abuse prevention available to the public and to organizations and agencies; and to encourage the development of prevention programs, including programs that provide support for adolescent parents, fathering education programs, and other prevention activities designed to prevent teen pregnancy;

(5) establish a procedure for an annual, internal evaluation of the functions, responsibilities, and performance of the commissioner in carrying out Laws 1986, chapter 423;

(6) provide technical assistance to local councils and agencies working in the area of child abuse prevention; and

(7) accept and review grant applications beginning June 1, 1987.

(b) The commissioner shall recommend to the governor changes in state programs, statutes, policies, budgets, and standards that will reduce the problems of child abuse, improve coordination among state agencies that provide prevention services, and improve the condition of children, parents, or guardians in need of prevention program services.

Sec. 5. Minnesota Statutes 2000, section 119A.21, is amended to read:

119A.21 [GRANTS TO SERVICE PROVIDER PROGRAMS.]

Subdivision 1. [GRANTS AWARDED.] The commissioner shall award grants to programs which provide ~~abused children~~ services to abused or neglected children. Grants shall be awarded in a manner that ensures that they are equitably distributed to programs serving metropolitan and nonmetropolitan populations.

Subd. 2. [APPLICATIONS.] Any public or private nonprofit agency may apply to the commissioner for a grant ~~to provide abused children services~~. The application shall be submitted ~~in~~ on a form ~~approved~~ prescribed by the commissioner ~~after consultation with the abused children advisory council and shall include:~~

~~(1) a proposal for the provision of abused children services to, or on behalf of, abused children, children at risk, and their families;~~

~~(2) a proposed budget;~~

~~(3) evidence of ability to represent the interests of abused children and their families to local law enforcement agencies and courts, social services, and health agencies;~~

~~(4) evidence of ability to do outreach to unserved and underserved populations and to provide culturally and linguistically appropriate services; and~~

~~(5) any other information the commissioner may require by policy or by rule adopted under chapter 14, after considering the recommendations of the abused children advisory council.~~

~~Programs which have been approved for grants in prior years may submit materials which indicate changes in items listed in clauses (1) to (5), in order to qualify for renewal funding. Nothing in this subdivision may be construed to require programs to submit complete applications for each year of funding.~~

Subd. 3. [DUTIES.] Every public or private nonprofit agency which receives a grant under this section ~~to provide abused children services~~ shall comply with all requirements of the commissioner related to the administration of the grants.

Subd. 4. [CLASSIFICATION OF DATA COLLECTED BY GRANTEES.] Personal history information and other information collected, used, or maintained by a grantee from which the identity of any abused child or family members may be determined is private data on individuals as defined in section 13.02, subdivision 12, and the grantee shall maintain the data in accordance with provisions of chapter 13.

Sec. 6. Minnesota Statutes 2000, section 119A.22, is amended to read:

119A.22 [DUTIES OF THE COMMISSIONER.]

The commissioner shall:

(1) review applications and award grants to programs pursuant to section 119A.21 ~~after considering the recommendation of the abused children advisory council;~~

(2) ~~appoint members of the abused children advisory council created under section 119A.23 and provide consultative staff and other administrative services to the council;~~

~~(3) after considering the recommendation of the abused children advisory council, appoint a program director to perform the duties set forth in this clause. In appointing the program director the commissioner shall give due consideration to the list of applicants submitted to the commissioner pursuant to this section. The program director shall administer the funds appropriated for sections 119A.20 to 119A.23, consult with and provide staff to the advisory council and perform other duties related to abused children's programs as the commissioner may assign;~~

~~(4) design a uniform method of collecting data on abused children's programs to be used to monitor and assure compliance of the programs funded under section 119A.21;~~

~~(5) (3) provide technical ~~and~~ assistance to applicants in the development of grant requests and to programs grantees in meeting the data collection requirements established by the commissioner; and~~

~~(6) (4) adopt, under chapter 14, all rules necessary to implement the provisions of sections 119A.20 to 119A.23.~~

Sec. 7. [119A.35] [ADVISORY COUNCIL.]

Subdivision 1. [GENERALLY.] The council is established under section 15.059 to advise the commissioner of children, families, and learning on the implementation and continued operations of sections 119A.10 to 119A.16 and 119A.20 to 119A.22. The council shall expire June 30, 2005.

Subd. 2. [COUNCIL MEMBERSHIP.] The council shall consist of a total of 22 members. The governor shall appoint 18 of these members. The commissioners of human services and health shall each appoint one member. The senate shall appoint one member from the senate family and early childhood education finance committee and the house of representatives shall appoint one member from the house family and early childhood budget committee.

Council members shall have knowledge in the areas of child abuse and neglect prevention and intervention and knowledge of the risk factors that can lead to child abuse and neglect. Council members shall be representative of: local government, criminal justice, parents, consumers of services, health and human services professionals, faith community, professional and volunteer providers of child abuse and neglect prevention and intervention services, racial and ethnic minority communities, and the demographic and geographic composition of the state. Ten council members shall reside in the seven-county metropolitan area and eight shall reside in nonmetropolitan areas.

Subd. 3. [RESPONSIBILITIES.] The council shall:

(1) advise the commissioner on planning, policy development, data collection, rulemaking, funding, and evaluation of the programs under the sections listed in subdivision 1;

(2) coordinate and exchange information on the establishment and ongoing operation of the programs listed in subdivision 1;

(3) develop and publish criteria and guidelines for receiving grants relating to child abuse and neglect prevention and safety and support of child victims, including, but not limited to, funds dedicated to the children's trust fund and abused children program;

(4) provide guidance in the development of statewide education and public information activities that increase public awareness in the prevention and intervention of child abuse and neglect and encourage the development of prevention and intervention programs, which includes the safety of child victims;

(5) guide, analyze, and disseminate results in the development of appropriate evaluation procedures for all programs receiving funds under subdivision 1; and

(6) assist the commissioner in identifying service gaps or duplication in services including geographic dispersion of resources, programs reflecting the cycle of child abuse, and the availability of culturally appropriate intervention and prevention services.

Sec. 8. Minnesota Statutes 2000, section 124D.19, is amended by adding a subdivision to read:

Subd. 12. [YOUTH AFTER-SCHOOL ENRICHMENT PROGRAMS.] Each district operating a community education program under this section may establish a youth after-school enrichment program to maintain and expand participation by school-age youth in supervised activities during nonschool hours. The youth after-school enrichment programs must include activities that support development of social, mental, physical, and creative abilities of school-age youth; provide structured youth programs during high-risk times; and design programming to promote youth leadership development and improved academic performance. Youth after-school enrichment programs must collaborate with former after-school enrichment grantees.

Sec. 9. Minnesota Statutes 2000, section 124D.19, is amended by adding a subdivision to read:

Subd. 13. [YOUTH AFTER-SCHOOL ENRICHMENT PROGRAM GOALS.] The goals of youth after-school enrichment programs are to:

(1) collaborate with and leverage existing community resources that have demonstrated effectiveness;

(2) reach out to children and youth, including at-risk youth, in the community;

(3) increase the number of children participating in adult-supervised programs during nonschool hours;

(4) support academic achievement; and

(5) increase skills in technology, the arts, sports, and other activities.

Sec. 10. Minnesota Statutes 2000, section 124D.19, is amended by adding a subdivision to read:

Subd. 14. [COMMUNITY EDUCATION; ANNUAL REPORT.] Each district offering a community education program under this section must annually report to the department of children, families, and learning information regarding the cost per participant and cost per contact hour for each community education program, including youth after-school enrichment programs, that receive aid or levy. The department of children, families, and learning must include cost per participant and cost per contact hour information by program in the community education annual report.

Sec. 11. Minnesota Statutes 2000, section 124D.20, subdivision 1, is amended to read:

Subdivision 1. [TOTAL COMMUNITY EDUCATION REVENUE.] Total community education revenue equals the sum of a district's general community education revenue ~~and~~, youth service program revenue, and youth after-school enrichment revenue.

Sec. 12. Minnesota Statutes 2000, section 124D.20, is amended by adding a subdivision to read:

Subd. 4a. [YOUTH AFTER-SCHOOL ENRICHMENT REVENUE.] Beginning in 2002, youth after-school enrichment revenue is available to a district that has implemented a youth after-school enrichment program. Youth after-school enrichment revenue equals:

(1) \$0.93 times the greater of 1,335 or the population of the district, as defined in section 275.14, not to exceed 10,000; and

(2) \$0.24 times the population of the district, as defined in section 275.14, in excess of 10,000.

In fiscal year 2003 and thereafter, youth after-school enrichment revenue equals:

(1) \$2.78 times the greater of 1,335 or the population of the district, as defined in section 275.14, not to exceed 10,000; and

(2) \$0.67 times the population of the district, as defined in section 275.14, in excess of 10,000. Youth after-school enrichment revenue must be reserved for youth after-school enrichment programs.

Sec. 13. Minnesota Statutes 2000, section 124D.20, subdivision 5, is amended to read:

Subd. 5. [TOTAL COMMUNITY EDUCATION LEVY.] To obtain total community education revenue, a district may levy the amount raised by a maximum tax rate of ~~.4795~~ .7431 percent times the adjusted net tax capacity of the district. This amount reflects a community education levy of .4795 percent times the adjusted net tax capacity of the district plus a youth after-school enrichment levy of .2636 percent times the adjusted net tax capacity of the district. If the amount of the total community education levy would exceed the total community education revenue, the total community education levy shall be determined according to subdivision 6.

Sec. 14. Minnesota Statutes 2000, section 124D.221, subdivision 1, is amended to read:

Subdivision 1. [ESTABLISHMENT.] A competitive ~~statewide~~ after-school enrichment grant program is established to provide implementation grants to community or nonprofit organizations, to political subdivisions, or to school-based programs in cities of the first class. A community or nonprofit organization must be a charitable organization under section 501(c)(3) of the Internal Revenue Code of 1986. An after-school enrichment grant to a successful applicant may not exceed \$750,000. The commissioner shall develop criteria for after-school enrichment programs.

Sec. 15. Minnesota Statutes 2000, section 124D.221, subdivision 2, is amended to read:

Subd. 2. [PRIORITY NEIGHBORHOODS.] (a) The commissioner must give priority to applicants who:

(1) beginning in fiscal year 2002, demonstrate a match of \$1 of nonstate funding for every \$3 of the grant amount awarded for implementation of an after-school enrichment program;

(2) beginning in fiscal year 2003, demonstrate a match of \$1 of nonstate funding for each \$1 of the grant amount awarded for the implementation of an after-school enrichment program; and

(3) establish an accountability system that sets measurable goals and outcomes that support academic achievement, school attendance, reduces the number of suspensions, and assesses participants' progress on these measures annually.

(b) For grants in Minneapolis and St. Paul, the commissioner must give priority to neighborhoods in this subdivision. In Minneapolis, priority neighborhoods are Near North, Hawthorne, Sumner-Glenwood, Harrison, Jordan, Powderhorn, Central, Whittier, Cleveland, McKinley, Waite Park, Sheridan, Holland, Lyndale, Folwell, and Phillips. In St. Paul, priority neighborhoods are Summit-University, Thomas-Dale, North End, Payne-Phalen, Daytons Bluff, and the West Side.

Sec. 16. Minnesota Statutes 2000, section 124D.221, is amended by adding a subdivision to read:

Subd. 6. [PROGRAM COST; REPORT.] Each program that receives a grant under this section must annually report to the commissioner information regarding the cost per participant and cost per contact hour for the program.

Sec. 17. [APPROPRIATIONS.]

Subdivision 1. [DEPARTMENT OF CHILDREN, FAMILIES, AND LEARNING.] The sums indicated in this section are appropriated from the general fund to the department of children, families, and learning for the fiscal years designated.

Subd. 2. [FAMILY COLLABORATIVES.] For family collaboratives according to Laws 1995, First Special Session chapter 3, article 4, section 29, subdivision 10, as amended by Laws 1996, chapter 412, article 4, section 27:

<u>\$1,477,000</u>	: : : : :	<u>2002</u>
<u>\$863,000</u>	: : : : :	<u>2003</u>

No new family services collaboratives shall be funded with this appropriation.

Any balance in the first year does not cancel but is available in the second year.

Subd. 3. [COMMUNITY EDUCATION AID.] For community education aid according to Minnesota Statutes, section 124D.20:

<u>\$16,459,000</u>	: : : : :	<u>2002</u>
<u>\$15,611,000</u>	: : : : :	<u>2003</u>

The 2002 appropriation includes \$1,528,000 for 2001 and \$14,931,000 for 2002.

The 2003 appropriation includes \$1,659,000 for 2002 and \$13,952,000 for 2003.

Of this appropriation, \$250,000 must be set aside each year for the guard our youth program sponsored by the department of military affairs to serve at-risk and underserved youth ages nine to 16 years.

Any balance in the first year does not cancel but is available in the second year.

Subd. 4. [ADULTS WITH DISABILITIES PROGRAM AID.] For adults with disabilities programs according to Minnesota Statutes, section 124D.56:

<u>\$710,000</u>	: : : : :	<u>2002</u>
<u>\$710,000</u>	: : : : :	<u>2003</u>

Any balance in the first year does not cancel but is available in the second year.

Subd. 5. [HEARING-IMPAIRED ADULTS.] For programs for hearing-impaired adults according to Minnesota Statutes, section 124D.57:

<u>\$70,000</u>	.....	<u>2002</u>
<u>\$70,000</u>	.....	<u>2003</u>

Any balance in the first year does not cancel but is available in the second year.

Subd. 6. [VIOLENCE PREVENTION EDUCATION GRANTS.] For violence prevention education grants according to Minnesota Statutes, section 120B.23:

<u>\$1,450,000</u>	.....	<u>2002</u>
<u>\$1,450,000</u>	.....	<u>2003</u>

Any balance in the first year does not cancel but is available in the second year.

Subd. 7. [ABUSED CHILDREN.] For abused children programs according to Minnesota Statutes, section 119A.21:

<u>\$945,000</u>	.....	<u>2002</u>
<u>\$945,000</u>	.....	<u>2003</u>

Any balance in the first year does not cancel but is available in the second year.

Subd. 8. [CHILDREN'S TRUST FUND.] For children's trust fund according to Minnesota Statutes, sections 119A.12 and 119A.13:

<u>\$875,000</u>	.....	<u>2002</u>
<u>\$875,000</u>	.....	<u>2003</u>

Any balance in the first year does not cancel but is available in the second year.

Subd. 9. [FAMILY VISITATION CENTERS.] (a) For family visitation centers according to Minnesota Statutes, section 119A.37:

<u>\$200,000</u>	.....	<u>2002</u>
<u>\$200,000</u>	.....	<u>2003</u>

Any balance in the first year does not cancel but is available in the second year.

(b) An additional \$96,000 in fiscal year 2002 and \$96,000 in fiscal year 2003 are appropriated from the special revenue fund under Minnesota Statutes, section 517.08, subdivision 1c, for family visitation centers. Any balance in the first year does not cancel but is available for the second year.

Subd. 10. [AFTER-SCHOOL ENRICHMENT GRANTS.] For after-school enrichment grants according to Minnesota Statutes, section 124D.221:

<u>\$3,010,000</u>	.....	<u>2002</u>
<u>\$3,010,000</u>	.....	<u>2003</u>

Any balance in the first year does not cancel but is available in the second year.

Subd. 11. [CHEMICAL ABUSE PREVENTION GRANTS.] (a) For grants with funds received under Minnesota Statutes, section 171.29, subdivision 2, paragraph (b), clause (4):

<u>\$200,000</u>	: : : : :	<u>2002</u>
<u>\$200,000</u>	: : : : :	<u>2003</u>

(b) These appropriations are from the alcohol-impaired driver account of the special revenue fund for chemical abuse prevention grants.

Sec. 18. [REVISOR INSTRUCTION.]

In the next and subsequent editions of Minnesota Statutes and Minnesota Rules, the revisor shall renumber Minnesota Statutes, section 119A.13, subdivision 4, as Minnesota Statutes, section 119A.12, subdivision 4, and make necessary cross-reference changes consistent with the renumbering.

Sec. 19. [REPEALER.]

Minnesota Statutes 2000, sections 119A.13, subdivisions 1, 2, and 3; 119A.14, subdivision 2; 119A.23; 124D.33; and 124D.331, are repealed.

ARTICLE 3

SELF-SUFFICIENCY AND LIFELONG LEARNING

Section 1. Minnesota Statutes 2000, section 124D.518, subdivision 5, is amended to read:

Subd. 5. [UNREIMBURSED EXPENSES.] "Unreimbursed expenses" means allowable adult basic education expenses of a program, in the current program year, that are not covered by payments from federal or private for-profit sources.

Sec. 2. Minnesota Statutes 2000, section 124D.52, subdivision 2, is amended to read:

Subd. 2. [PROGRAM APPROVAL.] (a) To receive aid under this section, a district, a consortium of districts, the department of corrections, or a private nonprofit organization must submit an application by June 1 describing the program, on a form provided by the department. The program must be approved by the commissioner according to the following criteria:

- (1) how the needs of different levels of learning will be met;
- (2) for continuing programs, an evaluation of results;
- (3) anticipated number and education level of participants;
- (4) coordination with other resources and services;
- (5) participation in a consortium, if any, and money available from other participants;
- (6) management and program design;

- (7) volunteer training and use of volunteers;
- (8) staff development services;
- (9) program sites and schedules;
- (10) program expenditures that qualify for aid;
- (11) program ability to provide data related to learner outcomes as required by law; and
- (12) a copy of the memorandum of understanding described in subdivision 1 submitted to the commissioner.

(b) Adult basic education programs may be approved under this subdivision for up to five years. Five-year program approval must be granted to an applicant who has demonstrated the capacity to:

(1) offer comprehensive learning opportunities and support service choices appropriate for and accessible to adults at all basic skill need levels;

(2) provide a participatory and experiential learning approach based on the strengths, interests, and needs of each adult, that enables adults with basic skill needs to:

(i) identify, plan for, and evaluate their own progress toward achieving their defined educational and occupational goals;

(ii) master the basic academic reading, writing, and computational skills, as well as the problem-solving, decision making, interpersonal effectiveness, and other life and learning skills they need to function effectively in a changing society;

(iii) locate and be able to use the health, governmental, and social services and resources they need to improve their own and their families' lives; and

(iv) continue their education, if they desire, to at least the level of secondary school completion, with the ability to secure and benefit from continuing education that will enable them to become more employable, productive, and responsible citizens;

(3) plan, coordinate, and develop cooperative agreements with community resources to address the needs that the adults have for support services, such as transportation, flexible course scheduling, convenient class locations, and child care;

(4) collaborate with business, industry, labor unions, and employment-training agencies, as well as with family and occupational education providers, to arrange for resources and services through which adults can attain economic self-sufficiency;

(5) provide sensitive and well trained adult education personnel who participate in local, regional, and statewide adult basic education staff development events to master effective adult learning and teaching techniques;

(6) participate in regional adult basic education peer program reviews and evaluations;

(7) submit accurate and timely performance and fiscal reports;

(8) submit accurate and timely reports related to program outcomes and learner follow-up information; and

(9) spend adult basic education aid on adult basic education purposes only, which are specified in sections 124D.518 to 124D.531.

(c) The commissioner shall require each district to provide notification by February 1, 2001, of its intent to apply for funds under this section as a single district or as part of an identified consortium of districts. A district receiving funds under this section must notify the commissioner by February 1 of its intent to change its application status for applications due the following June 1.

Sec. 3. Minnesota Statutes 2000, section 124D.522, is amended to read:

124D.522 [ADULT BASIC EDUCATION SUPPLEMENTAL SERVICE GRANTS.]

(a) The commissioner, in consultation with the policy review task force under section 124D.521, may make grants to nonprofit organizations to provide services that are not offered by a district adult basic education program or that are supplemental to either the statewide adult basic education program, or a district's adult basic education program. The commissioner may make grants for: staff development for adult basic education teachers and administrators; training for volunteer tutors; training, services, and materials for serving disabled students through adult basic education programs; statewide promotion of adult basic education services and programs; development and dissemination of instructional and administrative technology for adult basic education programs; programs which primarily serve communities of color; adult basic education distance learning projects, including television instruction programs; and other supplemental services to support the mission of adult basic education and innovative delivery of adult basic education services.

(b) The commissioner must establish eligibility criteria and grant application procedures. Grants under this section must support services throughout the state, focus on educational results for adult learners, and promote outcome-based achievement through adult basic education programs. Beginning in fiscal year 2002, the commissioner may make grants under this section from funds specifically appropriated the state total adult basic education aid set aside for supplemental service grants under section 124D.531. Up to ~~one-third~~ one-fourth of the appropriation for supplemental service grants must be used for grants for adult basic education programs to encourage and support innovations in adult basic education instruction and service delivery. A grant to a single organization cannot exceed \$100,000. Nothing in this section prevents an approved adult basic education program from using state or federal aid to purchase supplemental services.

Sec. 4. Minnesota Statutes 2000, section 124D.531, subdivision 1, is amended to read:

Subdivision 1. [STATE TOTAL ADULT BASIC EDUCATION AID.] (a) The state total adult basic education aid for fiscal year 2001 equals \$30,157,000. The state total adult basic education aid for later years equals:

(1) the state total adult basic education aid for the preceding fiscal year; times

(2) the lesser of:

(i) 1.08, or

(ii) the greater of 1.00 or the ratio of the state total contact hours in the first prior program year to the state total contact hours in the second prior program year. Beginning in fiscal year 2002, two percent of the state total adult basic education aid must be set aside for adult basic education supplemental service grants under section 124D.522.

(b) The state total adult basic education aid, excluding basic population aid, equals the difference between the amount computed in paragraph (a), and the state total basic population aid under subdivision 2.

Sec. 5. Minnesota Statutes 2000, section 124D.531, subdivision 3, is amended to read:

Subd. 3. [PROGRAM REVENUE.] Adult basic education programs established under section 124D.52 and approved by the commissioner are eligible for revenue under this subdivision. For fiscal year 2001 and later, adult basic education revenue for each approved program equals the sum of:

(1) the basic population aid under subdivision 2 for districts participating in the program during the current program year; plus

(2) 84 percent times the amount computed in subdivision 1, paragraph (b), times the ratio of the contact hours for students participating in the program during the first prior program year to the state total contact hours during the first prior program year; plus

(3) eight percent times the amount computed in subdivision 1, paragraph (b), times the ratio of the enrollment of students with limited English proficiency during the second prior school year in districts participating in the program during the current program year to the state total enrollment of students with limited English proficiency during the second prior school year in districts participating in adult basic education programs during the current program year; plus

(4) eight percent times the amount computed in subdivision 1, paragraph (b), times the ratio of the latest federal census count of the number of adults aged 20 or older with no diploma residing in the districts participating in the program during the current program year to the latest federal census count of the state total number of adults aged 20 or older with no diploma residing in the districts participating in adult basic education programs during the current program year.

Sec. 6. Minnesota Statutes 2000, section 124D.531, subdivision 7, is amended to read:

Subd. 7. [PROGRAM AUDITS.] Programs that receive aid under this section must maintain records that support the aid payments. The commissioner may audit these records upon request. The commissioner must establish procedures for conducting fiscal audits of adult basic education programs according to the schedule in this subdivision. ~~In calendar year 2002, the commissioner must audit one-half of approved adult basic education programs that received aid for fiscal year 2001, and in calendar year 2003, the commissioner must audit the remaining unaudited programs for aid received in fiscal year 2002.~~ Beginning with fiscal year ~~2004~~ 2003, the commissioner must, at a minimum, audit each adult basic education program once every five years. The commissioner must establish procedures to reconcile any discrepancies between aid payments based on information reported to the commissioner and aid estimates based on a program audit.

Sec. 7. [ADULT BASIC EDUCATION POLICY TASK FORCE.]

The adult basic education policy task force, under Laws 2000, chapter 489, article 1, section 42, must recommend to the legislative finance committees with responsibility for adult basic education an equitable funding formula for nondistrict programs based on an evaluation of costs and revenues. The task force must report to the legislature by February 1, 2002.

Sec. 8. [DIRECTION TO COMMISSIONER.]

The commissioner of children, families, and learning must hire an additional permanent full-time staff person to oversee the state adult basic education program. The duties of the state adult basic education coordinator include, but are not limited to:

(1) oversight of the supplemental service grants;

(2) oversight of the adult basic education program audits;

(3) coordination of the adult basic education policy task force;

(4) working with adult basic education directors around the state; and

(5) providing information to the legislative finance committees that oversee the adult basic education program.

Sec. 9. [APPROPRIATIONS.]

Subdivision 1. [DEPARTMENT OF CHILDREN, FAMILIES, AND LEARNING.] The sums indicated in this section are appropriated from the general fund to the department of children, families, and learning for the fiscal years designated.

Subd. 2. [MINNESOTA ECONOMIC OPPORTUNITY GRANTS.] For Minnesota economic opportunity grants, sections 119A.374 to 119A.376:

<u>\$8,514,000</u>	: : : : :	<u>2002</u>
<u>\$8,514,000</u>	: : : : :	<u>2003</u>

Any balance in the first year does not cancel but is available in the second year.

Subd. 3. [TRANSITIONAL HOUSING PROGRAMS.] For transitional housing programs according to Minnesota Statutes, section 119A.43:

<u>\$1,988,000</u>	: : : : :	<u>2002</u>
<u>\$1,988,000</u>	: : : : :	<u>2003</u>

Any balance in the first year does not cancel but is available in the second year.

Subd. 4. [EMERGENCY SERVICES.] For emergency services according to Minnesota Statutes, section 119A.43:

<u>\$350,000</u>	: : : : :	<u>2002</u>
<u>\$350,000</u>	: : : : :	<u>2003</u>

Any balance in the first year does not cancel but is available in the second year.

Subd. 5. [ADULT BASIC EDUCATION AID.] For adult basic education aid according to Minnesota Statutes, section 124D.531:

<u>\$32,368,000</u>	: : : : :	<u>2002</u>
<u>\$34,994,000</u>	: : : : :	<u>2003</u>

The 2002 appropriation includes \$3,019,000 for 2001 and \$29,306,000 for 2002.

The 2003 appropriation includes \$3,237,000 for 2002 and \$31,669,000 for 2003.

Subd. 6. [ADULT BASIC EDUCATION AUDITS; STATE COORDINATOR.]

For adult basic education audits under Minnesota Statutes, section 124D.531 and for a state adult basic education coordinator:

<u>\$145,000</u>	: : : : :	<u>2002</u>
<u>\$145,000</u>	: : : : :	<u>2003</u>

Of this appropriation, \$70,000 in each fiscal year must be used for adult basic education audits and \$75,000 must be used to hire an additional permanent, full-time state adult basic education coordinator. Any balance in the first year does not cancel but is available in the second year.

Subd. 7. [ADULT GRADUATION AID.] For adult graduation aid according to Minnesota Statutes, section 124D.54:

<u>\$3,195,000</u>	.....	<u>2002</u>
<u>\$3,356,000</u>	.....	<u>2003</u>

The 2002 appropriation includes \$305,000 for 2001 and \$2,890,000 for 2002.

The 2003 appropriation includes \$321,000 for 2002 and \$3,035,000 for 2003.

Subd. 8. [GED TESTS.] For payment of 60 percent of the costs of GED tests according to Laws 1993, chapter 224, article 4, section 44, subdivision 10:

<u>\$125,000</u>	.....	<u>2002</u>
<u>\$125,000</u>	.....	<u>2003</u>

Any balance in the first year does not cancel but is available in the second year.

Subd. 9. [FOODSHELF PROGRAM.] For foodshelf programs according to Minnesota Statutes, section 119A.44:

<u>\$1,278,000</u>	.....	<u>2002</u>
<u>\$1,278,000</u>	.....	<u>2003</u>

Any balance in the first year does not cancel but is available in the second year.

Subd. 10. [FAMILY ASSETS FOR INDEPENDENCE.]

<u>\$500,000</u>	<u>2002</u>
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Any balance in the first year does not cancel but is available in the second year.

Subd. 11. [LEAD ABATEMENT.] For lead abatement according to Minnesota Statutes, section 119A.46:

<u>\$100,000</u>	.....	<u>2002</u>
<u>\$100,000</u>	.....	<u>2003</u>

Any balance in the first year does not cancel but is available in the second year.

Sec. 10. [TANF APPROPRIATIONS.]

Subdivision 1. [DEPARTMENT OF CHILDREN, FAMILIES, AND LEARNING.] The sums indicated in this section are appropriated to the commissioner of children, families, and learning from the federal Temporary Assistance for Needy Families block grant for the fiscal years designated. These amounts are available for expenditure until June 30, 2003. Appropriations under this section are one-time appropriations and are not added to the base for fiscal years 2004 and 2005.

Subd. 2. [INTENSIVE ENGLISH AS A SECOND LANGUAGE.] For intensive English as a second language for eligible MFIP participants under Laws 2000, chapter 489, article 1, section 39:

<u>\$1,100,000</u>	.....	<u>2002</u>
<u>\$1,100,000</u>	.....	<u>2003</u>

Subd. 3. [TRANSITIONAL HOUSING.] For reimbursement grants to transitional housing programs under Minnesota Statutes, section 119A.43:

<u>\$1,900,000</u>	.....	<u>2002</u>
<u>\$1,950,000</u>	.....	<u>2003</u>

These appropriations must be used for up to four months of transitional housing for families with incomes below 200 percent of the federal poverty guidelines. Payment must be made to programs on a reimbursement basis.

ARTICLE 4

LIBRARIES

Section 1. Minnesota Statutes 2000, section 125B.20, subdivision 1, is amended to read:

Subdivision 1. [ESTABLISHMENT; PURPOSE.] The purpose of developing a statewide school district telecommunications network is to expand the availability of a broad range of courses and degrees to students throughout the state, to share information resources to improve access, quality, and efficiency, to improve learning, and distance cooperative learning opportunities, and to promote the exchange of ideas among students, parents, teachers, media generalists, librarians, and the public. In addition, through the development of this statewide telecommunications network emphasizing cost-effective, competitive connections, all Minnesotans will benefit by enhancing access to telecommunications technology throughout the state. Network connections for school districts and public libraries are coordinated and fully integrated into the existing state telecommunications and interactive television networks to achieve comprehensive and efficient interconnectivity of school districts and libraries to higher education institutions, state agencies, other governmental units, agencies, and institutions throughout Minnesota. A school district may apply to the commissioner for a grant under subdivision 2, ~~and a regional public library may apply under subdivision 3.~~ The Minnesota education telecommunications council established in Laws 1995, First Special Session chapter 3, article 12, section 7, shall establish priorities for awarding grants, making grant awards, and being responsible for the coordination of networks.

Sec. 2. Minnesota Statutes 2000, section 134.31, subdivision 5, is amended to read:

Subd. 5. [ADVISORY COMMITTEE.] The commissioner shall appoint an advisory committee of five members to advise the staff of the Minnesota library for the blind and physically handicapped on long-range plans and library services. Members shall be people who use the library. Section 15.059 governs this committee except that the committee shall expire on June 30, ~~2001~~ 2005.

Sec. 3. [134.47] [REGIONAL LIBRARY TELECOMMUNICATIONS AID.]

Subdivision 1. [ELIGIBILITY.] (a) A regional public library system may apply for regional library telecommunications aid. The aid must be used for data and video access costs and other related costs to improve or maintain electronic access and connect the library system with the state information infrastructure administered by the department of administration under section 16B.465. Priority shall be given to public libraries that have not received access. To be eligible, a regional public library system must be officially designated by the commissioner of children, families, and learning as a regional public library system as defined in section 134.34, subdivision 3, and each of its participating cities and counties must meet local support levels defined in section 134.34, subdivision 1. A public library building that receives aid under this section must be open a minimum of 20 hours per week.

(b) Aid received under this section may not be used to substitute for any existing local funds allocated to provide electronic access, equipment for library staff or the public, or local funds dedicated to other library operations.

(c) An application for regional library telecommunications aid must, at a minimum, contain information to document the following:

(1) that the data line or video link relies on a transport medium that operates at a minimum speed of 1.544 megabytes per second for each regional public library system headquarters or a minimum of 64 kilobits per second for each public library building and employs an open network architecture that will ensure interconnectivity and interoperability with school districts, post-secondary education, or other governmental agencies;

(2) that the connection is established through the most cost-effective means and that the regional library has explored and coordinated connections through school districts, post-secondary education, or other governmental agencies;

(3) the regional library system has filed an e-rate application; and

(4) other information, as determined by the commissioner of children, families, and learning, to ensure that connections are coordinated, efficient, and cost-effective; take advantage of discounts; and meet applicable state standards.

The library system may include costs associated with cooperative arrangements with post-secondary institutions, school districts, and other governmental agencies.

Subd. 2. [AWARD OF FUNDS.] The commissioner of children, families, and learning shall develop application and reporting forms and procedures for regional library telecommunications aid. Aid shall be based on actual costs of connections and funds available for this purpose. The commissioner shall make payments directly to the regional public library system.

Sec. 4. [APPROPRIATIONS.]

Subdivision 1. [DEPARTMENT OF CHILDREN, FAMILIES, AND LEARNING.] The sums indicated in this section are appropriated from the general fund to the department of children, families, and learning for the fiscal years designated.

Subd. 2. [BASIC SUPPORT GRANTS.] For basic support grants according to Minnesota Statutes, sections 134.32 to 134.35:

<u>\$8,570,000</u>	.....	<u>2002</u>
<u>\$8,570,000</u>	.....	<u>2003</u>

The 2002 appropriation includes \$857,000 for 2001 and \$7,713,000 for 2002.

The 2003 appropriation includes \$857,000 for 2002 and \$7,713,000 for 2003.

Subd. 3. [STATE AGENCY LIBRARIES.] For maintaining and upgrading the online computer-based library catalog system in state agency libraries:

<u>\$120,000</u>	.....	<u>2002</u>
<u>\$120,000</u>	.....	<u>2003</u>

This appropriation is in addition to funding provided in the K-12 education finance omnibus bill for the administrative budget of the department of children, families, and learning.

Any balance in the first year does not cancel but is available in the second year.

Subd. 4. [MULTICOUNTY, MULTITYPE LIBRARY SYSTEMS.] For grants according to Minnesota Statutes, sections 134.353 and 134.354, to multicounty, multitype library systems:

<u>\$903,000</u>	<u>-----</u>	<u>2002</u>
<u>\$903,000</u>	<u>-----</u>	<u>2003</u>

The 2002 appropriation includes \$90,000 for 2001 and \$813,000 for 2002.

The 2003 appropriation includes \$90,000 for 2002 and \$813,000 for 2003.

Any balance in the first year does not cancel but is available in the second year.

Subd. 5. [REGIONAL LIBRARY TELECOMMUNICATIONS AID.] For aid to regional public library systems under Minnesota Statutes, section 134.47:

<u>\$2,000,000</u>	<u>-----</u>	<u>2002</u>
<u>\$2,000,000</u>	<u>-----</u>	<u>2003</u>

The general fund base for fiscal years 2004 and 2005 is \$2,000,000 in each year.

Any balance in the first year does not cancel but is available in the second year.

Sec. 5. [REPEALER.]

(a) Minnesota Statutes 2000, section 125B.20, subdivision 3, is repealed.

(b) Minnesota Rules, parts 3530.2610; 3530.2612; 3530.2614; 3530.2616; 3530.2618; 3530.2620; 3530.2622; 3530.2624; 3530.2626; 3530.2628; 3530.2630; 3530.2632; 3530.2634; 3530.2636; 3530.2638; 3530.2640; 3530.2642; and 3530.2644, are repealed."

Delete the title and insert:

"A bill for an act relating to education; providing for family and early childhood education; modifying Head Start program; consolidating child care assistance programs; modifying early childhood screening, early childhood family education, and school readiness programs; directing allocation of federal child care development funds; consolidating certain advisory councils; establishing youth after-school enrichment program; modifying adult basic education program; requiring a report; making various clarifying and technical changes; appropriating money; amending Minnesota Statutes 2000, sections 119A.12, by adding subdivisions; 119A.13, subdivision 4; 119A.21; 119A.22; 119A.51, by adding a subdivision; 119A.52; 119A.53; 119B.011, subdivisions 5, 7, 11, 12, 15, 18, 19, by adding subdivisions; 119B.02, subdivisions 1, 2, 3, by adding subdivisions; 119B.061, subdivisions 1, 2, 4, 5; 121A.17, subdivision 1; 124D.13, by adding a subdivision; 124D.135, by adding subdivisions; 124D.15, by adding a subdivision; 124D.16, subdivision 2, by adding subdivisions; 124D.19, by adding subdivisions; 124D.20, subdivisions 1, 5, by adding a subdivision; 124D.221, subdivisions 1, 2, by adding a subdivision; 124D.518, subdivision 5; 124D.52, subdivision 2; 124D.522; 124D.531, subdivisions 1, 3, 7; 125A.28; 125B.20, subdivision 1; 134.31, subdivision 5; proposing coding for new law in Minnesota Statutes, chapters 119A; 119B; 134; repealing Minnesota Statutes 2000, sections 119A.13, subdivisions 1, 2, 3; 119A.14, subdivision 2; 119A.23; 119B.011, subdivision 20; 119B.03; 119B.04; 119B.05; 119B.06; 119B.07; 119B.08; 119B.09; 119B.10; 119B.11; 119B.12; 119B.13; 119B.14; 119B.15; 119B.16; 124D.16, subdivision 4; 124D.33; 124D.331; 125B.20, subdivision 3; Minnesota Rules, parts 3530.2610; 3530.2612; 3530.2614; 3530.2616; 3530.2618; 3530.2620; 3530.2622; 3530.2624; 3530.2626; 3530.2628; 3530.2630; 3530.2632; 3530.2634; 3530.2636; 3530.2638; 3530.2640; 3530.2642; 3530.2644."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Taxes.

The report was adopted.

Goodno from the Committee on Health and Human Services Finance to which was referred:

H. F. No. 1832, A bill for an act relating to human services; modifying MFIP provisions; modifying sanctions and program eligibility requirements for noncompliant MFIP recipients; establishing hardship extensions; amending Minnesota Statutes 2000, sections 256J.09, subdivisions 2, 3; 256J.15, by adding a subdivision; 256J.24, subdivision 10; 256J.26, subdivision 1; 256J.31, subdivision 4; 256J.42, by adding a subdivision; 256J.44, subdivision 1; 256J.46, subdivisions 1, 2a, by adding a subdivision; 256J.50, subdivisions 1, 7; 256J.56; 256J.57, subdivision 2; 256J.62, subdivision 9; 256J.625, subdivisions 1, 2, 4; 256J.751; proposing coding for new law in Minnesota Statutes, chapter 256J; repealing Minnesota Statutes 2000, sections 256J.42, subdivision 4; 256J.46, subdivision 1a.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"ARTICLE 1

HEALTH DEPARTMENT

Section 1. Minnesota Statutes 2000, section 103I.101, subdivision 6, is amended to read:

Subd. 6. [FEES FOR VARIANCES.] The commissioner shall charge a nonrefundable application fee of ~~\$120~~ \$150 to cover the administrative cost of processing a request for a variance or modification of rules adopted by the commissioner under this chapter.

Sec. 2. Minnesota Statutes 2000, section 103I.112, is amended to read:

103I.112 [FEE EXEMPTIONS FOR STATE AND LOCAL GOVERNMENT.]

(a) The commissioner of health may not charge fees required under this chapter to a federal agency, state agency, or a local unit of government or to a subcontractor performing work for the state agency or local unit of government.

(b) "Local unit of government" means a statutory or home rule charter city, town, county, or soil and water conservation district, watershed district, an organization formed for the joint exercise of powers under section 471.59, a board of health or community health board, or other special purpose district or authority with local jurisdiction in water and related land resources management.

Sec. 3. Minnesota Statutes 2000, section 103I.208, subdivision 1, is amended to read:

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

(1) for a new well, ~~\$120~~ \$150, which includes the state core function fee;

(2) for a well sealing, ~~\$20~~ \$30 for each well, which includes the state core function fee, except that for monitoring wells constructed on a single property, having depths within a 25 foot range, and sealed within 48 hours of start of construction, a single fee of ~~\$20~~ \$30; and

(3) for construction of a dewatering well, ~~\$120~~ \$150, which includes the state core function fee, for each well except a dewatering project comprising five or more wells shall be assessed a single fee of ~~\$600~~ \$750 for the wells recorded on the notification.

Sec. 4. Minnesota Statutes 2000, section 103I.208, subdivision 2, is amended to read:

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

- (1) for a well that is not in use under a maintenance permit, ~~\$100~~ \$125 annually;
- (2) for construction of a monitoring well, ~~\$120~~ \$150, which includes the state core function fee;
- (3) for a monitoring well that is unsealed under a maintenance permit, ~~\$100~~ \$125 annually;
- (4) for monitoring wells used as a leak detection device at a single motor fuel retail outlet, a single petroleum bulk storage site excluding tank farms, or a single agricultural chemical facility site, the construction permit fee is ~~\$120~~ \$150, which includes the state core function fee, per site regardless of the number of wells constructed on the site, and the annual fee for a maintenance permit for unsealed monitoring wells is ~~\$100~~ \$125 per site regardless of the number of monitoring wells located on site;
- (5) for a groundwater thermal exchange device, in addition to the notification fee for wells, ~~\$120~~ \$150, which includes the state core function fee;
- (6) for a vertical heat exchanger, ~~\$120~~ \$150;
- (7) for a dewatering well that is unsealed under a maintenance permit, ~~\$100~~ \$125 annually for each well, except a dewatering project comprising more than five wells shall be issued a single permit for ~~\$500~~ \$625 annually for wells recorded on the permit; and
- (8) for excavating holes for the purpose of installing elevator shafts, ~~\$120~~ \$150 for each hole.

Sec. 5. Minnesota Statutes 2000, section 103I.235, subdivision 1, is amended to read:

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

(b) At the time of closing of the sale, the disclosure statement information, name and mailing address of the buyer, and the quartile, section, township, and range in which each well is located must be provided on a well disclosure certificate signed by the seller or a person authorized to act on behalf of the seller.

(c) A well disclosure certificate need not be provided if the seller does not know of any wells on the property and the deed or other instrument of conveyance contains the statement: "The Seller certifies that the Seller does not know of any wells on the described real property."

(d) If a deed is given pursuant to a contract for deed, the well disclosure certificate required by this subdivision shall be signed by the buyer or a person authorized to act on behalf of the buyer. If the buyer knows of no wells on the property, a well disclosure certificate is not required if the following statement appears on the deed followed by the signature of the grantee or, if there is more than one grantee, the signature of at least one of the grantees: "The Grantee certifies that the Grantee does not know of any wells on the described real property." The statement and signature of the grantee may be on the front or back of the deed or on an attached sheet and an acknowledgment of the statement by the grantee is not required for the deed to be recordable.

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

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

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

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

(g) For real property sold by the state under section 92.67, the lessee at the time of the sale is responsible for compliance with this subdivision.

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

(i) A county recorder or registrar of titles may not record a deed or other instrument of conveyance dated after October 31, 1990, for which a certificate of value is required under section 272.115, or any deed or other instrument of conveyance dated after October 31, 1990, from a governmental body exempt from the payment of state deed tax, unless the deed or other instrument of conveyance contains the statement made in accordance with paragraph (c) or (d) or is accompanied by the well disclosure certificate containing all the information required by paragraph (b) or (d). The county recorder or registrar of titles must not accept a certificate unless it contains all the required information. The county recorder or registrar of titles shall note on each deed or other instrument of conveyance accompanied by a well disclosure certificate that the well disclosure certificate was received. The notation must include the statement "No wells on property" if the disclosure certificate states there are no wells on the property. The well disclosure certificate shall not be filed or recorded in the records maintained by the county recorder or registrar of titles. After noting "No wells on property" on the deed or other instrument of conveyance, the county recorder or registrar of titles shall destroy or return to the buyer the well disclosure certificate. The county recorder or registrar of titles shall collect from the buyer or the person seeking to record a deed or other instrument of conveyance, a fee of ~~\$20~~ \$30 for receipt of a completed well disclosure certificate. By the tenth day of each month, the county recorder or registrar of titles shall transmit the well disclosure certificates to the commissioner of health. By the tenth day after the end of each calendar quarter, the county recorder or registrar of titles shall transmit to the commissioner of health ~~\$17.50~~ \$27.50 of the fee for each well disclosure certificate received during the quarter. The commissioner shall maintain the well disclosure certificate for at least six years. The commissioner may store the certificate as an electronic image. A copy of that image shall be as valid as the original.

(j) No new well disclosure certificate is required under this subdivision if the buyer or seller, or a person authorized to act on behalf of the buyer or seller, certifies on the deed or other instrument of conveyance that the status and number of wells on the property have not changed since the last previously filed well disclosure certificate. The following statement, if followed by the signature of the person making the statement, is sufficient to comply with the certification requirement of this paragraph: "I am familiar with the property described in this instrument and I certify that the status and number of wells on the described real property have not changed since the last previously filed well disclosure certificate." The certification and signature may be on the front or back of the deed or on an attached sheet and an acknowledgment of the statement is not required for the deed or other instrument of conveyance to be recordable.

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

(l) Failure to comply with a requirement of this subdivision does not impair:

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

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

Sec. 6. Minnesota Statutes 2000, section 103I.525, subdivision 2, is amended to read:

Subd. 2. [APPLICATION FEE.] The application fee for a well contractor's license is ~~\$50~~ \$75. The commissioner may not act on an application until the application fee is paid.

Sec. 7. Minnesota Statutes 2000, section 103I.525, subdivision 6, is amended to read:

Subd. 6. [LICENSE FEE.] The fee for a well contractor's license is \$250, except the fee for an individual well contractor's license is ~~\$50~~ \$75.

Sec. 8. Minnesota Statutes 2000, section 103I.525, subdivision 8, is amended to read:

Subd. 8. [RENEWAL.] (a) A licensee must file an application and a renewal application fee to renew the license by the date stated in the license.

(b) The renewal application fee ~~shall be set by the commissioner under section 16A.1285~~ for a well contractor's license is \$250.

(c) The renewal application must include information that the applicant has met continuing education requirements established by the commissioner by rule.

(d) At the time of the renewal, the commissioner must have on file all properly completed well reports, well sealing reports, reports of excavations to construct elevator shafts, well permits, and well notifications for work conducted by the licensee since the last license renewal.

Sec. 9. Minnesota Statutes 2000, section 103I.525, subdivision 9, is amended to read:

Subd. 9. [INCOMPLETE OR LATE RENEWAL.] If a licensee fails to submit all information required for renewal in subdivision 8 or submits the application and information after the required renewal date:

(1) the licensee must include ~~an additional a late fee set by the commissioner of \$75~~; and

(2) the licensee may not conduct activities authorized by the well contractor's license until the renewal application, renewal application fee, late fee, and all other information required in subdivision 8 are submitted.

Sec. 10. Minnesota Statutes 2000, section 103I.531, subdivision 2, is amended to read:

Subd. 2. [APPLICATION FEE.] The application fee for a limited well/boring contractor's license is ~~\$50~~ \$75. The commissioner may not act on an application until the application fee is paid.

Sec. 11. Minnesota Statutes 2000, section 103I.531, subdivision 6, is amended to read:

Subd. 6. [LICENSE FEE.] The fee for a limited well/boring contractor's license is ~~\$50~~ \$75.

Sec. 12. Minnesota Statutes 2000, section 103I.531, subdivision 8, is amended to read:

Subd. 8. [RENEWAL.] (a) A person must file an application and a renewal application fee to renew the limited well/boring contractor's license by the date stated in the license.

(b) The renewal application fee ~~shall be set by the commissioner under section 16A.1285 for a limited well/boring contractor's license is \$75.~~

(c) The renewal application must include information that the applicant has met continuing education requirements established by the commissioner by rule.

(d) At the time of the renewal, the commissioner must have on file all properly completed well sealing reports, well permits, vertical heat exchanger permits, and well notifications for work conducted by the licensee since the last license renewal.

Sec. 13. Minnesota Statutes 2000, section 103I.531, subdivision 9, is amended to read:

Subd. 9. [INCOMPLETE OR LATE RENEWAL.] If a licensee fails to submit all information required for renewal in subdivision 8 or submits the application and information after the required renewal date:

(1) the licensee must include ~~an additional~~ a late fee ~~set by the commissioner~~ of \$75; and

(2) the licensee may not conduct activities authorized by the limited well/boring contractor's license until the renewal application, renewal application fee, and late fee, and all other information required in subdivision 8 are submitted.

Sec. 14. Minnesota Statutes 2000, section 103I.535, subdivision 2, is amended to read:

Subd. 2. [APPLICATION FEE.] The application fee for an elevator shaft contractor's license is ~~\$50~~ \$75. The commissioner may not act on an application until the application fee is paid.

Sec. 15. Minnesota Statutes 2000, section 103I.535, subdivision 6, is amended to read:

Subd. 6. [LICENSE FEE.] The fee for an elevator shaft contractor's license is ~~\$50~~ \$75.

Sec. 16. Minnesota Statutes 2000, section 103I.535, subdivision 8, is amended to read:

Subd. 8. [RENEWAL.] (a) A person must file an application and a renewal application fee to renew the license by the date stated in the license.

(b) The renewal application fee ~~shall be set by the commissioner under section 16A.1285 for an elevator shaft contractor's license is \$75.~~

(c) The renewal application must include information that the applicant has met continuing education requirements established by the commissioner by rule.

(d) At the time of renewal, the commissioner must have on file all reports and permits for elevator shaft work conducted by the licensee since the last license renewal.

Sec. 17. Minnesota Statutes 2000, section 103I.535, subdivision 9, is amended to read:

Subd. 9. [INCOMPLETE OR LATE RENEWAL.] If a licensee fails to submit all information required for renewal in subdivision 8 or submits the application and information after the required renewal date:

(1) the licensee must include ~~an additional~~ a late fee ~~set by the commissioner~~ of \$75; and

(2) the licensee may not conduct activities authorized by the elevator shaft contractor's license until the renewal application, renewal application fee, and late fee, and all other information required in subdivision 8 are submitted.

Sec. 18. Minnesota Statutes 2000, section 103I.541, subdivision 2b, is amended to read:

Subd. 2b. [APPLICATION FEE.] The application fee for a monitoring well contractor registration is ~~\$50~~ \$75. The commissioner may not act on an application until the application fee is paid.

Sec. 19. Minnesota Statutes 2000, section 103I.541, subdivision 4, is amended to read:

Subd. 4. [RENEWAL.] (a) A person must file an application and a renewal application fee to renew the registration by the date stated in the registration.

(b) The renewal application fee ~~shall be set by the commissioner under section 16A.1285~~ for a monitoring well contractor's registration is \$75.

(c) The renewal application must include information that the applicant has met continuing education requirements established by the commissioner by rule.

(d) At the time of the renewal, the commissioner must have on file all well reports, well sealing reports, well permits, and notifications for work conducted by the registered person since the last registration renewal.

Sec. 20. Minnesota Statutes 2000, section 103I.541, subdivision 5, is amended to read:

Subd. 5. [INCOMPLETE OR LATE RENEWAL.] If a registered person submits a renewal application after the required renewal date:

(1) the registered person must include ~~an additional~~ a late fee set by the commissioner of \$75; and

(2) the registered person may not conduct activities authorized by the monitoring well contractor's registration until the renewal application, renewal application fee, late fee, and all other information required in subdivision 4 are submitted.

Sec. 21. Minnesota Statutes 2000, section 103I.545, is amended to read:

103I.545 [REGISTRATION OF DRILLING MACHINES REQUIRED.]

Subdivision 1. [DRILLING MACHINE.] (a) A person may not use a drilling machine such as a cable tool, rotary tool, hollow rod tool, or auger for a drilling activity requiring a license or registration under this chapter unless the drilling machine is registered with the commissioner.

(b) A person must apply for the registration on forms prescribed by the commissioner and submit a ~~\$50~~ \$75 registration fee.

(c) A registration is valid for one year.

Subd. 2. [PUMP HOIST.] (a) A person may not use a machine such as a pump hoist for an activity requiring a license or registration under this chapter to repair wells or borings, seal wells or borings, or install pumps unless the machine is registered with the commissioner.

(b) A person must apply for the registration on forms prescribed by the commissioner and submit a ~~\$50~~ \$75 registration fee.

(c) A registration is valid for one year.

[EFFECTIVE DATE.] This section is effective July 1, 2002.

Sec. 22. Minnesota Statutes 2000, section 121A.15, subdivision 6, is amended to read:

Subd. 6. [SUSPENSION OF IMMUNIZATION REQUIREMENT; MODIFICATION TO SCHEDULE.] (a) The commissioner of health, on finding that an immunization required pursuant to this section is not necessary to protect the public's health, may suspend for one year the requirement that children receive that immunization.

(b) During portions of the year in which the legislature is not meeting in regular or special session, the commissioner of health may modify the immunization requirements of this section. A modification made under this paragraph must be part of the current immunization recommendations of each of the following organizations: the United States Public Health Service's Advisory Committee on Immunization Practices, the American Academy of Family Physicians, and the American Academy of Pediatrics. The commissioner shall modify the immunization requirements through rulemaking using the expedited process in section 14.389. A rule adopted under this paragraph shall be in effect until the adjournment of the next regular legislative session held after the rule is adopted. The commissioner shall report to the legislature on any rules adopted under this paragraph during the previous calendar year. Such reports are due by January 15 of the year following the calendar year in which the rule is adopted, except that if a rule is adopted in January, a report on that rule is due by February 15 of that year.

Sec. 23. Minnesota Statutes 2000, section 135A.14, is amended by adding a subdivision to read:

Subd. 7. [MODIFICATIONS TO SCHEDULE.] During portions of the year in which the legislature is not meeting in regular or special session, the commissioner of health may modify the immunization requirements of this section. A modification made under this subdivision must be part of the current immunization recommendations of each of the following organizations: the United States Public Health Service's Advisory Committee on Immunization Practices, the American Academy of Family Physicians, and the American Academy of Pediatrics. The commissioner shall modify the immunization requirements through rulemaking using the expedited process in section 14.389. A rule adopted under this subdivision shall be in effect until the adjournment of the next regular legislative session held after the rule is adopted. The commissioner shall report to the legislature on any rules adopted under this subdivision during the previous calendar year. Such reports are due by January 15 of the year following the calendar year in which the rule is adopted, except that if a rule is adopted in January, a report on that rule is due by February 15 of that year.

Sec. 24. Minnesota Statutes 2000, section 144.1202, subdivision 4, is amended to read:

Subd. 4. [AGREEMENT; CONDITIONS OF IMPLEMENTATION.] (a) An agreement entered into before August 2, ~~2002~~ 2003, must remain in effect until terminated under the Atomic Energy Act of 1954, United States Code, title 42, section 2021, paragraph (j). The governor may not enter into an initial agreement with the Nuclear Regulatory Commission after August 1, ~~2002~~ 2003. If an agreement is not entered into by August 1, ~~2002~~ 2003, any rules adopted under this section are repealed effective August 1, ~~2002~~ 2003.

(b) An agreement authorized under subdivision 1 must be approved by law before it may be implemented.

Sec. 25. [144.1205] [RADIOACTIVE MATERIAL; SOURCE AND SPECIAL NUCLEAR MATERIAL; FEES; INSPECTION.]

Subdivision 1. [APPLICATION AND LICENSE RENEWAL FEE.] When a license is required for radioactive material or source or special nuclear material by a rule adopted under section 144.1202, subdivision 2, an application fee according to subdivision 4 must be paid upon initial application for a license. The licensee must renew the license 60 days before the expiration date of the license by paying a license renewal fee equal to the application fee under subdivision 4. The expiration date of a license is the date set by the United States Nuclear Regulatory Commission before transfer of the licensing program under section 144.1202 and thereafter as specified by rule of the commissioner of health.

Subd. 2. [ANNUAL FEE.] A licensee must pay an annual fee at least 60 days before the anniversary date of the issuance of the license. The annual fee is an amount equal to 80 percent of the application fee under subdivision 4, rounded to the nearest whole dollar.

Subd. 3. [FEE CATEGORIES; INCORPORATION OF FEDERAL LICENSING CATEGORIES.] (a) Fee categories under this section are equivalent to the licensing categories used by the United States Nuclear Regulatory Commission under Code of Federal Regulations, title 10, parts 30 to 36, 39, 40, 70, 71, and 150, except as provided in paragraph (b).

(b) The category of "Academic, small" is the type of license required for the use of radioactive materials in a teaching institution. Radioactive materials are limited to ten radionuclides not to exceed a total activity amount of one curie.

Subd. 4. [APPLICATION FEE.] A licensee must pay an application fee as follows:

<u>Radioactive material, source and special material</u>	<u>Application fee</u>	<u>U.S. Nuclear Regulatory Commission licensing category as reference</u>
<u>Type A broadscope</u>	<u>\$20,000</u>	<u>Medical institution type A</u>
<u>Type B broadscope</u>	<u>\$15,000</u>	<u>Research and development type B</u>
<u>Type C broadscope</u>	<u>\$10,000</u>	<u>Academic type C</u>
<u>Medical use</u>	<u>\$4,000</u>	<u>Medical Medical institution Medical private practice</u>
<u>Mobile nuclear medical laboratory</u>	<u>\$4,000</u>	<u>Mobile medical laboratory</u>
<u>Medical special use sealed sources</u>	<u>\$6,000</u>	<u>Teletherapy High dose rate remote afterloaders Stereotactic radiosurgery devices</u>
<u>In vitro testing</u>	<u>\$2,300</u>	<u>In vitro testing laboratories</u>
<u>Measuring gauge, sealed sources</u>	<u>\$2,000</u>	<u>Fixed gauges Portable gauges Analytical instruments Measuring systems - other</u>
<u>Gas chromatographs</u>	<u>\$1,200</u>	<u>Gas chromatographs</u>
<u>Manufacturing and distribution</u>	<u>\$14,700</u>	<u>Manufacturing and distribution - other</u>
<u>Distribution only</u>	<u>\$8,800</u>	<u>Distribution of radioactive material for commercial use only</u>
<u>Other services</u>	<u>\$1,500</u>	<u>Other services</u>
<u>Nuclear medicine pharmacy</u>	<u>\$4,100</u>	<u>Nuclear pharmacy</u>
<u>Waste disposal</u>	<u>\$9,400</u>	<u>Waste disposal service prepackage Waste disposal service processing/repackage</u>

<u>Waste storage only</u>	<u>\$7,000</u>	<u>To receive and store radioactive material waste</u>
<u>Industrial radiography</u>	<u>\$8,400</u>	<u>Industrial radiography fixed location</u> <u>Industrial radiography portable/temporary sites</u>
<u>Irradiator - self-shielded</u>	<u>\$4,100</u>	<u>Irradiators self-shielded less than 10,000 curies</u>
<u>Irradiator - less than 10,000 Ci</u>	<u>\$7,500</u>	<u>Irradiators less than 10,000 curies</u>
<u>Irradiator - more than 10,000 Ci</u>	<u>\$11,500</u>	<u>Irradiators greater than 10,000 curies</u>
<u>Research and development, no distribution</u>	<u>\$4,100</u>	<u>Research and development</u>
<u>Radioactive material possession only</u>	<u>\$1,000</u>	<u>By-product possession only</u>
<u>Source material</u>	<u>\$1,000</u>	<u>Source material shielding</u>
<u>Special nuclear material, less than 200 grams</u>	<u>\$1,000</u>	<u>Special nuclear material plutonium-neutron sources less than 200 grams</u>
<u>Pacemaker manufacturing</u>	<u>\$1,000</u>	<u>Pacemaker by-product and/or special nuclear material - medical institution</u>
<u>General license distribution</u>	<u>\$2,100</u>	<u>General license distribution</u>
<u>General license distribution, exempt</u>	<u>\$1,500</u>	<u>General license distribution - certain exempt items</u>
<u>Academic, small</u>	<u>\$1,000</u>	<u>Possession limit of ten radionuclides, not to exceed a total of one curie of activity</u>
<u>Veterinary</u>	<u>\$2,000</u>	<u>Veterinary use</u>
<u>Well logging</u>	<u>\$5,000</u>	<u>Well logging</u>

Subd. 5. [PENALTY FOR LATE PAYMENT.] An annual fee or a license renewal fee submitted to the commissioner after the due date specified by rule must be accompanied by an additional amount equal to 25 percent of the fee due.

Subd. 6. [INSPECTIONS.] The commissioner of health shall make periodic safety inspections of the radioactive material and source and special nuclear material of a licensee. The commissioner shall prescribe the frequency of safety inspections by rule.

Subd. 7. [RECOVERY OF REINSPECTION COST.] If the commissioner finds serious violations of public health standards during an inspection under subdivision 6, the licensee must pay all costs associated with subsequent reinspection of the source. The costs shall be the actual costs incurred by the commissioner and include, but are not limited to, labor, transportation, per diem, materials, legal fees, testing, and monitoring costs.

Subd. 8. [RECIPROCITY FEE.] A licensee submitting an application for reciprocal recognition of a materials license issued by another agreement state or the United States Nuclear Regulatory Commission for a period of 180 days or less during a calendar year must pay one-half of the application fee specified under subdivision 4. For a period of 181 days or more, the licensee must pay the entire application fee under subdivision 4.

Subd. 9. [FEES FOR LICENSE AMENDMENTS.] A licensee must pay a fee to amend a license as follows:

(1) to amend a license requiring no license review including, but not limited to, facility name change or removal of a previously authorized user, no fee;

(2) to amend a license requiring review including, but not limited to, addition of isotopes, procedure changes, new authorized users, or a new radiation safety officer, \$200; and

(3) to amend a license requiring review and a site visit including, but not limited to, facility move or addition of processes, \$400.

[EFFECTIVE DATE.] This section is effective July 1, 2002.

Sec. 26. Minnesota Statutes 2000, section 144.122, is amended to read:

144.122 [LICENSE, PERMIT, AND SURVEY FEES.]

(a) The state commissioner of health, by rule, may prescribe reasonable procedures and fees for filing with the commissioner as prescribed by statute and for the issuance of original and renewal permits, licenses, registrations, and certifications issued under authority of the commissioner. The expiration dates of the various licenses, permits, registrations, and certifications as prescribed by the rules shall be plainly marked thereon. Fees may include application and examination fees and a penalty fee for renewal applications submitted after the expiration date of the previously issued permit, license, registration, and certification. The commissioner may also prescribe, by rule, reduced fees for permits, licenses, registrations, and certifications when the application therefor is submitted during the last three months of the permit, license, registration, or certification period. Fees proposed to be prescribed in the rules shall be first approved by the department of finance. All fees proposed to be prescribed in rules shall be reasonable. The fees shall be in an amount so that the total fees collected by the commissioner will, where practical, approximate the cost to the commissioner in administering the program. All fees collected shall be deposited in the state treasury and credited to the state government special revenue fund unless otherwise specifically appropriated by law for specific purposes.

(b) The commissioner may charge a fee for voluntary certification of medical laboratories and environmental laboratories, and for environmental and medical laboratory services provided by the department, without complying with paragraph (a) or chapter 14. Fees charged for environment and medical laboratory services provided by the department must be approximately equal to the costs of providing the services.

(c) The commissioner may develop a schedule of fees for diagnostic evaluations conducted at clinics held by the services for children with handicaps program. All receipts generated by the program are annually appropriated to the commissioner for use in the maternal and child health program.

(d) The commissioner, ~~for fiscal years 1996 and beyond~~, shall set license fees for hospitals and nursing homes that are not boarding care homes at the following levels:

Joint Commission on Accreditation of Healthcare	
Organizations (JCAHO hospitals)	\$1,017 <u>\$7,055</u>
Non-JCAHO hospitals	\$762 plus \$34 per bed <u>\$4,680 plus \$234 per bed</u>
Nursing home	\$78 plus \$19 per bed <u>\$183 plus \$91 per bed</u>

~~For fiscal years 1996 and beyond~~, The commissioner shall set license fees for outpatient surgical centers, boarding care homes, and supervised living facilities at the following levels:

Outpatient surgical centers	\$517 <u>\$1,512</u>
Boarding care homes	\$78 plus \$19 per bed <u>\$183 plus \$91 per bed</u>
Supervised living facilities	\$78 plus \$19 per bed <u>\$183 plus \$91 per bed.</u>

(e) Unless prohibited by federal law, the commissioner of health shall charge applicants the following fees to cover the cost of any initial certification surveys required to determine a provider's eligibility to participate in the Medicare or Medicaid program:

Prospective payment surveys for hospitals	\$ 900
Swing bed surveys for nursing homes	\$1,200
Psychiatric hospitals	\$1,400
Rural health facilities	\$1,100
Portable X-ray providers	\$ 500
Home health agencies	\$1,800
Outpatient therapy agencies	\$ 800
End stage renal dialysis providers	\$2,100
Independent therapists	\$ 800
Comprehensive rehabilitation outpatient facilities	\$1,200
Hospice providers	\$1,700
Ambulatory surgical providers	\$1,800
Hospitals	\$4,200
Other provider categories or additional resurveys required to complete initial certification	Actual surveyor costs: average surveyor cost x number of hours for the survey process.

These fees shall be submitted at the time of the application for federal certification and shall not be refunded. All fees collected after the date that the imposition of fees is not prohibited by federal law shall be deposited in the state treasury and credited to the state government special revenue fund.

Sec. 27. Minnesota Statutes 2000, section 144.226, subdivision 4, is amended to read:

Subd. 4. [VITAL RECORDS SURCHARGE.] In addition to any fee prescribed under subdivision 1, there is a nonrefundable surcharge of ~~\$3~~ \$2 for each certified and noncertified birth or death record, and for a certification that the record cannot be found. The local or state registrar shall forward this amount to the state treasurer to be deposited into the state government special revenue fund. This surcharge shall not be charged under those circumstances in which no fee for a birth or death record is permitted under subdivision 1, paragraph (a). ~~This surcharge requirement expires June 30, 2002.~~

Sec. 28. [144.585] [HOSPITAL CHARITY CARE AID.]

Subdivision 1. [PURPOSE.] The purpose of charity care aid is to help offset excess charity care burdens at Minnesota acute care, short-term hospitals.

Subd. 2. [DEFINITIONS.] (a) For purposes of this section, the terms in this subdivision have the meanings given to them.

(b) "Charity care" is the dollar amount of charity care adjustments as determined under subdivision 3.

(c) "Cost-to-charge ratio" means a hospital's total operating expenses over the sum of gross patient revenue and other operating revenue, as reported to the commissioner of health under rules adopted under sections 144.695 to 144.703. The commissioner shall use the most recently available data to calculate the cost-to-charge ratio.

Subd. 3. [CHARITY CARE REPORTING.] (a) For a hospital to report amounts as charity care adjustments, the hospital:

(1) must generate and record a charge;

(2) have a policy on the provision of charity care and must communicate the policy to the public;

(3) have made a reasonable effort to identify a third party payer, encourage the patient to enroll in public programs, and should, to the extent possible, aid the patient in the enrollment process; and

(4) ensure that the patient meets the charity care criteria of this subdivision, which must be consistent with statewide income standards set out in paragraph (c).

(b) In determining whether to classify care as charity care, the hospital must consider the following:

(1) charity care may include services which the provider is obligated to render independently of the ability to collect;

(2) charity care may include care provided to low-income patients who meet the charity care income standards under paragraph (c) and have partial coverage, but are unable to pay the remainder of their medical bills. This does not apply to that portion of the bill which has been determined to be the patient's responsibility after a partial charity care classification;

(3) charity care may include care provided to low-income patients who may qualify for a public health insurance program and meet the statewide eligibility criteria for charity care, but who do not complete the application process for public insurance despite the facility's best efforts;

(4) charity care may include care to individuals whose eligibility for charity care was determined through third party services employed by the hospital for information gathering purposes only;

(5) charity care may not include contractual allowances, which is the difference between gross charges and payments received under contractual arrangements with insurance companies and payers;

(6) charity care may not include bad debt;

(7) charity care may not include what may be perceived as underpayments for operating public programs;

(8) charity care may not include cases which are paid through a charitable contribution through a third party or facility-related foundation;

(9) charity care may not include unreimbursed costs of basic or clinical research and of professional education and training;

(10) charity care may not include professional courtesy discounts;

(11) charity care may not include community service or outreach activities; and

(12) charity care may not include services for patients against whom collection actions were taken which result in a credit report.

(c) The hospital must use the income standards in this paragraph for determining charity care eligibility for reporting purposes. The hospital does not need to make a patient asset determination in order to apply charity care income standards.

(1) Care to a patient with a family income at or below 150 percent of the Federal Poverty Guideline (FPG) may be reported as full charity care or free care.

(2) The hospital's share of discounted charges for care to a patient with family income below 275 percent of the FPG qualifies for classification as charity care. The following sliding fee schedules apply:

<u>income as % of FPG</u>	<u>charges paid by patient</u>	<u>corresponding charity care</u>
<u>151-200%</u>	<u>20%</u>	<u>80%</u>
<u>201-225%</u>	<u>40%</u>	<u>60%</u>
<u>226-250%</u>	<u>60%</u>	<u>40%</u>
<u>251-275%</u>	<u>80%</u>	<u>20%</u>

(3) Care to a patient is considered medical hardship when qualified medical expenses, as defined for the purposes of federal income tax deductibility, exceeds 30 percent of family income. Qualified medical expenses may be counted as charity care in the amount that exceeds 30 percent of family income. This clause applies even if the patient's family income exceeds the charity care income standards in clauses (1) and (2).

Subd. 4. [APPLICATION.] To be eligible for funds under this section, hospitals must submit an application to the commissioner of health by the deadline established by the commissioner. Applications must meet the criteria as established by the commissioner, but must contain:

(1) the dollar amount of charity care in the previous year, as defined in subdivision 3, paragraphs (b) and (c);

(2) a list with the most common diagnoses for which charity care is provided; and

(3) descriptive aggregate statistics of the characteristics of patients who receive charity care.

Subd. 5. [ALLOCATION OF FUNDS.] A hospital's share of the available charity care aid is equal to that hospital's share of charity care relative to the total charity care provided by applicants.

Sec. 29. Minnesota Statutes 2000, section 144.98, subdivision 3, is amended to read:

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

- (1) nonrefundable base certification fee, ~~\$500~~ \$1,200; and
- (2) test category certification fees:

Test Category	Certification Fee
<u>Clean water program</u> bacteriology	\$200 <u>\$600</u>
<u>Safe drinking water program</u> bacteriology	<u>\$600</u>
<u>Clean water program</u> inorganic chemistry; fewer than four constituents	\$100 <u>\$600</u>
<u>Safe drinking water program</u> inorganic chemistry; four or more constituents	\$300 <u>\$600</u>
<u>Clean water program</u> chemistry metals; fewer than four constituents	\$200 <u>\$800</u>
<u>Safe drinking water program</u> chemistry metals; four or more constituents	\$500 <u>\$800</u>
<u>Resource conservation and recovery program</u> <u>chemistry metals</u>	<u>\$800</u>
<u>Clean water program</u> volatile organic compounds	\$600 <u>\$1,200</u>
<u>Safe drinking water program</u> <u>volatile organic compounds</u>	<u>\$1,200</u>
<u>Resource conservation and recovery program</u> <u>volatile organic compounds</u>	<u>\$1,200</u>
<u>Underground storage tank program</u> <u>volatile organic compounds</u>	<u>\$1,200</u>
<u>Clean water program</u> other organic compounds	\$600 <u>\$1,200</u>
<u>Safe drinking water program</u> other organic compounds	<u>\$1,200</u>
<u>Resource conservation and recovery program</u> <u>other organic compounds</u>	<u>\$1,200</u>

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

(c) Laboratories located outside of this state that require an on-site survey will be assessed an additional ~~\$1,200~~ \$2,500 fee.

(d) Fees must be set so that the total fees support the laboratory certification program. Direct costs of the certification service include program administration, inspections, the agency's general support costs, and attorney general costs attributable to the fee function.

(e) A change fee shall be assessed if a laboratory requests additional analytes or methods at any time other than when applying for or renewing its certification. The change fee is equal to the test category certification fee for the analyte.

(f) A variance fee shall be assessed if a laboratory requests and is granted a variance from a rule adopted under this section. The variance fee is \$500 per variance.

(g) Refunds or credits shall not be made for analytes or methods requested but not approved.

(h) Certification of a laboratory shall not be awarded until all fees are paid.

Sec. 30. Minnesota Statutes 2000, section 144A.44, subdivision 1, is amended to read:

Subdivision 1. [STATEMENT OF RIGHTS.] A person who receives home care services has these rights:

(1) the right to receive written information about rights in advance of receiving care or during the initial evaluation visit before the initiation of treatment, including what to do if rights are violated;

(2) the right to receive care and services according to a suitable and up-to-date plan, and subject to accepted medical or nursing standards, to take an active part in creating and changing the plan and evaluating care and services;

(3) the right to be told in advance of receiving care about the services that will be provided, the disciplines that will furnish care, the frequency of visits proposed to be furnished, other choices that are available, and the consequences of these choices including the consequences of refusing these services;

(4) the right to be told in advance of any change in the plan of care and to take an active part in any change;

(5) the right to refuse services or treatment;

(6) the right to know, in advance, any limits to the services available from a provider, and the provider's grounds for a termination of services;

(7) the right to know in advance of receiving care whether the services are covered by health insurance, medical assistance, or other health programs, the charges for services that will not be covered by Medicare, and the charges that the individual may have to pay;

(8) the right to know what the charges are for services, no matter who will be paying the bill;

(9) the right to know that there may be other services available in the community, including other home care services and providers, and to know where to go for information about these services;

(10) the right to choose freely among available providers and to change providers after services have begun, within the limits of health insurance, medical assistance, or other health programs;

(11) the right to have personal, financial, and medical information kept private, and to be advised of the provider's policies and procedures regarding disclosure of such information;

(12) the right to be allowed access to records and written information from records in accordance with section 144.335;

(13) the right to be served by people who are properly trained and competent to perform their duties;

(14) the right to be treated with courtesy and respect, and to have the patient's property treated with respect;

(15) the right to be free from physical and verbal abuse;

(16) the right to reasonable, advance notice of changes in services or charges, including at least ten days' advance notice of the termination of a service by a provider, except in cases where:

(i) the recipient of services engages in conduct that alters the conditions of employment as specified in the employment contract between the home care provider and the individual providing home care services, or creates an abusive or unsafe work environment for the individual providing home care services; or

(ii) an emergency for the informal caregiver or a significant change in the recipient's condition has resulted in service needs that exceed the current service provider agreement and that cannot be safely met by the home care provider;

(17) the right to a coordinated transfer when there will be a change in the provider of services;

(18) the right to voice grievances regarding treatment or care that is, or fails to be, furnished, or regarding the lack of courtesy or respect to the patient or the patient's property;

(19) the right to know how to contact an individual associated with the provider who is responsible for handling problems and to have the provider investigate and attempt to resolve the grievance or complaint;

(20) the right to know the name and address of the state or county agency to contact for additional information or assistance; and

(21) the right to assert these rights personally, or have them asserted by the patient's family or guardian when the patient has been judged incompetent, without retaliation.

Sec. 31. [145.4241] [DEFINITIONS.]

Subdivision 1. [APPLICABILITY.] As used in sections 145.4241 to 145.4246, the following terms have the meaning given them.

Subd. 2. [ABORTION.] "Abortion" means the use or prescription of any instrument, medicine, drug, or any other substance or device to intentionally terminate the pregnancy of a female known to be pregnant, with an intention other than to increase the probability of a live birth, to preserve the life or health of the child after live birth, or to remove a dead fetus.

Subd. 3. [ATTEMPT TO PERFORM AN ABORTION.] "Attempt to perform an abortion" means an act, or an omission of a statutorily required act, that, under the circumstances as the actor believes them to be, constitutes a substantial step in a course of conduct planned to culminate in the performance of an abortion in Minnesota in violation of sections 145.4241 to 145.4246.

Subd. 4. [MEDICAL EMERGENCY.] "Medical emergency" means any condition that, on the basis of the physician's good faith clinical judgment, complicates the medical condition of a pregnant female to the extent that:

(1) an immediate abortion of her pregnancy is necessary to avert her death; or

(2) a 24-hour delay in performing an abortion creates a serious risk of substantial and irreversible impairment of a major bodily function.

Subd. 5. [PHYSICIAN.] "Physician" means a person licensed under chapter 147.

Subd. 6. [PROBABLE GESTATIONAL AGE OF THE UNBORN CHILD.] "Probable gestational age of the unborn child" means what will, in the judgment of the physician, with reasonable probability, be the gestational age of the unborn child at the time the abortion is planned to be performed.

Sec. 32. [145.4242] [INFORMED CONSENT.]

No abortion shall be performed in this state except with the voluntary and informed consent of the female upon whom the abortion is to be performed. Except in the case of a medical emergency, consent to an abortion is voluntary and informed only if:

(1) the female is told the following, by telephone or in person, by the physician who is to perform the abortion or by a referring physician, at least 24 hours before the abortion:

(i) the name of the physician who will perform the abortion;

(ii) the particular medical risks associated with the particular abortion procedure to be employed including, when medically accurate, the risks of infection, hemorrhage, breast cancer, danger to subsequent pregnancies, and infertility;

(iii) the probable gestational age of the unborn child at the time the abortion is to be performed; and

(iv) the medical risks associated with carrying her child to term.

The information required by this clause may be provided by telephone without conducting a physical examination or tests of the patient, in which case the information required to be provided may be based on facts supplied the physician by the female and whatever other relevant information is reasonably available to the physician. It may not be provided by a tape recording, but must be provided during a consultation in which the physician is able to ask questions of the female and the female is able to ask questions of the physician. If a physical examination, tests, or the availability of other information to the physician subsequently indicate, in the medical judgment of the physician, a revision of the information previously supplied to the patient, that revised information may be communicated to the patient at any time prior to the performance of the abortion. Nothing in this section may be construed to preclude provision of required information in a language understood by the patient through a translator;

(2) the female is informed, by telephone or in person, by the physician who is to perform the abortion, by a referring physician, or by an agent of either physician at least 24 hours before the abortion:

(i) that medical assistance benefits may be available for prenatal care, childbirth, and neonatal care;

(ii) that the father is liable to assist in the support of her child, even in instances when the father has offered to pay for the abortion; and

(iii) that she has the right to review the printed materials described in section 145.4243. The physician or the physician's agent shall orally inform the female that the materials have been provided by the state of Minnesota and that they describe the unborn child and list agencies that offer alternatives to abortion. If the female chooses to view the materials, they shall either be given to her at least 24 hours before the abortion or mailed to her at least 72 hours before the abortion by certified mail, restricted delivery to addressee, which means the postal employee can only deliver the mail to the addressee.

The information required by this clause may be provided by a tape recording if provision is made to record or otherwise register specifically whether the female does or does not choose to review the printed materials;

(3) the female certifies in writing, prior to the abortion, that the information described in this section has been furnished her, and that she has been informed of her opportunity to review the information referred to in clause (2); and

(4) prior to the performance of the abortion, the physician who is to perform the abortion or the physician's agent receives a copy of the written certification prescribed by clause (3).

Sec. 33. [145.4243] [PRINTED INFORMATION.]

(a) Within 90 days after the effective date of sections 145.4241 to 145.4246, the department of health shall cause to be published, in English and in each language that is the primary language of two percent or more of the state's population, the following printed materials in such a way as to ensure that the information is easily comprehensible:

(1) geographically indexed materials designed to inform the female of public and private agencies and services available to assist a female through pregnancy, upon childbirth, and while the child is dependent, including adoption agencies, which shall include a comprehensive list of the agencies available, a description of the services they offer, and a description of the manner, including telephone numbers, in which they might be contacted or, at the option of the department of health, printed materials including a toll-free, 24-hours-a-day telephone number that may be called to obtain, orally, such a list and description of agencies in the locality of the caller and of the services they offer; and

(2) materials designed to inform the female of the probable anatomical and physiological characteristics of the unborn child at two-week gestational increments from the time when a female can be known to be pregnant to full term, including any relevant information on the possibility of the unborn child's survival and pictures or drawings representing the development of unborn children at two-week gestational increments, provided that any such pictures or drawings must contain the dimensions of the fetus and must be realistic and appropriate for the stage of pregnancy depicted. The materials shall be objective, nonjudgmental, and designed to convey only accurate scientific information about the unborn child at the various gestational ages. The material shall also contain objective information describing the methods of abortion procedures commonly employed, the medical risks commonly associated with each procedure, the possible detrimental psychological effects of abortion, the medical risks commonly associated with each procedure, and the medical risks commonly associated with carrying a child to term.

(b) The materials referred to in this section must be printed in a typeface large enough to be clearly legible. The materials required under this section must be available at no cost from the department of health upon request and in appropriate number to any person, facility, or hospital.

Sec. 34. [145.4244] [PROCEDURE IN CASE OF MEDICAL EMERGENCY.]

When a medical emergency compels the performance of an abortion, the physician shall inform the female, prior to the abortion if possible, of the medical indications supporting the physician's judgment that an abortion is necessary to avert her death or that a 24-hour delay in conformance with section 145.4242 creates a serious risk of substantial and irreversible impairment of a major bodily function.

Sec. 35. [145.4245] [REMEDIES.]

Subdivision 1. [CIVIL REMEDIES.] Any person upon whom an abortion has been performed or the parent of a minor upon whom an abortion has been performed may maintain an action against the person who performed the abortion in knowing or reckless violation of sections 145.4241 to 145.4246 for actual and punitive damages. Any person upon whom an abortion has been attempted without complying with sections 145.4241 to 145.4246 may maintain an action against the person who attempted to perform the abortion in knowing or reckless violation of sections 145.4241 to 145.4246 for actual and punitive damages.

Subd. 2. [ATTORNEY FEES.] If judgment is rendered in favor of the plaintiff in any action described in this section, the court shall also render judgment for a reasonable attorney's fee in favor of the plaintiff against the defendant. If judgment is rendered in favor of the defendant and the court finds that the plaintiff's suit was frivolous and brought in bad faith, the court shall also render judgment for a reasonable attorney's fee in favor of the defendant against the plaintiff.

Subd. 3. [PROTECTION OF PRIVACY IN COURT PROCEEDINGS.] In every civil action brought under sections 145.4241 to 145.4246, the court shall rule whether the anonymity of any female upon whom an abortion has been performed or attempted shall be preserved from public disclosure if she does not give her consent to such

disclosure. The court, upon motion or sua sponte, shall make such a ruling and, upon determining that her anonymity should be preserved, shall issue orders to the parties, witnesses, and counsel and shall direct the sealing of the record and exclusion of individuals from courtrooms or hearing rooms to the extent necessary to safeguard her identity from public disclosure. Each order must be accompanied by specific written findings explaining why the anonymity of the female should be preserved from public disclosure, why the order is essential to that end, how the order is narrowly tailored to serve that interest, and why no reasonable, less restrictive alternative exists. In the absence of written consent of the female upon whom an abortion has been performed or attempted, anyone, other than a public official, who brings an action under subdivision 1, shall do so under a pseudonym. This section may not be construed to conceal the identity of the plaintiff or of witnesses from the defendant.

Sec. 36. [145.4246] [SEVERABILITY.]

If any one or more provision, section, subsection, sentence, clause, phrase, or word of sections 145.4241 to 145.4246 or the application thereof to any person or circumstance is found to be unconstitutional, the same is hereby declared to be severable and the balance of sections 145.4241 to 145.4246 shall remain effective notwithstanding such unconstitutionality. The legislature hereby declares that it would have passed sections 145.4241 to 145.4246, and each provision, section, subsection, sentence, clause, phrase, or word thereof, irrespective of the fact that any one or more provision, section, subsection, sentence, clause, phrase, or word be declared unconstitutional.

Sec. 37. Minnesota Statutes 2000, section 145.881, subdivision 2, is amended to read:

Subd. 2. [DUTIES.] The advisory task force shall meet on a regular basis to perform the following duties:

- (a) review and report on the health care needs of mothers and children throughout the state of Minnesota;
- (b) review and report on the type, frequency and impact of maternal and child health care services provided to mothers and children under existing maternal and child health care programs, including programs administered by the commissioner of health;
- (c) establish, review, and report to the commissioner a list of program guidelines and criteria which the advisory task force considers essential to providing an effective maternal and child health care program to low income populations and high risk persons and fulfilling the purposes defined in section 145.88;
- (d) review staff recommendations of the department of health regarding maternal and child health grant awards before the awards are made;
- (e) make recommendations to the commissioner for the use of other federal and state funds available to meet maternal and child health needs;
- (f) make recommendations to the commissioner of health on priorities for funding the following maternal and child health services: (1) prenatal, delivery and postpartum care, (2) comprehensive health care for children, especially from birth through five years of age, (3) adolescent health services, (4) family planning services, (5) preventive dental care, (6) special services for chronically ill and handicapped children and (7) any other services which promote the health of mothers and children; ~~and~~
- (g) make recommendations to the commissioner of health on the process to distribute, award and administer the maternal and child health block grant funds; and
- (h) review the measures that are used to define the variables of the funding distribution formula in section 145.882, subdivision 4a, every two years and make recommendations to the commissioner of health for changes based upon principles established by the advisory task force for this purpose.

Sec. 38. Minnesota Statutes 2000, section 145.882, is amended by adding a subdivision to read:

Subd. 4a. [ALLOCATION TO COMMUNITY HEALTH BOARDS.] (a) Federal maternal and child health block grant money remaining after distributions made under subdivision 2 and money appropriated for allocation to community health boards must be allocated according to paragraphs (b) to (d) to community health boards as defined in section 145A.02, subdivision 5.

(b) All community health boards must receive 95 percent of the funding awarded to them for the 1998-1999 funding cycle. If the amount of state and federal funding available is less than 95 percent of the amount awarded to community health boards for the 1998-1999 funding cycle, the available funding must be apportioned to reflect a proportional decrease for each recipient.

(c) The federal and state funding remaining after distributions made under paragraph (b) must be allocated to each community health board based on the following three variables:

(1) 25 percent based on the maternal and child population in the area served by the community health board;

(2) 50 percent based on the following factors, as determined by averaging the data available for the three most recent years:

(i) the proportion of infants in the area served by the community health board whose weight at birth was less than 2,500 grams;

(ii) the proportion of mothers in the area served by the community health board who received inadequate or no prenatal care;

(iii) the proportion of births in the area served by the community health board to women under age 19; and

(iv) the proportion of births in the area served by the community health board to American Indian women and women of color; and

(3) 25 percent based on the income of the maternal and child population in the area served by the community health board.

(d) Each variable must be expressed as a city or county score consisting of the city or county frequency of each variable in relation to the statewide frequency of the variable. A total score for each city or county jurisdiction must be computed by totaling the scores of the three variables. Each community health board must be allocated an amount equal to the total score obtained for the city, county, or counties in its area multiplied by the amount of money available.

Sec. 39. Minnesota Statutes 2000, section 145.882, subdivision 7, is amended to read:

Subd. 7. [USE OF BLOCK GRANT MONEY.] (a) Maternal and child health block grant money allocated to a community health board or community health services area under this section must be used for qualified programs for high risk and low-income individuals. Block grant money must be used for programs that:

(1) specifically address the highest risk populations, particularly low-income and minority groups with a high rate of infant mortality and children with low birth weight, by providing services, ~~including~~ ~~excluding~~ pre-pregnancy family planning services, calculated to produce measurable decreases in infant mortality rates, instances of children with low birth weight, and medical complications associated with pregnancy and childbirth, including infant mortality, low birth rates, and medical complications arising from chemical abuse by a mother during pregnancy;

(2) specifically target pregnant women whose age, medical condition, maternal history, or chemical abuse substantially increases the likelihood of complications associated with pregnancy and childbirth or the birth of a child with an illness, disability, or special medical needs;

(3) specifically address the health needs of young children who have or are likely to have a chronic disease or disability or special medical needs, including physical, neurological, emotional, and developmental problems that arise from chemical abuse by a mother during pregnancy;

(4) provide ~~family planning and~~ preventive medical care, excluding pre-pregnancy family planning services, for specifically identified target populations, such as minority and low-income teenagers, in a manner calculated to ~~decrease the occurrence of inappropriate pregnancy and~~ minimize the risk of complications associated with pregnancy and childbirth; or

(5) specifically address the frequency and severity of childhood injuries and other child and adolescent health problems in high-risk target populations by providing services, excluding pre-pregnancy family planning services, calculated to produce measurable decreases in mortality and morbidity. ~~However, money may be used for this purpose only if the community health board's application includes program components for the purposes in clauses (1) to (4) in the proposed geographic service area and the total expenditure for injury-related programs under this clause does not exceed ten percent of the total allocation under subdivision 3.~~

~~(b) Maternal and child health block grant money may be used for purposes other than the purposes listed in this subdivision only under the following conditions:~~

~~(1) the community health board or community health services area can demonstrate that existing programs fully address the needs of the highest risk target populations described in this subdivision; or~~

~~(2) the money is used to continue projects that received funding before creation of the maternal and child health block grant in 1981.~~

~~(c) Projects that received funding before creation of the maternal and child health block grant in 1981, must be allocated at least the amount of maternal and child health special project grant funds received in 1989, unless (1) the local board of health provides equivalent alternative funding for the project from another source; or (2) the local board of health demonstrates that the need for the specific services provided by the project has significantly decreased as a result of changes in the demographic characteristics of the population, or other factors that have a major impact on the demand for services. If the amount of federal funding to the state for the maternal and child health block grant is decreased, these projects must receive a proportional decrease as required in subdivision 1. Increases in allocation amounts to local boards of health under subdivision 4 may be used to increase funding levels for these projects.~~

Sec. 40. Minnesota Statutes 2000, section 145.885, subdivision 2, is amended to read:

Subd. 2. [ADDITIONAL REQUIREMENTS FOR COMMUNITY BOARDS OF HEALTH.] Applications by community health boards as defined in section 145A.02, subdivision 5, under section 145.882, subdivision 3 ~~4a~~, must also contain a summary of the process used to develop the local program, including evidence that the community health board notified local public and private providers of the availability of funding through the community health board for maternal and child health services; a list of all public and private agency requests for grants submitted to the community health board indicating which requests were included in the grant application; and an explanation of how priorities were established for selecting the requests to be included in the grant application. The community health board shall include, with the grant application, a written statement of the criteria to be applied to public and private agency requests for funding.

Sec. 41. Minnesota Statutes 2000, section 145.924, is amended to read:

145.924 [AIDS PREVENTION GRANTS.]

Subdivision 1. [GRANT AWARDS.] (a) The commissioner may award grants to boards of health as defined in section 145A.02, subdivision 2, state agencies, state councils, or nonprofit corporations to provide evaluation and counseling services to populations at risk for acquiring human immunodeficiency virus infection, including, but not limited to, minorities, adolescents, intravenous drug users, and homosexual men.

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

(c) All state grants awarded under this ~~section~~ subdivision for programs targeted to adolescents shall include the promotion of abstinence from sexual activity and drug use.

Subd. 2. [OUTCOMES.] The commissioner, in consultation with boards of health, agencies, councils, and nonprofit organizations involved in human immunodeficiency virus infection prevention efforts shall establish measurable outcomes to determine the effectiveness of the grants provided under this section in reducing the number of people who acquire human immunodeficiency virus, the rates of infection, and average numbers of sexual partners for populations served by grants funded under this section.

Subd. 3. [EVALUATION.] (a) Using the outcomes established according to subdivision 2, the commissioner shall conduct a biennial evaluation of activities funded under this section. The evaluation must include:

(1) the effect of these activities on the number of people who acquire human immunodeficiency virus and the rates of infection;

(2) the effect of these activities on average numbers of sexual partners for populations served by grants funded under this section; and

(3) a longitudinal tracking of outcomes for targeted populations who are served under subdivision 1, paragraphs (a) and (b).

(b) Grant recipients shall cooperate with the commissioner in the evaluation and shall provide the commissioner with the information needed to conduct the evaluation. Beginning January 15, 2003, the results of each evaluation must be submitted to the chairs of the policy and finance committees in the house and senate with jurisdiction over health and human services.

Sec. 42. Minnesota Statutes 2000, section 145.925, subdivision 1, is amended to read:

Subdivision 1. [ELIGIBLE ORGANIZATIONS; PURPOSE.] The commissioner of health may make special grants to cities, counties, tribal governments, or groups of cities ~~or~~ counties, ~~or nonprofit corporations or tribal governments~~ to provide pre-pregnancy family planning services: targeted to low-income and minority populations. A city, county, tribal government, or group of cities, counties, or tribal governments that receives a grant is responsible for ensuring that the grant funds are used for services targeted to low-income and minority populations.

and must establish a goal for reducing specific pregnancy rates in the service area. In determining populations to serve and services to provide, a city, county, tribal government, or group of cities, counties, or tribal governments must consider the spacing of pregnancies in low-income and minority populations in the service area, teen birth rates in the service area, and the needs of populations of color in the service area. A city, county, tribal government, or group of cities, counties, or tribal governments may contract for the provision of pre-pregnancy family planning services using grant funds provided under this section only if the contract is specifically authorized by the governing body of the city, county, or tribal government that is contracting for the services.

Any organization or an affiliate of an organization which provides abortions, promotes abortions, or directly refers for abortions, shall be ineligible to receive funds under this subdivision.

Sec. 43. Minnesota Statutes 2000, section 145.925, subdivision 1a, is amended to read:

Subd. 1a. [FAMILY PLANNING SERVICES; DEFINED.] "Family planning services" means counseling by trained personnel regarding family planning; distribution of information relating to family planning, referral to licensed physicians or local health agencies for consultation, examination, medical treatment, genetic counseling, and prescriptions for the purpose of family planning; and the distribution of family planning products, such as charts, thermometers, drugs, medical preparations, and contraceptive devices. Family planning services do not include services that, directly or indirectly, encourage, counsel, refer, or provide abortions or abortion referrals. For purposes of sections 145A.01 to 145A.14, family planning shall mean voluntary action by individuals to prevent or aid conception but does not include the performance, or make referrals for encouragement of voluntary termination of pregnancy services that, directly or indirectly, encourage, counsel, refer, or provide abortions or abortion referrals.

Sec. 44. [145.9257] [TEEN PREGNANCY PREVENTION.]

Subdivision 1. [GOAL.] It is the goal of the state to reduce teen pregnancy rates by 24 percent by 2006. To do so, the commissioner of health shall establish a grant program to reduce the rates of unintended teen pregnancies in the state. If this goal of reducing teen pregnancy rates by 24 percent is not met by December 31, 2006, this section expires June 30, 2007. No funds awarded under this section may be used for medical services or family planning services or for services that, directly or indirectly, encourage, counsel, refer, or provide abortions or abortion referrals.

Any organization or an affiliate of an organization which provides abortions, promotes abortions, or directly refers for abortions, shall be ineligible to receive funds under this section.

Subd. 2. [STATE-COMMUNITY PARTNERSHIPS; PLAN.] The commissioner, in consultation with the commissioner of children, families, and learning; the commissioner of human services; the maternal and child health advisory task force under section 145.881; the Indian affairs council under section 3.922; the council on affairs of Chicano/Latino people under section 3.9223; the council on Black Minnesotans under section 3.9225; the council on Asian-Pacific Minnesotans under section 3.9226; community health boards as defined in section 145A.02; tribal governments; nonprofit community organizations; and others interested in teen pregnancy prevention, shall develop and implement a comprehensive, coordinated plan to reduce the number of teen pregnancies.

Subd. 3. [MEASURABLE OUTCOMES.] The commissioner, in consultation with the commissioners and community partners listed in subdivision 2, shall establish measurable outcomes to achieve the goal specified in subdivision 1 and to determine the effectiveness of the grants provided under this section in reducing teen pregnancies. The development of measurable outcomes must be completed before any funds are distributed under this section.

Subd. 4. [STATEWIDE ASSESSMENT.] The commissioner shall use and enhance current statewide assessments of teen pregnancy risk behaviors and attitudes among youth to establish a baseline to measure the statewide effect of teen pregnancy prevention activities. To the extent feasible, the commissioner shall conduct the assessment so that the results may be compared to national data.

Subd. 5. [PROCESS.] The commissioner, in consultation with the commissioners and community partners listed in subdivision 2, shall develop the criteria and procedures used to allocate grants under this section. In developing the criteria, the commissioner shall establish an administrative cost limit for grant recipients. At the time a grant is awarded, the commissioner shall provide a grant recipient with information on the outcomes established according to subdivision 3.

Subd. 6. [TEEN PREGNANCY PREVENTION DISPARITY GRANTS.] (a) The commissioner shall award competitive grants to eligible applicants for projects to reduce disparities in unintended teen pregnancy rates for American Indians and populations of color, as compared with unintended teen pregnancy rates for whites.

(b) No funds awarded under this subdivision may be used for medical services or family planning services or for services that, directly or indirectly, encourage, counsel, refer, or provide abortions or abortion referrals.

Any organization or an affiliate of an organization which provides abortions, promotes abortions, or directly refers for abortions, shall be ineligible to receive funds under this subdivision.

(c) Eligible applicants may include, but are not limited to, nonprofit organizations, school districts, faith-based organizations, community health boards, and tribal governments. Applicants must submit proposals to the commissioner. A proposal must specify the strategies to be implemented and must take into account the need for a coordinated, statewide teen pregnancy prevention effort. Strategies may include youth development programs, after-school enrichment programs, youth mentoring programs, academic support programs, and abstinence until marriage education programs.

(d) The commissioner shall give priority to applicants who demonstrate that their proposed project:

(1) emphasizes abstinence until marriage;

(2) is research-based or based on proven, effective strategies;

(3) is designed to coordinate with related youth risk behavior reduction activities;

(4) involves youth and parents in the project's development and implementation;

(5) reflects racially and ethnically appropriate approaches; and

(6) will be implemented through or with persons or community-based organizations that reflect the race or ethnicity of the population to be reached.

Subd. 7. [HIGH-RISK COMMUNITY TEEN PREGNANCY PREVENTION GRANTS.] (a) The commissioner shall award grants to communities that have significant risk factors for teen pregnancies, that currently have in place youth development programs, and that are interested in expanding existing efforts to prevent teen pregnancies.

(b) No funds awarded under this subdivision may be used for medical services or family planning services or for services that, directly or indirectly, encourage, counsel, refer, or provide abortions or abortion referrals.

Any organization or an affiliate of an organization which provides abortions, promotes abortions, or directly refers for abortions, shall be ineligible to receive funds under this subdivision.

(c) To be eligible for a grant under this subdivision, an applicant must be a tribal government or a community health board as defined in section 145A.02. Applicants must submit proposals to the commissioner. A proposal must specify the strategies to be implemented. Strategies may include, but are not limited to, youth development programs, youth mentoring programs, academic support programs, and abstinence until marriage education programs. Applicants must demonstrate that a proposed project:

(1) emphasizes abstinence until marriage;

(2) is research-based or based on proven, effective strategies;

(3) is designed to coordinate with related youth risk behavior reduction activities;

(4) involves youth and parents in the project's development and implementation;

(5) reflects racially and ethnically appropriate approaches; and

(6) will be implemented through or with persons or community-based organizations that reflect the race or ethnicity of the population to be reached.

(d) Grants may be awarded to up to 15 community health boards and three tribal governments based on areas having the highest risk factors for teen pregnancies. The commissioner shall award grants based on the following risk factors:

(1) the proportion of teens in the applicant's service area who are sexually active;

(2) the proportion of births to teens in the applicant's service area; and

(3) the proportion of births to teens who are American Indian or of a population of color in the applicant's service area.

Subd. 8. [ADOLESCENT PARENT GRANTS.] The commissioner shall transfer funds to the commissioner of children, families, and learning to increase the number of adolescent parent grants currently provided by the commissioner of children, families, and learning under section 124D.33.

Subd. 9. [COORDINATION.] The commissioner shall coordinate the projects and initiatives funded under this section with other efforts at the local, state, and national levels to avoid duplication and promote complementary efforts.

Subd. 10. [EVALUATION.] Using the outcomes established according to subdivision 3, the commissioner shall conduct a biennial evaluation of the impact of each teen pregnancy prevention initiative in this section. Grant recipients and the commissioner of children, families, and learning shall cooperate with the commissioner in the evaluation and shall provide the commissioner with the information needed to conduct the evaluation.

Subd. 11. [REPORT.] By January 15, 2002, and January 15 of each even-numbered year thereafter, the commissioner shall submit a report to the legislature on the projects funded under this section and the results of the biennial evaluation.

Sec. 45. [145.9268] [COMMUNITY CLINIC GRANTS.]

Subdivision 1. [DEFINITION.] For purposes of this section, "eligible community clinic" means:

(1) a clinic that provides services under conditions as defined in Minnesota Rules, part 9505.0255 or 9505.0380, and utilizes a sliding fee scale to determine eligibility for charity care;

(2) an Indian tribal government or Indian health service unit; or

(3) a consortium of clinics comprised of entities under clause (1) or (2).

Subd. 2. [GRANTS AUTHORIZED.] The commissioner of health shall award grants to eligible community clinics to improve the ongoing viability of Minnesota's clinic-based safety net providers. Grants shall be awarded to support the capacity of eligible community clinics to serve low-income populations, reduce current or future uncompensated care burdens, or provide for improved care delivery infrastructure.

Subd. 3. [ALLOCATION OF GRANTS.] (a) To receive a grant under this section, an eligible community clinic must submit an application to the commissioner of health by the deadline established by the commissioner. A grant may be awarded upon the signing of a grant contract.

(b) An application must be on a form and contain information as specified by the commissioner but at a minimum must contain:

- (1) a description of the project for which grant funds will be used;
- (2) a description of the problem the proposed project will address; and
- (3) a description of achievable objectives, a workplan, and a timeline for project completion.

(c) The commissioner shall review each application to determine whether the application is complete and whether the applicant and the project are eligible for a grant. In evaluating applications according to paragraph (e), the commissioner shall establish criteria including, but not limited to: the priority level of the project; the applicant's thoroughness and clarity in describing the problem; a description of the applicant's proposed project; the manner in which the applicant will demonstrate the effectiveness of the project; and evidence of efficiencies and effectiveness gained through collaborative efforts. The commissioner may also take into account other relevant factors, including, but not limited to, the percentage for which uninsured patients represent the applicant's patient base. During application review, the commissioner may request additional information about a proposed project, including information on project cost. Failure to provide the information requested disqualifies an applicant.

(d) A grant awarded to an eligible community clinic may not exceed \$300,000 per eligible community clinic. For an applicant applying as a consortium of clinics, a grant may not exceed \$300,000 per clinic included in the consortium. The commissioner has discretion over the number of grants awarded.

(e) In determining which eligible community clinics will receive grants under this section, the commissioner shall give preference to those grant applications that show evidence of collaboration with other eligible community clinics, hospitals, health care providers, or community organizations. In addition, the commissioner shall give priority, in declining order, to grant applications for projects that:

- (1) establish, update, or improve information, data collection, or billing systems;
- (2) procure, modernize, remodel, or replace equipment used in the delivery of direct patient care at a clinic;
- (3) provide improvements for care delivery, such as increased translation and interpretation services;
- (4) provide a direct offset to expenses incurred for charity care services; or
- (5) other projects determined by the commissioner to improve the ability of applicants to provide care to the vulnerable populations they serve.

Subd. 4. [EVALUATION.] The commissioner of health shall evaluate the overall effectiveness of the grant program. The commissioner shall collect progress reports to evaluate the grant program from the eligible community clinics receiving grants.

Sec. 46. [145.928] [ELIMINATING HEALTH DISPARITIES.]

Subdivision 1. [GOAL; ESTABLISHMENT.] It is the goal of the state, by 2010, to decrease by 50 percent the disparities in infant mortality rates and adult and child immunization rates for American Indians and populations of color, as compared with rates for whites. To do so and to achieve other measurable outcomes, the commissioner of health shall establish a program to close the gap in the health status of American Indians and populations of color

as compared with whites in the following priority areas: infant mortality, breast and cervical cancer screening, HIV/AIDS and sexually transmitted infections, adult and child immunizations, cardiovascular disease, diabetes, and accidental injuries and violence. If this goal of reducing disparities in infant mortality rates and adult and child immunization rates is not met by December 31, 2010, this section expires June 30, 2011.

Subd. 2. [STATE-COMMUNITY PARTNERSHIPS; PLAN.] The commissioner, in partnership with culturally-based community organizations; the Indian affairs council under section 3.922; the council on affairs of Chicano/Latino people under section 3.9223; the council on Black Minnesotans under section 3.9225; the council on Asian-Pacific Minnesotans under section 3.9226; community health boards as defined in section 145A.02; and tribal governments, shall develop and implement a comprehensive, coordinated plan to reduce health disparities in the health disparity priority areas identified in subdivision 1.

Subd. 3. [MEASURABLE OUTCOMES.] The commissioner, in consultation with the community partners listed in subdivision 2, shall establish measurable outcomes to achieve the goal specified in subdivision 1 and to determine the effectiveness of the grants and other activities funded under this section in reducing health disparities in the priority areas identified in subdivision 1. The development of measurable outcomes must be completed before any funds are distributed under this section.

Subd. 4. [STATEWIDE ASSESSMENT.] The commissioner shall enhance current data tools to ensure a statewide assessment of the risk behaviors associated with the health disparity priority areas identified in subdivision 1. The statewide assessment must be used to establish a baseline to measure the effect of activities funded under this section. To the extent feasible, the commissioner shall conduct the assessment so that the results may be compared to national data.

Subd. 5. [TECHNICAL ASSISTANCE.] The commissioner shall provide the necessary expertise to grant applicants to ensure that submitted proposals are likely to be successful in reducing the health disparities identified in subdivision 1. The commissioner shall provide grant recipients with guidance and training on best or most promising strategies to use to reduce the health disparities identified in subdivision 1. The commissioner shall also assist grant recipients in the development of materials and procedures to evaluate local community activities.

Subd. 6. [PROCESS.] (a) The commissioner, in consultation with the community partners listed in subdivision 2, shall develop the criteria and procedures used to allocate grants under this section. In developing the criteria, the commissioner shall establish an administrative cost limit for grant recipients. At the time a grant is awarded, the commissioner must provide a grant recipient with information on the outcomes established according to subdivision 3.

(b) A grant recipient must coordinate its activities to reduce health disparities with other entities receiving funds under this section that are in the grant recipient's service area.

Subd. 7. [COMMUNITY GRANT PROGRAM; IMMUNIZATION RATES AND INFANT MORTALITY RATES.] (a) The commissioner shall award grants to eligible applicants for local or regional projects and initiatives directed at reducing health disparities in one or both of the following priority areas:

(1) decreasing racial and ethnic disparities in infant mortality rates; or

(2) increasing adult and child immunization rates in nonwhite racial and ethnic populations.

(b) The commissioner may award up to 20 percent of the funds available as planning grants. Planning grants must be used to address such areas as community assessment, coordination activities, and development of community supported strategies.

(c) Eligible applicants may include, but are not limited to, faith-based organizations, social service organizations, community nonprofit organizations, community health boards, tribal governments, and community clinics. Applicants must submit proposals to the commissioner. A proposal must specify the strategies to be implemented to address one or both of the priority areas listed in paragraph (a) and must be targeted to achieve the outcomes established according to subdivision 3.

(d) The commissioner shall give priority to applicants who demonstrate that their proposed project or initiative:

(1) is supported by the community the applicant will serve;

(2) is research-based or based on promising strategies;

(3) is designed to complement other related community activities;

(4) utilizes strategies that positively impact both priority areas;

(5) reflects racially and ethnically appropriate approaches; and

(6) will be implemented through or with community-based organizations that reflect the race or ethnicity of the population to be reached.

Subd. 8. [COMMUNITY GRANT PROGRAM; OTHER HEALTH DISPARITIES.] (a) The commissioner shall award grants to eligible applicants for local or regional projects and initiatives directed at reducing health disparities in one or more of the following priority areas:

(1) decreasing racial and ethnic disparities in morbidity and mortality rates from breast and cervical cancer;

(2) decreasing racial and ethnic disparities in morbidity and mortality rates from HIV/AIDS and sexually transmitted infections;

(3) decreasing racial and ethnic disparities in morbidity and mortality rates from cardiovascular disease;

(4) decreasing racial and ethnic disparities in morbidity and mortality rates from diabetes; or

(5) decreasing racial and ethnic disparities in morbidity and mortality rates from accidental injuries or violence.

(b) The commissioner may award up to 20 percent of the funds available as planning grants. Planning grants must be used to address such areas as community assessment, determining community priority areas, coordination activities, and development of community supported strategies.

(c) Eligible applicants may include, but are not limited to, faith-based organizations, social service organizations, community nonprofit organizations, community health boards, tribal governments, and community clinics. Applicants shall submit proposals to the commissioner. A proposal must specify the strategies to be implemented to address one or more of the priority areas listed in paragraph (a) and must be targeted to achieve the outcomes established according to subdivision 3.

(d) The commissioner shall give priority to applicants who demonstrate that their proposed project or initiative:

(1) is supported by the community the applicant will serve;

(2) is research-based or based on promising strategies;

(3) is designed to complement other related community activities;

(4) utilizes strategies that positively impact more than one priority area;

(5) reflects racially and ethnically appropriate approaches; and

(6) will be implemented through or with community-based organizations that reflect the race or ethnicity of the population to be reached.

Subd. 9. [REFUGEE AND IMMIGRANT HEALTH.] (a) The commissioner shall distribute funds to community health boards for health screening and follow-up services for tuberculosis for refugees. Funds shall be distributed based on the following formula:

(1) \$1,500 per refugee with pulmonary tuberculosis in the community health board's service area;

(2) \$500 per refugee with extrapulmonary tuberculosis in the community health board's service area;

(3) \$500 per month of directly observed therapy provided by the community health board for each uninsured refugee with pulmonary or extrapulmonary tuberculosis; and

(4) \$50 per refugee in the community health board's service area.

(b) Payments must be made at the end of each state fiscal year. The amount paid per tuberculosis case, per month of directly observed therapy, and per refugee must be proportionately increased or decreased to fit the actual amount appropriated for that fiscal year.

Subd. 10. [COORDINATION.] The commissioner shall coordinate the projects and initiatives funded under this section with other efforts at the local, state, or national level to avoid duplication and promote complementary efforts.

Subd. 11. [EVALUATION.] Using the outcomes established according to subdivision 3, the commissioner shall conduct a biennial evaluation of the community grant programs under subdivisions 7 and 8. Grant recipients shall cooperate with the commissioner in the evaluation and shall provide the commissioner with the information needed to conduct the evaluation.

Subd. 12. [REPORT.] By January 15, 2002, and January 15 of each even-numbered year thereafter, the commissioner shall submit a report to the legislature on the local community projects and community health board activities funded under this section. The report must include information on grant recipients, activities conducted using grant funds, and evaluation data and outcome measures if available.

Sec. 47. Minnesota Statutes 2000, section 145A.15, subdivision 1, is amended to read:

Subdivision 1. [ESTABLISHMENT.] (a) The commissioner of health shall expand the current grant program to fund additional projects designed to prevent child abuse and neglect and reduce juvenile delinquency by promoting positive parenting, resiliency in children, and a healthy beginning for children by providing early intervention services for families in need. Grant dollars shall be available to train paraprofessionals to provide in-home intervention services and to allow public health nurses to do case management of services. The grant program shall provide early intervention services for families in need and will include:

(1) expansion of current public health nurse and family aide home visiting programs and public health home visiting projects which prevent child abuse and neglect, prevent juvenile delinquency, and build resiliency in children;

(2) early intervention to promote a healthy and nurturing beginning;

(3) distribution of educational and public information programs and materials in hospital maternity divisions, well-baby clinics, obstetrical clinics, and community clinics; and

(4) training of home visitors in skills necessary for comprehensive home visiting which promotes a healthy and nurturing beginning for the child.

(b) No new grants shall be awarded under this section after June 30, 2001. Grant contracts awarded and in effect under this section as of July 1, 2001, shall continue until their expiration date.

Sec. 48. Minnesota Statutes 2000, section 145A.15, is amended by adding a subdivision to read:

Subd. 5. [EXPIRATION.] This section expires June 30, 2003.

Sec. 49. Minnesota Statutes 2000, section 145A.16, subdivision 1, is amended to read:

Subdivision 1. [ESTABLISHMENT.] The commissioner shall establish a grant program to fund universally offered home visiting programs designed to serve all live births in designated geographic areas. The commissioner shall designate the geographic area to be served by each program. At least one program must provide home visiting services to families within the seven-county metropolitan area, and at least one program must provide home visiting services to families outside the metropolitan area. The purpose of the program is to strengthen families and to promote positive parenting and healthy child development. No new grants shall be awarded under this section after June 30, 2001. Competitive grant contracts awarded and in effect under this section as of July 1, 2001, shall expire December 31, 2003.

Sec. 50. Minnesota Statutes 2000, section 145A.16, is amended by adding a subdivision to read:

Subd. 10. [EXPIRATION.] This section expires December 31, 2003.

Sec. 51. [145A.17] [FAMILY HOME VISITING PROGRAMS.]

Subdivision 1. [ESTABLISHMENT; GOALS.] The commissioner shall establish a program to fund family home visiting programs designed to foster a healthy beginning for children in families at or below 200 percent of the federal poverty guidelines, prevent child abuse and neglect, reduce juvenile delinquency, promote positive parenting and resiliency in children, and promote family health and economic self-sufficiency. A program funded under this section must serve families at or below 200 percent of the federal poverty guidelines, and other families determined to be at risk for child abuse, neglect, or juvenile delinquency. Programs must give priority for services to families considered to be in need of services, including but not limited to families with:

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

Subd. 2. [ALLOCATION OF FUNDS.] The commissioner shall distribute funds available under this section to community health boards, as defined in section 145A.02, and to tribal governments. Funds shall be distributed to community health boards as follows: (1) each community health board shall receive an allocation of \$25,000 per year; and (2) remaining funds available to community health boards shall be distributed according to the formula in section 256J.625, subdivision 3. The commissioner, in consultation with tribal governments, shall establish a formula for distributing funds to tribal governments.

Subd. 3. [REQUIREMENTS FOR PROGRAMS; PROCESS.] (a) Before a community health board or tribal government may receive an allocation under subdivision 2, a community health board or tribal government must submit a proposal to the commissioner that includes identification, based on a community assessment, of the populations at or below 200 percent of the federal poverty guidelines that will be served and the other populations that will be served. Each program that receives funds must:

(1) use either a broad community-based or selective community-based strategy to provide preventive and early intervention home visiting services;

(2) offer a home visit by a trained home visitor. If a home visit is accepted, the first home visit must occur prenatally or as soon after birth as possible and must include a public health nursing assessment by a public health nurse;

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

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

(5) recruit home visitors who will represent, to the extent possible, the races, cultures, and languages spoken by families that may be served;

(6) train and supervise home visitors in accordance with the requirements established under subdivision 4;

(7) maximize resources and minimize duplication by coordinating activities with local social and human services organizations, education organizations, and other appropriate governmental entities and community-based organizations and agencies; and

(8) utilize appropriate racial and ethnic approaches to providing home visiting services.

(b) Funds available under this section shall not be used for medical services. The commissioner shall establish an administrative cost limit for recipients of funds. The outcome measures established under subdivision 6 must be specified to recipients of funds at the time the funds are distributed.

Subd. 4. [TRAINING.] The commissioner shall establish training requirements for home visitors and minimum requirements for supervision by a public health nurse. The requirements for nurses must be consistent with chapter 148. Training must include child development, positive parenting techniques, and diverse cultural practices in child rearing and family systems.

Subd. 5. [TECHNICAL ASSISTANCE.] The commissioner shall provide administrative and technical assistance to each program, including assistance in data collection and other activities related to conducting short- and long-term evaluations of the programs as required under subdivision 7. The commissioner may request research and evaluation support from the University of Minnesota.

Subd. 6. [OUTCOME MEASURES.] The commissioner shall establish outcomes to determine the impact of family home visiting programs funded under this section on the following areas:

- (1) appropriate utilization of preventive health care;
- (2) rates of substantiated child abuse and neglect;
- (3) rates of unintentional child injuries; and
- (4) any additional qualitative goals and quantitative measures established by the commissioner.

Subd. 7. [EVALUATION.] Using the qualitative goals and quantitative outcome measures established under subdivisions 1 and 6, the commissioner shall conduct ongoing evaluations of the programs funded under this section. Community health boards and tribal governments shall cooperate with the commissioner in the evaluations and shall provide the commissioner with the information necessary to conduct the evaluations. As part of the ongoing evaluations, the commissioner shall rate the impact of the programs on the outcome measures listed in subdivision 6, and shall periodically determine whether home visiting programs are the best way to achieve the qualitative goals established in subdivision 1 and by the commissioner. If the commissioner determines that home visiting programs are not the best way to achieve these goals, the commissioner shall provide the legislature with alternative methods for achieving them.

Subd. 8. [REPORT.] By January 15, 2002, and January 15 of each even-numbered year thereafter, the commissioner shall submit a report to the legislature on the family home visiting programs funded under this section and on the results of the evaluations conducted under subdivision 7.

Subd. 9. [NO SUPPLANTING OF EXISTING FUNDS.] Funding available under this section may be used only to supplement, not to replace, nonstate funds being used for home visiting services as of July 1, 2001.

Sec. 52. Minnesota Statutes 2000, section 157.16, subdivision 3, is amended to read:

Subd. 3. [ESTABLISHMENT FEES; DEFINITIONS.] (a) The following fees are required for food and beverage service establishments, hotels, motels, lodging establishments, and resorts licensed under this chapter. Food and beverage service establishments must pay the highest applicable fee under paragraph (e), clause (1), (2), (3), or (4), and establishments serving alcohol must pay the highest applicable fee under paragraph (e), clause (6) or (7). The license fee for new operators previously licensed under this chapter for the same calendar year is one-half of the appropriate annual license fee, plus any penalty that may be required. The license fee for operators opening on or after October 1 is one-half of the appropriate annual license fee, plus any penalty that may be required. The fees in paragraphs (b), (c), and (d) effective until June 30, 2001, shall be phased up as specified in section 55 to the fee amounts effective beginning July 1, 2004. Notwithstanding section 16A.1285, in fiscal years 2002, 2003, and 2004, the commissioner shall regulate food and beverage service establishments, hotels, motels, lodging establishments, and resorts with the fees collected for that purpose.

(b) All food and beverage service establishments, except special event food stands, and all hotels, motels, lodging establishments, and resorts shall pay an annual base fee of \$100 until June 30, 2001. Effective July 1, 2004, the annual base fee shall be \$145.

(c) A special event food stand shall pay a flat fee of \$30 annually until June 30, 2001. Effective July 1, 2004, the annual flat fee shall be \$35. "Special event food stand" means a fee category where food is prepared or served in conjunction with celebrations, county fairs, or special events from a special event food stand as defined in section 157.15.

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

(1) Limited food menu selection, \$30 until June 30, 2001. Effective July 1, 2004, the annual fee shall be \$40. "Limited food menu selection" means a fee category that provides one or more of the following:

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

(2) Small establishment, including boarding establishments, \$55 until June 30, 2001. Effective July 1, 2004, the annual fee shall be \$75. "Small establishment" means a fee category that has no salad bar and meets one or more of the following:

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

(3) Medium establishment, \$150 until June 30, 2001. Effective July 1, 2004, the annual fee shall be \$210. "Medium establishment" means a fee category that meets one or more of the following:

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

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

(4) Large establishment, \$250 until June 30, 2001. Effective July 1, 2004, the annual fee shall be \$350. "Large establishment" means either:

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

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

(5) Other food and beverage service, including food carts, mobile food units, seasonal temporary food stands, and seasonal permanent food stands, \$30 until June 30, 2001. Effective July 1, 2004, the annual fee shall be \$40.

(6) Beer or wine table service, \$30 until June 30, 2001. Effective July 1, 2004, the annual fee shall be \$40. "Beer or wine table service" means a fee category where the only alcoholic beverage service is beer or wine, served to customers seated at tables.

(7) Alcoholic beverage service, other than beer or wine table service, \$75 until June 30, 2001. Effective July 1, 2004, the annual fee shall be \$105.

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

(8) Until June 30, 2001, lodging per sleeping accommodation unit, \$4, including hotels, motels, lodging establishments, and resorts, up to a maximum of \$400. Effective July 1, 2004, lodging per sleeping accommodation unit, \$6, including hotels, motels, lodging establishments, and resorts, up to a maximum of \$600. "Lodging per sleeping accommodation unit" means a fee category including the number of guest rooms, cottages, or other rental units of a hotel, motel, lodging establishment, or resort; or the number of beds in a dormitory.

(9) First public swimming pool, \$100 until June 30, 2001; each additional public swimming pool, \$50 until June 30, 2001. Effective July 1, 2004, first public swimming pool, \$140; each additional public swimming pool, \$80. "Public swimming pool" means a fee category that has the meaning given in Minnesota Rules, part 4717.0250, subpart 8.

(10) First spa, \$50 until June 30, 2001; each additional spa, \$25 until June 30, 2001. Effective July 1, 2004, first spa, \$80; each additional spa, \$40. "Spa pool" means a fee category that has the meaning given in Minnesota Rules, part 4717.0250, subpart 9.

(11) Private sewer or water, \$30 until June 30, 2001. Effective July 1, 2004, private sewer or water, \$40. "Individual private water" means a fee category with a water supply other than a community public water supply as defined in Minnesota Rules, chapter 4720. "Individual private sewer" means a fee category with an individual sewage treatment system which uses subsurface treatment and disposal.

~~(e) A fee is not required for a food and beverage service establishment operated by a school as defined in sections 120A.05, subdivisions 9, 11, 13, and 17 and 120A.22.~~

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

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

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

Sec. 53. Minnesota Statutes 2000, section 157.22, is amended to read:

157.22 [EXEMPTIONS.]

This chapter shall not be construed to apply to:

- (1) interstate carriers under the supervision of the United States Department of Health and Human Services;
- (2) any building constructed and primarily used for religious worship;
- (3) any building owned, operated, and used by a college or university in accordance with health regulations promulgated by the college or university under chapter 14;
- (4) any person, firm, or corporation whose principal mode of business is licensed under sections 28A.04 and 28A.05, is exempt at that premises from licensure as a food or beverage establishment; provided that the holding of any license pursuant to sections 28A.04 and 28A.05 shall not exempt any person, firm, or corporation from the applicable provisions of this chapter or the rules of the state commissioner of health relating to food and beverage service establishments;
- (5) family day care homes and group family day care homes governed by sections 245A.01 to 245A.16;
- (6) nonprofit senior citizen centers for the sale of home-baked goods; ~~and~~
- (7) food not prepared at an establishment and brought in by individuals attending a potluck event for consumption at the potluck event. An organization sponsoring a potluck event under this clause may advertise the potluck event to the public through any means. Individuals who are not members of an organization sponsoring a potluck event under this clause may attend the potluck event and consume the food at the event. Licensed food establishments cannot be sponsors of potluck events. Potluck event food shall not be brought into a licensed food establishment kitchen; and
- (8) a home school in which a child is provided instruction at home.

Sec. 54. [ESTABLISHMENT FEES DURING TRANSITION PERIOD.]

For fiscal years 2002, 2003, and 2004, the following fees shall apply to food and beverage service establishments, hotels, motels, lodging establishments, and resorts for which fees are established under Minnesota Statutes, section 157.16, subdivision 3, paragraphs (b), (c), and (d):

<u>Fee Category</u>	<u>Fiscal Year 2002</u>	<u>Fiscal Year 2003</u>	<u>Fiscal Year 2004</u>
<u>Annual base fee, all food and beverage service establishments except special event food stands and all hotels, motels, lodging establishments, and resorts</u>	<u>\$111.25</u>	<u>\$122.50</u>	<u>\$133.75</u>
<u>Special event food stand</u>	<u>\$31.25</u>	<u>\$32.50</u>	<u>\$33.75</u>

<u>Establishment with limited food menu selection</u>	<u>\$32.50</u>	<u>\$35.00</u>	<u>\$37.50</u>
<u>Small establishment</u>	<u>\$60.00</u>	<u>\$65.00</u>	<u>\$70.00</u>
<u>Medium establishment</u>	<u>\$165.00</u>	<u>\$180.00</u>	<u>\$195.00</u>
<u>Large establishment</u>	<u>\$275.00</u>	<u>\$300.00</u>	<u>\$325.00</u>
<u>Other food and beverage service</u>	<u>\$32.50</u>	<u>\$35.00</u>	<u>\$37.50</u>
<u>Beer or wine table service</u>	<u>\$32.50</u>	<u>\$35.00</u>	<u>\$37.50</u>
<u>Alcoholic beverage service other than beer or wine table service</u>	<u>\$82.50</u>	<u>\$90.00</u>	<u>\$97.50</u>
<u>Lodging per sleeping accommodation unit, up to a specified maximum</u>	<u>\$4.50 per unit, \$450 maximum</u>	<u>\$5.00 per unit, \$500 maximum</u>	<u>\$5.50 per unit, \$550 maximum</u>
<u>First public swimming pool</u>	<u>\$110.00</u>	<u>\$120.00</u>	<u>\$130.00</u>
<u>Each additional public swimming pool</u>	<u>\$57.50</u>	<u>\$65.00</u>	<u>\$72.50</u>
<u>First spa</u>	<u>\$57.50</u>	<u>\$65.00</u>	<u>\$72.50</u>
<u>Each additional spa</u>	<u>\$28.75</u>	<u>\$32.50</u>	<u>\$36.25</u>
<u>Private sewer or water</u>	<u>\$32.50</u>	<u>\$35.00</u>	<u>\$37.50</u>

Sec. 55. [REPEALER.]

(a) Minnesota Statutes 2000, sections 145.882, subdivisions 3 and 4; and 145.927, are repealed.

(b) Minnesota Statutes 2000, section 144.148, subdivision 8, is repealed.

[EFFECTIVE DATE.] Paragraph (b) of this section is effective the day following final enactment.

ARTICLE 2

HEALTH CARE

Section 1. Minnesota Statutes 2000, section 256.01, subdivision 2, is amended to read:

Subd. 2. [SPECIFIC POWERS.] Subject to the provisions of section 241.021, subdivision 2, the commissioner of human services shall:

(1) Administer and supervise all forms of public assistance provided for by state law and other welfare activities or services as are vested in the commissioner. Administration and supervision of human services activities or services includes, but is not limited to, assuring timely and accurate distribution of benefits, completeness of service, and quality program management. In addition to administering and supervising human services activities vested by law in the department, the commissioner shall have the authority to:

(a) require county agency participation in training and technical assistance programs to promote compliance with statutes, rules, federal laws, regulations, and policies governing human services;

(b) monitor, on an ongoing basis, the performance of county agencies in the operation and administration of human services, enforce compliance with statutes, rules, federal laws, regulations, and policies governing welfare services and promote excellence of administration and program operation;

(c) develop a quality control program or other monitoring program to review county performance and accuracy of benefit determinations;

(d) require county agencies to make an adjustment to the public assistance benefits issued to any individual consistent with federal law and regulation and state law and rule and to issue or recover benefits as appropriate;

(e) delay or deny payment of all or part of the state and federal share of benefits and administrative reimbursement according to the procedures set forth in section 256.017;

(f) make contracts with and grants to public and private agencies and organizations, both profit and nonprofit, and individuals, using appropriated funds; and

(g) enter into contractual agreements with federally recognized Indian tribes with a reservation in Minnesota to the extent necessary for the tribe to operate a federally approved family assistance program or any other program under the supervision of the commissioner. The commissioner shall consult with the affected county or counties in the contractual agreement negotiations, if the county or counties wish to be included, in order to avoid the duplication of county and tribal assistance program services. The commissioner may establish necessary accounts for the purposes of receiving and disbursing funds as necessary for the operation of the programs.

(2) Inform county agencies, on a timely basis, of changes in statute, rule, federal law, regulation, and policy necessary to county agency administration of the programs.

(3) Administer and supervise all child welfare activities; promote the enforcement of laws protecting handicapped, dependent, neglected and delinquent children, and children born to mothers who were not married to the children's fathers at the times of the conception nor at the births of the children; license and supervise child-caring and child-placing agencies and institutions; supervise the care of children in boarding and foster homes or in private institutions; and generally perform all functions relating to the field of child welfare now vested in the state board of control.

(4) Administer and supervise all noninstitutional service to handicapped persons, including those who are visually impaired, hearing impaired, or physically impaired or otherwise handicapped. The commissioner may provide and contract for the care and treatment of qualified indigent children in facilities other than those located and available at state hospitals when it is not feasible to provide the service in state hospitals.

(5) Assist and actively cooperate with other departments, agencies and institutions, local, state, and federal, by performing services in conformity with the purposes of Laws 1939, chapter 431.

(6) Act as the agent of and cooperate with the federal government in matters of mutual concern relative to and in conformity with the provisions of Laws 1939, chapter 431, including the administration of any federal funds granted to the state to aid in the performance of any functions of the commissioner as specified in Laws 1939, chapter 431, and including the promulgation of rules making uniformly available medical care benefits to all recipients of public assistance, at such times as the federal government increases its participation in assistance expenditures for medical care to recipients of public assistance, the cost thereof to be borne in the same proportion as are grants of aid to said recipients.

(7) Establish and maintain any administrative units reasonably necessary for the performance of administrative functions common to all divisions of the department.

(8) Act as designated guardian of both the estate and the person of all the wards of the state of Minnesota, whether by operation of law or by an order of court, without any further act or proceeding whatever, except as to persons committed as mentally retarded. For children under the guardianship of the commissioner whose interests would be best served by adoptive placement, the commissioner may contract with a licensed child-placing agency to provide adoption services. A contract with a licensed child-placing agency must be designed to supplement existing county efforts and may not replace existing county programs, unless the replacement is agreed to by the county board and the appropriate exclusive bargaining representative or the commissioner has evidence that child placements of the county continue to be substantially below that of other counties. Funds encumbered and obligated under an agreement for a specific child shall remain available until the terms of the agreement are fulfilled or the agreement is terminated.

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

(10) The specific enumeration of powers and duties as hereinabove set forth shall in no way be construed to be a limitation upon the general transfer of powers herein contained.

(11) Establish county, regional, or statewide schedules of maximum fees and charges which may be paid by county agencies for medical, dental, surgical, hospital, nursing and nursing home care and medicine and medical supplies under all programs of medical care provided by the state and for congregate living care under the income maintenance programs.

(12) Have the authority to conduct and administer experimental projects to test methods and procedures of administering assistance and services to recipients or potential recipients of public welfare. To carry out such experimental projects, it is further provided that the commissioner of human services is authorized to waive the enforcement of existing specific statutory program requirements, rules, and standards in one or more counties. The order establishing the waiver shall provide alternative methods and procedures of administration, shall not be in conflict with the basic purposes, coverage, or benefits provided by law, and in no event shall the duration of a project exceed four years. It is further provided that no order establishing an experimental project as authorized by the provisions of this section shall become effective until the following conditions have been met:

(a) The secretary of health and human services of the United States has agreed, for the same project, to waive state plan requirements relative to statewide uniformity.

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

(13) According to federal requirements, establish procedures to be followed by local welfare boards in creating citizen advisory committees, including procedures for selection of committee members.

(14) Allocate federal fiscal disallowances or sanctions which are based on quality control error rates for the aid to families with dependent children program formerly codified in sections 256.72 to 256.87, medical assistance, or food stamp program in the following manner:

(a) One-half of the total amount of the disallowance shall be borne by the county boards responsible for administering the programs. For the medical assistance and the AFDC program formerly codified in sections 256.72 to 256.87, disallowances shall be shared by each county board in the same proportion as that county's expenditures for the sanctioned program are to the total of all counties' expenditures for the AFDC program formerly codified in sections 256.72 to 256.87, and medical assistance programs. For the food stamp program, sanctions shall be shared by each county board, with 50 percent of the sanction being distributed to each county in the same proportion as that county's administrative costs for food stamps are to the total of all food stamp administrative costs for all counties, and 50 percent of the sanctions being distributed to each county in the same proportion as that county's value of food stamp benefits issued are to the total of all benefits issued for all counties. Each county shall pay its share of the

disallowance to the state of Minnesota. When a county fails to pay the amount due hereunder, the commissioner may deduct the amount from reimbursement otherwise due the county, or the attorney general, upon the request of the commissioner, may institute civil action to recover the amount due.

(b) Notwithstanding the provisions of paragraph (a), if the disallowance results from knowing noncompliance by one or more counties with a specific program instruction, and that knowing noncompliance is a matter of official county board record, the commissioner may require payment or recover from the county or counties, in the manner prescribed in paragraph (a), an amount equal to the portion of the total disallowance which resulted from the noncompliance, and may distribute the balance of the disallowance according to paragraph (a).

(15) Develop and implement special projects that maximize reimbursements and result in the recovery of money to the state. For the purpose of recovering state money, the commissioner may enter into contracts with third parties. Any recoveries that result from projects or contracts entered into under this paragraph shall be deposited in the state treasury and credited to a special account until the balance in the account reaches \$1,000,000. When the balance in the account exceeds \$1,000,000, the excess shall be transferred and credited to the general fund. All money in the account is appropriated to the commissioner for the purposes of this paragraph.

(16) Have the authority to make direct payments to facilities providing shelter to women and their children according to section 256D.05, subdivision 3. Upon the written request of a shelter facility that has been denied payments under section 256D.05, subdivision 3, the commissioner shall review all relevant evidence and make a determination within 30 days of the request for review regarding issuance of direct payments to the shelter facility. Failure to act within 30 days shall be considered a determination not to issue direct payments.

(17) Have the authority to establish and enforce the following county reporting requirements:

(a) The commissioner shall establish fiscal and statistical reporting requirements necessary to account for the expenditure of funds allocated to counties for human services programs. When establishing financial and statistical reporting requirements, the commissioner shall evaluate all reports, in consultation with the counties, to determine if the reports can be simplified or the number of reports can be reduced.

(b) The county board shall submit monthly or quarterly reports to the department as required by the commissioner. Monthly reports are due no later than 15 working days after the end of the month. Quarterly reports are due no later than 30 calendar days after the end of the quarter, unless the commissioner determines that the deadline must be shortened to 20 calendar days to avoid jeopardizing compliance with federal deadlines or risking a loss of federal funding. Only reports that are complete, legible, and in the required format shall be accepted by the commissioner.

(c) If the required reports are not received by the deadlines established in clause (b), the commissioner may delay payments and withhold funds from the county board until the next reporting period. When the report is needed to account for the use of federal funds and the late report results in a reduction in federal funding, the commissioner shall withhold from the county boards with late reports an amount equal to the reduction in federal funding until full federal funding is received.

(d) A county board that submits reports that are late, illegible, incomplete, or not in the required format for two out of three consecutive reporting periods is considered noncompliant. When a county board is found to be noncompliant, the commissioner shall notify the county board of the reason the county board is considered noncompliant and request that the county board develop a corrective action plan stating how the county board plans to correct the problem. The corrective action plan must be submitted to the commissioner within 45 days after the date the county board received notice of noncompliance.

(e) The final deadline for fiscal reports or amendments to fiscal reports is one year after the date the report was originally due. If the commissioner does not receive a report by the final deadline, the county board forfeits the funding associated with the report for that reporting period and the county board must repay any funds associated with the report received for that reporting period.

(f) The commissioner may not delay payments, withhold funds, or require repayment under paragraph (c) or (e) if the county demonstrates that the commissioner failed to provide appropriate forms, guidelines, and technical assistance to enable the county to comply with the requirements. If the county board disagrees with an action taken by the commissioner under paragraph (c) or (e), the county board may appeal the action according to sections 14.57 to 14.69.

(g) Counties subject to withholding of funds under paragraph (c) or forfeiture or repayment of funds under paragraph (e) shall not reduce or withhold benefits or services to clients to cover costs incurred due to actions taken by the commissioner under paragraph (c) or (e).

(18) Allocate federal fiscal disallowances or sanctions for audit exceptions when federal fiscal disallowances or sanctions are based on a statewide random sample for the foster care program under title IV-E of the Social Security Act, United States Code, title 42, in direct proportion to each county's title IV-E foster care maintenance claim for that period.

(19) Be responsible for ensuring the detection, prevention, investigation, and resolution of fraudulent activities or behavior by applicants, recipients, and other participants in the human services programs administered by the department.

(20) Require county agencies to identify overpayments, establish claims, and utilize all available and cost-beneficial methodologies to collect and recover these overpayments in the human services programs administered by the department.

(21) Have the authority to administer a drug rebate program for drugs purchased pursuant to the prescription drug program established under section 256.955 after the beneficiary's satisfaction of any deductible established in the program. The commissioner shall require a rebate agreement from all manufacturers of covered drugs as defined in section 256B.0625, subdivision 13. Rebate agreements for prescription drugs delivered on or after July 1, 2002, must include rebates for individuals covered under the prescription drug program who are under 65 years of age. For each drug, the amount of the rebate shall be equal to the basic rebate as defined for purposes of the federal rebate program in United States Code, title 42, section 1396r-8(c)(1). This basic rebate shall be applied to single-source and multiple-source drugs. The manufacturers must provide full payment within 30 days of receipt of the state invoice for the rebate within the terms and conditions used for the federal rebate program established pursuant to section 1927 of title XIX of the Social Security Act. The manufacturers must provide the commissioner with any information necessary to verify the rebate determined per drug. The rebate program shall utilize the terms and conditions used for the federal rebate program established pursuant to section 1927 of title XIX of the Social Security Act.

(22) Have the authority to administer the federal drug rebate program for drugs purchased under the medical assistance program as allowed by section 1927 of title XIX of the Social Security Act and according to the terms and conditions of section 1927. Rebates shall be collected for all drugs that have been dispensed or administered in an outpatient setting and that are from manufacturers who have signed a rebate agreement with the United States Department of Health and Human Services.

~~(22)~~ (23) Operate the department's communication systems account established in Laws 1993, First Special Session chapter 1, article 1, section 2, subdivision 2, to manage shared communication costs necessary for the operation of the programs the commissioner supervises. A communications account may also be established for each regional treatment center which operates communications systems. Each account must be used to manage shared communication costs necessary for the operations of the programs the commissioner supervises. The commissioner may distribute the costs of operating and maintaining communication systems to participants in a manner that reflects actual usage. Costs may include acquisition, licensing, insurance, maintenance, repair, staff time and other costs as determined by the commissioner. Nonprofit organizations and state, county, and local government agencies involved in the operation of programs the commissioner supervises may participate in the use of the department's communications technology and share in the cost of operation. The commissioner may accept on behalf of the state

any gift, bequest, devise or personal property of any kind, or money tendered to the state for any lawful purpose pertaining to the communication activities of the department. Any money received for this purpose must be deposited in the department's communication systems accounts. Money collected by the commissioner for the use of communication systems must be deposited in the state communication systems account and is appropriated to the commissioner for purposes of this section.

~~(23)~~ (24) Receive any federal matching money that is made available through the medical assistance program for the consumer satisfaction survey. Any federal money received for the survey is appropriated to the commissioner for this purpose. The commissioner may expend the federal money received for the consumer satisfaction survey in either year of the biennium.

~~(24)~~ (25) Incorporate cost reimbursement claims from First Call Minnesota into the federal cost reimbursement claiming processes of the department according to federal law, rule, and regulations. Any reimbursement received is appropriated to the commissioner and shall be disbursed to First Call Minnesota according to normal department payment schedules.

~~(25)~~ (26) Develop recommended standards for foster care homes that address the components of specialized therapeutic services to be provided by foster care homes with those services.

Sec. 2. Minnesota Statutes 2000, section 256.955, subdivision 2b, is amended to read:

Subd. 2b. [ELIGIBILITY.] Effective July 1, 2002, an individual satisfying the following requirements and the requirements described in subdivision 2, paragraph (d), is eligible for the prescription drug program:

(1) is under 65 years of age; and

(2) is eligible as a qualified Medicare beneficiary according to section 256B.057, subdivision 3 or 3a, or is eligible under section 256B.057, subdivision 3 or 3a, and is also eligible for medical assistance or general assistance medical care with a spenddown as defined in section 256B.056, subdivision 5.

Sec. 3. [256.958] [RETIRED DENTIST PROGRAM.]

Subdivision 1. [PROGRAM.] The commissioner of human services shall establish a program to reimburse a retired dentist for the dentist's license fee and for the cost of malpractice insurance in exchange for the dentist providing 100 hours of dental services on a volunteer basis within a 12-month period at a community dental clinic or a dental training clinic located at a Minnesota state college or university.

Subd. 2. [DOCUMENTATION.] Upon completion of the required hours, the retired dentist shall submit to the commissioner the following:

(1) documentation of service provided;

(2) the cost of malpractice insurance for the 12-month period; and

(3) the cost of the license.

Subd. 3. [REIMBURSEMENT.] Upon receipt of the information described in subdivision 2, the commissioner shall provide reimbursement to the retired dentist for the cost of malpractice insurance for the previous 12-month period and the cost of the license.

Sec. 4. Minnesota Statutes 2000, section 256.9657, subdivision 2, is amended to read:

Subd. 2. [HOSPITAL SURCHARGE.] (a) Effective October 1, 1992, each Minnesota hospital except facilities of the federal Indian Health Service and regional treatment centers shall pay to the medical assistance account a surcharge equal to 1.4 percent of net patient revenues excluding net Medicare revenues reported by that provider to the health care cost information system according to the schedule in subdivision 4.

(b) Effective July 1, 1994, the surcharge under paragraph (a) is increased to 1.56 percent.

(c) Notwithstanding the Medicare cost finding and allowable cost principles, the hospital surcharge is not an allowable cost for purposes of rate setting under sections 256.9685 to 256.9695.

Sec. 5. Minnesota Statutes 2000, 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, within the limits of available appropriations, 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, 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. 6. Minnesota Statutes 2000, section 256.969, is amended by adding a subdivision to read:

Subd. 26. [GREATER MINNESOTA PAYMENT ADJUSTMENT AFTER JUNE 30, 2001.] (a) For admissions occurring after June 30, 2001, the commissioner shall pay all medical assistance inpatient fee-for-service admissions for the diagnosis-related groups specified in paragraph (b) at hospitals located outside of the seven-county metropolitan area at the higher of:

(1) the hospital's current payment rate for the diagnostic category to which the diagnosis-related group belongs, exclusive of disproportionate population adjustments received under subdivision 9 and hospital payment adjustments received under subdivision 23; or

(2) the rate in clause (1) plus a proportion of the difference between the current average payment rate for that diagnostic category for hospitals located within the seven-county metropolitan area, exclusive of disproportionate population adjustments received under subdivision 9 and hospital payment adjustments received under subdivision 23, and the current rate in clause (1). This proportion shall be 12.5 percent for the fiscal year beginning July 1, 2001, and shall increase by 12.5 percentage points for each of the next seven fiscal years, such that the proportion is 100 percent for the fiscal year beginning July 1, 2008.

(b) The reimbursement increases provided in paragraph (a) apply to the following diagnosis-related groups as they fall within the diagnostic categories:

(1) 370 C-section with complicating diagnosis;

(2) 371 C-section without complicating diagnosis;

(3) 372 vaginal delivery with complicating diagnosis;

(4) 373 vaginal delivery without complicating diagnosis;

- (5) 386 extreme immaturity, weight greater than 1,500 grams;
- (6) 388 full-term neonates with other problems;
- (7) 390 prematurity without major problems;
- (8) 391 normal newborn case;
- (9) 385 neonate, died or transferred to another health care facility;
- (10) 425 acute adjustment reaction and psychosocial dysfunctioning;
- (11) 430 psychosis;
- (12) 431 childhood mental disorders; and
- (13) 164-167 appendectomy.

Sec. 7. Minnesota Statutes 2000, section 256B.04, is amended by adding a subdivision to read:

Subd. 1b. [CONTRACT FOR SERVICES FOR AMERICAN INDIAN CHILDREN.] Notwithstanding subdivision 1, the commissioner may contract with federally recognized Indian tribes with a reservation in Minnesota for the provision of early and periodic screening, diagnosis, and treatment administrative services for American Indian children, according to Code of Federal Regulations, title 42, section 441, subpart B, and Minnesota Rules, part 9505.1693 et seq., when the tribe chooses to provide such services. For purposes of this subdivision, "American Indian" has the meaning given to persons to whom services will be provided for in Code of Federal Regulations, title 42, section 36.12. Notwithstanding Minnesota Rules, part 9505.1748, subpart 1, the commissioner, the local agency, and the tribe may contract with any entity for the provision of early and periodic screening, diagnosis, and treatment administrative services.

[EFFECTIVE DATE.] This section is effective the day following final enactment.

Sec. 8. Minnesota Statutes 2000, section 256B.055, subdivision 3a, is amended to read:

~~Subd. 3a. [MFIP-S FAMILIES; FAMILIES ELIGIBLE UNDER PRIOR AFDC RULES.]~~ (a) Beginning January 1, 1998, or on the date that MFIP-S is implemented in counties, medical assistance may be paid for a person receiving public assistance under the MFIP-S program. Beginning July 1, 2002, medical assistance may be paid for a person who would have been eligible, but for excess income or assets, under the state's AFDC plan in effect as of July 16, 1996, with the base AFDC standard increased according to section 256B.056, subdivision 4.

(b) Beginning January 1, 1998, July 1, 2002, medical assistance may be paid for a person who would have been eligible for public assistance under the income and resource assets standards, or who would have been eligible but for excess income or assets, under the state's AFDC plan in effect as of July 16, 1996, as required by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), Public Law Number 104-193 with the base AFDC rate increased according to section 256B.056, subdivision 4.

[EFFECTIVE DATE.] This section is effective July 1, 2002.

Sec. 9. Minnesota Statutes 2000, section 256B.056, subdivision 1a, is amended to read:

Subd. 1a. [INCOME AND ASSETS GENERALLY.] Unless specifically required by state law or rule or federal law or regulation, the methodologies used in counting income and assets to determine eligibility for medical assistance for persons whose eligibility category is based on blindness, disability, or age of 65 or more years, the

methodologies for the supplemental security income program shall be used. Effective upon federal approval, for children eligible under section 256B.055, subdivision 12, or for home and community-based waiver services whose eligibility for medical assistance is determined without regard to parental income, child support payments, including any payments made by an obligor in satisfaction of or in addition to a temporary or permanent order for child support, social security payments, and other benefits for basic needs are not counted as income. For families and children, which includes all other eligibility categories, the methodologies under the state's AFDC plan in effect as of July 16, 1996, as required by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), Public Law Number 104-193, shall be used. Effective upon federal approval, in-kind contributions to, and payments made on behalf of, a recipient, by an obligor, in satisfaction of or in addition to a temporary or permanent order for child support or maintenance, shall be considered income to the recipient. For these purposes, a "methodology" does not include an asset or income standard, or accounting method, or method of determining effective dates.

Sec. 10. Minnesota Statutes 2000, section 256B.056, subdivision 3, is amended to read:

Subd. 3. [ASSET LIMITATIONS.] To be eligible for medical assistance, a person must not individually own more than \$3,000 in assets, or if a member of a household with two family members, husband and wife, or parent and child, the household must not own more than \$6,000 in assets, plus \$200 for each additional legal dependent. In addition to these maximum amounts, an eligible individual or family may accrue interest on these amounts, but they must be reduced to the maximum at the time of an eligibility redetermination. The accumulation of the clothing and personal needs allowance according to section 256B.35 must also be reduced to the maximum at the time of the eligibility redetermination. The value of assets that are not considered in determining eligibility for medical assistance is the value of those assets excluded under the AFDC state plan as of July 16, 1996, as required by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), Public Law Number 104-193, for families and children, and the supplemental security income program for aged, blind, and disabled persons, with the following exceptions:

- (a) Household goods and personal effects are not considered.
- (b) Capital and operating assets of a trade or business that the local agency determines are necessary to the person's ability to earn an income are not considered.
- (c) Motor vehicles are excluded to the same extent excluded by the supplemental security income program.
- (d) Assets designated as burial expenses are excluded to the same extent excluded by the supplemental security income program.
- (e) Effective upon federal approval, for a person who no longer qualifies as an employed person with a disability due to loss of earnings, assets allowed while eligible for medical assistance under section 256B.057, subdivision 9, are not considered for 12 months, beginning with the first month of ineligibility as an employed person with a disability, to the extent that the person's total assets remain within the allowed limits of section 256B.057, subdivision 9, paragraph (b).

Sec. 11. Minnesota Statutes 2000, section 256B.056, subdivision 4, is amended to read:

Subd. 4. [INCOME.] (a) To be eligible for medical assistance, a person eligible under section 256B.055, ~~subdivision subdivisions 7, 7a, and 12, not receiving supplemental security income program payments, and may have income up to the following specified percentages of the federal poverty guidelines for the family size effective on April 1 of each year:~~

- (1) 80 percent, effective July 1, 2002;
- (2) 90 percent, effective July 1, 2003;
- (3) 100 percent, effective July 1, 2004.

Increases in benefits under title II of the Social Security Act shall not be counted as income for purposes of this subdivision until the first day of the second full month following publication of the change in the federal poverty guidelines.

(b) To be eligible for medical assistance, families and children may have an income up to 133-1/3 percent of the AFDC income standard in effect under the July 16, 1996, AFDC state plan. Effective July 1, 2000, the base AFDC standard in effect on July 16, 1996, shall be increased by three percent. Effective January 1, 2000, and each successive January, recipients of supplemental security income may have an income up to the supplemental security income standard in effect on that date.

(c) Effective July 1, 2002, to be eligible for medical assistance, families and children may have an income up to 100 percent of the federal poverty guidelines for the family size effective on April 1 of each year.

(d) In computing income to determine eligibility of persons under paragraphs (a) to (c) who are not residents of long-term care facilities, the commissioner shall disregard increases in income as required by Public Law Numbers 94-566, section 503; 99-272; and 99-509. Veterans aid and attendance benefits and Veterans Administration unusual medical expense payments are considered income to the recipient.

Sec. 12. Minnesota Statutes 2000, section 256B.056, subdivision 5, is amended to read:

Subd. 5. [EXCESS INCOME.] A person who has excess income is eligible for medical assistance if the person has expenses for medical care that are more than the amount of the person's excess income, computed by deducting incurred medical expenses from the excess income to reduce the excess to the income standard specified in subdivision 4, except that if federal authorization to use the standard in subdivision 4 is not obtained, the medically needy standard for purposes of a spenddown shall be 133 and 1/3 percent of the AFDC income standard in effect under the July 16, 1996, AFDC state plan, increased by three percent. The person shall elect to have the medical expenses deducted at the beginning of a one-month budget period or at the beginning of a six-month budget period. The commissioner shall allow persons eligible for assistance on a one-month spenddown basis under this subdivision to elect to pay the monthly spenddown amount in advance of the month of eligibility to the state agency in order to maintain eligibility on a continuous basis. If the recipient does not pay the spenddown amount on or before the 20th of the month, the recipient is ineligible for this option for the following month. The local agency shall code the Medicaid Management Information System (MMIS) to indicate that the recipient has elected this option. The state agency shall convey recipient eligibility information relative to the collection of the spenddown to providers through the Electronic Verification System (EVS). A recipient electing advance payment must pay the state agency the monthly spenddown amount on or before the 20th of the month in order to be eligible for this option in the following month.

Sec. 13. Minnesota Statutes 2000, section 256B.057, subdivision 9, is amended to read:

Subd. 9. [EMPLOYED PERSONS WITH DISABILITIES.] (a) Medical assistance may be paid for a person who is employed and who:

- (1) meets the definition of disabled under the supplemental security income program;
- (2) is at least 16 but less than 65 years of age;
- (3) meets the asset limits in paragraph (b); and
- (4) pays a premium, if required, under paragraph (c).

Any spousal income or assets shall be disregarded for purposes of eligibility and premium determinations.

(b) For purposes of determining eligibility under this subdivision, a person's assets must not exceed \$20,000, excluding:

- (1) all assets excluded under section 256B.056;
- (2) retirement accounts, including individual accounts, 401(k) plans, 403(b) plans, Keogh plans, and pension plans; and
- (3) medical expense accounts set up through the person's employer.

(c) A person whose earned and unearned income is equal to or greater than 100 percent of federal poverty guidelines for the applicable family size must pay a premium to be eligible for medical assistance under this subdivision. The premium shall be equal to ten percent of based on the person's gross earned and unearned income above 200 percent of federal poverty guidelines for and the applicable family size up to the cost of coverage, using a sliding fee scale established by the commissioner which begins at one percent of income at 100 percent of the federal poverty guidelines and gradually increases to 7.5 percent of income for those with incomes at or above 300 percent of the federal poverty guidelines.

(d) A person's eligibility and premium shall be determined by the local county agency. Premiums must be paid to the commissioner. All premiums are dedicated to the commissioner.

(e) Any required premium shall be determined at application and redetermined annually at recertification or when a change in income or family size occurs.

(f) Premium payment is due upon notification from the commissioner of the premium amount required. Premiums may be paid in installments at the discretion of the commissioner.

(g) Nonpayment of the premium shall result in denial or termination of medical assistance unless the person demonstrates good cause for nonpayment. Good cause exists if the requirements specified in Minnesota Rules, part 9506.0040, subpart 7, items B to D, are met. Nonpayment shall include payment with a returned, refused, or dishonored instrument. The commissioner may require a guaranteed form of payment as the only means to replace a returned, refused, or dishonored instrument.

[EFFECTIVE DATE.] This section is effective September 1, 2001.

Sec. 14. Minnesota Statutes 2000, section 256B.057, is amended by adding a subdivision to read:

Subd. 10. [CERTAIN PERSONS NEEDING TREATMENT FOR BREAST OR CERVICAL CANCER.] (a) Medical assistance may be paid for a person who:

(1) has been screened for breast or cervical cancer by the Minnesota breast and cervical cancer control program, and program funds have been used to pay for the person's screening;

(2) according to the person's treating health professional, needs treatment, including diagnostic services necessary to determine the extent and proper course of treatment, for breast or cervical cancer, including precancerous conditions and early stage cancer;

(3) meets the income eligibility guidelines for the Minnesota breast and cervical cancer control program;

(4) is under age 65;

(5) is not otherwise eligible for medical assistance under United States Code, title 42, section 1396(a)(10)(A)(i); and

(6) is not otherwise covered under creditable coverage, as defined under United States Code, title 42, section 300gg(c).

(b) Medical assistance provided for an eligible person under this subdivision shall be limited to services provided during the period that the person receives treatment for breast or cervical cancer.

(c) A person meeting the criteria in paragraph (a) is eligible for medical assistance without meeting the eligibility criteria relating to income and assets in section 256B.056, subdivisions 1a to 5b.

Sec. 15. Minnesota Statutes 2000, section 256B.0625, subdivision 3b, is amended to read:

Subd. 3b. [TELEMEDICINE CONSULTATIONS.] ~~(a)~~ Medical assistance covers telemedicine consultations. Telemedicine consultations must be made via two-way, interactive video or store-and-forward technology. Store-and-forward technology includes telemedicine consultations that do not occur in real time via synchronous transmissions, and that do not require a face-to-face encounter with the patient for all or any part of any such telemedicine consultation. The patient record must include a written opinion from the consulting physician providing the telemedicine consultation. A communication between two physicians that consists solely of a telephone conversation is not a telemedicine consultation. Coverage is limited to three telemedicine consultations per recipient per calendar week. Telemedicine consultations shall be paid at the full allowable rate.

~~(b) This subdivision expires July 1, 2001.~~

Sec. 16. Minnesota Statutes 2000, section 256B.0625, is amended by adding a subdivision to read:

Subd. 5a. [INTENSIVE EARLY INTERVENTION BEHAVIOR THERAPY SERVICES FOR CHILDREN WITH AUTISM SPECTRUM DISORDERS.] (a) [COVERAGE.] Medical assistance covers home-based intensive early intervention behavior therapy for children with autism spectrum disorders. Children with autism spectrum disorder, and their custodial parents or foster parents, may access other covered services to treat autism spectrum disorder, and are not required to receive intensive early intervention behavior therapy services under this subdivision. Intensive early intervention behavior therapy does not include coverage for services to treat developmental disorders of language, early onset psychosis, Rett's disorder, selective mutism, social anxiety disorder, stereotypic movement disorder, dementia, obsessive compulsive disorder, schizoid personality disorder, avoidant personality disorder, or reactive attachment disorder. If a child with autism spectrum disorder is diagnosed to have one or more of these conditions, intensive early intervention behavior therapy includes coverage only for services necessary to treat the autism spectrum disorder.

(b) [PURPOSE OF INTENSIVE EARLY INTERVENTION BEHAVIOR THERAPY SERVICES (IEIBTS).] The purpose of IEIBTS is to improve the child's behavioral functioning, to prevent development of challenging behaviors, to eliminate autistic behaviors, to reduce the risk of out-of-home placement, and to establish independent typical functioning in language and social behavior. The procedures used to accomplish these goals are based upon research in applied behavior analysis.

(c) [ELIGIBLE CHILDREN.] A child is eligible to initiate IEIBTS if, the child meets the additional eligibility criteria in paragraph (d) and in a diagnostic assessment by a mental health professional who is not under the employ of the service provider, the child:

(1) is found to have an autism spectrum disorder;

(2) has a current IQ of either untestable, or at least 30;

- (3) if nonverbal, initiated behavior therapy by 42 months of age;
- (4) if verbal, initiated behavior therapy by 48 months of age; or
- (5) if having an IQ of at least 50, initiated behavior therapy by 84 months of age.

To continue in IEIBTS, at least one of the child's custodial parents or foster parents must participate in an average of at least five hours of documented behavior therapy per week for six months, and consistently implement behavior therapy recommendations 24 hours a day. To continue after six-month individualized treatment plan (ITP) reviews, the child must show documented progress toward mastery of six-month benchmark behavior objectives. The maximum number of months during which services may be billed is 54. If significant progress towards treatment goals has not been achieved after 24 months of treatment, treatment must be discontinued.

(d) [ADDITIONAL ELIGIBILITY CRITERIA.] A child is eligible to initiate IEIBTS if:

(1) in medical and diagnostic assessments by medical and mental health professionals, it is determined that the child does not have severe or profound mental retardation;

(2) an accurate assessment of the child's hearing has been performed, including audiometry if the brain stem auditory evokes response;

(3) a blood lead test has been performed prior to initiation of treatment; and

(4) an EEG or neurologic evaluation is done, prior to initiation of treatment, if the child has a history of staring spells or developmental regression.

(e) [COVERED SERVICES.] The focus of IEIBTS must be to treat the principal diagnostic features of the autism spectrum disorder. All IEIBTS must be delivered by a team of practitioners under the consistent supervision of a single clinical supervisor. A mental health professional must develop the ITP for IEIBTS. The ITP must include six-month benchmark behavior objectives. All behavior therapy must be based upon research in applied behavior analysis, with an emphasis upon positive reinforcement of carefully task-analyzed skills for optimum rates of progress. All behavior therapy must be consistently applied and generalized throughout the 24-hour day and seven-day week by all of the child's regular care providers. When placing the child in school activities, a majority of the peers must have no mental health diagnosis, and the child must have sufficient social skills to succeed with 80 percent of the school activities. Reactive consequences, such as redirection, correction, positive practice, or time-out, must be used only when necessary to improve the child's success when proactive procedures alone have not been effective. IEIBTS must be delivered by a team of behavior therapy practitioners who are employed under the direction of the same agency. The team may deliver up to 200 billable hours per year of direct clinical supervisor services, up to 750 billable hours per year of senior behavior therapist services, and up to 1,800 billable hours per year of direct behavior therapist services. A one-hour clinical review meeting for the child, parents, and staff must be scheduled 50 weeks a year, at which behavior therapy is reviewed and planned. At least one-quarter of the annual clinical supervisor billable hours shall consist of on-site clinical meeting time. At least one-half of the annual senior behavior therapist billable hours shall consist of direct services to the child or parents. All of the behavioral therapist billable hours shall consist of direct on-site services to the child or parents. None of the senior behavior therapist billable hours or behavior therapist billable hours shall consist of clinical meeting time. If there is any regression of the autistic spectrum disorder after 12 months of therapy, a neurologic consultation must be performed.

(f) [PROVIDER QUALIFICATIONS.] The provider agency must be capable of delivering consistent applied behavior analysis (ABA)-based behavior therapy in the home. The site director of the agency must be a mental health professional certified as a behavior analyst by the Association for Behavior Analysis. Each clinical supervisor must be certified as a behavior analyst by the Association for Behavior Analysis.

(g) [SUPERVISION REQUIREMENTS.] (1) Each behavior therapist practitioner must be continuously supervised while in the home until the practitioner has mastered competencies for independent practice. Each behavior therapist must have mastered three credits of academic content and practice in an ABA sequence at an accredited university. A college degree or minimum hours of experience are not required. Each behavior therapist must continue training through weekly direct observation by the senior behavior therapist, through demonstrated performance in clinical meetings with the clinical supervisor, and annual training in ABA.

(2) Each senior behavior therapist practitioner must have mastered the senior behavior therapy competencies, completed one year of practice as a behavior therapist, and six months of co-therapy training with another senior behavior therapist or have an equivalent amount of experience in ABA. Each senior behavior therapist must have mastered 12 credits of academic content and practice in an ABA sequence at an accredited university. Each senior behavior therapist must continue training through demonstrated performance in clinical meetings with the clinical supervisor, and annual training in ABA.

(3) Each clinical supervisor practitioner must have mastered the clinical supervisor and family consultation competencies, completed two years of practice as a senior behavior therapist and one year of co-therapy training with another clinical supervisor, or equivalent experience in ABA. Each clinical supervisor must continue training through annual training in ABA.

(h) [PLACE OF SERVICE.] IEIBTS are provided primarily in the child's home and community. Services may be provided in the child's natural school or preschool classroom, home of a relative, natural recreational setting, or day care.

(i) [PRIOR AUTHORIZATION REQUIREMENTS.] Prior authorization shall be required for services provided after 200 hours of clinical supervisor, 750 hours of senior behavior therapist, or 1,800 hours of behavior therapist services per year.

(j) [PAYMENT RATES.] The following payment rates apply:

(1) for an IEIBTS clinical supervisor practitioner under supervision of a mental health professional, the lower of the submitted charge or \$137 per hour unit;

(2) for an IEIBTS senior behavior therapist practitioner under supervision of a mental health professional, the lower of the submitted charge or \$56 per hour unit; or

(3) for an IEIBTS behavior therapist practitioner under supervision of a mental health professional, the lower of the submitted charge or \$19 per hour unit.

An IEIBTS practitioner may receive payment for travel time which exceeds 50 minutes one-way. The maximum payment allowed will be \$0.51 per minute for up to a maximum of 300 hours per year.

For any week during which the above charges are made to medical assistance, payments for the following services are excluded: supervising mental health professional hours and personal care attendant, home-based mental health, family-community support, or mental health behavioral aide hours.

(k) [REPORT.] The commissioner shall collect evidence of the effectiveness of intensive early intervention behavior therapy services and present a report to the legislature by July 1, 2006.

[EFFECTIVE DATE.] This section is effective January 1, 2002.

Sec. 17. Minnesota Statutes 2000, section 256B.0625, subdivision 13, is amended to read:

Subd. 13. [DRUGS.] (a) Medical assistance covers drugs, except for fertility drugs when specifically used to enhance fertility, if prescribed by a licensed practitioner and dispensed by a licensed pharmacist, by a physician enrolled in the medical assistance program as a dispensing physician, or by a physician or a nurse practitioner employed by or under contract with a community health board as defined in section 145A.02, subdivision 5, for the purposes of communicable disease control. The commissioner, after receiving recommendations from professional medical associations and professional pharmacist associations, shall designate a formulary committee to advise the commissioner on the names of drugs for which payment is made, recommend a system for reimbursing providers on a set fee or charge basis rather than the present system, and develop methods encouraging use of generic drugs when they are less expensive and equally effective as trademark drugs. The formulary committee shall consist of nine members, four of whom shall be physicians who are not employed by the department of human services, and a majority of whose practice is for persons paying privately or through health insurance, three of whom shall be pharmacists who are not employed by the department of human services, and a majority of whose practice is for persons paying privately or through health insurance, a consumer representative, and a nursing home representative. Committee members shall serve three-year terms and shall serve without compensation. Members may be reappointed once.

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

(1) the drug formulary committee must develop criteria to be used for identifying drugs; the development of these criteria is not subject to the requirements of chapter 14, but the formulary committee shall provide opportunity for public input in developing criteria;

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

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

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

(ii) over-the-counter drugs, except for antacids, acetaminophen, family planning products, aspirin, insulin, products for the treatment of lice, vitamins for adults with documented vitamin deficiencies, vitamins for children under the age of seven and pregnant or nursing women, and any other over-the-counter drug identified by the commissioner, in consultation with the drug formulary committee, as necessary, appropriate, and cost-effective for the treatment of certain specified chronic diseases, conditions or disorders, and this determination shall not be subject to the requirements of chapter 14;

(iii) anorectics, except that medically necessary anorectics shall be covered for a recipient previously diagnosed as having pickwickian syndrome and currently diagnosed as having diabetes and being morbidly obese;

(iv) drugs for which medical value has not been established; and

(v) drugs from manufacturers who have not signed a rebate agreement with the Department of Health and Human Services pursuant to section 1927 of title XIX of the Social Security Act.

The commissioner shall publish conditions for prohibiting payment for specific drugs after considering the formulary committee's recommendations. An honorarium of \$100 per meeting and reimbursement for mileage shall be paid to each committee member in attendance.

(c) The basis for determining the amount of payment shall be the lower of the actual acquisition costs of the drugs plus a fixed dispensing fee; the maximum allowable cost set by the federal government or by the commissioner plus the fixed dispensing fee; or the usual and customary price charged to the public. The pharmacy dispensing fee shall be \$3.65, except that the dispensing fee for intravenous solutions which must be compounded by the pharmacist shall be \$8 per bag, \$14 per bag for cancer chemotherapy products, and \$30 per bag for total parenteral nutritional products dispensed in one liter quantities, or \$44 per bag for total parenteral nutritional products dispensed in quantities greater than one liter. Actual acquisition cost includes quantity and other special discounts except time and cash discounts. The actual acquisition cost of a drug shall be estimated by the commissioner, at average wholesale price minus nine percent, except that where a drug has had its wholesale price reduced as a result of the actions of the National Association of Medicaid Fraud Control Units, the estimated actual acquisition cost shall be the reduced average wholesale price, without the nine percent deduction. The maximum allowable cost of a multisource drug may be set by the commissioner and it shall be comparable to, but no higher than, the maximum amount paid by other third-party payors in this state who have maximum allowable cost programs. The commissioner shall set maximum allowable costs for multisource drugs that are not on the federal upper limit list as described in United States Code, title 42, chapter 7, section 1396r-8(e), the Social Security Act, and Code of Federal Regulations, title 42, part 447, section 447.332. Establishment of the amount of payment for drugs shall not be subject to the requirements of the Administrative Procedure Act. An additional dispensing fee of \$.30 may be added to the dispensing fee paid to pharmacists for legend drug prescriptions dispensed to residents of long-term care facilities when a unit dose blister card system, approved by the department, is used. Under this type of dispensing system, the pharmacist must dispense a 30-day supply of drug. The National Drug Code (NDC) from the drug container used to fill the blister card must be identified on the claim to the department. The unit dose blister card containing the drug must meet the packaging standards set forth in Minnesota Rules, part 6800.2700, that govern the return of unused drugs to the pharmacy for reuse. The pharmacy provider will be required to credit the department for the actual acquisition cost of all unused drugs that are eligible for reuse. Over-the-counter medications must be dispensed in the manufacturer's unopened package. The commissioner may permit the drug clozapine to be dispensed in a quantity that is less than a 30-day supply. Whenever a generically equivalent product is available, payment shall be on the basis of the actual acquisition cost of the generic drug, unless the prescriber specifically indicates "dispense as written - brand necessary" on the prescription as required by section 151.21, subdivision 2.

(d) For purposes of this subdivision, "multisource drugs" means covered outpatient drugs, excluding innovator multisource drugs for which there are two or more drug products, which:

(1) are related as therapeutically equivalent under the Food and Drug Administration's most recent publication of "Approved Drug Products with Therapeutic Equivalence Evaluations";

(2) are pharmaceutically equivalent and bioequivalent as determined by the Food and Drug Administration; and

(3) are sold or marketed in Minnesota.

"Innovator multisource drug" means a multisource drug that was originally marketed under an original new drug application approved by the Food and Drug Administration.

(e) The basis for determining the amount of payment for drugs administered in an outpatient setting shall be the lower of the usual and customary cost submitted by the provider; the average wholesale price minus five percent; or the maximum allowable cost set by the federal government under United States Code, title 42, chapter 7, section 1396r-8(e) and Code of Federal Regulations, title 42, section 447.332, or by the commissioner under paragraph (c).

Sec. 18. Minnesota Statutes 2000, section 256B.0625, subdivision 13a, is amended to read:

Subd. 13a. [DRUG UTILIZATION REVIEW BOARD.] A nine-member drug utilization review board is established. The board is comprised of at least three but no more than four licensed physicians actively engaged in the practice of medicine in Minnesota; at least three licensed pharmacists actively engaged in the practice of pharmacy in Minnesota; and one consumer representative; the remainder to be made up of health care professionals who are licensed in their field and have recognized knowledge in the clinically appropriate prescribing, dispensing, and monitoring of covered outpatient drugs. The board shall be staffed by an employee of the department who shall serve as an ex officio nonvoting member of the board. The members of the board shall be appointed by the commissioner and shall serve three-year terms. The members shall be selected from lists submitted by professional associations. The commissioner shall appoint the initial members of the board for terms expiring as follows: three members for terms expiring June 30, 1996; three members for terms expiring June 30, 1997; and three members for terms expiring June 30, 1998. Members may be reappointed once. The board shall annually elect a chair from among the members.

The commissioner shall, with the advice of the board:

(1) implement a medical assistance retrospective and prospective drug utilization review program as required by United States Code, title 42, section 1396r-8(g)(3);

(2) develop and implement the predetermined criteria and practice parameters for appropriate prescribing to be used in retrospective and prospective drug utilization review;

(3) develop, select, implement, and assess interventions for physicians, pharmacists, and patients that are educational and not punitive in nature;

(4) establish a grievance and appeals process for physicians and pharmacists under this section;

(5) publish and disseminate educational information to physicians and pharmacists regarding the board and the review program;

(6) adopt and implement procedures designed to ensure the confidentiality of any information collected, stored, retrieved, assessed, or analyzed by the board, staff to the board, or contractors to the review program that identifies individual physicians, pharmacists, or recipients;

(7) establish and implement an ongoing process to (i) receive public comment regarding drug utilization review criteria and standards, and (ii) consider the comments along with other scientific and clinical information in order to revise criteria and standards on a timely basis; and

(8) adopt any rules necessary to carry out this section.

The board may establish advisory committees. The commissioner may contract with appropriate organizations to assist the board in carrying out the board's duties. The commissioner may enter into contracts for services to develop and implement a retrospective and prospective review program.

The board shall report to the commissioner annually on the date the Drug Utilization Review Annual Report is due to the Health Care Financing Administration. This report is to cover the preceding federal fiscal year. The commissioner shall make the report available to the public upon request. The report must include information on the activities of the board and the program; the effectiveness of implemented interventions; administrative costs; and any fiscal impact resulting from the program. An honorarium of ~~\$50~~ \$100 per meeting and reimbursement for mileage shall be paid to each board member in attendance.

Sec. 19. Minnesota Statutes 2000, section 256B.0625, subdivision 17, is amended to read:

Subd. 17. [TRANSPORTATION COSTS.] (a) Medical assistance covers transportation costs incurred solely for obtaining emergency medical care or transportation costs incurred by nonambulatory persons in obtaining emergency or nonemergency medical care when paid directly to an ambulance company, common carrier, or other recognized providers of transportation services. For the purpose of this subdivision, a person who is incapable of transport by taxicab or bus shall be considered to be nonambulatory.

(b) Medical assistance covers special transportation, as defined in Minnesota Rules, part 9505.0315, subpart 1, item F, if the provider receives and maintains a current physician's order by the recipient's attending physician certifying that the recipient has a physical or mental impairment that would prohibit the recipient from safely accessing and using a bus, taxi, other commercial transportation, or private automobile. Special transportation includes driver-assisted service to eligible individuals. Driver-assisted service includes passenger pickup at and return to the individual's residence or place of business, assistance with admittance of the individual to the medical facility, and assistance in passenger securement or in securing of wheelchairs or stretchers in the vehicle. The commissioner shall establish maximum medical assistance reimbursement rates for special transportation services for persons who need a wheelchair lift accessible van or stretcher-equipped vehicle and for those who do not need a wheelchair lift accessible van or stretcher-equipped vehicle. The average of these two rates per trip must not exceed \$15 for the base rate and ~~\$1.20~~ \$1.50 per mile. Special transportation provided to ~~nonambulatory~~ ambulatory 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. 20. Minnesota Statutes 2000, section 256B.0625, subdivision 17a, is amended to read:

Subd. 17a. [PAYMENT FOR AMBULANCE SERVICES.] Effective for services rendered on or after July 1, ~~1999~~ 2001, medical assistance payments for ambulance services shall be ~~increased by five percent~~ paid at the greater of: (1) the medical assistance reimbursement rate in effect on June 30, 2000; or (2) the current Medicare reimbursement rate for ambulance services.

Sec. 21. Minnesota Statutes 2000, section 256B.0625, subdivision 18a, is amended to read:

Subd. 18a. [~~PAYMENT FOR MEALS AND LODGING~~ ACCESS TO MEDICAL SERVICES.] (a) Medical assistance reimbursement for meals for persons traveling to receive medical care may not exceed \$5.50 for breakfast, \$6.50 for lunch, or \$8 for dinner.

(b) Medical assistance reimbursement for lodging for persons traveling to receive medical care may not exceed \$50 per day unless prior authorized by the local agency.

(c) Medical assistance direct mileage reimbursement to the eligible person or the eligible person's driver may not exceed 20 cents per mile.

(d) Medical assistance covers oral language interpreter services when provided by an enrolled health care provider during the course of providing a direct, person-to-person covered health care service to an enrolled recipient with limited English proficiency.

Sec. 22. Minnesota Statutes 2000, 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 after application. For federally qualified health centers and rural health clinics that either do not apply within the time specified above 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.

(d) Effective July 1, 1999, the provisions of paragraph (c) requiring a federally qualified health center or a rural health clinic to make application for an essential community provider designation in order to have cost-based payments made according to paragraphs (a) and (b) no longer apply.

(e) Effective January 1, 2000, payments made according to paragraphs (a) and (b) shall be limited to the cost phase-out schedule of the Balanced Budget Act of 1997.

(f) Effective January 1, 2001, each federally qualified health center and rural health clinic may elect to be paid either under the prospective payment system established in United States Code, title 42, section 1396a, paragraph (a) or under an alternative payment methodology consistent with the requirements of United States Code, title 42, section 1392a, paragraph (a) and approved by the health care financing administration. The alternative payment methodology shall be 100 percent of cost as determined according to Medicare cost principles.

Sec. 23. Minnesota Statutes 2000, section 256B.0625, subdivision 34, is amended to read:

Subd. 34. [INDIAN HEALTH SERVICES FACILITIES.] Medical assistance payments and MinnesotaCare payments to facilities of the Indian health service and facilities operated by a tribe or tribal organization under funding authorized by United States Code, title 25, sections 450f to 450n, or title III of the Indian Self-Determination and Education Assistance Act, Public Law Number 93-638, for enrollees who are eligible for federal financial participation, shall be at the option of the facility in accordance with the rate published by the United States Assistant Secretary for Health under the authority of United States Code, title 42, sections 248(a) and 249(b). General assistance medical care payments to facilities of the Indian health services and facilities operated by a tribe or tribal organization for the provision of outpatient medical care services billed after June 30, 1990, must be in accordance with the general assistance medical care rates paid for the same services when provided in a facility other than a facility of the Indian health service or a facility operated by a tribe or tribal organization. MinnesotaCare payments for enrollees who are not eligible for federal financial participation at facilities of the Indian Health Service and facilities operated by a tribe or tribal organization for the provision of outpatient medical services must be in accordance with the medical assistance rates paid for the same services when provided in a facility other than a facility of the Indian Health Service or a facility operated by a tribe or tribal organization.

[EFFECTIVE DATE.] This section is effective the day following final enactment.

Sec. 24. Minnesota Statutes 2000, section 256B.0635, subdivision 1, is amended to read:

Subdivision 1. [INCREASED EMPLOYMENT.] ~~Beginning January 1, 1998~~ (a) Until June 30, 2002, medical assistance may be paid for persons who received MFIP-S or medical assistance for families and children in at least three of six months preceding the month in which the person became ineligible for MFIP-S or medical assistance, if the ineligibility was due to an increase in hours of employment or employment income or due to the loss of an earned income disregard. In addition, to receive continued assistance under this section, persons who received medical assistance for families and children but did not receive MFIP-S must have had income less than or equal to the assistance standard for their family size under the state's AFDC plan in effect as of July 16, 1996, ~~as required by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), Public Law Number 104-193,~~ increased according to section 256B.056, subdivision 4, at the time medical assistance eligibility began. A person who is eligible for extended medical assistance is entitled to six months of assistance without reapplication, unless the assistance unit ceases to include a dependent child. For a person under 21 years of age, medical assistance may not be discontinued within the six-month period of extended eligibility until it has been determined that the person is not otherwise eligible for medical assistance. Medical assistance may be continued for an additional six months if the person meets all requirements for the additional six months, according to title XIX of the Social Security Act, as amended by section 303 of the Family Support Act of 1988, Public Law Number 100-485.

(b) Beginning July 1, 2002, medical assistance for families and children may be paid for persons who were eligible under section 256B.055, subdivision 3a, paragraph (b), in at least three of six months preceding the month in which the person became ineligible under that section if the ineligibility was due to an increase in hours of employment or employment income or due to the loss of an earned income disregard. A person who is eligible for extended medical assistance is entitled to six months of assistance without reapplication, unless the assistance unit ceases to include a dependent child, except medical assistance may not be discontinued for that dependent child under 21 years of age within the six-month period of extended eligibility until it has been determined that the person is not otherwise eligible for medical assistance. Medical assistance may be continued for an additional six months if the person meets all requirements for the additional six months, according to title XIX of the Social Security Act, as amended by section 303 of the Family Support Act of 1988, Public Law Number 100-485.

[EFFECTIVE DATE.] This section is effective July 1, 2001.

Sec. 25. Minnesota Statutes 2000, section 256B.0635, subdivision 2, is amended to read:

Subd. 2. [INCREASED CHILD OR SPOUSAL SUPPORT.] ~~Beginning January 1, 1998~~ (a) Until June 30, 2002, medical assistance may be paid for persons who received MFIP-S or medical assistance for families and children in at least three of the six months preceding the month in which the person became ineligible for MFIP-S or medical assistance, if the ineligibility was the result of the collection of child or spousal support under part D of title IV of the Social Security Act. In addition, to receive continued assistance under this section, persons who received medical assistance for families and children but did not receive MFIP-S must have had income less than or equal to the assistance standard for their family size under the state's AFDC plan in effect as of July 16, 1996, ~~as required by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), Public Law Number 104-193~~ increased according to section 256B.056, subdivision 4, at the time medical assistance eligibility began. A person who is eligible for extended medical assistance under this subdivision is entitled to four months of assistance without reapplication, unless the assistance unit ceases to include a dependent child. ~~For a person under 21 years of age, except~~ medical assistance may not be discontinued for that dependent child under 21 years of age within the four-month period of extended eligibility until it has been determined that the person is not otherwise eligible for medical assistance.

(b) Beginning July 1, 2002, medical assistance for families and children may be paid for persons who were eligible under section 256B.055, subdivision 3a, paragraph (b), in at least three of the six months preceding the month in which the person became ineligible under that section if the ineligibility was the result of the collection of child or spousal support under part D of title IV of the Social Security Act. A person who is eligible for extended medical assistance under this subdivision is entitled to four months of assistance without reapplication, unless the assistance

unit ceases to include a dependent child, except medical assistance may not be discontinued for that dependent child under 21 years of age within the four-month period of extended eligibility until it has been determined that the person is not otherwise eligible for medical assistance.

[EFFECTIVE DATE.] This section is effective July 1, 2001.

Sec. 26. [256B.0637] [PRESUMPTIVE ELIGIBILITY FOR CERTAIN PERSONS NEEDING TREATMENT FOR BREAST OR CERVICAL CANCER.]

Medical assistance is available during a presumptive eligibility period for persons who meet the criteria in section 256B.057, subdivision 10. For purposes of this section, the presumptive eligibility period begins on the date on which an entity designated by the commissioner determines, based on preliminary information, that the person meets the criteria in section 256B.057, subdivision 10. The presumptive eligibility period ends on the day on which a determination is made as to the person's eligibility, except that if an application is not submitted by the last day of the month following the month during which the determination based on preliminary information is made, the presumptive eligibility period ends on that last day of the month.

Sec. 27. [256B.195] [HEALTH CARE SAFETY NET PRESERVATION.]

Subdivision 1. [INTERGOVERNMENTAL TRANSFERS AND RELATED PAYMENTS.] (a) This section is contingent on federal approval of the intergovernmental transfers and payments to safety net hospitals authorized under this section.

(b) In addition to the percentage contribution paid by a county under section 256B.19, subdivision 1, the governmental units designated in this subdivision shall be responsible for an additional portion of the nonfederal share of medical assistance costs attributable to them. For purposes of this section, "designated governmental unit" means Hennepin county, Ramsey county, or the University of Minnesota. For purposes of this section, "nonstate, government hospital" means Hennepin County Medical Center, the successor or assignee to St. Paul-Ramsey Medical Center as described in section 383A.91, or Fairview University Medical Center.

(c) Effective July 1, 2001, the governmental units designated in paragraph (a) shall in total transfer \$2,833,333 on a monthly basis to the state Medicaid agency. The commissioner shall allocate this assessment between the governmental units based on the proportion of the Medicare upper payment limit for each nonstate, government hospital located within the governmental unit to the total Medicare upper payment limit of all participating hospitals in paragraph (b).

(d) The commissioner shall distribute the proceeds of this intergovernmental transfer, including the federal Medicaid match, as follows:

(1) Proceeds may be no less than the amount of the intergovernmental transfer in paragraph (c) multiplied by 1.75.

(2) The remaining proceeds provide funding for hospital charity care aid under section 144.585. The commissioner of human services shall work with the commissioner of health to assure that hospital charity care aid payments are administered in a manner that generates Medicaid matching funds.

(e) The successor or assignee to St. Paul-Ramsey Medical Center shall transfer on a monthly basis to Ramsey county an amount equal to the county assessment under paragraph (c).

Subd. 2. [DETERMINATION OF INTERGOVERNMENTAL TRANSFER AMOUNTS.] Medicaid rate changes, including those required to obtain federal financial participation under section 62J.692, subdivision 8, enacted prior to the effective date of this legislation, shall precede the determination of intergovernmental transfer amounts determined in this section. Participation in the intergovernmental transfer program shall not result in the offset of any nonstate, government hospital's receipt of Medicaid payment increases.

Subd. 3. [STATE PLAN AMENDMENTS.] The commissioner shall amend the state Medicaid plan as necessary to implement this section.

Subd. 4. [PROPORTIONATE ADJUSTMENTS.] (a) The commissioner shall adjust the intergovernmental transfers under subdivision 1, paragraph (c), and the payments under subdivision 1, paragraph (d), upon the approval of the designated governmental unit named in subdivision 1, paragraph (b), based on the commissioner's determination of Medicare upper payment limits, hospital-specific federal limitations on disproportionate share payments or to maximize additional federal reimbursements.

(b) In the event that: (i) federal approval is not received for the total intergovernmental transfer amount specified in subdivision 1, paragraph (d), or, (ii) federal rules regarding the establishment of the 150 percent Medicare upper payment limit, section 1102 of the Social Security Act, United States Code, title 42, section 1302, enacted on March 13, 2001, are rescinded or, (iii) the federal 150 percent Medicare upper payment limit is reduced to 100 percent, the amount of the intergovernmental transfers and Medicaid payments to the nonstate, government hospitals named in subdivision 1, paragraph (b), shall be adjusted for each hospital based on the proportion of each hospital's Medicaid inpatient hospital days to the total Medicaid inpatient hospital days provided by all participating hospitals.

[EFFECTIVE DATE.] This section is effective July 1, 2001.

Sec. 28. Minnesota Statutes 2000, 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 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;
- (5) recipients who receive benefits under the Refugee Assistance Program, established under United States Code, title 8, section 1522(e);
- (6) children who are both determined to be severely emotionally disturbed and receiving case management services according to section 256B.0625, subdivision 20; ~~and~~
- (7) adults who are both determined to be seriously and persistently mentally ill and received case management services according to section 256B.0625, subdivision 20; and
- (8) persons eligible for medical assistance according to section 256B.057, subdivision 10.

Children under age 21 who are in foster placement may enroll in the project on an elective basis. Individuals excluded under clauses (6) and (7) 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), and (8), and under Minnesota Rules, part 9500.1452, subpart 2, 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. 29. Minnesota Statutes 2000, section 256B.69, subdivision 5, is amended to read:

Subd. 5. [PROSPECTIVE PER CAPITA PAYMENT.] The commissioner shall establish the method and amount of payments for services. The commissioner shall annually contract with demonstration providers to provide services consistent with these established methods and amounts for payment. Payment rates established by the commissioner must be within the limits of available appropriations.

If allowed by the commissioner, a demonstration provider may contract with an insurer, health care provider, nonprofit health service plan corporation, or the commissioner, to provide insurance or similar protection against the cost of care provided by the demonstration provider or to provide coverage against the risks incurred by demonstration providers under this section. The recipients enrolled with a demonstration provider are a permissible group under group insurance laws and chapter 62C, the Nonprofit Health Service Plan Corporations Act. Under this type of contract, the insurer or corporation may make benefit payments to a demonstration provider for services rendered or to be rendered to a recipient. Any insurer or nonprofit health service plan corporation licensed to do business in this state is authorized to provide this insurance or similar protection.

Payments to providers participating in the project are exempt from the requirements of sections 256.966 and 256B.03, subdivision 2. The commissioner shall complete development of capitation rates for payments before delivery of services under this section is begun. For payments made during calendar year 1990 and later years, the commissioner shall contract with an independent actuary to establish prepayment rates.

By January 15, 1996, the commissioner shall report to the legislature on the methodology used to allocate to participating counties available administrative reimbursement for advocacy and enrollment costs. The report shall reflect the commissioner's judgment as to the adequacy of the funds made available and of the methodology for equitable distribution of the funds. The commissioner must involve participating counties in the development of the report.

Sec. 30. Minnesota Statutes 2000, section 256B.69, subdivision 5b, is amended to read:

Subd. 5b. [PROSPECTIVE REIMBURSEMENT RATES.] (a) 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, 1998, capitation rates for nonmetropolitan counties shall on a weighted average be no less than 88 percent of the capitation rates for metropolitan counties, excluding Hennepin county. The commissioner shall make a pro rata adjustment in capitation rates paid to counties other than nonmetropolitan counties in order to make this provision budget neutral.

(b) For prepaid medical assistance program contract rates set by the commissioner under subdivision 5 and effective on or after January 1, ~~2001~~ 2002, capitation rates for nonmetropolitan counties shall, on a weighted average, be no less than ~~89~~ 95 percent of the capitation rates for metropolitan counties, excluding Hennepin county. The commissioner shall make a pro rata adjustment in capitation rates paid to Hennepin county in order to make the portion of the increase between 89 and 95 percent budget neutral.

(c) This subdivision shall not affect the nongeographically based risk adjusted rates established under section 62Q.03, subdivision 5a, paragraph (f).

(d) The commissioner shall require prepaid health plans to use all revenue received from the increase in capitation rates for nonmetropolitan counties from 89 to no less than 95 percent of the capitation rate for metropolitan counties, excluding Hennepin county, to increase reimbursement rates, effective January 1, 2002, for providers under contract with the prepaid health plan to serve enrollees from nonmetropolitan counties.

Sec. 31. Minnesota Statutes 2000, section 256B.69, is amended by adding a subdivision to read:

Subd. 6c. [DENTAL SERVICES DEMONSTRATION PROJECT.] The commissioner shall establish a dental services demonstration project in Crow Wing, Todd, Morrison, Wadena, and Cass counties for provision of dental services to medical assistance, general assistance medical care, and MinnesotaCare recipients. The commissioner may contract on a prospective per capita payment basis for these dental services with an organization licensed under chapter 62C, 62D, or 62N in accordance with section 256B.037 or may establish and administer a fee-for-service system for the reimbursement of dental services.

[EFFECTIVE DATE.] This section is effective January 1, 2002.

Sec. 32. Minnesota Statutes 2000, section 256B.75, is amended to read:

256B.75 [HOSPITAL OUTPATIENT REIMBURSEMENT.]

(a) For outpatient hospital facility fee payments for services rendered on or after October 1, 1992, the commissioner of human services shall pay the lower of (1) submitted charge, or (2) 32 percent above the rate in effect on June 30, 1992, except for those services for which there is a federal maximum allowable payment. Effective for services rendered on or after January 1, 2000, payment rates for nonsurgical outpatient hospital facility fees and emergency room facility fees shall be increased by eight percent over the rates in effect on December 31, 1999, except for those services for which there is a federal maximum allowable payment. Services for which there is a federal maximum allowable payment shall be paid at the lower of (1) submitted charge, or (2) the federal maximum allowable payment. Total aggregate payment for outpatient hospital facility fee services shall not exceed the Medicare upper limit. If it is determined that a provision of this section conflicts with existing or future requirements of the United States government with respect to federal financial participation in medical assistance, the federal requirements prevail. The commissioner may, in the aggregate, prospectively reduce payment rates to avoid reduced federal financial participation resulting from rates that are in excess of the Medicare upper limitations.

(b) Notwithstanding paragraph (a), payment for outpatient, emergency, and ambulatory surgery hospital facility fee services for critical access hospitals designated under section 144.1483, clause (11), shall be paid on a cost-based payment system that is based on the cost-finding methods and allowable costs of the Medicare program.

(c) Effective for services provided on or after July 1, 2002, rates that are based on the Medicare outpatient prospective payment system shall be replaced by a budget neutral prospective payment system that is derived using medical assistance data. The department shall provide a proposal to the 2002 legislature to define and implement this provision.

Sec. 33. Minnesota Statutes 2000, section 256B.76, is amended to read:

256B.76 [PHYSICIAN AND DENTAL REIMBURSEMENT.]

(a) Effective for services rendered on or after October 1, 1992, the commissioner shall make payments for physician services as follows:

(1) payment for level one Health Care Finance Administration's common procedural coding system (HCPCS) codes titled "office and other outpatient services," "preventive medicine new and established patient," "delivery, antepartum, and postpartum care," "critical care," ~~Caesarean~~ cesarean delivery and pharmacologic management provided to psychiatric patients, and HCPCS level three codes for enhanced services for prenatal high risk, shall be paid at the lower of (i) submitted charges, or (ii) 25 percent above the rate in effect on June 30, 1992. If the rate on any procedure code within these categories is different than the rate that would have been paid under the methodology in section 256B.74, subdivision 2, then the larger rate shall be paid;

(2) payments for all other services shall be paid at the lower of (i) submitted charges, or (ii) 15.4 percent above the rate in effect on June 30, 1992;

(3) all physician rates shall be converted from the 50th percentile of 1982 to the 50th percentile of 1989, less the percent in aggregate necessary to equal the above increases except that payment rates for home health agency services shall be the rates in effect on September 30, 1992;

(4) effective for services rendered on or after January 1, 2000, payment rates for physician and professional services shall be increased by three percent over the rates in effect on December 31, 1999, except for home health agency and family planning agency services; and

(5) the increases in clause (4) shall be implemented January 1, 2000, for managed care.

(b) Effective for services rendered on or after October 1, 1992, the commissioner shall make payments for dental services as follows:

(1) dental services shall be paid at the lower of (i) submitted charges, or (ii) 25 percent above the rate in effect on June 30, 1992;

(2) dental rates shall be converted from the 50th percentile of 1982 to the 50th percentile of 1989, less the percent in aggregate necessary to equal the above increases;

(3) effective for services rendered on or after January 1, 2000, payment rates for dental services shall be increased by three percent over the rates in effect on December 31, 1999;

(4) the commissioner shall award grants to community clinics or other nonprofit community organizations, political subdivisions, professional associations, or other organizations that demonstrate the ability to provide dental services effectively to public program recipients. Grants may be used to fund the costs related to coordinating access for recipients, developing and implementing patient care criteria, upgrading or establishing new facilities, acquiring furnishings or equipment, recruiting new providers, or other development costs that will improve access to dental care in a region. In awarding grants, the commissioner shall give priority to applicants that plan to serve areas of the state in which the number of dental providers is not currently sufficient to meet the needs of recipients of public programs or uninsured individuals. The commissioner shall consider the following in awarding the grants: (i) potential to successfully increase access to an underserved population; (ii) the ability to raise matching funds; (iii) the long-term viability of the project to improve access beyond the period of initial funding; (iv) the efficiency in the use of the funding; and (v) the experience of the proposers in providing services to the target population.

The commissioner shall monitor the grants and may terminate a grant if the grantee does not increase dental access for public program recipients. The commissioner shall consider grants for the following:

(i) implementation of new programs or continued expansion of current access programs that have demonstrated success in providing dental services in underserved areas;

(ii) a pilot program for utilizing hygienists outside of a traditional dental office to provide dental hygiene services; and

(iii) a program that organizes a network of volunteer dentists, establishes a system to refer eligible individuals to volunteer dentists, and through that network provides donated dental care services to public program recipients or uninsured individuals.

(5) beginning October 1, 1999, the payment for tooth sealants and fluoride treatments shall be the lower of (i) submitted charge, or (ii) 80 percent of median 1997 charges; ~~and~~

(6) the increases listed in clauses (3) and (5) shall be implemented January 1, 2000, for managed care; ~~and~~

(7) effective for services provided on or after October 1, 2001, payment for diagnostic examinations and dental x-rays provided to children under age 21 shall be the lower of (i) the submitted charge, or (ii) 85 percent of median 1999 charges.

(c) Effective for dental services rendered on or after July 1, 2001, the commissioner may increase reimbursements to dentists and dental clinics deemed by the commissioner to be critical access dental providers. Reimbursement to a critical access dental provider may be increased by not more than 50 percent above the reimbursement rate that would otherwise be paid to the provider. Payments to health plan companies shall be adjusted to reflect increased reimbursements to critical access dental providers as approved by the commissioner. In determining which dentists and dental clinics shall be deemed critical access dental providers, the commissioner shall review:

(1) the utilization rate in the service area in which the dentist or dental clinic operates for dental services to patients covered by medical assistance, general assistance medical care, or MinnesotaCare as their primary source of coverage;

(2) the level of services provided by the dentist or dental clinic to patients covered by medical assistance, general assistance medical care, or MinnesotaCare as their primary source of coverage; and

(3) whether the level of services provided by the dentist or dental clinic is critical to maintaining adequate levels of patient access within the service area.

In the absence of a critical access dental provider in a service area, the commissioner may designate a dentist or dental clinic as a critical access dental provider if the dentist or dental clinic is willing to provide care to patients covered by medical assistance, general assistance medical care, or MinnesotaCare at a level which significantly increases access to dental care in the service area.

(d) An entity that operates both a Medicare certified comprehensive outpatient rehabilitation facility and a facility which was certified prior to January 1, 1993, that is licensed under Minnesota Rules, parts 9570.2000 to 9570.3600, and for whom at least 33 percent of the clients receiving rehabilitation services in the most recent calendar year are medical assistance recipients, shall be reimbursed by the commissioner for rehabilitation services at rates that are 38 percent greater than the maximum reimbursement rate allowed under paragraph (a), clause (2), when those services are (1) provided within the comprehensive outpatient rehabilitation facility and (2) provided to residents of nursing facilities owned by the entity.

[EFFECTIVE DATE.] This section is effective the day following final enactment.

Sec. 34. [256B.78] [MEDICAL ASSISTANCE DEMONSTRATION PROJECT FOR FAMILY PLANNING SERVICES.]

(a) The commissioner of human services shall establish a medical assistance demonstration project to determine whether improved access to coverage of pre-pregnancy family planning services reduces medical assistance and MFIP costs.

(b) This section is effective upon federal approval of the demonstration project.

Sec. 35. Minnesota Statutes 2000, section 256D.03, subdivision 3, is amended to read:

Subd. 3. [GENERAL ASSISTANCE MEDICAL CARE; ELIGIBILITY.] (a) General assistance medical care may be paid for any person who is not eligible for medical assistance under chapter 256B, including eligibility for medical assistance based on a spenddown of excess income according to section 256B.056, subdivision 5, or MinnesotaCare as defined in paragraph (b), except as provided in paragraph (c); and:

(1) who is receiving assistance under section 256D.05, except for families with children who are eligible under Minnesota family investment program-statewide (MFIP-S), who is having a payment made on the person's behalf under sections 256I.01 to 256I.06, or who resides in group residential housing as defined in chapter 256I and can meet a spenddown using the cost of remedial services received through group residential housing; or

(2)(i) who is a resident of Minnesota; and whose equity in assets is not in excess of \$1,000 per assistance unit. Exempt assets, the reduction of excess assets, and the waiver 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 that does not exceed 133 and 1/3 percent of the AFDC income standard in effect under the July 16 1996, AFDC state plan, increased by three percent,~~ or whose excess income is spent down according to section 256B.056, subdivision 5, using a six-month budget period. The method for calculating earned income disregards and deductions for a person who resides with a dependent child under age 21 shall follow section 256B.056, subdivision 1a. However, if a disregard of \$30 and one-third of the remainder has been applied to the wage earner's income, the disregard shall not be applied again until the wage earner's income has not been considered in an eligibility determination for general assistance, general assistance medical care, medical assistance, or MFIP-S for 12 consecutive months. The earned income and work expense deductions for a person who does not reside with a dependent child under age 21 shall be the same as the method used to determine eligibility for a person under section 256D.06, subdivision 1, except the disregard of the first \$50 of earned income is not allowed;

(3) who would be eligible for medical assistance except that the person resides in a facility that is determined by the commissioner or the federal Health Care Financing Administration to be an institution for mental diseases; or

(4) who is ineligible for medical assistance under chapter 256B or general assistance medical care under any other provision of this section, and is receiving care and rehabilitation services from a nonprofit center established to serve victims of torture. These individuals are eligible for general assistance medical care only for the period during which they are receiving services from the center. During this period of eligibility, individuals eligible under this clause shall not be required to participate in prepaid general assistance medical care.

(b) Beginning January 1, 2000, applicants or recipients who meet all eligibility requirements of MinnesotaCare as defined in sections 256L.01 to 256L.16, and are:

(i) adults with dependent children under 21 whose gross family income is equal to or less than 275 percent of the federal poverty guidelines; or

(ii) adults without children with earned income and whose family gross income is between 75 percent of the federal poverty guidelines and the amount set by section 256L.04, subdivision 7, shall be terminated from general assistance medical care upon enrollment in MinnesotaCare.

(c) For services rendered on or after July 1, 1997, eligibility is limited to one month prior to application if the person is determined eligible in the prior month. A redetermination of eligibility must occur every 12 months. Beginning January 1, 2000, Minnesota health care program applications completed by recipients and applicants who are persons described in paragraph (b), may be returned to the county agency to be forwarded to the department of human services or sent directly to the department of human services for enrollment in MinnesotaCare. If all other eligibility requirements of this subdivision are met, eligibility for general assistance medical care shall be available in any month during which a MinnesotaCare eligibility determination and enrollment are pending. Upon notification of eligibility for MinnesotaCare, notice of termination for eligibility for general assistance medical care shall be sent to an applicant or recipient. If all other eligibility requirements of this subdivision are met, eligibility for general assistance medical care shall be available until enrollment in MinnesotaCare subject to the provisions of paragraph (e).

(d) The date of an initial Minnesota health care program application necessary to begin a determination of eligibility shall be the date the applicant has provided a name, address, and social security number, signed and dated, to the county agency or the department of human services. If the applicant is unable to provide an initial application when health care is delivered due to a medical condition or disability, a health care provider may act on the person's behalf to complete the initial application. The applicant must complete the remainder of the application and provide necessary verification before eligibility can be determined. The county agency must assist the applicant in obtaining verification if necessary. On the basis of information provided on the completed application, an applicant who meets the following criteria shall be determined eligible beginning in the month of application:

- (1) has gross income less than 90 percent of the applicable income standard;
- (2) has liquid assets that total within \$300 of the asset standard;
- (3) does not reside in a long-term care facility; and
- (4) meets all other eligibility requirements.

The applicant must provide all required verifications within 30 days' notice of the eligibility determination or eligibility shall be terminated.

(e) County agencies are authorized to use all automated databases containing information regarding recipients' or applicants' income in order to determine eligibility for general assistance medical care or MinnesotaCare. Such use shall be considered sufficient in order to determine eligibility and premium payments by the county agency.

(f) General assistance medical care is not available for a person in a correctional facility unless the person is detained by law for less than one year in a county correctional or detention facility as a person accused or convicted of a crime, or admitted as an inpatient to a hospital on a criminal hold order, and the person is a recipient of general assistance medical care at the time the person is detained by law or admitted on a criminal hold order and as long as the person continues to meet other eligibility requirements of this subdivision.

(g) General assistance medical care is not available for applicants or recipients who do not cooperate with the county agency to meet the requirements of medical assistance. General assistance medical care is limited to payment of emergency services only for applicants or recipients as described in paragraph (b), whose MinnesotaCare coverage is denied or terminated for nonpayment of premiums as required by sections 256L.06 and 256L.07.

(h) In determining the amount of assets of an individual, there shall be included any asset or interest in an asset, including an asset excluded under paragraph (a), that was given away, sold, or disposed of for less than fair market value within the 60 months preceding application for general assistance medical care or during the period of eligibility. Any transfer described in this paragraph shall be presumed to have been for the purpose of establishing eligibility for general assistance medical care, unless the individual furnishes convincing evidence to establish that the transaction was exclusively for another purpose. For purposes of this paragraph, the value of the asset or interest shall be the fair market value at the time it was given away, sold, or disposed of, less the amount of compensation received. For any uncompensated transfer, the number of months of ineligibility, including partial months, shall be calculated by dividing the uncompensated transfer amount by the average monthly per person payment made by the medical assistance program to skilled nursing facilities for the previous calendar year. The individual shall remain ineligible until this fixed period has expired. The period of ineligibility may exceed 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.

(i) When determining eligibility for any state benefits under this subdivision, the income and resources of all noncitizens shall be deemed to include their sponsor's income and resources as defined in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, title IV, Public Law Number 104-193, sections 421 and 422, and subsequently set out in federal rules.

(j)(1) An undocumented noncitizen or a nonimmigrant is ineligible for general assistance medical care other than emergency services. For purposes of this subdivision, a nonimmigrant is an individual in one or more of the classes listed in United States Code, title 8, section 1101(a)(15), and an undocumented noncitizen is an individual who resides in the United States without the approval or acquiescence of the Immigration and Naturalization Service.

(2) This paragraph does not apply to a child under age 18, to a Cuban or Haitian entrant as defined in Public Law Number 96-422, section 501(e)(1) or (2)(a), or to a noncitizen who is aged, blind, or disabled as defined in Code of Federal Regulations, title 42, sections 435.520, 435.530, 435.531, 435.540, and 435.541, or effective October 1, 1998, to an individual eligible for general assistance medical care under paragraph (a), clause (4), who cooperates with the Immigration and Naturalization Service to pursue any applicable immigration status, including citizenship, that would qualify the individual for medical assistance with federal financial participation.

(k) For purposes of paragraphs (g) and (j), "emergency services" has the meaning given in Code of Federal Regulations, title 42, section 440.255(b)(1), except that it also means services rendered because of suspected or actual pesticide poisoning.

(l) Notwithstanding any other provision of law, a noncitizen who is ineligible for medical assistance due to the deeming of a sponsor's income and resources, is ineligible for general assistance medical care.

Sec. 36. Minnesota Statutes 2000, 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) psychological services, medical supplies and equipment, and Medicare premiums, coinsurance and deductible payments;

(19) medical equipment not specifically listed in this paragraph when the use of the equipment will prevent the need for costlier services that are reimbursable under this subdivision;

(20) services performed by a certified pediatric nurse practitioner, a certified family nurse practitioner, a certified adult nurse practitioner, a certified obstetric/gynecological nurse practitioner, a certified neonatal nurse practitioner, or a certified geriatric nurse practitioner in independent practice, if (1) the service is otherwise covered under this chapter as a physician service, (2) the service provided on an inpatient basis is not included as part of the cost for inpatient services included in the operating payment rate, and (3) the service is within the scope of practice of the nurse practitioner's license as a registered nurse, as defined in section 148.171;

(21) services of a certified public health nurse or a registered nurse practicing in a public health nursing clinic that is a department of, or that operates under the direct authority of, a unit of government, if the service is within the scope of practice of the public health nurse's license as a registered nurse, as defined in section 148.171; and

(22) telemedicine consultations, to the extent they are covered under section 256B.0625, subdivision 3b.

(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. 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. Payment rates established by the commissioner must be within the limits of available appropriations. 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) 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. 37. Minnesota Statutes 2000, section 256J.31, subdivision 12, is amended to read:

Subd. 12. [RIGHT TO DISCONTINUE CASH ASSISTANCE.] A participant who is not in vendor payment status may discontinue receipt of the cash assistance portion of the MFIP assistance grant and retain eligibility for child care assistance under section 119B.05 ~~and for medical assistance under sections 256B.055, subdivision 3a, and 256B.0635.~~ For the months a participant chooses to discontinue the receipt of the cash portion of the MFIP grant, the assistance unit accrues months of eligibility to be applied toward eligibility for child care under section 119B.05 ~~and for medical assistance under sections 256B.055, subdivision 3a, and 256B.0635.~~

[EFFECTIVE DATE.] This section is effective July 1, 2002.

Sec. 38. Minnesota Statutes 2000, section 256K.03, subdivision 1, is amended to read:

Subdivision 1. [NOTIFICATION OF PROGRAM.] Except for the provisions in this section, the provisions for the MFIP application process shall be followed. Within two days after receipt of a completed combined application form, the county agency must refer to the provider the applicant who meets the conditions under section 256K.02, and notify the applicant in writing of the program including the following provisions:

(1) notification that, as part of the application process, applicants are required to attend orientation, to be followed immediately by a job search;

(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; and

(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.

[EFFECTIVE DATE.] This section is effective July 1, 2002.

Sec. 39. Minnesota Statutes 2000, section 256K.07, is amended to read:

256K.07 [ELIGIBILITY FOR FOOD STAMPS, ~~MEDICAL ASSISTANCE~~, AND CHILD CARE.]

The participant shall be treated as an MFIP recipient for food stamps, ~~medical assistance~~, and child care eligibility purposes. The participant who leaves the program as a result of increased earnings from employment shall be eligible for ~~transitional medical assistance~~ and child care without regard to MFIP receipt in three of the six months preceding ineligibility.

[EFFECTIVE DATE.] This section is effective July 1, 2002.

Sec. 40. Minnesota Statutes 2000, section 256L.06, subdivision 3, is amended to read:

Subd. 3. [ADMINISTRATION AND COMMISSIONER'S DUTIES.] (a) Premiums are dedicated to the commissioner for MinnesotaCare.

(b) The commissioner shall develop and implement procedures to: (1) require enrollees to report changes in income; (2) adjust sliding scale premium payments, based upon changes in enrollee income; and (3) disenroll enrollees from MinnesotaCare for failure to pay required premiums. Failure to pay includes payment with a dishonored check, a returned automatic bank withdrawal, or a refused credit card or debit card payment. The commissioner may demand a guaranteed form of payment, including a cashier's check or a money order, as the only means to replace a dishonored, returned, or refused payment.

(c) Premiums are calculated on a calendar month basis and may be paid on a monthly, quarterly, or annual basis, with the first payment due upon notice from the commissioner of the premium amount required. The commissioner shall inform applicants and enrollees of these premium payment options. Premium payment is required before enrollment is complete and to maintain eligibility in MinnesotaCare.

(d) Nonpayment of the premium will result in disenrollment from the plan ~~within one calendar month after the due date~~ effective for the calendar month for which the premium was due. Persons disenrolled for nonpayment or who voluntarily terminate coverage from the program may not reenroll until four calendar months have elapsed.

Persons disenrolled for nonpayment who pay all past due premiums as well as current premiums due, including premiums due for the period of disenrollment, within 20 days of disenrollment, shall be reenrolled retroactively to the first day of disenrollment. Persons disenrolled for nonpayment or who voluntarily terminate coverage from the program may not reenroll for four calendar months unless the person demonstrates good cause for nonpayment. Good cause does not exist if a person chooses to pay other family expenses instead of the premium. The commissioner shall define good cause in rule.

[EFFECTIVE DATE.] This section is effective July 1, 2002.

Sec. 41. Minnesota Statutes 2000, section 256L.12, subdivision 9, is amended to read:

Subd. 9. [RATE SETTING.] Rates will be prospective, per capita, where possible. The commissioner may allow health plans to arrange for inpatient hospital services on a risk or nonrisk basis. The commissioner shall consult with an independent actuary to determine appropriate rates. Rates established by the commissioner must be within the limits of available appropriations.

Sec. 42. Minnesota Statutes 2000, section 256L.12, is amended by adding a subdivision to read:

Subd. 11. [COVERAGE AT INDIAN HEALTH SERVICE FACILITIES.] For American Indian enrollees of MinnesotaCare, MinnesotaCare shall cover health care services provided at Indian Health Service facilities and facilities operated by a tribe or tribal organization under funding authorized by United States Code, title 25, sections 450f to 450n, or title III of the Indian Self-Determination and Education Act, Public Law Number 93-638, if those services would otherwise be covered under section 256L.03. Payments for services provided under this subdivision shall be made on a fee-for-service basis, and may, at the option of the tribe or organization, be made at the rates authorized under sections 256.969, subdivision 16, and 256B.0625, subdivision 34, for those MinnesotaCare enrollees eligible for coverage at medical assistance rates. For purposes of this subdivision, "American Indian" has the meaning given to persons to whom services will be provided for in the Code of Federal Regulations, title 42, section 36.12.

Sec. 43. Minnesota Statutes 2000, section 256L.16, is amended to read:

256L.16 [PAYMENT RATES; SERVICES FOR FAMILIES AND CHILDREN UNDER THE MINNESOTACARE HEALTH CARE REFORM WAIVER.]

Section 256L.11, subdivision 2, shall not apply to services provided to ~~children~~ families with children who are eligible to receive expanded services according to section ~~256L.03, subdivision 1a~~ 256L.04, subdivision 1, paragraph (a).

Sec. 44. Laws 1995, chapter 178, article 2, section 36, is amended to read:

Sec. 36. [EMPOWERMENT ZONES; ADMINISTRATIVE SIMPLIFICATION OF WELFARE LAWS.]

(a) The commissioner of human services shall make recommendations to effectuate the changes in federal laws and regulations, state laws and rules, and the state plan to improve the administrative efficiency of the aid to families with dependent children, general assistance, work readiness, family general assistance, medical assistance, general assistance medical care, and food stamp programs. At a minimum, the following administrative standards and procedures must be changed.

The commissioner shall:

(1) require income or eligibility reviews no more frequently than annually for cases in which income is normally invariant, as in aid to families with dependent children cases where the only source of household income is Supplemental Social Security Income;

(2) permit households to report income annually when the source of income is excluded, such as a minor's earnings;

~~(3) require income or eligibility reviews no more frequently than annually for extended medical assistance cases;~~

~~(4) require income or eligibility reviews no more frequently than annually for a medical assistance postpartum client, where the client previously had eligibility under a different basis prior to pregnancy or if other household members have eligibility with the same income/basis that applies to the client;~~

~~(5) (4) permit all income or eligibility reviews for foster care medical assistance cases to use the short application form; and~~

~~(6) (5) make dependent care expenses declaratory for medical assistance; and~~

~~(7) permit households to only report gifts worth \$100 or more per month.~~

(b) The county's administrative savings resulting from these changes may be allocated to fund any lawful purpose.

(c) The recommendations must be provided in a report to the chairs of the appropriate legislative committees by August 1, 1995. The recommendations must include a list of the administrative standards and procedures that require approval by the federal government before implementation, and also which administrative simplification standards and procedures may be implemented by a county prior to receiving a federal waiver.

(d) The commissioner shall seek the necessary waivers from the federal government as soon as possible to implement the administrative simplification standards and procedures.

Sec. 45. Laws 1999, chapter 245, article 4, section 110, is amended to read:

Sec. 110. [PROGRAMS FOR SENIOR CITIZENS.]

The commissioner of human services shall study the eligibility criteria of and benefits provided to persons age 65 and over through the array of cash assistance and health care programs administered by the department, and the extent to which these programs can be combined, simplified, or coordinated to reduce administrative costs and improve access. The commissioner shall also study potential barriers to enrollment for low-income seniors who would otherwise deplete resources necessary to maintain independent community living. At a minimum, the study must include an evaluation of asset requirements and enrollment sites. The commissioner shall report study findings and recommendations to the legislature by ~~June~~ September 30, 2001.

Sec. 46. [NOTICE OF NEW PREMIUM SCHEDULE.]

The commissioner of human services shall provide medical assistance enrollees subject to premiums as employed persons with disabilities with prior notice of the new premium schedule established under the section 13 amendment to section 256B.057, subdivision 9, paragraph (c). This notice must be provided at least two months before the month in which the first premium payment under the new schedule is due.

Sec. 47. [MEDICATION THERAPY MANAGEMENT PILOT PROGRAM.]

Subdivision 1. [ESTABLISHMENT.] The commissioner of human services, in consultation with the advisory committee established under subdivision 2, shall implement, beginning July 1, 2001, a two-year medication therapy management pilot program for medical assistance enrollees. Medication therapy management must be provided by teams of physicians and pharmacists working in collaborative practice, as defined in Minnesota Statutes, section 151.01, subdivision 27, clause (5), to help patients use medications safely and effectively. The commissioner may enroll individual pharmacists who participate in the pilot program as medical assistance providers and shall seek to ensure that participating pharmacists represent all geographic regions of the state.

Subd. 2. [ADVISORY COMMITTEE.] The commissioner shall establish a ten-member medication therapy management advisory committee, to advise the commissioner in the implementation and administration of the program and the development of eligibility criteria for enrollees and providers and requirements for collaborative practice agreements. The committee shall be comprised of: two licensed physicians; two licensed pharmacists; two consumer representatives; three members with expertise in the area of medication therapy management, who may be licensed physicians or licensed pharmacists; and a representative of the commissioner, who shall serve as an ex-officio nonvoting member. In appointing members who are not consumer representatives, the commissioner shall consider recommendations of associations representing pharmacy and medical practitioners. The committee is governed by section 15.059, except that committee members do not receive compensation or reimbursement for expenses.

Subd. 3. [EVALUATION.] The commissioner shall evaluate the cost-effectiveness of the pilot program and its effect on patient outcomes and quality of care, and shall report to the legislature by December 15, 2003. The commissioner may contract with a vendor to conduct the evaluation.

Sec. 48. [REGULATORY SIMPLIFICATION FOR STATE HEALTH CARE PROGRAM PROVIDERS.]

The commissioner of human services, in consultation with providers participating in state health care programs, shall identify nonfinancial barriers to increased provider enrollment and provider retention in state health care programs, and shall implement procedures to address these barriers. Areas to be examined by the commissioner shall include, but are not limited to, regulatory complexity and inconsistencies between state health care programs, provider requirements, provision of technical assistance to providers, responsiveness to provider inquiries and complaints, claims processing turnaround times, and policies for rejecting provider claims. The commissioner shall report to the legislature by February 15, 2002, on any changes to the administration of state health care programs that will be implemented as a result of the study, and present recommendations for any necessary changes in state law.

Sec. 49. [REPEALER.]

(a) Minnesota Statutes 2000, section 256B.037, subdivision 5, is repealed effective January 1, 2002.

(b) Minnesota Statutes 2000, section 256B.0635, subdivision 3, is repealed effective July 1, 2002.

ARTICLE 3

CONTINUING CARE AND HOME CARE

Section 1. Minnesota Statutes 2000, section 245A.13, subdivision 7, is amended to read:

Subd. 7. [RATE RECOMMENDATION.] The commissioner of human services may review rates of a residential program participating in the medical assistance program which is in receivership and that has needs or deficiencies documented by the department of health or the department of human services. If the commissioner of human services determines that a review of the rate established under ~~section 256B.501~~ sections 256B.5012 and 256B.5013 is needed, the commissioner shall:

- (1) review the order or determination that cites the deficiencies or needs; and
- (2) determine the need for additional staff, additional annual hours by type of employee, and additional consultants, services, supplies, equipment, repairs, or capital assets necessary to satisfy the needs or deficiencies.

Sec. 2. Minnesota Statutes 2000, section 245A.13, subdivision 8, is amended to read:

Subd. 8. [ADJUSTMENT TO THE RATE.] Upon review of rates under subdivision 7, the commissioner may adjust the residential program's payment rate. The commissioner shall review the circumstances, together with the residential ~~program cost report~~ program's most recent income and expense report, to determine whether or not the deficiencies or needs can be corrected or met by reallocating residential program staff, costs, revenues, or any other resources including ~~any investments, efficiency incentives, or allowances~~. If the commissioner determines that any deficiency cannot be corrected or the need cannot be met with the payment rate currently being paid, the commissioner shall determine the payment rate adjustment by dividing the additional annual costs established during the commissioner's review by the residential program's actual resident days from the most recent ~~desk-audited cost income and expense~~ income and expense report or the estimated resident days in the projected receivership period. The payment rate adjustment ~~must meet the conditions in Minnesota Rules, parts 9553.0010 to 9553.0080, and~~ remains in effect during the period of the receivership or until another date set by the commissioner. Upon the subsequent sale, closure, or transfer of the residential program, the commissioner may recover amounts that were paid as payment rate adjustments under this subdivision. This recovery shall be determined through a review of actual costs and resident days in the receivership period. The costs the commissioner finds to be allowable shall be divided by the actual resident days for the receivership period. This rate shall be compared to the rate paid throughout the receivership period, with the difference, multiplied by resident days, being the amount to be repaid to the commissioner. Allowable costs shall be determined by the commissioner as those ordinary, necessary, and related to resident care by prudent and cost-conscious management. The buyer or transferee shall repay this amount to the commissioner within 60 days after the commissioner notifies the buyer or transferee of the obligation to repay. This provision does not limit the liability of the seller to the commissioner pursuant to section 256B.0641.

Sec. 3. Minnesota Statutes 2000, section 252.275, subdivision 4b, is amended to read:

Subd. 4b. [GUARANTEED FLOOR.] Each county ~~with an original allocation for the preceding year that is equal to or less than the guaranteed floor minimum index shall have a guaranteed floor equal to its original allocation for the preceding year. Each county with an original allocation for the preceding year that is greater than the guaranteed floor minimum index shall have a guaranteed floor equal to the lesser of clause (1) or (2):~~

(1) the county's original allocation for the preceding year; or

(2) 70 percent of the county's reported expenditures eligible for reimbursement during the 12 months ending on June 30 of the preceding calendar year.

~~For calendar year 1993, the guaranteed floor minimum index shall be \$20,000. For each subsequent year, the index shall be adjusted by the projected change in the average value in the United States Department of Labor Bureau of Labor Statistics consumer price index (all urban) for that year.~~

Notwithstanding this subdivision, no county shall be allocated a guaranteed floor of less than \$1,000.

When the amount of funds available for allocation is less than the amount available in the previous year, each county's previous year allocation shall be reduced in proportion to the reduction in the statewide funding, to establish each county's guaranteed floor.

Sec. 4. Minnesota Statutes 2000, section 254B.02, subdivision 3, is amended to read:

Subd. 3. [RESERVE ACCOUNT.] The commissioner shall allocate money from the reserve account to counties that, during the current fiscal year, have met or exceeded the base level of expenditures for eligible chemical dependency services from local money. The commissioner shall establish the base level for fiscal year 1988 as the amount of local money used for eligible services in calendar year 1986. In later years, the base level must be increased in the same proportion as state appropriations to implement Laws 1986, chapter 394, sections 8 to 20, are increased. The base level must be decreased if the fund balance from which allocations are made under section

254B.02, subdivision 1, is decreased in later years. The local match rate for the reserve account is the same rate as applied to the initial allocation. Reserve account payments must not be included when calculating the county adjustments made according to subdivision 2. For counties providing medical assistance or general assistance medical care through managed care plans on January 1, 1996, the base year is fiscal year 1995. For counties beginning provision of managed care after January 1, 1996, the base year is the most recent fiscal year before enrollment in managed care begins. For counties providing managed care, the base level will be increased or decreased in proportion to changes in the fund balance from which allocations are made under subdivision 2, but will be additionally increased or decreased in proportion to the change in county adjusted population made in subdivision 1, paragraphs (b) and (c). Effective July 1, 2001, funds deposited in the reserve account in excess of those needed to meet obligations for services provided during the biennium under this section and sections 254B.06 and 254B.09 shall cancel to the general fund.

Sec. 5. Minnesota Statutes 2000, section 254B.03, subdivision 1, is amended to read:

Subdivision 1. [LOCAL AGENCY DUTIES.] (a) Every local agency shall provide chemical dependency services to persons residing within its jurisdiction who meet criteria established by the commissioner for placement in a chemical dependency residential or nonresidential treatment service. Chemical dependency money must be administered by the local agencies according to law and rules adopted by the commissioner under sections 14.001 to 14.69.

(b) In order to contain costs, the county board shall, with the approval of the commissioner of human services, select eligible vendors of chemical dependency services who can provide economical and appropriate treatment. Unless the local agency is a social services department directly administered by a county or human services board, the local agency shall not be an eligible vendor under section 254B.05. The commissioner may approve proposals from county boards to provide services in an economical manner or to control utilization, with safeguards to ensure that necessary services are provided. If a county implements a demonstration or experimental medical services funding plan, the commissioner shall transfer the money as appropriate. If a county selects a vendor located in another state, the county shall ensure that the vendor is in compliance with the rules governing licensure of programs located in the state.

(c) The calendar year ~~1998~~ 2002 rate for vendors may not increase more than ~~three~~ two percent above the rate approved in effect on January 1, ~~1997~~ 2001. The calendar year ~~1999~~ 2003 rate for vendors may not increase more than ~~three~~ two percent above the rate in effect on January 1, ~~1998~~ 2002. The calendar years 2004 and 2005 rates may not exceed the rate in effect on January 1, 2003.

(d) A culturally specific vendor that provides assessments under a variance under Minnesota Rules, part 9530.6610, shall be allowed to provide assessment services to persons not covered by the variance.

Sec. 6. Minnesota Statutes 2000, section 254B.04, subdivision 1, is amended to read:

Subdivision 1. [ELIGIBILITY.] (a) Persons eligible for benefits under Code of Federal Regulations, title 25, part 20, persons eligible for medical assistance benefits under sections 256B.055, 256B.056, and 256B.057, subdivisions 1, 2, 5, and 6, or who meet the income standards of section 256B.056, subdivision 4, and persons eligible for general assistance medical care under section 256D.03, subdivision 3, are entitled to chemical dependency fund services. State money appropriated for this paragraph must be placed in a separate account established for this purpose.

Persons with dependent children who are determined to be in need of chemical dependency treatment pursuant to an assessment under section 626.556, subdivision 10, or a case plan under section 260C.201, subdivision 6, or 260C.212, shall be assisted by the local agency to access needed treatment services. Treatment services must be appropriate for the individual or family, which may include long-term care treatment or treatment in a facility that allows the dependent children to stay in the treatment facility. The county shall pay for out-of-home placement costs, if applicable.

(b) A person not entitled to services under paragraph (a), but with family income that is less than the 1997 federal poverty guidelines equivalent of 60 percent of the state median income for a family of like size and composition, shall be eligible to receive chemical dependency fund services within the limit of funds ~~available after persons entitled to services under paragraph (a) have been served~~ appropriated for this group for the fiscal year. If notified by the state agency of limited funds, a county must give preferential treatment to persons with dependent children who are in need of chemical dependency treatment pursuant to an assessment under section 626.556, subdivision 10, or a case plan under section 260C.201, subdivision 6, or 260C.212. A county may spend money from its own sources to serve persons under this paragraph. State money appropriated for this paragraph must be placed in a separate account established for this purpose.

(c) Persons whose income is between the 1997 federal poverty guidelines equivalent of 60 percent and 115 percent of the state median income shall be eligible for chemical dependency services on a sliding fee basis, within the limit of funds ~~available, after persons entitled to services under paragraph (a) and persons eligible for services under paragraph (b) have been served~~ appropriated for this group for the fiscal year. Persons eligible under this paragraph must contribute to the cost of services according to the sliding fee scale established under subdivision 3. A county may spend money from its own sources to provide services to persons under this paragraph. State money appropriated for this paragraph must be placed in a separate account established for this purpose.

Sec. 7. Minnesota Statutes 2000, section 254B.09, is amended by adding a subdivision to read:

Subd. 8. [PAYMENTS TO IMPROVE SERVICES TO AMERICAN INDIANS.] The commissioner may set rates for chemical dependency services according to the American Indian Health Improvement Act, Public Law Number 94-437, for eligible vendors. These rates shall supersede rates set in county purchase of service agreements when payments are made on behalf of clients eligible according to Public Law Number 94-437.

Sec. 8. Minnesota Statutes 2000, section 256.01, is amended by adding a subdivision to read:

Subd. 19. [GRANTS FOR CASE MANAGEMENT SERVICES TO PERSONS WITH HIV OR AIDS.] The commissioner may award grants to eligible vendors for the development, implementation, and evaluation of case management services for individuals infected with the human immunodeficiency virus. HIV/AIDS case management services will be provided to increase access to cost effective health care services, to reduce the risk of HIV transmission, to ensure that basic client needs are met, and to increase client access to needed community supports or services.

Sec. 9. Minnesota Statutes 2000, section 256.476, subdivision 1, is amended to read:

Subdivision 1. [PURPOSE AND GOALS.] The commissioner of human services shall establish a consumer support grant program ~~to assist for~~ individuals with functional limitations and their families ~~in purchasing and securing supports which the individuals need to live as independently and productively in the community as possible who wish to purchase and secure their own supports~~. The commissioner and local agencies shall jointly develop an implementation plan which must include a way to resolve the issues related to county liability. The program shall:

(1) make support grants available to individuals or families as an effective alternative to existing programs and services, such as the developmental disability family support program, ~~the alternative care program~~, personal care attendant services, home health aide services, and private duty nursing facility services;

(2) provide consumers more control, flexibility, and responsibility over ~~the needed supports~~ their services and supports;

(3) promote local program management and decision making; and

(4) encourage the use of informal and typical community supports.

Sec. 10. Minnesota Statutes 2000, section 256.476, subdivision 2, is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 11. Minnesota Statutes 2000, section 256.476, subdivision 3, is amended to read:

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

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

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

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

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

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

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

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

(c) A person or person's family receiving a consumer support grant shall not be charged a fee or premium by a local agency for participating in the program.

(d) The commissioner may limit the participation of ~~nursing facility residents, residents of intermediate care facilities for persons with mental retardation, and the~~ recipients of services from federal waiver programs in the consumer support grant program if the participation of these individuals will result in an increase in the cost to the state.

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

Sec. 12. Minnesota Statutes 2000, section 256.476, subdivision 4, is amended to read:

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

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

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

- (2) it must be directly attributable to the person's functional limitations;
- (3) it must enable the person or the person's family to delay or prevent out-of-home placement of the person; and
- (4) it must be consistent with the needs identified in the service plan, when applicable.

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

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

- (1) the extent and areas of the person's functional limitations;
- (2) the degree of need in the home environment for additional support; and
- (3) the potential effectiveness of the grant to maintain and support the person in the family environment or the person's own home.

(e) At the time of application to the program or screening for other services, the person or the person's family shall be provided sufficient information to ensure an informed choice of alternatives by the person, the person's legal representative, if any, or the person's family. The application shall be made to the local agency and shall specify the needs of the person and family, the form and amount of grant requested, the items and services to be reimbursed, and evidence of eligibility for medical assistance ~~or alternative care program~~.

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

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

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

Sec. 13. Minnesota Statutes 2000, section 256.476, subdivision 5, is amended to read:

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

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

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

(2) their eligibility for current program and services;

(3) the amount of nonfederal dollars expended on those individuals for those programs and services or, in situations where an individual is unable to obtain the support needed from the program of origination due to the unavailability of service providers at the time or the location where the supports are needed, the allocation will be based on the county's best estimate of the nonfederal dollars that would have been expended if the services had been available; and

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

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

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

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

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

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

(h) Grant funds unexpended by consumers shall return to the state once a year. The annual return of unexpended grant funds shall occur in the quarter following the end of the state fiscal year.

Sec. 14. Minnesota Statutes 2000, section 256.476, subdivision 8, is amended to read:

Subd. 8. [COMMISSIONER RESPONSIBILITIES.] The commissioner shall:

(1) transfer and allocate funds pursuant to this section;

(2) determine allocations based on projected and actual local agency use;

(3) monitor and oversee overall program spending;

- (4) evaluate the effectiveness of the program;
- (5) provide training and technical assistance for local agencies and consumers to help identify potential applicants to the program; and
- (6) develop guidelines for local agency program administration and consumer information; ~~and,~~
- ~~(7) apply for a federal waiver or take any other action necessary to maximize federal funding for the program by September 1, 1999.~~

Sec. 15. Minnesota Statutes 2000, section 256B.0625, subdivision 7, is amended to read:

Subd. 7. [PRIVATE DUTY NURSING.] Medical assistance covers private duty nursing services in a recipient's home. Recipients who are authorized to receive private duty nursing services in their home may use approved hours outside of the home during hours when normal life activities take them outside of their home ~~and when, without the provision of private duty nursing, their health and safety would be jeopardized.~~ To use private duty nursing services at school, the recipient or responsible party must provide written authorization in the care plan identifying the chosen provider and the daily amount of services to be used at school. Medical assistance does not cover private duty nursing services for residents of a hospital, nursing facility, intermediate care facility, or a health care facility licensed by the commissioner of health, except as authorized in section 256B.64 for ventilator-dependent recipients in hospitals or unless a resident who is otherwise eligible is on leave from the facility and the facility either pays for the private duty nursing services or forgoes the facility per diem for the leave days that private duty nursing services are used. Total hours of service and payment allowed for services outside the home cannot exceed that which is otherwise allowed in an in-home setting according to section 256B.0627. All private duty nursing services must be provided according to the limits established under section 256B.0627. Private duty nursing services may not be reimbursed if the nurse is the ~~spouse of the recipient or the parent or foster care provider of a recipient who is under age 18, or the recipient's legal guardian.~~

Sec. 16. Minnesota Statutes 2000, section 256B.0625, subdivision 19a, is amended to read:

Subd. 19a. [PERSONAL CARE ASSISTANT SERVICES.] Medical assistance covers personal care assistant services in a recipient's home. To qualify for personal care assistant services, recipients or responsible parties must be able to identify the recipient's needs, direct and evaluate task accomplishment, and provide for health and safety. Approved hours may be used outside the home when normal life activities take them outside the home ~~and when, without the provision of personal care, their health and safety would be jeopardized.~~ To use personal care assistant services at school, the recipient or responsible party must provide written authorization in the care plan identifying the chosen provider and the daily amount of services to be used at school. Total hours for services, whether actually performed inside or outside the recipient's home, cannot exceed that which is otherwise allowed for personal care assistant services in an in-home setting according to section 256B.0627. Medical assistance does not cover personal care assistant services for residents of a hospital, nursing facility, intermediate care facility, health care facility licensed by the commissioner of health, or unless a resident who is otherwise eligible is on leave from the facility and the facility either pays for the personal care assistant services or forgoes the facility per diem for the leave days that personal care assistant services are used. All personal care services must be provided according to section 256B.0627. Personal care assistant services may not be reimbursed if the personal care assistant is the spouse or legal guardian of the recipient or the parent of a recipient under age 18, or the responsible party or the foster care provider of a recipient who cannot direct the recipient's own care unless, in the case of a foster care provider, a county or state case manager visits the recipient as needed, but not less than every six months, to monitor the health and safety of the recipient and to ensure the goals of the care plan are met. Parents of adult recipients, adult children of the recipient or adult siblings of the recipient may be reimbursed for personal care assistant services ~~if they are not the recipient's legal guardian and, if they are granted a waiver under section 256B.0627. Until July 1, 2001, and~~ Notwithstanding the provisions of section 256B.0627, subdivision 4, paragraph (b), clause (4), the noncorporate legal guardian or conservator of an adult, who is not the responsible party and not the personal care provider organization, may be granted a hardship waiver under section 256B.0627, to be reimbursed to provide personal care assistant services to the recipient, and shall not be considered to have a service provider interest for purposes of participation on the screening team under section 256B.092, subdivision 7.

Sec. 17. Minnesota Statutes 2000, section 256B.0625, subdivision 19c, is amended to read:

Subd. 19c. [PERSONAL CARE.] Medical assistance covers personal care assistant services provided by an individual who is qualified to provide the services according to subdivision 19a and section 256B.0627, where the services are prescribed by a physician in accordance with a plan of treatment and are supervised by the recipient ~~under the fiscal agent option according to section 256B.0627, subdivision 10;~~ or a qualified professional. "Qualified professional" means a mental health professional as defined in section 245.462, subdivision 18, or 245.4871, subdivision 27; or a registered nurse as defined in sections 148.171 to 148.285. As part of the assessment, the county public health nurse will ~~consult with~~ assist the recipient or responsible party ~~and to~~ identify the most appropriate person to provide supervision of the personal care assistant. The qualified professional shall perform the duties described in Minnesota Rules, part 9505.0335, subpart 4.

Sec. 18. Minnesota Statutes 2000, section 256B.0625, subdivision 20, is amended to read:

Subd. 20. [MENTAL HEALTH CASE MANAGEMENT.] (a) To the extent authorized by rule of the state agency, medical assistance covers case management services to persons with serious and persistent mental illness and children with severe emotional disturbance. Services provided under this section must meet the relevant standards in sections 245.461 to 245.4888, the Comprehensive Adult and Children's Mental Health Acts, Minnesota Rules, parts 9520.0900 to 9520.0926, and 9505.0322, excluding subpart 10.

(b) Entities meeting program standards set out in rules governing family community support services as defined in section 245.4871, subdivision 17, are eligible for medical assistance reimbursement for case management services for children with severe emotional disturbance when these services meet the program standards in Minnesota Rules, parts 9520.0900 to 9520.0926 and 9505.0322, excluding subparts 6 and 10.

(c) Medical assistance and MinnesotaCare payment for mental health case management shall be made on a monthly basis. In order to receive payment for an eligible child, the provider must document at least a face-to-face contact with the child, the child's parents, or the child's legal representative. To receive payment for an eligible adult, the provider must document:

(1) at least a face-to-face contact with the adult or the adult's legal representative; or

(2) at least a telephone contact with the adult or the adult's legal representative and document a face-to-face contact with the adult or the adult's legal representative within the preceding two months.

(d) Payment for mental health case management provided by county or state staff shall be based on the monthly rate methodology under section 256B.094, subdivision 6, paragraph (b), with separate rates calculated for child welfare and mental health, and within mental health, separate rates for children and adults.

(e) Payment for mental health case management provided by county-contracted vendors shall be based on a monthly rate negotiated by the host county. The negotiated rate must not exceed the rate charged by the vendor for the same service to other payers. If the service is provided by a team of contracted vendors, the county may negotiate a team rate with a vendor who is a member of the team. The team shall determine how to distribute the rate among its members. No reimbursement received by contracted vendors shall be returned to the county, except to reimburse the county for advance funding provided by the county to the vendor.

(f) If the service is provided by a team which includes contracted vendors and county or state staff, the costs for county or state staff participation in the team shall be included in the rate for county-provided services. In this case, the contracted vendor and the county may each receive separate payment for services provided by each entity in the same month. In order to prevent duplication of services, the county must document, in the recipient's file, the need for team case management and a description of the roles of the team members.

(g) The commissioner shall calculate the nonfederal share of actual medical assistance and general assistance medical care payments for each county, based on the higher of calendar year 1995 or 1996, by service date, project that amount forward to 1999, and transfer one-half of the result from medical assistance and general assistance medical care to each county's mental health grants under sections 245.4886 and 256E.12 for calendar year 1999. The annualized minimum amount added to each county's mental health grant shall be \$3,000 per year for children and \$5,000 per year for adults. The commissioner may reduce the statewide growth factor in order to fund these minimums. The annualized total amount transferred shall become part of the base for future mental health grants for each county.

(h) Any net increase in revenue to the county as a result of the change in this section must be used to provide expanded mental health services as defined in sections 245.461 to 245.4888, the Comprehensive Adult and Children's Mental Health Acts, excluding inpatient and residential treatment. For adults, increased revenue may also be used for services and consumer supports which are part of adult mental health projects approved under Laws 1997, chapter 203, article 7, section 25. For children, increased revenue may also be used for respite care and nonresidential individualized rehabilitation services as defined in section 245.492, subdivisions 17 and 23. "Increased revenue" has the meaning given in Minnesota Rules, part 9520.0903, subpart 3.

(i) Notwithstanding section 256B.19, subdivision 1, the nonfederal share of costs for mental health case management shall be provided by the recipient's county of responsibility, as defined in sections 256G.01 to 256G.12, from sources other than federal funds or funds used to match other federal funds.

(j) The commissioner may suspend, reduce, or terminate the reimbursement to a provider that does not meet the reporting or other requirements of this section. The county of responsibility, as defined in sections 256G.01 to 256G.12, is responsible for any federal disallowances. The county may share this responsibility with its contracted vendors.

(k) The commissioner shall set aside a portion of the federal funds earned under this section to repay the special revenue maximization account under section 256.01, subdivision 2, clause (15). The repayment is limited to:

- (1) the costs of developing and implementing this section; and
- (2) programming the information systems.

(l) Notwithstanding section 256.025, subdivision 2, payments to counties for case management expenditures under this section shall only be made from federal earnings from services provided under this section. Payments to contracted vendors shall include both the federal earnings and the county share.

(m) Notwithstanding section 256B.041, county payments for the cost of mental health case management services provided by county or state staff shall not be made to the state treasurer. For the purposes of mental health case management services provided by county or state staff under this section, the centralized disbursement of payments to counties under section 256B.041 consists only of federal earnings from services provided under this section.

(n) Case management services under this subdivision do not include therapy, treatment, legal, or outreach services.

(o) If the recipient is a resident of a nursing facility, intermediate care facility, or hospital, and the recipient's institutional care is paid by medical assistance, payment for case management services under this subdivision is limited to the last ~~30~~ 180 days of the recipient's residency in that facility and may not exceed more than ~~two~~ six months in a calendar year.

(p) Payment for case management services under this subdivision shall not duplicate payments made under other program authorities for the same purpose.

(q) By July 1, 2000, the commissioner shall evaluate the effectiveness of the changes required by this section, including changes in number of persons receiving mental health case management, changes in hours of service per person, and changes in caseload size.

(r) For each calendar year beginning with the calendar year 2001, the annualized amount of state funds for each county determined under paragraph (g) shall be adjusted by the county's percentage change in the average number of clients per month who received case management under this section during the fiscal year that ended six months prior to the calendar year in question, in comparison to the prior fiscal year.

(s) For counties receiving the minimum allocation of \$3,000 or \$5,000 described in paragraph (g), the adjustment in paragraph (r) shall be determined so that the county receives the higher of the following amounts:

(1) a continuation of the minimum allocation in paragraph (g); or

(2) an amount based on that county's average number of clients per month who received case management under this section during the fiscal year that ended six months prior to the calendar year in question, in comparison to the prior fiscal year, times the average statewide grant per person per month for counties not receiving the minimum allocation.

(t) The adjustments in paragraphs (r) and (s) shall be calculated separately for children and adults.

Sec. 19. Minnesota Statutes 2000, section 256B.0625, is amended by adding a subdivision to read:

Subd. 43. [TARGETED CASE MANAGEMENT.] For purposes of subdivisions 43a to 43h, the following terms have the meanings given them:

(1) "Home care service recipients" means those individuals receiving the following services under section 256B.0627: skilled nursing visits, home health aide visits, private duty nursing, personal care assistants, or therapies provided through a home health agency.

(2) "Home care targeted case management" means the provision of targeted case management services for the purpose of assisting home care service recipients to gain access to needed services and supports so that they may remain in the community.

(3) "Institutions" means hospitals, consistent with Code of Federal Regulations, title 42, section 440.10; regional treatment center inpatient services, consistent with section 245.474; nursing facilities; and intermediate care facilities for persons with mental retardation.

(4) "Relocation targeted case management" means the provision of targeted case management services for the purpose of assisting recipients to gain access to needed services and supports if they choose to move from an institution to the community. Relocation targeted case management may be provided during the last 180 consecutive days of an eligible recipient's institutional stay.

(5) "Targeted case management" means case management services provided to help recipients gain access to needed medical, social, educational, and other services and supports.

Sec. 20. Minnesota Statutes 2000, section 256B.0625, is amended by adding a subdivision to read:

Subd. 43a. [ELIGIBILITY.] The following persons are eligible for relocation targeted case management or home care targeted case management:

(1) medical assistance eligible persons residing in institutions who choose to move into the community are eligible for relocation targeted case management services; and

(2) medical assistance eligible persons receiving home care services, who are not eligible for any other medical assistance reimbursable case management service, are eligible for home care targeted case management services beginning January 1, 2003.

Sec. 21. Minnesota Statutes 2000, section 256B.0625, is amended by adding a subdivision to read:

Subd. 43b. [RELOCATION TARGETED CASE MANAGEMENT PROVIDER QUALIFICATIONS.] The following qualifications and certification standards must be met by providers of relocation targeted case management:

(a) The commissioner must certify each provider of relocation targeted case management before enrollment. The certification process shall examine the provider's ability to meet the requirements in this subdivision and other federal and state requirements of this service. A certified relocation targeted case management provider may subcontract with another provider to deliver relocation targeted case management services. Subcontracted providers must demonstrate the ability to provide the services outlined in subdivision 43d.

(b) A relocation targeted 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 to provide public welfare under sections 393.01, subdivision 7; and 393.07, or a federally recognized Indian tribe;

(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) the administrative capacity and experience to serve the target population for whom it will provide services and ensure quality of services under state and federal requirements;

(4) the legal authority to provide complete investigative and protective services under section 626.556, subdivision 10, and child welfare and foster care services under section 393.07, subdivisions 1 and 2, or a federally recognized Indian tribe;

(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.

A provider of targeted case management under subdivision 20 may be deemed a certified provider of relocation targeted case management.

Sec. 22. Minnesota Statutes 2000, section 256B.0625, is amended by adding a subdivision to read:

Subd. 43c. [HOME CARE TARGETED CASE MANAGEMENT PROVIDER QUALIFICATIONS.] The following qualifications and certification standards must be met by providers of home care targeted case management.

(a) The commissioner must certify each provider of home care targeted case management before enrollment. The certification process shall examine the provider's ability to meet the requirements in this subdivision and other state and federal requirements of this service.

(b) A home care targeted case management provider is an enrolled medical assistance provider who has a minimum of a bachelor's degree or a license in a health or human services field, and is determined by the commissioner to have all of the following characteristics:

(1) the demonstrated capacity and experience to provide the components of case management to coordinate and link community resources needed by the eligible population;

(2) the administrative capacity and experience to serve the target population for whom it will provide services and ensure quality of services under state and federal requirements;

(3) a financial management system that provides accurate documentation of services and costs under state and federal requirements;

(4) the capacity to document and maintain individual case records under state and federal requirements; and

(5) the capacity to coordinate with county administrative functions.

Sec. 23. Minnesota Statutes 2000, section 256B.0625, is amended by adding a subdivision to read:

Subd. 43d. [ELIGIBLE SERVICES.] Services eligible for medical assistance reimbursement as targeted case management include:

(1) assessment of the recipient's need for targeted case management services;

(2) development, completion, and regular review of a written individual service plan, which is based upon the assessment of the recipient's needs and choices, and which will ensure access to medical, social, educational, and other related services and supports;

(3) routine contact or communication with the recipient, recipient's family, primary caregiver, legal representative, substitute care provider, service providers, or other relevant persons identified as necessary to the development or implementation of the goals of the individual service plan;

(4) coordinating referrals for, and the provision of, case management services for the recipient with appropriate service providers, consistent with section 1902(a)(23) of the Social Security Act;

(5) coordinating and monitoring the overall service delivery to ensure quality of services, appropriateness, and continued need;

(6) completing and maintaining necessary documentation that supports and verifies the activities in this subdivision;

(7) traveling to conduct a visit with the recipient or other relevant person necessary to develop or implement the goals of the individual service plan; and

(8) coordinating with the institution discharge planner in the 180-day period before the recipient's discharge.

Sec. 24. Minnesota Statutes 2000, section 256B.0625, is amended by adding a subdivision to read:

Subd. 43e. [TIME LINES.] The following time lines must be met for assigning a case manager:

(1) for relocation targeted case management, an eligible recipient must be assigned a case manager who visits the person within 20 working days of requesting a case manager from their county of financial responsibility as determined under chapter 256G. If a county agency does not provide case management services as required, the recipient may, after written notice to the county agency, obtain targeted relocation case management services from a home care targeted case management provider, as defined in subdivision 43c; and

(2) for home care targeted case management, an eligible recipient must be assigned a case manager within 20 working days of requesting a case manager from a home care targeted case management provider, as defined in subdivision 43c.

Sec. 25. Minnesota Statutes 2000, section 256B.0625, is amended by adding a subdivision to read:

Subd. 43f. [EVALUATION.] The commissioner shall evaluate the delivery of targeted case management, including, but not limited to, access to case management services, consumer satisfaction with case management services, and quality of case management services.

Sec. 26. Minnesota Statutes 2000, section 256B.0625, is amended by adding a subdivision to read:

Subd. 43g. [CONTACT DOCUMENTATION.] The case manager must document each face-to-face and telephone contact with the recipient and others involved in the recipient's individual service plan.

Sec. 27. Minnesota Statutes 2000, section 256B.0625, is amended by adding a subdivision to read:

Subd. 43h. [PAYMENT RATES.] The commissioner shall set payment rates for targeted case management under this subdivision. Case managers may bill according to the following criteria:

(1) for relocation targeted case management, case managers may bill for direct case management activities, including face-to-face and telephone contacts, in the 180 days preceding an eligible recipient's discharge from an institution;

(2) for home care targeted case management, case managers may bill for direct case management activities, including face-to-face and telephone contacts; and

(3) billings for targeted case management services under this subdivision shall not duplicate payments made under other program authorities for the same purpose.

Sec. 28. Minnesota Statutes 2000, section 256B.0627, subdivision 1, is amended to read:

Subdivision 1. [DEFINITION.] (a) "Activities of daily living" includes eating, toileting, grooming, dressing, bathing, transferring, mobility, and positioning.

(b) "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 registered private duty nurse. Assessments for home health agency services shall be conducted by a home health agency nurse. Assessments for personal care assistant services shall be conducted by the county public health nurse or a certified public health nurse under contract with the county. A face-to-face assessment must include: documentation of health status, determination of need, evaluation of service effectiveness, identification of appropriate services, service plan development or modification, coordination of services, referrals and follow-up to appropriate payers and community resources, completion of required reports, recommendation of service authorization, and consumer education. Once the need for personal care assistant services is determined under this section, the county public health nurse or certified public health nurse under contract with the county is responsible for communicating this recommendation to the commissioner and the recipient. A face-to-face assessment for personal care assistant services is conducted on those recipients who have never had a county public health nurse assessment. A face-to-face assessment must occur at least annually or when there is a significant change in the recipient's condition or when there is a change in the need for personal care assistant services. A service update may substitute for the annual face-to-face assessment when there is not a significant change in recipient condition or a change in the need for personal care assistant service. A service update or review for temporary increase includes a review of initial baseline data, evaluation of service effectiveness, redetermination of service need, modification of service plan and appropriate referrals, update of initial forms, obtaining service authorization, and on going consumer education. Assessments for medical assistance home care

services for mental retardation or related conditions and alternative care services for developmentally disabled home and community-based waived recipients may be conducted by the county public health nurse to ensure 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) (c) "Care plan" means a written description of personal care assistant services developed by the qualified professional or the recipient's physician with the recipient or responsible party to be used by the personal care assistant with a copy provided to the recipient or responsible party.

(d) "Complex and regular private duty nursing care" means, effective July 1, 2001:

(1) complex care is private duty nursing provided to recipients who are ventilator dependent or for whom a physician has certified that were it not for private duty nursing the recipient would meet the criteria for inpatient hospital intensive care unit (ICU) level of care; and

(2) regular care is private duty nursing provided to all other recipients.

(e) "Health-related functions" means functions that can be delegated or assigned by a licensed health care professional under state law to be performed by a personal care attendant.

(f) (f) "Home care services" means a health service, determined by the commissioner as medically necessary, that is ordered by a physician and documented in a service plan that is reviewed by the physician at least once every ~~62~~ 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.

(g) "Instrumental activities of daily living" includes meal planning and preparation, managing finances, shopping for food, clothing, and other essential items, performing essential household chores, communication by telephone and other media, and getting around and participating in the community.

(h) (h) "Medically necessary" has the meaning given in Minnesota Rules, parts 9505.0170 to 9505.0475.

(i) (i) "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 related school-based job training program or have completed a certified home health aide competency evaluation;

(2) is able to effectively 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 assistant services according to the recipient's care plan, responds appropriately to recipient needs, and reports changes in the recipient's condition to the supervising qualified professional or physician;

(5) is not a consumer of personal care assistant services; and

(6) is subject to criminal background checks and procedures specified in section 245A.04.

(j) (j) "Personal care provider organization" means an organization enrolled to provide personal care assistant 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 background study as provided in section 245A.04. 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 been convicted of a crime specified in section 245A.04, or a comparable crime in another jurisdiction, unless the owner or managerial official meets the reconsideration criteria specified in section 245A.04; (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) (k) "Responsible party" means an individual residing with a recipient of personal care assistant services who is capable of providing the supportive care necessary to assist the recipient to live in the community, is at least 18 years old, and is not a personal care assistant. Responsible parties who are parents of minors or guardians of minors or incapacitated persons may delegate the responsibility to another adult during a temporary absence of at least 24 hours but not more than six months. The person delegated as a responsible party must be able to meet the definition of responsible party, except that the delegated responsible party is required to reside with the recipient only while serving as the responsible party. Foster care license holders may be designated the responsible party for residents of the foster care home if case management is provided as required in section 256B.0625, subdivision 19a. For persons who, as of April 1, 1992, are sharing personal care assistant services in order to obtain the availability of 24-hour coverage, an employee of the personal care provider organization may be designated as the responsible party if case management is provided as required in section 256B.0625, subdivision 19a.

(h) (l) "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 or responsible party. 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.

(i) (m) "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; and

(4) teaching and training the recipient, the recipient's family, or other caregivers requiring the skills of a registered nurse or licensed practical nurse.

(n) "Telehomecare" means the use of telecommunications technology by a home health care professional to deliver home health care services, within the professional's scope of practice, to a patient located at a site other than the site where the practitioner is located.

Sec. 29. Minnesota Statutes 2000, section 256B.0627, subdivision 2, is amended to read:

Subd. 2. [SERVICES COVERED.] Home care services covered under this section include:

(1) nursing services under section 256B.0625, subdivision 6a;

(2) private duty nursing services under section 256B.0625, subdivision 7;

- (3) home health ~~aide~~ services under section 256B.0625, subdivision 6a;
- (4) personal care assistant services under section 256B.0625, subdivision 19a;
- (5) supervision of personal care assistant services provided by a qualified professional under section 256B.0625, subdivision 19a;
- (6) ~~consulting~~ qualified professional of personal care assistant services under the fiscal ~~agent~~ intermediary option as specified in subdivision 10;
- (7) face-to-face assessments by county public health nurses for services under section 256B.0625, subdivision 19a; and
- (8) service updates and review of temporary increases for personal care assistant services by the county public health nurse for services under section 256B.0625, subdivision 19a.

Sec. 30. Minnesota Statutes 2000, section 256B.0627, subdivision 4, is amended to read:

Subd. 4. [PERSONAL CARE ASSISTANT SERVICES.] (a) The personal care assistant services that are eligible for payment are ~~the following: services and supports furnished to an individual, as needed, to assist in accomplishing activities of daily living; instrumental activities of daily living; health-related functions through hands-on assistance, supervision, and cuing; and redirection and intervention for behavior including observation and monitoring.~~

(b) Payment for services will be made within the limits approved using the prior authorized process established in subdivision 5.

(c) The amount and type of services authorized shall be based on an assessment of the recipient's needs in these areas:

- (1) bowel and bladder care;
- (2) skin care to maintain the health of the skin;
- (3) repetitive maintenance range of motion, muscle strengthening exercises, and other tasks specific to maintaining a recipient's optimal level of function;
- (4) respiratory assistance;
- (5) transfers and ambulation;
- (6) bathing, grooming, and hairwashing necessary for personal hygiene;
- (7) turning and positioning;
- (8) assistance with furnishing medication that is self-administered;
- (9) application and maintenance of prosthetics and orthotics;
- (10) cleaning medical equipment;
- (11) dressing or undressing;
- (12) assistance with eating and meal preparation and necessary grocery shopping;

- (13) accompanying a recipient to obtain medical diagnosis or treatment;
- (14) assisting, monitoring, or prompting the recipient to complete the services in clauses (1) to (13);
- (15) redirection, monitoring, and observation that are medically necessary and an integral part of completing the personal care assistant services described in clauses (1) to (14);
- (16) redirection and intervention for behavior, including observation and monitoring;
- (17) interventions for seizure disorders, including monitoring and observation if the recipient has had a seizure that requires intervention within the past three months;
- (18) tracheostomy suctioning using a clean procedure if the procedure is properly delegated by a registered nurse. Before this procedure can be delegated to a personal care assistant, a registered nurse must determine that the tracheostomy suctioning can be accomplished utilizing a clean rather than a sterile procedure and must ensure that the personal care assistant has been taught the proper procedure; and
- (19) incidental household services that are an integral part of a personal care service described in clauses (1) to (18).

For purposes of this subdivision, monitoring and observation means watching for outward visible signs that are likely to occur and for which there is a covered personal care service or an appropriate personal care intervention. For purposes of this subdivision, a clean procedure refers to a procedure that reduces the numbers of microorganisms or prevents or reduces the transmission of microorganisms from one person or place to another. A clean procedure may be used beginning 14 days after insertion.

- ~~(b)~~ (d) The personal care assistant services that are not eligible for payment are the following:
- (1) services not ordered by the physician;
 - (2) assessments by personal care assistant provider organizations or by independently enrolled registered nurses;
 - (3) services that are not in the service plan;
 - (4) services provided by the recipient's spouse, legal guardian for an adult or child recipient, or parent of a recipient under age 18;
 - (5) services provided by a foster care provider of a recipient who cannot direct the recipient's own care, unless monitored by a county or state case manager under section 256B.0625, subdivision 19a;
 - (6) services provided by the residential or program license holder in a residence for more than four persons;
 - (7) services that are the responsibility of a residential or program license holder under the terms of a service agreement and administrative rules;
 - (8) sterile procedures;
 - (9) injections of fluids into veins, muscles, or skin;
 - (10) services provided by parents of adult recipients, adult children, or siblings of the recipient, unless these relatives meet one of the following hardship criteria and the commissioner waives this requirement:
 - (i) the relative resigns from a part-time or full-time job to provide personal care for the recipient;

(ii) the relative goes from a full-time to a part-time job with less compensation to provide personal care for the recipient;

(iii) the relative takes a leave of absence without pay to provide personal care for the recipient;

(iv) the relative incurs substantial expenses by providing personal care for the recipient; or

(v) because of labor conditions, special language needs, or intermittent hours of care needed, the relative is needed in order to provide an adequate number of qualified personal care assistants to meet the medical needs of the recipient;

(11) homemaker services that are not an integral part of a personal care assistant services;

(12) home maintenance, or chore services;

(13) services not specified under paragraph (a); and

(14) services not authorized by the commissioner or the commissioner's designee.

(e) The recipient or responsible party may choose to supervise the personal care assistant or to have a qualified professional, as defined in section 256B.0625, subdivision 19c, provide the supervision. As required under section 256B.0625, subdivision 19c, the county public health nurse, as a part of the assessment, will assist the recipient or responsible party to identify the most appropriate person to provide supervision of the personal care assistant. Health-related delegated tasks performed by the personal care assistant will be under the supervision of a qualified professional or the direction of the recipient's physician. If the recipient has a qualified professional, Minnesota Rules, part 9505.0335, subpart 4, applies.

Sec. 31. Minnesota Statutes 2000, section 256B.0627, subdivision 5, is amended to read:

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

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

(1) up to two face-to-face assessments to determine a recipient's need for personal care assistant services;

(2) one service update done to determine a recipient's need for personal care assistant services; and

(3) up to ~~five~~ nine skilled nurse visits.

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

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

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

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

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

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

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

(d) [ASSESSMENT AND SERVICE PLAN.] Assessments under section 256B.0627, subdivision 1, paragraph (a), shall be conducted initially, and at least annually thereafter, in person with the recipient and result in a completed service plan using forms specified by the commissioner. Within 30 days of recipient or responsible party request for home care services, the assessment, the service plan, and other information necessary to determine medical necessity such as diagnostic or testing information, social or medical histories, and hospital or facility discharge summaries shall be submitted to the commissioner. For personal care assistant 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 assistant services after the first year, the recipient or the responsible party, in conjunction with the public health nurse, may complete a service update on forms developed by the commissioner according to criteria and procedures in subdivision 1.

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

(1) [HOME HEALTH SERVICES.] All home health services provided by a ~~licensed nurse or a~~ home health aide must be prior authorized by the commissioner or the commissioner's designee. Prior authorization must be based on medical necessity and cost-effectiveness when compared with other care options. When home health services are used in combination with personal care and private duty nursing, the cost of all home care services shall be considered for cost-effectiveness. The commissioner shall limit ~~nurse and~~ home health aide visits to no more than one visit each per day. The commissioner, or the commissioner's designee, may authorize up to two skilled nurse visits per day.

(2) [PERSONAL CARE ASSISTANT SERVICES.] (i) All personal care assistant services and supervision by a qualified professional, if requested by the recipient, 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 assistant services authorized must be based on the recipient's home care rating. A child may not be found to be dependent in an activity of daily living if because of the child's age an adult would either perform the activity for the child or assist the child with the activity and the amount of assistance needed is similar to the assistance appropriate for a typical child of the same age. Based on medical necessity, the commissioner may authorize:

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

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

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

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

(E) up to the amount medical assistance would reimburse for facility care for recipients referred to the commissioner by a preadmission screening team established under section 256B.0911 or 256B.092; and

(F) a reasonable amount of time for the provision of supervision by a qualified professional of personal care assistant services, if a qualified professional is requested by the recipient or responsible party.

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

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

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

(A) daily tube feedings;

(B) daily parenteral therapy;

(C) wound or decubiti care;

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

(E) catheterization;

(F) ostomy care;

(G) quadriplegia; or

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

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

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

(B) physical injury to other people; or

(C) destruction of property.

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

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

(A) unusual or repetitive habits;

(B) withdrawn behavior; or

(C) offensive behavior.

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

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

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

(ii) the cares are outside of the scope of services that can be provided by a home health aide or personal care assistant.

The commissioner may authorize:

(A) up to two times the average amount of direct care hours provided in nursing facilities statewide for case mix classification "K" as established by the annual cost report submitted to the department by nursing facilities in May 1992;

(B) private duty nursing in combination with other home care services up to the total cost allowed under clause (2);

(C) up to 16 hours per day if the recipient requires more nursing than the maximum number of direct care hours as established in item (A) and the recipient meets the hospital admission criteria established under Minnesota Rules, parts ~~9505.0500~~ 9505.0501 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.

Beginning July 1, 2001, private duty nursing services shall be authorized for complex and regular care according to subdivision 1.

(4) [VENTILATOR-DEPENDENT RECIPIENTS.] If the recipient is ventilator-dependent, the monthly medical assistance authorization for home care services shall not exceed what the commissioner would pay for care at the highest cost hospital designated as a long-term hospital under the Medicare program. For purposes of this clause, home care services means all services provided in the home that would be included in the payment for care at the long-term hospital. "Ventilator-dependent" means an individual who receives mechanical ventilation for life support at least six hours per day and is expected to be or has been dependent for at least 30 consecutive days.

(f) [PRIOR AUTHORIZATION; TIME LIMITS.] The commissioner or the commissioner's designee shall determine the time period for which a prior authorization shall be effective. If the recipient continues to require home care services beyond the duration of the prior authorization, the home care provider must request a new prior authorization. Under no circumstances, other than the exceptions in paragraph (b), shall a prior authorization be valid prior to the date the commissioner receives the request or for more than 12 months. A recipient who appeals a reduction in previously authorized home care services may continue previously authorized services, other than temporary services under paragraph (h), pending an appeal under section 256.045. The commissioner must provide a detailed explanation of why the authorized services are reduced in amount from those requested by the home care provider.

(g) [APPROVAL OF HOME CARE SERVICES.] The commissioner or the commissioner's designee shall determine the medical necessity of home care services, the level of caregiver according to subdivision 2, and the institutional comparison according to this subdivision, the cost-effectiveness of services, and the amount, scope, and duration of home care services reimbursable by medical assistance, based on the assessment, primary payer coverage determination information as required, the service plan, the recipient's age, the cost of services, the recipient's medical condition, and diagnosis or disability. The commissioner may publish additional criteria for determining medical necessity according to section 256B.04.

(h) [PRIOR AUTHORIZATION REQUESTS; TEMPORARY SERVICES.] The agency nurse, the independently enrolled private duty nurse, or county public health nurse may request a temporary authorization for home care services by telephone. The commissioner may approve a temporary level of home care services based on the assessment, and service or care plan information, and primary payer coverage determination information as required. Authorization for a temporary level of home care services including nurse supervision is limited to the time specified by the commissioner, but shall not exceed 45 days, unless extended because the county public health nurse has not completed the required assessment and service plan, or the commissioner's determination has not been made. The level of services authorized under this provision shall have no bearing on a future prior authorization.

(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;

(2) personal care assistant services when the foster care license holder is also the personal care provider or personal care assistant unless the recipient can direct the recipient's own care, or case management is provided as required in section 256B.0625, subdivision 19a;

(3) personal care assistant services when the responsible party is an employee of, or under contract with, or has any direct or indirect financial relationship with the personal care provider or personal care assistant, unless case management is provided as required in section 256B.0625, subdivision 19a; or

(4) personal care assistant and private duty nursing services when the number of foster care residents is greater than four unless the county responsible for the recipient's foster placement made the placement prior to April 1, 1992, requests that personal care assistant and private duty nursing services be provided, and case management is provided as required in section 256B.0625, subdivision 19a.

Sec. 32. Minnesota Statutes 2000, section 256B.0627, subdivision 7, is amended 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 medication program for a recipient; or

(ii) to administer or assist with medication administration, including injections, prefilling syringes for injections, or oral medication set-up 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 accessible to a recipient outside the recipient's place of residence, excluding the assessment, counseling and education, and personal assistant care;

(8) any home health agency service, excluding personal care assistant services and private duty nursing services, which are performed in a place other than the recipient's residence; and

(9) Medicare evaluation or administrative nursing visits on dual-eligible recipients that do not qualify for Medicare visit billing.

Sec. 33. Minnesota Statutes 2000, section 256B.0627, subdivision 8, is amended to read:

Subd. 8. [SHARED PERSONAL CARE ASSISTANT SERVICES.] (a) Medical assistance payments for shared personal care assistance services shall be limited according to this subdivision.

(b) Recipients of personal care assistant services may share staff and the commissioner shall provide a rate system for shared personal care assistant services. For two persons sharing services, the rate paid to a provider shall not exceed 1-1/2 times the rate paid for serving a single individual, and for three persons sharing services, the rate paid to a provider shall not exceed twice the rate paid for serving a single individual. These rates apply only to situations in which all recipients were present and received shared services on the date for which the service is billed. No more than three persons may receive shared services from a personal care assistant in a single setting.

(c) Shared service is the provision of personal care assistant services by a personal care assistant to two or three recipients at the same time and in the same setting. For the purposes of this subdivision, "setting" means:

- (1) the home or foster care home of one of the individual recipients; or
- (2) a child care program in which all recipients served by one personal care assistant are participating, which is licensed under chapter 245A or operated by a local school district or private school; or
- (3) outside the home or foster care home of one of the recipients when normal life activities take the recipients outside the home.

The provisions of this subdivision do not apply when a personal care assistant is caring for multiple recipients in more than one setting.

(d) The recipient or the recipient's responsible party, in conjunction with the county public health nurse, shall determine:

- (1) whether shared personal care assistant services is an appropriate option based on the individual needs and preferences of the recipient; and
- (2) the amount of shared services allocated as part of the overall authorization of personal care assistant services.

The recipient or the responsible party, in conjunction with the supervising qualified professional, if a qualified professional is requested by any one of the recipients or responsible parties, shall arrange the setting and grouping of shared services based on the individual needs and preferences of the recipients. Decisions on the selection of recipients to share services must be based on the ages of the recipients, compatibility, and coordination of their care needs.

(e) The following items must be considered by the recipient or the responsible party and the supervising qualified professional, if a qualified professional has been requested by any one of the recipients or responsible parties, and documented in the recipient's health service record:

- (1) the additional qualifications needed by the personal care assistant to provide care to several recipients in the same setting;
- (2) the additional training and supervision needed by the personal care assistant to ensure that the needs of the recipient are met appropriately and safely. The provider must provide on-site supervision by a qualified professional within the first 14 days of shared services, and monthly thereafter, if supervision by a qualified provider has been requested by any one of the recipients or responsible parties;
- (3) the setting in which the shared services will be provided;

(4) the ongoing monitoring and evaluation of the effectiveness and appropriateness of the service and process used to make changes in service or setting; and

(5) a contingency plan which accounts for absence of the recipient in a shared services setting due to illness or other circumstances and staffing contingencies.

(f) The provider must offer the recipient or the responsible party the option of shared or one-on-one personal care assistant services. The recipient or the responsible party can withdraw from participating in a shared services arrangement at any time.

(g) In addition to documentation requirements under Minnesota Rules, part 9505.2175, a personal care provider must meet documentation requirements for shared personal care assistant services and must document the following in the health service record for each individual recipient sharing services:

(1) permission by the recipient or the recipient's responsible party, if any, for the maximum number of shared services hours per week chosen by the recipient;

(2) permission by the recipient or the recipient's responsible party, if any, for personal care assistant services provided outside the recipient's residence;

(3) permission by the recipient or the recipient's responsible party, if any, for others to receive shared services in the recipient's residence;

(4) revocation by the recipient or the recipient's responsible party, if any, of the shared service authorization, or the shared service to be provided to others in the recipient's residence, or the shared service to be provided outside the recipient's residence;

(5) supervision of the shared personal care assistant services by the qualified professional, if a qualified professional is requested by one of the recipients or responsible parties, including the date, time of day, number of hours spent supervising the provision of shared services, whether the supervision was face-to-face or another method of supervision, changes in the recipient's condition, shared services scheduling issues and recommendations;

(6) documentation by the qualified professional, if a qualified professional is requested by one of the recipients or responsible parties, of telephone calls or other discussions with the personal care assistant regarding services being provided to the recipient who has requested the supervision; and

(7) daily documentation of the shared services provided by each identified personal care assistant including:

(i) the names of each recipient receiving shared services together;

(ii) the setting for the shared services, including the starting and ending times that the recipient received shared services; and

(iii) notes by the personal care assistant regarding changes in the recipient's condition, problems that may arise from the sharing of services, scheduling issues, care issues, and other notes as required by the qualified professional, if a qualified professional is requested by one of the recipients or responsible parties.

(h) Unless otherwise provided in this subdivision, all other statutory and regulatory provisions relating to personal care assistant services apply to shared services.

(i) In the event that supervision by a qualified professional has been requested by one or more recipients, but not by all of the recipients, the supervision duties of the qualified professional shall be limited to only those recipients who have requested the supervision.

Nothing in this subdivision shall be construed to reduce the total number of hours authorized for an individual recipient.

Sec. 34. Minnesota Statutes 2000, section 256B.0627, subdivision 10, is amended to read:

Subd. 10. ~~[FISCAL AGENT INTERMEDIARY OPTION AVAILABLE FOR PERSONAL CARE ASSISTANT SERVICES.]~~ (a) ~~"Fiscal agent option" is an option that allows the recipient to:~~

~~(1) use a fiscal agent instead of a personal care provider organization;~~

~~(2) supervise the personal care assistant; and~~

~~(3) use a consulting professional.~~

The commissioner may allow a recipient of personal care assistant services to use a fiscal ~~agent~~ intermediary to assist the recipient in paying and accounting for medically necessary covered personal care assistant services authorized in subdivision 4 and within the payment parameters of subdivision 5. Unless otherwise provided in this subdivision, all other statutory and regulatory provisions relating to personal care assistant services apply to a recipient using the fiscal ~~agent~~ intermediary option.

(b) The recipient or responsible party shall:

~~(1) hire, and terminate the personal care assistant and consulting professional, with the fiscal agent recruit, hire, and terminate a qualified professional, if a qualified professional is requested by the recipient or responsible party;~~

~~(2) recruit the personal care assistant and consulting professional and orient and train the personal care assistant in areas that do not require professional delegation as determined by the county public health nurse verify and document the credentials of the qualified professional, if a qualified professional is requested by the recipient or responsible party;~~

~~(3) supervise and evaluate the personal care assistant in areas that do not require professional delegation as determined in the assessment;~~

~~(4) cooperate with a consulting develop a service plan based on physician orders and public health nurse assessment with the assistance of a qualified professional and implement recommendations pertaining to the health and safety of the recipient, if a qualified professional is requested by the recipient or responsible party, that addresses the health and safety of the recipient;~~

~~(5) hire a qualified professional to train and supervise the performance of delegated tasks done by (4) recruit, hire, and terminate the personal care assistant;~~

~~(6) monitor services and verify in writing the hours worked by the personal care assistant and the consulting (5) orient and train the personal care assistant with assistance as needed from the qualified professional;~~

~~(7) develop and revise a care plan with assistance from a consulting (6) supervise and evaluate the personal care assistant with assistance as needed from the recipient's physician or the qualified professional;~~

~~(8) verify and document the credentials of the consulting (7) monitor and verify in writing and report to the fiscal intermediary the number of hours worked by the personal care assistant and the qualified professional; and~~

~~(9) (8) enter into a written agreement, as specified in paragraph (f).~~

(c) The duties of the fiscal ~~agent~~ intermediary shall be to:

- (1) bill the medical assistance program for personal care assistant and ~~consulting~~ qualified professional services;
- (2) request and secure background checks on personal care assistants and ~~consulting~~ qualified professionals according to section 245A.04;
- (3) pay the personal care assistant and ~~consulting~~ qualified professional based on actual hours of services provided;
- (4) withhold and pay all applicable federal and state taxes;
- (5) verify and ~~document~~ keep records of hours worked by the personal care assistant and ~~consulting~~ qualified professional;
- (6) make the arrangements and pay unemployment insurance, taxes, workers' compensation, liability insurance, and other benefits, if any;
- (7) enroll in the medical assistance program as a fiscal ~~agent~~ intermediary; and
- (8) enter into a written agreement as specified in paragraph (f) before services are provided.

(d) The fiscal ~~agent~~ intermediary:

- (1) may not be related to the recipient, ~~consulting~~ qualified professional, or the personal care assistant;
- (2) must ensure arm's length transactions with the recipient and personal care assistant; and
- (3) shall be considered a joint employer of the personal care assistant and ~~consulting~~ qualified professional to the extent specified in this section.

The fiscal ~~agent~~ intermediary or owners of the entity that provides fiscal ~~agent~~ intermediary services under this subdivision must pass a criminal background check as required in section 256B.0627, subdivision 1, paragraph (e).

(e) ~~If the recipient or responsible party requests a qualified professional, the consulting qualified professional providing assistance to the recipient shall meet the qualifications specified in section 256B.0625, subdivision 19c. The consulting qualified professional shall assist the recipient in developing and revising a plan to meet the recipient's assessed needs, and supervise the performance of delegated tasks, as determined by the public health nurse as assessed by the public health nurse. In performing this function, the consulting qualified professional must visit the recipient in the recipient's home at least once annually. The consulting qualified professional must report to the local county public health nurse concerns relating to the health and safety of the recipient, and any suspected abuse, neglect, or financial exploitation of the recipient to the appropriate authorities.~~

(f) The fiscal ~~agent~~ intermediary, recipient or responsible party, personal care assistant, and ~~consulting~~ qualified professional shall enter into a written agreement before services are started. The agreement shall include:

- (1) the duties of the recipient, qualified professional, personal care assistant, and fiscal agent based on paragraphs (a) to (e);
- (2) the salary and benefits for the personal care assistant and ~~those providing professional consultation~~ the qualified professional;
- (3) the administrative fee of the fiscal ~~agent~~ intermediary and services paid for with that fee, including background check fees;

(4) procedures to respond to billing or payment complaints; and

(5) procedures for hiring and terminating the personal care assistant and ~~those providing professional consultation~~ the qualified professional.

(g) The rates paid for personal care assistant services, qualified professional assistance services, and fiscal agency intermediary services under this subdivision shall be the same rates paid for personal care assistant services and qualified professional services under subdivision 2 respectively. Except for the administrative fee of the fiscal agent intermediary specified in paragraph (f), the remainder of the rates paid to the fiscal agent intermediary must be used to pay for the salary and benefits for the personal care assistant or ~~those providing professional consultation~~ the qualified professional.

(h) As part of the assessment defined in subdivision 1, the following conditions must be met to use or continue use of a fiscal agent intermediary:

(1) the recipient must be able to direct the recipient's own care, or the responsible party for the recipient must be readily available to direct the care of the personal care assistant;

(2) the recipient or responsible party must be knowledgeable of the health care needs of the recipient and be able to effectively communicate those needs;

(3) a face-to-face assessment must be conducted by the local county public health nurse at least annually, or when there is a significant change in the recipient's condition or change in the need for personal care assistant services: ~~The county public health nurse shall determine the services that require professional delegation, if any, and the amount and frequency of related supervision;~~

(4) the recipient cannot select the shared services option as specified in subdivision 8; and

(5) parties must be in compliance with the written agreement specified in paragraph (f).

(i) The commissioner shall deny, revoke, or suspend the authorization to use the fiscal agent intermediary option if:

(1) it has been determined by the ~~consulting~~ qualified professional or local county public health nurse that the use of this option jeopardizes the recipient's health and safety;

(2) the parties have failed to comply with the written agreement specified in paragraph (f); or

(3) the use of the option has led to abusive or fraudulent billing for personal care assistant services.

The recipient or responsible party may appeal the commissioner's action according to section 256.045. The denial, revocation, or suspension to use the fiscal agent intermediary option shall not affect the recipient's authorized level of personal care assistant services as determined in subdivision 5.

Sec. 35. Minnesota Statutes 2000, section 256B.0627, subdivision 11, is amended to read:

Subd. 11. [SHARED PRIVATE DUTY NURSING CARE OPTION.] (a) Medical assistance payments for shared private duty nursing services by a private duty nurse shall be limited according to this subdivision. For the purposes of this section, "private duty nursing agency" means an agency licensed under chapter 144A to provide private duty nursing services.

(b) Recipients of private duty nursing services may share nursing staff and the commissioner shall provide a rate methodology for shared private duty nursing. For two persons sharing nursing care, the rate paid to a provider shall not exceed 1.5 times the ~~nonwaived~~ regular private duty nursing rates paid for serving a single individual ~~who is~~

~~not ventilator dependent~~, by a registered nurse or licensed practical nurse. These rates apply only to situations in which both recipients are present and receive shared private duty nursing care on the date for which the service is billed. No more than two persons may receive shared private duty nursing services from a private duty nurse in a single setting.

(c) Shared private duty nursing care is the provision of nursing services by a private duty nurse to two recipients at the same time and in the same setting. For the purposes of this subdivision, "setting" means:

- (1) the home or foster care home of one of the individual recipients; or
- (2) a child care program licensed under chapter 245A or operated by a local school district or private school; or
- (3) an adult day care service licensed under chapter 245A; or
- (4) outside the home or foster care home of one of the recipients when normal life activities take the recipients outside the home.

This subdivision does not apply when a private duty nurse is caring for multiple recipients in more than one setting.

(d) The recipient or the recipient's legal representative, and the recipient's physician, in conjunction with the home health care agency, shall determine:

- (1) whether shared private duty nursing care is an appropriate option based on the individual needs and preferences of the recipient; and
- (2) the amount of shared private duty nursing services authorized as part of the overall authorization of nursing services.

(e) The recipient or the recipient's legal representative, in conjunction with the private duty nursing agency, shall approve the setting, grouping, and arrangement of shared private duty nursing care based on the individual needs and preferences of the recipients. Decisions on the selection of recipients to share services must be based on the ages of the recipients, compatibility, and coordination of their care needs.

(f) The following items must be considered by the recipient or the recipient's legal representative and the private duty nursing agency, and documented in the recipient's health service record:

- (1) the additional training needed by the private duty nurse to provide care to two recipients in the same setting and to ensure that the needs of the recipients are met appropriately and safely;
- (2) the setting in which the shared private duty nursing care will be provided;
- (3) the ongoing monitoring and evaluation of the effectiveness and appropriateness of the service and process used to make changes in service or setting;
- (4) a contingency plan which accounts for absence of the recipient in a shared private duty nursing setting due to illness or other circumstances;
- (5) staffing backup contingencies in the event of employee illness or absence; and
- (6) arrangements for additional assistance to respond to urgent or emergency care needs of the recipients.

(g) The provider must offer the recipient or responsible party the option of shared or one-on-one private duty nursing services. The recipient or responsible party can withdraw from participating in a shared service arrangement at any time.

(h) The private duty nursing agency must document the following in the health service record for each individual recipient sharing private duty nursing care:

(1) permission by the recipient or the recipient's legal representative for the maximum number of shared nursing care hours per week chosen by the recipient;

(2) permission by the recipient or the recipient's legal representative for shared private duty nursing services provided outside the recipient's residence;

(3) permission by the recipient or the recipient's legal representative for others to receive shared private duty nursing services in the recipient's residence;

(4) revocation by the recipient or the recipient's legal representative of the shared private duty nursing care authorization, or the shared care to be provided to others in the recipient's residence, or the shared private duty nursing services to be provided outside the recipient's residence; and

(5) daily documentation of the shared private duty nursing services provided by each identified private duty nurse, including:

(i) the names of each recipient receiving shared private duty nursing services together;

(ii) the setting for the shared services, including the starting and ending times that the recipient received shared private duty nursing care; and

(iii) notes by the private duty nurse regarding changes in the recipient's condition, problems that may arise from the sharing of private duty nursing services, and scheduling and care issues.

(i) Unless otherwise provided in this subdivision, all other statutory and regulatory provisions relating to private duty nursing services apply to shared private duty nursing services.

Nothing in this subdivision shall be construed to reduce the total number of private duty nursing hours authorized for an individual recipient under subdivision 5.

Sec. 36. Minnesota Statutes 2000, section 256B.0627, is amended by adding a subdivision to read:

Subd. 13. [CONSUMER-DIRECTED HOME CARE DEMONSTRATION PROJECT.] (a) Upon the receipt of federal waiver authority, the commissioner shall implement a consumer-directed home care demonstration project. The consumer-directed home care demonstration project must demonstrate and evaluate the outcomes of a consumer-directed service delivery alternative to improve access, increase consumer control and accountability over available resources, and enable the use of supports that are more individualized and cost-effective for eligible medical assistance recipients receiving certain medical assistance home care services. The consumer-directed home care demonstration project will be administered locally by county agencies, tribal governments, or administrative entities under contract with the state in regions where counties choose not to provide this service.

(b) Grant awards for persons who have been receiving medical assistance covered personal care, home health aide, or private duty nursing services for a period of 12 consecutive months or more prior to enrollment in the consumer-directed home care demonstration project will be established on a case-by-case basis using historical service expenditure data. An average monthly expenditure for each continuing enrollee will be calculated based on

historical expenditures made on behalf of the enrollee for personal care, home health aide, or private duty nursing services during the 12 month period directly prior to enrollment in the project. The grant award will equal 90 percent of the average monthly expenditure.

(c) Grant awards for project enrollees who have been receiving medical assistance covered personal care, home health aide, or private duty nursing services for a period of less than 12 consecutive months prior to project enrollment will be calculated on a case-by-case basis using the service authorization in place at the time of enrollment. The total number of units of personal care, home health aide, or private duty nursing services the enrollee has been authorized to receive will be converted to the total cost of the authorized services in a given month using the statewide average service payment rates. To determine an estimated monthly expenditure, the total authorized monthly personal care, home health aide or private duty nursing service costs will be reduced by a percentage rate equivalent to the difference between the statewide average service authorization and the statewide average utilization rate for each of the services by medical assistance eligibles during the most recent fiscal year for which 12 months of data is available. The grant award will equal 90 percent of the estimated monthly expenditure.

(d) The state of Minnesota, county agencies, tribal governments, or administrative entities under contract with the state that participate in the implementation and administration of the consumer-directed home care demonstration project, shall not be liable for damages, injuries, or liabilities sustained through the purchase of support by the individual, the individual's family, or the authorized representative under this section with funds received through the consumer-directed home care demonstration project. Liabilities include but are not limited to: workers' compensation liability, the Federal Insurance Contributions Act (FICA), or the Federal Unemployment Tax Act (FUTA).

Sec. 37. Minnesota Statutes 2000, section 256B.0627, is amended by adding a subdivision to read:

Subd. 14. [TELEHOMECARE; SKILLED NURSE VISITS.] Medical assistance covers skilled nurse visits according to section 256B.0625, subdivision 6a, provided via telehomecare, for services which do not require hands-on care between the home care nurse and recipient. The provision of telehomecare must be made via live, two-way interactive audiovisual technology and may be augmented by utilizing store-and-forward technologies. Store-and-forward technology includes telehomecare services that do not occur in real time via synchronous transmissions, and that do not require a face-to-face encounter with the recipient for all or any part of any such telehomecare visit. A communication between the home care nurse and recipient that consists solely of a telephone conversation, facsimile, electronic mail, or a consultation between two health care practitioners, is not to be considered a telehomecare visit. Multiple daily skilled nurse visits provided via telehomecare are allowed. Coverage of telehomecare is limited to two visits per day. All skilled nurse visits provided via telehomecare must be prior authorized by the commissioner or the commissioner's designee and will be covered at the same allowable rate as skilled nurse visits provided in-person.

Sec. 38. Minnesota Statutes 2000, section 256B.0627, is amended by adding a subdivision to read:

Subd. 15. [THERAPIES THROUGH HOME HEALTH AGENCIES.] (a) [PHYSICAL THERAPY.] Medical assistance covers physical therapy and related services, including specialized maintenance therapy. Services provided by a physical therapy assistant shall be reimbursed at the same rate as services performed by a physical therapist when the services of the physical therapy assistant are provided under the direction of a physical therapist who is on the premises. Services provided by a physical therapy assistant that are provided under the direction of a physical therapist who is not on the premises shall be reimbursed at 65 percent of the physical therapist rate. Direction of the physical therapy assistant must be provided by the physical therapist as described in Minnesota Rules, part 9505.0390, subpart 1, item B. The physical therapist and physical therapist assistant may not both bill for services provided to a recipient on the same day.

(b) [OCCUPATIONAL THERAPY.] Medical assistance covers occupational therapy and related services, including specialized maintenance therapy. Services provided by an occupational therapy assistant shall be reimbursed at the same rate as services performed by an occupational therapist when the services of the occupational

therapy assistant are provided under the direction of the occupational therapist who is on the premises. Services provided by an occupational therapy assistant under the direction of an occupational therapist who is not on the premises shall be reimbursed at 65 percent of the occupational therapist rate. Direction of the occupational therapy assistant must be provided by the occupational therapist as described in Minnesota Rules, part 9505.0390, subpart 1, item B. The occupational therapist and occupational therapist assistant may not both bill for services provided to a recipient on the same day.

Sec. 39. Minnesota Statutes 2000, section 256B.0627, is amended by adding a subdivision to read:

Subd. 16. [HARDSHIP CRITERIA; PRIVATE DUTY NURSING.] (a) Payment is allowed for extraordinary services that require specialized nursing skills and are provided by parents of minor children, spouses, and legal guardians who are providing private duty nursing care under the following conditions:

(1) the provision of these services is not legally required of the parents, spouses, or legal guardians;

(2) the services are necessary to prevent hospitalization of the recipient; and

(3) the recipient is eligible for state plan home care or a home and community-based waiver and one of the following hardship criteria are met:

(i) the parent, spouse, or legal guardian resigns from a part-time or full-time job to provide nursing care for the recipient; or

(ii) the parent, spouse, or legal guardian goes from a full-time to a part-time job with less compensation to provide nursing care for the recipient; or

(iii) the parent, spouse, or legal guardian takes a leave of absence without pay to provide nursing care for the recipient; or

(iv) because of labor conditions, special language needs, or intermittent hours of care needed, the parent, spouse, or legal guardian is needed in order to provide adequate private duty nursing services to meet the medical needs of the recipient.

(b) Private duty nursing may be provided by a parent, spouse, or legal guardian who is a nurse licensed in Minnesota. Private duty nursing services provided by a parent, spouse, or legal guardian cannot be used in lieu of nursing services covered and available under liable third-party payers, including Medicare. The private duty nursing provided by a parent, spouse, or legal guardian must be included in the service plan. Authorized skilled nursing services provided by the parent, spouse, or legal guardian may not exceed 50 percent of the total approved nursing hours, or eight hours per day, whichever is less, up to a maximum of 40 hours per week. Nothing in this subdivision precludes the parent's, spouse's, or legal guardian's obligation of assuming the nonreimbursed family responsibilities of emergency backup caregiver and primary caregiver.

(c) A parent or a spouse may not be paid to provide private duty nursing care if the parent or spouse fails to pass a criminal background check according to section 245A.04, or if it has been determined by the home health agency, the case manager, or the physician that the private duty nursing care provided by the parent, spouse, or legal guardian is unsafe.

Sec. 40. Minnesota Statutes 2000, section 256B.0627, is amended by adding a subdivision to read:

Subd. 17. [QUALITY ASSURANCE PLAN FOR PERSONAL CARE ASSISTANT SERVICES.] The commissioner shall establish a quality assurance plan for personal care assistant services that includes:

(1) performance-based provider agreements;

(2) meaningful consumer input, which may include consumer surveys, that measure the extent to which participants receive the services and supports described in the individual plan and participant satisfaction with such services and supports;

(3) ongoing monitoring of the health and well-being of consumers; and

(4) an ongoing public process for development, implementation, and review of the quality assurance plan.

Sec. 41. Minnesota Statutes 2000, section 256B.0911, is amended by adding a subdivision to read:

Subd. 4a. [PREADMISSION SCREENING OF INDIVIDUALS UNDER 65 YEARS OF AGE.] (a) It is the policy of the state of Minnesota to ensure that individuals with disabilities or chronic illness are served in the most integrated setting appropriate to their needs and have the necessary information to make informed choices about home and community-based service options.

(b) Individuals under 65 years of age who are admitted to a nursing facility from a hospital must be screened prior to admission as outlined in subdivision 4.

(c) Individuals under 65 years of age who are admitted to nursing facilities with only a telephone screening must receive a face-to-face assessment from the long-term care consultation team member of the county in which the facility is located or from the recipient's county case manager within 20 working days of admission.

(d) At the face-to-face assessment, the long-term care consultation team member or county case manager must perform the activities required under subdivision 3.

(e) For individuals under 21 years of age, the screening or assessment which recommends nursing facility admission must be approved by the commissioner before the individual is admitted to the nursing facility.

(f) In the event that an individual under 65 years of age is admitted to a nursing facility on an emergency basis, the county must be notified of the admission on the next working day, and a face-to-face assessment as described in paragraph (c) must be conducted within 20 working days of admission.

(g) At the face-to-face assessment, the long-term care consultation team member or the case manager must present information about home and community-based options so the individual can make informed choices. If the individual chooses home and community-based services, the long-term care consultation team member or case manager must complete a written relocation plan within 20 working days of the visit. The plan shall describe the services needed to move out of the facility and a time line for the move which is designed to ensure a smooth transition to the individual's home and community.

(h) An individual under 65 years of age residing in a nursing facility shall receive a face-to-face assessment at least every 12 months to review the person's service choices and available alternatives unless the individual indicates, in writing, that annual visits are not desired. In this case, the individual must receive a face-to-face assessment at least once every 36 months for the same purposes.

(i) Notwithstanding the provisions of subdivision 6, the commissioner may pay county agencies directly for face-to-face assessments for individuals who are eligible for medical assistance, under 65 years of age, and being considered for placement or residing in a nursing facility.

Sec. 42. Minnesota Statutes 2000, section 256B.0916, subdivision 1, is amended to read:

Subdivision 1. [REDUCTION OF WAITING LIST.] (a) The legislature recognizes that as of January 1, 1999, 3,300 persons with mental retardation or related conditions have been screened and determined eligible for the home and community-based waiver services program for persons with mental retardation or related conditions. Many wait for several years before receiving service.

(b) The waiting list for this program shall be reduced or eliminated by June 30, 2003. In order to reduce the number of eligible persons waiting for identified services provided through the home and community-based waiver for persons with mental retardation or related conditions, during the period from July 1, 1999, to June 30, 2003, funding shall be increased to add 100 additional eligible persons each year beyond the February 1999 medical assistance forecast.

(c) The commissioner shall allocate resources in such a manner as to use all resources budgeted during a biennium for the home and community-based waiver for persons with mental retardation or related conditions according to the priorities listed in subdivision 2, paragraph (b), and then to serve other persons on the waiting list. Resources allocated for a fiscal year to serve persons affected by public and private sector ICF/MR closures, but not expected to be expended for that purpose, must be reallocated within that fiscal year to serve other persons on the waiting list, and the number of waiver diversion slots shall be adjusted accordingly.

(d) For fiscal year 2001, at least one-half of the increase in funding over the previous year provided in the February 1999 medical assistance forecast for the home and community-based waiver for persons with mental retardation and related conditions, including changes made by the 1999 legislature, must be used to serve persons who are not affected by public and private sector ICF/MR closures.

(e) The commissioner of finance shall not reduce the spending forecast for the coming biennium, if at the time of the forecast there is a waiting list for waiver services for persons with mental retardation or related conditions who need services within the next 30 months. Funds that would have resulted from a projected reduction in spending must be used by the commissioner of human services to serve persons with developmental disabilities through the home and community-based waiver for persons with mental retardation or related conditions.

Sec. 43. Minnesota Statutes 2000, section 256B.0916, is amended by adding a subdivision to read:

Subd. 6a. [STATEWIDE AVAILABILITY OF CONSUMER-DIRECTED COMMUNITY SUPPORT SERVICES.] (a) The commissioner shall submit to the federal Health Care Financing Administration by August 1, 2001, an amendment to the home and community-based waiver for persons with mental retardation or related conditions to make consumer-directed community support services available in every county of the state by January 1, 2002.

(b) If a county declines to meet the requirements for provision of consumer-directed community supports, the commissioner shall contract with another county, a group of counties, or a private agency to plan for and administer consumer-directed community supports in that county.

(c) The state of Minnesota, county agencies, tribal governments, or administrative entities under contract to participate in the implementation and administration of the home and community-based waiver for persons with mental retardation or a related condition, shall not be liable for damages, injuries, or liabilities sustained through the purchase of support by the individual, the individual's family, or the authorized representative with funds received through the consumer-directed community support service under this section. Liabilities include but are not limited to: workers' compensation liability, the Federal Insurance Contributions Act (FICA), or the Federal Unemployment Tax Act (FUTA).

Sec. 44. Minnesota Statutes 2000, section 256B.0916, subdivision 7, is amended to read:

Subd. 7. [ANNUAL REPORT BY COMMISSIONER.] Beginning ~~October 1, 1999, and each October 1~~ November 1, 2001, and each November 1 thereafter, the commissioner shall issue an annual report on county and state use of available resources for the home and community-based waiver for persons with mental retardation or related conditions. For each county or county partnership, the report shall include:

(1) the amount of funds allocated but not used;

- (2) the county specific allowed reserve amount approved and used;
- (3) the number, ages, and living situations of individuals screened and waiting for services;
- (4) the urgency of need for services to begin within one, two, or more than two years for each individual;
- (5) the services needed;
- (6) the number of additional persons served by approval of increased capacity within existing allocations;
- (7) results of action by the commissioner to streamline administrative requirements and improve county resource management; and
- (8) additional action that would decrease the number of those eligible and waiting for waived services.

The commissioner shall specify intended outcomes for the program and the degree to which these specified outcomes are attained.

Sec. 45. Minnesota Statutes 2000, section 256B.0916, subdivision 9, is amended to read:

Subd. 9. [LEGAL REPRESENTATIVE PARTICIPATION EXCEPTION.] The commissioner, in cooperation with representatives of counties, service providers, service recipients, family members, legal representatives and advocates, shall develop criteria to allow legal representatives to be reimbursed for providing specific support services to meet the person's needs when a plan which assures health and safety has been agreed upon and carried out by the legal representative, the person, and the county. Legal representatives providing support under ~~consumer-directed community support services pursuant to section 256B.092, subdivision 4,~~ the home and community-based waiver for persons with mental retardation or related conditions or the consumer support grant program pursuant to section ~~256B.092, subdivision 7~~ 256.476, shall not be considered to have a direct or indirect service provider interest under section 256B.092, subdivision 7, if a health and safety plan which meets the criteria established has been agreed upon and implemented. By ~~October 1, 1999~~ August 1, 2001, the commissioner shall submit, for federal approval, amendments to allow legal representatives to provide support and receive reimbursement under the ~~consumer-directed community support services section of the~~ home and community-based waiver plan.

Sec. 46. Minnesota Statutes 2000, section 256B.092, subdivision 2a, is amended to read:

Subd. 2a. [MEDICAL ASSISTANCE FOR CASE MANAGEMENT ACTIVITIES UNDER THE STATE PLAN MEDICAID OPTION.] (a) Upon receipt of federal approval, the commissioner shall make payments to ~~approved vendors~~ counties, private individuals, and agencies enrolled as providers of case management services participating in the medical assistance program to reimburse costs for providing case management service activities to medical assistance eligible persons with mental retardation or a related condition, in accordance with the state Medicaid plan, the home and community-based waiver for persons with mental retardation and related conditions plan, and federal requirements ~~and limitations~~.

(b) The commissioner shall ensure that each eligible person is given a choice of county and private agency case management service providers. Case management service providers are prohibited from providing any other service to the person receiving case management services.

Sec. 47. Minnesota Statutes 2000, section 256B.092, subdivision 5, is amended to read:

Subd. 5. [FEDERAL WAIVERS.] (a) The commissioner shall apply for any federal waivers necessary to secure, to the extent allowed by law, federal financial participation under United States Code, title 42, sections 1396 et seq., as amended, for the provision of services to persons who, in the absence of the services, would need the level of care provided in a regional treatment center or a community intermediate care facility for persons with mental retardation

or related conditions. The commissioner may seek amendments to the waivers or apply for additional waivers under United States Code, title 42, sections 1396 et seq., as amended, to contain costs. The commissioner shall ensure that payment for the cost of providing home and community-based alternative services under the federal waiver plan shall not exceed the cost of intermediate care services including day training and habilitation services that would have been provided without the waived services.

(b) The commissioner, in administering home and community-based waivers for persons with mental retardation and related conditions, shall ensure that day services for eligible persons are not provided by the person's residential service provider, unless the person or the person's legal representative is offered a choice of providers and agrees in writing to provision of day services by the residential service provider. The individual service plan for individuals who choose to have their residential service provider provide their day services must describe how health, safety, and protection needs will be met by frequent and regular contact with persons other than the residential service provider.

Sec. 48. Minnesota Statutes 2000, 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)~~ (4) providing technical assistance to promote statewide development of appropriate, accessible, and cost-effective medical assistance services and related policy;

~~(6)~~ (5) providing training and outreach to facilitate access to appropriate home and community-based services to prevent institutionalization;

~~(7)~~ (6) facilitating appropriate admissions, continued stay review, discharges, and utilization review for neurobehavioral hospitals and other specialized institutions;

~~(8)~~ (7) providing technical assistance on the use of prior authorization of home care services and coordination of these services with other medical assistance services;

~~(9)~~ (8) 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)~~ (9) 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. 49. Minnesota Statutes 2000, section 256B.095, is amended to read:

256B.095 [~~THREE-YEAR QUALITY ASSURANCE PILOT PROJECT ESTABLISHED.~~]

Effective July 1, 1998, an alternative quality assurance licensing system ~~pilot~~ project for programs for persons with developmental disabilities is established in Dodge, Fillmore, Freeborn, Goodhue, Houston, Mower, Olmsted, Rice, Steele, Wabasha, and Winona counties for the purpose of improving the quality of services provided to persons with developmental disabilities. A county, at its option, may choose to have all programs for persons with developmental disabilities located within the county licensed under chapter 245A using standards determined under the alternative quality assurance licensing system ~~pilot~~ project or may continue regulation of these programs under the licensing system operated by the commissioner. The ~~pilot~~ project expires on June 30, ~~2004~~ 2005.

Sec. 50. Minnesota Statutes 2000, section 256B.0951, subdivision 1, is amended to read:

Subdivision 1. [MEMBERSHIP.] The region 10 quality assurance commission is established. The commission consists of at least 14 but not more than 21 members as follows: at least three but not more than five members representing advocacy organizations; at least three but not more than five members representing consumers, families, and their legal representatives; at least three but not more than five members representing service providers; at least three but not more than five members representing counties; and the commissioner of human services or the commissioner's designee. Initial membership of the commission shall be recruited and approved by the region 10 stakeholders group. Prior to approving the commission's membership, the stakeholders group shall provide to the commissioner a list of the membership in the stakeholders group, as of February 1, 1997, a brief summary of meetings held by the group since July 1, 1996, and copies of any materials prepared by the group for public distribution. The first commission shall establish membership guidelines for the transition and recruitment of membership for the commission's ongoing existence. Members of the commission who do not receive a salary or wages from an employer for time spent on commission duties may receive a per diem payment when performing commission duties and functions. All members may be reimbursed for expenses related to commission activities. Notwithstanding the provisions of section 15.059, subdivision 5, the commission expires on June 30, ~~2004~~ 2005.

Sec. 51. Minnesota Statutes 2000, section 256B.0951, subdivision 3, is amended to read:

Subd. 3. [COMMISSION DUTIES.] (a) By October 1, 1997, the commission, in cooperation with the commissioners of human services and health, shall do the following: (1) approve an alternative quality assurance licensing system based on the evaluation of outcomes; (2) approve measurable outcomes in the areas of health and safety, consumer evaluation, education and training, providers, and systems that shall be evaluated during the alternative licensing process; and (3) establish variable licensure periods not to exceed three years based on outcomes achieved. For purposes of this subdivision, "outcome" means the behavior, action, or status of a person that can be observed or measured and can be reliably and validly determined.

(b) By January 15, 1998, the commission shall approve, in cooperation with the commissioner of human services, a training program for members of the quality assurance teams established under section 256B.0952, subdivision 4.

(c) The commission and the commissioner shall establish an ongoing review process for the alternative quality assurance licensing system. The review shall take into account the comprehensive nature of the alternative system, which is designed to evaluate the broad spectrum of licensed and unlicensed entities that provide services to clients, as compared to the current licensing system.

(d) The commission shall contract with an independent entity to conduct a financial review of the alternative quality assurance ~~pilot~~ project. The review shall take into account the comprehensive nature of the alternative system, which is designed to evaluate the broad spectrum of licensed and unlicensed entities that provide services to clients, as compared to the current licensing system. The review shall include an evaluation of possible budgetary

savings within the department of human services as a result of implementation of the alternative quality assurance ~~pilot~~ project. If a federal waiver is approved under subdivision 7, the financial review shall also evaluate possible savings within the department of health. This review must be completed by December 15, 2000.

(e) The commission shall submit a report to the legislature by January 15, 2001, on the results of the review process for the alternative quality assurance ~~pilot~~ project, a summary of the results of the independent financial review, and a recommendation on whether the ~~pilot~~ project should be extended beyond June 30, 2001.

(f) The commissioner, in consultation with the commission, shall examine the feasibility of expanding the project to other populations or geographic areas and identify barriers to expansion. The commissioner shall report findings and recommendations to the legislature by December 15, 2004.

Sec. 52. Minnesota Statutes 2000, section 256B.0951, subdivision 4, is amended to read:

Subd. 4. [COMMISSION'S AUTHORITY TO RECOMMEND VARIANCES OF LICENSING STANDARDS.] The commission may recommend to the commissioners of human services and health variances from the standards governing licensure of programs for persons with developmental disabilities in order to improve the quality of services by implementing an alternative developmental disabilities licensing system if the commission determines that the alternative licensing system does not adversely affect the health or safety of persons being served by the licensed program nor compromise the qualifications of staff to provide services.

Sec. 53. Minnesota Statutes 2000, section 256B.0951, subdivision 5, is amended to read:

Subd. 5. [VARIANCE OF CERTAIN STANDARDS PROHIBITED.] The safety standards, rights, or procedural protections under sections 245.825; 245.91 to 245.97; 245A.04, subdivisions 3, 3a, 3b, and 3c; 245A.09, subdivision 2, paragraph (c), clauses (2) and (5); 245A.12; 245A.13; 252.41, subdivision 9; 256B.092, subdivisions 1b, clause (7), and 10; 626.556; 626.557, and procedures for the monitoring of psychotropic medications shall not be varied under the alternative licensing system ~~pilot~~ project. The commission may make recommendations to the commissioners of human services and health or to the legislature regarding alternatives to or modifications of the rules and procedures referenced in this subdivision.

Sec. 54. Minnesota Statutes 2000, section 256B.0951, subdivision 7, is amended to read:

Subd. 7. [WAIVER OF RULES.] The commissioner of health may exempt residents of intermediate care facilities for persons with mental retardation (ICFs/MR) who participate in the three-year quality assurance pilot project established in section 256B.095 from the requirements of Minnesota Rules, chapter 4665, upon approval by the federal government of a waiver of federal certification requirements for ICFs/MR. ~~The commissioners of health and human services shall apply for any necessary waivers as soon as practicable and shall submit the concept paper to the federal government by June 1, 1998.~~

Sec. 55. Minnesota Statutes 2000, section 256B.0951, is amended by adding a subdivision to read:

Subd. 8. [FEDERAL WAIVER.] The commissioner of human services shall seek federal authority to waive provisions of intermediate care facilities for persons with mental retardation (ICFs/MR) regulations to enable the demonstration and evaluation of the alternative quality assurance system for ICFs/MR under the project. The commissioner of human services shall apply for any necessary waivers as soon as practicable.

Sec. 56. Minnesota Statutes 2000, section 256B.0951, is amended by adding a subdivision to read:

Subd. 9. [EVALUATION.] The commission, in consultation with the commissioner of human services, shall conduct an evaluation of the alternative quality assurance system, and present a report to the commissioner by June 30, 2004.

Sec. 57. Minnesota Statutes 2000, section 256B.0952, subdivision 1, is amended to read:

~~Subdivision 1. [NOTIFICATION.] By January 15, 1998, each affected county shall notify the commission and the commissioners of human services and health as to whether it chooses to implement on July 1, 1998, the alternative licensing system for the pilot project. A county that does not implement the alternative licensing system on July 1, 1998, may give notice to the commission and the commissioners by January 15, 1999, or January 15, 2000; that it will implement the alternative licensing system on the following July 1. A county that implements the alternative licensing system commits to participate until June 30, 2001. For each year of the project, region 10 counties shall give notice to the commission and commissioners of human services and health by March 15 of intent to join the quality assurance alternative licensing system, effective July 1 of that year. A county choosing to participate in the alternative licensing system commits to participate until June 30, 2005. Counties participating in the quality assurance alternative licensing system as of January 1, 2001, shall notify the commission and the commissioners of human services and health by March 15, 2001, of intent to continue participation. Counties that elect to continue participation must participate in the alternative licensing system until June 30, 2005.~~

Sec. 58. Minnesota Statutes 2000, section 256B.0952, subdivision 4, is amended to read:

Subd. 4. [APPOINTMENT OF QUALITY ASSURANCE MANAGER.] (a) A county or group of counties that chooses to participate in the alternative licensing system shall designate a quality assurance manager and shall establish quality assurance teams in accordance with subdivision 5. The manager shall recruit, train, and assign duties to the quality assurance team members. In assigning team members to conduct the quality assurance process at a facility, program, or service, the manager shall take into account the size of the service provider, the number of services to be reviewed, the skills necessary for team members to complete the process, and other relevant factors. The manager shall ensure that no team member has a financial, personal, or family relationship with the facility, program, or service being reviewed or with any clients of the facility, program, or service.

(b) Quality assurance teams shall report the findings of their quality assurance reviews to the quality assurance manager. The quality assurance manager shall provide the report from the quality assurance team to the county and, upon request, to the commissioners of human services and health, and shall provide a summary of the report to the quality assurance review council.

Sec. 59. Minnesota Statutes 2000, section 256B.49, is amended by adding a subdivision to read:

Subd. 11. [AUTHORITY.] (a) The commissioner is authorized to apply for home and community-based service waivers, as authorized under section 1915(c) of the Social Security Act to serve persons under the age of 65 who are determined to require the level of care provided in a nursing home and persons who require the level of care provided in a hospital. The commissioner shall apply for the home and community-based waivers in order to: (i) promote the support of persons with disabilities in the most integrated settings; (ii) expand the availability of services for persons who are eligible for medical assistance; (iii) promote cost-effective options to institutional care; and (iv) obtain federal financial participation.

(b) The provision of waived services to medical assistance recipients with disabilities shall comply with the requirements outlined in the federally approved applications for home and community-based services and subsequent amendments, including provision of services according to a service plan designed to meet the needs of the individual. For purposes of this section, the approved home and community-based application is considered the necessary federal requirement.

(c) The commissioner shall provide interested persons serving on agency advisory committees and task forces, and others upon request, with notice of, and an opportunity to comment on, any changes or amendments to the federally approved applications for home and community-based waivers, prior to their submission to the federal health care financing administration.

(d) The commissioner shall seek approval, as authorized under section 1915(c) of the Social Security Act, to allow medical assistance eligibility under this section for children under age 21 without deeming of parental income or assets.

(e) The commissioner shall seek approval, as authorized under section 1915(c) of the Social Act, to allow medical assistance eligibility under this section for individuals under age 65 without deeming the spouse's income or assets.

Sec. 60. Minnesota Statutes 2000, section 256B.49, is amended by adding a subdivision to read:

Subd. 12. [INFORMED CHOICE.] Persons who are determined likely to require the level of care provided in a nursing facility or hospital shall be informed of the home and community-based support alternatives to the provision of inpatient hospital services or nursing facility services. Each person must be given the choice of either institutional or home and community-based services, using the provisions described in section 256B.77, subdivision 2, paragraph (p).

Sec. 61. Minnesota Statutes 2000, section 256B.49, is amended by adding a subdivision to read:

Subd. 13. [CASE MANAGEMENT.] (a) Each recipient of a home and community-based waiver shall be provided case management services by qualified vendors as described in the federally approved waiver application. The case management service activities provided will include:

(1) assessing the needs of the individual within 20 working days of a recipient's request;

(2) developing the written individual service plan within ten working days after the assessment is completed;

(3) informing the recipient or the recipient's legal guardian or conservator of service options;

(4) assisting the recipient in the identification of potential service providers;

(5) assisting the recipient to access services;

(6) coordinating, evaluating, and monitoring of the services identified in the service plan;

(7) completing the annual reviews of the service plan; and

(8) informing the recipient or legal representative of the right to have assessments completed and service plans developed within specified time periods, and to appeal county action or inaction under section 256.045, subdivision 3.

(b) The case manager may delegate certain aspects of the case management service activities to another individual provided there is oversight by the case manager. The case manager may not delegate those aspects which require professional judgment including assessments, reassessments, and care plan development.

Sec. 62. Minnesota Statutes 2000, section 256B.49, is amended by adding a subdivision to read:

Subd. 14. [ASSESSMENT AND REASSESSMENT.] (a) Assessments of each recipient's strengths, informal support systems, and need for services shall be completed within 20 working days of the recipient's request. Reassessment of each recipient's strengths, support systems, and need for services shall be conducted at least every 12 months and at other times when there has been a significant change in the recipient's functioning.

(b) Persons with mental retardation or a related condition who apply for services under the nursing facility level waiver programs shall be screened for the appropriate level of care according to section 256B.092.

(c) Recipients who are found eligible for home and community-based services under this section before their 65th birthday may remain eligible for these services after their 65th birthday if they continue to meet all other eligibility factors.

Sec. 63. Minnesota Statutes 2000, section 256B.49, is amended by adding a subdivision to read:

Subd. 15. [INDIVIDUALIZED SERVICE PLAN.] Each recipient of home and community-based waived services shall be provided a copy of the written service plan which:

- (1) is developed and signed by the recipient within ten working days of the completion of the assessment;
- (2) meets the assessed needs of the recipient;
- (3) reasonably ensures the health and safety of the recipient;
- (4) promotes independence;
- (5) allows for services to be provided in the most integrated settings; and
- (6) provides for an informed choice, as defined in section 256B.77, subdivision 2, paragraph (p), of service and support providers.

Sec. 64. Minnesota Statutes 2000, section 256B.49, is amended by adding a subdivision to read:

Subd. 16. [SERVICES AND SUPPORTS.] (a) Services and supports included in the home and community-based waivers for persons with disabilities shall meet the requirements set out in United States Code, title 42, section 1396n. The services and supports, which are offered as alternatives to institutional care, shall promote consumer choice, community inclusion, self-sufficiency, and self-determination.

(b) Beginning January 1, 2003, the commissioner shall simplify and improve access to home and community-based waived services, to the extent possible, through the establishment of a common service menu that is available to eligible recipients regardless of age, disability type, or waiver program.

(c) Consumer directed community support services shall be offered as an option to all persons eligible for services under section 256B.49, subdivision 11, by January 1, 2002.

(d) Services and supports shall be arranged and provided consistent with individualized written plans of care for eligible waiver recipients.

(e) The state of Minnesota and county agencies that administer home and community-based waived services for persons with disabilities, shall not be liable for damages, injuries, or liabilities sustained through the purchase of supports by the individual, the individual's family, or the authorized representative with funds received through the consumer-directed community support service under this section. Liabilities include but are not limited to: workers' compensation liability, the Federal Insurance Contributions Act (FICA), or the Federal Unemployment Tax Act (FUTA).

Sec. 65. Minnesota Statutes 2000, section 256B.49, is amended by adding a subdivision to read:

Subd. 17. [COST OF SERVICES AND SUPPORTS.] (a) The commissioner shall ensure that the average per capita expenditures estimated in any fiscal year for home and community-based waiver recipients does not exceed the average per capita expenditures that would have been made to provide institutional services for recipients in the absence of the waiver.

(b) The commissioner shall implement on January 1, 2002, one or more aggregate, need-based methods for allocating to local agencies the home and community-based waived service resources available to support recipients with disabilities in need of the level of care provided in a nursing facility or a hospital. The commissioner shall allocate resources to single counties and county partnerships in a manner that reflects consideration of:

- (1) an incentive-based payment process for achieving outcomes;
- (2) the need for a state-level risk pool;
- (3) the need for retention of management responsibility at the state agency level; and
- (4) a phase-in strategy as appropriate.

(c) Until the allocation methods described in paragraph (b) are implemented, the annual allowable reimbursement level of home and community-based waiver services shall be the greater of:

(1) the statewide average payment amount which the recipient is assigned under the waiver reimbursement system in place on June 30, 2001, modified by the percentage of any provider rate increase appropriated for home and community-based services; or

(2) an amount approved by the commissioner based on the recipient's extraordinary needs that cannot be met within the current allowable reimbursement level. The increased reimbursement level must be necessary to allow the recipient to be discharged from an institution or to prevent imminent placement in an institution. The additional reimbursement may be used to secure environmental modifications; assistive technology and equipment; and increased costs for supervision, training, and support services necessary to address the recipient's extraordinary needs. The commissioner may approve an increased reimbursement level for up to one year of the recipient's relocation from an institution or up to six months of a determination that a current waiver recipient is at imminent risk of being placed in an institution.

(d) Beginning July 1, 2001, medically necessary private duty nursing services will be authorized under this section as complex and regular care according to section 256B.0627.

Sec. 66. Minnesota Statutes 2000, section 256B.49, is amended by adding a subdivision to read:

Subd. 18. [PAYMENTS.] The commissioner shall reimburse approved vendors from the medical assistance account for the costs of providing home and community-based services to eligible recipients using the invoice processing procedures of the Medicaid management information system (MMIS). Recipients will be screened and authorized for services according to the federally approved waiver application and its subsequent amendments.

Sec. 67. Minnesota Statutes 2000, section 256B.49, is amended by adding a subdivision to read:

Subd. 19. [HEALTH AND WELFARE.] The commissioner of human services shall take the necessary safeguards to protect the health and welfare of individuals provided services under the waiver.

Sec. 68. Minnesota Statutes 2000, section 256B.49, is amended by adding a subdivision to read:

Subd. 20. [TRAUMATIC BRAIN INJURY AND RELATED CONDITIONS.] The commissioner shall seek to amend the traumatic brain injury waiver to include, as eligible persons, individuals with an acquired or degenerative disease diagnosis where cognitive impairment is present, such as multiple sclerosis.

Sec. 69. Minnesota Statutes 2000, section 256B.69, subdivision 23, is amended to read:

Subd. 23. [ALTERNATIVE INTEGRATED LONG-TERM CARE SERVICES; ELDERLY AND DISABLED PERSONS.] (a) The commissioner may implement demonstration projects to create alternative integrated delivery systems for acute and long-term care services to elderly persons and persons with disabilities as defined in section 256B.77, subdivision 7a, that provide increased coordination, improve access to quality services, and mitigate future cost increases. The commissioner may seek federal authority to combine Medicare and Medicaid capitation payments for the purpose of such demonstrations. Medicare funds and services shall be administered according to the terms and conditions of the federal waiver and demonstration provisions. For the purpose of administering medical assistance funds, demonstrations under this subdivision are subject to subdivisions 1 to 22. The provisions of Minnesota Rules, parts 9500.1450 to 9500.1464, apply to these demonstrations, with the exceptions of parts 9500.1452, subpart 2, item B; and 9500.1457, subpart 1, items B and C, which do not apply to persons enrolling in demonstrations under this section. An initial open enrollment period may be provided. Persons who disenroll from demonstrations under this subdivision remain subject to Minnesota Rules, parts 9500.1450 to 9500.1464. When a person is enrolled in a health plan under these demonstrations and the health plan's participation is subsequently terminated for any reason, the person shall be provided an opportunity to select a new health plan and shall have the right to change health plans within the first 60 days of enrollment in the second health plan. Persons required to participate in health plans under this section who fail to make a choice of health plan shall not be randomly assigned to health plans under these demonstrations. Notwithstanding section 256L.12, subdivision 5, and Minnesota Rules, part 9505.5220, subpart 1, item A, if adopted, for the purpose of demonstrations under this subdivision, the commissioner may contract with managed care organizations, including counties, to serve only elderly persons eligible for medical assistance, elderly and disabled persons, or disabled persons only. For persons with primary diagnoses of mental retardation or a related condition, serious and persistent mental illness, or serious emotional disturbance, the commissioner must ensure that the county authority has approved the demonstration and contracting design. Enrollment in these projects for persons with disabilities shall be voluntary ~~until July 1, 2001~~. The commissioner shall not implement any demonstration project under this subdivision for persons with primary diagnoses of mental retardation or a related condition, serious and persistent mental illness, or serious emotional disturbance, without approval of the county board of the county in which the demonstration is being implemented.

Before implementation of a demonstration project for disabled persons, the commissioner must provide information to appropriate committees of the house of representatives and senate and must involve representatives of affected disability groups in the design of the demonstration projects.

(b) A nursing facility reimbursed under the alternative reimbursement methodology in section 256B.434 may, in collaboration with a hospital, clinic, or other health care entity provide services under paragraph (a). The commissioner shall amend the state plan and seek any federal waivers necessary to implement this paragraph.

Sec. 70. Minnesota Statutes 2000, section 256D.35, is amended by adding a subdivision to read:

Subd. 11a. [INSTITUTION.] "Institution" means: a hospital, consistent with Code of Federal Regulations, title 42, section 440.10; regional treatment center inpatient services; a nursing facility; and an intermediate care facility for persons with mental retardation.

Sec. 71. Minnesota Statutes 2000, section 256D.35, is amended by adding a subdivision to read:

Subd. 18a. [SHELTER COSTS.] "Shelter costs" means: rent, manufactured home lot rentals; monthly principal, interest, insurance premiums, and property taxes due for mortgages or contract for deed costs; costs for utilities, including heating, cooling, electricity, water, and sewerage; garbage collection fees; and the basic service fee for one telephone.

Sec. 72. Minnesota Statutes 2000, section 256D.44, subdivision 5, is amended to read:

Subd. 5. [SPECIAL NEEDS.] In addition to the state standards of assistance established in subdivisions 1 to 4, payments are allowed for the following special needs of recipients of Minnesota supplemental aid who are not residents of a nursing home, a regional treatment center, or a group residential housing facility.

(a) The county agency shall pay a monthly allowance for medically prescribed diets payable under the Minnesota family investment program if the cost of those additional dietary needs cannot be met through some other maintenance benefit.

(b) Payment for nonrecurring special needs must be allowed for necessary home repairs or necessary repairs or replacement of household furniture and appliances using the payment standard of the AFDC program in effect on July 16, 1996, for these expenses, as long as other funding sources are not available.

(c) A fee for guardian or conservator service is allowed at a reasonable rate negotiated by the county or approved by the court. This rate shall not exceed five percent of the assistance unit's gross monthly income up to a maximum of \$100 per month. If the guardian or conservator is a member of the county agency staff, no fee is allowed.

(d) The county agency shall continue to pay a monthly allowance of \$68 for restaurant meals for a person who was receiving a restaurant meal allowance on June 1, 1990, and who eats two or more meals in a restaurant daily. The allowance must continue until the person has not received Minnesota supplemental aid for one full calendar month or until the person's living arrangement changes and the person no longer meets the criteria for the restaurant meal allowance, whichever occurs first.

(e) A fee of ten percent of the recipient's gross income or \$25, whichever is less, is allowed for representative payee services provided by an agency that meets the requirements under SSI regulations to charge a fee for representative payee services. This special need is available to all recipients of Minnesota supplemental aid regardless of their living arrangement.

(f) Notwithstanding the language in this subdivision, an amount equal to the maximum allotment authorized by the federal Food Stamp Program for a single individual which is in effect on the first day of January of the previous year will be added to the standards of assistance established in subdivisions 1 to 4 for individuals under the age of 65 who are relocating from an institution and who are shelter needy. An eligible individual who receives this benefit prior to age 65 may continue to receive the benefit after the age of 65.

"Shelter needy" means that the assistance unit incurs monthly shelter costs that exceed 40 percent of the assistance unit's gross income before the application of this special needs standard. "Gross income" for the purposes of this section is the applicant's or recipient's income as defined in section 256D.35, subdivision 10, or the standard specified in subdivision 3, whichever is greater. A recipient of a federal or state housing subsidy, that limits shelter costs to a percentage of gross income, shall not be considered shelter needy for purposes of this paragraph.

Sec. 73. Minnesota Statutes 2000, section 256I.05, subdivision 1e, is amended to read:

Subd. 1e. [SUPPLEMENTARY RATE FOR CERTAIN FACILITIES.] Notwithstanding the provisions of subdivisions 1a and 1c, beginning July 1, ~~1999~~ 2001, a county agency shall negotiate a supplementary rate in addition to the rate specified in subdivision 1, equal to ~~25~~ 125 percent of the amount specified in subdivision 1a, including any legislatively authorized inflationary adjustments, for a group residential housing provider that:

(1) is located in Hennepin county and has had a group residential housing contract with the county since June 1996;

(2) operates in three separate locations a ~~56-bed~~ 71-bed facility, ~~a and two~~ and two 40-bed facility, and a ~~30-bed~~ facility facilities; and

(3) serves a chemically dependent clientele, providing 24 hours per day supervision and limiting a resident's maximum length of stay to 13 months out of a consecutive 24-month period.

Sec. 74. [256I.07] [RESPITE CARE PILOT PROJECT FOR FAMILY ADULT FOSTER CARE PROVIDERS.]

Subdivision 1. [PROGRAM ESTABLISHED.] The state recognizes the importance of developing and maintaining quality family foster care resources. In order to accomplish that goal, the commissioner shall establish a two-year respite care pilot project for family adult foster care providers in three counties. This pilot project is intended to provide support to caregivers of adult foster care residents. The commissioner shall establish a pilot project to accomplish the provisions in subdivisions 2 to 4.

Subd. 2. [ELIGIBILITY.] A family adult foster care home provider as defined under section 144D.01, subdivision 7, who has been licensed for six months is eligible for 30 days of respite care per calendar year. In cases of emergency, a county social services agency may waive the six-month licensing requirement. In order to be eligible to receive respite payment from group residential housing and alternative care, a provider must take time off away from their foster care residents.

Subd. 3. [PAYMENT STRUCTURE.] (a) The payment for respite care for an adult foster care resident eligible for only group residential housing shall be based on the current monthly group residential housing base room and board rate and the current maximum monthly group residential housing difficulty of care rate.

(b) The payment for respite care for an adult foster care resident eligible for alternative care funds shall be based on the resident's alternative care foster care rate.

(c) The payment for respite care for an adult foster care resident eligible for Medicaid home and community-based services waiver funds shall be based on the group residential housing base room and board rate.

(d) The total amount available to pay for respite care for a family adult foster care provider shall be based on the number of residents currently served in the foster care home and the source of funding used to pay for each resident's foster care. Respite care must be paid for on a per diem basis and for a full day.

Subd. 4. [PRIVATE PAY RESIDENTS.] Payment for respite care for private pay foster care residents must be arranged between the provider and the resident or the resident's family.

Sec. 75. Laws 1999, chapter 152, section 1, is amended to read:

Section 1. [TASK FORCE.]

A day training and habilitation task force is established. Task force membership shall consist of representatives of the commissioner of human services, counties, service consumers, and vendors of day training and habilitation as defined in Minnesota Statutes, section 252.41, subdivision 9, including at least one representative from each association representing day training and habilitation vendors. Appointments to the task force shall be made by the commissioner of human services and technical assistance shall be provided by the department of human services.

Sec. 76. Laws 1999, chapter 152, section 4, is amended to read:

Sec. 4. [REPORT.]

The task force shall present a report recommending a new payment rate structure to the legislature by January 15, 2000, and shall make recommendations to the commissioner of human services regarding the implementation of the pilot project for the individualized payment rate structure, so the pilot project can be implemented by July 1, 2002, as required in section 3. The task force expires on ~~March 15, 2000~~ December 30, 2003.

Sec. 77. [DAY TRAINING AND HABILITATION PAYMENT STRUCTURE PILOT PROJECT.]

Subdivision 1. [INDIVIDUALIZED PAYMENT RATE STRUCTURE.] Notwithstanding Minnesota Statutes, sections 252.451, subdivision 5; and 252.46; and Minnesota Rules, part 9525.1290, subpart 1, items A and B, the commissioner of human services shall initiate a pilot project and phase-in for the individualized payment rate structure described in this section and section 74. The pilot project shall include actual transfers of funds, not simulated transfers. The pilot project may include all or some of the vendors in up to eight counties, with no more than two counties from the seven-county Minneapolis-St. Paul metropolitan area. Following initiation of the pilot project, the commissioner shall phase in implementation of the individualized payment rate structure to the remaining counties and vendors according to the implementation plan developed by the task force. The pilot and phase-in shall not extend over more than 18 months and shall be completed by December 31, 2003.

Subd. 2. [SUNSET.] The pilot project shall sunset upon implementation of a new statewide rate structure according to the implementation plan developed by the task force described in subdivision 3, in its report to the legislature on December 1, 2001. The rates of vendors participating in the pilot project must be modified to be consistent with the new statewide rate structure, as implemented.

Subd. 3. [TASK FORCE RESPONSIBILITIES.] The day training and habilitation task force established under Laws 1999, chapter 152, section 4, shall evaluate the pilot project authorized under subdivision 1, and by December 1, 2001, shall report to the legislature with an implementation plan, which shall address how and when the pilot project individualized payment rate structure will be implemented statewide, shall ensure that vendors that wish to maintain their current per diem rate may do so within the new payment system, and shall identify criteria that would halt statewide implementation if vendors or clients were adversely affected by the new payment rate structure, and with recommendations for any amendments that should be made before statewide implementation. These recommendations shall be made in a report to the chairs of the house health and human services policy and finance committees and the senate health and family security committee and finance division.

Subd. 4. [RATE SETTING.] (a) The rate structure under this section is intended to allow a county to authorize an individual rate for each client in the vendor's program based on the needs and expected outcomes of the individual client. Rates shall be based on an authorized package of services for each individual over a typical time frame. Rates may be established across multiple sites run by a single vendor.

(b) With county concurrence, a vendor shall establish up to four levels of service, A through D, based on the intensity of services provided to an individual client of day training and habilitation services. Service level A shall be the highest intensity of services, marked primarily, but not exclusively, by a one-to-one client-to-staff ratio. Service level D shall be the lowest intensity of services. The county shall document the vendor's description of the type and amount of services associated with each service level.

(c) For each vendor, a county board shall establish a dollar value for one hour of service at each of the service levels defined in paragraph (b). In establishing these values for existing vendors transitioning from the payment rate structure under Minnesota Statutes, section 252.46, subdivision 1, the county board shall follow the formula and guidelines developed by the day training and habilitation task force under paragraph (e).

(d) A vendor may elect to maintain a single transportation rate or may elect to establish up to five types of transportation services: public transportation, public special transportation, nonambulatory transportation, out-of-service area transportation, and ambulatory transportation. For vendors that elect to establish multiple transportation services, the county board shall establish a dollar value for a round trip on each type of transportation service offered through the vendor. With vendor concurrence, the county may also establish a uniform one-way trip value for some or all of the transportation service types.

(e) The county board shall ensure that the vendor translates the vendor's existing program and transportation rates to the rates and values in the pilot project by using the conversion calculations for services and transportation approved by the day training and habilitation task force established under Laws 1999, chapter 152, and included in

the task force's recommendations to the legislature. The conversion calculation may be amended by the task force with the approval of the commissioner and any amendments shall become effective upon notification to the pilot project counties from the commissioner. The calculation shall take the total reimbursement dollars available to the vendor and divide by the units of service expected at each service level and of each transportation type. In determining the total reimbursement dollars available to a vendor, the vendor shall multiply the vendor's current per diem rate for both services and transportation, including any new rate increases, by the vendor's actual utilization for the year prior to implementation of the pilot project. Vendors shall be allowed to allocate available reimbursement dollars between service and transportation before the vendor's service level and transportation values are calculated. After translating its existing service and transportation rates to the service level and transportation values under the pilot, the vendor shall project its expected reimbursement income using the expected service and transportation packages for its existing clients, based on current service authorizations. If the projected reimbursement income is less than the vendor would have received under the payment structure of Minnesota Statutes, section 252.46, the vendor and the county, with the approval of the commissioner, shall adjust the vendor's service level and transportation values to eliminate the shortfall. The commissioner shall report all adjustments to the day training and habilitation task force for consideration of possible modifications to the pilot project individualized payment rate structure.

Subd. 5. [INDIVIDUAL RATE AUTHORIZATION.] (a) As part of its annual authorization of services for each client under Minnesota Statutes, section 252.44, paragraph (a), clause (1), and Minnesota Rules, part 9525.0016, subpart 12, the county shall authorize and document a service package and a transportation package as follows:

(1) the service package shall include the amount and type of services at each applicable service level to be provided to the client over a package period. An individual client may receive services at multiple service levels over the course of the package period. The service package rate shall be the sum of the amount of services at each level over the package period, multiplied by the dollar value for each service level;

(2) the transportation package shall include the amount and type of transportation services to be provided to the client over the package period. The transportation package rate shall be the sum of the amount of transportation services, multiplied by the dollar value associated with the type of transportation service authorized for the client;

(3) the package period shall be established by the county, and may be one week, two weeks, or one month; and

(4) the individual rate authorization may be reviewed and modified by the county at any time and must be reviewed and reauthorized by the county at least annually.

(b) For vendors with rates established under this section, a service day under Minnesota Statutes, sections 245B.06 and 252.44, includes any day in which a client receives any reimbursable service from a vendor or attends employment arranged by the vendor.

Subd. 6. [BILLING FOR SERVICES.] The vendor shall bill for, and shall be reimbursed for, the service package rate and transportation package rate for the package period as authorized by the county for each client in the vendor's program. The length of the package period shall not affect the timing or frequency of vendors' submissions of claims for payment under the Medicaid Management Information System II (MMIS) or its successors.

Subd. 7. [NOTIFICATION OF CHANGE IN CLIENT NEEDS.] The vendor shall notify an individual client's case manager if the vendor has knowledge of a material change in the client's needs that may indicate a need for a change in service authorization. Factors that would require such notice include, but are not limited to, significant changes in medical status, residential placement, attendance patterns, behavioral needs, or skill functioning. The vendor shall notify the case manager as soon as possible but no later than 30 calendar days after becoming aware of the change in needs. The service authorization for the client shall not change until the county authorizes a new service and transportation package for the client in accordance with the provisions in Minnesota Statutes, section 256B.092.

Sec. 78. [COUNTY BOARD RESPONSIBILITIES.]

For each vendor with rates established under section 73, the county board shall document the vendor's description of the type and amount of services associated with each service level, the vendor's service level values, the vendor's transportation values, and the package period that will be used to determine the rate for each individual client. The county shall establish a package period of one week, two weeks, or one month.

Sec. 79. [STUDY OF DAY TRAINING AND HABILITATION VENDOR RATES.]

The commissioner shall identify the vendors with the lowest rates or underfunded programs in the state and make recommendations to reconcile the discrepancies prior to the implementation of the individualized payment rate structure described in sections 73 and 74.

Sec. 80. [FEDERAL APPROVAL.]

The commissioner shall seek any amendments to the state Medicaid plan and any waivers necessary to permit implementation of section 74 within the timelines specified.

Sec. 81. [SEMI-INDEPENDENT LIVING SERVICES (SILS) STUDY.]

The commissioner of human services, in consultation with county representatives and other interested persons, shall develop recommendations revising the funding methodology for SILS as defined in Minnesota Statutes, section 252.275, subdivisions 3, 4, 4a, 4b, and 4c, and report by January 15, 2002, to the chair of the house of representatives health and human services finance committee and the chairs of the senate health, human services, and corrections budget division.

Sec. 82. [WAIVER REQUEST REGARDING SPOUSAL INCOME.]

By September 1, 2001, the commissioner of human services shall seek federal approval to allow recipients of home and community-based waivers authorized under Minnesota Statutes, section 256B.49, to choose either a waiver of deeming of spousal income or the spousal impoverishment protections authorized under United States Code, title 42, section 1396r-5, with the addition of the group residential housing rate set according to Minnesota Statutes, section 256I.03, subdivision 5, to the personal needs allowance authorized by Minnesota Statutes, section 256B.0575.

Sec. 83. [PROGRAM OPTIONS FOR CERTAIN PERSONS WITH DEVELOPMENTAL DISABILITIES.]

(a) The commissioner of human services shall ensure that services continue to be available to persons with developmental disabilities who were covered by social services supplemental grants prior to July 1, 2001. Services shall be provided in priority order as follows:

(1) to the extent possible, the commissioner shall establish for these persons targeted slots under the home and community-based waived services program for persons with mental retardation or related conditions;

(2) persons accommodated under clause (1) shall, if eligible, receive room and board services through group residential housing under Minnesota Statutes, chapter 256I; and

(3) any remaining persons shall continue to receive services through community social services supplemental grants to the affected counties.

(b) This section applies only to individuals receiving services under social services supplemental grants as of June 30, 2001.

Sec. 84. [FEDERAL APPROVAL.]

The commissioner of human services, by September 1, 2001, shall request any federal approval and plan amendments necessary to implement the choice of case manager provision in section 256B.092, subdivision 2a, paragraph (b).

Sec. 85. [FEDERAL WAIVER REQUESTS.]

The commissioner of human services shall submit to the federal Health Care Financing Administration by September 1, 2001, a request for a home and community-based services waiver for day services, including: community inclusion, supported employment, and day training and habilitation services defined in Minnesota Statutes, section 252.41, subdivision 3, clause (1), for persons eligible for the waiver under Minnesota Statutes, section 256B.092.

Sec. 86. [REPEALER.]

(a) Minnesota Statutes 2000, sections 256B.0951, subdivision 6; and 256E.06, subdivision 2b, are repealed.

(b) Minnesota Statutes 2000, sections 145.9245; 256.476, subdivision 7; 256B.0912; 256B.0915, subdivisions 3a, 3b, and 3c; and 256B.49, subdivisions 1, 2, 3, 4, 5, 6, 7, 8, 9, and 10, are repealed.

(c) Laws 1995, chapter 178, article 2, section 48, subdivision 6, is repealed.

(d) Minnesota Rules, parts 9505.2455; 9505.2458; 9505.2460; 9505.2465; 9505.2470; 9505.2473; 9505.2475; 9505.2480; 9505.2485; 9505.2486; 9505.2490; 9505.2495; 9505.2496; 9505.2500; 9505.3010; 9505.3015; 9505.3020; 9505.3025; 9505.3030; 9505.3035; 9505.3040; 9505.3065; 9505.3085; 9505.3135; 9505.3500; 9505.3510; 9505.3520; 9505.3530; 9505.3535; 9505.3540; 9505.3545; 9505.3550; 9505.3560; 9505.3570; 9505.3575; 9505.3580; 9505.3585; 9505.3600; 9505.3610; 9505.3620; 9505.3622; 9505.3624; 9505.3626; 9505.3630; 9505.3635; 9505.3640; 9505.3645; 9505.3650; 9505.3660; and 9505.3670, are repealed.

ARTICLE 4

CONSUMER INFORMATION AND ASSISTANCE AND COMMUNITY-BASED CARE

Section 1. [144A.35] [EXPANSION OF BED DISTRIBUTION STUDY AND CREATION OF CRITICAL ACCESS SITES.]

Subdivision 1. [OLDER ADULT SERVICES DISTRIBUTION STUDY.] The commissioner of health, in coordination with the commissioner of human services, shall monitor and analyze the distribution of older adult services, including, but not limited to, nursing home beds, senior housing, housing with services units, and home and community-based services in the different geographic areas of the state. The study shall include an analysis of the impact of amendments to the nursing home moratorium law which would allow for transfers of nursing home beds within the state. The commissioner of health shall submit to the legislature, beginning January 15, 2002, and each January 15 thereafter, an assessment of the distribution of long-term health care services by geographic area, with particular attention to service deficits or problems, the designation of critical access service sites, and corrective action plans.

Subd. 2. [CRITICAL ACCESS SERVICE SITE.] "Critical access service site" shall include nursing homes, senior housing, housing with services, and home and community-based services that are certified by the state as necessary providers of health care services to a specific geographic area. For purposes of this requirement, a "necessary provider of health care services" is a provider that is:

(1) located more than 20 miles, defined as official mileage as reported by the Minnesota department of transportation, from the next nearest long-term health care provider;

(2) the sole long-term health care provider in the county; or

(3) a long-term health care provider located in a medically underserved area or health professional shortage area.

Subd. 3. [IDENTIFICATION OF CRITICAL ACCESS SERVICE SITES.] Based on the results of the analysis completed in subdivision 1, the commissioners of health and human services shall identify and designate long-term health care providers as critical access service sites.

Subd. 4. [CRITICAL ACCESS SERVICE SITES.] The commissioner of health, in consultation with the commissioner of human services, shall:

(1) develop and implement specific waivers to regulations governing health care personnel scope of duties, physical plant requirements, and location of community-based services, to address critical access service site older adult service needs;

(2) identify payment barriers to the continued operation of older adult services in critical access service sites, and provide recommendations on changes to reimbursement rates to facilitate the continued operation of these services.

Sec. 2. Minnesota Statutes 2000, section 256.973, is amended by adding a subdivision to read:

Subd. 6. [GRANTS FOR HOME-SHARING PROGRAMS.] Grants awarded for home-sharing programs under this section shall be awarded through a request for proposals process every two years according to criteria developed by the commissioner. In awarding grants, the commissioner shall not give priority to an applicant solely because the applicant has previously received a grant under this section. Nothing under this subdivision shall prohibit the commissioner from evaluating the performance of a home-sharing program receiving a grant under this section and allocating funds based on the evaluation.

Sec. 3. Minnesota Statutes 2000, section 256.975, is amended by adding a subdivision to read:

Subd. 7. [CONSUMER INFORMATION AND ASSISTANCE; SENIOR LINKAGE.] (a) The Minnesota board on aging shall operate a statewide information and assistance service to aid older Minnesotans and their families in making informed choices about long-term care options and health care benefits. Language services to persons with limited English language skills may be made available. The service, known as Senior LinkAge Line, must be available during business hours through a statewide toll-free number and must also be available through the Internet.

(b) The service must assist older adults, caregivers, and providers in accessing information about choices in long-term care services that are purchased through private providers or available through public options. The service must:

(1) develop a comprehensive database that includes detailed listings in both consumer- and provider-oriented formats;

(2) make the database accessible on the Internet and through other telecommunication and media-related tools;

(3) link callers to interactive long-term care screening tools and make these tools available through the Internet by integrating the tools with the database;

(4) develop community education materials with a focus on planning for long-term care and evaluating independent living, housing, and service options;

(5) conduct an outreach campaign to assist older adults and their caregivers in finding information on the Internet and through other means of communication;

(6) implement a messaging system for overflow callers and respond to these callers by the next business day;

(7) link callers with county human services and other providers to receive more in-depth assistance and consultation related to long-term care options; and

(8) link callers with quality profiles for nursing facilities and other providers developed by the commissioner of health.

(c) The Minnesota board on aging shall conduct an evaluation of the effectiveness of the statewide information and assistance, and submit this evaluation to the legislature by December 1, 2002. The evaluation must include an analysis of funding adequacy, gaps in service delivery, continuity in information between the service and identified linkages, and potential use of private funding to enhance the service.

Sec. 4. [256.9754] [COMMUNITY SERVICES DEVELOPMENT GRANTS PROGRAM.]

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

(a) "Community" means a town, township, city, or targeted neighborhood within a city, or a consortium of towns, townships, cities, or targeted neighborhoods within cities.

(b) "Older adult services" means any services available under the elderly waiver program or alternative care grant programs; nursing facility services; transportation services; respite services; and other community-based services identified as necessary either to maintain lifestyle choices for older Minnesotans, or to promote independence.

(c) "Older adult" refers to individuals 65 years of age and older.

Subd. 2. [CREATION.] The community services development grants program is created under the administration of the commissioner of human services.

Subd. 3. [PROVISION OF GRANTS.] The commissioner shall make grants available to communities, providers of older adult services identified in subdivision 1, or to a consortium of providers of older adult services, to establish older adult services. Grants may be provided for capital and other costs including, but not limited to, start-up and training costs, equipment, and supplies related to older adult services or other residential or service alternatives to nursing facility care. Grants may also be made to renovate current buildings, provide transportation services, fund programs that would allow older adults or disabled individuals to stay in their own homes by sharing a home, fund programs that coordinate and manage formal and informal services to older adults in their homes to enable them to live as independently as possible in their own homes as an alternative to nursing home care, or expand state-funded programs in the area.

Subd. 4. [ELIGIBILITY.] Grants may be awarded only to communities and providers or to a consortium of providers that have a local match of 50 percent of the costs for the project in the form of donations, local tax dollars, in-kind donations, fundraising, or other local matches.

Subd. 5. [GRANT PREFERENCE.] The commissioner of human services may award grants to the extent grant funds are available and to the extent applications are approved by the commissioner. Denial of approval of an application in one year does not preclude submission of an application in a subsequent year. The maximum grant amount is limited to \$750,000.

Sec. 5. Minnesota Statutes 2000, section 256B.0911, subdivision 1, is amended to read:

Subdivision 1. [PURPOSE AND GOAL.] (a) The purpose of the preadmission screening program long-term care consultation services is to assist persons with long-term or chronic care needs in making long-term care decisions and selecting options that meet their needs and reflect their preferences. The availability of, and access to, information and other types of assistance is also intended to prevent or delay certified nursing facility placements by assessing applicants and residents and offering cost-effective alternatives appropriate for the person's needs and to provide transition assistance after admission. Further, the goal of ~~the program~~ these services is to contain costs associated with unnecessary certified nursing facility admissions. The commissioners of human services and health shall seek to maximize use of available federal and state funds and establish the broadest program possible within the funding available.

(b) These services must be coordinated with services provided under sections 256.975, subdivision 7, and 256.9772, and with services provided by other public and private agencies in the community to offer a variety of cost-effective alternatives to persons with disabilities and elderly persons. The county agency providing long-term care consultation services shall encourage the use of volunteers from families, religious organizations, social clubs, and similar civic and service organizations to provide community-based services.

Sec. 6. Minnesota Statutes 2000, section 256B.0911, is amended by adding a subdivision to read:

Subd. 1a. [DEFINITIONS.] For purposes of this section, the following definitions apply:

(a) "Long-term care consultation services" means:

(1) providing information and education to the general public regarding availability of the services authorized under this section;

(2) an intake process that provides access to the services described in this section;

(3) assessment of the health, psychological, and social needs of referred individuals;

(4) assistance in identifying services needed to maintain an individual in the least restrictive environment;

(5) providing recommendations on cost-effective community services that are available to the individual;

(6) development of an individual's community support plan;

(7) providing information regarding eligibility for Minnesota health care programs;

(8) preadmission screening to determine the need for a nursing facility level of care;

(9) preliminary determination of Minnesota health care programs eligibility for individuals who need a nursing facility level of care, with appropriate referrals for final determination;

(10) providing recommendations for nursing facility placement when there are no cost-effective community services available; and

(11) assistance to transition people back to community settings after facility admission.

(b) "Minnesota health care programs" means the medical assistance program under chapter 256B, the alternative care program under section 256B.0913, and the prescription drug program under section 256.955.

Sec. 7. Minnesota Statutes 2000, section 256B.0911, subdivision 3, is amended to read:

Subd. 3. ~~[PERSONS RESPONSIBLE FOR CONDUCTING THE PREADMISSION SCREENING LONG-TERM CARE CONSULTATION TEAM.]~~ (a) A ~~local screening~~ long-term care consultation team shall be established by the county board of commissioners. Each ~~local screening consultation~~ team shall consist of ~~screeners who are a~~ at least one social worker and ~~a~~ at least one public health nurse from their respective county agencies. ~~The board may designate public health or social services as the lead agency for long-term care consultation services.~~ If a county does not have a public health nurse available, it may request approval from the commissioner to assign a county registered nurse with at least one year experience in home care to participate on the team. ~~The screening team members must confer regarding the most appropriate care for each individual screened.~~ Two or more counties may collaborate to establish a joint ~~local screening consultation~~ team or teams.

(b) ~~In assessing a person's needs, screeners shall have a physician available for consultation and shall consider the assessment of the individual's attending physician, if any. The individual's physician shall be included if the physician chooses to participate. Other personnel may be included on the team as deemed appropriate by the county agencies. The team is responsible for providing long-term care consultation services to all persons located in the county who request the services, regardless of eligibility for Minnesota health care programs.~~

Sec. 8. Minnesota Statutes 2000, section 256B.0911, is amended by adding a subdivision to read:

Subd. 3a. [ASSESSMENT AND SUPPORT PLANNING.] (a) Persons requesting assessment, services planning, or other assistance intended to support community-based living must be visited by a long-term care consultation team within ten working days after the date on which an assessment was requested or recommended. Assessments must be conducted according to paragraphs (b) to (g).

(b) The county may utilize a team of either the social worker or public health nurse, or both, to conduct the assessment in a face-to-face interview. The consultation team members must confer regarding the most appropriate care for each individual screened or assessed.

(c) The long-term care consultation team must assess the health and social needs of the person, using an assessment form provided by the commissioner of human services.

(d) The team must conduct the assessment in a face-to-face interview with the person being assessed and the person's legal representative, if applicable.

(e) The team must provide the person, or the person's legal representative, with written recommendations for facility- or community-based services. The team must document that the most cost-effective alternatives available were offered to the individual. For purposes of this requirement, "cost-effective alternatives" means community services and living arrangements that cost the same as or less than nursing facility care.

(f) If the person chooses to use community-based services, the team must provide the person or the person's legal representative with a written community support plan, regardless of whether the individual is eligible for Minnesota health care programs. The person may request assistance in developing a community support plan without participating in a complete assessment.

(g) The team must give the person receiving assessment or support planning, or the person's legal representative, materials supplied by the commissioner of human services containing the following information:

- (1) the purpose of preadmission screening and assessment;
- (2) information about Minnesota health care programs;
- (3) the person's freedom to accept or reject the recommendations of the team;

(4) the person's right to confidentiality under the Minnesota Government Data Practices Act, chapter 13; and

(5) the person's right to appeal the decision regarding the need for nursing facility level of care or the county's final decisions regarding public programs eligibility according to section 256.045, subdivision 3.

Sec. 9. Minnesota Statutes 2000, section 256B.0911, is amended by adding a subdivision to read:

Subd. 3b. [TRANSITION ASSISTANCE.] (a) A long-term care consultation team shall provide assistance to persons residing in a nursing facility, hospital, regional treatment center, or intermediate care facility for persons with mental retardation who request or are referred for such assistance. Transition assistance must include assessment, community support plan development, referrals to Minnesota health care programs, and referrals to programs that provide assistance with housing.

(b) The county shall develop transition processes with institutional social workers and discharge planners to ensure that:

(1) persons admitted to facilities receive information about transition assistance that is available;

(2) the assessment is completed for persons within ten working days of the date of request or recommendation for assessment; and

(3) there is a plan for transition and follow-up for the individual's return to the community. The plan must require notification of other local agencies when a person who may require assistance is screened by one county for admission to a facility located in another county.

(c) If a person who is eligible for a Minnesota health care program is admitted to a nursing facility, the nursing facility must include a consultation team member or the case manager in the discharge planning process.

Sec. 10. Minnesota Statutes 2000, section 256B.0911, is amended by adding a subdivision to read:

Subd. 4a. [PREADMISSION SCREENING ACTIVITIES RELATED TO NURSING FACILITY ADMISSIONS.] (a) All applicants to Medicaid certified nursing facilities, including certified boarding care facilities, must be screened prior to admission regardless of income, assets, or funding sources for nursing facility care, except as described in subdivision 4b. The purpose of the screening is to determine the need for nursing facility level of care as described in paragraph (d) and to complete activities required under federal law related to mental illness and mental retardation as outlined in paragraph (b).

(b) A person who has a diagnosis or possible diagnosis of mental illness, mental retardation, or a related condition must receive a preadmission screening before admission regardless of the exemptions outlined in subdivision 4b, paragraph (b), to identify the need for further evaluation and specialized services, unless the admission prior to screening is authorized by the local mental health authority or the local developmental disabilities case manager, or unless authorized by the county agency according to Public Law Number 100-508.

The following criteria apply to the preadmission screening:

(1) the county must use forms and criteria developed by the commissioner of human services to identify persons who require referral for further evaluation and determination of the need for specialized services; and

(2) the evaluation and determination of the need for specialized services must be done by:

(i) a qualified independent mental health professional, for persons with a primary or secondary diagnosis of a serious mental illness; or

(ii) a qualified mental retardation professional, for persons with a primary or secondary diagnosis of mental retardation or related conditions. For purposes of this requirement, a qualified mental retardation professional must meet the standards for a qualified mental retardation professional under Code of Federal Regulations, title 42, section 483.430.

(c) The local county mental health authority or the state mental retardation authority under Public Laws Numbers 100-203 and 101-508 may prohibit admission to a nursing facility if the individual does not meet the nursing facility level of care criteria or needs specialized services as defined in Public Laws Numbers 100-203 and 101-508. For purposes of this section, "specialized services" for a person with mental retardation or a related condition means active treatment as that term is defined under Code of Federal Regulations, title 42, section 483.440, paragraph (a), clause (1).

(d) The determination of the need for nursing facility level of care must be made according to criteria developed by the commissioner of human services. In assessing a person's needs, consultation team members shall have a physician available for consultation and shall consider the assessment of the individual's attending physician, if any. The individual's physician must be included if the physician chooses to participate. Other personnel may be included on the team as deemed appropriate by the county.

Sec. 11. Minnesota Statutes 2000, section 256B.0911, is amended by adding a subdivision to read:

Subd. 4b. [EXEMPTIONS AND EMERGENCY ADMISSIONS.] (a) Exemptions from the federal screening requirements outlined in subdivision 4a, paragraphs (b) and (c), are limited to:

(1) a person who, having entered an acute care facility from a certified nursing facility, is returning to a certified nursing facility; and

(2) a person transferring from one certified nursing facility in Minnesota to another certified nursing facility in Minnesota.

(b) Persons who are exempt from preadmission screening for purposes of level of care determination include:

(1) persons described in paragraph (a);

(2) an individual who has a contractual right to have nursing facility care paid for indefinitely by the veterans' administration;

(3) an individual enrolled in a demonstration project under section 256B.69, subdivision 8, at the time of application to a nursing facility;

(4) an individual currently being served under the alternative care program or under a home and community-based services waiver authorized under section 1915(c) of the federal Social Security Act; and

(5) individuals admitted to a certified nursing facility for a short-term stay, which is expected to be 14 days or less in duration based upon a physician's certification, and who have been assessed and approved for nursing facility admission within the previous six months. This exemption applies only if the consultation team member determines at the time of the initial assessment of the six-month period that it is appropriate to use the nursing facility for short-term stays and that there is an adequate plan of care for return to the home or community-based setting. If a stay exceeds 14 days, the individual must be referred no later than the first county working day following the 14th resident day for a screening, which must be completed within five working days of the referral. The payment limitations in subdivision 7 apply to an individual found at screening to not meet the level of care criteria for admission to a certified nursing facility.

(c) Persons admitted to a Medicaid-certified nursing facility from the community on an emergency basis as described in paragraph (d) or from an acute care facility on a nonworking day must be screened the first working day after admission.

(d) Emergency admission to a nursing facility prior to screening is permitted when all of the following conditions are met:

(1) a person is admitted from the community to a certified nursing or certified boarding care facility during county nonworking hours;

(2) a physician has determined that delaying admission until preadmission screening is completed would adversely affect the person's health and safety;

(3) there is a recent precipitating event that precludes the client from living safely in the community, such as sustaining an injury, sudden onset of acute illness, or a caregiver's inability to continue to provide care;

(4) the attending physician has authorized the emergency placement and has documented the reason that the emergency placement is recommended; and

(5) the county is contacted on the first working day following the emergency admission.

Transfer of a patient from an acute care hospital to a nursing facility is not considered an emergency except for a person who has received hospital services in the following situations: hospital admission for observation, care in an emergency room without hospital admission, or following hospital 24-hour bed care.

Sec. 12. Minnesota Statutes 2000, section 256B.0911, is amended by adding a subdivision to read:

Subd. 4c. [SCREENING REQUIREMENTS.] (a) A person may be screened for nursing facility admission by telephone or in a face-to-face screening interview. Consultation team members shall identify each individual's needs using the following categories:

(1) the person needs no face-to-face screening interview to determine the need for nursing facility level of care based on information obtained from other health care professionals;

(2) the person needs an immediate face-to-face screening interview to determine the need for nursing facility level of care and complete activities required under subdivision 4a; or

(3) the person may be exempt from screening requirements as outlined in subdivision 4b, but will need transitional assistance after admission or in-person follow-along after a return home.

(b) Persons admitted on a nonemergency basis to a Medicaid-certified nursing facility must be screened prior to admission.

(c) The long-term care consultation team shall recommend a case mix classification for persons admitted to a certified nursing facility when sufficient information is received to make that classification. The nursing facility is authorized to conduct all case mix assessments for persons who have been screened prior to admission for whom the county did not recommend a case mix classification. The nursing facility is authorized to conduct all case mix assessments for persons admitted to the facility prior to a preadmission screening. The county retains the responsibility of distributing appropriate case mix forms to the nursing facility.

(d) The county screening or intake activity must include processes to identify persons who may require transition assistance as described in subdivision 3b.

Sec. 13. Minnesota Statutes 2000, section 256B.0911, subdivision 5, is amended to read:

Subd. 5. [~~SIMPLIFICATION OF FORMS ADMINISTRATIVE ACTIVITY.~~] The commissioner shall minimize the number of forms required in the ~~preadmission screening process~~ provision of long-term care consultation services and shall limit the screening document to items necessary for care community support plan approval, reimbursement, program planning, evaluation, and policy development.

Sec. 14. Minnesota Statutes 2000, section 256B.0911, subdivision 6, is amended to read:

Subd. 6. [~~PAYMENT FOR PREADMISSION SCREENING LONG-TERM CARE CONSULTATION SERVICES.~~] (a) The total ~~screening~~ payment for each county must be paid monthly by certified nursing facilities in the county. The monthly amount to be paid by each nursing facility for each fiscal year must be determined by dividing the county's annual allocation for ~~screenings~~ long-term care consultation services by 12 to determine the monthly payment and allocating the monthly payment to each nursing facility based on the number of licensed beds in the nursing facility. Payments to counties in which there is no certified nursing facility must be made by increasing the payment rate of the two facilities located nearest to the county seat.

(b) The commissioner shall include the total annual payment for screening determined under paragraph (a) for each nursing facility according to section 256B.431, subdivision 2b, paragraph (g), 256B.434, or 256B.435.

(c) Payments for ~~screening activities~~ long-term care consultation services are available to the county or counties to cover staff salaries and expenses to provide the ~~screening function services described in subdivision 1a.~~ The ~~lead agency county~~ shall employ, or contract with other agencies to employ, within the limits of available funding, sufficient personnel to ~~conduct the preadmission screening activity~~ provide long-term care consultation services while meeting the state's long-term care outcomes and objectives as defined in section 256B.0917, subdivision 1. The ~~local agency county~~ shall be accountable for meeting local objectives as approved by the commissioner in the CSSA biennial plan.

(d) Notwithstanding section 256B.0641, overpayments attributable to payment of the screening costs under the medical assistance program may not be recovered from a facility.

(e) The commissioner of human services shall amend the Minnesota medical assistance plan to include reimbursement for the local ~~screening consultation~~ teams.

(f) The county may bill, as case management services, assessments, support planning, and follow-along provided to persons determined to be eligible for case management under Minnesota health care programs. No individual or family member shall be charged for an initial assessment or initial support plan development provided under subdivision 3a or 3b.

Sec. 15. Minnesota Statutes 2000, section 256B.0911, subdivision 7, is amended to read:

Subd. 7. [~~REIMBURSEMENT FOR CERTIFIED NURSING FACILITIES.~~] (a) Medical assistance reimbursement for nursing facilities shall be authorized for a medical assistance recipient only if a preadmission screening has been conducted prior to admission or the ~~local county agency~~ has authorized an exemption. Medical assistance reimbursement for nursing facilities shall not be provided for any recipient who the local screener has determined does not meet the level of care criteria for nursing facility placement or, if indicated, has not had a level II ~~PASARR OBRA~~ evaluation as required under the federal Omnibus Reconciliation Act of 1987 completed unless an admission for a recipient with mental illness is approved by the local mental health authority or an admission for a recipient with mental retardation or related condition is approved by the state mental retardation authority.

(b) The nursing facility must not bill a person who is not a medical assistance recipient for resident days that preceded the date of completion of screening activities as required under subdivisions 4a, 4b, and 4c. The nursing facility must include unreimbursed resident days in the nursing facility resident day totals reported to the commissioner.

(c) The commissioner shall make a request to the health care financing administration for a waiver allowing screening team approval of Medicaid payments for certified nursing facility care. An individual has a choice and makes the final decision between nursing facility placement and community placement after the screening team's recommendation, except as provided in ~~paragraphs (b) and (c)~~ subdivision 4a, paragraph (c).

~~(c) The local county mental health authority or the state mental retardation authority under Public Law Numbers 100-203 and 101-508 may prohibit admission to a nursing facility, if the individual does not meet the nursing facility level of care criteria or needs specialized services as defined in Public Law Numbers 100-203 and 101-508. For purposes of this section, "specialized services" for a person with mental retardation or a related condition means "active treatment" as that term is defined in Code of Federal Regulations, title 42, section 483.440(a)(1).~~

~~(e) Appeals from the screening team's recommendation or the county agency's final decision shall be made according to section 256.045, subdivision 3.~~

Sec. 16. Minnesota Statutes 2000, section 256B.0913, subdivision 1, is amended to read:

Subdivision 1. [PURPOSE AND GOALS.] The purpose of the alternative care program is to provide funding for ~~or access to~~ home and community-based services for ~~frail~~ elderly persons, in order to limit nursing facility placements. The program is designed to support ~~frail~~ elderly persons in their desire to remain in the community as independently and as long as possible and to support informal caregivers in their efforts to provide care for ~~frail~~ elderly people. Further, the goals of the program are:

(1) to contain medical assistance expenditures by providing funding care in the community ~~at a cost the same or less than nursing facility costs~~; and

(2) to maintain the moratorium on new construction of nursing home beds.

Sec. 17. Minnesota Statutes 2000, section 256B.0913, subdivision 2, is amended to read:

Subd. 2. [ELIGIBILITY FOR SERVICES.] Alternative care services are available to ~~all frail older~~ Minnesotans: ~~This includes:~~

~~(1) persons who are receiving medical assistance and served under the medical assistance program or the Medicaid waiver program;~~

~~(2) persons age 65 or older who are not eligible for medical assistance without a spenddown or waiver obligation but who would be eligible for medical assistance within 180 days of admission to a nursing facility and served under subject to subdivisions 4 to 13; and~~

~~(3) persons who are paying for their services out-of-pocket.~~

Sec. 18. Minnesota Statutes 2000, section 256B.0913, subdivision 4, is amended to read:

Subd. 4. [ELIGIBILITY FOR FUNDING FOR SERVICES FOR NONMEDICAL ASSISTANCE RECIPIENTS.]
(a) Funding for services under the alternative care program is available to persons who meet the following criteria:

(1) the person has been ~~screened by the county screening team or, if previously screened and served under the alternative care program, assessed by the local county social worker or public health nurse~~ determined by a community assessment under section 256B.0911, to be a person who would require the level of care provided in a nursing facility, but for the provision of services under the alternative care program;

(2) the person is age 65 or older;

(3) the person would be ~~financially~~ eligible for medical assistance within 180 days of admission to a nursing facility;

(4) the person ~~meets the asset transfer requirements of~~ is not ineligible for the medical assistance program due to an asset transfer penalty;

(5) ~~the screening team would recommend nursing facility admission or continued stay for the person if alternative care services were not available~~;

(6) the person needs services that are not ~~available at that time in the county~~ funded through other ~~county~~, state, or federal funding ~~sources~~; and

(7) (6) the monthly cost of the alternative care services funded by the program for this person does not exceed 75 percent of the statewide ~~average monthly medical assistance payment for nursing facility care at the individual's case mix classification~~ weighted average monthly nursing facility rate of the case mix resident class to which the individual alternative care client would be assigned under Minnesota Rules, parts 9549.0050 to 9549.0059, less the recipient's maintenance needs allowance as described in section 256B.0915, subdivision 1d, paragraph (a), until the first day of the state fiscal year in which the resident assessment system, under section 256B.437, for nursing home rate determination is implemented. Effective on the first day of the state fiscal year in which a resident assessment system, under section 256B.437, for nursing home rate determination is implemented and the first day of each subsequent state fiscal year, the monthly cost of alternative care services for this person shall not exceed the alternative care monthly cap for the case mix resident class to which the alternative care client would be assigned under Minnesota Rules, parts 9549.0050 to 9549.0059, which was in effect on the last day of the previous state fiscal year, and adjusted by the greater of any legislatively adopted home and community-based services cost-of-living percentage increase or any legislatively adopted statewide percent rate increase for nursing facilities. This monthly limit does not prohibit the alternative care client from payment for additional services, but in no case may the cost of additional services purchased under this section exceed the difference between the client's monthly service limit defined under section 256B.0915, subdivision 3, and the alternative care program monthly service limit defined in this paragraph. If medical supplies and equipment or ~~adaptations~~ environmental modifications are or will be purchased for an alternative care services recipient, the costs may be prorated on a monthly basis ~~throughout the year in which they are purchased for~~ up to 12 consecutive months beginning with the month of purchase. If the monthly cost of a recipient's other alternative care services exceeds the monthly limit established in this paragraph, the annual cost of the alternative care services shall be determined. In this event, the annual cost of alternative care services shall not exceed 12 times the monthly limit ~~calculated~~ described in this paragraph.

(b) ~~Individuals who meet the criteria in paragraph (a) and who have been approved for alternative care funding are called 180-day eligible clients.~~

(c) ~~The statewide average payment for nursing facility care is the statewide average monthly nursing facility rate in effect on July 1 of the fiscal year in which the cost is incurred, less the statewide average monthly income of nursing facility residents who are age 65 or older and who are medical assistance recipients in the month of March of the previous fiscal year. This monthly limit does not prohibit the 180-day eligible client from paying for additional services needed or desired.~~

(d) ~~In determining the total costs of alternative care services for one month, the costs of all services funded by the alternative care program, including supplies and equipment, must be included.~~

(e) ~~Alternative care funding under this subdivision is not available for a person who is a medical assistance recipient or who would be eligible for medical assistance without a spenddown, unless authorized by the commissioner or waiver obligation.~~ A person whose initial application for medical assistance is being processed may be served under the alternative care program for a period up to 60 days. If the individual is found to be eligible for medical assistance, ~~the county must bill~~ medical assistance must be billed for services payable under the federally approved elderly waiver plan and delivered from the date the individual was found eligible for services reimbursable

under the federally approved elderly waiver program plan. Notwithstanding this provision, upon federal approval, alternative care funds may not be used to pay for any service the cost of which is payable by medical assistance or which is used by a recipient to meet a medical assistance income spenddown or waiver obligation.

~~(c)~~ (c) Alternative care funding is not available for a person who resides in a licensed nursing home ~~or~~, certified boarding care home, hospital, or intermediate care facility, except for case management services which are ~~being~~ provided in support of the discharge planning process to a nursing home resident or certified boarding care home resident who is ineligible for case management funded by medical assistance.

Sec. 19. Minnesota Statutes 2000, 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;
- (17) training for direct informal caregivers;
- (18) telemedicine devices to monitor recipients in their own homes as an alternative to hospital care, nursing home care, or home visits; ~~and~~

(19) other services ~~including which includes~~ discretionary funds and direct cash payments to clients, ~~approved by the county agency following approval by the commissioner,~~ subject to the provisions of paragraph ~~(m)~~ (j). Total annual payments for "other services" for all clients within a county may not exceed either ten percent of that county's annual alternative care program base allocation or \$5,000, whichever is greater. In no case shall this amount exceed the county's total annual alternative care program base allocation; and

(20) environmental modifications.

(b) The county agency must ensure that the funds are not used ~~only to supplement and not to~~ supplant services available through other public assistance or services programs.

(c) Unless specified in statute, the service definitions and standards for alternative care services shall be the same as the service definitions and standards ~~defined~~ specified in the federally approved elderly waiver plan. Except for the county agencies' approval of direct cash payments to clients as described in paragraph (j) or for a provider of supplies and equipment when the monthly cost of the supplies and equipment is less than \$250, 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. Supplies and equipment may be purchased from a non-Medicaid certified vendor if the cost for the item is less than that of a Medicaid vendor.

(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.~~ The alternative care payment for the foster care service in combination with the payment for other alternative care services, including case management, must not exceed the limit specified in subdivision 4, paragraph (a), clause (6).

(e) ~~Personal care services may be provided by a personal care provider organization; must meet the service standards defined in the federally approved elderly waiver plan, except that a county agency may contract with a client's relative of the client who meets the relative hardship waiver requirement as defined in section 256B.0627, subdivision 4, paragraph (b), clause (10), to provide personal care services; but must ensure nursing if the county agency ensures supervision of this service by a registered nurse or mental health practitioner. Covered personal care services defined in section 256B.0627, subdivision 4, must meet applicable standards in Minnesota Rules, part 9505.0335.~~

(f) ~~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 under section 157.17 and are not subject to registration under chapter 144D. 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~~ home 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 homemaking services funded under this section.

~~(h)~~ (g) 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 which are not subject to registration under chapter 144D and are licensed by the department of health as a class A home care provider or a class E home care provider. 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 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.

Individuals receiving assisted living services shall not receive both assisted living services and homemaking 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. Assisted living services as defined in this section shall not be authorized in boarding and lodging establishments licensed according to sections 157.011 and 157.15 to 157.22.

~~(i) (h) For establishments registered under chapter 144D, assisted living services under this section means either the services described and licensed in paragraph (g) and delivered by a class E home care provider licensed by the department of health or the services described under section 144A.4605 and delivered by an assisted living home care provider or a class A home care provider licensed by the commissioner of health.~~

~~(j) For the purposes of this section, reimbursement (i) Payment for assisted living services and residential care services shall be a monthly rate negotiated and authorized by the county agency based on an individualized service plan for each resident and may not cover direct rent or food costs. The rate~~

~~(1) The individualized monthly negotiated payment for assisted living services as described in paragraph (g) or (h), and residential care services as described in paragraph (f), shall not exceed the nonfederal share in effect on July 1 of the state fiscal year for which the rate limit is being calculated 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 alternative care eligible client would be assigned under Minnesota Rules, parts 9549.0050 to 9549.0059, unless the less the maintenance needs allowance as described in subdivision 1d, paragraph (a), until the first day of the state fiscal year in which a resident assessment system, under section 256B.437, of nursing home rate determination is implemented. Effective on the first day of the state fiscal year in which a resident assessment system, under section 256B.437, of nursing home rate determination is implemented and the first day of each subsequent state fiscal year, the individualized monthly negotiated payment for the services described in this clause shall not exceed the limit described in this clause which was in effect on the last day of the previous state fiscal year and which has been adjusted by the greater of any legislatively adopted home and community-based services cost-of-living percentage increase or any legislatively adopted statewide percent rate increase for nursing facilities.~~

~~(2) The individualized monthly negotiated payment for assisted living services are provided by a home care described under section 144A.4605 and delivered by a provider licensed by the department of health as a class A home care provider or an assisted living home care provider and are provided in a building that is registered as a housing with services establishment under chapter 144D and that provides 24-hour supervision in combination with the payment for other alternative care services, including case management, must not exceed the limit specified in subdivision 4, paragraph (a), clause (6).~~

~~(k) 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 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.~~

~~(l) 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.~~

~~(m) (i) A county agency may make payment from their alternative care program allocation for "other services" provided to an alternative care program recipient if those services prevent, shorten, or delay institutionalization. These services may which include use of "discretionary funds" for services that are not otherwise defined in this section and direct cash payments to the recipient client for the purpose of purchasing the recipient's services. The following provisions apply to payments under this paragraph:~~

~~(1) a cash payment to a client under this provision cannot exceed 80 percent of the monthly payment limit for that client as specified in subdivision 4, paragraph (a), clause (7) (6);~~

~~(2) a county may not approve any cash payment for a client who meets either of the following:~~

~~(i) has been assessed as having a dependency in orientation, unless the client has an authorized representative under section 256.476, subdivision 2, paragraph (g), or for a client who. An "authorized representative" means an individual who is at least 18 years of age and is designated by the person or the person's legal representative to act on the person's behalf. This individual may be a family member, guardian, representative payee, or other individual designated by the person or the person's legal representative, if any, to assist in purchasing and arranging for supports; or~~

~~(ii) is concurrently receiving adult foster care, residential care, or assisted living services;~~

~~(3) any service approved under this section must be a service which meets the purpose and goals of the program as listed in subdivision 4;~~

~~(4) cash payments must also meet the criteria of and are governed by the procedures and liability protection established in section 256.476, subdivision 4, paragraphs (b) through (h), and recipients of cash grants must meet the requirements in section 256.476, subdivision 10; and cash payments to a person or a person's family will be provided through a monthly payment and be in the form of cash, voucher, or direct county payment to vendor. Fees or premiums assessed to the person for eligibility for health and human services are not reimbursable through this service option. Services and goods purchased through cash payments must be identified in the person's individualized care plan and must meet all of the following criteria:~~

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

~~(ii) they must be directly attributable to the person's functional limitations;~~

~~(iii) they must have the potential to be effective at meeting the goals of the program;~~

~~(iv) they must be consistent with the needs identified in the individualized service plan. The service plan shall specify the needs of the person and family, the form and amount of payment, the items and services to be reimbursed, and the arrangements for management of the individual grant; and~~

~~(v) the person, the person's family, or the legal representative shall be provided sufficient information to ensure an informed choice of alternatives. The local agency shall document this information in the person's care plan, including the type and level of expenditures to be reimbursed;~~

~~(4) the county, lead agency under contract, or tribal government under contract to administer the alternative care program shall not be liable for damages, injuries, or liabilities sustained through the purchase of direct supports or goods by the person, the person's family, or the authorized representative with funds received through the cash payments under this section. Liabilities include, but are not limited to, workers' compensation, the Federal Insurance Contributions Act (FICA), or the Federal Unemployment Tax Act (FUTA);~~

(5) persons receiving grants under this section shall have the following responsibilities:

(i) spend the grant money in a manner consistent with their individualized service plan with the local agency;

(ii) notify the local agency of any necessary changes in the grant-expenditures;

(iii) arrange and pay for supports; and

(iv) inform the local agency of areas where they have experienced difficulty securing or maintaining supports; and

~~(5)~~ (6) the county shall report client outcomes, services, and costs under this paragraph in a manner prescribed by the commissioner.

(k) Upon implementation of direct cash payments to clients under this section, any person determined eligible for the alternative care program who chooses a cash payment approved by the county agency shall receive the cash payment under this section and not under section 256.476 unless the person was receiving a consumer support grant under section 256.476 before implementation of direct cash payments under this section.

Sec. 20. Minnesota Statutes 2000, section 256B.0913, subdivision 6, is amended to read:

Subd. 6. [ALTERNATIVE CARE PROGRAM ADMINISTRATION.] The alternative care program is administered by the county agency. This agency is the lead agency responsible for the local administration of the alternative care program as described in this section. However, it may contract with the public health nursing service to be the lead agency. The commissioner may contract with federally recognized Indian tribes with a reservation in Minnesota to serve as the lead agency responsible for the local administration of the alternative care program as described in the contract.

Sec. 21. Minnesota Statutes 2000, section 256B.0913, subdivision 7, is amended to read:

Subd. 7. [CASE MANAGEMENT.] Providers of case management services for persons receiving services funded by the alternative care program must meet the qualification requirements and standards specified in section 256B.0915, subdivision 1b. The case manager must ~~ensure the health and safety of the individual client and not approve alternative care funding for a client in any setting in which the case manager cannot reasonably ensure the client's health and safety.~~ The case manager is responsible for the cost-effectiveness of the alternative care individual care plan and must not approve any care plan in which the cost of services funded by alternative care and client contributions exceeds the limit specified in section 256B.0915, subdivision 3, paragraph (b). The county may allow a case manager employed by the county to delegate certain aspects of the case management activity to another individual employed by the county provided there is oversight of the individual by the case manager. The case manager may not delegate those aspects which require professional judgment including assessments, reassessments, and care plan development.

Sec. 22. Minnesota Statutes 2000, section 256B.0913, subdivision 8, is amended to read:

Subd. 8. [REQUIREMENTS FOR INDIVIDUAL CARE PLAN.] (a) The case manager shall implement the plan of care for each ~~180-day eligible~~ alternative care client and ensure that a client's service needs and eligibility are reassessed at least every 12 months. The plan shall include any services prescribed by the individual's attending physician as necessary to allow the individual to remain in a community setting. In developing the individual's care plan, the case manager should include the use of volunteers from families and neighbors, religious organizations, social clubs, and civic and service organizations to support the formal home care services. The county shall be held harmless for damages or injuries sustained through the use of volunteers under this subdivision including workers' compensation liability. ~~The lead agency shall provide documentation to the commissioner verifying that the individual's alternative care is not available at that time through any other public assistance or service program.~~ The lead agency shall provide documentation in each individual's plan of care and, if requested, to the commissioner that

the most cost-effective alternatives available have been offered to the individual and that the individual was free to choose among available qualified providers, both public and private. The case manager must give the individual a ten-day written notice of any decrease in or termination of alternative care services.

(b) If the county administering alternative care services is different than the county of financial responsibility, the care plan may be implemented without the approval of the county of financial responsibility.

Sec. 23. Minnesota Statutes 2000, section 256B.0913, subdivision 9, is amended to read:

Subd. 9. [~~CONTRACTING PROVISIONS FOR PROVIDERS.~~] ~~The lead agency shall document to the commissioner that the agency made reasonable efforts to inform potential providers of the anticipated need for services under the alternative care program or waiver programs under sections 256B.0915 and 256B.49, including a minimum of 14 days' written advance notice of the opportunity to be selected as a service provider and an annual public meeting with providers to explain and review the criteria for selection. The lead agency shall also document to the commissioner that the agency allowed potential providers an opportunity to be selected to contract with the county agency. Funds reimbursed to counties under this subdivision~~ Alternative care funds paid to service providers are subject to audit by the commissioner for fiscal and utilization control.

The lead agency must select providers for contracts or agreements using the following criteria and other criteria established by the county:

- (1) the need for the particular services offered by the provider;
- (2) the population to be served, including the number of clients, the length of time services will be provided, and the medical condition of clients;
- (3) the geographic area to be served;
- (4) quality assurance methods, including appropriate licensure, certification, or standards, and supervision of employees when needed;
- (5) rates for each service and unit of service exclusive of county administrative costs;
- (6) evaluation of services previously delivered by the provider; and
- (7) contract or agreement conditions, including billing requirements, cancellation, and indemnification.

The county must evaluate its own agency services under the criteria established for other providers. ~~The county shall provide a written statement of the reasons for not selecting providers.~~

Sec. 24. Minnesota Statutes 2000, section 256B.0913, subdivision 10, is amended to read:

Subd. 10. [ALLOCATION FORMULA.] (a) The alternative care appropriation for fiscal years 1992 and beyond shall cover only 180-day alternative care eligible clients. Prior to July 1 of each year, the commissioner shall allocate to county agencies the state funds available for alternative care for persons eligible under subdivision 2.

(b) Prior to July 1 of each year, the commissioner shall allocate to county agencies the state funds available for alternative care for persons eligible under subdivision 2. The allocation for fiscal year 1992 shall be calculated using a base that is adjusted to exclude the medical assistance share of alternative care expenditures. The adjusted base is calculated by multiplying each county's allocation for fiscal year 1991 by the percentage of county alternative care expenditures for 180-day eligible clients. The percentage is determined based on expenditures for services rendered in fiscal year 1989 or calendar year 1989, whichever is greater. The adjusted base for each county is the county's current fiscal year base allocation plus any targeted funds approved during the current fiscal year. Calculations for

paragraphs (c) and (d) are to be made as follows: for each county, the determination of alternative care program expenditures shall be based on payments for services rendered from April 1 through March 31 in the base year, to the extent that claims have been submitted and paid by June 1 of that year.

(c) If the ~~county alternative care program~~ expenditures for ~~180-day eligible clients as defined in paragraph (b)~~ are 95 percent or more of ~~its~~ the county's adjusted base allocation, the allocation for the next fiscal year is 100 percent of the adjusted base, plus inflation to the extent that inflation is included in the state budget.

(d) If the ~~county alternative care program~~ expenditures for ~~180-day eligible clients as defined in paragraph (b)~~ are less than 95 percent of ~~its~~ the county's adjusted base allocation, the allocation for the next fiscal year is the adjusted base allocation less the amount of unspent funds below the 95 percent level.

~~(e) For fiscal year 1992 only, a county may receive an increased allocation if annualized service costs for the month of May 1991 for 180-day eligible clients are greater than the allocation otherwise determined. A county may apply for this increase by reporting projected expenditures for May to the commissioner by June 1, 1991. The amount of the allocation may exceed the amount calculated in paragraph (b). The projected expenditures for May must be based on actual 180-day eligible client caseload and the individual cost of clients' care plans. If a county does not report its expenditures for May, the amount in paragraph (c) or (d) shall be used.~~

~~(f) Calculations for paragraphs (c) and (d) are to be made as follows: for each county, the determination of expenditures shall be based on payments for services rendered from April 1 through March 31 in the base year, to the extent that claims have been submitted by June 1 of that year. Calculations for paragraphs (c) and (d) must also include the funds transferred to the consumer support grant program for clients who have transferred to that program from April 1 through March 31 in the base year.~~

~~(g) For the biennium ending June 30, 2001, the allocation of state funds to county agencies shall be calculated as described in paragraphs (c) and (d). If the annual legislative appropriation for the alternative care program is inadequate to fund the combined county allocations for ~~fiscal year 2000 or 2001~~ a biennium, the commissioner shall distribute to each county the entire annual appropriation as that county's percentage of the computed base as calculated in ~~paragraph (f)~~ paragraphs (c) and (d).~~

Sec. 25. Minnesota Statutes 2000, section 256B.0913, subdivision 11, is amended to read:

Subd. 11. [TARGETED FUNDING.] (a) The purpose of targeted funding is to make additional money available to counties with the greatest need. Targeted funds are not intended to be distributed equitably among all counties, but rather, allocated to those with long-term care strategies that meet state goals.

(b) The funds available for targeted funding shall be the total appropriation for each fiscal year minus county allocations determined under subdivision 10 as adjusted for any inflation increases provided in appropriations for the biennium.

(c) The commissioner shall allocate targeted funds to counties that demonstrate to the satisfaction of the commissioner that they have developed feasible plans to increase alternative care spending. In making targeted funding allocations, the commissioner shall use the following priorities:

(1) counties that received a lower allocation in fiscal year 1991 than in fiscal year 1990. Counties remain in this priority until they have been restored to their fiscal year 1990 level plus inflation;

(2) counties that sustain a base allocation reduction for failure to spend 95 percent of the allocation if they demonstrate that the base reduction should be restored;

(3) counties that propose projects to divert community residents from nursing home placement or convert nursing home residents to community living; and

(4) counties that can otherwise justify program growth by demonstrating the existence of waiting lists, demographically justified needs, or other unmet needs.

(d) Counties that would receive targeted funds according to paragraph (c) must demonstrate to the commissioner's satisfaction that the funds would be appropriately spent by showing how the funds would be used to further the state's alternative care goals as described in subdivision 1, and that the county has the administrative and service delivery capability to use them.

(e) The commissioner shall request applications ~~by June 1 each year, for county agencies to apply~~ for targeted funds by November 1 of each year. The counties selected for targeted funds shall be notified of the amount of their additional funding ~~by August 1 of each year~~. Targeted funds allocated to a county agency in one year shall be treated as part of the county's base allocation for that year in determining allocations for subsequent years. No reallocations between counties shall be made.

~~(f) The allocation for each year after fiscal year 1992 shall be determined using the previous fiscal year's allocation, including any targeted funds, as the base and then applying the criteria under subdivision 10, paragraphs (c), (d), and (f), to the current year's expenditures.~~

Sec. 26. Minnesota Statutes 2000, section 256B.0913, subdivision 12, is amended to read:

Subd. 12. [CLIENT PREMIUMS.] (a) A premium is required for all ~~180-day~~ alternative care eligible clients to help pay for the cost of participating in the program. The amount of the premium for the alternative care client shall be determined as follows:

(1) when the alternative care client's income less recurring and predictable medical expenses is greater than the ~~medical assistance income standard recipient's maintenance needs allowance as defined in section 256B.0915, subdivision 1d, paragraph (a),~~ but less than 150 percent of the federal poverty guideline effective on July 1 of the state fiscal year in which the premium is being computed, and total assets are less than \$10,000, the fee is zero;

(2) when the alternative care client's income less recurring and predictable medical expenses is greater than 150 percent of the federal poverty guideline effective on July 1 of the state fiscal year in which the premium is being computed, and total assets are less than \$10,000, the fee is 25 percent of the cost of alternative care services or the difference between 150 percent of the federal poverty guideline effective on July 1 of the state fiscal year in which the premium is being computed and the client's income less recurring and predictable medical expenses, whichever is less; and

(3) when the alternative care client's total assets are greater than \$10,000, the fee is 25 percent of the cost of alternative care services.

For married persons, total assets are defined as the total marital assets less the estimated community spouse asset allowance, under section 256B.059, if applicable. For married persons, total income is defined as the client's income less the monthly spousal allotment, under section 256B.058.

All alternative care services except case management shall be included in the estimated costs for the purpose of determining 25 percent of the costs.

The monthly premium shall be calculated based on the cost of the first full month of alternative care services and shall continue unaltered until the next reassessment is completed or at the end of 12 months, whichever comes first. Premiums are due and payable each month alternative care services are received unless the actual cost of the services is less than the premium.

(b) The fee shall be waived by the commissioner when:

- (1) a person who is residing in a nursing facility is receiving case management only;
- (2) a person is applying for medical assistance;
- (3) a married couple is requesting an asset assessment under the spousal impoverishment provisions;
- (4) a person is a medical assistance recipient, but has been approved for alternative care-funded assisted living services;
- (5) a person is found eligible for alternative care, but is not yet receiving alternative care services; or
- (6) (5) a person's fee under paragraph (a) is less than \$25.

(c) The county agency must record in the state's receivable system the client's assessed premium amount or the reason the premium has been waived. The commissioner will bill and collect the premium from the client and forward the amounts collected to the commissioner in the manner and at the times prescribed by the commissioner. Money collected must be deposited in the general fund and is appropriated to the commissioner for the alternative care program. The client must supply the county with the client's social security number at the time of application. If a client fails or refuses to pay the premium due, The county shall supply the commissioner with the client's social security number and other information the commissioner requires to collect the premium from the client. The commissioner shall collect unpaid premiums using the Revenue Recapture Act in chapter 270A and other methods available to the commissioner. The commissioner may require counties to inform clients of the collection procedures that may be used by the state if a premium is not paid.

(d) The commissioner shall begin to adopt emergency or permanent rules governing client premiums within 30 days after July 1, 1991, including criteria for determining when services to a client must be terminated due to failure to pay a premium.

Sec. 27. Minnesota Statutes 2000, section 256B.0913, subdivision 13, is amended to read:

Subd. 13. [COUNTY BIENNIAL PLAN.] The county biennial plan for the preadmission screening program long-term care consultation under section 256B.0911, the alternative care program under this section, and waivers for the elderly under section 256B.0915, and waivers for the disabled under section 256B.49; shall be incorporated into the biennial Community Social Services Act plan and shall meet the regulations and timelines of that plan. This county biennial plan shall include:

- (1) information on the administration of the preadmission screening program;
- (2) information on the administration of the home and community-based services waivers for the elderly under section 256B.0915, and for the disabled under section 256B.49; and
- (3) information on the administration of the alternative care program.

Sec. 28. Minnesota Statutes 2000, section 256B.0913, subdivision 14, is amended to read:

Subd. 14. [REIMBURSEMENT PAYMENT AND RATE ADJUSTMENTS.] (a) Reimbursement Payment for expenditures for the provided alternative care services as approved by the client's case manager shall be through the invoice processing procedures of the department's Medicaid Management Information System (MMIS). To receive reimbursement payment, the county or vendor must submit invoices within 12 months following the date of service. The county agency and its vendors under contract shall not be reimbursed for services which exceed the county allocation.

~~(b) If a county collects less than 50 percent of the client premiums due under subdivision 12, the commissioner may withhold up to three percent of the county's final alternative care program allocation determined under subdivisions 10 and 11.~~

~~(e) The county shall negotiate individual rates with vendors and may be reimbursed~~ authorize service payment for actual costs up to ~~the greater of the county's current approved rate or 60 percent of the maximum rate in fiscal year 1994 and 65 percent of the maximum rate in fiscal year 1995 for each alternative care service.~~ Notwithstanding any other rule or statutory provision to the contrary, the commissioner shall not be authorized to increase rates by an annual inflation factor, unless so authorized by the legislature.

~~(d) (c) On July 1, 1993, the commissioner shall increase the maximum rate for home delivered meals to \$4.50 per meal. To improve access to community services and eliminate payment disparities between the alternative care program and the elderly waiver program, the commissioner shall establish statewide maximum service rate limits and eliminate county-specific service rate limits.~~

(1) Effective July 1, 2001, for service rate limits, except those in subdivision 5, paragraphs (d) and (j), the rate limit for each service shall be the greater of the alternative care statewide maximum rate or the elderly waiver statewide maximum rate.

(2) Counties may negotiate individual service rates with vendors for actual costs up to the statewide maximum service rate limit.

Sec. 29. Minnesota Statutes 2000, section 256B.0915, subdivision 1d, is amended to read:

Subd. 1d. [POSTELIGIBILITY TREATMENT OF INCOME AND RESOURCES FOR ELDERLY WAIVER.] ~~(a)~~ Notwithstanding the provisions of section 256B.056, the commissioner shall make the following amendment to the medical assistance elderly waiver program effective July 1, 1999, or upon federal approval, whichever is later.

A recipient's maintenance needs will be an amount equal to the Minnesota supplemental aid equivalent rate as defined in section 256I.03, subdivision 5, plus the medical assistance personal needs allowance as defined in section 256B.35, subdivision 1, paragraph (a), when applying posteligibility treatment of income rules to the gross income of elderly waiver recipients, except for individuals whose income is in excess of the special income standard according to Code of Federal Regulations, title 42, section 435.236. Recipient maintenance needs shall be adjusted under this provision each July 1.

~~(b) The commissioner of human services shall secure approval of additional elderly waiver slots sufficient to serve persons who will qualify under the revised income standard described in paragraph (a) before implementing section 256B.0913, subdivision 16.~~

~~(c) In implementing this subdivision, the commissioner shall consider allowing persons who would otherwise be eligible for the alternative care program but would qualify for the elderly waiver with a spenddown to remain on the alternative care program.~~

Sec. 30. Minnesota Statutes 2000, section 256B.0915, subdivision 3, is amended to read:

Subd. 3. [LIMITS OF CASES, RATES, REIMBURSEMENT PAYMENTS, AND FORECASTING.] (a) The number of medical assistance waiver recipients that a county may serve must be allocated according to the number of medical assistance waiver cases open on July 1 of each fiscal year. Additional recipients may be served with the approval of the commissioner.

~~(b) The monthly limit for the cost of waived services to an individual elderly waiver client shall be the statewide average payment weighted average monthly nursing facility rate of the case mix resident class to which the elderly waiver client would be assigned under the medical assistance case mix reimbursement system: Minnesota Rules,~~

parts 9549.0050 to 9549.0059, less the recipient's maintenance needs allowance as described in subdivision 1d, paragraph (a), until the first day of the state fiscal year in which the resident assessment system as described in section 256B.437 for nursing home rate determination is implemented. Effective on the first day of the state fiscal year in which the resident assessment system as described in section 256B.437 for nursing home rate determination is implemented and the first day of each subsequent state fiscal year, the monthly limit for the cost of waived services to an individual elderly waiver client shall be the rate of the case mix resident class to which the waiver client would be assigned under Minnesota Rules, parts 9549.0050 to 9549.0059, in effect on the last day of the previous state fiscal year, adjusted by the greater of any legislatively adopted home and community-based services cost-of-living percentage increase or any legislatively adopted statewide percent rate increase for nursing facilities.

(c) If extended medical supplies and equipment or adaptations environmental modifications are or will be purchased for an elderly waiver ~~services recipient~~ client, the costs may be prorated ~~on a monthly basis throughout the year in which they are purchased~~ for up to 12 consecutive months beginning with the month of purchase. If the monthly cost of a recipient's ~~other~~ waived services exceeds the monthly limit established in ~~this~~ paragraph (b), the annual cost of ~~the all~~ waived services shall be determined. In this event, the annual cost of all waived services shall not exceed 12 times the monthly limit calculated in ~~this~~ paragraph. ~~The statewide average payment rate is calculated by determining the statewide average monthly nursing home rate, effective July 1 of the fiscal year in which the cost is incurred, less the statewide average monthly income of nursing home residents who are age 65 or older, and who are medical assistance recipients in the month of March of the previous state fiscal year. The annual cost divided by 12 of elderly or disabled waived services of~~ waived services as described in paragraph (b).

(d) For a person who is a nursing facility resident at the time of requesting a determination of eligibility for elderly ~~or disabled~~ waived services ~~shall be the greater of the monthly payment for:~~ (i) a monthly conversion limit for the cost of elderly waived services may be requested. The monthly conversion limit for the cost of elderly waiver services shall be the resident class assigned under Minnesota Rules, parts 9549.0050 to 9549.0059, for that resident in the nursing facility where the resident currently resides; ~~or~~ (ii) the statewide average payment of the case mix resident class to which the resident would be assigned under the medical assistance case mix reimbursement system, provided that until July 1 of the state fiscal year in which the resident assessment system as described in section 256B.437 for nursing home rate determination is implemented. Effective on July 1 of the state fiscal year in which the resident assessment system as described in section 256B.437 for nursing home rate determination is implemented, the monthly conversion limit for the cost of elderly waiver services shall be the per diem nursing facility rate as determined by the resident assessment system as described in section 256B.437 for that resident in the nursing facility where the resident currently resides multiplied by 365 and divided by 12, less the recipient's maintenance needs allowance as described in subdivision 1d. The limit under this clause only applies to persons discharged from a nursing facility after a minimum 30-day stay and found eligible for waived services on or after July 1, 1997. The following costs must be included in determining the total monthly costs for the waiver client:

(1) cost of all waived services, including extended medical supplies and equipment and environmental modifications; and

(2) cost of skilled nursing, home health aide, and personal care services reimbursable by medical assistance.

(e) (e) Medical assistance funding for skilled nursing services, private duty nursing, home health aide, and personal care services for waiver recipients must be approved by the case manager and included in the individual care plan.

(d) ~~For both the elderly waiver and the nursing facility disabled waiver, a county may purchase extended supplies and equipment without prior approval from the commissioner when there is no other funding source and the supplies and equipment are specified in the individual's care plan as medically necessary to enable the individual to remain in the community according to the criteria in Minnesota Rules, part 9505.0210, items A and B. (f) 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) (g) The adult foster care daily rate for the elderly and disabled waivers shall be considered a difficulty of care payment and shall not include room and board. The adult foster care service rate 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. The elderly waiver payment for the foster care service in combination with the payment for all other elderly waiver services, including case management, must not exceed the limit specified in paragraph (b).~~

~~(f) The assisted living and residential care service rates for elderly and community alternatives for disabled individuals (CADI) waivers shall be made to the vendor as a monthly rate negotiated with the county agency based on an individualized service plan for each resident. The rate shall not exceed the nonfederal share of the greater of either the statewide or any of the geographic groups' weighted average monthly medical assistance nursing facility payment rate of the case mix resident class to which the elderly or disabled client would be assigned under Minnesota Rules, parts 9549.0050 to 9549.0059, unless the services are provided by a home care provider licensed by the department of health and are provided in a building that is registered as a housing with services establishment under chapter 144D and that provides 24-hour supervision. For alternative care assisted living projects established under Laws 1988, chapter 689, article 2, section 256, monthly rates may not exceed 65 percent of the greater of either the statewide or any of the geographic groups' weighted average monthly medical assistance nursing facility payment rate for the case mix resident class to which the elderly or disabled client would be assigned under Minnesota Rules, parts 9549.0050 to 9549.0059. The rate may not cover direct rent or food costs.~~

~~(h) Payment for assisted living service shall be a monthly rate negotiated and authorized by the county agency based on an individualized service plan for each resident and may not cover direct rent or food costs.~~

~~(1) The individualized monthly negotiated payment for assisted living services as described in section 256B.0913, subdivision 5, paragraph (g) or (h), and residential care services as described in section 256B.0913, subdivision 5, paragraph (f), shall not exceed the nonfederal share, in effect on July 1 of the state fiscal year for which the rate limit is being calculated, of the greater of either the statewide or any of the geographic groups' weighted average monthly nursing facility rate of the case mix resident class to which the elderly waiver eligible client would be assigned under Minnesota Rules, parts 9549.0050 to 9549.0059, less the maintenance needs allowance as described in subdivision 1d, paragraph (a), until the July 1 of the state fiscal year in which the resident assessment system as described in section 256B.437 for nursing home rate determination is implemented. Effective on July 1 of the state fiscal year in which the resident assessment system as described in section 256B.437 for nursing home rate determination is implemented and July 1 of each subsequent state fiscal year, the individualized monthly negotiated payment for the services described in this clause shall not exceed the limit described in this clause which was in effect on June 30 of the previous state fiscal year and which has been adjusted by the greater of any legislatively adopted home and community-based services cost-of-living percentage increase or any legislatively adopted statewide percent rate increase for nursing facilities.~~

~~(2) The individualized monthly negotiated payment for assisted living services described in section 144A.4605 and delivered by a provider licensed by the department of health as a class A home care provider or an assisted living home care provider and provided in a building that is registered as a housing with services establishment under chapter 144D and that provides 24-hour supervision in combination with the payment for other elderly waiver services, including case management, must not exceed the limit specified in paragraph (b).~~

~~(g) (i) The county shall negotiate individual service rates with vendors and may be reimbursed authorize payment 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. 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 elderly waiver program, except as a provider of supplies and equipment when the monthly cost of the supplies and equipment is less than \$250.~~

~~(h) On July 1, 1993, the commissioner shall increase the maximum rate for home-delivered meals to \$4.50 per meal.~~

~~(i) (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) To improve access to community services and eliminate payment disparities between the alternative care program and the elderly waiver, the commissioner shall establish statewide maximum service rate limits and eliminate county-specific service rate limits.~~

~~(1) Effective July 1, 2001, for service rate limits, except those described or defined in paragraphs (g) and (h), the rate limit for each service shall be the greater of the alternative care statewide maximum rate or the elderly waiver statewide maximum rate.~~

~~(2) Counties may negotiate individual service rates with vendors for actual costs up to the statewide maximum service rate limit.~~

~~(j) (l) 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.~~

~~(k) For the community alternatives for disabled individuals waiver, and nursing facility disabled waivers, county may use waiver funds for the cost of minor adaptations to a client's residence or vehicle without prior approval from the commissioner if there is no other source of funding and the adaptation:~~

~~(1) is necessary to avoid institutionalization;~~

~~(2) has no utility apart from the needs of the client; and~~

~~(3) meets the criteria in Minnesota Rules, part 9505.0210, items A and B.~~

~~For purposes of this subdivision, "residence" means the client's own home, the client's family residence, or a family foster home. For purposes of this subdivision, "vehicle" means the client's vehicle, the client's family vehicle, or the client's family foster home vehicle.~~

~~(l) The commissioner shall establish a maximum rate unit for baths provided by an adult day care provider that are not included in the provider's contractual daily or hourly rate. This maximum rate must equal the home health aide extended rate and shall be paid for baths provided to clients served under the elderly and disabled waivers.~~

Sec. 31. Minnesota Statutes 2000, section 256B.0915, subdivision 5, is amended to read:

Subd. 5. [REASSESSMENTS FOR WAIVER CLIENTS.] A reassessment of a client served under the elderly ~~or disabled~~ waiver must be conducted at least every 12 months and at other times when the case manager determines that there has been significant change in the client's functioning. This may include instances where the client is discharged from the hospital.

Sec. 32. Minnesota Statutes 2000, section 256B.0917, subdivision 7, is amended to read:

Subd. 7. [CONTRACT.] (a) The commissioner of human services shall execute a contract with Living at Home/Block Nurse Program, Inc. (LAH/BN, Inc.). The contract shall require LAH/BN, Inc. to:

(1) develop criteria for and award grants to establish community-based organizations that will implement living-at-home/block nurse programs throughout the state;

(2) award grants to enable ~~current~~ living-at-home/block nurse programs to continue to implement the combined living-at-home/block nurse program model;

(3) serve as a state technical assistance center to assist and coordinate the living-at-home/block nurse programs established; and

(4) manage contracts with individual living-at-home/block nurse programs.

(b) The contract shall be effective July 1, 1997, and section 16B.17 shall not apply.

Sec. 33. [256B.0918] [DEVELOPMENT AND PURPOSE OF MEDICAL ASSISTANCE PILOT PROJECT ON SENIOR SERVICES.]

Subdivision 1. [DEVELOPMENT AND PURPOSE.] The commissioner of human services shall develop a medical assistance pilot project on senior services to determine how converting the delivery of housing, supportive services, and health care for seniors into a flexible voucher program will impact public expenditures for older adult service care and provide an alternative way to purchase services based on consumer choice.

Subd. 2. [FEDERAL WAIVER AUTHORITY.] The commissioner shall apply for any necessary federal waivers or approvals to implement this pilot project. The commissioner shall submit the waiver request no later than April 15, 2002.

Subd. 3. [REPORT.] The commissioner shall report to the legislature by January 15, 2003, on approval of waivers requested. Upon federal approval, the commissioner shall seek legislative authorization to implement the pilot project. Once the pilot project is implemented, participating communities and the commissioner of human services shall collaborate to prepare and issue an annual report each December 1 to the appropriate committee chairs in the senate and house on: (1) the use of state resources, including other funds leveraged for this initiative; (2) the status of individuals being served in the pilot project; and (3) the cost-effectiveness of the pilot project. The commissioner shall provide data that may be needed to evaluate the pilot project to communities that request the data.

Subd. 4. [SUNSET.] This section sunsets June 30, 2008.

Sec. 34. [SERVICE ACCESS STUDY.]

By February 15, 2002, the commissioner of human services shall submit to the legislature recommendations for creating coordinated service access at the county agency level for both publicly subsidized and nonsubsidized long-term care services and housing options. The report must:

(1) include a plan to coordinate public funding streams to allow low-income, privately paying consumers to purchase services through a sliding fee scale; and

(2) evaluate the feasibility of statewide implementation, based upon an evaluation of public cost, consumer preferences and satisfaction, and other relevant factors.

Sec. 35. [RESPITE CARE.]

The Minnesota board on aging shall report to the legislature by February 1, 2002, on the provision of in-home and out-of-home respite care services on a sliding scale basis under the federal Older Americans Act.

Sec. 36. [REPEALER.]

Minnesota Statutes 2000, sections 256B.0911, subdivisions 2, 2a, 4, 8, and 9; and 256B.0913, subdivisions 3, 15a, 15b, 15c, and 16; Minnesota Rules, parts 9505.2390; 9505.2395; 9505.2396; 9505.2400; 9505.2405; 9505.2410; 9505.2413; 9505.2415; 9505.2420; 9505.2425; 9505.2426; 9505.2430; 9505.2435; 9505.2440; 9505.2445; 9505.2450; 9505.2455; 9505.2458; 9505.2460; 9505.2465; 9505.2470; 9505.2473; 9505.2475; 9505.2480; 9505.2485; 9505.2486; 9505.2490; 9505.2495; 9505.2496; and 9505.2500, are repealed.

ARTICLE 5

LONG-TERM CARE REFORM AND REIMBURSEMENT

Section 1. [144.0724] [RESIDENT REIMBURSEMENT CLASSIFICATION.]

Subdivision 1. [RESIDENT REIMBURSEMENT CLASSIFICATIONS.] The commissioner of health shall establish resident reimbursement classifications based upon the assessments of residents of nursing homes and boarding care homes conducted under this section and according to section 256B.437. The reimbursement classifications established under this section shall be implemented after June 30, 2002, but no later than January 1, 2003.

Subd. 2. [DEFINITIONS.] For purposes of this section, the following terms have the meanings given.

(a) [ASSESSMENT REFERENCE DATE.] "Assessment reference date" means the last day of the minimum data set observation period. The date sets the designated endpoint of the common observation period, and all minimum data set items refer back in time from that point.

(b) [CASE MIX INDEX.] "Case mix index" means the weighting factors assigned to the RUG-III classifications.

(c) [INDEX MAXIMIZATION.] "Index maximization" means classifying a resident who could be assigned to more than one category, to the category with the highest case mix index.

(d) [MINIMUM DATA SET.] "Minimum data set" means the assessment instrument specified by the Health Care Financing Administration and designated by the Minnesota department of health.

(e) [REPRESENTATIVE.] "Representative" means a person who is the resident's guardian or conservator, the person authorized to pay the nursing home expenses of the resident, a representative of the nursing home ombudsman's office whose assistance has been requested, or any other individual designated by the resident.

(f) [RESOURCE UTILIZATION GROUPS OR RUG.] "Resource utilization groups" or "RUG" means the system for grouping a nursing facility's residents according to their clinical and functional status identified in data supplied by the facility's minimum data set.

Subd. 3. [RESIDENT REIMBURSEMENT CLASSIFICATIONS.] (a) Resident reimbursement classifications shall be based on the minimum data set, version 2.0 assessment instrument, or its successor version mandated by the Health Care Financing Administration that nursing facilities are required to complete for all residents. The commissioner of health shall establish resident classes according to the 34 group, resource utilization groups, version III or RUG-III model. Resident classes must be established based on the individual items on the minimum data set

and must be completed according to the facility manual for case mix classification issued by the Minnesota department of health. The facility manual for case mix classification shall be drafted by the Minnesota department of health and presented to the chairs of health and human services legislative committees by December 31, 2001.

(b) Each resident must be classified based on the information from the minimum data set according to general domains in clauses (1) to (7):

(1) extensive services where a resident requires intravenous feeding or medications, suctioning, tracheostomy care, or is on a ventilator or respirator;

(2) rehabilitation where a resident requires physical, occupational, or speech therapy;

(3) special care where a resident has cerebral palsy; quadriplegia; multiple sclerosis; pressure ulcers; fever with vomiting, weight loss, or dehydration; tube feeding and aphasia; or is receiving radiation therapy;

(4) clinically complex status where a resident has burns, coma, septicemia, pneumonia, internal bleeding, chemotherapy, wounds, kidney failure, urinary tract infections, oxygen, or transfusions;

(5) impaired cognition where a resident has poor cognitive performance;

(6) behavior problems where a resident exhibits wandering, has hallucinations, or is physically or verbally abusive toward others, unless the resident's other condition would place the resident in other categories; and

(7) reduced physical functioning where a resident has no special clinical conditions.

(c) The commissioner of health shall establish resident classification according to a 34 group model based on the information on the minimum data set and within the general domains listed in paragraph (b), clauses (1) to (7). Detailed descriptions of each resource utilization group shall be defined in the facility manual for case mix classification issued by the Minnesota department of health. The 34 groups are described as follows:

(1) SE3: requires four or five extensive services;

(2) SE2: requires two or three extensive services;

(3) SE1: requires one extensive service;

(4) RAD: requires rehabilitation services and is dependent in activity of daily living (ADL) at a count of 17 or 18;

(5) RAC: requires rehabilitation services and ADL count is 14 to 16;

(6) RAB: requires rehabilitation services and ADL count is ten to 13;

(7) RAA: requires rehabilitation services and ADL count is four to nine;

(8) SSC: requires special care and ADL count is 17 or 18;

(9) SSB: requires special care and ADL count is 15 or 16;

(10) SSA: requires special care and ADL count is seven to 14;

(11) CC2: clinically complex with depression and ADL count is 17 or 18;

- (12) CC1: clinically complex with no depression and ADL count is 17 or 18;
- (13) CB2: clinically complex with depression and ADL count is 12 to 16;
- (14) CB1: clinically complex with no depression and ADL count is 12 to 16;
- (15) CA2: clinically complex with depression and ADL count is four to 11;
- (16) CA1: clinically complex with no depression and ADL count is four to 11;
- (17) IB2: impaired cognition with nursing rehabilitation and ADL count is six to ten;
- (18) IB1: impaired cognition with no nursing rehabilitation and ADL count is six to ten;
- (19) IA2: impaired cognition with nursing rehabilitation and ADL count is four or five;
- (20) IA1: impaired cognition with no nursing rehabilitation and ADL count is four or five;
- (21) BB2: behavior problems with nursing rehabilitation and ADL count is six to ten;
- (22) BB1: behavior problems with no nursing rehabilitation and ADL count is six to ten;
- (23) BA2: behavior problems with nursing rehabilitation and ADL count is four to five;
- (24) BA1: behavior problems with no nursing rehabilitation and ADL count is four to five;
- (25) PE2: reduced physical functioning with nursing rehabilitation and ADL count is 16 to 18;
- (26) PE1: reduced physical functioning with no nursing rehabilitation and ADL count is 16 to 18;
- (27) PD2: reduced physical functioning with nursing rehabilitation and ADL count is 11 to 15;
- (28) PD1: reduced physical functioning with no nursing rehabilitation and ADL count is 11 to 15;
- (29) PC2: reduced physical functioning with nursing rehabilitation and ADL count is nine or ten;
- (30) PC1: reduced physical functioning with no nursing rehabilitation and ADL count is nine or ten;
- (31) PB2: reduced physical functioning with nursing rehabilitation and ADL count is six to eight;
- (32) PB1: reduced physical functioning with no nursing rehabilitation and ADL count is six to eight;
- (33) PA2: reduced physical functioning with nursing rehabilitation and ADL count is four or five; and
- (34) PA1: reduced physical functioning with no nursing rehabilitation and ADL count is four or five.

Subd. 4. [RESIDENT ASSESSMENT SCHEDULE.] (a) A facility must conduct and electronically submit to the commissioner of health case mix assessments that conform with the assessment schedule defined by the Code of Federal Regulations, title 42, section 483.20, and published by the United States Department of Health and Human Services, Health Care Financing Administration, in the Long Term Care Assessment Instrument User's Manual, version 2.0, October 1995, and subsequent clarifications made in the Long-Term Care Assessment Instrument Questions and Answers, version 2.0, August 1996. The commissioner of health may substitute successor manuals or question and answer documents published by the United States Department of Health and Human Services, Health Care Financing Administration, to replace or supplement the current version of the manual or document.

(b) The assessments used to determine a case mix classification for reimbursement include the following:

(1) a new admission assessment must be completed by day 14 following admission;

(2) an annual assessment must be completed within 366 days of the last comprehensive assessment;

(3) a significant change assessment must be completed within 14 days of the identification of a significant change;
and

(4) the second quarterly assessment following either a new admission assessment, an annual assessment, or a significant change assessment. Each quarterly assessment must be completed within 92 days of the previous assessment.

Subd. 5. [SHORT STAYS.] (a) A facility must submit to the commissioner of health an initial admission assessment for all residents who stay in the facility less than 14 days.

(b) Notwithstanding the admission assessment requirements of paragraph (a), a facility may elect to accept a default rate with a case mix index of 1.0 for all facility residents who stay less than 14 days in lieu of submitting an initial assessment. Facilities may make this election to be effective on the day of implementation of the revised case mix system.

(c) After implementation of the revised case mix system, nursing facilities must elect one of the options described in paragraphs (a) and (b) on the annual report to the commissioner of human services filed for each report year ending September 30. The election shall be effective on the following July 1.

(d) For residents who are admitted or readmitted and leave the facility on a frequent basis and for whom readmission is expected, the resident may be discharged on an extended leave status. This status does not require reassessment each time the resident returns to the facility unless a significant change in the resident's status has occurred since the last assessment. The case mix classification for these residents is determined by the facility election made in paragraphs (a) and (b).

Subd. 6. [PENALTIES FOR LATE OR NONSUBMISSION.] A facility that fails to complete or submit an assessment for a RUG-III classification within seven days of the time requirements in subdivisions 4 and 5 is subject to a reduced rate for that resident. The reduced rate shall be the lowest rate for that facility. The reduced rate is effective on the day of admission for new admission assessments or on the day that the assessment was due for all other assessments and continues in effect until the first day of the month following the date of submission of the resident's assessment.

Subd. 7. [NOTICE OF RESIDENT REIMBURSEMENT CLASSIFICATION.] (a) A facility must elect between the options in clauses (1) and (2) to provide notice to a resident of the resident's case mix classification.

(1) The commissioner of health shall provide to a nursing facility a notice for each resident of the reimbursement classification established under subdivision 1. The notice must inform the resident of the classification that was assigned, the opportunity to review the documentation supporting the classification, the opportunity to obtain clarification from the commissioner, and the opportunity to request a reconsideration of the classification. The commissioner must send notice of resident classification by first class mail. A nursing facility is responsible for the distribution of the notice to each resident, to the person responsible for the payment of the resident's nursing home expenses, or to another person designated by the resident. This notice must be distributed within three working days after the facility's receipt of the notice from the commissioner of health.

(2) A facility may choose to provide a classification notice, as prescribed by the commissioner of health, to a resident upon receipt of the confirmation of the case mix classification calculated by a facility or a corrected case mix classification as indicated on the final validation report from the commissioner. A nursing facility is responsible

for the distribution of the notice to each resident, to the person responsible for the payment of the resident's nursing home expenses, or to another person designated by the resident. This notice must be distributed within three working days after the facility's receipt of the validation report from the commissioner. If a facility elects this option, the commissioner of health shall provide the facility with a list of residents and their case mix classifications as determined by the commissioner. A nursing facility may make this election to be effective on the day of implementation of the revised case mix system.

(3) After implementation of the revised case mix system, a nursing facility shall elect a notice of resident reimbursement classification procedure as described in clause (1) or (2) on the annual report to the commissioner of human services filed for each report year ending September 30. The election will be effective the following July 1.

(b) If a facility submits a correction to an assessment conducted under subdivision 3 that results in a change in case mix classification, the facility shall give written notice to the resident or the resident's representative about the item that was corrected and the reason for the correction. The notice of corrected assessment may be provided at the same time that the resident or resident's representative is provided the resident's corrected notice of classification.

Subd. 8. [REQUEST FOR RECONSIDERATION OF RESIDENT CLASSIFICATIONS.] (a) The resident, or resident's representative, or the nursing facility or boarding care home may request that the commissioner of health reconsider the assigned reimbursement classification. The request for reconsideration must be submitted in writing to the commissioner within 30 days of the day the resident or the resident's representative receives the resident classification notice. The request for reconsideration must include the name of the resident, the name and address of the facility in which the resident resides, the reasons for the reconsideration, the requested classification changes, and documentation supporting the requested classification. The documentation accompanying the reconsideration request is limited to documentation which establishes that the needs of the resident at the time of the assessment justify a classification which is different than the classification established by the commissioner of health.

(b) Upon request, the nursing facility must give the resident or the resident's representative a copy of the assessment form and the other documentation that was given to the commissioner of health to support the assessment findings. The nursing facility shall also provide access to and a copy of other information from the resident's record that has been requested by or on behalf of the resident to support a resident's reconsideration request. A copy of any requested material must be provided within three working days of receipt of a written request for the information. If a facility fails to provide the material within this time, it is subject to the issuance of a correction order and penalty assessment under sections 144.653 and 144A.10. Notwithstanding those sections, any correction order issued under this subdivision must require that the nursing facility immediately comply with the request for information and that as of the date of the issuance of the correction order, the facility shall forfeit to the state a \$100 fine for the first day of noncompliance, and an increase in the \$100 fine by \$50 increments for each day the noncompliance continues.

(c) In addition to the information required under paragraphs (a) and (b), a reconsideration request from a nursing facility must contain the following information: (i) the date the reimbursement classification notices were received by the facility; (ii) the date the classification notices were distributed to the resident or the resident's representative; and (iii) a copy of a notice sent to the resident or to the resident's representative. This notice must inform the resident or the resident's representative that a reconsideration of the resident's classification is being requested, the reason for the request, that the resident's rate will change if the request is approved by the commissioner, the extent of the change, that copies of the facility's request and supporting documentation are available for review, and that the resident also has the right to request a reconsideration. If the facility fails to provide the required information with the reconsideration request, the request must be denied, and the facility may not make further reconsideration requests on that specific reimbursement classification.

(d) Reconsideration by the commissioner must be made by individuals not involved in reviewing the assessment, audit, or reconsideration that established the disputed classification. The reconsideration must be based upon the initial assessment and upon the information provided to the commissioner under paragraphs (a) and (b). If necessary for evaluating the reconsideration request, the commissioner may conduct on-site reviews. Within 15 working days of receiving the request for reconsideration, the commissioner shall affirm or modify the original resident

classification. The original classification must be modified if the commissioner determines that the assessment resulting in the classification did not accurately reflect the needs or assessment characteristics of the resident at the time of the assessment. The resident and the nursing facility or boarding care home shall be notified within five working days after the decision is made. A decision by the commissioner under this subdivision is the final administrative decision of the agency for the party requesting reconsideration.

(e) The resident classification established by the commissioner shall be the classification that applies to the resident while the request for reconsideration is pending.

(f) The commissioner may request additional documentation regarding a reconsideration necessary to make an accurate reconsideration determination.

Subd. 9. [AUDIT AUTHORITY.] (a) The commissioner shall audit the accuracy of resident assessments performed under section 256B.437 through desk audits, on-site review of residents and their records, and interviews with staff and families. The commissioner shall reclassify a resident if the commissioner determines that the resident was incorrectly classified.

(b) The commissioner is authorized to conduct on-site audits on an unannounced basis.

(c) A facility must grant the commissioner access to examine the medical records relating to the resident assessments selected for audit under this subdivision. The commissioner may also observe and speak to facility staff and residents.

(d) The commissioner shall consider documentation under the time frames for coding items on the minimum data set as set out in the Resident Assessment Instrument Manual published by the Health Care Financing Administration.

(e) The commissioner shall develop an audit selection procedure that includes the following factors:

(1) The commissioner may target facilities that demonstrate an atypical pattern of scoring minimum data set items, nonsubmission of assessments, late submission of assessments, or a previous history of audit changes of greater than 35 percent. The commissioner shall select at least 20 percent of the most current assessments submitted to the state for audit. Audits of assessments selected in the targeted facilities must focus on the factors leading to the audit. If the number of targeted assessments selected does not meet the threshold of 20 percent of the facility residents, then a stratified sample of the remainder of assessments shall be drawn to meet the quota. If the total change exceeds 35 percent, the commissioner may conduct an expanded audit up to 100 percent of the remaining current assessments.

(2) Facilities that are not a part of the targeted group shall be placed in a general pool from which facilities will be selected on a random basis for audit. Every facility shall be audited annually. If a facility has two successive audits in which the percentage of change is five percent or less and the facility has not been the subject of a targeted audit in the past 36 months, the facility may be audited biannually. A stratified sample of 15 percent of the most current assessments shall be selected for audit. If more than 20 percent of the RUGS-III classifications after the audit are changed, the audit shall be expanded to a second 15 percent sample. If the total change between the first and second samples exceed 35 percent, the commissioner may expand the audit to all of the remaining assessments.

(3) If a facility qualifies for an expanded audit, the commissioner may audit the facility again within six months. If a facility has two expanded audits within a 24-month period, that facility will be audited at least every six months for the next 18 months.

(4) The commissioner may conduct special audits if the commissioner determines that circumstances exist that could alter or affect the validity of case mix classifications of residents. These circumstances include, but are not limited to, the following:

- (i) frequent changes in the administration or management of the facility;
- (ii) an unusually high percentage of residents in a specific case mix classification;
- (iii) a high frequency in the number of reconsideration requests received from a facility;
- (iv) frequent adjustments of case mix classifications as the result of reconsiderations or audits;
- (v) a criminal indictment alleging provider fraud; or
- (vi) other similar factors that relate to a facility's ability to conduct accurate assessments.

(f) Within 15 working days of completing the audit process, the commissioner shall mail the written results of the audit to the facility, along with a written notice for each resident affected to be forwarded by the facility. The notice must contain the resident's classification and a statement informing the resident, the resident's authorized representative, and the facility of their right to review the commissioner's documents supporting the classification and to request a reconsideration of the classification. This notice must also include the address and telephone number of the area nursing home ombudsman.

Subd. 10. [TRANSITION.] After implementation of this section, reconsiderations requested for classifications made under section 144.0722, subdivision 1, shall be determined under section 144.0722, subdivision 3.

Sec. 2. Minnesota Statutes 2000, section 144A.071, subdivision 1, is amended to read:

Subdivision 1. [FINDINGS.] The legislature declares that a moratorium on the licensure and medical assistance certification of new nursing home beds and construction projects that exceed ~~\$750,000~~ \$1,000,000 is necessary to control nursing home expenditure growth and enable the state to meet the needs of its elderly by providing high quality services in the most appropriate manner along a continuum of care.

Sec. 3. Minnesota Statutes 2000, section 144A.071, subdivision 1a, is amended to read:

Subd. 1a. [DEFINITIONS.] For purposes of sections 144A.071 to 144A.073, the following terms have the meanings given them:

- (a) "attached fixtures" has the meaning given in Minnesota Rules, part 9549.0020, subpart 6.
- (b) "buildings" has the meaning given in Minnesota Rules, part 9549.0020, subpart 7.
- (c) "capital assets" has the meaning given in section 256B.421, subdivision 16.
- (d) "commenced construction" means that all of the following conditions were met: the final working drawings and specifications were approved by the commissioner of health; the construction contracts were let; a timely construction schedule was developed, stipulating dates for beginning, achieving various stages, and completing construction; and all zoning and building permits were applied for.
- (e) "completion date" means the date on which a certificate of occupancy is issued for a construction project, or if a certificate of occupancy is not required, the date on which the construction project is available for facility use.

(f) "construction" means any erection, building, alteration, reconstruction, modernization, or improvement necessary to comply with the nursing home licensure rules.

(g) "construction project" means:

(1) a capital asset addition to, or replacement of a nursing home or certified boarding care home that results in new space or the remodeling of or renovations to existing facility space;

(2) the remodeling or renovation of existing facility space the use of which is modified as a result of the project described in clause (1). This existing space and the project described in clause (1) must be used for the functions as designated on the construction plans on completion of the project described in clause (1) for a period of not less than 24 months; or

(3) capital asset additions or replacements that are completed within 12 months before or after the completion date of the project described in clause (1).

(h) "new licensed" or "new certified beds" means:

(1) newly constructed beds in a facility or the construction of a new facility that would increase the total number of licensed nursing home beds or certified boarding care or nursing home beds in the state; or

(2) newly licensed nursing home beds or newly certified boarding care or nursing home beds that result from remodeling of the facility that involves relocation of beds but does not result in an increase in the total number of beds, except when the project involves the upgrade of boarding care beds to nursing home beds, as defined in section 144A.073, subdivision 1. "Remodeling" includes any of the type of conversion, renovation, replacement, or upgrading projects as defined in section 144A.073, subdivision 1.

(i) "project construction costs" means the cost of the facility capital asset additions, replacements, renovations, or remodeling projects, construction site preparation costs, and related soft costs. Project construction costs ~~also~~ include the cost of any remodeling or renovation of existing facility space which is modified as a result of the construction project. Project construction costs also includes the cost of new technology implemented as part of the construction project.

(j) "technology" means information systems or devices that make documentation, charting, and staff time more efficient or encourage and allow for care through alternative settings including, but not limited to, touch screens, monitors, hand-helds, swipe cards, motion detectors, pagers, telemedicine, medication dispensers, and equipment to monitor vital signs and self-injections, and to observe skin and other conditions.

Sec. 4. Minnesota Statutes 2000, section 144A.071, subdivision 2, is amended to read:

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

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

In addition, the commissioner of health must not approve any construction project whose cost exceeds ~~\$750,000~~ \$1,000,000 unless:

(a) any construction costs exceeding ~~\$750,000~~ \$1,000,000 are not added to the facility's appraised value and are not included in the facility's payment rate for reimbursement under the medical assistance program; or

(b) the project:

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

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

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

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

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

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

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

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

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

Sec. 5. Minnesota Statutes 2000, 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 ~~\$750,000~~ \$1,000,000;

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

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

(e) to certify and license as nursing home beds boarding care beds in a certified boarding care facility if the beds meet the standards for nursing home licensure, or in a facility that was granted an exception to the moratorium under section 144A.073, and if the cost of any remodeling of the facility does not exceed ~~\$750,000~~ \$1,000,000. If boarding care beds are licensed as nursing home beds, the number of boarding care beds in the facility must not increase beyond the number remaining at the time of the upgrade in licensure. The provisions contained in section 144A.073 regarding the upgrading of the facilities do not apply to facilities that satisfy these requirements;

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

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

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

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

(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 acquired by the Minneapolis community development agency as part of redevelopment activities in a city of the first class, provided the new facility is located within three miles of the site of the old facility. Operating and property costs for the new facility must be determined and allowed under section 256B.431 or 256B.434;

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

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

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

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

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

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

(1) relicensed and recertified upon relocation and reactivation of some or all of the beds to an existing licensed and certified facility or facilities located in Pine River, 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 (c). The property-related payment rate for a facility relicensing and recertifying beds from layaway status must be adjusted by the incremental change in its rental per diem after recalculating its rental per diem using the number of beds after the relicensing to establish the facility's capacity day divisor, which shall be effective the first day of the month following the month in which the relicensing and recertification became effective. Any beds remaining on layaway status more than three years after the date the layaway status became effective must be removed from layaway status and immediately delicensed and decertified;

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

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

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

(t) to allow 16 licensed and certified beds located on July 1, 1994, in a 142-bed nursing home and 21-bed boarding care home facility in Minneapolis, notwithstanding the licensure and certification after July 1, 1995, of the Minneapolis facility as a 147-bed nursing home facility after completion of a construction project approved in 1993 under section 144A.073, to be laid away upon 30 days' prior written notice to the commissioner. Beds on layaway status shall have the same status as voluntarily delicensed or decertified beds except that they shall remain subject to the surcharge in section 256.9657. The 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 (c). The property-related payment rate for the facility relicensing and recertifying beds from layaway status must be adjusted by the incremental change in its rental per diem after recalculating its rental per diem using the number of beds after the relicensing to establish the facility's capacity day divisor, which shall be effective the first day of the month following the month in which the relicensing and recertification became effective. Any beds remaining on layaway status more than five years after the date the layaway status became effective must be removed from layaway status and immediately delicensed and decertified;

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

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

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

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

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

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

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

(bb) to license and certify a new facility in St. Louis county with 44 beds constructed to replace an existing facility in St. Louis county with 31 beds, which has resident rooms on two separate floors and an antiquated elevator that creates safety concerns for residents and prevents nonambulatory residents from residing on the second floor. The project shall include the elimination of three- and four-bed rooms;

(cc) to license and certify four beds in a 16-bed certified boarding care home in Minneapolis to replace beds that were voluntarily delicensed and decertified on or before March 31, 1992. The licensure and certification is conditional upon the facility periodically assessing and adjusting its resident mix and other factors which may contribute to a potential institution for mental disease declaration. The commissioner of human services shall retain the authority to audit the facility at any time and shall require the facility to comply with any requirements necessary to prevent an institution for mental disease declaration, including delicensure and decertification of beds, if necessary; or

(dd) to license and certify 72 beds in an existing facility in Mille Lacs county with 80 beds as part of a renovation project. The renovation must include construction of an addition to accommodate ten residents with beginning and midstage dementia in a self-contained living unit; creation of three resident households where dining, activities, and support spaces are located near resident living quarters; designation of four beds for rehabilitation in a self-contained area; designation of 30 private rooms; and other improvements;

(ee) to license and certify beds in a facility that has undergone replacement or remodeling as part of a planned closure under section 256B.437;

(ff) to license and certify a total replacement project of up to 124 beds located in Wilkin county that are in need of relocation from a nursing home substantially destroyed by flood. The operating cost payment rates for the new nursing facility shall be determined based on the interim and settle-up payment provisions of Minnesota Rules, part 9549.0057, and the reimbursement provisions of section 256B.431, except that section 256B.431, subdivision 26, paragraphs (a) and (b), shall not apply until the second rate year after the settle-up cost report is filed. Property-related reimbursement rates shall be determined under section 256B.431, taking into account any federal or state flood-related loans or grants provided to the facility;

(gg) to allow the commissioner of human services to license an additional nine beds to provide residential services for the physically handicapped under Minnesota Rules, parts 9570.2000 to 9570.3400, in a 215-bed nursing home located in Duluth, provided that the total number of licensed and certified beds at the facility does not increase;

(hh) to license and certify up to 120 new nursing facility beds to replace beds in a facility in Anoka county, which was licensed for 98 beds as of July 1, 2000, provided the new facility is located within four miles of the existing facility and is in Anoka county. Operating and property rates shall be determined and allowed under section 256B.431 and Minnesota Rules, parts 9549.0010 to 9549.0080, or section 256B.434 or 256B.435. The provisions of section 256B.431, subdivision 26, paragraphs (a) and (b), do not apply until the second rate year following settle-up; or

(ii) to transfer up to 98 beds of a 129-licensed bed facility located in Anoka county that, as of March 25, 2001, is in the active process of closing, to a 122-licensed bed nonprofit nursing facility located in the city of Columbia Heights or its affiliate. The transfer is effective when the receiving facility notifies the commissioner in writing of the number of beds accepted. The commissioner shall place all transferred beds on layaway status held in the name of the receiving facility. The layaway adjustment provisions of section 256B.431, subdivision 30, do not apply to this layaway. The receiving facility may only remove the beds from layaway for recertification and relicensure at the receiving facility's current site, or at a newly constructed facility located in Anoka county. The receiving facility must receive statutory authorization before removing these beds from layaway.

Sec. 6. Minnesota Statutes 2000, section 144A.073, subdivision 2, is amended to read:

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

- (1) whether the request is for renovation, replacement, upgrading, conversion, or relocation;
- (2) a description of the problem the project is designed to address;
- (3) a description of the proposed project;
- (4) an analysis of projected costs of the nursing facility proposal, which are not required to exceed the cost threshold referred to in section 144A.071, subdivision 1, to be considered under this section, including initial construction and remodeling costs; site preparation costs; technology costs; financing costs, including the current estimated long-term financing costs of the proposal, which consists of estimates of the amount and sources of money, reserves if required under the proposed funding mechanism, annual payments schedule, interest rates, length of term, closing costs and fees, insurance costs, and any completed marketing study or underwriting review; and estimated operating costs during the first two years after completion of the project;
- (5) for proposals involving replacement of all or part of a facility, the proposed location of the replacement facility and an estimate of the cost of addressing the problem through renovation;
- (6) for proposals involving renovation, an estimate of the cost of addressing the problem through replacement;
- (7) the proposed timetable for commencing construction and completing the project;
- (8) a statement of any licensure or certification issues, such as certification survey deficiencies;
- (9) the proposed relocation plan for current residents if beds are to be closed so that the department of human services can estimate the total costs of a proposal; and
- (10) other information required by permanent rule of the commissioner of health in accordance with subdivisions 4 and 8.

Sec. 7. Minnesota Statutes 2000, section 144A.073, subdivision 4, is amended to read:

Subd. 4. [CRITERIA FOR REVIEW.] The following criteria shall be used in a consistent manner to compare, evaluate, and rank all proposals submitted. Except for the criteria specified in clause (3), the application of criteria listed under this subdivision shall not reflect any distinction based on the geographic location of the proposed project:

(1) the extent to which the proposal furthers state long-term care goals, ~~including the goals stated in section 144A.31, and~~ including the goal of enhancing the availability and use of alternative care services and the goal of reducing the number of long-term care resident rooms with more than two beds;

(2) the proposal's long-term effects on state costs including the cost estimate of the project according to section 144A.071, subdivision 5a;

(3) the extent to which the proposal promotes equitable access to long-term care services in nursing homes through redistribution of the nursing home bed supply, as measured by the number of beds relative to the population 85 or older, projected to the year 2000 by the state demographer, and according to items (i) to (iv):

(i) reduce beds in counties where the supply is high, relative to the statewide mean, and increase beds in counties where the supply is low, relative to the statewide mean;

(ii) adjust the bed supply so as to create the greatest benefits in improving the distribution of beds;

(iii) adjust the existing bed supply in counties so that the bed supply in a county moves toward the statewide mean; and

(iv) adjust the existing bed supply so that the distribution of beds as projected for the year 2020 would be consistent with projected need, based on the methodology outlined in the interagency long-term care committee's ~~1993~~ nursing home bed distribution study;

(4) the extent to which the project improves conditions that affect the health or safety of residents, such as narrow corridors, narrow door frames, unenclosed fire exits, and wood frame construction, and similar provisions contained in fire and life safety codes and licensure and certification rules;

(5) the extent to which the project improves conditions that affect the comfort or quality of life of residents in a facility or the ability of the facility to provide efficient care, such as a relatively high number of residents in a room; inadequate lighting or ventilation; poor access to bathing or toilet facilities; a lack of available ancillary space for dining rooms, day rooms, or rooms used for other activities; problems relating to heating, cooling, or energy efficiency; inefficient location of nursing stations; narrow corridors; or other provisions contained in the licensure and certification rules;

(6) the extent to which the applicant demonstrates the delivery of quality care, as defined in state and federal statutes and rules, to residents as evidenced by the two most recent state agency certification surveys and the applicants' response to those surveys;

(7) the extent to which the project removes the need for waivers or variances previously granted by either the licensing agency, certifying agency, fire marshal, or local government entity; ~~and~~

(8) the extent to which the project increases the number of private or single bed rooms; and

(9) other factors that may be developed in permanent rule by the commissioner of health that evaluate and assess how the proposed project will further promote or protect the health, safety, comfort, treatment, or well-being of the facility's residents.

Sec. 8. [144A.185] [DEFINITIONS.]

Subdivision 1. [APPLICABILITY.] For purposes of sections 144A.185 to 144A.1887, the terms defined in this section have the meanings given them.

Subd. 2. [CLOSURE.] "Closure" means the cessation of operations of a nursing home and the delicensure or decertification of all beds within the facility.

Subd. 3. [CURTAILMENT, REDUCTION, OR CHANGE IN OPERATIONS.] "Curtailment, reduction, or change in operations" means any change in operations or services that would result in or encourage the relocation of residents.

Subd. 4. [FACILITY.] "Facility" means a licensed nursing home or a certified boarding care home licensed according to sections 144.50 to 144.56.

Subd. 5. [LICENSEE.] "Licensee" means the owner of the facility or the owner's designee or the commissioner of health for a facility in receivership.

Subd. 6. [LOCAL AGENCY.] "Local agency" means a county or a multicounty social service agency authorized under section 393.01 as the agency responsible for providing social services for the county in which the facility is located.

Subd. 7. [PLAN.] "Plan" means a process developed under section 144A.186 for the closure or curtailment, reduction, or change in operations of a facility and for the subsequent relocation of residents.

Subd. 8. [RELOCATION.] "Relocation" means the discharge of a resident and movement of the resident to another facility or living arrangement as a result of a closure or curtailment, reduction, or change in operations of a facility.

Sec. 9. [144A.1855] [INITIAL NOTICE.]

Subdivision 1. [NOTIFICATION; PARTIES.] A licensee shall notify the following parties in writing when there is an intent to close or curtail, reduce, or change operations which would result in or encourage the relocation of residents:

- (1) the commissioner of health;
- (2) the commissioner of human services;
- (3) the local agency;
- (4) the office of the ombudsman for older Minnesotans; and
- (5) the office of the ombudsman for mental health and mental retardation.

Subd. 2. [NOTICE REQUIREMENTS.] The written notice shall include the names, telephone numbers, fax numbers, and e-mail addresses of the persons in the facility who are responsible for coordinating the facility's efforts in the planning process and the number of residents potentially affected by the closure or curtailment, reduction, or change in operations.

Sec. 10. [144A.186] [PLANNING PROCESS.]

Subdivision 1. [LOCAL AGENCY REQUIREMENTS.] (a) A local agency, within five working days of receiving an initial notice from a licensee according to section 144A.1855, shall provide all parties identified in section 144A.1855, subdivision 1, with the names, telephone numbers, fax numbers, and e-mail addresses of those persons who are responsible for coordinating local agency efforts in the planning process.

(b) Within ten working days of receipt of the notice under paragraph (a), the local agency and licensee shall meet to develop the relocation plan under subdivision 2. The local agency shall inform the departments of health and human services, the office of the ombudsman for older Minnesotans, and the office of the ombudsman for mental health and mental retardation of the date, time, and location of the meeting so that their representatives may attend. The relocation plan must be completed within 45 days, but may be completed earlier according to a schedule agreed to by all parties.

Subd. 2. [RELOCATION PLAN.] (a) The plan shall:

- (1) identify the expected date of closure or curtailment, reduction, or change in operations;
- (2) outline the process for public notification of the closure or curtailment, reduction, or change in operations;
- (3) outline the process to ensure 60-day advance written notice to residents, family members, and designated representatives of residents;
- (4) present an aggregate description of the resident population remaining to be relocated and the population's needs;
- (5) outline the individual resident assessment process to be used;
- (6) identify an inventory of available relocation options, including home and community-based services;
- (7) identify a timeline for submission of the list required under section 144A.1865, subdivision 3; and
- (8) identify a schedule for each element of the plan.

(b) All parties to the plan shall refrain from any public notification of the intent to close or curtail, reduce, or change operations until a relocation plan has been established.

Sec. 11. [144A.1865] [REQUIREMENTS OF LICENSEE.]

Subdivision 1. [RELOCATION.] The licensee shall provide for the safe, orderly, and appropriate relocation of residents. The licensee and facility staff shall cooperate with representatives from the local agency, the departments of health and human services, the office of the ombudsman for older Minnesotans, and the office of the ombudsman for mental health and mental retardation in planning for and implementing the relocation of residents.

Subd. 2. [INTERDISCIPLINARY TEAM.] The licensee shall establish an interdisciplinary team responsible for coordinating and implementing the plan under section 144A.186, subdivision 2. The interdisciplinary team shall include representatives from the local agency, the office of the ombudsman for older Minnesotans, facility staff who provide direct care services to the residents, and the facility administration.

Subd. 3. [RESIDENT LISTS.] The licensee shall provide a list to the local agency that includes the following information on each resident to be relocated:

- (1) name;
- (2) date of birth;
- (3) social security number;
- (4) medical assistance ID number;

(5) all diagnoses; and

(6) name of and contact information for the resident's family or other designated representative.

Subd. 4. [CONSULTATION WITH LOCAL AGENCY.] The licensee shall consult with the local agency on the availability and development of resources and in the resident relocation process.

[EFFECTIVE DATE.] This section is effective the day following final enactment.

Sec. 12. [144A.187] [RESIDENT AND PHYSICIAN NOTICE.]

Subdivision 1. [RESIDENT NOTICE REQUIRED.] (a) At least 60 days before the proposed date of closure or curtailment, reduction, or change in operations as agreed to in the plan under section 144A.186, the licensee shall send a written notice of closure or curtailment, reduction, or change in operations to each resident being relocated, the resident's family member or designated representative, and the resident's attending physician.

(b) The notice must include:

(1) the date of the proposed closure or curtailment, reduction, or change in operations;

(2) the name, address, telephone number, fax number, and e-mail address of the individuals in the facility responsible for providing assistance and information;

(3) a notice of upcoming meetings for residents, families and designated representatives, and resident and family councils to discuss the relocation of residents;

(4) the name, address, and telephone number of the local agency contact person;

(5) the name, address, and telephone number of the office of the ombudsman for older Minnesotans and the office of the ombudsman for mental health and mental retardation; and

(6) a notice of resident rights during discharge and relocation.

(c) The notice to residents must comply with all applicable state and federal requirements for notice of transfer or discharge of nursing home residents.

Subd. 2. [MEDICAL INFORMATION REQUEST.] The licensee shall request the attending physician to furnish the licensee with, or arrange for the release of, any medical information needed to update a resident's medical records and to prepare transfer forms and discharge summaries.

Sec. 13. [144A.1875] [RELOCATION OF RESIDENTS.]

Subdivision 1. [PREPARATION; PLACEMENT INFORMATION.] A licensee shall provide sufficient preparation to residents to ensure safe, orderly, and appropriate discharge and relocation. The facility is responsible for assisting residents in finding placement within the resident's desired geographic location using the Senior LinkAge database of the department of human services. By January 1, 2002, Senior LinkAge line shall make available via a Web site the name, address, and telephone and fax numbers of each facility with available beds, the certification level of the available beds, the types of services available, and the number of beds that are available as updated daily by the licensee. The Web site shall include the information required by section 256.975, subdivision 7, paragraph (b), clause (1), and home and community-based services and other options for individuals with special needs. The licensee must provide residents, their families or designated representatives, the office of the ombudsman for older Minnesotans, the office of the ombudsman for mental health and mental retardation, and the local agency with the toll-free number and Web site address for the Senior LinkAge line.

Subd. 2. [RESIDENT AND FAMILY MEETINGS.] After preparing the plan according to section 144A.186, the licensee shall conduct meetings with residents, families and designated representatives, and resident and family councils to notify them of the process for resident relocation. Representatives from the local agency, the office of the ombudsman for older Minnesotans, the office of the ombudsman for mental health and mental retardation, the departments of health and human services shall receive advance notice of these meetings.

Subd. 3. [PERSONAL PROPERTY.] (a) The licensee shall update the inventory of residents' personal possessions and provide a copy of the final inventory to each resident and the resident's family or designated representative prior to the relocation of the resident. The licensee is responsible for the timely transfer of a resident's possessions for all relocations within the state and within a 50-mile radius of the facility for relocations outside the state.

(b) The licensee shall complete a final accounting of personal funds held in trust by the licensee and provide a copy of the accounting to each resident and the resident's family or designated representative. The licensee is responsible for the timely transfer of all personal funds held in trust by the licensee.

Subd. 4. [SITE VISITS.] The licensee is responsible for assisting residents desiring to make site visits to facilities or other placements to which the resident may be relocated, unless it is medically inadvisable, as documented by the attending physician in the resident's care record. The licensee shall provide, or make arrangements for, transportation for site visits to facilities or other placements within a 50-mile radius.

Subd. 5. [FINAL NOTICE OF RELOCATION.] (a) Before relocating a resident, the licensee shall provide a final written notice to the resident, the resident's family or designated representative, and the resident's attending physician.

(b) The final written notice shall:

(1) be provided seven days before the relocation of a resident, unless the resident agrees to waive the resident's right to advance notice; and

(2) identify the date of the anticipated relocation and the location to which the resident is being relocated.

Subd. 6. [ADMINISTRATIVE DUTIES.] (a) All administrative duties of the licensee under subdivisions 1, 2, 4, and 5 must be completed before relocation of a resident.

(b) The licensee is responsible for providing the receiving facility or other health, housing, or care entity with a complete and accurate resident record, including information on family members, designated representatives, guardians, social service caseworkers, and other contact information. The record must also include all information necessary to provide appropriate medical care and social services, including, but not limited to, information on preadmission screening, Level I and Level II screening, minimum data set and all other assessments, resident diagnosis, behavior, and medication.

(c) For residents with special care needs, the licensee shall consult with the receiving facility or other placement entity and provide staff training or other preparation as needed to assist in providing for the special needs.

(d) The licensee shall assist residents with the transfer or reconnection of telephone service. The licensee shall bear all costs associated with reestablishing telephone service.

Subd. 7. [TRANSPORTATION; CONTINUITY OF CARE.] The licensee shall make arrangements or provide for the transportation of residents to the new facility or placement within the state or within a 50-mile radius for relocations outside the state. The licensee shall provide a staff person to accompany the resident during transportation, upon request of the resident, the resident's family, or designated representative. The discharge and relocation of residents must comply with all applicable state and federal requirements and must be conducted in a safe, orderly, and appropriate manner. The licensee must ensure that there is no disruption in providing meals, medications, or treatments of a resident during the relocation process.

Sec. 14. [144A.1885] [RELOCATION REPORTS.]

(a) Beginning the week following development of the initial relocation plan under section 144A.186, the licensee shall submit weekly status reports to the commissioners of health and human services, or their designees, and to the local agency.

(b) The first status report must identify the relocation plan developed under section 144A.186, the interdisciplinary team members, and the number of residents to be relocated.

(c) Subsequent status reports must note any modifications to the relocation plan, any change of interdisciplinary team members or number of residents relocated, the placement destination to which residents have been relocated, and the number of residents remaining to be relocated. Subsequent status reports must also identify issues or problems encountered during the relocation process and the resolution of these issues.

Sec. 15. [144A.1886] [REQUIREMENTS OF LOCAL AGENCY.]

Subdivision 1. [MEETING; REPRESENTATION.] (a) The local agency with the licensee shall convene a meeting to develop a plan according to section 144A.186, subdivision 1, paragraph (b).

(b) The local agency shall designate a representative to the interdisciplinary team established by the licensee responsible for coordinating the relocation efforts.

Subd. 2. [RESOURCE.] (a) The local agency shall serve as a resource in the relocation process.

(b) Concurrent with the notice sent to residents from the licensee according to section 144A.187, subdivision 1, the local agency shall provide written notice to residents, family members, and designated representatives describing:

(1) the local agency's role in the relocation process and in the follow-up to relocation;

(2) a local agency contact name, address, and telephone number; and

(3) the name, address, and telephone number of the office of the ombudsman for older Minnesotans and the office of the ombudsman for mental health and mental retardation.

(c) The local agency is responsible for the safe and orderly relocation of residents in cases where an emergent need arises or when the licensee has abrogated the licensee's responsibilities under the relocation plan.

Subd. 3. [COORDINATION; OVERSIGHT.] (a) The local agency shall meet with appropriate facility staff to coordinate any assistance. Coordination shall include participating in group meetings with residents, family members, and designated representatives to explain the transfer or relocation process.

(b) The local agency shall monitor compliance with all components of the relocation plan. When the licensee is not in compliance, the local agency shall notify the commissioners of health and human services.

(c) Except as requested by the resident, family member, or designated representative and within the parameters of the Vulnerable Adults Act, the local agency may halt a relocation that it deems inappropriate or dangerous to the health or safety of a resident.

Subd. 4. [FOLLOW-UP REVIEW.] (a) A member of the local agency staff shall visit residents relocated within 100 miles of the county within 30 days after a relocation. Local agency staff shall interview the resident and family member or designated representative or shall observe the resident on-site, or both, and review and discuss pertinent medical or social records with appropriate facility staff to assess the adjustment of the resident to the new placement, recommend services or methods to meet any special needs of the resident, and identify residents at risk.

(b) The local agency may conduct subsequent follow-up visits in cases where the adjustment of the resident to the new placement is in question.

(c) Within 60 days of the completion of the follow-up visits, the local agency shall submit a written summary of the follow-up work to the commissioners of health and human services, in a manner approved by the commissioners.

(d) The local agency shall submit a report of any issues that may require further review or monitoring to the commissioner of health.

Sec. 16. [144A.1887] [FUNDING.]

(a) Within 60 days of a nursing home ceasing operations, the commissioner of human services shall reimburse nursing homes that are reimbursed under sections 256B.431, 256B.434, and 256B.435 for operating costs incurred by the nursing home during the closure process. The amount to be reimbursed to the nursing home shall be determined by applying paragraphs (b) to (f).

(b) The facility shall provide the commissioner of human services with the nursing home's operating costs for the time period of 30 days prior to the notice specified under section 144A.16, to 30 days after the nursing home's closure.

(c) The nursing home shall provide the commissioner of human services with the number of medical assistance, Medicare, private pay, and other resident days for the period referenced in paragraph (b) by the 11 case mix categories.

(d) The commissioner of human services shall calculate a nursing home closure rate by dividing the facility operating costs in paragraph (b) by the total resident days in paragraph (c).

(e) The total closure costs attributable to medical assistance shall be determined by multiplying the nursing home closure rate in paragraph (d) by the medical assistance days provided by the nursing facility in paragraph (c).

(f) The amount to be reimbursed to the nursing home is equal to the total closure costs in paragraph (e) minus the sum of the nursing facility's 11 operating rates times their respective number of medical assistance days by case mix as referenced in paragraph (c).

Sec. 17. [144A.36] [TRANSITION PLANNING GRANTS.]

Subdivision 1. [DEFINITIONS.] "Eligible nursing home" means any nursing home licensed under sections 144A.01 to 144A.16 and certified by the appropriate authority under United States Code, title 42, sections 1396-1396p, to participate as a vendor in the medical assistance program established under chapter 256B.

Subd. 2. [GRANTS AUTHORIZED.] (a) The commissioner shall establish a program of transition planning grants to assist eligible nursing homes in implementing the provisions in paragraphs (b) and (c).

(b) Transition planning grants may be used by nursing homes to develop strategic plans which identify the appropriate institutional and noninstitutional settings necessary to meet the older adult service needs of the community.

(c) At a minimum, a strategic plan must consist of:

(1) a needs assessment to determine what older adult services are needed and desired by the community;

(2) an assessment of the appropriate settings in which to provide needed older adult services;

(3) an assessment identifying currently available services and their settings in the community; and

(4) a transition plan to achieve the needed outcome identified by the assessment.

Subd. 3. [ALLOCATION OF GRANTS.] (a) Eligible nursing homes must apply to the commissioner no later than September 1 of each fiscal year for grants awarded in that fiscal year. A grant shall be awarded upon signing of a grant contract.

(b) The commissioner must make a final decision on the funding of each application within 60 days of the deadline for receiving applications.

Subd. 4. [EVALUATION.] The commissioner shall evaluate the overall effectiveness of the grant program. The commissioner may collect, from the nursing homes receiving grants, the information necessary to evaluate the grant program. Information related to the financial condition of individual nursing homes shall be classified as nonpublic data.

Sec. 18. [144A.37] [ALTERNATIVE NURSING HOME SURVEY PROCESS.]

Subdivision 1. [ALTERNATIVE NURSING HOME SURVEY SCHEDULES.] (a) The commissioner of health shall implement alternative procedures for the nursing home survey process as authorized under this section.

(b) These alternative survey process procedures seek to: (1) use department resources more effectively and efficiently to target problem areas; (2) use other existing or new mechanisms to provide objective assessments of quality and to measure quality improvement; (3) provide for frequent collaborative interaction of facility staff and surveyors rather than a punitive approach; and (4) reward a nursing home that has performed very well by extending intervals between full surveys.

(c) The commissioner shall pursue changes in federal law necessary to accomplish this process and shall apply for any necessary federal waivers or approval. If a federal waiver is approved, the commissioner shall promptly submit, to the house and senate committees with jurisdiction over health and human services policy and finance, fiscal estimates for implementing the alternative survey process waiver. The commissioner shall also pursue any necessary federal law changes during the 107th Congress.

(d) The alternative nursing home survey schedule and related educational activities shall not be implemented until funding is appropriated by the legislature.

Subd. 2. [SURVEY INTERVALS.] The commissioner of health must extend the time period between standard surveys up to 30 months based on the criteria established in subdivision 4. In using the alternative survey schedule, the requirement for the statewide average to not exceed 12 months does not apply.

Subd. 3. [COMPLIANCE HISTORY.] The commissioner shall develop a process for identifying the survey cycles for skilled nursing facilities based upon the compliance history of the facility. This process can use a range of months for survey intervals. At a minimum, the process must be based on information from the last two survey cycles and shall take into consideration any deficiencies issued as the result of a survey or a complaint investigation during the interval. A skilled nursing facility with a finding of substandard quality of care or a finding of immediate jeopardy is not entitled to a survey interval greater than 12 months. The commissioner shall alter the survey cycle for a specific skilled nursing facility based on findings identified through the completion of a survey, a monitoring visit, or a complaint investigation. The commissioner must also take into consideration information other than the facility's compliance history.

Subd. 4. [CRITERIA FOR SURVEY INTERVAL CLASSIFICATION.] (a) The commissioner shall provide public notice of the classification process and shall identify the selected survey cycles for each skilled nursing facility. The classification system must be based on an analysis of the findings made during the past two standard survey intervals, but it only takes one survey or complaint finding to modify the interval.

(b) The commissioner shall also take into consideration information obtained from residents and family members in each skilled nursing facility and from other sources such as employees and ombudsmen in determining the appropriate survey intervals for facilities.

Subd. 5. [REQUIRED MONITORING.] (a) The commissioner shall conduct at least one monitoring visit on an annual basis for every skilled nursing facility which has been selected for a survey cycle greater than 12 months. The commissioner shall develop protocols for the monitoring visits which shall be less extensive than the requirements for a standard survey. The commissioner shall use the criteria in paragraph (b) to determine whether additional monitoring visits to a facility will be required.

(b) The criteria shall include, but not be limited to, the following:

(1) changes in ownership, administration of the facility, or direction of the facility's nursing service;

(2) changes in the facility's quality indicators which might evidence a decline in the facility's quality of care;

(3) reductions in staffing or an increase in the utilization of temporary nursing personnel; and

(4) complaint information or other information that identifies potential concerns for the quality of the care and services provided in the skilled nursing facility.

Subd. 6. [SURVEY REQUIREMENTS FOR FACILITIES NOT APPROVED FOR EXTENDED SURVEY INTERVALS.] The commissioner shall establish a process for surveying and monitoring of facilities which require a survey interval of less than 15 months. This information shall identify the steps that the commissioner must take to monitor the facility in addition to the standard survey.

Subd. 7. [IMPACT ON SURVEY AGENCY'S BUDGET.] The implementation of an alternative survey process for the state must not result in any reduction of funding that would have been provided to the state survey agency for survey and enforcement activity based upon the completion of full standard surveys for each skilled nursing facility in the state.

Subd. 8. [EDUCATIONAL ACTIVITIES.] The commissioner shall expand the state survey agency's ability to conduct training and educational efforts for skilled nursing facilities, residents and family members, residents and family councils, long-term care ombudsman programs, and the general public.

Subd. 9. [EVALUATION.] The commissioner shall develop a process for the evaluation of the effectiveness of an alternative survey process conducted under this section.

[EFFECTIVE DATE.] This section is effective the day following final enactment.

Sec. 19. [144A.38] [INNOVATIONS IN QUALITY DEMONSTRATION GRANTS.]

Subdivision 1. [PROGRAM ESTABLISHED.] The commissioner of health and the commissioner of human services shall establish a long-term care grant program that demonstrates best practices and innovation for long-term care service delivery and housing. The grants must fund demonstrations that create new means and models for serving the elderly or demonstrate creativity in service provision through the scope of their program or service.

Subd. 2. [ELIGIBILITY.] Grants may only be made to those who provide direct service or housing to the elderly within the state. Grants may only be made for projects that show innovations and measurable improvement in resident care, quality of life, use of technology, or customer satisfaction.

Subd. 3. [AWARDING OF GRANTS.] (a) Applications for grants must be made to the commissioners on forms prescribed by the commissioners.

(b) The commissioners shall review applications and award grants based on the following criteria:

- (1) improvement in direct care to residents;
- (2) increase in efficiency through the use of technology;
- (3) increase in quality of care through the use of technology;
- (4) increase in the access and delivery of service;
- (5) enhancement of nursing staff training;
- (6) the effectiveness of the project as a demonstration; and
- (7) the immediate transferability of the project to scale.

(c) In reviewing applications and awarding grants, the commissioners shall consult with long-term care providers, consumers of long-term care, long-term care researchers, and staff of other state agencies.

(d) Grants for eligible projects may not exceed \$100,000.

Sec. 20. [144A.39] [LONG-TERM CARE QUALITY PROFILES.]

Subdivision 1. [DEVELOPMENT AND IMPLEMENTATION OF QUALITY PROFILES.] (a) The commissioner of health and the commissioner of human services shall develop and implement a quality profile system for nursing facilities and, beginning not later than July 1, 2003, other providers of long-term care services, except when the quality profile system would duplicate requirements under sections 256B.5011 and 256B.5013. The system must be developed and implemented to the extent possible without the collection of new data. To the extent possible, the system must incorporate or be coordinated with information on quality maintained by area agencies on aging, long-term care trade associations, and other entities. The system must be designed to provide information on quality:

- (1) to consumers and their families to facilitate informed choices of service providers;
- (2) to providers to enable them to measure the results of their quality improvement efforts and compare quality achievements with other service providers; and
- (3) to public and private purchasers of long-term care services to enable them to purchase high-quality care.

(b) The system must be developed in consultation with the long-term care task force, area agencies on aging, and representatives of consumers, providers, and labor unions. Within the limits of available appropriations, the commissioners may employ consultants to assist with this project.

Subd. 2. [QUALITY MEASUREMENT TOOLS.] The commissioners shall identify and apply existing quality measurement tools to:

- (1) emphasize quality of care and its relationship to quality of life; and
- (2) address the needs of various users of long-term care services, including, but not limited to, short-stay residents, persons with behavioral problems, persons with dementia, and persons who are members of minority groups.

The tools must be identified and applied, to the extent possible, without requiring providers to supply information beyond current state and federal requirements.

Subd. 3. [CONSUMER SURVEYS.] Following identification of the quality measurement tool, the commissioners shall conduct surveys of long-term care service consumers to develop quality profiles of providers. To the extent possible, surveys must be conducted face-to-face by state employees or contractors. At the discretion of the commissioners, surveys may be conducted by telephone or by provider staff. Surveys must be conducted periodically to update quality profiles of individual service providers.

Subd. 4. [DISSEMINATION OF QUALITY PROFILES.] By July 1, 2002, the commissioners shall implement a system to disseminate the quality profiles developed from consumer surveys using the quality measurement tool. Profiles must be disseminated to the Senior LinkAge line and to consumers, providers, and purchasers of long-term care services through all feasible printed and electronic outlets. The commissioners shall conduct a public awareness campaign to inform potential users regarding profile contents and potential uses.

Sec. 21. Minnesota Statutes 2000, section 256B.431, subdivision 17, is amended to read:

Subd. 17. [SPECIAL PROVISIONS FOR MORATORIUM EXCEPTIONS.] (a) Notwithstanding Minnesota Rules, part 9549.0060, subpart 3, for rate periods beginning on October 1, 1992, and for rate years beginning after June 30, 1993, a nursing facility that (1) has completed a construction project approved under section 144A.071, subdivision 4a, clause (m); (2) has completed a construction project approved under section 144A.071, subdivision 4a, and effective after June 30, 1995; or (3) has completed a renovation, replacement, or upgrading project approved under the moratorium exception process in section 144A.073 shall be reimbursed for costs directly identified to that project as provided in subdivision 16 and this subdivision.

(b) Notwithstanding Minnesota Rules, part 9549.0060, subparts 5, item A, subitems (1) and (3), and 7, item D, allowable interest expense on debt shall include:

(1) interest expense on debt related to the cost of purchasing or replacing depreciable equipment, excluding vehicles, not to exceed six percent of the total historical cost of the project; and

(2) interest expense on debt related to financing or refinancing costs, including costs related to points, loan origination fees, financing charges, legal fees, and title searches; and issuance costs including bond discounts, bond counsel, underwriter's counsel, corporate counsel, printing, and financial forecasts. Allowable debt related to items in this clause shall not exceed seven percent of the total historical cost of the project. To the extent these costs are financed, the straight-line amortization of the costs in this clause is not an allowable cost; and

(3) interest on debt incurred for the establishment of a debt reserve fund, net of the interest earned on the debt reserve fund.

(c) Debt incurred for costs under paragraph (b) is not subject to Minnesota Rules, part 9549.0060, subpart 5, item A, subitem (5) or (6).

(d) The incremental increase in a nursing facility's rental rate, determined under Minnesota Rules, parts 9549.0010 to 9549.0080, and this section, resulting from the acquisition of allowable capital assets, and allowable debt and interest expense under this subdivision shall be added to its property-related payment rate and shall be effective on the first day of the month following the month in which the moratorium project was completed.

(e) Notwithstanding subdivision 3f, paragraph (a), for rate periods beginning on October 1, 1992, and for rate years beginning after June 30, 1993, the replacement-costs-new per bed limit to be used in Minnesota Rules, part 9549.0060, subpart 4, item B, for a nursing facility that has completed a renovation, replacement, or upgrading project that has been approved under the moratorium exception process in section 144A.073, or that has completed an addition to or replacement of buildings, attached fixtures, or land improvements for which the total historical cost exceeds the lesser of \$150,000 or ten percent of the most recent appraised value, must be \$47,500 per licensed bed in multiple-bed rooms and \$71,250 per licensed bed in a single-bed room. These amounts must be adjusted annually as specified in subdivision 3f, paragraph (a), beginning January 1, 1993.

(f) For purposes of this paragraph, a total replacement means the complete replacement of the nursing facility's physical plant through the construction of a new physical plant, the transfer of the nursing facility's license from one physical plant location to another, or a new building addition to relocate beds from three- and four-bed wards. For total replacement projects completed on or after July 1, 1992, the commissioner shall compute the incremental change in the nursing facility's rental per diem, for rate years beginning on or after July 1, 1995, by replacing its appraised value, including the historical capital asset costs, and the capital debt and interest costs with the new nursing facility's allowable capital asset costs and the related allowable capital debt and interest costs. If the new nursing facility has decreased its licensed capacity, the aggregate investment per bed limit in subdivision 3a, paragraph (c), shall apply. If the new nursing facility has retained a portion of the original physical plant for nursing facility usage, then a portion of the appraised value prior to the replacement must be retained and included in the calculation of the incremental change in the nursing facility's rental per diem. For purposes of this part, the original nursing facility means the nursing facility prior to the total replacement project. The portion of the appraised value to be retained shall be calculated according to clauses (1) to (3):

(1) The numerator of the allocation ratio shall be the square footage of the area in the original physical plant which is being retained for nursing facility usage.

(2) The denominator of the allocation ratio shall be the total square footage of the original nursing facility physical plant.

(3) Each component of the nursing facility's allowable appraised value prior to the total replacement project shall be multiplied by the allocation ratio developed by dividing clause (1) by clause (2).

In the case of either type of total replacement as authorized under section 144A.071 or 144A.073, the provisions of this subdivision shall also apply. For purposes of the moratorium exception authorized under section 144A.071, subdivision 4a, paragraph (s), if the total replacement involves the renovation and use of an existing health care facility physical plant, the new allowable capital asset costs and related debt and interest costs shall include first the allowable capital asset costs and related debt and interest costs of the renovation, to which shall be added the allowable capital asset costs of the existing physical plant prior to the renovation, and if reported by the facility, the related allowable capital debt and interest costs.

(g) Notwithstanding Minnesota Rules, part 9549.0060, subpart 11, item C, subitem (2), for a total replacement, as defined in paragraph (f), authorized under section 144A.071 or 144A.073 after July 1, 1999, or any building project that is a relocation, renovation, upgrading, or conversion ~~authorized under section 144A.073, completed on or after July 1, 2001~~, the replacement-costs-new per bed limit shall be \$74,280 per licensed bed in multiple-bed rooms, \$92,850 per licensed bed in semiprivate rooms with a fixed partition separating the resident beds, and \$111,420 per licensed bed in single rooms. Minnesota Rules, part 9549.0060, subpart 11, item C, subitem (2), does not apply. These amounts must be adjusted annually as specified in subdivision 3f, paragraph (a), beginning January 1, 2000.

(h) For a total replacement, as defined in paragraph (f), authorized under section 144A.073 for a 96-bed nursing home in Carlton county, the replacement-costs-new per bed limit shall be \$74,280 per licensed bed in multiple-bed rooms, \$92,850 per licensed bed in semiprivate rooms with a fixed partition separating the resident's beds, and \$111,420 per licensed bed in a single room. Minnesota Rules, part 9549.0060, subpart 11, item C, subitem (2), does not apply. The resulting maximum allowable replacement-costs-new multiplied by 1.25 shall constitute the project's dollar threshold for purposes of application of the limit set forth in section 144A.071, subdivision 2. The commissioner of health may waive the requirements of section 144A.073, subdivision 3b, paragraph (b), clause (2), on the condition that the other requirements of that paragraph are met.

(i) For a renovation authorized under section 144A.073 for a 65-bed nursing home in St. Louis county, the incremental increase in rental rate for purposes of paragraph (d) shall be \$8.16, and the total replacement cost, allowable appraised value, allowable debt, and allowable interest shall be increased according to the incremental increase.

(j) For a total replacement, as defined in paragraph (f), authorized under section 144A.073 involving a new building addition that relocates beds from three-bed wards for an 80-bed nursing home in Redwood county, the replacement-costs-new per bed limit shall be \$74,280 per licensed bed for multiple-bed rooms; \$92,850 per licensed bed for semiprivate rooms with a fixed partition separating the beds; and \$111,420 per licensed bed for single rooms. These amounts shall be adjusted annually, beginning January 1, 2001. Minnesota Rules, part 9549.0060, subpart 11, item C, subitem (2), does not apply. The resulting maximum allowable replacement-costs-new multiplied by 1.25 shall constitute the project's dollar threshold for purposes of application of the limit set forth in section 144A.071, subdivision 2. The commissioner of health may waive the requirements of section 144A.073, subdivision 3b, paragraph (b), clause (2), on the condition that the other requirements of that paragraph are met.

Sec. 22. Minnesota Statutes 2000, section 256B.431, is amended by adding a subdivision to read:

Subd. 31. [PAYMENT DURING FIRST 90 DAYS.] (a) For rate years beginning on or after July 1, 2001, the total payment rate for a facility reimbursed under this section, section 256B.434, or any other section for the first 90 days after admission shall be:

(1) for the first 30 paid days, the rate shall be 120 percent of the facility's medical assistance rate for each case mix class; and

(2) for the next 60 days after the first 30 paid days, the rate shall be 110 percent of the facility's medical assistance rate for each case mix class.

(b) Beginning with the 91st paid day after admission, the payment rate shall be the rate otherwise determined under this section, section 256B.434, or any other section.

(c) This subdivision applies to admissions occurring on or after July 1, 2001.

Sec. 23. Minnesota Statutes 2000, section 256B.431, is amended by adding a subdivision to read:

Subd. 32. [NURSING FACILITY RATE INCREASES BEGINNING JULY 1, 2001, AND JULY 1, 2002.] For the rate years beginning July 1, 2001, and July 1, 2002, the commissioner shall make available to each nursing facility reimbursed under this section or section 256B.434 an adjustment equal to 3.0 percent of the total operating payment rate. The operating payment rates in effect on June 30, 2001, and June 30, 2002, respectively, shall include the adjustment in subdivision 2i, paragraph (c).

Sec. 24. Minnesota Statutes 2000, section 256B.431, is amended by adding a subdivision to read:

Subd. 33. [ADDITIONAL INCREASES FOR LOW RATE METROPOLITAN AREA FACILITIES.] After the calculation of the increase for the rate year beginning July 1, 2001, in subdivision 31, the commissioner must provide for special increases to facilities determined to be the lowest rate facilities in state development region 11, as defined in section 462.385. Within this region, the commissioner shall identify the median nursing facility rate by case mix category for all nursing facilities under section 256B.431 or 256B.434. Nursing home rates that are below the median must be adjusted to the greater of their current rates or 98 percent of the region median. Certified boarding care home rates that are below the median must be adjusted to the greater of their current rates or 90 percent of the region median.

Sec. 25. Minnesota Statutes 2000, section 256B.431, is amended by adding a subdivision to read:

Subd. 34. [RATE FLOOR FOR FACILITIES LOCATED OUTSIDE THE METROPOLITAN AREA.] (a) For the rate year beginning July 1, 2001, the commissioner shall adjust operating costs per diem for nursing facilities located outside of state development region 11, as defined in section 462.385, reimbursed under this section and sections 256B.434 and 256B.435, as provided in this subdivision.

(b) For each nursing facility, the commissioner shall compare the operating costs per diem listed in this paragraph to the operating costs per diem the facility would otherwise receive for the July 1, 2001, rate year after provision of any other rate increases required by this chapter.

<u>Case mix classification</u>	<u>Operating costs per diem</u>
<u>A</u>	<u>\$ 67.02</u>
<u>B</u>	<u>\$ 73.00</u>
<u>C</u>	<u>\$ 79.77</u>
<u>D</u>	<u>\$ 85.94</u>
<u>E</u>	<u>\$ 92.32</u>
<u>F</u>	<u>\$ 92.72</u>
<u>G</u>	<u>\$ 98.13</u>
<u>H</u>	<u>\$108.40</u>
<u>I</u>	<u>\$112.03</u>
<u>J</u>	<u>\$117.67</u>
<u>K</u>	<u>\$129.55</u>

(c) If a facility's total reimbursement for operating costs, using the case mix classification operating costs per diem listed in paragraph (b), is greater than the total reimbursement for operating costs the facility would otherwise receive, the commissioner shall calculate operating costs per diem for that facility for the rate year beginning July 1, 2001, using the case mix classification operating costs per diem listed in paragraph (b).

(d) If a facility's total reimbursement for operating costs, using the case mix classification costs per diem listed in paragraph (b), is less than the total reimbursement for operating costs the facility would otherwise receive, the commissioner shall reimburse that facility for the rate year beginning July 1, 2001, as provided in this section, section 256B.434, or 256B.435, whichever is applicable, and shall not calculate operating costs per diem for that facility using the case mix classification operating costs per diem listed in paragraph (b).

Sec. 26. Minnesota Statutes 2000, section 256B.431, is amended by adding a subdivision to read:

Subd. 35. [EXCLUSION OF RAW FOOD COST ADJUSTMENT.] For rate years beginning on or after July 1, 2001, in calculating a nursing facility's operating cost per diem for the purposes of constructing an array of nursing facility payment rates to be used to determine future rate increases under this section, section 256B.434, or any other section, the commissioner shall exclude adjustments for raw food costs under subdivision 2b, paragraph (h), that are related to providing special diets based on religious beliefs.

Sec. 27. Minnesota Statutes 2000, section 256B.434, subdivision 4, is amended to read:

Subd. 4. [ALTERNATE RATES FOR NURSING FACILITIES.] (a) For nursing facilities which have their payment rates determined under this section rather than section 256B.431, the commissioner shall establish a rate under this subdivision. The nursing facility must enter into a written contract with the commissioner.

(b) A nursing facility's case mix payment rate for the first rate year of a facility's contract under this section is the payment rate the facility would have received under section 256B.431.

(c) A nursing facility's case mix payment rates for the second and subsequent years of a facility's contract under this section are the previous rate year's contract payment rates plus an inflation adjustment and an adjustment to include the cost of any increase in health department licensing fees for the facility taking effect on or after July 1, 2001. The index for the inflation adjustment must be based on the change in the Consumer Price Index-All Items (United States City average) (CPI-U) forecasted by Data Resources, Inc., as forecasted in the fourth quarter of the calendar year preceding the rate year. The inflation adjustment must be based on the 12-month period from

the midpoint of the previous rate year to the midpoint of the rate year for which the rate is being determined. For the rate years beginning on July 1, 1999, ~~and~~ July 1, 2000, July 1, 2001, and July 1, 2002, this paragraph shall apply only to the property-related payment rate, except that adjustments to include the cost of any increase in health department licensing fees taking effect on or after July 1, 2001, shall be provided. In determining the amount of the property-related payment rate adjustment under this paragraph, the commissioner shall determine the proportion of the facility's rates that are property-related based on the facility's most recent cost report.

(d) The commissioner shall develop additional incentive-based payments of up to five percent above the standard contract rate for achieving outcomes specified in each contract. The specified facility-specific outcomes must be measurable and approved by the commissioner. The commissioner may establish, for each contract, various levels of achievement within an outcome. After the outcomes have been specified the commissioner shall assign various levels of payment associated with achieving the outcome. Any incentive-based payment cancels if there is a termination of the contract. In establishing the specified outcomes and related criteria the commissioner shall consider the following state policy objectives:

- (1) improved cost effectiveness and quality of life as measured by improved clinical outcomes;
- (2) successful diversion or discharge to community alternatives;
- (3) decreased acute care costs;
- (4) improved consumer satisfaction;
- (5) the achievement of quality; or
- (6) any additional outcomes proposed by a nursing facility that the commissioner finds desirable.

Sec. 28. Minnesota Statutes 2000, section 256B.434, is amended by adding a subdivision to read:

Subd. 4c. [FACILITY RATE INCREASES EFFECTIVE JANUARY 1, 2002.] For the rate period beginning January 1, 2002, and for the rate year beginning July 1, 2002, a nursing facility in Morrison county licensed for 83 beds shall receive an increase of \$2.54 in each case mix payment rate to offset property tax payments due as a result of the facility's conversion from nonprofit to for-profit status. The increases under this subdivision shall be added following the determination under this chapter of the payment rate for the rate year beginning July 1, 2001, and shall be included in the facility's total payment rates for the purposes of determining future rates under this section or any other section.

Sec. 29. Minnesota Statutes 2000, section 256B.434, is amended by adding a subdivision to read:

Subd. 4d. [FACILITY RATE INCREASES EFFECTIVE JULY 1, 2001.] For the rate year beginning July 1, 2001, a nursing facility in Hennepin county licensed for 302 beds shall receive an increase of 29 cents in each case mix payment rate to correct an error in the cost-reporting system that occurred prior to the date that the facility entered the alternative payment demonstration project. The increases under this subdivision shall be added following the determination under this chapter of the payment rate for the rate year beginning July 1, 2001, and shall be included in the facility's total payment rates for the purposes of determining future rates under this section or any other section.

Sec. 30. Minnesota Statutes 2000, section 256B.434, is amended by adding a subdivision to read:

Subd. 4e. [RATE INCREASE EFFECTIVE JULY 1, 2001.] A nursing facility in Anoka county licensed for 98 beds as of July 1, 2000, shall receive an increase of \$10 in each case mix rate for the rate year beginning July 1, 2001. This increase shall be included in the facility's total payment rate for purposes of determining future rates under this section or any other section through June 30, 2004.

Sec. 31. Minnesota Statutes 2000, section 256B.434, subdivision 10, is amended to read:

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

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

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

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

Sec. 32. [256B.437] [IMPLEMENTATION OF A CASE MIX SYSTEM FOR NURSING FACILITIES BASED ON THE MINIMUM DATA SET.]

Subdivision 1. [SCOPE.] This section establishes the method and criteria used to determine resident reimbursement classifications based upon the assessments of residents of nursing homes and boarding care homes whose payment rates are established under section 256B.431, 256B.434, or 256B.435. Resident reimbursement classifications shall be established according to the 34 group, resource utilization groups, version III or RUG-III model as described in section 144.0724. Reimbursement classifications established under this section shall be implemented after June 30, 2002, but no later than January 1, 2003.

Subd. 2. [DEFINITIONS.] For purposes of this section, the following terms have the meanings given.

(a) [ASSESSMENT REFERENCE DATE.] "Assessment reference date" has the meaning given in section 144.0724, subdivision 2, paragraph (a).

(b) [CASE MIX INDEX.] "Case mix index" has the meaning given in section 144.0724, subdivision 2, paragraph (b).

(c) [INDEX MAXIMIZATION.] "Index maximization" has the meaning given in section 144.0724, subdivision 2, paragraph (c).

(d) [MINIMUM DATA SET.] "Minimum data set" has the meaning given in section 144.0724, subdivision 2, paragraph (d).

(e) [REPRESENTATIVE.] "Representative" has the meaning given in section 144.0724, subdivision 2, paragraph (e).

(f) [RESOURCE UTILIZATION GROUPS OR RUG.] "Resource utilization groups" or "RUG" has the meaning given in section 144.0724, subdivision 2, paragraph (f).

Subd. 3. [CASE MIX INDICES.] (a) The commissioner of human services shall assign a case mix index to each resident class based on the Health Care Financing Administration's staff time measurement study and adjusted for Minnesota-specific wage indices. The case mix indices assigned to each resident class shall be published in the Minnesota State Register at least 120 days prior to the implementation of the 34 group, RUG-III resident classification system.

(b) An index maximization approach shall be used to classify residents.

(c) After implementation of the revised case mix system, the commissioner of human services may annually rebase case mix indices and base rates using more current data on average wage rates and staff time measurement studies. This rebasing shall be calculated under subdivision 7, paragraph (b). The commissioner shall publish in the Minnesota State Register adjusted case mix indices at least 45 days prior to the effective date of the adjusted case mix indices.

Subd. 4. [RESIDENT ASSESSMENT SCHEDULE.] (a) Nursing facilities shall conduct and submit case mix assessments according to the schedule established by the commissioner of health under section 144.0724, subdivisions 4 and 5.

(b) The resident reimbursement classifications established under section 144.0724, subdivision 3, shall be effective the day of admission for new admission assessments. The effective date for significant change assessments shall be the assessment reference date. The effective date for annual and second quarterly assessments shall be the first day of the month following assessment reference date.

Subd. 5. [NOTICE OF RESIDENT REIMBURSEMENT CLASSIFICATION.] Nursing facilities shall provide notice to a resident of the resident's case mix classification according to procedures established by the commissioner of health under section 144.0724, subdivision 7.

Subd. 6. [RECONSIDERATION OF RESIDENT CLASSIFICATION.] Any request for reconsideration of a resident classification must be made under section 144.0724, subdivision 8.

Subd. 7. [RATE DETERMINATION UPON TRANSITION TO RUG-III PAYMENT RATES.] (a) The commissioner of human services shall determine payment rates at the time of transition to the RUG based payment model in a facility-specific, budget-neutral manner. The case mix indices as defined in subdivision 3 shall be used to allocate the case mix adjusted component of total payment across all case mix groups. To transition from the current calculation methodology to the RUG based methodology, the commissioner of health shall report to the commissioner of human services the resident days classified according to the categories defined in subdivision 3 for the 12-month reporting period ending September 30, 2001, for each nursing facility. The commissioner of human services shall use this data to compute the standardized days for the reporting period under the RUG system.

(b) The commissioner of human services shall determine the case mix adjusted component of the rate as follows:

(1) determine the case mix portion of the 11 case mix rates in effect on June 30, 2002, or the 34 case mix rates in effect on or after June 30, 2003;

(2) multiply each amount in clause (1) by the number of resident days assigned to each group for the reporting period ending September 30, 2001, or the most recent year for which data is available;

(3) compute the sum of the amounts in clause (2);

(4) determine the total RUG standardized days for the reporting period ending September 30, 2001, or the most recent year for which data is available using new indices calculated under subdivision 3, paragraph (c);

(5) divide the amount in clause (3) by the amount in clause (4) which shall be the average case mix adjusted component of the rate under the RUG method; and

(6) multiply this average rate by the case mix weight in subdivision 3 for each RUG group.

(c) The noncase mix component will be allocated to each RUG group as a constant amount to determine the transition payment rate. Any other rate adjustments that are effective on or after July 1, 2002, shall be applied to the transition rates determined under this section.

Sec. 33. [256B.4371] [NURSING FACILITY VOLUNTARY CLOSURES AND PLANNING AND DEVELOPMENT OF COMMUNITY-BASED ALTERNATIVES.]

Subdivision 1. [DEFINITIONS.] (a) The definitions in this subdivision apply to subdivisions 2 to 9.

(b) "Closure" means the cessation of operations of a nursing facility and delicensure and decertification of all beds within the facility.

(c) "Commencement of closure" means the date on which residents and designated representatives are notified of a planned closure according to sections 144A.185 to 144A.1887 as part of an approved closure plan.

(d) "Completion of closure" means the date on which the final resident of the nursing facility or nursing facilities designated for closure in an approved closure plan is discharged from the facility or facilities.

(e) "Closure plan" means a plan to close a nursing facility and reallocate the resulting savings to provide planned closure rate adjustments at other facilities.

(f) "Partial closure" means the delicensure and decertification of a portion of the beds within the facility.

(g) "Planned closure rate adjustment" means an increase in a nursing facility's operating rates resulting from a partial planned closure of a facility or a planned closure of another facility.

Subd. 2. [PLANNING AND DEVELOPMENT OF COMMUNITY BASED SERVICES.]

(a) The commissioner of human services shall establish a process to adjust the capacity and distribution of long-term care services to equalize the supply and demand for different types of services. This process must include community planning, expansion or establishment of needed services, and analysis of voluntary nursing facility closures.

(b) The purpose of this process is to support the planning and development of community-based services. This process must support early intervention, advocacy, and consumer protection while providing resources and incentives for expanded county planning and for nursing facilities to transition to meet community needs.

(c) The process shall support and facilitate expansion of community-based services under the county-administered alternative care program under section 256B.0913 and waivers for elderly under section 256B.0915, including the development of supportive services such as housing and transportation. The process shall utilize community assessments and planning developed for the community health services plan and plan update and for the community social services act plan.

(d) The addendum to the biennial plan shall be submitted annually, beginning in 2001, and shall include recommendations for development of community-based services. Both planning and implementation shall be implemented within the amount of funding made available to the county board for these purposes.

(e) The commissioner of health and the commissioner of human services, as appropriate, shall provide available data necessary for the county, including but not limited to data on nursing facility bed distribution, housing with services options, the closure of nursing facilities that occur outside of the planned closure process, and approval of planned closures in the county and contiguous counties.

(f) The plan, within the funding allocated, shall:

(1) identify the need for services based on demographic data, service availability, caseload information, and provider information;

(2) involve providers, consumers, cities, townships, businesses, and area agencies on aging in the planning process;

(3) address the availability of alternative care and elderly waiver services for eligible recipients;

(4) address the development of other supportive services, such as transit, housing, and workforce and economic development; and

(5) estimate the cost and timelines for development.

(g) The biennial plan addendum shall be coordinated with the county mental health plan for inclusion in the community health services plan and included as an addendum to the community social services plan.

(h) The county board having financial responsibility for persons present in another county shall cooperate with that county for planning and development of services.

(i) The county board shall cooperate in planning and development of community based services with other counties, as necessary, and coordinate planning for long-term care services that involve more than one county, within the funding allocated for these purposes.

(j) The commissioners of health and human services, in cooperation with county boards, shall report to the legislature by February 1 of each year, beginning February 1, 2002, regarding the development of community based services, transition or closure of nursing facilities, and consumer outcomes achieved, as documented by each county and reported to the commissioner by December 31 of each year.

(k) The process established by the commissioner of human services shall ensure:

(1) that counties consider multicounty service areas in developing services that may impact delivery efficiencies; and

(2) review and comment by the area agencies on aging, regional development commissions, where they exist, and other planning agencies of the biennial plan addendum.

Subd. 3. [REQUEST FOR APPLICATIONS FOR PLANNED CLOSURE OF NURSING FACILITIES.] (a) By July 15, 2001, the commissioner of human services shall implement and announce a program for closure or partial closure of nursing facilities. Names and identifying information provided in response to the announcement shall remain private unless approved, according to the timelines established in the plan. The announcement must specify:

(1) the criteria that will be used by the interagency long-term care planning committee established under section 144A.31 and the commissioner to approve or reject applications;

(2) a requirement for the submission of a letter of intent before the submission of an application;

(3) the information that must accompany an application;

(4) a schedule for letters of intent, applications, and consideration of applications for a minimum of four review processes to be conducted before June 30, 2003; and

(5) that applications may combine planned closure rate adjustments with moratorium exception funding, in which case a single application may serve both purposes.

Between October 1, 2001, and June 30, 2003, the commissioner shall approve planned closures of at least 5,140 nursing facility beds, with no more than 2,070 approved for closure prior to July 1, 2002, less the number of licensed beds in facilities that close during the same time period without approved closure plans or have notified the commissioner of health of their intent to close without an approved closure plan.

(b) A facility or facilities reimbursed under section 256B.431, 256B.434, or 256B.435 with a closure plan approved by the commissioner under subdivision 6 may assign a planned closure rate adjustment to another facility that is not closing or facilities that are not closing, or in the case of a partial closure, to the facility undertaking the partial closure. A facility may also elect to have a planned closure rate adjustment shared equally by the five nursing facilities with the lowest total operating payment rates in the state development region, designated under section 462.385, in which the facility receiving the planned closure rate adjustment is located. The planned closure rate adjustment must be calculated under subdivision 7. A planned closure rate adjustment under this section is effective on the first day of the month following completion of closure of all facilities designated for closure in the application and becomes part of the nursing facility's total operating payment rate.

Applicants may use the planned closure rate adjustment to allow for a property payment for a new nursing facility or an addition to an existing nursing facility. Applications approved under this paragraph are exempt from other requirements for moratorium exceptions under section 144A.073, subdivisions 2 and 3.

Facilities without a closure plan, or whose closure plan is not approved by the commissioner, are not eligible for a planned closure rate adjustment under subdivision 7. However, the commissioner shall calculate the amount the facility would have received under subdivision 7 and shall use this amount to provide equal rate adjustments to the five nursing facilities with the lowest total operating payment rates in the state development region, designated under section 462.385, in which the facility is located.

(c) To be considered for approval, an application must include:

(1) a description of the proposed closure plan, which must include identification of the facility or facilities to receive a planned closure rate adjustment and the amount and timing of a planned closure rate adjustment proposed for each facility;

(2) the proposed timetable for any proposed closure, including the proposed dates for announcement to residents, commencement of closure, and completion of closure;

(3) the proposed relocation plan for current residents of any facility designated for closure. The proposed relocation plan must be designed to comply with all applicable state and federal statutes and regulations, including, but not limited to, section 144A.16 and Minnesota Rules, parts 4655.6810 to 4655.6830, 4658.1600 to 4658.1690, and 9546.0010 to 9546.0060;

(4) a description of the relationship between the nursing facility that is proposed for closure and the nursing facility or facilities proposed to receive the planned closure rate adjustment. If these facilities are not under common ownership, copies of any contracts, purchase agreements, or other documents establishing a relationship or proposed relationship must be provided;

(5) documentation, in a format approved by the commissioner, that all the nursing facilities receiving a planned closure rate adjustment under the plan have accepted joint and several liability for recovery of overpayments under section 256B.0641, subdivision 2, for the facilities designated for closure under the plan; and

(6) an explanation of how the application coordinates with planning efforts under subdivision 2.

(d) The application must address the criteria listed in subdivision 4.

Subd. 4. [CRITERIA FOR REVIEW OF APPLICATION.] In reviewing and approving closure proposals, the commissioner shall consider, but not be limited to, the following criteria:

(1) improved quality of care and quality of life for consumers;

(2) closure of a nursing facility that has a poor physical plant;

(3) the existence of excess nursing facility beds, measured in terms of beds per thousand persons aged 85 or older. The excess must be measured in reference to:

(i) the county in which the facility is located;

(ii) the county and all contiguous counties;

(iii) the region in which the facility is located; or

(iv) the facility's service area.

The facility shall indicate in its proposal the area it believes is appropriate for this measurement. A facility in a county that is in the lowest quartile of counties with reference to beds per thousand persons aged 85 or older is not in an area of excess capacity;

(4) low-occupancy rates, provided that the unoccupied beds are not the result of a personnel shortage. In analyzing occupancy rates, the commissioner shall examine waiting lists in the applicant facility and at facilities in the surrounding area, as determined under clause (3);

(5) evidence of a community planning process to determine what services are needed and ensure that needed services are established;

(6) innovative use of reinvestment funds;

(7) innovative use planned for the closed facility's physical plant;

(8) evidence that the proposal serves the interests of the state; and

(9) evidence of other factors that affect the viability of the facility, including excessive nursing pool costs.

Subd. 5. [REVIEW AND APPROVAL OF PROPOSALS.] (a) The interagency long-term care planning committee may recommend that the commissioner of human services grant approval, within the limits established in subdivision 3, paragraph (a), to applications that satisfy the requirements of this section. The interagency committee may appoint an advisory review panel composed of representatives of counties, SAIL projects, consumers, and providers to review proposals and provide comments and recommendations to the committee. The commissioners of human services and health shall provide staff and technical assistance to the committee for the review and analysis of proposals. The commissioners of human services and health shall jointly approve or disapprove an application within 30 days after receiving the committee's recommendations.

(b) Approval of a planned closure expires 18 months after approval by the commissioner of human services, unless commencement of closure has begun.

(c) The commissioner of human services may change any provision of the application to which all parties agree.

Subd. 6. [PLANNED CLOSURE RATE ADJUSTMENT.] The commissioner of human services shall calculate the amount of the planned closure rate adjustment available under subdivision 3, paragraph (b), according to clauses (1) to (4):

(1) the amount available is the net reduction of nursing facility beds multiplied by \$2,080;

(2) the total number of beds in the nursing facility receiving the planned closure rate adjustment must be identified;

(3) capacity days are determined by multiplying the number determined under clause (2) by 365; and

(4) the planned closure rate adjustment is the amount available in clause (1), divided by capacity days determined under clause (3).

Subd. 7. [OTHER RATE ADJUSTMENTS.] Facilities receiving planned closure rate adjustments remain eligible for any applicable rate adjustments provided under section 256B.431, 256B.434, or any other section.

Subd. 8. [COUNTY COSTS.] The commissioner of human services shall allocate up to \$500 per nursing facility bed that is closing, within the limits of the appropriation specified for this purpose, to be used for relocation costs incurred by counties for planned closures under this section or resident relocation under sections 144A.185 to 144A.1887. To be eligible for this allocation, a county in which a nursing facility closes must provide to the commissioner a detailed statement in a form provided by the commissioner of additional costs, not to exceed \$500 per bed closed, that are directly incurred related to the county's required role in the relocation process.

Sec. 34. Minnesota Statutes 2000, section 256B.501, is amended by adding a subdivision to read:

Subd. 14. [ICF/MR RATE INCREASES BEGINNING JULY 1, 2001, AND JULY 1, 2002.] (a) For the rate periods beginning July 1, 2001, and July 1, 2002, the commissioner shall make available to each facility reimbursed under this section, section 256B.5011, and Laws 1993, First Special Session chapter 1, article 4, section 11, an adjustment to the total operating payment rate of 3.0 percent.

(b) For each facility, the commissioner shall determine the payment rate adjustment using the percentage specified in paragraph (a) multiplied by the total operating payment rate in effect on the last day of the prior rate year, and dividing the resulting amount by the facility's actual resident days. The total operating payment rate shall include the adjustment provided in subdivision 12.

(c) Any facility whose payment rates are governed by closure agreements, receivership agreements, or Minnesota Rules, part 9553.0075, is not eligible for an adjustment otherwise granted under this subdivision.

Sec. 35. Minnesota Statutes 2000, section 256B.76, is amended to read:

256B.76 [PHYSICIAN AND DENTAL REIMBURSEMENT.]

(a) Effective for services rendered on or after October 1, 1992, the commissioner shall make payments for physician services as follows:

(1) payment for level one Health Care Finance Administration's common procedural coding system (HCPCS) codes titled "office and other outpatient services," "preventive medicine new and established patient," "delivery, antepartum, and postpartum care," "critical care," ~~Caesarean~~ cesarean delivery and pharmacologic management provided to psychiatric patients, and HCPCS level three codes for enhanced services for prenatal high risk, shall be paid at the lower of (i) submitted charges, or (ii) 25 percent above the rate in effect on June 30, 1992. If the rate on any procedure code within these categories is different than the rate that would have been paid under the methodology in section 256B.74, subdivision 2, then the larger rate shall be paid;

(2) payments for all other services shall be paid at the lower of (i) submitted charges, or (ii) 15.4 percent above the rate in effect on June 30, 1992;

(3) all physician rates shall be converted from the 50th percentile of 1982 to the 50th percentile of 1989, less the percent in aggregate necessary to equal the above increases except that payment rates for home health agency services shall be the rates in effect on September 30, 1992;

(4) effective for services rendered on or after January 1, 2000, payment rates for physician and professional services shall be increased by three percent over the rates in effect on December 31, 1999, except for home health agency and family planning agency services; and

(5) the increases in clause (4) shall be implemented January 1, 2000, for managed care.

(b) Effective for services rendered on or after October 1, 1992, the commissioner shall make payments for dental services as follows:

(1) dental services shall be paid at the lower of (i) submitted charges, or (ii) 25 percent above the rate in effect on June 30, 1992;

(2) dental rates shall be converted from the 50th percentile of 1982 to the 50th percentile of 1989, less the percent in aggregate necessary to equal the above increases;

(3) effective for services rendered on or after January 1, 2000, payment rates for dental services shall be increased by three percent over the rates in effect on December 31, 1999;

(4) the commissioner shall award grants to community clinics or other nonprofit community organizations, political subdivisions, professional associations, or other organizations that demonstrate the ability to provide dental services effectively to public program recipients. Grants may be used to fund the costs related to coordinating access for recipients, developing and implementing patient care criteria, upgrading or establishing new facilities, acquiring furnishings or equipment, recruiting new providers, or other development costs that will improve access to dental care in a region. In awarding grants, the commissioner shall give priority to applicants that plan to serve areas of the state in which the number of dental providers is not currently sufficient to meet the needs of recipients of public programs or uninsured individuals. The commissioner shall consider the following in awarding the grants: (i) potential to successfully increase access to an underserved population; (ii) the ability to raise matching funds; (iii) the long-term viability of the project to improve access beyond the period of initial funding; (iv) the efficiency in the use of the funding; and (v) the experience of the proposers in providing services to the target population.

The commissioner shall monitor the grants and may terminate a grant if the grantee does not increase dental access for public program recipients. The commissioner shall consider grants for the following:

(i) implementation of new programs or continued expansion of current access programs that have demonstrated success in providing dental services in underserved areas;

(ii) a pilot program for utilizing hygienists outside of a traditional dental office to provide dental hygiene services; and

(iii) a program that organizes a network of volunteer dentists, establishes a system to refer eligible individuals to volunteer dentists, and through that network provides donated dental care services to public program recipients or uninsured individuals.

(5) beginning October 1, 1999, the payment for tooth sealants and fluoride treatments shall be the lower of (i) submitted charge, or (ii) 80 percent of median 1997 charges; and

(6) the increases listed in clauses (3) and (5) shall be implemented January 1, 2000, for managed care.

(c) An entity that operates both a Medicare certified comprehensive outpatient rehabilitation facility and a facility which was certified prior to January 1, 1993, that is licensed under Minnesota Rules, parts 9570.2000 to 9570.3600, and for whom at least 33 percent of the clients receiving rehabilitation services and mental health services in the most recent calendar year are medical assistance recipients, shall be reimbursed by the commissioner for rehabilitation services and mental health services at rates that are 38 percent greater than the maximum reimbursement rate allowed under paragraph (a), clause (2), when those services are (1) provided within the comprehensive outpatient rehabilitation facility and (2) provided to residents of nursing facilities owned by the entity.

Sec. 36. Laws 1995, chapter 207, article 3, section 21, as amended by Laws 1999, chapter 245, article 3, section 43, is amended to read:

Sec. 21. [FACILITY CERTIFICATION.]

(a) Notwithstanding Minnesota Statutes, section 252.291, subdivisions 1 and 2, the commissioner of health shall inspect to certify a large community-based facility currently licensed under Minnesota Rules, parts 9525.0215 to 9525.0355, for more than 16 beds and located in Northfield. The facility may be certified for up to 44 beds. The commissioner of health must inspect to certify the facility as soon as possible after the effective date of this section. The commissioner of human services shall work with the facility and affected counties to relocate any current residents of the facility who do not meet the admission criteria for an ICF/MR. Until January 1, 1999, in order to fund the ICF/MR services and relocations of current residents authorized, the commissioner of human services may transfer on a quarterly basis to the medical assistance account from each affected county's community social service allocation, an amount equal to the state share of medical assistance reimbursement for the residential and day habilitation services funded by medical assistance and provided to clients for whom the county is financially responsible.

(b) After January 1, 1999, the commissioner of human services shall fund the services under the state medical assistance program and may transfer on a quarterly basis to the medical assistance account from each affected county's community social service allocation, an amount equal to one-half of the state share of medical assistance reimbursement for the residential and day habilitation services funded by medical assistance and provided to clients for whom the county is financially responsible.

(c) Effective July 1, 2001, the commissioner of human services shall fund the entire state share of medical assistance reimbursement for the residential and day habilitation services funded by medical assistance and provided to clients for whom counties are financially responsible from the medical assistance account, and shall not make any transfer from the community social service allocations of affected counties.

(d) For nonresidents of Minnesota seeking admission to the facility, Rice county shall be notified in order to assure that appropriate funding is guaranteed from their state or country of residence.

Sec. 37. Laws 1999, chapter 245, article 3, section 45, as amended by Laws 2000, chapter 312, section 3, is amended to read:

Sec. 45. [STATE LICENSURE CONFLICTS WITH FEDERAL REGULATIONS.]

(a) Notwithstanding the provisions of Minnesota Rules, part 4658.0520, an incontinent resident must be checked according to a specific time interval written in the resident's care plan. The resident's attending physician must authorize in writing any interval longer than two hours unless the resident, if competent, or a family member or legally appointed conservator, guardian, or health care agent of a resident who is not competent, agrees in writing to waive physician involvement in determining this interval.

(b) This section expires July 1, ~~2001~~ 2003.

Sec. 38. [DEVELOPMENT OF NEW NURSING FACILITY REIMBURSEMENT SYSTEM.]

(a) The commissioner of human services shall develop and report to the legislature by January 15, 2003, a system to replace the current nursing facility reimbursement system established under Minnesota Statutes, sections 256B.431, 256B.434, and 256B.435.

(b) The system must be developed in consultation with the long-term care task force and with representatives of consumers, providers, and labor unions. Within the limits of available appropriations, the commissioner may employ consultants to assist with this project.

(c) The new reimbursement system must:

(1) provide incentives to enhance quality of life and quality of care;

(2) recognize cost differences in the care of different types of populations, including subacute care and dementia care;

(3) establish rates that are sufficient without being excessive;

(4) be affordable for the state and for private-pay residents;

(5) be sensitive to changing conditions in the long-term care environment;

(6) avoid creating access problems related to insufficient funding;

(7) allow providers maximum flexibility in their business operations;

(8) recognize the need for capital investment to improve physical plants; and

(9) provide incentives for the development and use of private rooms.

(d) Notwithstanding Minnesota Statutes, section 256B.435, the commissioner must not implement a performance-based contracting system for nursing facilities prior to July 1, 2003. The commissioner shall continue to reimburse nursing facilities under Minnesota Statutes, section 256B.431 or 256B.434, until otherwise directed by law.

(e) The commissioner of human services, in consultation with the commissioner of health, shall conduct or contract for a time study to determine staff time being spent on various case mix categories; recommend adjustments to the case mix weights based on the time study data; and determine whether current staffing standards are adequate for providing quality care based on professional best practice and consumer experience. If the commissioner determines the current standards are inadequate, the commissioner shall determine an appropriate staffing standard for the various case mix categories and the financial implications of phasing into this standard over the next four years.

Sec. 39. [REPORT ON STANDARDS FOR SUBACUTE CARE FACILITY LICENSURE.]

By January 15, 2003, the commissioner of health shall submit a report to the legislature on implementation of a licensure program for subacute care. This report must include:

(1) definitions of subacute care and applicability of the proposed licensure program to various types of licensed facilities;

(2) an analysis of whether specific standards for subacute levels of care need to be developed and the potential for increased costs for existing providers of subacute care;

(3) recommendations on the applicability of the nursing home moratorium law to the licensure of subacute care facilities or programs;

(4) identification of federal regulations guiding the provision of subacute care and whether further state standards are needed; and

(5) identification of current and potential reimbursement for subacute care under Medicare, Medicaid, or managed care programs.

Sec. 40. [REGULATORY FLEXIBILITY.]

(a) By July 1, 2001, the commissioners of health and human services shall:

(1) develop a summary of federal nursing facility and community long-term care regulations that hamper state flexibility and place burdens on the goal of achieving high-quality care and optimum outcomes for consumers of services; and

(2) share this summary with the legislature, other states, national groups that advocate for state interests with Congress, and the Minnesota congressional delegation.

(b) The commissioners shall conduct ongoing follow-up with the entities to which this summary is provided and with the health care financing administration to achieve maximum regulatory flexibility, including the possibility of pilot projects to demonstrate regulatory flexibility on less than a statewide basis.

Sec. 41. [REPORT.]

By January 15, 2003, the commissioner of health and the commissioner of human services shall report to the senate health and family security committee and the house health and human services policy committee on the number of closures that have taken place under Minnesota Statutes, section 256B.437, and any other nursing facility closures that may have taken place, alternatives to nursing facility care that have been developed, any problems with access to long-term care services that have resulted, and any recommendations for continuation of the regional long-term care planning process and the closure process after June 30, 2003.

Sec. 42. [NURSING ASSISTANT; HOME HEALTH AIDE CURRICULUM.]

By January 1, 2003, the commissioner of health, in consultation with long-term care consumers, advocates, unions, and trade associations, shall present to the chairs of the legislative committees dealing with health care policy recommendations for updating the nursing assistant and home health aide curriculum (1998 edition) to help students learn front-line survival skills that support job motivation and satisfaction. These skills include, but are not limited to, working with challenging behaviors, communication skills, stress management including the impact of personal life stress in the work setting, building relationships with families, cultural competencies, and working with death and dying.

Sec. 43. [EVALUATION OF REPORTING REQUIREMENTS.]

The commissioners of human services and health, in consultation with interested parties, shall evaluate long-term care provider reporting requirements, balancing the need for public accountability with the need to reduce unnecessary paperwork, and shall eliminate unnecessary reporting requirements, seeking any necessary changes in federal and state law. The commissioners shall present a progress report by February 1, 2002, to the chairs of the house and senate committees with jurisdiction over health and human services policy and finance.

Sec. 44. [NURSING FACILITY MULTIPLE SCLEROSIS PILOT PROJECT.]

(a) For the period from July 1, 2001, to June 30, 2003, the commissioner of human services shall establish and implement a pilot project to contract with nursing facilities eligible to receive medical assistance payments that, at the time of enrollment in the pilot project, serve ten or more persons with a diagnosis of multiple sclerosis. The commissioner shall negotiate a payment rate with eligible facilities to provide services to persons with multiple sclerosis that must not exceed 150 percent of the person's case mix classification payment rate for that facility. The commissioner may contract with up to six nursing facilities.

(b) Facilities may enroll in the pilot project between July 1, 2001, and December 31, 2001.

(c) The commissioner shall evaluate the additional payments made under the pilot project to determine if the adjustment enables participating facilities to adequately meet the needs for individual care and specialized programming, including programs to meet psychosocial, physiological, and case management needs, without incurring financial losses. The commissioner of human services, in consultation with the commissioner of health, shall report to the legislature by January 15, 2003, on the results of the project and with a recommendation on whether the project should be made permanent.

(d) The negotiated adjustment shall not affect the payment rate charged to private paying residents under the provisions of Minnesota Statutes, section 256B.48, subdivision 1.

Sec. 45. [MINIMUM STAFFING STANDARDS REPORT.]

By January 15, 2002, the commissioner of health and the commissioner of human services shall report to the legislature on whether they should translate the minimum nurse staffing requirement in Minnesota Statutes, section 144A.04, subdivision 7, paragraph (a), upon the transition to the RUG-III classification system, or whether they should establish different time-based standards, and how to accomplish either.

Sec. 46. [REPEALER.]

Minnesota Statutes 2000, sections 144.0721, subdivision 1, and 256B.434, subdivision 5, are repealed.

ARTICLE 6

WORK FORCE

Section 1. Minnesota Statutes 2000, section 144.1464, is amended to read:

144.1464 [SUMMER HEALTH CARE INTERNS.]

Subdivision 1. [SUMMER INTERNSHIPS.] The commissioner of health, through a contract with a nonprofit organization as required by subdivision 4, shall award grants to hospitals ~~and~~ clinics, nursing facilities, and home care providers to establish a secondary and post-secondary summer health care intern program. The purpose of the program is to expose interested secondary and post-secondary pupils to various careers within the health care profession.

Subd. 2. [CRITERIA.] (a) The commissioner, through the organization under contract, shall award grants to hospitals ~~and~~ clinics, nursing facilities, and home care providers that agree to:

(1) provide secondary and post-secondary summer health care interns with formal exposure to the health care profession;

(2) provide an orientation for the secondary and post-secondary summer health care interns;

(3) pay one-half the costs of employing the secondary and post-secondary summer health care intern, ~~based on an overall hourly wage that is at least the minimum wage but does not exceed \$6 an hour;~~

(4) interview and hire secondary and post-secondary pupils for a minimum of six weeks and a maximum of 12 weeks; and

(5) employ at least one secondary student for each post-secondary student employed, to the extent that there are sufficient qualifying secondary student applicants.

(b) In order to be eligible to be hired as a secondary summer health intern by a hospital ~~or~~ clinic, nursing facility, or home care provider, a pupil must:

(1) intend to complete high school graduation requirements and be between the junior and senior year of high school; and

(2) be from a school district in proximity to the facility; ~~and~~

~~(3) provide the facility with a letter of recommendation from a health occupations or science educator.~~

(c) In order to be eligible to be hired as a post-secondary summer health care intern by a hospital or clinic, a pupil must:

(1) intend to complete a health care training program or a two-year or four-year degree program and be planning on enrolling in or be enrolled in that training program or degree program; and

(2) be enrolled in a Minnesota educational institution or be a resident of the state of Minnesota; priority must be given to applicants from a school district or an educational institution in proximity to the facility; ~~and~~

~~(3) provide the facility with a letter of recommendation from a health occupations or science educator.~~

(d) Hospitals ~~and~~, clinics, nursing facilities, and home care providers awarded grants may employ pupils as secondary and post-secondary summer health care interns beginning on or after June 15, 1993, if they agree to pay the intern, during the period before disbursement of state grant money, with money designated as the facility's 50 percent contribution towards internship costs.

Subd. 3. [GRANTS.] The commissioner, through the organization under contract, shall award separate grants to hospitals ~~and~~, clinics, nursing facilities, and home care providers meeting the requirements of subdivision 2. The grants must be used to pay one-half of the costs of employing secondary and post-secondary pupils in a hospital ~~or~~, clinic, nursing facility, or home care setting during the course of the program. No more than 50 percent of the participants may be post-secondary students, unless the program does not receive enough qualified secondary applicants per fiscal year. No more than five pupils may be selected from any secondary or post-secondary institution to participate in the program and no more than one-half of the number of pupils selected may be from the seven-county metropolitan area.

Subd. 4. [CONTRACT.] The commissioner shall contract with a statewide, nonprofit organization representing facilities at which secondary and post-secondary summer health care interns will serve, to administer the grant program established by this section. Grant funds that are not used in one fiscal year may be carried over to the next fiscal year. The organization awarded the grant shall provide the commissioner with any information needed by the commissioner to evaluate the program, in the form and at the times specified by the commissioner.

Sec. 2. [144.1499] [PROMOTION OF HEALTH CARE AND LONG-TERM CARE CAREERS.]

The commissioner of health, in consultation with an organization representing health care employers, long-term care employers, and educational institutions, may make grants to qualifying consortia as defined in section 116L.11, subdivision 4, for intergenerational programs to encourage middle and high school students to work and volunteer in health care and long-term care settings. To qualify for a grant under this section, a consortium shall:

(1) develop a health and long-term care careers curriculum that provides career exploration and training in national skill standards for health care and long-term care and that is consistent with Minnesota graduation standards and other related requirements;

(2) offer programs for high school students that provide training in health and long-term care careers with credits that articulate into post-secondary programs; and

(3) provide technical support to the participating health care and long-term care employer to enable the use of the employer's facilities and programs for K-12 health and long-term care careers education.

Sec. 3. Minnesota Statutes 2000, section 144A.62, subdivision 1, is amended to read:

Subdivision 1. [ASSISTANCE WITH EATING AND DRINKING.] (a) Upon federal approval, a nursing home may employ resident attendants to assist with the activities authorized under subdivision 2. The resident attendant ~~will not shall~~ be counted in the minimum staffing requirements under section 144A.04, subdivision 7.

(b) The commissioner shall submit by ~~May~~ July 15, 2000 ~~2001~~, a new request for a federal waiver necessary to implement this section.

Sec. 4. Minnesota Statutes 2000, section 144A.62, subdivision 2, is amended to read:

Subd. 2. [DEFINITION.] (a) "Resident attendant" means an individual who assists residents ~~in a nursing home~~ with the one or more of the following activities of eating and drinking:

(1) eating and drinking; and

(2) transporting.

(b) A resident attendant does not include an individual who:

- (1) is a licensed health professional or a registered dietitian;
- (2) volunteers without monetary compensation; or
- (3) is a registered nursing assistant.

Sec. 5. Minnesota Statutes 2000, section 144A.62, subdivision 3, is amended to read:

Subd. 3. [REQUIREMENTS.] (a) A nursing home may not use on a full-time or other paid basis any individual as a resident attendant in the nursing home unless the individual:

- (1) has completed a training and competency evaluation program encompassing the ~~tasks~~ activities in subdivision 2 that the individual provides;
- (2) is competent to provide ~~feeding and hydration services~~ those activities; and
- (3) is under the supervision of the director of nursing.

(b) A nursing home may not use a current employee as a resident attendant unless the employee satisfies the requirements of paragraph (a) and volunteers to be used in that capacity.

Sec. 6. Minnesota Statutes 2000, section 144A.62, subdivision 4, is amended to read:

Subd. 4. [EVALUATION.] The training and competency evaluation program may be facility based. It must include, at a minimum, the training and competency standards for ~~eating and drinking assistance~~ the specific activities the attendant will be conducting contained in the nursing assistant training curriculum.

Sec. 7. Minnesota Statutes 2000, section 148.212, is amended to read:

148.212 [TEMPORARY PERMIT.]

Upon receipt of the applicable licensure or reregistration fee and permit fee, and in accordance with rules of the board, the board may issue a nonrenewable temporary permit to practice professional or practical nursing to an applicant for licensure or reregistration who is not the subject of a pending investigation or disciplinary action, nor disqualified for any other reason, under the following circumstances:

(a) The applicant for licensure by examination under section 148.211, subdivision 1, has graduated from an approved nursing program within the 60 days preceding board receipt of an affidavit of graduation or transcript and has been authorized by the board to write the licensure examination for the first time in the United States. The permit holder must practice professional or practical nursing under the direct supervision of a registered nurse. The permit is valid from the date of issue until the date the board takes action on the application or for 60 days whichever occurs first.

(b) The applicant for licensure by endorsement under section 148.211, subdivision 2, is currently licensed to practice professional or practical nursing in another state, territory, or Canadian province. The permit is valid from submission of a proper request until the date of board action on the application.

(c) The applicant for licensure by endorsement under section 148.211, subdivision 2, or for reregistration under section 148.231, subdivision 5, is currently registered in a formal, structured refresher course or its equivalent for nurses that includes clinical practice.

(d) The applicant for licensure by examination under section 148.211, subdivision 1, as a registered nurse has been issued a commission on graduates of foreign nurse schools certificate, has completed all requirements for licensure except the licensing examination, and has been authorized by the board to write the licensure examination for the first time in the United States. The permit holder must practice professional nursing under the direct supervision of a registered nurse. The permit is valid from the date of issue until the date the board takes action on the application or for 60 days, whichever occurs first.

ARTICLE 7

REGULATION OF SUPPLEMENTAL NURSING SERVICES AGENCIES

Section 1. Minnesota Statutes 2000, section 144.057, is amended to read:

144.057 [BACKGROUND STUDIES ON LICENSEES AND SUPPLEMENTAL NURSING SERVICES AGENCY PERSONNEL.]

Subdivision 1. [BACKGROUND STUDIES REQUIRED.] The commissioner of health shall contract with the commissioner of human services to conduct background studies of:

(1) individuals providing services which have direct contact, as defined under section 245A.04, subdivision 3, with patients and residents in hospitals, boarding care homes, outpatient surgical centers licensed under sections 144.50 to 144.58; nursing homes and home care agencies licensed under chapter 144A; residential care homes licensed under chapter 144B, and board and lodging establishments that are registered to provide supportive or health supervision services under section 157.17; ~~and~~

(2) beginning July 1, 1999, all other employees in nursing homes licensed under chapter 144A, and boarding care homes licensed under sections 144.50 to 144.58. A disqualification of an individual in this section shall disqualify the individual from positions allowing direct contact or access to patients or residents receiving services;

(3) individuals employed by a supplemental nursing services agency, as defined under section 144A.70, who are providing services in health care facilities; and

(4) controlling persons of a supplemental nursing services agency, as defined under section 144A.70.

If a facility or program is licensed by the department of human services and subject to the background study provisions of chapter 245A and is also licensed by the department of health, the department of human services is solely responsible for the background studies of individuals in the jointly licensed programs.

Subd. 2. [RESPONSIBILITIES OF DEPARTMENT OF HUMAN SERVICES.] The department of human services shall conduct the background studies required by subdivision 1 in compliance with the provisions of chapter 245A and Minnesota Rules, parts 9543.3000 to 9543.3090. For the purpose of this section, the term "residential program" shall include all facilities described in subdivision 1. The department of human services shall provide necessary forms and instructions, shall conduct the necessary background studies of individuals, and shall provide notification of the results of the studies to the facilities, supplemental nursing services agencies, individuals, and the commissioner of health. Individuals shall be disqualified under the provisions of chapter 245A and Minnesota Rules, parts 9543.3000 to 9543.3090. If an individual is disqualified, the department of human services shall notify the facility, the supplemental nursing services agency, and the individual and shall inform the individual of the right to request a reconsideration of the disqualification by submitting the request to the department of health.

Subd. 3. [RECONSIDERATIONS.] The commissioner of health shall review and decide reconsideration requests, including the granting of variances, in accordance with the procedures and criteria contained in chapter 245A and Minnesota Rules, parts 9543.3000 to 9543.3090. The commissioner's decision shall be provided to the individual and to the department of human services. The commissioner's decision to grant or deny a reconsideration of disqualification is the final administrative agency action.

Subd. 4. [RESPONSIBILITIES OF FACILITIES AND AGENCIES.] Facilities and agencies described in subdivision 1 shall be responsible for cooperating with the departments in implementing the provisions of this section. The responsibilities imposed on applicants and licensees under chapter 245A and Minnesota Rules, parts 9543.3000 to 9543.3090, shall apply to these facilities and supplemental nursing services agencies. The provision of section 245A.04, subdivision 3, paragraph (e), shall apply to applicants, licensees, registrants, or an individual's refusal to cooperate with the completion of the background studies. Supplemental nursing services agencies subject to the registration requirements in section 144A.71 must maintain records verifying compliance with the background study requirements under this section.

Sec. 2. [144A.70] [REGISTRATION OF SUPPLEMENTAL NURSING SERVICES AGENCIES; DEFINITIONS.]

Subdivision 1. [SCOPE.] As used in sections 144A.70 to 144A.74, the terms defined in this section have the meanings given them.

Subd. 2. [COMMISSIONER.] "Commissioner" means the commissioner of health.

Subd. 3. [CONTROLLING PERSON.] "Controlling person" means a business entity, officer, program administrator, or director whose responsibilities include the direction of the management or policies of a supplemental nursing services agency. Controlling person also means an individual who, directly or indirectly, beneficially owns an interest in a corporation, partnership, or other business association that is a controlling person.

Subd. 4. [HEALTHCARE FACILITY.] "Health care facility" means a hospital, boarding care home, or outpatient surgical center licensed under sections 144.50 to 144.58, a nursing home or home care agency licensed under this chapter, a residential care home, or a board and lodging establishment that is registered to provide supportive or health supervision services under section 157.17.

Subd. 5. [PERSON.] "Person" includes an individual, firm, corporation, partnership, or association.

Subd. 6. [SUPPLEMENTAL NURSING SERVICES AGENCY.] "Supplemental nursing services agency" means a person, firm, corporation, partnership, or association engaged for hire in the business of providing or procuring temporary employment in health care facilities for nurses, nursing assistants, nurse aides, and orderlies. Supplemental nursing services agency does not include an individual who only engages in providing the individual's services on a temporary basis to health care facilities. Supplemental nursing services agency also does not include any nursing services agency that is limited to providing temporary nursing personnel solely to one or more health care facilities owned or operated by the same person, firm, corporation, or partnership.

Sec. 3. [144A.71] [SUPPLEMENTAL NURSING SERVICES AGENCY REGISTRATION.]

Subdivision 1. [DUTY TO REGISTER.] A person who operates a supplemental nursing services agency shall register the agency with the commissioner. Each separate location of the business of a supplemental nursing services agency shall register the agency with the commissioner. Each separate location of the business of a supplemental nursing services agency shall have a separate registration.

Subd. 2. [APPLICATION INFORMATION AND FEE.] The commissioner shall establish forms and procedures for processing each supplemental nursing services agency registration application. An application for a supplemental nursing services agency registration must include at least the following:

(1) the names and addresses of the owner or owners of the supplemental nursing services agency;

(2) if the owner is a corporation, copies of its articles of incorporation and current bylaws, together with the names and addresses of its officers and directors;

(3) any other relevant information that the commissioner determines is necessary to properly evaluate an application for registration; and

(4) the annual registration fee for a supplemental nursing services agency, which is \$891.

Subd. 3. [REGISTRATION NOT TRANSFERABLE.] A registration issued by the commissioner according to this section is effective for a period of one year from the date of its issuance unless the registration is revoked or suspended under section 144A.72, subdivision 2, or unless the supplemental nursing services agency is sold or ownership or management is transferred. When a supplemental nursing services agency is sold or ownership or management is transferred, the registration of the agency must be voided and the new owner or operator may apply for a new registration.

Sec. 4. [144A.72] [REGISTRATION REQUIREMENTS.]

The commissioner shall require that, as a condition of registration:

(1) the supplemental nursing services agency shall document that each temporary employee provided to health care facilities currently meets the minimum licensing, training, and continuing education standards for the position in which the employee will be working;

(2) the supplemental nursing services agency shall comply with all pertinent requirements relating to the health and other qualifications of personnel employed in health care facilities;

(3) the supplemental nursing services agency must not restrict in any manner the employment opportunities of its employees;

(4) the supplemental nursing services agency, when supplying temporary employees to a health care facility, and when requested by the facility to do so, shall agree that at least 30 percent of the total personnel hours supplied are during night, holiday, or weekend shifts;

(5) the supplemental nursing services agency shall carry medical malpractice insurance to insure against the loss, damage, or expense incident to a claim arising out of the death or injury of any person as the result of negligence or malpractice in the provision of health care services by the supplemental nursing services agency or by any employee of the agency; and

(6) the supplemental nursing services agency must not, in any contract with any employee or health care facility, require the payment of liquidated damages, employment fees, or other compensation should the employee be hired as a permanent employee of a health care facility.

Sec. 5. [144A.73] [COMPLAINT SYSTEM.]

The commissioner shall establish a system for reporting complaints against a supplemental nursing services agency or its employees. Complaints may be made by any member of the public. Written complaints must be forwarded to the employer of each person against whom a complaint is made. The employer shall promptly report to the commissioner any corrective action taken.

Sec. 6. [144A.74] [MAXIMUM CHARGES.]

A supplemental nursing services agency must not bill or receive payments from a nursing home licensed under this chapter at a rate higher than 150 percent of the weighted average wage rate for the applicable employee classification for the geographic group to which the nursing home is assigned under chapter 256B. The weighted average wage rates must be determined by the commissioner of human services and reported to the commissioner of health on an annual basis. Facilities shall provide information necessary to determine weighted average wage

rates to the commissioner of human services in a format requested by the commissioner. The maximum rate must include all charges for administrative fees, contract fees, or other special charges in addition to the hourly rates for the temporary nursing pool personnel supplied to a nursing home.

Sec. 7. Minnesota Statutes 2000, section 245A.04, subdivision 3, is amended to read:

Subd. 3. [BACKGROUND STUDY OF THE APPLICANT; DEFINITIONS.] (a) Before the commissioner issues a license, the commissioner shall conduct a study of the individuals specified in paragraph ~~(c)~~ (d), clauses (1) to (5), according to rules of the commissioner.

Beginning January 1, 1997, the commissioner shall also conduct a study of employees providing direct contact services for nonlicensed personal care provider organizations described in paragraph ~~(c)~~ (d), clause (5).

The commissioner shall recover the cost of these background studies through a fee of no more than \$12 per study charged to the personal care provider organization. The fees collected under this paragraph are appropriated to the commissioner for the purpose of conducting background studies.

Beginning August 1, 1997, the commissioner shall conduct all background studies required under this chapter for adult foster care providers who are licensed by the commissioner of human services and registered under chapter 144D. The commissioner shall conduct these background studies in accordance with this chapter. The commissioner shall initiate a pilot project to conduct up to 5,000 background studies under this chapter in programs with joint licensure as home and community-based services and adult foster care for people with developmental disabilities when the license holder does not reside in the foster care residence.

(b) Beginning July 1, 1998, the commissioner shall conduct a background study on individuals specified in paragraph ~~(c)~~ (d), clauses (1) to (5), who perform direct contact services in a nursing home or a home care agency licensed under chapter 144A or a boarding care home licensed under sections 144.50 to 144.58, when the subject of the study resides outside Minnesota; the study must be at least as comprehensive as that of a Minnesota resident and include a search of information from the criminal justice data communications network in the state where the subject of the study resides.

(c) Beginning August 1, 2001, the commissioner shall conduct all background studies required under this chapter and initiated by supplemental nursing services agencies registered under chapter 144A. Studies for the agencies must be initiated annually by each agency. The commissioner shall conduct the background studies according to this chapter. The commissioner shall recover the cost of the background studies through a fee of no more than \$8 per study, charged to the supplemental nursing services agency. The fees collected under this paragraph are appropriated to the commissioner for the purpose of conducting background studies.

(d) The applicant, license holder, ~~the~~ registrant, bureau of criminal apprehension, ~~the~~ commissioner of health, and county agencies, after written notice to the individual who is the subject of the study, shall help with the study by giving the commissioner criminal conviction data and reports about the maltreatment of adults substantiated under section 626.557 and the maltreatment of minors in licensed programs substantiated under section 626.556. The individuals to be studied shall include:

- (1) the applicant;
- (2) persons over the age of 13 living in the household where the licensed program will be provided;
- (3) current employees or contractors of the applicant who will have direct contact with persons served by the facility, agency, or program;
- (4) volunteers or student volunteers who have direct contact with persons served by the program to provide program services, if the contact is not directly supervised by the individuals listed in clause (1) or (3); and

(5) any person who, as an individual or as a member of an organization, exclusively offers, provides, or arranges for personal care assistant services under the medical assistance program as authorized under sections 256B.04, subdivision 16, and 256B.0625, subdivision 19a.

The juvenile courts shall also help with the study by giving the commissioner existing juvenile court records on individuals described in clause (2) relating to delinquency proceedings held within either the five years immediately preceding the application or the five years immediately preceding the individual's 18th birthday, whichever time period is longer. The commissioner shall destroy juvenile records obtained pursuant to this subdivision when the subject of the records reaches age 23.

For purposes of this section and Minnesota Rules, part 9543.3070, a finding that a delinquency petition is proven in juvenile court shall be considered a conviction in state district court.

For purposes of this subdivision, "direct contact" means providing face-to-face care, training, supervision, counseling, consultation, or medication assistance to persons served by a program. For purposes of this subdivision, "directly supervised" means an individual listed in clause (1), (3), or (5) is within sight or hearing of a volunteer to the extent that the individual listed in clause (1), (3), or (5) is capable at all times of intervening to protect the health and safety of the persons served by the program who have direct contact with the volunteer.

A study of an individual in clauses (1) to (5) shall be conducted at least upon application for initial license or registration and reapplication for a license or registration. The commissioner is not required to conduct a study of an individual at the time of reapplication for a license or if the individual has been continuously affiliated with a foster care provider licensed by the commissioner of human services and registered under chapter 144D, other than a family day care or foster care license, if: (i) a study of the individual was conducted either at the time of initial licensure or when the individual became affiliated with the license holder; (ii) the individual has been continuously affiliated with the license holder since the last study was conducted; and (iii) the procedure described in paragraph ~~(d)~~ (e) has been implemented and was in effect continuously since the last study was conducted. For the purposes of this section, a physician licensed under chapter 147 is considered to be continuously affiliated upon the license holder's receipt from the commissioner of health or human services of the physician's background study results. For individuals who are required to have background studies under clauses (1) to (5) and who have been continuously affiliated with a foster care provider that is licensed in more than one county, criminal conviction data may be shared among those counties in which the foster care programs are licensed. A county agency's receipt of criminal conviction data from another county agency shall meet the criminal data background study requirements of this section.

The commissioner may also conduct studies on individuals specified in clauses (3) and (4) when the studies are initiated by:

- (i) personnel pool agencies;
- (ii) temporary personnel agencies;
- (iii) educational programs that train persons by providing direct contact services in licensed programs; and
- (iv) professional services agencies that are not licensed and which contract with licensed programs to provide direct contact services or individuals who provide direct contact services.

Studies on individuals in items (i) to (iv) must be initiated annually by these agencies, programs, and individuals. Except for personal care provider organizations and supplemental nursing services agencies, no applicant, license holder, or individual who is the subject of the study shall pay any fees required to conduct the study.

(1) At the option of the licensed facility, rather than initiating another background study on an individual required to be studied who has indicated to the licensed facility that a background study by the commissioner was previously completed, the facility may make a request to the commissioner for documentation of the individual's background study status, provided that:

(i) the facility makes this request using a form provided by the commissioner;

(ii) in making the request the facility informs the commissioner that either:

(A) the individual has been continuously affiliated with a licensed facility since the individual's previous background study was completed, or since October 1, 1995, whichever is shorter; or

(B) the individual is affiliated only with a personnel pool agency, a temporary personnel agency, an educational program that trains persons by providing direct contact services in licensed programs, or a professional services agency that is not licensed and which contracts with licensed programs to provide direct contact services or individuals who provide direct contact services; and

(iii) the facility provides notices to the individual as required in paragraphs (a) to ~~(d)~~ (e), and that the facility is requesting written notification of the individual's background study status from the commissioner.

(2) The commissioner shall respond to each request under paragraph (1) with a written or electronic notice to the facility and the study subject. If the commissioner determines that a background study is necessary, the study shall be completed without further request from a licensed agency or notifications to the study subject.

(3) When a background study is being initiated by a licensed facility or a foster care provider that is also registered under chapter 144D, a study subject affiliated with multiple licensed facilities may attach to the background study form a cover letter indicating the additional facilities' names, addresses, and background study identification numbers. When the commissioner receives such notices, each facility identified by the background study subject shall be notified of the study results. The background study notice sent to the subsequent agencies shall satisfy those facilities' responsibilities for initiating a background study on that individual.

~~(d)~~ (e) If an individual who is affiliated with a program or facility regulated by the department of human services or department of health or who is affiliated with a nonlicensed personal care provider organization, is convicted of a crime constituting a disqualification under subdivision 3d, the probation officer or corrections agent shall notify the commissioner of the conviction. The commissioner, in consultation with the commissioner of corrections, shall develop forms and information necessary to implement this paragraph and shall provide the forms and information to the commissioner of corrections for distribution to local probation officers and corrections agents. The commissioner shall inform individuals subject to a background study that criminal convictions for disqualifying crimes will be reported to the commissioner by the corrections system. A probation officer, corrections agent, or corrections agency is not civilly or criminally liable for disclosing or failing to disclose the information required by this paragraph. Upon receipt of disqualifying information, the commissioner shall provide the notifications required in subdivision 3a, as appropriate to agencies on record as having initiated a background study or making a request for documentation of the background study status of the individual. This paragraph does not apply to family day care and child foster care programs.

~~(e)~~ (f) The individual who is the subject of the study must provide the applicant or license holder with sufficient information to ensure an accurate study including the individual's first, middle, and last name; home address, city, county, and state of residence for the past five years; zip code; sex; date of birth; and driver's license number. The applicant or license holder shall provide this information about an individual in paragraph ~~(e)~~ (d), clauses (1) to (5), on forms prescribed by the commissioner. By January 1, 2000, for background studies conducted by the department of human services, the commissioner shall implement a system for the electronic transmission of: (1) background study information to the commissioner; and (2) background study results to the license holder. The commissioner may request additional information of the individual, which shall be optional for the individual to provide, such as the individual's social security number or race.

~~(f)~~ (g) Except for child foster care, adult foster care, and family day care homes, a study must include information related to names of substantiated perpetrators of maltreatment of vulnerable adults that has been received by the commissioner as required under section 626.557, subdivision 9c, paragraph (i), and the commissioner's records relating to the maltreatment of minors in licensed programs, information from juvenile courts as required in paragraph ~~(e)~~ (d) for persons listed in paragraph ~~(e)~~ (d), clause (2), and information from the bureau of criminal apprehension. For child foster care, adult foster care, and family day care homes, the study must include information from the county agency's record of substantiated maltreatment of adults, and the maltreatment of minors, information from juvenile courts as required in paragraph ~~(e)~~ (d) for persons listed in paragraph ~~(e)~~ (d), clause (2), and information from the bureau of criminal apprehension. The commissioner may also review arrest and investigative information from the bureau of criminal apprehension, the commissioner of health, a county attorney, county sheriff, county agency, local chief of police, other states, the courts, or the Federal Bureau of Investigation if the commissioner has reasonable cause to believe the information is pertinent to the disqualification of an individual listed in paragraph ~~(e)~~ (d), clauses (1) to (5). The commissioner is not required to conduct more than one review of a subject's records from the Federal Bureau of Investigation if a review of the subject's criminal history with the Federal Bureau of Investigation has already been completed by the commissioner and there has been no break in the subject's affiliation with the license holder who initiated the background studies.

When the commissioner has reasonable cause to believe that further pertinent information may exist on the subject, the subject shall provide a set of classifiable fingerprints obtained from an authorized law enforcement agency. For purposes of requiring fingerprints, the commissioner shall be considered to have reasonable cause under, but not limited to, the following circumstances:

(1) information from the bureau of criminal apprehension indicates that the subject is a multistate offender;

(2) information from the bureau of criminal apprehension indicates that multistate offender status is undetermined; or

(3) the commissioner has received a report from the subject or a third party indicating that the subject has a criminal history in a jurisdiction other than Minnesota.

~~(g)~~ (h) An applicant's ~~or~~ license holder's, or registrant's failure or refusal to cooperate with the commissioner is reasonable cause to disqualify a subject, deny a license application or immediately suspend, suspend, or revoke a license or registration. Failure or refusal of an individual to cooperate with the study is just cause for denying or terminating employment of the individual if the individual's failure or refusal to cooperate could cause the applicant's application to be denied or the license holder's license to be immediately suspended, suspended, or revoked.

~~(h)~~ (i) The commissioner shall not consider an application to be complete until all of the information required to be provided under this subdivision has been received.

~~(i)~~ (j) No person in paragraph ~~(e)~~ (d), clause (1), (2), (3), (4), or (5), who is disqualified as a result of this section may be retained by the agency in a position involving direct contact with persons served by the program.

~~(j)~~ (k) Termination of persons in paragraph ~~(e)~~ (d), clause (1), (2), (3), (4), or (5), made in good faith reliance on a notice of disqualification provided by the commissioner shall not subject the applicant or license holder to civil liability.

~~(k)~~ (l) The commissioner may establish records to fulfill the requirements of this section.

~~(l)~~ (m) The commissioner may not disqualify an individual subject to a study under this section because that person has, or has had, a mental illness as defined in section 245.462, subdivision 20.

~~(m)~~ (n) An individual subject to disqualification under this subdivision has the applicable rights in subdivision 3a, 3b, or 3c.

(n) (o) For the purposes of background studies completed by tribal organizations performing licensing activities otherwise required of the commissioner under this chapter, after obtaining consent from the background study subject, tribal licensing agencies shall have access to criminal history data in the same manner as county licensing agencies and private licensing agencies under this chapter.

Sec. 8. Minnesota Statutes 2000, section 245A.04, subdivision 3a, is amended to read:

Subd. 3a. [NOTIFICATION TO SUBJECT AND LICENSE HOLDER OF STUDY RESULTS; DETERMINATION OF RISK OF HARM.] (a) The commissioner shall notify the applicant ~~or~~^{or} license holder, ~~or~~^{or} registrant and the individual who is the subject of the study, in writing or by electronic transmission, of the results of the study. When the study is completed, a notice that the study was undertaken and completed shall be maintained in the personnel files of the program. For studies on individuals pertaining to a license to provide family day care or group family day care, foster care for children in the provider's own home, or foster care or day care services for adults in the provider's own home, the commissioner is not required to provide a separate notice of the background study results to the individual who is the subject of the study unless the study results in a disqualification of the individual.

The commissioner shall notify the individual studied if the information in the study indicates the individual is disqualified from direct contact with persons served by the program. The commissioner shall disclose the information causing disqualification and instructions on how to request a reconsideration of the disqualification to the individual studied. An applicant or license holder who is not the subject of the study shall be informed that the commissioner has found information that disqualifies the subject from direct contact with persons served by the program. However, only the individual studied must be informed of the information contained in the subject's background study unless the only basis for the disqualification is failure to cooperate, the Data Practices Act provides for release of the information, or the individual studied authorizes the release of the information.

(b) If the commissioner determines that the individual studied has a disqualifying characteristic, the commissioner shall review the information immediately available and make a determination as to the subject's immediate risk of harm to persons served by the program where the individual studied will have direct contact. The commissioner shall consider all relevant information available, including the following factors in determining the immediate risk of harm: the recency of the disqualifying characteristic; the recency of discharge from probation for the crimes; the number of disqualifying characteristics; the intrusiveness or violence of the disqualifying characteristic; the vulnerability of the victim involved in the disqualifying characteristic; and the similarity of the victim to the persons served by the program where the individual studied will have direct contact. The commissioner may determine that the evaluation of the information immediately available gives the commissioner reason to believe one of the following:

(1) The individual poses an imminent risk of harm to persons served by the program where the individual studied will have direct contact. If the commissioner determines that an individual studied poses an imminent risk of harm to persons served by the program where the individual studied will have direct contact, the individual and the license holder must be sent a notice of disqualification. The commissioner shall order the license holder to immediately remove the individual studied from direct contact. The notice to the individual studied must include an explanation of the basis of this determination.

(2) The individual poses a risk of harm requiring continuous supervision while providing direct contact services during the period in which the subject may request a reconsideration. If the commissioner determines that an individual studied poses a risk of harm that requires continuous supervision, the individual and the license holder must be sent a notice of disqualification. The commissioner shall order the license holder to immediately remove the individual studied from direct contact services or assure that the individual studied is within sight or hearing of another staff person when providing direct contact services during the period in which the individual may request a reconsideration of the disqualification. If the individual studied does not submit a timely request for reconsideration, or the individual submits a timely request for reconsideration, but the disqualification is not set aside for that license holder, the license holder will be notified of the disqualification and ordered to immediately remove the individual from any position allowing direct contact with persons receiving services from the license holder.

(3) The individual does not pose an imminent risk of harm or a risk of harm requiring continuous supervision while providing direct contact services during the period in which the subject may request a reconsideration. If the commissioner determines that an individual studied does not pose a risk of harm that requires continuous supervision, only the individual must be sent a notice of disqualification. The license holder must be sent a notice that more time is needed to complete the individual's background study. If the individual studied submits a timely request for reconsideration, and if the disqualification is set aside for that license holder, the license holder will receive the same notification received by license holders in cases where the individual studied has no disqualifying characteristic. If the individual studied does not submit a timely request for reconsideration, or the individual submits a timely request for reconsideration, but the disqualification is not set aside for that license holder, the license holder will be notified of the disqualification and ordered to immediately remove the individual from any position allowing direct contact with persons receiving services from the license holder.

(c) County licensing agencies performing duties under this subdivision may develop an alternative system for determining the subject's immediate risk of harm to persons served by the program, providing the notices under paragraph (b), and documenting the action taken by the county licensing agency. Each county licensing agency's implementation of the alternative system is subject to approval by the commissioner. Notwithstanding this alternative system, county licensing agencies shall complete the requirements of paragraph (a).

Sec. 9. Minnesota Statutes 2000, section 245A.04, subdivision 3b, is amended to read:

Subd. 3b. [RECONSIDERATION OF DISQUALIFICATION.] (a) The individual who is the subject of the disqualification may request a reconsideration of the disqualification.

The individual must submit the request for reconsideration to the commissioner in writing. A request for reconsideration for an individual who has been sent a notice of disqualification under subdivision 3a, paragraph (b), clause (1) or (2), must be submitted within 30 calendar days of the disqualified individual's receipt of the notice of disqualification. A request for reconsideration for an individual who has been sent a notice of disqualification under subdivision 3a, paragraph (b), clause (3), must be submitted within 15 calendar days of the disqualified individual's receipt of the notice of disqualification. Removal of a disqualified individual from direct contact shall be ordered if the individual does not request reconsideration within the prescribed time, and for an individual who submits a timely request for reconsideration, if the disqualification is not set aside. The individual must present information showing that:

(1) the information the commissioner relied upon is incorrect or inaccurate. If the basis of a reconsideration request is that a maltreatment determination or disposition under section 626.556 or 626.557 is incorrect, and the commissioner has issued a final order in an appeal of that determination or disposition under section 256.045, the commissioner's order is conclusive on the issue of maltreatment; or

(2) the subject of the study does not pose a risk of harm to any person served by the applicant ~~or~~₂ license holder₂ or registrant.

(b) The commissioner may set aside the disqualification under this section if the commissioner finds that the information the commissioner relied upon is incorrect or the individual does not pose a risk of harm to any person served by the applicant ~~or~~₂ license holder₂ or registrant. In determining that an individual does not pose a risk of harm, the commissioner shall consider the consequences of the event or events that lead to disqualification, whether there is more than one disqualifying event, the vulnerability of the victim at the time of the event, the time elapsed without a repeat of the same or similar event, documentation of successful completion by the individual studied of training or rehabilitation pertinent to the event, and any other information relevant to reconsideration. In reviewing a disqualification under this section, the commissioner shall give preeminent weight to the safety of each person to be served by the license holder ~~or~~₂ applicant₂ or registrant over the interests of the license holder ~~or~~₂ applicant₂ or registrant.

(c) Unless the information the commissioner relied on in disqualifying an individual is incorrect, the commissioner may not set aside the disqualification of an individual in connection with a license to provide family day care for children, foster care for children in the provider's own home, or foster care or day care services for adults in the provider's own home if:

(1) less than ten years have passed since the discharge of the sentence imposed for the offense; and the individual has been convicted of a violation of any offense listed in sections 609.20 (manslaughter in the first degree), 609.205 (manslaughter in the second degree), criminal vehicular homicide under 609.21 (criminal vehicular homicide and injury), 609.215 (aiding suicide or aiding attempted suicide), felony violations under 609.221 to 609.2231 (assault in the first, second, third, or fourth degree), 609.713 (terroristic threats), 609.235 (use of drugs to injure or to facilitate crime), 609.24 (simple robbery), 609.245 (aggravated robbery), 609.25 (kidnapping), 609.255 (false imprisonment), 609.561 or 609.562 (arson in the first or second degree), 609.71 (riot), burglary in the first or second degree under 609.582 (burglary), 609.66 (dangerous weapon), 609.665 (spring guns), 609.67 (machine guns and short-barreled shotguns), 609.749 (harassment; stalking), 152.021 or 152.022 (controlled substance crime in the first or second degree), 152.023, subdivision 1, clause (3) or (4), or subdivision 2, clause (4) (controlled substance crime in the third degree), 152.024, subdivision 1, clause (2), (3), or (4) (controlled substance crime in the fourth degree), 609.224, subdivision 2, paragraph (c) (fifth-degree assault by a caregiver against a vulnerable adult), 609.228 (great bodily harm caused by distribution of drugs), 609.23 (mistreatment of persons confined), 609.231 (mistreatment of residents or patients), 609.2325 (criminal abuse of a vulnerable adult), 609.233 (criminal neglect of a vulnerable adult), 609.2335 (financial exploitation of a vulnerable adult), 609.234 (failure to report), 609.265 (abduction), 609.2664 to 609.2665 (manslaughter of an unborn child in the first or second degree), 609.267 to 609.2672 (assault of an unborn child in the first, second, or third degree), 609.268 (injury or death of an unborn child in the commission of a crime), 617.293 (disseminating or displaying harmful material to minors), a gross misdemeanor offense under 609.324, subdivision 1 (other prohibited acts), a gross misdemeanor offense under 609.378 (neglect or endangerment of a child), a gross misdemeanor offense under 609.377 (malicious punishment of a child), 609.72, subdivision 3 (disorderly conduct against a vulnerable adult); or an attempt or conspiracy to commit any of these offenses, as each of these offenses is defined in Minnesota Statutes; or an offense in any other state, the elements of which are substantially similar to the elements of any of the foregoing offenses;

(2) regardless of how much time has passed since the discharge of the sentence imposed for the offense, the individual was convicted of a violation of any offense listed in sections 609.185 to 609.195 (murder in the first, second, or third degree), 609.2661 to 609.2663 (murder of an unborn child in the first, second, or third degree), a felony offense under 609.377 (malicious punishment of a child), a felony offense under 609.324, subdivision 1 (other prohibited acts), a felony offense under 609.378 (neglect or endangerment of a child), 609.322 (solicitation, inducement, and promotion of prostitution), 609.342 to 609.345 (criminal sexual conduct in the first, second, third, or fourth degree), 609.352 (solicitation of children to engage in sexual conduct), 617.246 (use of minors in a sexual performance), 617.247 (possession of pictorial representations of a minor), 609.365 (incest), a felony offense under sections 609.2242 and 609.2243 (domestic assault), a felony offense of spousal abuse, a felony offense of child abuse or neglect, a felony offense of a crime against children, or an attempt or conspiracy to commit any of these offenses as defined in Minnesota Statutes, or an offense in any other state, the elements of which are substantially similar to any of the foregoing offenses;

(3) within the seven years preceding the study, the individual committed an act that constitutes maltreatment of a child under section 626.556, subdivision 10e, and that resulted in substantial bodily harm as defined in section 609.02, subdivision 7a, or substantial mental or emotional harm as supported by competent psychological or psychiatric evidence; or

(4) within the seven years preceding the study, the individual was determined under section 626.557 to be the perpetrator of a substantiated incident of maltreatment of a vulnerable adult that resulted in substantial bodily harm as defined in section 609.02, subdivision 7a, or substantial mental or emotional harm as supported by competent psychological or psychiatric evidence.

In the case of any ground for disqualification under clauses (1) to (4), if the act was committed by an individual other than the applicant or license holder, or registrant residing in the applicant's or license holder's, or registrant's home, the applicant or license holder, or registrant may seek reconsideration when the individual who committed the act no longer resides in the home.

The disqualification periods provided under clauses (1), (3), and (4) are the minimum applicable disqualification periods. The commissioner may determine that an individual should continue to be disqualified from licensure or registration because the license holder or registrant, or applicant poses a risk of harm to a person served by that individual after the minimum disqualification period has passed.

(d) The commissioner shall respond in writing or by electronic transmission to all reconsideration requests for which the basis for the request is that the information relied upon by the commissioner to disqualify is incorrect or inaccurate within 30 working days of receipt of a request and all relevant information. If the basis for the request is that the individual does not pose a risk of harm, the commissioner shall respond to the request within 15 working days after receiving the request for reconsideration and all relevant information. If the disqualification is set aside, the commissioner shall notify the applicant or license holder in writing or by electronic transmission of the decision.

(e) Except as provided in subdivision 3c, the commissioner's decision to disqualify an individual, including the decision to grant or deny a rescission or set aside a disqualification under this section, is the final administrative agency action and shall not be subject to further review in a contested case under chapter 14 involving a negative licensing appeal taken in response to the disqualification or involving an accuracy and completeness appeal under section 13.04.

Sec. 10. Minnesota Statutes 2000, section 245A.04, subdivision 3d, is amended to read:

Subd. 3d. [DISQUALIFICATION.] (a) Except as provided in paragraph (b), when a background study completed under subdivision 3 shows any of the following: a conviction of one or more crimes listed in clauses (1) to (4); the individual has admitted to or a preponderance of the evidence indicates the individual has committed an act or acts that meet the definition of any of the crimes listed in clauses (1) to (4); or an administrative determination listed under clause (4), the individual shall be disqualified from any position allowing direct contact with persons receiving services from the license holder or registrant:

(1) regardless of how much time has passed since the discharge of the sentence imposed for the offense, and unless otherwise specified, regardless of the level of the conviction, the individual was convicted of any of the following offenses: sections 609.185 (murder in the first degree); 609.19 (murder in the second degree); 609.195 (murder in the third degree); 609.2661 (murder of an unborn child in the first degree); 609.2662 (murder of an unborn child in the second degree); 609.2663 (murder of an unborn child in the third degree); 609.322 (solicitation, inducement, and promotion of prostitution); 609.342 (criminal sexual conduct in the first degree); 609.343 (criminal sexual conduct in the second degree); 609.344 (criminal sexual conduct in the third degree); 609.345 (criminal sexual conduct in the fourth degree); 609.352 (solicitation of children to engage in sexual conduct); 609.365 (incest); felony offense under 609.377 (malicious punishment of a child); a felony offense under 609.378 (neglect or endangerment of a child); a felony offense under 609.324, subdivision 1 (other prohibited acts); 617.246 (use of minors in sexual performance prohibited); 617.247 (possession of pictorial representations of minors); a felony offense under sections 609.2242 and 609.2243 (domestic assault), a felony offense of spousal abuse, a felony offense of child abuse or neglect, a felony offense of a crime against children; or attempt or conspiracy to commit any of these offenses as defined in Minnesota Statutes, or an offense in any other state or country, where the elements are substantially similar to any of the offenses listed in this clause;

(2) if less than 15 years have passed since the discharge of the sentence imposed for the offense; and the individual has received a felony conviction for a violation of any of these offenses: sections 609.20 (manslaughter in the first degree); 609.205 (manslaughter in the second degree); 609.21 (criminal vehicular homicide and injury); 609.215 (suicide); 609.221 to 609.2231 (assault in the first, second, third, or fourth degree); repeat offenses under 609.224 (assault in the fifth degree); repeat offenses under 609.3451 (criminal sexual conduct in the fifth degree); 609.713

(terroristic threats); 609.235 (use of drugs to injure or facilitate crime); 609.24 (simple robbery); 609.245 (aggravated robbery); 609.25 (kidnapping); 609.255 (false imprisonment); 609.561 (arson in the first degree); 609.562 (arson in the second degree); 609.563 (arson in the third degree); repeat offenses under 617.23 (indecent exposure; penalties); repeat offenses under 617.241 (obscene materials and performances; distribution and exhibition prohibited; penalty); 609.71 (riot); 609.66 (dangerous weapons); 609.67 (machine guns and short-barreled shotguns); 609.749 (harassment; stalking; penalties); 609.228 (great bodily harm caused by distribution of drugs); 609.2325 (criminal abuse of a vulnerable adult); 609.2664 (manslaughter of an unborn child in the first degree); 609.2665 (manslaughter of an unborn child in the second degree); 609.267 (assault of an unborn child in the first degree); 609.2671 (assault of an unborn child in the second degree); 609.268 (injury or death of an unborn child in the commission of a crime); 609.52 (theft); 609.2335 (financial exploitation of a vulnerable adult); 609.521 (possession of shoplifting gear); 609.582 (burglary); 609.625 (aggravated forgery); 609.63 (forgery); 609.631 (check forgery; offering a forged check); 609.635 (obtaining signature by false pretense); 609.27 (coercion); 609.275 (attempt to coerce); 609.687 (adulteration); 260C.301 (grounds for termination of parental rights); and chapter 152 (drugs; controlled substance). An attempt or conspiracy to commit any of these offenses, as each of these offenses is defined in Minnesota Statutes; or an offense in any other state or country, the elements of which are substantially similar to the elements of the offenses in this clause. If the individual studied is convicted of one of the felonies listed in this clause, but the sentence is a gross misdemeanor or misdemeanor disposition, the lookback period for the conviction is the period applicable to the disposition, that is the period for gross misdemeanors or misdemeanors;

(3) if less than ten years have passed since the discharge of the sentence imposed for the offense; and the individual has received a gross misdemeanor conviction for a violation of any of the following offenses: sections 609.224 (assault in the fifth degree); 609.2242 and 609.2243 (domestic assault); violation of an order for protection under 518B.01, subdivision 14; 609.3451 (criminal sexual conduct in the fifth degree); repeat offenses under 609.746 (interference with privacy); repeat offenses under 617.23 (indecent exposure); 617.241 (obscene materials and performances); 617.243 (indecent literature, distribution); 617.293 (harmful materials; dissemination and display to minors prohibited); 609.71 (riot); 609.66 (dangerous weapons); 609.749 (harassment; stalking; penalties); 609.224, subdivision 2, paragraph (c) (assault in the fifth degree by a caregiver against a vulnerable adult); 609.23 (mistreatment of persons confined); 609.231 (mistreatment of residents or patients); 609.2325 (criminal abuse of a vulnerable adult); 609.233 (criminal neglect of a vulnerable adult); 609.2335 (financial exploitation of a vulnerable adult); 609.234 (failure to report maltreatment of a vulnerable adult); 609.72, subdivision 3 (disorderly conduct against a vulnerable adult); 609.265 (abduction); 609.378 (neglect or endangerment of a child); 609.377 (malicious punishment of a child); 609.324, subdivision 1a (other prohibited acts; minor engaged in prostitution); 609.33 (disorderly house); 609.52 (theft); 609.582 (burglary); 609.631 (check forgery; offering a forged check); 609.275 (attempt to coerce); or an attempt or conspiracy to commit any of these offenses, as each of these offenses is defined in Minnesota Statutes; or an offense in any other state or country, the elements of which are substantially similar to the elements of any of the offenses listed in this clause. If the defendant is convicted of one of the gross misdemeanors listed in this clause, but the sentence is a misdemeanor disposition, the lookback period for the conviction is the period applicable to misdemeanors; or

(4) if less than seven years have passed since the discharge of the sentence imposed for the offense; and the individual has received a misdemeanor conviction for a violation of any of the following offenses: sections 609.224 (assault in the fifth degree); 609.2242 (domestic assault); violation of an order for protection under 518B.01 (Domestic Abuse Act); violation of an order for protection under 609.3232 (protective order authorized; procedures; penalties); 609.746 (interference with privacy); 609.79 (obscene or harassing phone calls); 609.795 (letter, telegram, or package; opening; harassment); 617.23 (indecent exposure; penalties); 609.2672 (assault of an unborn child in the third degree); 617.293 (harmful materials; dissemination and display to minors prohibited); 609.66 (dangerous weapons); 609.665 (spring guns); 609.2335 (financial exploitation of a vulnerable adult); 609.234 (failure to report maltreatment of a vulnerable adult); 609.52 (theft); 609.27 (coercion); or an attempt or conspiracy to commit any of these offenses, as each of these offenses is defined in Minnesota Statutes; or an offense in any other state or country, the elements of which are substantially similar to the elements of any of the offenses listed in this clause; failure to make required reports under section 626.556, subdivision 3, or 626.557, subdivision 3, for incidents in which: (i) the final disposition under section 626.556 or 626.557 was substantiated maltreatment, and (ii) the

maltreatment was recurring or serious; or substantiated serious or recurring maltreatment of a minor under section 626.556 or of a vulnerable adult under section 626.557 for which there is a preponderance of evidence that the maltreatment occurred, and that the subject was responsible for the maltreatment.

For the purposes of this section, "serious maltreatment" means sexual abuse; maltreatment resulting in death; or maltreatment resulting in serious injury which reasonably requires the care of a physician whether or not the care of a physician was sought; or abuse resulting in serious injury. For purposes of this section, "abuse resulting in serious injury" means: bruises, bites, skin laceration or tissue damage; fractures; dislocations; evidence of internal injuries; head injuries with loss of consciousness; extensive second-degree or third-degree burns and other burns for which complications are present; extensive second-degree or third-degree frostbite, and others for which complications are present; irreversible mobility or avulsion of teeth; injuries to the eyeball; ingestion of foreign substances and objects that are harmful; near drowning; and heat exhaustion or sunstroke. For purposes of this section, "care of a physician" is treatment received or ordered by a physician, but does not include diagnostic testing, assessment, or observation. For the purposes of this section, "recurring maltreatment" means more than one incident of maltreatment for which there is a preponderance of evidence that the maltreatment occurred, and that the subject was responsible for the maltreatment.

(b) If the subject of a background study is licensed by a health-related licensing board, the board shall make the determination regarding a disqualification under this subdivision based on a finding of substantiated maltreatment under section 626.556 or 626.557. The commissioner shall notify the health-related licensing board if a background study shows that a licensee would be disqualified because of substantiated maltreatment and the board shall make a determination under section 214.104.

Sec. 11. [REPORT ON SUPPLEMENTAL NURSING SERVICES AGENCY USE.]

Beginning July 1, 2001, through June 30, 2003, the commissioner of human services shall require nursing facilities and other providers of long-term care services to report semiannually on the use of supplemental nursing services, in the form and manner specified by the commissioner. The information reported must include, but is not limited to:

- (1) number of hours worked by supplemental nursing services personnel, by job classification, for each month;
- (2) payments to supplemental nursing services agencies, on a per hour worked basis, by job classification, for each month; and
- (3) percentage of total monthly work hours provided by supplemental nursing services agency personnel, by job classification, for each shift and for weekdays and weekends.

ARTICLE 8

LONG-TERM CARE INSURANCE

Section 1. Minnesota Statutes 2000, section 62A.48, subdivision 4, is amended to read:

Subd. 4. [LOSS RATIO.] The anticipated loss ratio for long-term care policies must not be less than 65 percent for policies issued on a group basis or 60 percent for policies issued on an individual or mass-market basis. This subdivision does not apply to policies issued on or after January 1, 2002, that comply with sections 62S.021 and 62S.081.

[EFFECTIVE DATE.] This section is effective the day following final enactment.

Sec. 2. Minnesota Statutes 2000, section 62A.48, is amended by adding a subdivision to read:

Subd. 10. [REGULATION OF PREMIUMS AND PREMIUM INCREASES.] Policies issued under sections 62A.46 to 62A.56 on or after January 1, 2002, must comply with sections 62S.021, 62S.081, 62S.265, and 62S.266 to the same extent as policies issued under chapter 62S.

[EFFECTIVE DATE.] This section is effective the day following final enactment.

Sec. 3. Minnesota Statutes 2000, section 62A.48, is amended by adding a subdivision to read:

Subd. 11. [NONFORFEITURE BENEFITS.] Policies issued under sections 62A.46 to 62A.56 on or after January 1, 2002, must comply with section 62S.02, subdivision 2, to the same extent as policies issued under chapter 62S.

[EFFECTIVE DATE.] This section is effective the day following final enactment.

Sec. 4. Minnesota Statutes 2000, section 62S.01, is amended by adding a subdivision to read:

Subd. 13a. [EXCEPTIONAL INCREASE.] (a) "Exceptional increase" means only those premium rate increases filed by an insurer as exceptional for which the commissioner determines that the need for the premium rate increase is justified due to changes in laws or rules applicable to long-term care coverage in this state, or due to increased and unexpected utilization that affects the majority of insurers of similar products.

(b) Except as provided in section 62S.265, exceptional increases are subject to the same requirements as other premium rate schedule increases. The commissioner may request a review by an independent actuary or a professional actuarial body of the basis for a request that an increase be considered an exceptional increase. The commissioner, in determining that the necessary basis for an exceptional increase exists, shall also determine any potential offsets to higher claims costs.

[EFFECTIVE DATE.] This section is effective the day following final enactment.

Sec. 5. Minnesota Statutes 2000, section 62S.01, is amended by adding a subdivision to read:

Subd. 17a. [INCIDENTAL.] "Incidental," as used in section 62S.265, subdivision 10, means that the value of the long-term care benefits provided is less than ten percent of the total value of the benefits provided over the life of the policy. These values must be measured as of the date of issue.

[EFFECTIVE DATE.] This section is effective the day following final enactment.

Sec. 6. Minnesota Statutes 2000, section 62S.01, is amended by adding a subdivision to read:

Subd. 23a. [QUALIFIED ACTUARY.] "Qualified actuary" means a member in good standing of the American Academy of Actuaries.

[EFFECTIVE DATE.] This section is effective the day following final enactment.

Sec. 7. Minnesota Statutes 2000, section 62S.01, is amended by adding a subdivision to read:

Subd. 25a. [SIMILAR POLICY FORMS.] "Similar policy forms" means all of the long-term care insurance policies and certificates issued by an insurer in the same long-term care benefit classification as the policy form being considered. Certificates of groups that meet the definition in section 62S.01, subdivision 15, clause (1), are not considered similar to certificates or policies otherwise issued as long-term care insurance, but are similar to other

comparable certificates with the same long-term care benefit classifications. For purposes of determining similar policy forms, long-term care benefit classifications are defined as follows: institutional long-term care benefits only, noninstitutional long-term care benefits only, or comprehensive long-term care benefits.

[EFFECTIVE DATE.] This section is effective the day following final enactment.

Sec. 8. [62S.021] [LONG-TERM CARE INSURANCE; INITIAL FILING.]

Subdivision 1. [APPLICABILITY.] This section applies to any long-term care policy issued in this state on or after January 1, 2002, under this chapter or sections 62A.46 to 62A.56.

Subd. 2. [REQUIRED SUBMISSION TO COMMISSIONER.] An insurer shall provide the following information to the commissioner 30 days prior to making a long-term care insurance form available for sale:

(1) a copy of the disclosure documents required in section 62S.081; and

(2) an actuarial certification consisting of at least the following:

(i) a statement that the initial premium rate schedule is sufficient to cover anticipated costs under moderately adverse experience and that the premium rate schedule is reasonably expected to be sustainable over the life of the form with no future premium increases anticipated;

(ii) a statement that the policy design and coverage provided have been reviewed and taken into consideration;

(iii) a statement that the underwriting and claims adjudication processes have been reviewed and taken into consideration; and

(iv) a complete description of the basis for contract reserves that are anticipated to be held under the form, to include:

(A) sufficient detail or sample calculations provided so as to have a complete depiction of the reserve amounts to be held;

(B) a statement that the assumptions used for reserves contain reasonable margins for adverse experience;

(C) a statement that the net valuation premium for renewal years does not increase, except for attained-age rating where permitted;

(D) a statement that the difference between the gross premium and the net valuation premium for renewal years is sufficient to cover expected renewal expenses, or if such a statement cannot be made, a complete description of the situations in which this does not occur. An aggregate distribution of anticipated issues may be used as long as the underlying gross premiums maintain a reasonably consistent relationship. If the gross premiums for certain age groups appear to be inconsistent with this requirement, the commissioner may request a demonstration under item (i) based on a standard age distribution; and

(E) either a statement that the premium rate schedule is not less than the premium rate schedule for existing similar policy forms also available from the insurer except for reasonable differences attributable to benefits, or a comparison of the premium schedules for similar policy forms that are currently available from the insurer with an explanation of the differences.

Subd. 3. [ACTUARIAL DEMONSTRATION.] The commissioner may request an actuarial demonstration that benefits are reasonable in relation to premiums. The actuarial demonstration must include either premium and claim experience on similar policy forms, adjusted for any premium or benefit differences, relevant and credible data from other studies, or both. If the commissioner asks for additional information under this subdivision, the 30-day time limit in subdivision 2 does not include the time during which the insurer is preparing the requested information.

[EFFECTIVE DATE.] This section is effective the day following final enactment.

Sec. 9. [62S.081] [REQUIRED DISCLOSURE OF RATING PRACTICES TO CONSUMERS.]

Subdivision 1. [APPLICATION.] This section applies as follows:

(a) Except as provided in paragraph (b), this section applies to any long-term care policy or certificate issued in this state on or after January 1, 2002.

(b) For certificates issued on or after the effective date of this section under a policy of group long-term care insurance as defined in section 62S.01, subdivision 15, that was in force on the effective date of this section, this section applies on the policy anniversary following June 30, 2002.

Subd. 2. [REQUIRED DISCLOSURES.] Other than policies for which no applicable premium rate or rate schedule increases can be made, insurers shall provide all of the information listed in this subdivision to the applicant at the time of application or enrollment, unless the method of application does not allow for delivery at that time; in this case, an insurer shall provide all of the information listed in this subdivision to the applicant no later than at the time of delivery of the policy or certificate:

(1) a statement that the policy may be subject to rate increases in the future;

(2) an explanation of potential future premium rate revisions and the policyholder's or certificate holder's option in the event of a premium rate revision;

(3) the premium rate or rate schedules applicable to the applicant that will be in effect until a request is made for an increase;

(4) a general explanation of applying premium rate or rate schedule adjustments that must include:

(i) a description of when premium rate or rate schedule adjustments will be effective, for example the next anniversary date or the next billing date; and

(ii) the right to a revised premium rate or rate schedule as provided in clause (3) if the premium rate or rate schedule is changed; and

(5)(i) information regarding each premium rate increase on this policy form or similar policy forms over the past ten years for this state or any other state that, at a minimum, identifies:

(A) the policy forms for which premium rates have been increased;

(B) the calendar years when the form was available for purchase; and

(C) the amount or percent of each increase. The percentage may be expressed as a percentage of the premium rate prior to the increase and may also be expressed as minimum and maximum percentages if the rate increase is variable by rating characteristics;

(ii) the insurer may, in a fair manner, provide additional explanatory information related to the rate increases;

(iii) an insurer has the right to exclude from the disclosure premium rate increases that apply only to blocks of business acquired from other nonaffiliated insurers or the long-term care policies acquired from other nonaffiliated insurers when those increases occurred prior to the acquisition;

(iv) if an acquiring insurer files for a rate increase on a long-term care policy form acquired from nonaffiliated insurers or a block of policy forms acquired from nonaffiliated insurers on or before the later of the effective date of this section, or the end of a 24-month period following the acquisition of the block of policies, the acquiring insurer may exclude that rate increase from the disclosure. However, the nonaffiliated selling company must include the disclosure of that rate increase according to item (i); and

(v) if the acquiring insurer in item (iv) files for a subsequent rate increase, even within the 24-month period, on the same policy form acquired from nonaffiliated insurers or block of policy forms acquired from nonaffiliated insurers referenced in item (iv), the acquiring insurer shall make all disclosures required by this subdivision, including disclosure of the earlier rate increase referenced in item (iv).

Subd. 3. [ACKNOWLEDGMENT.] An applicant shall sign an acknowledgment at the time of application, unless the method of application does not allow for signature at that time, that the insurer made the disclosure required under subdivision 2. If, due to the method of application, the applicant cannot sign an acknowledgment at the time of application, the applicant shall sign no later than at the time of delivery of the policy or certificate.

Subd. 4. [FORMS.] An insurer shall use the forms in Appendices B and F of the Long-term Care Insurance Model Regulation adopted by the National Association of Insurance Commissioners to comply with the requirements of subdivisions 1 and 2.

Subd. 5. [NOTICE OF INCREASE.] An insurer shall provide notice of an upcoming premium rate schedule increase, after the increase has been approved by the commissioner, to all policyholders or certificate holders, if applicable, at least 45 days prior to the implementation of the premium rate schedule increase by the insurer. The notice must include the information required by subdivision 2 when the rate increase is implemented.

[EFFECTIVE DATE.] This section is effective the day following final enactment.

Sec. 10. Minnesota Statutes 2000, section 62S.26, is amended to read:

62S.26 [LOSS RATIO.]

(a) The minimum loss ratio must be at least 60 percent, calculated in a manner which provides for adequate reserving of the long-term care insurance risk. In evaluating the expected loss ratio, the commissioner shall give consideration to all relevant factors, including:

- (1) statistical credibility of incurred claims experience and earned premiums;
- (2) the period for which rates are computed to provide coverage;
- (3) experienced and projected trends;
- (4) concentration of experience within early policy duration;
- (5) expected claim fluctuation;
- (6) experience refunds, adjustments, or dividends;
- (7) renewability features;

- (8) all appropriate expense factors;
- (9) interest;
- (10) experimental nature of the coverage;
- (11) policy reserves;
- (12) mix of business by risk classification; and
- (13) product features such as long elimination periods, high deductibles, and high maximum limits.

(b) This section does not apply to policies or certificates that are subject to sections 62S.021, 62S.081, and 62S.265, and that comply with those sections.

[EFFECTIVE DATE.] This section is effective the day following final enactment.

Sec. 11. [62S.265] [PREMIUM RATE SCHEDULE INCREASES.]

Subdivision 1. [APPLICABILITY.] (a) Except as provided in paragraph (b), this section applies to any long-term care policy or certificate issued in this state on or after January 1, 2002, under this chapter or sections 62A.46 to 62A.56.

(b) For certificates issued on or after the effective date of this section under a group long-term care insurance policy as defined in section 62S.01, subdivision 15, issued under this chapter, that was in force on the effective date of this section, this section applies on the policy anniversary following June 30, 2002.

Subd. 2. [NOTICE.] An insurer shall file a requested premium rate schedule increase, including an exceptional increase, to the commissioner for prior approval at least 60 days prior to the notice to the policyholders and shall include:

(1) all information required by section 62S.081;

(2) certification by a qualified actuary that:

(i) if the requested premium rate schedule increase is implemented and the underlying assumptions, which reflect moderately adverse conditions, are realized, no further premium rate schedule increases are anticipated; and

(ii) the premium rate filing complies with this section;

(3) an actuarial memorandum justifying the rate schedule change request that includes:

(i) lifetime projections of earned premiums and incurred claims based on the filed premium rate schedule increase and the method and assumptions used in determining the projected values, including reflection of any assumptions that deviate from those used for pricing other forms currently available for sale;

(A) annual values for the five years preceding and the three years following the valuation date must be provided separately;

(B) the projections must include the development of the lifetime loss ratio, unless the rate increase is an exceptional increase;

(C) the projections must demonstrate compliance with subdivision 3; and

(D) for exceptional increases, the projected experience must be limited to the increases in claims expenses attributable to the approved reasons for the exceptional increase and, if the commissioner determines that offsets to higher claim costs may exist, the insurer shall use appropriate net projected experience;

(ii) disclosure of how reserves have been incorporated in this rate increase whenever the rate increase will trigger contingent benefit upon lapse;

(iii) disclosure of the analysis performed to determine why a rate adjustment is necessary, which pricing assumptions were not realized and why, and what other actions taken by the company have been relied upon by the actuary;

(iv) a statement that policy design, underwriting, and claims adjudication practices have been taken into consideration; and

(v) if it is necessary to maintain consistent premium rates for new certificates and certificates receiving a rate increase, the insurer shall file composite rates reflecting projections of new certificates;

(4) a statement that renewal premium rate schedules are not greater than new business premium rate schedules except for differences attributable to benefits, unless sufficient justification is provided to the commissioner; and

(5) sufficient information for review and approval of the premium rate schedule increase by the commissioner.

Subd. 3. [REQUIREMENTS PERTAINING TO RATE INCREASES.] All premium rate schedule increases must be determined according to the following requirements:

(1) exceptional increases must provide that 70 percent of the present value of projected additional premiums from the exceptional increase will be returned to policyholders in benefits;

(2) premium rate schedule increases must be calculated so that the sum of the accumulated value of incurred claims, without the inclusion of active life reserves, and the present value of future projected incurred claims, without the inclusion of active life reserves, will not be less than the sum of the following:

(i) the accumulated value of the initial earned premium times 58 percent;

(ii) 85 percent of the accumulated value of prior premium rate schedule increases on an earned basis;

(iii) the present value of future projected initial earned premiums times 58 percent; and

(iv) 85 percent of the present value of future projected premiums not in item (iii) on an earned basis;

(3) if a policy form has both exceptional and other increases, the values in clause (2), items (ii) and (iv), must also include 70 percent for exceptional rate increase amounts; and

(4) all present and accumulated values used to determine rate increases must use the maximum valuation interest rate for contract reserves permitted for valuation of whole life insurance policies issued in this state on the same date. The actuary shall disclose as part of the actuarial memorandum the use of any appropriate averages.

Subd. 4. [PROJECTIONS.] For each rate increase that is implemented, the insurer shall file for approval by the commissioner updated projections, as described in subdivision 2, clause (3), item (i), annually for the next three years and include a comparison of actual results to projected values. The commissioner may extend the period to greater than three years if actual results are not consistent with projected values from prior projections. For group insurance policies that meet the conditions in subdivision 11, the projections required by this subdivision must be provided to the policyholder in lieu of filing with the commissioner.

Subd. 5. [LIFETIME PROJECTIONS.] If any premium rate in the revised premium rate schedule is greater than 200 percent of the comparable rate in the initial premium schedule, lifetime projections, as described in subdivision 2, clause (3), item (i), must be filed for approval by the commissioner every five years following the end of the required period in subdivision 4. For group insurance policies that meet the conditions in subdivision 11, the projections required by this subdivision must be provided to the policyholder in lieu of filing with the commissioner.

Subd. 6. [EFFECT OF ACTUAL EXPERIENCE.] (a) If the commissioner has determined that the actual experience following a rate increase does not adequately match the projected experience and that the current projections under moderately adverse conditions demonstrate that incurred claims will not exceed proportions of premiums specified in subdivision 3, the commissioner may require the insurer to implement any of the following:

(1) premium rate schedule adjustments; or

(2) other measures to reduce the difference between the projected and actual experience.

(b) In determining whether the actual experience adequately matches the projected experience, consideration must be given to subdivision 2, clause (3), item (v), if applicable.

Subd. 7. [CONTINGENT BENEFIT UPON LAPSE.] If the majority of the policies or certificates to which the increase is applicable are eligible for the contingent benefit upon lapse, the insurer shall file:

(1) a plan, subject to commissioner approval, for improved administration or claims processing designed to eliminate the potential for further deterioration of the policy form requiring further premium rate schedule increases, or both, or a demonstration that appropriate administration and claims processing have been implemented or are in effect; otherwise, the commissioner may impose the condition in subdivision 8, paragraph (b); and

(2) the original anticipated lifetime loss ratio, and the premium rate schedule increase that would have been calculated according to subdivision 3 had the greater of the original anticipated lifetime loss ratio or 58 percent been used in the calculations described in subdivision 3, clause (2), items (i) and (iii).

Subd. 8. [PROJECTED LAPSE RATES.] (a) For a rate increase filing that meets the following criteria, the commissioner shall review, for all policies included in the filing, the projected lapse rates and past lapse rates during the 12 months following each increase to determine if significant adverse lapsation has occurred or is anticipated:

(1) the rate increase is not the first rate increase requested for the specific policy form or forms;

(2) the rate increase is not an exceptional increase; and

(3) the majority of the policies or certificates to which the increase is applicable are eligible for the contingent benefit upon lapse.

(b) If significant adverse lapsation has occurred, is anticipated in the filing, or is evidenced in the actual results as presented in the updated projections provided by the insurer following the requested rate increase, the commissioner may determine that a rate spiral exists. Following the determination that a rate spiral exists, the commissioner may require the insurer to offer, without underwriting, to all in-force insureds subject to the rate increase, the option to replace existing coverage with one or more reasonably comparable products being offered by the insurer or its affiliates. The offer must:

(1) be subject to the approval of the commissioner;

(2) be based upon actuarially sound principles, but not be based upon attained age; and

(3) provide that maximum benefits under any new policy accepted by an insured will be reduced by comparable benefits already paid under the existing policy.

(c) The insurer shall maintain the experience of all the replacement insureds separate from the experience of insureds originally issued the policy forms. In the event of a request for a rate increase on the policy form, the rate increase must be limited to the lesser of the maximum rate increase determined based on the combined experience and the maximum rate increase determined based only upon the experience of the insureds originally issued the form plus ten percent.

Subd. 9. [PERSISTENT PRACTICE OF INADEQUATE INITIAL RATES.] If the commissioner determines that the insurer has exhibited a persistent practice of filing inadequate initial premium rates for long-term care insurance, the commissioner may, in addition to the provisions of subdivision 8, take either of the following actions:

(1) prohibit the insurer from filing and marketing comparable coverage for a period of up to five years; or

(2) prohibit the insurer from offering all other similar coverages and limit the insurer's marketing of new applications for the products that are subject to recent premium rate schedule increases.

Subd. 10. [INCIDENTAL LONG-TERM CARE BENEFITS.] Subdivisions 1 to 9 do not apply to policies for which the long-term care benefits provided by the policy are incidental, as defined in section 62S.01, subdivision 17a, if the policy complies with all of the following provisions:

(1) the interest credited internally to determine cash value accumulations, including long-term care, if any, are guaranteed not to be less than the minimum guaranteed interest rate for cash value accumulations without long-term care set forth in the policy;

(2) the portion of the policy that provides insurance benefits other than long-term care coverage meets the nonforfeiture requirements as applicable in any of the following:

(i) for life insurance, section 61A.25;

(ii) for individual deferred annuities, section 61A.245; and

(iii) for variable annuities, section 61A.21;

(3) the policy meets the disclosure requirements of sections 62S.10 and 62S.11 if the policy is governed by chapter 62S and of section 62A.50 if the policy is governed by sections 62A.46 to 62A.56;

(4) the portion of the policy that provides insurance benefits other than long-term care coverage meets the requirements as applicable in the following:

(i) policy illustrations to the extent required by state law applicable to life insurance;

(ii) disclosure requirements in state law applicable to annuities; and

(iii) disclosure requirements applicable to variable annuities; and

(5) an actuarial memorandum is filed with the commissioner that includes:

(i) a description of the basis on which the long-term care rates were determined;

(ii) a description of the basis for the reserves;

(iii) a summary of the type of policy, benefits, renewability, general marketing method, and limits on ages of issuance;

(iv) a description and a table of each actuarial assumption used. For expenses, an insurer must include percent of premium dollars per policy and dollars per unit of benefits, if any;

(v) a description and a table of the anticipated policy reserves and additional reserves to be held in each future year for active lives;

(vi) the estimated average annual premium per policy and the average issue age;

(vii) a statement as to whether underwriting is performed at the time of application. The statement must indicate whether underwriting is used and, if used, the statement must include a description of the type or types of underwriting used, such as medical underwriting or functional assessment underwriting. Concerning a group policy, the statement must indicate whether the enrollee or any dependent will be underwritten and when underwriting occurs; and

(viii) a description of the effect of the long-term care policy provision on the required premiums, nonforfeiture values, and reserves on the underlying insurance policy, both for active lives and those in long-term care claim status.

Subd. 11. [LARGE GROUP POLICIES.] Subdivisions 6 and 9 do not apply to group long-term care insurance policies as defined in section 62S.01, subdivision 15, where:

(1) the policies insure 250 or more persons, and the policyholder has 5,000 or more eligible employees of a single employer; or

(2) the policyholder, and not the certificate holders, pays a material portion of the premium, which is not less than 20 percent of the total premium for the group in the calendar year prior to the year in which a rate increase is filed.

[EFFECTIVE DATE.] This section is effective the day following final enactment.

Sec. 12. [62S.266] [NONFORFEITURE BENEFIT REQUIREMENT.]

Subdivision 1. [APPLICABILITY.] This section does not apply to life insurance policies or riders containing accelerated long-term care benefits.

Subd. 2. [REQUIREMENT.] An insurer must offer each prospective policyholder a nonforfeiture benefit in compliance with the following requirements:

(1) a policy or certificate offered with nonforfeiture benefits must have coverage elements, eligibility, benefit triggers, and benefit length that are the same as coverage to be issued without nonforfeiture benefits. The nonforfeiture benefit included in the offer must be the benefit described in subdivision 5; and

(2) the offer must be in writing if the nonforfeiture benefit is not otherwise described in the outline of coverage or other materials given to the prospective policyholder.

Subd. 3. [EFFECT OF REJECTION OF OFFER.] If the offer required to be made under subdivision 2 is rejected, the insurer shall provide the contingent benefit upon lapse described in this section.

Subd. 4. [CONTINGENT BENEFIT UPON LAPSE.] (a) After rejection of the offer required under subdivision 2, for individual and group policies without nonforfeiture benefits issued after the effective date of this section, the insurer shall provide a contingent benefit upon lapse.

(b) If a group policyholder elects to make the nonforfeiture benefit an option to the certificate holder, a certificate shall provide either the nonforfeiture benefit or the contingent benefit upon lapse.

(c) The contingent benefit on lapse must be triggered every time an insurer increases the premium rates to a level which results in a cumulative increase of the annual premium equal to or exceeding the percentage of the insured's initial annual premium based on the insured's issue age provided in this paragraph, and the policy or certificate lapses within 120 days of the due date of the premium increase. Unless otherwise required, policyholders shall be notified at least 30 days prior to the due date of the premium reflecting the rate increase.

Triggers for a Substantial Premium Increase

<u>Issue Age</u>	<u>Percent Increase Over Initial Premium</u>
<u>29 and Under</u>	<u>200</u>
<u>30-34</u>	<u>190</u>
<u>35-39</u>	<u>170</u>
<u>40-44</u>	<u>150</u>
<u>45-49</u>	<u>130</u>
<u>50-54</u>	<u>110</u>
<u>55-59</u>	<u>90</u>
<u>60</u>	<u>70</u>
<u>61</u>	<u>66</u>
<u>62</u>	<u>62</u>
<u>63</u>	<u>58</u>
<u>64</u>	<u>54</u>
<u>65</u>	<u>50</u>
<u>66</u>	<u>48</u>
<u>67</u>	<u>46</u>
<u>68</u>	<u>44</u>
<u>69</u>	<u>42</u>
<u>70</u>	<u>40</u>
<u>71</u>	<u>38</u>
<u>72</u>	<u>36</u>
<u>73</u>	<u>34</u>
<u>74</u>	<u>32</u>
<u>75</u>	<u>30</u>
<u>76</u>	<u>28</u>
<u>77</u>	<u>26</u>
<u>78</u>	<u>24</u>
<u>79</u>	<u>22</u>
<u>80</u>	<u>20</u>
<u>81</u>	<u>19</u>
<u>82</u>	<u>18</u>
<u>83</u>	<u>17</u>
<u>84</u>	<u>16</u>
<u>85</u>	<u>15</u>
<u>86</u>	<u>14</u>
<u>87</u>	<u>13</u>
<u>88</u>	<u>12</u>
<u>89</u>	<u>11</u>
<u>90 and over</u>	<u>10</u>

(d) On or before the effective date of a substantial premium increase as defined in paragraph (c), the insurer shall:

(1) offer to reduce policy benefits provided by the current coverage without the requirement of additional underwriting so that required premium payments are not increased;

(2) offer to convert the coverage to a paid-up status with a shortened benefit period according to the terms of subdivision 5. This option may be elected at any time during the 120-day period referenced in paragraph (c); and

(3) notify the policyholder or certificate holder that a default or lapse at any time during the 120-day period referenced in paragraph (c) is deemed to be the election of the offer to convert in clause (2).

Subd. 5. [NONFORFEITURE BENEFITS; REQUIREMENTS.] (a) Benefits continued as nonforfeiture benefits, including contingent benefits upon lapse, must be as described in this subdivision.

(b) For purposes of this subdivision, "attained age rating" is defined as a schedule of premiums starting from the issue date which increases with age at least one percent per year prior to age 50, and at least three percent per year beyond age 50.

(c) For purposes of this subdivision, the nonforfeiture benefit must be of a shortened benefit period providing paid-up, long-term care insurance coverage after lapse. The same benefits, amounts, and frequency in effect at the time of lapse, but not increased thereafter, will be payable for a qualifying claim, but the lifetime maximum dollars or days of benefits must be determined as specified in paragraph (d).

(d) The standard nonforfeiture credit is equal to 100 percent of the sum of all premiums paid, including the premiums paid prior to any changes in benefits. The insurer may offer additional shortened benefit period options, so long as the benefits for each duration equal or exceed the standard nonforfeiture credit for that duration. However, the minimum nonforfeiture credit must not be less than 30 times the daily nursing home benefit at the time of lapse. In either event, the calculation of the nonforfeiture credit is subject to the limitation of this subdivision.

(e) The nonforfeiture benefit must begin not later than the end of the third year following the policy or certificate issue date. The contingent benefit upon lapse must be effective during the first three years as well as thereafter.

(f) Notwithstanding paragraph (e), for a policy or certificate with attained age rating, the nonforfeiture benefit must begin on the earlier of:

(1) the end of the tenth year following the policy or certificate issue date; or

(2) the end of the second year following the date the policy or certificate is no longer subject to attained age rating.

(g) Nonforfeiture credits may be used for all care and services qualifying for benefits under the terms of the policy or certificate, up to the limits specified in the policy or certificate.

Subd. 6. [BENEFIT LIMIT.] All benefits paid by the insurer while the policy or certificate is in premium-paying status and in the paid-up status will not exceed the maximum benefits which would be payable if the policy or certificate had remained in premium-paying status.

Subd. 7. [MINIMUM BENEFITS; INDIVIDUAL AND GROUP POLICIES.] There must be no difference in the minimum nonforfeiture benefits as required under this section for group and individual policies.

Subd. 8. [APPLICATION; EFFECTIVE DATES.] This section becomes effective January 1, 2002, and applies as follows:

(a) Except as provided in paragraph (b), this section applies to any long-term care policy issued in this state on or after the effective date of this section.

(b) For certificates issued on or after the effective date of this section, under a group long-term care insurance policy that was in force on the effective date of this section, the provisions of this section do not apply.

Subd. 9. [EFFECT ON LOSS RATIO.] Premiums charged for a policy or certificate containing nonforfeiture benefits or a contingent benefit on lapse are subject to the loss ratio requirements of section 62A.48, subdivision 4, or 62S.26, treating the policy as a whole, except for policies or certificates that are subject to sections 62S.021, 62S.081, and 62S.265 and that comply with those sections.

Subd. 10. [PURCHASED BLOCKS OF BUSINESS.] To determine whether contingent nonforfeiture upon lapse provisions are triggered under subdivision 4, paragraph (c), a replacing insurer that purchased or otherwise assumed a block or blocks of long-term care insurance policies from another insurer shall calculate the percentage increase based on the initial annual premium paid by the insured when the policy was first purchased from the original insurer.

Subd. 11. [LEVEL PREMIUM CONTRACTS.] A nonforfeiture benefit for qualified long-term care insurance contracts that are level premium contracts must be offered that meets the following requirements:

(1) the nonforfeiture provision must be appropriately captioned;

(2) the nonforfeiture provision must provide a benefit available in the event of a default in the payment of any premiums and must state that the amount of the benefit may be adjusted subsequent to being initially granted only as necessary to reflect changes in claims, persistency, and interest as reflected in changes in rates for premium paying contracts approved by the commissioner for the same contract form; and

(3) the nonforfeiture provision must provide at least one of the following:

(i) reduced paid-up insurance;

(ii) extended term insurance;

(iii) shortened benefit period; or

(iv) other similar offerings approved by the commissioner.

[EFFECTIVE DATE.] This section is effective the day following final enactment.

Sec. 13. Minnesota Statutes 2000, section 256.975, is amended by adding a subdivision to read:

Subd. 8. [PROMOTION OF LONG-TERM CARE INSURANCE.] The Minnesota board on aging, either directly or through contract, shall promote the provision of employer-sponsored, long-term care insurance. The board shall encourage private and public sector employers to make long-term care insurance available to employees, provide interested employers with information on the long-term care insurance product offered to state employees, and provide technical assistance to employers in designing long-term care insurance products and contacting companies offering long-term care insurance products.

Sec. 14. [256B.0571] [LONG-TERM CARE PARTNERSHIP.]

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

(a) "Home care service" means care described in section 144A.43.

(b) "Long-term care insurance" means a policy described in section 62S.01.

(c) "Medical assistance" means the program of medical assistance established under section 256B.01.

(d) "Nursing home" means nursing home as described in section 144A.01.

(e) "Partnership policy" means a long-term care insurance policy that meets the requirements under chapter 62S.

(f) "Partnership program" means the Minnesota partnership for long-term care program established under this section.

Subd. 2. [PARTNERSHIP PROGRAM.] (a) Subject to federal waiver approval, the commissioner of human services, along with the commissioner of commerce, shall establish the Minnesota partnership for long-term care program to provide for the financing of long-term care through a combination of private insurance and medical assistance.

(b) An individual who meets the requirements in paragraph (c) is eligible to participate in the partnership program.

(c) The individual must:

(1) be a Minnesota resident;

(2) purchase a partnership policy that is delivered, issued for delivery, or renewed on or after the effective date of this section, and maintains the partnership policy in effect throughout the period of participation in the partnership program; and

(3) exhaust the minimum benefits under the partnership policy as described in this section. Benefits received under a long-term care insurance policy before the effective date of this section do not count toward the exhaustion of benefits required in this subdivision.

Subd. 3. [MEDICAL ASSISTANCE ELIGIBILITY.] (a) Upon application of an individual who meets the requirements described in subdivision 2, the commissioner of human services shall determine the individual's eligibility for medical assistance according to paragraphs (b) and (c).

(b) After disregarding financial assets exempted under medical assistance eligibility requirements, the department shall disregard an additional amount of financial assets equal to the dollar amount of coverage under the partnership policy.

(c) The department shall consider the individual's income according to medical assistance eligibility requirements.

Subd. 4. [FEDERAL APPROVAL.] (a) The commissioner of human services shall seek appropriate amendments to the medical assistance state plan and shall apply for any necessary waiver of medical assistance requirements by the federal Health Care Financing Administration to implement the partnership program. The state shall not implement the partnership program unless the provisions in paragraphs (b) and (c) apply.

(b) The commissioner shall seek any necessary federal waiver of medical assistance requirements.

(c) Individuals who receive medical assistance under this section are exempt from estate recovery requirements under section 1917, title XIX of the federal Social Security Act, United States Code, title 42, section 1396p.

Subd. 5. [APPROVED POLICIES.] (a) A partnership policy must meet all of the requirements in paragraphs (b) to (h).

(b) Minimum coverage shall be for a period of not less than three years and for a dollar amount equal to 36 months of nursing home care at the minimum daily benefit rate determined and adjusted under paragraph (c). The policy shall provide for home health care benefits to be substituted for nursing home care benefits on the basis of two home health care days for one nursing home care day.

(c) Minimum daily benefits shall be \$130 for nursing home care or \$65 for home care. These minimum daily benefit amounts shall be adjusted by the department on October 1 of each year, based on the health care index used under medical assistance for nursing home rate setting. Adjusted minimum daily benefit amounts shall be rounded to the nearest whole dollar.

(d) The insured shall be entitled to designate a third party to receive notice if the policy is about to lapse for nonpayment of premium, and an additional 30-day grace period for payment of premium shall be granted following notification to that person.

(e) The policy must cover all of the following services:

(1) nursing home stay;

(2) home care service;

(3) care management; and

(4) up to 14 days of nursing care in a hospital while the individual is waiting for long-term care placement.

(f) Payment for service under paragraph (e), clause (4), must not exceed the daily benefit amount for nursing home care.

(g) A partnership policy must offer both options in paragraph (h) for an adjusted premium.

(h) The options are:

(1) an elimination period of not more than 100 days; and

(2) nonforfeiture benefits for applicants between the ages of 18 and 75.

ARTICLE 9

MENTAL HEALTH AND CIVIL COMMITMENT

Section 1. [145.56] [SUICIDE PREVENTION.]

Subdivision 1. [PUBLIC HEALTH GOAL; SUICIDE PREVENTION PLAN.] The commissioner of health shall make suicide prevention an important public health goal of the state and shall conduct suicide prevention activities to accomplish that goal using an evidence-based, public health approach focused on prevention. The commissioner shall refine, coordinate, and implement the state's suicide prevention plan, in collaboration with assigned staff from the department of human services; the department of public safety; the department of children, families, and learning; and appropriate agencies, organizations, and institutions in the community.

Subd. 2. [COMMUNITY-BASED PROGRAMS.] (a) The commissioner shall establish a grant program consistent with the policy goals of this section to fund:

(1) community-based programs to provide education, outreach, and advocacy services to populations who may be at risk for suicide;

(2) community-based programs that educate natural community helpers and gatekeepers, such as family members, spiritual leaders, coaches, and business owners, employers, and coworkers, on how to prevent suicide by encouraging help-seeking behaviors; and

(3) community-based programs to provide evidence-based suicide prevention and intervention education to school staff, parents, and students in kindergarten through grade 12.

(b) Education to populations at risk for suicide and to community helpers and gatekeepers must include information on the symptoms of depression and other psychiatric illnesses, the warning signs of suicide, skills for preventing suicides, and making or seeking effective referrals to intervention and community resources.

Subd. 3. [WORKPLACE AND PROFESSIONAL EDUCATION.] (a) The commissioner shall promote the use of employee assistance and workplace programs to support employees with depression and other psychiatric illnesses and substance abuse disorders, and refer them to services. In promoting these programs, the commissioner shall collaborate with employer and professional associations, unions, and safety councils.

(b) The commissioner shall provide training and technical assistance to local public health and other community-based professionals to provide for integrated implementation of best practices for preventing suicides.

Subd. 4. [COLLECTING AND REPORTING SUICIDE DATA.] The commissioner shall coordinate with federal, regional, local, and other state agencies to collect, analyze, and annually issue a public report on Minnesota-specific data on suicide and suicidal behaviors.

Subd. 5. [PERIODIC EVALUATIONS; BIENNIAL REPORTS.] The commissioner shall conduct periodic evaluations of the impact of and outcomes from implementation of the state's suicide prevention plan and each of the activities specified in this section. By July 1, 2002, and July 1 of each even-numbered year thereafter, the commissioner shall report the results of these evaluations to the chairs of the policy and finance committees in the house and senate with jurisdiction over health and human services issues.

Sec. 2. Minnesota Statutes 2000, section 245.462, subdivision 8, is amended to read:

Subd. 8. [DAY TREATMENT SERVICES.] "Day treatment," "day treatment services," or "day treatment program" means a structured program of treatment and care provided to an adult in or by: (1) a hospital accredited by the joint commission on accreditation of health organizations and licensed under sections 144.50 to 144.55; (2) a community mental health center under section 245.62; or (3) an entity that is under contract with the county board to operate a program that meets the requirements of section 245.4712, subdivision 2, and Minnesota Rules, parts 9505.0170 to 9505.0475. Day treatment consists of group psychotherapy and other intensive therapeutic services that are provided at least one day a week by a multidisciplinary staff under the clinical supervision of a mental health professional. Day treatment may include education and consultation provided to families and other individuals as part of the treatment process. The services are aimed at stabilizing the adult's mental health status, providing mental health services, and developing and improving the adult's independent living and socialization skills. The goal of day treatment is to reduce or relieve mental illness and to enable the adult to live in the community. Day treatment services are not a part of inpatient or residential treatment services. Day treatment services are distinguished from day care by their structured therapeutic program of psychotherapy services. The commissioner may limit medical assistance reimbursement for day treatment to 15 hours per week per person instead of the three hours per day per person specified in Minnesota Rules, part 9505.0323, subpart 15.

Sec. 3. Minnesota Statutes 2000, section 245.462, subdivision 18, is amended to read:

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

(1) in psychiatric nursing: a registered nurse who is licensed under sections 148.171 to 148.285, and who is certified as a clinical specialist in adult psychiatric and mental health nursing by a national nurse certification

organization or who has a master's degree in nursing or one of the behavioral sciences or related fields from an accredited college or university or its equivalent, with at least 4,000 hours of post-master's supervised experience in the delivery of clinical services in the treatment of mental illness;

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

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

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

(5) in marriage and family therapy: the mental health professional must be a marriage and family therapist licensed under sections 148B.29 to 148B.39 with at least two years of post-master's supervised experience in the delivery of clinical services in the treatment of mental illness; or

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

Sec. 4. Minnesota Statutes 2000, section 245.462, is amended by adding a subdivision to read:

Subd. 25a. [SIGNIFICANT IMPAIRMENT IN FUNCTIONING.] "Significant impairment in functioning" means a condition, including significant suicidal ideation or thoughts of harming self or others, which harmfully affects, recurrently or consistently, a person's activities of daily living in employment, housing, family, and social relationships, or education.

Sec. 5. Minnesota Statutes 2000, section 245.4871, subdivision 10, is amended to read:

Subd. 10. [DAY TREATMENT SERVICES.] "Day treatment," "day treatment services," or "day treatment program" means a structured program of treatment and care provided to a child in:

(1) an outpatient hospital accredited by the joint commission on accreditation of health organizations and licensed under sections 144.50 to 144.55;

(2) a community mental health center under section 245.62;

(3) an entity that is under contract with the county board to operate a program that meets the requirements of section 245.4884, subdivision 2, and Minnesota Rules, parts 9505.0170 to 9505.0475; or

(4) an entity that operates a program that meets the requirements of section 245.4884, subdivision 2, and Minnesota Rules, parts 9505.0170 to 9505.0475, that is under contract with an entity that is under contract with a county board.

Day treatment consists of group psychotherapy and other intensive therapeutic services that are provided for a minimum three-hour time block by a multidisciplinary staff under the clinical supervision of a mental health professional. Day treatment may include education and consultation provided to families and other individuals as an extension of the treatment process. The services are aimed at stabilizing the child's mental health status, and developing and improving the child's daily independent living and socialization skills. Day treatment services are

distinguished from day care by their structured therapeutic program of psychotherapy services. Day treatment services are not a part of inpatient hospital or residential treatment services. Day treatment services for a child are an integrated set of education, therapy, and family interventions.

A day treatment service must be available to a child at least five days a week throughout the year and must be coordinated with, integrated with, or part of an education program offered by the child's school.

Sec. 6. Minnesota Statutes 2000, section 245.4871, subdivision 27, is amended to read:

Subd. 27. [MENTAL HEALTH PROFESSIONAL.] "Mental health professional" means a person providing clinical services in the diagnosis and treatment of children's emotional disorders. A mental health professional must have training and experience in working with children consistent with the age group to which the mental health professional is assigned. A mental health professional must be qualified in at least one of the following ways:

(1) in psychiatric nursing, the mental health professional must be a registered nurse who is licensed under sections 148.171 to 148.285 and who is certified as a clinical specialist in child and adolescent psychiatric or mental health nursing by a national nurse certification organization or who has a master's degree in nursing or one of the behavioral sciences or related fields from an accredited college or university or its equivalent, with at least 4,000 hours of post-master's supervised experience in the delivery of clinical services in the treatment of mental illness;

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

(3) in psychology, the mental health professional must be a ~~psychologist~~ an individual licensed by the board of psychology under sections 148.88 to 148.98 who has stated to the board of psychology competencies in the diagnosis and treatment of mental disorders;

(4) in psychiatry, the mental health professional must be a physician licensed under chapter 147 and certified by the American board of psychiatry and neurology or eligible for board certification in psychiatry;

(5) in marriage and family therapy, the mental health professional must be a marriage and family therapist licensed under sections 148B.29 to 148B.39 with at least two years of post-master's supervised experience in the delivery of clinical services in the treatment of mental disorders or emotional disturbances; or

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

Sec. 7. Minnesota Statutes 2000, section 245.4876, subdivision 1, is amended to read:

Subdivision 1. [CRITERIA.] Children's mental health services required by sections 245.487 to 245.4888 must be:

(1) based, when feasible, on research findings;

(2) based on individual clinical, cultural, and ethnic needs, and other special needs of the children being served;

(3) delivered in a manner that improves family functioning when clinically appropriate;

(4) provided in the most appropriate, least restrictive setting that meets the requirements in subdivision 1a, and that is available to the county board to meet the child's treatment needs;

- (5) accessible to all age groups of children;
- (6) appropriate to the developmental age of the child being served;
- (7) delivered in a manner that provides accountability to the child for the quality of service delivered and continuity of services to the child during the years the child needs services from the local system of care;
- (8) provided by qualified individuals as required in sections 245.487 to 245.4888;
- (9) coordinated with children's mental health services offered by other providers;
- (10) provided under conditions that protect the rights and dignity of the individuals being served; and
- (11) provided in a manner and setting most likely to facilitate progress toward treatment goals.

Sec. 8. Minnesota Statutes 2000, section 245.4876, is amended by adding a subdivision to read:

Subd. 1a. [APPROPRIATE SETTING TO RECEIVE SERVICES.] A child must be provided with mental health services in the least restrictive setting that is appropriate to the needs and current condition of the individual child. For a child to receive mental health services in a residential treatment or acute care hospital inpatient setting, the family may not be required to demonstrate that services were first provided in a less restrictive setting and that the child failed to make progress toward or meet treatment goals in the less restrictive setting.

Sec. 9. Minnesota Statutes 2000, section 245.4885, subdivision 1, is amended to read:

Subdivision 1. [SCREENING REQUIRED.] The county board shall, prior to admission, except in the case of emergency admission, screen all children referred for treatment of severe emotional disturbance to a residential treatment facility or informally admitted to a regional treatment center if public funds are used to pay for the services. The county board shall also screen all children admitted to an acute care hospital for treatment of severe emotional disturbance if public funds other than reimbursement under chapters 256B and 256D are used to pay for the services. If a child is admitted to a residential treatment facility or acute care hospital for emergency treatment or held for emergency care by a regional treatment center under section 253B.05, subdivision 1, screening must occur within three working days of admission. Screening shall determine whether the proposed treatment:

- (1) is necessary;
- (2) is appropriate to the child's individual treatment needs;
- (3) cannot be effectively provided in the child's home; and
- (4) provides a length of stay as short as possible consistent with the individual child's need.

When a screening is conducted, the county board may not determine that referral or admission to a residential treatment facility or acute care hospital is not appropriate solely because services were not first provided to the child in a less restrictive setting and the child failed to make progress toward or meet treatment goals in the less restrictive setting. Screening shall include both a diagnostic assessment and a functional assessment which evaluates family, school, and community living situations. If a diagnostic assessment or functional assessment has been completed by a mental health professional within 180 days, a new diagnostic or functional assessment need not be completed unless in the opinion of the current treating mental health professional the child's mental health status has changed markedly since the assessment was completed. The child's parent shall be notified if an assessment will not be completed and of the reasons. A copy of the notice shall be placed in the child's file. Recommendations developed as part of the screening process shall include specific community services needed by the child and, if appropriate, the child's family, and shall indicate whether or not these services are available and accessible to the child and family.

During the screening process, the child, child's family, or child's legal representative, as appropriate, must be informed of the child's eligibility for case management services and family community support services and that an individual family community support plan is being developed by the case manager, if assigned.

Screening shall be in compliance with section 256F.07 or 260C.212, whichever applies. Wherever possible, the parent shall be consulted in the screening process, unless clinically inappropriate.

The screening process, and placement decision, and recommendations for mental health services must be documented in the child's record.

An alternate review process may be approved by the commissioner if the county board demonstrates that an alternate review process has been established by the county board and the times of review, persons responsible for the review, and review criteria are comparable to the standards in clauses (1) to (4).

Sec. 10. Minnesota Statutes 2000, section 245.4886, subdivision 1, is amended to read:

Subdivision 1. [STATEWIDE PROGRAM; ESTABLISHMENT.] The commissioner shall establish a statewide program to assist counties in providing services to children with severe emotional disturbance as defined in section 245.4871, subdivision 15, and their families; and to young adults meeting the criteria for transition services in section 245.4875, subdivision 8, and their families. Services must be designed to help each child to function and remain with the child's family in the community. Transition services to eligible young adults must be designed to foster independent living in the community. The commissioner shall make grants to counties to establish, operate, or contract with private providers to provide the following services in the following order of priority when these cannot be reimbursed under section 256B.0625:

- (1) family community support services including crisis placement and crisis respite care as specified in section 245.4871, subdivision 17;
- (2) case management services as specified in section 245.4871, subdivision 3;
- (3) day treatment services as specified in section 245.4871, subdivision 10;
- (4) professional home-based family treatment as specified in section 245.4871, subdivision 31; and
- (5) therapeutic support of foster care as specified in section 245.4871, subdivision 34.

Funding appropriated beginning July 1, 1991, must be used by county boards to provide family community support services and case management services. Additional services shall be provided in the order of priority as identified in this subdivision.

Sec. 11. Minnesota Statutes 2000, section 245.99, subdivision 4, is amended to read:

Subd. 4. [ADMINISTRATION OF CRISIS HOUSING ASSISTANCE.] The commissioner may contract with organizations or government units experienced in housing assistance to operate the program under this section. This program is not an entitlement. The commissioner may take any of the following steps whenever the commissioner projects that funds will be inadequate to meet demand in a given fiscal year:

- (1) transfer funds from mental health grants in the same appropriation; and
- (2) impose statewide restrictions as to the type and amount of assistance available to each recipient under this program including reducing the income eligibility level, limiting reimbursement to a percentage of each recipient's costs, limiting housing assistance to 60 days per recipient, or closing the program for the remainder of the fiscal year.

Sec. 12. Minnesota Statutes 2000, section 256.969, subdivision 3a, is amended to read:

Subd. 3a. [PAYMENTS.] Acute care hospital billings under the medical assistance program must not be submitted until the recipient is discharged. However, the commissioner shall establish monthly interim payments for inpatient hospitals that have individual patient lengths of stay over 30 days regardless of diagnostic category. Except as provided in section 256.9693, medical assistance reimbursement for treatment of mental illness shall be reimbursed based on diagnostic classifications. The commissioner may selectively contract with hospitals for services within the diagnostic categories relating to mental illness and chemical dependency under competitive bidding when reasonable geographic access by recipients can be assured. No physician shall be denied the privilege of treating a recipient required to use a hospital under contract with the commissioner, as long as the physician meets credentialing standards of the individual hospital. Individual hospital payments established under this section and sections 256.9685, 256.9686, and 256.9695, in addition to third party and recipient liability, for discharges occurring during the rate year shall not exceed, in aggregate, the charges for the medical assistance covered inpatient services paid for the same period of time to the hospital. This payment limitation shall be calculated separately for medical assistance and general assistance medical care services. The limitation on general assistance medical care shall be effective for admissions occurring on or after July 1, 1991. Services that have rates established under subdivision 11 or 12, must be limited separately from other services. After consulting with the affected hospitals, the commissioner may consider related hospitals one entity and may merge the payment rates while maintaining separate provider numbers. The operating and property base rates per admission or per day shall be derived from the best Medicare and claims data available when rates are established. The commissioner shall determine the best Medicare and claims data, taking into consideration variables of recency of the data, audit disposition, settlement status, and the ability to set rates in a timely manner. The commissioner shall notify hospitals of payment rates by December 1 of the year preceding the rate year. The rate setting data must reflect the admissions data used to establish relative values. Base year changes from 1981 to the base year established for the rate year beginning January 1, 1991, and for subsequent rate years, shall not be limited to the limits ending June 30, 1987, on the maximum rate of increase under subdivision 1. The commissioner may adjust base year cost, relative value, and case mix index data to exclude the costs of services that have been discontinued by the October 1 of the year preceding the rate year or that are paid separately from inpatient services. Inpatient stays that encompass portions of two or more rate years shall have payments established based on payment rates in effect at the time of admission unless the date of admission preceded the rate year in effect by six months or more. In this case, operating payment rates for services rendered during the rate year in effect and established based on the date of admission shall be adjusted to the rate year in effect by the hospital cost index.

[EFFECTIVE DATE.] This section is effective July 1, 2002.

Sec. 13. [256.9693] [CONTINUING CARE PROGRAM FOR PERSONS WITH MENTAL ILLNESS.]

The commissioner shall establish a continuing care benefit program for persons with mental illness, in which persons with mental illness may obtain acute care hospital inpatient treatment for mental illness for up to 45 days beyond that allowed by section 256.969. Persons with mental illness who are eligible for medical assistance may obtain inpatient treatment under this program in hospital beds for which the commissioner contracts under this section. The commissioner may selectively contract with hospitals to provide this benefit through competitive bidding when reasonable geographic access by recipients can be assured. Payments under this section shall not affect payments under section 256.969. The commissioner may contract externally with a utilization review organization to authorize persons with mental illness to access the continuing care benefit program. The commissioner, as part of the contracts with hospitals, shall establish admission criteria to allow persons with mental illness to access the continuing care benefit program. If a court orders acute care hospital inpatient treatment for mental illness for a person, the person may obtain the treatment under the continuing care benefit program. The commissioner shall not require, as part of the admission criteria, any commitment or petition under chapter 253B as a condition of accessing the program. This benefit is not available for people who are also eligible for Medicare and who have not exhausted their annual or lifetime inpatient psychiatric benefit under Medicare. If a recipient is enrolled in a prepaid plan, this program is included in the plan's coverage.

[EFFECTIVE DATE.] This section is effective July 1, 2002.

Sec. 14. [256B.0623] [ADULT REHABILITATIVE MENTAL HEALTH SERVICES.]

Subdivision 1. [SCOPE.] Medical assistance covers adult rehabilitative mental health services as defined in subdivision 2, subject to federal approval, if provided to recipients as defined in subdivision 3 and provided by a qualified provider entity meeting the standards in this section and by a qualified individual provider working within the provider's scope of practice and identified in the recipient's individual treatment plan as defined in section 245.462, subdivision 14, and if determined to be medically necessary according to section 62Q.53.

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

(a) "Adult rehabilitative mental health services" means mental health services which are rehabilitative and enable the recipient to develop and enhance psychiatric stability, social competencies, personal and emotional adjustment, and independent living and community skills, when these abilities are impaired by the symptoms of mental illness. Adult rehabilitative mental health services are also appropriate when provided to enable a recipient to retain stability and functioning, if the recipient would be at risk of significant functional decompensation or more restrictive service settings without these services.

(1) Adult rehabilitative mental health services instruct, assist, and support the recipient in areas such as: interpersonal communication skills, community resource utilization and integration skills, crisis assistance, relapse prevention skills, health care directives, budgeting and shopping skills, healthy lifestyle skills and practices, cooking and nutrition skills, transportation skills, medication education and monitoring, mental illness symptom management skills, household management skills, employment-related skills, and transition to community living services.

(2) These services shall be provided to the recipient on a one-to-one basis in the recipient's home or another community setting or in groups.

(b) "Medication education services" means services provided individually or in groups which focus on educating the recipient about mental illness and symptoms; the role and effects of medications in treating symptoms of mental illness; and the side effects of medications. Medication education is coordinated with medication management services, and does not duplicate it. Medication education services are provided by physicians, pharmacists, or registered nurses.

(c) "Transition to community living services" means services which maintain continuity of contact between the rehabilitation services provider and the recipient and which facilitate discharge from a hospital, residential treatment program under Minnesota Rules, chapter 9505, board and lodging facility, or nursing home. Transition to community living services are not intended to provide other areas of adult rehabilitative mental health services.

Subd. 3. [ELIGIBILITY.] An eligible recipient is an individual who:

(1) is age 18 or older;

(2) is diagnosed with a medical condition, such as mental illness or traumatic brain injury, for which adult rehabilitative mental health services are needed;

(3) has substantial disability and functional impairment in three or more of the areas listed in section 245.462, subdivision 11a, so that self-sufficiency is markedly reduced; and

(4) has had a recent diagnostic assessment by a qualified professional that documents adult rehabilitative mental health services are medically necessary to address identified disability and functional impairments and individual recipient goals.

Subd. 4. [PROVIDER ENTITY STANDARDS.] (a) The provider entity must be:

(1) a county operated entity certified by the state; or

(2) a noncounty entity certified by the entity's host county.

(b) The certification process is a determination as to whether the entity meets the standards in this subdivision. The certification must specify which adult rehabilitative mental health services the entity is qualified to provide.

(c) If an entity seeks to provide services outside its host county, it must obtain additional certification from each county in which it will provide services. The additional certification must be based on the adequacy of the entity's knowledge of that county's local health and human service system, and the ability of the entity to coordinate its services with the other services available in that county.

(d) Recertification must occur at least every two years.

(e) The commissioner may intervene at any time and decertify providers with cause. The decertification is subject to appeal to the state. A county board may recommend that the state decertify a provider for cause.

(f) The adult rehabilitative mental health services provider entity must meet the following standards:

(1) have capacity to recruit, hire, manage, and train mental health professionals, mental health practitioners, and mental health rehabilitation workers;

(2) have adequate administrative ability to ensure availability of services;

(3) ensure adequate preservice and inservice training for staff;

(4) ensure that mental health professionals, mental health practitioners, and mental health rehabilitation workers are skilled in the delivery of the specific adult rehabilitative mental health services provided to the individual eligible recipient;

(5) ensure that staff is capable of implementing culturally specific services that are culturally competent and appropriate as determined by the recipient's culture, beliefs, values, and language as identified in the individual treatment plan;

(6) ensure enough flexibility in service delivery to respond to the changing and intermittent care needs of a recipient as identified by the recipient and the individual treatment plan;

(7) ensure that the mental health professional or mental health practitioner, who is under the clinical supervision of a mental health professional, involved in a recipient's services participates in the development of the individual treatment plan;

(8) assist the recipient in arranging needed crisis assessment, intervention, and stabilization services;

(9) ensure that services are coordinated with other recipient mental health services providers and the county mental health authority and the federally recognized American Indian authority and necessary others after obtaining the consent of the recipient. Services must also be coordinated with the recipient's case manager or care coordinator, if the recipient is receiving case management or care coordination services;

(10) develop and maintain recipient files, individual treatment plans, and contact charting;

(11) develop and maintain staff training and personnel files;

- (12) submit information as required by the state;
- (13) establish and maintain a quality assurance plan to evaluate the outcome of services provided;
- (14) keep all necessary records required by law;
- (15) deliver services as required by section 245.461;
- (16) comply with all applicable laws;
- (17) be an enrolled Medicaid provider;
- (18) maintain a quality assurance plan to determine specific service outcomes and the recipient's satisfaction with services; and
- (19) develop and maintain written policies and procedures regarding service provision and administration of the provider entity.

(g) The commissioner shall develop statewide procedures for provider certification, including timelines for counties to certify qualified providers.

Subd. 5. [QUALIFICATIONS OF PROVIDER STAFF.] Adult rehabilitative mental health services must be provided by qualified individual provider staff of a certified provider entity. Individual provider staff must be qualified under one of the following criteria:

- (1) a mental health professional as defined in section 245.462, subdivision 18, clauses (1) to (5);
- (2) a mental health practitioner as defined in section 245.462, subdivision 17. The mental health practitioner must work under the clinical supervision of a mental health professional; or
- (3) a mental health rehabilitation worker. A mental health rehabilitation worker means a staff person working under the direction of a mental health practitioner or mental health professional, and under the clinical supervision of a mental health professional in the implementation of rehabilitative mental health services as identified in the recipient's individual treatment plan; and who:
 - (i) is at least 21 years of age;
 - (ii) has a high school diploma or equivalent;
 - (iii) has successfully completed 30 hours of training during the past two years in all of the following areas: recipient rights, recipient-centered individual treatment planning, behavioral terminology, mental illness, co-occurring mental illness and substance abuse, psychotropic medications and side effects, functional assessment, local community resources, adult vulnerability, recipient confidentiality; and
 - (iv) meets the qualifications in (A) or (B):
 - (A) has an associate of arts degree in one of the behavioral sciences or human services, or is a registered nurse without a bachelor's degree, or who within the previous ten years has:
 - (1) three years of personal life experience with serious and persistent mental illness;
 - (2) three years of life experience as a primary caregiver to an adult with a serious mental illness or traumatic brain injury; or

(3) 4,000 hours of supervised paid work experience in the delivery of mental health services to adults with a serious mental illness or traumatic brain injury; or

(B)(1) be fluent in the non-English language or competent in the culture of the ethnic group to which at least 50 percent of the mental health rehabilitation worker's clients belong;

(2) receives during the first 2,000 hours of work, monthly documented individual clinical supervision by a mental health professional;

(3) has 18 hours of documented field supervision by a mental health professional or practitioner during the first 160 hours of contact work with recipients, and at least six hours of field supervision quarterly during the following year;

(4) has review and cosignature of charting of recipient contacts during field supervision by a mental health professional or practitioner; and

(5) has 40 hours of additional continuing education on mental health topics during the first year of employment.

Subd. 6. [REQUIRED TRAINING AND SUPERVISION.] (a) Mental health rehabilitation workers must receive ongoing continuing education training of at least 30 hours every two years in areas of mental illness and mental health services and other areas specific to the population being served. Mental health rehabilitation workers must also be subject to the ongoing direction and clinical supervision standards in paragraphs (c) and (d).

(b) Mental health practitioners must receive ongoing continuing education training as required by their professional license; or if the practitioner is not licensed, the practitioner must receive ongoing continuing education training of at least 30 hours every two years in areas of mental illness and mental health services. Mental health practitioners must meet the ongoing clinical supervision standards in paragraph (c).

(c) A mental health professional providing clinical supervision of staff delivering adult rehabilitative mental health services must provide the following guidance:

(1) review the information in the recipient's file;

(2) review and approve initial and updates of individual treatment plans;

(3) meet with mental health rehabilitation workers and practitioners, individually or in small groups, at least monthly to discuss treatment topics of interest to the workers and practitioners;

(4) meet with mental health rehabilitation workers and practitioners, individually or in small groups, at least monthly to discuss treatment plans of recipients, and approve by signature and document in the recipient's file any resulting plan updates;

(5) meet at least twice a month with the directing mental health practitioner, if there is one, to review needs of the adult rehabilitative mental health services program, review staff on-site observations and evaluate mental health rehabilitation workers, plan staff training, review program evaluation and development, and consult with the directing practitioner;

(6) be available for urgent consultation as the individual recipient needs or the situation necessitates; and

(7) provide clinical supervision by full- or part-time mental health professionals employed by or under contract with the provider entity.

(d) An adult rehabilitative mental health services provider entity must have a treatment director who is a mental health practitioner or mental health professional. The treatment director must ensure the following:

(1) while delivering direct services to recipients, a newly hired mental health rehabilitation worker must be directly observed delivering services to recipients by the mental health practitioner or mental health professional for at least six hours per 40 hours worked during the first 160 hours that the mental health rehabilitation worker works;

(2) the mental health rehabilitation worker must receive ongoing on-site direct service observation by a mental health professional or mental health practitioner for at least six hours for every six months of employment;

(3) progress notes are reviewed from on-site service observation prepared by the mental health rehabilitation worker and mental health practitioner for accuracy and consistency with actual recipient contact and the individual treatment plan and goals;

(4) immediate availability by phone or in person for consultation by a mental health professional or a mental health practitioner to the mental health rehabilitation services worker during service provision;

(5) oversee the identification of changes in individual recipient treatment strategies, revise the plan and communicate treatment instructions and methodologies as appropriate to ensure that treatment is implemented correctly;

(6) model service practices which: respect the recipient, include the recipient in planning and implementation of the individual treatment plan, recognize the recipient's strengths, collaborate and coordinate with other involved parties and providers;

(7) ensure that mental health practitioners and mental health rehabilitation workers are able to effectively communicate with the recipients, significant others, and providers; and

(8) oversee the record of the results of on-site observation and charting evaluation and corrective actions taken to modify the work of the mental health practitioners and mental health rehabilitation workers.

(e) A mental health practitioner who is providing treatment direction for a provider entity must receive supervision at least monthly from a mental health professional to:

(1) identify and plan for general needs of the recipient population served;

(2) identify and plan to address provider entity program needs and effectiveness;

(3) identify and plan provider entity staff training and personnel needs and issues; and

(4) plan, implement, and evaluate provider entity quality improvement programs.

Subd. 7. [PERSONNEL FILE.] The adult rehabilitative mental health services provider entity must maintain a personnel file on each staff. Each file must contain:

(1) an annual performance review;

(2) a summary of on-site service observations and charting review;

(3) a criminal background check of all direct service staff;

(4) evidence of academic degree and qualifications;

- (5) a copy of professional license;
- (6) any job performance recognition and disciplinary actions;
- (7) any individual staff written input into own personnel file;
- (8) all clinical supervision provided; and
- (9) documentation of compliance with continuing education requirements.

Subd. 8. [DIAGNOSTIC ASSESSMENT.] Providers of adult rehabilitative mental health services must complete a diagnostic assessment as defined in section 245.462, subdivision 9, within five days after the recipient's second visit or within 30 days after intake, whichever occurs first. In cases where a diagnostic assessment is available that reflects the recipient's current status, and has been completed within 180 days preceding admission, an update must be completed. An update shall include a written summary by a mental health professional of the recipient's current mental health status and service needs. If the recipient's mental health status has changed significantly since the adult's most recent diagnostic assessment, a new diagnostic assessment is required.

Subd. 9. [FUNCTIONAL ASSESSMENT.] Providers of adult rehabilitative mental health services must complete a written functional assessment as defined in section 245.462, subdivision 11a, for each recipient. The functional assessment must be completed within 30 days of intake, and reviewed and updated at least every six months after it is developed, unless there is a significant change in the functioning of the recipient. If there is a significant change in functioning, the assessment must be updated. A single functional assessment can meet case management and adult rehabilitative mental health services requirements, if agreed to by the recipient. Unless the recipient refuses, the recipient must have significant participation in the development of the functional assessment.

Subd. 10. [INDIVIDUAL TREATMENT PLAN.] All providers of adult rehabilitative mental health services must develop and implement an individual treatment plan for each recipient. The provisions in clauses (1) and (2) apply:

(1) Individual treatment plan means a plan of intervention, treatment, and services for an individual recipient written by a mental health professional or by a mental health practitioner under the clinical supervision of a mental health professional. The individual treatment plan must be based on diagnostic and functional assessments. To the extent possible, the development and implementation of a treatment plan must be a collaborative process involving the recipient, and with the permission of the recipient, the recipient's family and others in the recipient's support system. Providers of adult rehabilitative mental health services must develop the individual treatment plan within 30 calendar days of intake. The treatment plan must be updated at least every six months thereafter, or more often when there is significant change in the recipient's situation or functioning, or in services or service methods to be used, or at the request of the recipient or the recipient's legal guardian.

(2) The individual treatment plan must include:

(i) a list of problems identified in the assessment;

(ii) the recipient's strengths and resources;

(iii) concrete, measurable goals to be achieved, including time frames for achievement;

(iv) specific objectives directed toward the achievement of each one of the goals;

(v) documentation of participants in the treatment planning. The recipient, if possible, must be a participant. The recipient or the recipient's legal guardian must sign the treatment plan, or documentation must be provided why this was not possible. A copy of the plan must be given to the recipient or legal guardian. Referral to formal services must be arranged, including specific providers where applicable;

(vi) cultural considerations, resources, and needs of the recipient must be included;

(vii) planned frequency and type of services must be initiated; and

(viii) clear progress notes on outcome of goals.

(3) The individual community support plan defined in section 245.462, subdivision 12, may serve as the individual treatment plan if there is involvement of a mental health case manager, and with the approval of the recipient. The individual community support plan must include the criteria in clause (2).

Subd. 11. [RECIPIENT FILE.] Providers of adult rehabilitative mental health services must maintain a file for each recipient that contains the following information:

(1) diagnostic assessment or verification of its location, that is current and that was reviewed by a mental health professional who is employed by or under contract with the provider entity;

(2) functional assessments;

(3) individual treatment plans signed by the recipient and the mental health professional, or if the recipient refused to sign the plan, the date and reason stated by the recipient as to why the recipient would not sign the plan;

(4) recipient history;

(5) signed release forms;

(6) recipient health information and current medications;

(7) emergency contacts for the recipient;

(8) case records which document the date of service, the place of service delivery, signature of the person providing the service, nature, extent and units of service, and place of service delivery;

(9) contacts, direct or by telephone, with recipient's family or others, other providers, or other resources for service coordination;

(10) summary of recipient case reviews by staff; and

(11) written information by the recipient that the recipient requests be included in the file.

Subd. 12. [ADDITIONAL REQUIREMENTS.] (a) Providers of adult rehabilitative mental health services must comply with the requirements relating to referrals for case management in section 245.467, subdivision 4.

(b) Adult rehabilitative mental health services are provided for most recipients in the recipient's home and community. Services may also be provided at the home of a relative or significant other, job site, psychosocial clubhouse, drop-in center, social setting, classroom, or other places in the community. Except for "transition to community services," the place of service does not include a regional treatment center, nursing home, residential treatment facility licensed under Minnesota Rules, parts 9520.0500 to 9520.0670 (Rule 36), or an acute care hospital.

(c) Adult rehabilitative mental health services may be provided in group settings if appropriate to each participating recipient's needs and treatment plan. A group is defined as two to ten clients, at least one of whom is a recipient, who is concurrently receiving a service which is identified in this section. The service and group must be specified in the recipient's treatment plan. No more than two qualified staff may bill Medicaid for services provided to the same group of recipients. If two adult rehabilitative mental health workers bill for recipients in the same group session, they must each bill for different recipients.

Subd. 13. [EXCLUDED SERVICES.] The following services are excluded from reimbursement as adult rehabilitative mental health services:

- (1) recipient transportation services;
- (2) a service provided and billed by a provider who is not enrolled to provide adult rehabilitative mental health service;
- (3) adult rehabilitative mental health services performed by volunteers;
- (4) provider performance of household tasks, chores, or related activities, such as laundering clothes, moving the recipient's household, housekeeping, and grocery shopping for the recipient;
- (5) direct billing of time spent "on call" when not delivering services to recipients;
- (6) activities which are primarily social or recreational in nature, rather than rehabilitative, for the individual recipient, as determined by the individual's needs and treatment plan;
- (7) job-specific skills services, such as on-the-job training;
- (8) provider service time included in case management reimbursement;
- (9) outreach services to potential recipients;
- (10) a mental health service that is not medically necessary; and
- (11) any services provided by a hospital, board and lodging, or residential facility to an individual who is a patient in or resident of that facility.

Subd. 14. [BILLING WHEN SERVICES ARE PROVIDED BY QUALIFIED STATE STAFF.] When rehabilitative services are provided by qualified state staff who are assigned to pilot projects under section 245.4661, the county or other local entity to which the qualified state staff are assigned may consider these staff part of the local provider entity for which certification is sought under this section, and may bill the medical assistance program for qualifying services provided by the qualified state staff. Notwithstanding section 256.025, subdivision 2, payments for services provided by state staff who are assigned to adult mental health initiatives shall only be made from federal funds.

Sec. 15. [256B.0624] [ADULT MENTAL HEALTH CRISIS RESPONSE SERVICES.]

Subdivision 1. [SCOPE.] Medical assistance covers adult mental health crisis response services as defined in subdivision 2, paragraphs (c) to (e), subject to federal approval, if provided to a recipient as defined in subdivision 3 and provided by a qualified provider entity as defined in this section and by a qualified individual provider working within the provider's scope of practice and as defined in this subdivision and identified in the recipient's individual crisis treatment plan as defined in subdivision 10 and if determined to be medically necessary.

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

(a) "Mental health crisis" is an adult behavioral, emotional, or psychiatric situation which, but for the provision of crisis response services, would likely result in significantly reduced levels of functioning in primary activities of daily living, or in an emergency situation, or in the placement of the recipient in a more restrictive setting, including, but not limited to, inpatient hospitalization.

(b) "Mental health emergency" is an adult behavioral, emotional, or psychiatric situation which causes an immediate need for mental health services and is consistent with section 62Q.55.

A mental health crisis or emergency is determined for medical assistance service reimbursement by a physician, a mental health professional, or crisis mental health practitioner with input from the recipient whenever possible.

(c) "Mental health crisis assessment" means an immediate face-to-face assessment by a physician, a mental health professional, or mental health practitioner under the clinical supervision of a mental health professional, following a screening that suggests that the adult may be experiencing a mental health crisis or mental health emergency situation.

(d) "Mental health mobile crisis intervention services" means face-to-face, short-term intensive mental health services initiated during a mental health crisis or mental health emergency to help the recipient cope with immediate stressors, identify and utilize available resources and strengths, and begin to return to the recipient's baseline level of functioning.

(1) This service is provided on-site by a mobile crisis intervention team outside of an inpatient hospital setting. Mental health mobile crisis intervention services must be available 24 hours a day, seven days a week.

(2) The initial screening must consider other available services to determine which service intervention would best address the recipient's needs and circumstances.

(3) The mobile crisis intervention team must be available to meet promptly face-to-face with a person in mental health crisis or emergency in a community setting.

(4) The intervention must consist of a mental health crisis assessment and a crisis treatment plan.

(5) The treatment plan must include recommendations for any needed crisis stabilization services for the recipient.

(e) "Mental health crisis stabilization services" means individualized mental health services provided to a recipient following crisis intervention services which are designed to restore the recipient to the recipient's prior functional level. Mental health crisis stabilization services may be provided in the recipient's home, the home of a family member or friend of the recipient, another community setting, or a short-term supervised, licensed residential program. Mental health crisis stabilization does not include partial hospitalization or day treatment.

Subd. 3. [ELIGIBILITY.] An eligible recipient is an individual who:

(1) is age 18 or older;

(2) is screened as possibly experiencing a mental health crisis or emergency where a mental health crisis assessment is needed; and

(3) is assessed as experiencing a mental health crisis or emergency, and mental health crisis intervention or crisis intervention and stabilization services are determined to be medically necessary.

Subd. 4. [PROVIDER ENTITY STANDARDS.] (a) A provider entity is an entity that meets the standards listed in paragraph (b) and:

(1) is a county board operated entity; or

(2) is a provider entity that is under contract with the county board in the county where the potential crisis or emergency is occurring. To provide services under this section, the provider entity must directly provide the services; or if services are subcontracted, the provider entity must maintain responsibility for services and billing.

(b) The adult mental health crisis response services provider entity must meet the following standards:

(1) has the capacity to recruit, hire, and manage and train mental health professionals, practitioners, and rehabilitation workers;

(2) has adequate administrative ability to ensure availability of services;

(3) is able to ensure adequate preservice and in-service training;

(4) is able to ensure that staff providing these services are skilled in the delivery of mental health crisis response services to recipients;

(5) is able to ensure that staff are capable of implementing culturally specific treatment identified in the individual treatment plan that is meaningful and appropriate as determined by the recipient's culture, beliefs, values, and language;

(6) is able to ensure enough flexibility to respond to the changing intervention and care needs of a recipient as identified by the recipient during the service partnership between the recipient and providers;

(7) is able to ensure that mental health professionals and mental health practitioners have the communication tools and procedures to communicate and consult promptly about crisis assessment and interventions as services occur;

(8) is able to coordinate these services with county emergency services and mental health crisis services;

(9) is able to ensure that mental health crisis assessment and mobile crisis intervention services are available 24 hours a day, seven days a week;

(10) is able to ensure that services are coordinated with other mental health service providers, county mental health authorities, or federally recognized American Indian authorities and others as necessary, with the consent of the adult. Services must also be coordinated with the recipient's case manager if the adult is receiving case management services;

(11) is able to ensure that crisis intervention services are provided in a manner consistent with sections 245.461 to 245.486;

(12) is able to submit information as required by the state;

(13) maintains staff training and personnel files;

(14) is able to establish and maintain a quality assurance and evaluation plan to evaluate the outcomes of services and recipient satisfaction;

(15) is able to keep records as required by applicable laws;

(16) is able to comply with all applicable laws and statutes;

(17) is an enrolled medical assistance provider; and

(18) develops and maintains written policies and procedures regarding service provision and administration of the provider entity including safety of staff and recipients in high risk situations.

Subd. 5. [MOBILE CRISIS INTERVENTION STAFF QUALIFICATIONS.] For provision of adult mental health mobile crisis intervention services, a mobile crisis intervention team is comprised of at least two mental health professionals as defined in section 245.462, subdivision 18, clauses (1) to (5), or a combination of at least one mental health professional and one mental health practitioner as defined in section 245.462, subdivision 17, with the required mental health crisis training and under the clinical supervision of a mental health professional on the team. The team must have at least two people with at least one member providing on-site crisis intervention services when needed. Team members must be experienced in mental health assessment, crisis intervention techniques, and clinical decision-making under emergency conditions and have knowledge of local services and resources. The team must recommend and coordinate the team's services with appropriate local resources such as the county social services agency, mental health services, and local law enforcement when necessary.

Subd. 6. [INITIAL SCREENING, CRISIS ASSESSMENT, AND MOBILE INTERVENTION TREATMENT PLANNING.] (a) Prior to initiating mobile crisis intervention services, a screening of the potential crisis situation must be conducted. The screening may use the resources of crisis assistance and emergency services as defined in sections 245.462, subdivision 6, and 245.469, subdivisions 1 and 2. The screening must gather information, determine whether a crisis situation exists, identify parties involved, and determine an appropriate response.

(b) If a crisis exists, a crisis assessment must be completed. A crisis assessment evaluates any immediate needs for which emergency services are needed and, as time permits, the recipient's current life situation, sources of stress, mental health problems and symptoms, strengths, cultural considerations, support network, vulnerabilities, and current functioning.

(c) If the crisis assessment determines mobile crisis intervention services are needed, the intervention services must be provided promptly. As opportunity presents during the intervention, at least two members of the mobile crisis intervention team must confer directly or by telephone about the assessment, treatment plan, and actions taken and needed. At least one of the team members must be on-site providing crisis intervention services. If providing on-site crisis intervention services, a mental health practitioner must seek clinical supervision as required in subdivision 8.

(d) The mobile crisis intervention team must develop an initial, brief crisis treatment plan as soon as appropriate but no later than 24 hours after the initial face-to-face intervention. The plan must address the needs and problems noted in the crisis assessment and include measurable short-term goals, cultural considerations, and frequency and type of services to be provided to achieve the goals and reduce or eliminate the crisis. The treatment plan must be updated as needed to reflect current goals and services.

(e) The team must document which short-term goals have been met, and when no further crisis intervention services are required.

(f) If the recipient's crisis is stabilized, but the recipient needs a referral to other services, the team must provide referrals to these services. If the recipient has a case manager, planning for other services must be coordinated with the case manager.

Subd. 7. [CRISIS STABILIZATION SERVICES.] (a) Crisis stabilization services must be provided by qualified staff of a crisis stabilization services provider entity and must meet the following standards:

(1) a crisis stabilization treatment plan must be developed which meets the criteria in subdivision 11;

(2) staff must be qualified as defined in subdivision 8; and

(3) services must be delivered according to the treatment plan and include face-to-face contact with the recipient by qualified staff for further assessment, help with referrals, updating of the crisis stabilization treatment plan, supportive counseling, skills training, and collaboration with other service providers in the community.

(b) If crisis stabilization services are provided in a supervised, licensed residential setting, the recipient must be contacted face-to-face daily by a qualified mental health practitioner or mental health professional. The program must have 24-hour-a-day residential staffing which may include staff who do not meet the qualifications in subdivision 8. The residential staff must have 24-hour-a-day immediate direct or telephone access to a qualified mental health professional or practitioner.

(c) If crisis stabilization services are provided in a supervised, licensed residential setting that serves no more than four adult residents, and no more than two are recipients of crisis stabilization services, the residential staff must include, for at least eight hours per day, at least one individual who meets the qualifications in subdivision 8.

(d) If crisis stabilization services are provided in a supervised, licensed residential setting that serves more than four adult residents, and one or more are recipients of crisis stabilization services, the residential staff must include, for 24 hours a day, at least one individual who meets the qualifications in subdivision 8. During the first 48 hours that a recipient is in the residential program, the residential program must have at least two staff working 24 hours a day. Staffing levels may be adjusted thereafter according to the needs of the recipient as specified in the crisis stabilization treatment plan.

Subd. 8. [ADULT CRISIS STABILIZATION STAFF QUALIFICATIONS.] (a) Adult mental health crisis stabilization services must be provided by qualified individual staff of a qualified provider entity. Individual provider staff must have the following qualifications:

(1) be a mental health professional as defined in section 245.462, subdivision 18, clauses (1) to (5);

(2) be a mental health practitioner as defined in section 245.462, subdivision 17. The mental health practitioner must work under the clinical supervision of a mental health professional; or

(3) be a mental health rehabilitation worker who meets the criteria in section 256B.0623, subdivision 5, clause (3); works under the direction of a mental health practitioner as defined in section 245.462, subdivision 17, or under direction of a mental health professional; and works under the clinical supervision of a mental health professional.

(b) Mental health practitioners and mental health rehabilitation workers must have completed at least 30 hours of training in crisis intervention and stabilization during the past two years.

Subd. 9. [SUPERVISION.] Mental health practitioners may provide crisis assessment and mobile crisis intervention services if the following clinical supervision requirements are met:

(1) the mental health provider entity must accept full responsibility for the services provided;

(2) the mental health professional of the provider entity, who is an employee or under contract with the provider entity, must be available by phone or in person for clinical supervision;

(3) the mental health professional is consulted, in person or by phone, during the first three hours when a mental health practitioner provides on-site service;

(4) the mental health professional must:

(i) review and approve of the tentative crisis assessment and crisis treatment plan;

(ii) document the consultation; and

(iii) sign the crisis assessment and treatment plan within the next business day;

(5) if the mobile crisis intervention services continue into a second calendar day, a mental health professional must contact the recipient face-to-face on the second day to provide services and update the crisis treatment plan; and

(6) the on-site observation must be documented in the recipient's record and signed by the mental health professional.

Subd. 10. [RECIPIENT FILE.] Providers of mobile crisis intervention or crisis stabilization services must maintain a file for each recipient containing the following information:

(1) individual crisis treatment plans signed by the recipient, mental health professional, and mental health practitioner who developed the crisis treatment plan, or if the recipient refused to sign the plan, the date and reason stated by the recipient as to why the recipient would not sign the plan;

(2) signed release forms;

(3) recipient health information and current medications;

(4) emergency contacts for the recipient;

(5) case records which document the date of service, place of service delivery, signature of the person providing the service, and the nature, extent, and units of service. Direct or telephone contact with the recipient's family or others should be documented;

(6) required clinical supervision by mental health professionals;

(7) summary of the recipient's case reviews by staff; and

(8) any written information by the recipient that the recipient wants in the file.

Documentation in the file must comply with all requirements of the commissioner.

Subd. 11. [TREATMENT PLAN.] The individual crisis stabilization treatment plan must include, at a minimum:

(1) a list of problems identified in the assessment;

(2) a list of the recipient's strengths and resources;

(3) concrete, measurable short-term goals and tasks to be achieved, including time frames for achievement;

(4) specific objectives directed toward the achievement of each one of the goals;

(5) documentation of the participants involved in the service planning. The recipient, if possible, must be a participant. The recipient or the recipient's legal guardian must sign the service plan or documentation must be provided why this was not possible. A copy of the plan must be given to the recipient and the recipient's legal guardian. The plan should include services arranged, including specific providers where applicable;

(6) planned frequency and type of services initiated;

(7) a crisis response action plan if a crisis should occur;

(8) clear progress notes on outcome of goals;

(9) a written plan must be completed within 24 hours of beginning services with the recipient; and

(10) a treatment plan must be developed by a mental health professional or mental health practitioner under the clinical supervision of a mental health professional. The mental health professional must approve and sign all treatment plans.

Subd. 12. [EXCLUDED SERVICES.] The following services are excluded from reimbursement under this section:

(1) room and board services;

(2) services delivered to a recipient while admitted to an inpatient hospital;

(3) recipient transportation costs may be covered under other medical assistance provisions, but transportation services are not an adult mental health crisis response service;

(4) services provided and billed by a provider who is not enrolled under medical assistance to provide adult mental health crisis response services;

(5) services performed by volunteers;

(6) direct billing of time spent "on call" when not delivering services to a recipient;

(7) provider service time included in case management reimbursement. When a provider is eligible to provide more than one type of medical assistance service, the recipient must have a choice of provider for each service, unless otherwise provided for by law;

(8) outreach services to potential recipients; and

(9) a mental health service that is not medically necessary.

Sec. 16. Minnesota Statutes 2000, section 256B.0625, subdivision 20, is amended to read:

Subd. 20. [MENTAL HEALTH CASE MANAGEMENT.] (a) To the extent authorized by rule of the state agency, medical assistance covers case management services to persons with serious and persistent mental illness and children with severe emotional disturbance. Services provided under this section must meet the relevant standards in sections 245.461 to 245.4888, the Comprehensive Adult and Children's Mental Health Acts, Minnesota Rules, parts 9520.0900 to 9520.0926, and 9505.0322, excluding subpart 10.

(b) Entities meeting program standards set out in rules governing family community support services as defined in section 245.4871, subdivision 17, are eligible for medical assistance reimbursement for case management services for children with severe emotional disturbance when these services meet the program standards in Minnesota Rules, parts 9520.0900 to 9520.0926 and 9505.0322, excluding subparts 6 and 10.

(c) Medical assistance and MinnesotaCare payment for mental health case management shall be made on a monthly basis. In order to receive payment for an eligible child, the provider must document at least a face-to-face contact with the child, the child's parents, or the child's legal representative. To receive payment for an eligible adult, the provider must document:

(1) at least a face-to-face contact with the adult or the adult's legal representative; or

(2) at least a telephone contact with the adult or the adult's legal representative and document a face-to-face contact with the adult or the adult's legal representative within the preceding two months.

(d) Payment for mental health case management provided by county or state staff shall be based on the monthly rate methodology under section 256B.094, subdivision 6, paragraph (b), with separate rates calculated for child welfare and mental health, and within mental health, separate rates for children and adults.

(e) Payment for mental health case management provided by Indian health services or by agencies operated by Indian tribes may be made according to this section or other relevant federally approved rate setting methodology.

(f) Payment for mental health case management provided by ~~county-contracted~~ vendors who contract with a county or Indian tribe shall be based on a monthly rate negotiated by the host county or tribe. The negotiated rate must not exceed the rate charged by the vendor for the same service to other payers. If the service is provided by a team of contracted vendors, the county or tribe may negotiate a team rate with a vendor who is a member of the team. The team shall determine how to distribute the rate among its members. No reimbursement received by contracted vendors shall be returned to the county or tribe, except to reimburse the county or tribe for advance funding provided by the county or tribe to the vendor.

(~~f~~) (g) If the service is provided by a team which includes contracted vendors, tribal staff, and county or state staff, the costs for county or state staff participation in the team shall be included in the rate for county-provided services. In this case, the contracted vendor, the tribal agency, and the county may each receive separate payment for services provided by each entity in the same month. In order to prevent duplication of services, ~~the county~~ each entity must document, in the recipient's file, the need for team case management and a description of the roles of the team members.

(~~g~~) (h) The commissioner shall calculate the nonfederal share of actual medical assistance and general assistance medical care payments for each county, based on the higher of calendar year 1995 or 1996, by service date, project that amount forward to 1999, and transfer one-half of the result from medical assistance and general assistance medical care to each county's mental health grants under sections 245.4886 and 256E.12 for calendar year 1999. The annualized minimum amount added to each county's mental health grant shall be \$3,000 per year for children and \$5,000 per year for adults. The commissioner may reduce the statewide growth factor in order to fund these minimums. The annualized total amount transferred shall become part of the base for future mental health grants for each county.

(~~h~~) (i) Any net increase in revenue to the county or tribe as a result of the change in this section must be used to provide expanded mental health services as defined in sections 245.461 to 245.4888, the Comprehensive Adult and Children's Mental Health Acts, excluding inpatient and residential treatment. For adults, increased revenue may also be used for services and consumer supports which are part of adult mental health projects approved under Laws 1997, chapter 203, article 7, section 25. For children, increased revenue may also be used for respite care and nonresidential individualized rehabilitation services as defined in section 245.492, subdivisions 17 and 23. "Increased revenue" has the meaning given in Minnesota Rules, part 9520.0903, subpart 3.

(~~i~~) (j) Notwithstanding section 256B.19, subdivision 1, the nonfederal share of costs for mental health case management shall be provided by the recipient's county of responsibility, as defined in sections 256G.01 to 256G.12, from sources other than federal funds or funds used to match other federal funds. If the service is provided by a tribal agency, the nonfederal share, if any, shall be provided by the recipient's tribe.

(~~j~~) (k) The commissioner may suspend, reduce, or terminate the reimbursement to a provider that does not meet the reporting or other requirements of this section. The county of responsibility, as defined in sections 256G.01 to 256G.12, or, if applicable, the tribal agency, is responsible for any federal disallowances. The county or tribe may share this responsibility with its contracted vendors.

(~~k~~) (l) The commissioner shall set aside a portion of the federal funds earned under this section to repay the special revenue maximization account under section 256.01, subdivision 2, clause (15). The repayment is limited to:

(1) the costs of developing and implementing this section; and

(2) programming the information systems.

(~~h~~) (m) Notwithstanding section 256.025, subdivision 2, payments to counties and tribal agencies for case management expenditures under this section shall only be made from federal earnings from services provided under this section. Payments to ~~contracted~~ county-contracted vendors shall include both the federal earnings and the county share.

(~~m~~) (n) Notwithstanding section 256B.041, county payments for the cost of mental health case management services provided by county or state staff shall not be made to the state treasurer. For the purposes of mental health case management services provided by county or state staff under this section, the centralized disbursement of payments to counties under section 256B.041 consists only of federal earnings from services provided under this section.

(~~n~~) (o) Case management services under this subdivision do not include therapy, treatment, legal, or outreach services.

(~~o~~) (p) If the recipient is a resident of a nursing facility, intermediate care facility, or hospital, and the recipient's institutional care is paid by medical assistance, payment for case management services under this subdivision is limited to the last 30 days of the recipient's residency in that facility and may not exceed more than two months in a calendar year.

(~~p~~) (q) Payment for case management services under this subdivision shall not duplicate payments made under other program authorities for the same purpose.

(~~q~~) (r) By July 1, 2000, the commissioner shall evaluate the effectiveness of the changes required by this section, including changes in number of persons receiving mental health case management, changes in hours of service per person, and changes in caseload size.

(~~r~~) (s) For each calendar year beginning with the calendar year 2001, the annualized amount of state funds for each county determined under paragraph (~~r~~) (h) shall be adjusted by the county's percentage change in the average number of clients per month who received case management under this section during the fiscal year that ended six months prior to the calendar year in question, in comparison to the prior fiscal year.

(~~s~~) (t) For counties receiving the minimum allocation of \$3,000 or \$5,000 described in paragraph (~~r~~) (h), the adjustment in paragraph (~~r~~) (s) shall be determined so that the county receives the higher of the following amounts:

(1) a continuation of the minimum allocation in paragraph (~~r~~) (h); or

(2) an amount based on that county's average number of clients per month who received case management under this section during the fiscal year that ended six months prior to the calendar year in question, ~~in comparison to the prior fiscal year~~, times the average statewide grant per person per month for counties not receiving the minimum allocation.

(~~t~~) (u) The adjustments in paragraphs (~~r~~) ~~and~~ (s) and (t) shall be calculated separately for children and adults.

Sec. 17. Minnesota Statutes 2000, section 256B.0625, is amended by adding a subdivision to read:

Subd. 43. [APPEAL PROCESS.] If a county contract or certification is required to enroll as an authorized provider of mental health services under medical assistance, and if a county refuses to grant the necessary contract or certification, the provider may appeal the county decision to the commissioner. A recipient may initiate an appeal on behalf of a provider who has been denied certification. The commissioner shall determine whether the provider meets applicable standards under state laws and rules based on an independent review of the facts, including comments from the county review. If the commissioner finds that the provider meets the applicable standards, the

commissioner shall enroll the provider as an authorized provider. The commissioner shall develop procedures for providers and recipients to appeal a county decision to refuse to enroll a provider. After the commissioner makes a decision regarding an appeal, the county, provider, or recipient may request that the commissioner reconsider the commissioner's initial decision. The commissioner's reconsideration decision is final and not subject to further appeal.

Sec. 18. Minnesota Statutes 2000, section 256B.0625, is amended by adding a subdivision to read:

Subd. 44. [MENTAL HEALTH PROVIDER TRAVEL TIME.] Medical assistance covers provider travel time if a recipient's individual treatment plan requires the provision of mental health services outside of the provider's normal place of business. This does not include any travel time which is included in other billable services, and is only covered when the mental health service being provided to a recipient is covered under medical assistance.

Sec. 19. [256B.761] [REIMBURSEMENT FOR MENTAL HEALTH SERVICES.]

Payment for medication management provided to psychiatric patients, outpatient mental health services, day treatment services, home-based mental health services, and family community support services shall be paid at:

(1) for services rendered on or after July 1, 2001, and before July 1, 2002, the lower of (i) submitted charges, or (ii) the 73rd percentile of the 50th percentile of 1999 charges; and

(2) for services rendered on or after July 1, 2002, the lower of (i) submitted charges, or (ii) the 75th percentile of the 50th percentile of 1999 charges.

Sec. 20. Minnesota Statutes 2000, section 260C.201, subdivision 1, is amended to read:

Subdivision 1. [DISPOSITIONS.] (a) If the court finds that the child is in need of protection or services or neglected and in foster care, it shall enter an order making any of the following dispositions of the case:

(1) place the child under the protective supervision of the local social services agency or child-placing agency in the home of a parent of the child under conditions prescribed by the court directed to the correction of the child's need for protection or services, or:

(i) the court may order the child into the home of a parent who does not otherwise have legal custody of the child, however, an order under this section does not confer legal custody on that parent;

(ii) if the court orders the child into the home of a father who is not adjudicated, he must cooperate with paternity establishment proceedings regarding the child in the appropriate jurisdiction as one of the conditions prescribed by the court for the child to continue in his home;

(iii) the court may order the child into the home of a noncustodial parent with conditions and may also order both the noncustodial and the custodial parent to comply with the requirements of a case plan under subdivision 2;

(2) transfer legal custody to one of the following:

(i) a child-placing agency; or

(ii) the local social services agency.

In placing a child whose custody has been transferred under this paragraph, the agencies shall follow the requirements of section 260C.193, subdivision 3;

(3) if the child has been adjudicated as a child in need of protection or services because the child is in need of special treatment and services or care for reasons of physical or mental health to treat or ameliorate a physical or mental disability, the court may order the child's parent, guardian, or custodian to provide it. If the parent, guardian, or custodian fails or is unable to provide this treatment or care, the court may order it provided. The court may also order the child's health plan company to provide mental health services to the child under section 62Q.535. Absent specific written findings by the court that the child's disability is the result of abuse or neglect by the child's parent or guardian, the court shall not transfer legal custody of the child for the purpose of obtaining special treatment or care solely because the parent is unable to provide the treatment or care. If the court's order for mental health treatment is based on a diagnosis made by a treatment professional, the court may order that the diagnosing professional not provide the treatment to the child if it finds that such an order is in the child's best interests; or

(4) if the court believes that the child has sufficient maturity and judgment and that it is in the best interests of the child, the court may order a child 16 years old or older to be allowed to live independently, either alone or with others as approved by the court under supervision the court considers appropriate, if the county board, after consultation with the court, has specifically authorized this dispositional alternative for a child.

(b) If the child was adjudicated in need of protection or services because the child is a runaway or habitual truant, the court may order any of the following dispositions in addition to or as alternatives to the dispositions authorized under paragraph (a):

(1) counsel the child or the child's parents, guardian, or custodian;

(2) place the child under the supervision of a probation officer or other suitable person in the child's own home under conditions prescribed by the court, including reasonable rules for the child's conduct and the conduct of the parents, guardian, or custodian, designed for the physical, mental, and moral well-being and behavior of the child; or with the consent of the commissioner of corrections, place the child in a group foster care facility which is under the commissioner's management and supervision;

(3) subject to the court's supervision, transfer legal custody of the child to one of the following:

(i) a reputable person of good moral character. No person may receive custody of two or more unrelated children unless licensed to operate a residential program under sections 245A.01 to 245A.16; or

(ii) a county probation officer for placement in a group foster home established under the direction of the juvenile court and licensed pursuant to section 241.021;

(4) require the child to pay a fine of up to \$100. The court shall order payment of the fine in a manner that will not impose undue financial hardship upon the child;

(5) require the child to participate in a community service project;

(6) order the child to undergo a chemical dependency evaluation and, if warranted by the evaluation, order participation by the child in a drug awareness program or an inpatient or outpatient chemical dependency treatment program;

(7) if the court believes that it is in the best interests of the child and of public safety that the child's driver's license or instruction permit be canceled, the court may order the commissioner of public safety to cancel the child's license or permit for any period up to the child's 18th birthday. If the child does not have a driver's license or permit, the court may order a denial of driving privileges for any period up to the child's 18th birthday. The court shall forward an order issued under this clause to the commissioner, who shall cancel the license or permit or deny driving privileges without a hearing for the period specified by the court. At any time before the expiration of the period of cancellation or denial, the court may, for good cause, order the commissioner of public safety to allow the child to apply for a license or permit, and the commissioner shall so authorize;

(8) order that the child's parent or legal guardian deliver the child to school at the beginning of each school day for a period of time specified by the court; or

(9) require the child to perform any other activities or participate in any other treatment programs deemed appropriate by the court.

To the extent practicable, the court shall enter a disposition order the same day it makes a finding that a child is in need of protection or services or neglected and in foster care, but in no event more than 15 days after the finding unless the court finds that the best interests of the child will be served by granting a delay. If the child was under eight years of age at the time the petition was filed, the disposition order must be entered within ten days of the finding and the court may not grant a delay unless good cause is shown and the court finds the best interests of the child will be served by the delay.

(c) If a child who is 14 years of age or older is adjudicated in need of protection or services because the child is a habitual truant and truancy procedures involving the child were previously dealt with by a school attendance review board or county attorney mediation program under section 260A.06 or 260A.07, the court shall order a cancellation or denial of driving privileges under paragraph (b), clause (7), for any period up to the child's 18th birthday.

(d) In the case of a child adjudicated in need of protection or services because the child has committed domestic abuse and been ordered excluded from the child's parent's home, the court shall dismiss jurisdiction if the court, at any time, finds the parent is able or willing to provide an alternative safe living arrangement for the child, as defined in Laws 1997, chapter 239, article 10, section 2.

Sec. 21. [299A.76] [SUICIDE STATISTICS.]

(a) The commissioner of public safety shall not:

(1) include any statistics on committing suicide or attempting suicide in any compilation of crime statistics published by the commissioner; or

(2) label as a crime statistic, any data on committing suicide or attempting suicide.

(b) This section does not apply to the crimes of aiding suicide under section 609.215, subdivision 1, or aiding attempted suicide under section 609.215, subdivision 2, or to statistics directly related to the commission of a crime.

Sec. 22. [NOTICE REGARDING ESTABLISHMENT OF CONTINUING CARE BENEFIT PROGRAM.]

When the continuing care benefit program for persons with mental illness under Minnesota Statutes, section 256.9693 is established, the commissioner of human services shall notify counties, health plan companies with prepaid medical assistance contracts, health care providers, and enrollees of the benefit program through bulletins, workshops, and other meetings.

[EFFECTIVE DATE.] This section is effective July 1, 2002.

Sec. 23. [STUDY; LENGTH OF STAY FOR MEDICARE-ELIGIBLE PERSONS.]

The commissioner of human services shall study and make recommendations on how Medicare-eligible persons with mental illness may obtain acute care hospital inpatient treatment for mental illness for a length of stay beyond that allowed by the diagnostic classifications for mental illness according to Minnesota Statutes, section 256.969, subdivision 3a. The study and recommendations shall be reported to the legislature by January 15, 2002.

Sec. 24. [DEVELOPMENT OF PAYMENT SYSTEM FOR ADULT RESIDENTIAL SERVICES GRANTS.]

The commissioner of human services shall review funding methods for adult residential services grants under Minnesota Rules, parts 9535.2000 to 9535.3000, and shall develop a payment system that takes into account client difficulty of care as manifested by client physical, mental, or behavioral conditions. The payment system must provide reimbursement for education, consultation, and support services provided to families and other individuals as an extension of the treatment process. The commissioner shall present recommendations and draft legislation for an adult residential services payment system to the legislature by January 15, 2002. The recommendations must address whether additional funding for adult residential services grants is necessary for the provision of high quality services under a payment reimbursement system.

ARTICLE 10

ASSISTANCE PROGRAMS

Section 1. Minnesota Statutes 2000, section 256.01, subdivision 18, is amended to read:

Subd. 18. [IMMIGRATION STATUS VERIFICATIONS.] (a) Notwithstanding any waiver of this requirement by the secretary of the United States Department of Health and Human Services, effective July 1, 2001, the commissioner shall utilize the Systematic Alien Verification for Entitlements (SAVE) program to conduct immigration status verifications:

(1) as required under United States Code, title 8, section 1642;

(2) for all applicants for food assistance benefits, whether under the federal food stamp program, the MFIP or work first program, or the Minnesota food assistance program;

(3) for all applicants for general assistance medical care, except assistance for an emergency medical condition, for immunization with respect to an immunizable disease, or for testing and treatment of symptoms of a communicable disease; and

(4) for all applicants for general assistance, Minnesota supplemental aid, MinnesotaCare, or group residential housing, when the benefits provided by these programs would fall under the definition of "federal public benefit" under United States Code, title 8, section 1642, if federal funds were used to pay for all or part of the benefits.

~~The commissioner shall report to the Immigration and Naturalization Service all undocumented persons who have been identified through application verification procedures or by the self-admission of an applicant for assistance. Reports made under this subdivision must comply with the requirements of section 411A of the Social Security Act, as amended, and United States Code, title 8, section 1644.~~

(b) The commissioner shall comply with the reporting requirements under United States Code, title 42, section 611a, and any federal regulation or guidance adopted under that law.

Sec. 2. Minnesota Statutes 2000, section 256D.053, subdivision 1, is amended to read:

Subdivision 1. [PROGRAM ESTABLISHED.] The Minnesota food assistance program is established to provide food assistance to legal noncitizens residing in this state who are ineligible to participate in the federal Food Stamp Program solely due to the provisions of section 402 or 403 of Public Law Number 104-193, as authorized by Title VII of the 1997 Emergency Supplemental Appropriations Act, Public Law Number 105-18, and as amended by Public Law Number 105-185.

Beginning July 1, ~~2002~~ 2003, the Minnesota food assistance program is limited to those noncitizens described in this subdivision who are 50 years of age or older.

Sec. 3. [256J.021] [SEPARATE STATE PROGRAM FOR USE OF STATE MONEY.]

Beginning October 1, 2001, and each year thereafter, the commissioner of human services must treat financial assistance expenditures made to or on behalf of any minor child under section 256J.02, subdivision 2, clause (1), who is a resident of this state under section 256J.12, and who is part of a two-parent eligible household as expenditures under a separately funded state program and report those expenditures to the federal Department of Health and Human Services as separate state program expenditures under Code of Federal Regulations, title 45, section 263.5.

Sec. 4. Minnesota Statutes 2000, section 256J.09, subdivision 1, is amended to read:

Subdivision 1. [WHERE TO APPLY.] To apply for assistance a person must apply for assistance at submit a signed application to the county agency in the county where that person lives.

Sec. 5. Minnesota Statutes 2000, section 256J.09, subdivision 2, is amended to read:

Subd. 2. [COUNTY AGENCY RESPONSIBILITY TO PROVIDE INFORMATION.] When a person inquires about assistance, a county agency must inform a person who inquires about assistance about:

(1) explain the eligibility requirements for assistance of, and how to apply for, diversionary assistance, including diversionary assistance and as provided in section 256J.47; emergency assistance: as provided in section 256J.48; MFIP as provided in section 256J.10; or any other assistance for which the person may be eligible; and

~~A county agency must (2) offer the person brochures developed or approved by the commissioner that describe how to apply for assistance.~~

Sec. 6. Minnesota Statutes 2000, section 256J.09, subdivision 3, is amended to read:

Subd. 3. [SUBMITTING THE APPLICATION FORM.] (a) A county agency must offer, in person or by mail, the application forms prescribed by the commissioner as soon as a person makes a written or oral inquiry. At that time, the county agency must:

(1) inform the person that assistance begins with the date the signed application is received by the county agency or the date all eligibility criteria are met, whichever is later. ~~The county agency must;~~

(2) inform the applicant person that any delay in submitting the application will reduce the amount of assistance paid for the month of application. ~~A county agency must;~~

(3) inform a person that the person may submit the application before an interview appointment. ~~To apply for assistance, a person must submit a signed application to the county agency;~~

(4) explain the information that will be verified during the application process by the county agency as provided in section 256J.32;

(5) inform a person about the county agency's average application processing time and explain how the application will be processed under subdivision 5;

(6) explain how to contact the county agency if a person's application information changes and how to withdraw the application;

(7) inform a person that the next step in the application process is an interview and what a person must do if the application is approved including, but not limited to, attending orientation under section 256J.45 and complying with employment and training services requirements in sections 256J.52 to 256J.55;

(8) explain the child care and transportation services that are available under paragraph (c) to enable caregivers to attend the interview, screening, and orientation; and

(9) identify any language barriers and arrange for translation assistance during appointments, including, but not limited to, screening under subdivision 3a, orientation under section 256J.45, and the initial assessment under section 256J.52.

(b) Upon receipt of a signed application, the county agency must stamp the date of receipt on the face of the application. The county agency must process the application within the time period required under subdivision 5. An applicant may withdraw the application at any time by giving written or oral notice to the county agency. The county agency must issue a written notice confirming the withdrawal. The notice must inform the applicant of the county agency's understanding that the applicant has withdrawn the application and no longer wants to pursue it. When, within ten days of the date of the agency's notice, an applicant informs a county agency, in writing, that the applicant does not wish to withdraw the application, the county agency must reinstate the application and finish processing the application.

(c) Upon a participant's request, the county agency must arrange for transportation and child care or reimburse the participant for transportation and child care expenses necessary to enable participants to attend the screening under subdivision 3a and orientation under section 256J.45.

Sec. 7. Minnesota Statutes 2000, section 256J.09, is amended by adding a subdivision to read:

Subd. 3a. [SCREENING.] The county agency, or at county option, the county's employment and training service provider as defined in section 256J.49, must screen each applicant to determine immediate needs and to determine if the applicant may be eligible for:

(1) another program that is not partially funded through the federal temporary assistance to needy families block grant under Title I of Public Law Number 104-193, including the expedited issuance of food stamps under section 256J.28, subdivision 1. If the applicant may be eligible for another program, a county caseworker must provide the appropriate referral to the program;

(2) the diversionary assistance program under section 256J.47; or

(3) the emergency assistance program under section 256J.48.

Sec. 8. Minnesota Statutes 2000, section 256J.09, is amended by adding a subdivision to read:

Subd. 3b. [INTERVIEW TO DETERMINE REFERRALS AND SERVICES.] If the applicant is not diverted from applying for MFIP, and if the applicant meets the MFIP eligibility requirements, then a county agency must:

(1) identify an applicant who is under the age of 20 and explain to the applicant the assessment procedures and employment plan requirements for minor parents under section 256J.54;

(2) explain to the applicant the eligibility criteria for an exemption under the family violence provisions in section 256J.52, subdivision 6, and explain what an applicant should do to develop an alternative employment plan;

(3) determine if an applicant qualifies for an exemption under section 256J.56 from employment and training services requirements, explain how a person should report to the county agency any status changes, and explain that an applicant who is exempt may volunteer to participate in employment and training services;

(4) for applicants who are not exempt from the requirement to attend orientation, arrange for an orientation under section 256J.45 and an initial assessment under section 256J.52;

(5) inform an applicant who is not exempt from the requirement to attend orientation that failure to attend the orientation is considered an occurrence of noncompliance with program requirements and will result in an imposition of a sanction under section 256J.46; and

(6) explain how to contact the county agency if an applicant has questions about compliance with program requirements.

Sec. 9. Minnesota Statutes 2000, section 256J.15, is amended by adding a subdivision to read:

Subd. 3. [ELIGIBILITY AFTER DISQUALIFICATION DUE TO NONCOMPLIANCE.] (a) An applicant who is a member of an assistance unit that was disqualified from receiving MFIP under section 256J.46, subdivision 1, paragraph (d), clause (3), and who applies for MFIP assistance within six months of the date of the disqualification is considered to be a new applicant for purposes of the property limitations under section 256J.20 and, at county option, the payment of assistance provisions under section 256J.24, subdivision 8. The county agency must also use the initial income test under section 256J.21, subdivision 3, in determining the applicant's eligibility for assistance.

(b) Notwithstanding section 256J.24, subdivisions 5 to 7 and 9, for an applicant who is eligible for MFIP under this subdivision, the residual amount of the grant, after making any applicable vendor payments for shelter and utility costs, if any, must be reduced by ten percent of the applicable MFIP standard of need for an assistance unit of the same size for each of the first six months on MFIP before the residual amount of the grant is paid to the assistance unit.

(c) A participant who is disqualified from MFIP a second or subsequent time and who is eligible for MFIP under this subdivision is considered to have a third occurrence of noncompliance and must be sanctioned under section 256J.46, subdivision 1, paragraph (d), clause (2), for the first six months on MFIP under this subdivision.

Sec. 10. Minnesota Statutes 2000, section 256J.24, subdivision 10, is amended to read:

~~Subd. 10. [MFIP EXIT LEVEL.] (a) In state fiscal years 2000 and 2001, The commissioner shall adjust the MFIP earned income disregard to ensure that most participants do not lose eligibility for MFIP until their income reaches at least 120 percent of the federal poverty guidelines in effect in October of each fiscal year. The adjustment to the disregard shall be based on a household size of three, and the resulting earned income disregard percentage must be applied to all household sizes. The adjustment under this subdivision must be implemented at the same time as the October food stamp cost-of-living adjustment is reflected in the food portion of MFIP transitional standard as required under subdivision 5a.~~

~~(b) In state fiscal year 2002 and thereafter, the earned income disregard percentage must be the same as the percentage implemented in October 2000.~~

Sec. 11. Minnesota Statutes 2000, section 256J.26, subdivision 1, is amended to read:

Subdivision 1. [PERSON CONVICTED OF DRUG OFFENSES.] (a) Applicants or participants who have been convicted of a drug offense committed after July 1, 1997, may, if otherwise eligible, receive MFIP benefits subject to the following conditions:

(1) Benefits for the entire assistance unit must be paid in vendor form for shelter and utilities during any time the applicant is part of the assistance unit.

(2) The convicted applicant or participant shall be subject to random drug testing as a condition of continued eligibility and following any positive test for an illegal controlled substance is subject to the following sanctions:

(i) for failing a drug test the first time, the ~~participant's grant shall be reduced by ten percent of the MFIP standard of need, prior to making vendor payments for shelter and utility costs, or~~

~~(ii) for failing a drug test two or more times, the residual amount of the participant's grant after making vendor payments for shelter and utility costs, if any, must be reduced by an amount equal to 30 percent of the MFIP standard of need for an assistance unit of the same size. When a sanction under this subdivision is in effect, the job counselor must attempt to meet with the person face-to-face. During the face-to-face meeting, the job counselor must explain the consequences of a subsequent drug test failure and inform the participant of the right to appeal the sanction under section 256J.40. If a face-to-face meeting is not possible, the county agency must send the participant a notice of adverse action as provided in section 256J.31, subdivisions 4 and 5, and must include the information required in the face-to-face meeting; or~~

~~(ii) for failing a drug test two times, the participant is permanently disqualified from receiving MFIP assistance, both the cash and food portions. The assistance unit's MFIP grant must be reduced by the amount which would have otherwise been made available to the disqualified participant. Disqualification under this item does not make a participant ineligible for food stamps. Before a disqualification under this provision is imposed, the job counselor must attempt to meet with the participant face-to-face. During the face-to-face meeting, the job counselor must identify other resources that may be available to the participant to meet the needs of the family and inform the participant of the right to appeal the disqualification under section 256J.40. If a face-to-face meeting is not possible, the county agency must send the participant a notice of adverse action as provided in section 256J.31, subdivisions 4 and 5, and must include the information required in the face-to-face meeting.~~

(3) A participant who fails ~~an initial~~ a drug test the first time and is under a sanction due to other MFIP program requirements is considered to have more than one occurrence of noncompliance and is subject to the applicable level of sanction in clause (2)(ii) as specified under section 256J.46, subdivision 1, paragraph (d).

(b) Applicants requesting only food stamps or participants receiving only food stamps, who have been convicted of a drug offense that occurred after July 1, 1997, may, if otherwise eligible, receive food stamps if the convicted applicant or participant is subject to random drug testing as a condition of continued eligibility. Following a positive test for an illegal controlled substance, the applicant is subject to the following sanctions:

(1) for failing a drug test the first time, ~~food stamps shall be reduced by ten percent of the applicable food stamp allotment; and~~

~~(2) for failing a drug test two or more times, food stamps shall be reduced by an amount equal to 30 percent of the applicable food stamp allotment. When a sanction under this clause is in effect, a job counselor must attempt to meet with the person face-to-face. During the face-to-face meeting, a job counselor must explain the consequences of a subsequent drug test failure and inform the participant of the right to appeal the sanction under section 256J.40. If a face-to-face meeting is not possible, a county agency must send the participant a notice of adverse action as provided in section 256J.31, subdivisions 4 and 5, and must include the information required in the face-to-face meeting; and~~

~~(2) for failing a drug test two times, the participant is permanently disqualified from receiving food stamps. Before a disqualification under this provision is imposed, a job counselor must attempt to meet with the participant face-to-face. During the face-to-face meeting, the job counselor must identify other resources that may be available to the participant to meet the needs of the family and inform the participant of the right to appeal the disqualification under section 256J.40. If a face-to-face meeting is not possible, a county agency must send the participant a notice of adverse action as provided in section 256J.31, subdivisions 4 and 5, and must include the information required in the face-to-face meeting.~~

(c) For the purposes of this subdivision, "drug offense" means an offense that occurred after July 1, 1997, of sections 152.021 to 152.025, 152.0261, or 152.096. Drug offense also means a conviction in another jurisdiction of the possession, use, or distribution of a controlled substance, or conspiracy to commit any of these offenses, if the offense occurred after July 1, 1997, and the conviction is a felony offense in that jurisdiction, or in the case of New Jersey, a high misdemeanor.

Sec. 12. Minnesota Statutes 2000, section 256J.31, subdivision 4, is amended to read:

Subd. 4. [PARTICIPANT'S RIGHT TO NOTICE.] A county agency must give a participant written notice of all adverse actions affecting the participant including payment reductions, suspensions, terminations, and use of protective, vendor, or two-party payments. The notice of adverse action must be on a form prescribed or approved by the commissioner, must be understandable at a seventh grade reading level, and must be mailed to the last known mailing address provided by the participant. A notice written in English must include the department of human services language block and must be sent to every applicable participant. The county agency must state on the notice of adverse action the action it intends to take, the reasons for the action, the participant's right to appeal the action, the conditions under which assistance can be continued pending an appeal decision, and the related consequences of the action.

Sec. 13. Minnesota Statutes 2000, section 256J.32, subdivision 7a, is amended to read:

Subd. 7a. [REQUIREMENT TO REPORT TO IMMIGRATION AND NATURALIZATION SERVICES.] ~~Notwithstanding subdivision 7, effective July 1, 2001, the commissioner shall report to the Immigration and Naturalization Services all undocumented persons who have been identified through application verification procedures or by the self-admission of an applicant for assistance. Reports made under this subdivision must comply with the requirements of section 411A of the Social Security Act, as amended, and United States Code, title 8, section 1644. The commissioner shall comply with the reporting requirements under United States Code, title 42, section 611a, and any federal regulation or guidance adopted under that law.~~

Sec. 14. Minnesota Statutes 2000, section 256J.42, is amended by adding a subdivision to read:

Subd. 6. [CASE REVIEW.] (a) Within 180 days before the end of the participant's 60th month on MFIP, the county agency or job counselor must review the participant's case to determine if the employment plan is still appropriate, or if the participant is exempt under section 256J.56 from the employment and training services component, and attempt to meet with the participant face-to-face.

(b) During the face-to-face meeting, a county agency or the job counselor must:

(1) inform the participant how many months of counted assistance the participant has accrued and when the participant is expected to reach the 60th month;

(2) explain the hardship extension criteria under section 256J.425 and what the participant should do if the participant thinks a hardship extension applies;

(3) identify other resources that may be available to the participant to meet the needs of the family; and

(4) inform the participant of the right to appeal the case closure under section 256J.40.

(c) If a face-to-face meeting is not possible, the county agency must send the participant a notice of adverse action as provided in section 256J.31, subdivisions 4 and 5.

(d) Before a participant's case is closed under this section, the county must ensure that:

(1) the case has been reviewed by the job counselor's supervisor or the review team designated in the county's approved local service unit plan to determine if the criteria for a hardship extension, if requested, were applied appropriately; and

(2) the county agency or the job counselor attempted to meet with the participant face-to-face.

Sec. 15. [256J.425] [HARDSHIP EXTENSIONS.]

Subdivision 1. [ELIGIBILITY.] An assistance unit subject to the time limit under section 256J.42, subdivision 1, in which any participant has received 60 counted months of assistance is not eligible to receive months of assistance beyond the first 60 months under a hardship extension, if the participant is not in compliance. If there is more than one participant in the household, each participant must be in compliance to be eligible for a hardship extension. For purposes of determining eligibility for a hardship extension, a participant is in compliance in any month that the participant has not been sanctioned under section 256J.46, subdivision 1, or under 256J.26, subdivision 1.

Subd. 2. [ILL OR INCAPACITATED PARTICIPANTS; DEPENDENT HOUSEHOLD MEMBER.] (a) An assistance unit subject to the time limit in section 256J.42, subdivision 1, in which any participant has received 60 counted months of assistance, is eligible to receive months of assistance under a hardship extension if the participant belongs to any of the following groups:

(1) participants who are suffering from a professionally certified illness, injury, or incapacity which is expected to continue for more than 30 days and which prevents the person from obtaining or retaining employment and who are following the treatment recommendations of the health care provider certifying the illness, injury, or incapacity;

(2) participants whose presence in the home is required because of the professionally certified illness or incapacity of another member in the assistance unit, a relative in the household, or a foster child in the household and the illness or incapacity is expected to continue for more than 30 days; or

(3) caregivers with a child or an adult in the household who meets the disability or medical criteria for home care services under section 256B.0627, subdivision 1, paragraph (c), or a home and community-based waiver services program under chapter 256B, or meets the criteria for severe emotional disturbance under section 245.4871, subdivision 6, or for serious and persistent mental illness under section 245.462, subdivision 20, paragraph (c). Caregivers in this category are presumed to be prevented from obtaining or retaining employment.

(b) An assistance unit receiving assistance under a hardship extension under this subdivision may continue to receive assistance under MFIP as long as the participant meets the criteria in paragraph (a), clause (1), (2), or (3). A county agency or job counselor must, on a quarterly basis, review the case file of an assistance unit receiving assistance under this subdivision to determine if the participant still meets the criteria in paragraph (a), clause (1), (2), or (3).

Subd. 3. [CERTAIN HARD-TO-EMPLOY PARTICIPANTS.] (a) An assistance unit subject to the time limit in section 256J.42, subdivision 1, in which any participant has received 60 counted months of assistance, is eligible to receive months of assistance under a hardship extension if the participant belongs to any of the following groups:

(1) a person 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;

(2) a person who has been assessed by a vocational specialist, job counselor, or the county agency to be unemployable for purposes of this subdivision; a person is considered employable if positions of employment in the local labor market exist, 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; or

(3) a person who is determined by the county agency, according to Minnesota Rules, part 9500.1251, subpart 2, item 1, 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. A rehabilitation plan does not replace the requirement to develop and comply with an employment plan under section 256J.52.

(b) An assistance unit receiving assistance under a hardship extension under this subdivision may continue to receive assistance under MFIP as long as the participant meets the criteria in paragraph (a), clause (1), (2), or (3), and all participants in the assistance unit remain in compliance with, or are exempt from, the employment and training services requirements in sections 256J.52 to 256J.55.

Subd. 4. [VICTIMS OF FAMILY VIOLENCE.] A participant who received TANF assistance that counted towards the federal 60-month time limit while the participant complied with a safety plan or, after October 1, 2001, an alternative employment plan under the MFIP employment and training component is eligible for assistance under a hardship extension for a period of time equal to the number of months that were counted toward the federal 60-month time limit while the participant complied with a safety plan or, after October 1, 2001, an alternative employment plan under the MFIP employment and training component.

Subd. 5. [ACCRUAL OF CERTAIN EXEMPT MONTHS.] (a) A participant who received TANF assistance that counted towards the federal 60-month time limit while the participant was or would have been exempt under section 256J.56, paragraph (a), clause (7), from employment and training services requirements and who is no longer eligible for assistance under a hardship extension under subdivision 2, paragraph (a), clause (3), is eligible for assistance under a hardship extension for a period of time equal to the number of months that were counted toward the federal 60-month time limit while the participant was or would have been exempt under section 256J.56, paragraph (a), clause (7), from the employment and training services requirements.

(b) A participant who received TANF assistance that counted towards the federal 60-month time limit while the participant met the state time limit exemption criteria under section 256J.42, subdivision 5, is eligible for assistance under a hardship extension for a period of time equal to the number of months that were counted toward the federal 60-month time limit while the participant met the state time limit exemption criteria under section 256J.42, subdivision 5.

Sec. 16. Minnesota Statutes 2000, section 256J.45, subdivision 1, is amended to read:

Subdivision 1. [COUNTY AGENCY TO PROVIDE ORIENTATION.] A county agency must provide a face-to-face orientation to each MFIP caregiver who is not exempt under section 256J.56, paragraph (a), clause (6) or (8), with a face-to-face orientation unless the caregiver is:

(1) a single parent, or one parent in a two-parent family, employed at least 35 hours per week; or

(2) a second parent in a two-parent family who is employed for 20 or more hours per week provided the first parent is employed at least 35 hours per week.

The county agency must inform caregivers who are not exempt under ~~section 256J.56, paragraph (a), clause (6) or (8); clause (1) or (2)~~ that failure to attend the orientation is considered an occurrence of noncompliance with program requirements, and will result in the imposition of a sanction under section 256J.46. If the client complies with the orientation requirement prior to the first day of the month in which the grant reduction is proposed to occur, the orientation sanction shall be lifted.

Sec. 17. Minnesota Statutes 2000, section 256J.46, subdivision 1, is amended to read:

Subdivision 1. [~~SANCTIONS FOR PARTICIPANTS NOT COMPLYING WITH PROGRAM REQUIREMENTS.~~] (a) A participant who fails without good cause to comply with the requirements of this chapter, and who is not subject to a sanction under subdivision 2, shall be subject to a sanction as provided in this subdivision. Prior to the imposition of a sanction, a county agency shall provide a notice of intent to sanction under section 256J.57, subdivision 2, and, when applicable, a notice of adverse action as provided in section 256J.31.

(b) A participant who fails to comply with an alternative employment plan must have the plan reviewed by a person trained in domestic violence and a job counselor to determine if components of the alternative employment plan are still appropriate. If the activities are no longer appropriate, the plan must be revised with a person trained in domestic violence and approved by a job counselor. A participant who fails to comply with a plan that is determined not to need revision will lose their exemption and be required to comply with regular employment services activities.

(c) A sanction under this subdivision becomes effective the month following the month in which a required notice is given. A sanction must not be imposed when a participant comes into compliance with the requirements for orientation under section 256J.45 or third-party liability for medical services under section 256J.30, subdivision 10, prior to the effective date of the sanction. A sanction must not be imposed when a participant comes into compliance with the requirements for employment and training services under sections 256J.49 to ~~256J.72~~ 256J.55 ten days prior to the effective date of the sanction. For purposes of this subdivision, each month that a participant fails to comply with a requirement of this chapter shall be considered a separate occurrence of noncompliance. A participant who has had one or more sanctions imposed must remain in compliance with the provisions of this chapter for six months in order for a subsequent occurrence of noncompliance to be considered a first occurrence.

~~(b)~~ (d) Sanctions for noncompliance shall be imposed as follows:

(1) For the first occurrence of noncompliance by a participant in a ~~single-parent household or by one participant in a two-parent household~~ an assistance unit, the assistance unit's grant shall be reduced by ten percent of the MFIP standard of need for an assistance unit of the same size with the residual grant paid to the participant. The reduction in the grant amount must be in effect for a minimum of one month and shall be removed in the month following the month that the participant returns to compliance.

(2) For a second ~~or subsequent~~ and ~~third~~ occurrence of noncompliance by a participant in an assistance unit, or when ~~both each of the~~ participants in a two-parent ~~household are out of compliance~~ assistance unit have a first occurrence of noncompliance at the same time, the assistance unit's shelter costs shall be vendor paid up to the amount of the cash portion of the MFIP grant for which the ~~participant's~~ assistance unit is eligible. At county option, the assistance unit's utilities may also be vendor paid up to the amount of the cash portion of the MFIP grant remaining after vendor payment of the assistance unit's shelter costs. The residual amount of the grant after vendor payment, if any, must be reduced by an amount equal to 30 percent of the MFIP standard of need for an assistance unit of the same size before the residual grant is paid to the assistance unit. The reduction in the grant amount must be in effect for a minimum of one month and shall be removed in the month following the month that ~~a~~ the participant in a one-parent ~~household~~ assistance unit returns to compliance. In a two-parent ~~household~~ assistance unit, the grant reduction must be in effect for a minimum of one month and shall be removed in the month following the month both participants return to compliance. The vendor payment of shelter costs and, if applicable, utilities shall be removed six months after the month in which the participant or participants return to compliance. If an assistance unit is sanctioned under this clause, the participant's case file must be reviewed as required under paragraph (e).

(3) For a fourth occurrence of noncompliance, the assistance unit is disqualified from receiving MFIP assistance, both the cash and food portions. This disqualification must be in effect for a minimum of one full month. Disqualification under this clause does not make a participant ineligible for food stamps. Before an assistance unit is disqualified under this clause, the county must ensure that:

(i) the case has been reviewed by the job counselor's supervisor or the review team designated in the county's approved local service unit plan to determine if the review required under paragraph (e) has occurred; and

(ii) the job counselor attempted to meet with the participant face-to-face.

~~(c) No later than during the second month that~~ (e) When a sanction under paragraph (b) (d), clause (2), is in effect due to noncompliance with employment services, the participant's case file must be reviewed to determine if, the county agency or job counselor must review the participant's case to determine if the employment plan is still appropriate and attempt to meet with the participant face-to-face. If a face-to-face meeting is not possible, the county agency must send the participant a notice of adverse action as provided in section 256J.31, subdivisions 4 and 5.

(1) During the face-to-face meeting, the job counselor must:

(i) determine whether the continued noncompliance can be explained and mitigated by providing a needed preemployment activity, as defined in section 256J.49, subdivision 13, clause (16), or services under a local intervention grant for self-sufficiency under section 256J.625;

(ii) determine whether the participant qualifies for a good cause exception under section 256J.57; or

(iii) determine whether the participant qualifies for an exemption under section 256J.56;

(iv) determine whether the participant qualifies for an exemption for victims of family violence under section 256J.52, subdivision 6;

(v) inform the participant of the participant's sanction status and explain the consequences of continuing noncompliance;

(vi) identify other resources that may be available to the participant to meet the needs of the family if the participant is sanctioned and disqualified from MFIP under paragraph (d), clause (3); and

(vii) inform the participant of the right to appeal under section 256J.40.

(2) If the lack of an identified activity can explain the noncompliance, the county must work with the participant to provide the identified activity, and the county must restore the participant's grant amount to the full amount for which the assistance unit is eligible. The grant must be restored retroactively to the first day of the month in which the participant was found to lack preemployment activities or to qualify for an exemption or under section 256J.56, a good cause exception under section 256J.57, or an exemption for victims of family violence under section 256J.52, subdivision 6.

(3) If the participant is found to qualify for a good cause exception or an exemption, the county must restore the participant's grant to the full amount for which the assistance unit is eligible.

[EFFECTIVE DATE.] The family violence provisions in paragraph (e) are effective October 1, 2001, if the alternative employment plan and family violence provisions in section 256J.52, subdivision 6, are enacted during the 2001 session.

Sec. 18. Minnesota Statutes 2000, section 256J.46, subdivision 2a, is amended to read:

Subd. 2a. [DUAL SANCTIONS.] (a) Notwithstanding the provisions of subdivisions 1 and 2, for a participant subject to a sanction for refusal to comply with child support requirements under subdivision 2 and subject to a concurrent sanction for refusal to cooperate with other program requirements under subdivision 1, sanctions shall be imposed in the manner prescribed in this subdivision.

A participant who has had one or more sanctions imposed under this subdivision must remain in compliance with the provisions of this chapter for six months in order for a subsequent occurrence of noncompliance to be considered a first occurrence. Any vendor payment of shelter costs or utilities under this subdivision must remain in effect for six months after the month in which the participant is no longer subject to sanction under subdivision 1.

(b) If the participant was subject to sanction for:

(i) noncompliance under subdivision 1 before being subject to sanction for noncooperation under subdivision 2;
or

(ii) noncooperation under subdivision 2 before being subject to sanction for noncompliance under subdivision 1; under subdivision 1 or 2 before being subject to sanction under the other of those subdivisions, the participant shall be sanctioned as provided in subdivision 1, paragraph ~~(b)~~ (d), ~~clause clauses (2) and (3)~~, and the requirement that the county conduct a review as specified in subdivision 1, paragraph ~~(c)~~ (e), remains in effect.

(c) A participant who first becomes subject to sanction under both subdivisions 1 and 2 in the same month is subject to sanction as follows:

(i) in the first month of noncompliance and noncooperation, the participant's grant must be reduced by 25 percent of the applicable MFIP standard of need, with any residual amount paid to the participant;

(ii) in the second and subsequent months of noncompliance and noncooperation, the participant shall be sanctioned as provided in subdivision 1, paragraph ~~(b)~~ (d), ~~clause clauses (2) and (3)~~.

The requirement that the county conduct a review as specified in subdivision 1, paragraph ~~(c)~~ (e), remains in effect.

(d) A participant remains subject to sanction under subdivision 2 if the participant:

(i) returns to compliance and is no longer subject to sanction under subdivision 1; or

(ii) has the sanction under subdivision 1, paragraph ~~(b)~~ (d), removed upon completion of the review under subdivision 1, paragraph ~~(c)~~ (e).

A participant remains subject to sanction under subdivision 1, paragraph ~~(b)~~ (d), if the participant cooperates and is no longer subject to sanction under subdivision 2.

Sec. 19. Minnesota Statutes 2000, section 256J.46, is amended by adding a subdivision to read:

Subd. 3. [SANCTION STATUS AFTER DISQUALIFICATION.] An applicant who is a member of an assistance unit that was disqualified from receiving MFIP under subdivision 1, paragraph (d), clause (3), who applies for MFIP assistance within six months of the date of the disqualification, and who is determined to be eligible for MFIP assistance, is considered to have a first occurrence of noncompliance. An applicant who is a member of an assistance unit that was disqualified from MFIP under subdivision 1, paragraph (d), clause (3), a second or subsequent time, who applies for assistance within six months of the date of disqualification, and who is determined to be eligible for MFIP assistance, is considered to have a third occurrence of noncompliance. The applicant must remain in compliance with the provisions of this chapter for six months in order for a subsequent occurrence of noncompliance to be considered a first occurrence.

Sec. 20. Minnesota Statutes 2000, section 256J.50, subdivision 1, is amended to read:

Subdivision 1. [EMPLOYMENT AND TRAINING SERVICES COMPONENT OF MFIP.] (a) By January 1, 1998, each county must develop and implement an employment and training services component of MFIP which is designed to put participants on the most direct path to unsubsidized employment. Participation in these services is mandatory for all MFIP caregivers, unless the caregiver is exempt under section 256J.56.

(b) A county must provide employment and training services under sections 256J.515 to 256J.74 within 30 days after the caregiver's participation becomes mandatory under subdivision 5 or within 30 days of receipt of a request for services from a caregiver who under section 256J.42 is no longer eligible to receive MFIP but whose income is below 120 percent of the federal poverty guidelines for a family of the same size. The request must be made within 12 months of the date the caregivers' MFIP case was closed.

Sec. 21. Minnesota Statutes 2000, section 256J.50, subdivision 7, is amended to read:

Subd. 7. [LOCAL SERVICE UNIT PLAN.] (a) Each local or county service unit shall prepare and submit a plan as specified in section 268.88.

(b) The plan must include a description of how projects funded under the local intervention grants for self-sufficiency in section 256J.625, subdivisions 2 and 3, operate in the local service unit, including:

(1) the target populations of hard-to-employ participants ~~and~~ working participants in need of job retention and wage advancement services, and caregivers who, within the last 12 months, have been determined under section 256J.42 to no longer be eligible to receive MFIP and whose income is below 120 percent of the federal poverty guidelines for a family of the same size, with a description of how individual participant needs will be met;

(2) services that will be provided which may include paid work experience, enhanced mental health services, outreach to sanctioned families and to caregivers who, within the last 12 months, have been determined under section 256J.42 to no longer be eligible to receive MFIP but whose income is below 120 percent of the federal poverty guidelines for a family of the same size, child care for social services, child care transition year set-aside, homeless and housing advocacy, and transportation;

(3) projected expenditures by activity;

(4) anticipated program outcomes including the anticipated impact the intervention efforts will have on performance measures under section 256J.751 and on reducing the number of MFIP participants expected to reach their 60-month time limit; and

(5) a description of services that are provided or will be provided to MFIP participants affected by chemical dependency, mental health issues, learning disabilities, or family violence.

Each plan must demonstrate how the county or tribe is working within its organization and with other organizations in the community to serve hard-to-employ populations, including how organizations in the community were engaged in planning for use of these funds, services other entities will provide under the plan, and whether multicounty or regional strategies are being implemented as part of this plan.

(c) Activities and expenditures in the plan must enhance or supplement MFIP activities without supplanting existing activities and expenditures. However, this paragraph does not require a county to maintain either:

(1) its current provision of child care assistance to MFIP families through the expenditure of county resources under chapter 256E for social services child care assistance if funds are appropriated by another law for an MFIP social services child care pool;

(2) its current provision of transition-year child care assistance through the expenditure of county resources if funds are appropriated by another law for this purpose; or

(3) its current provision of intensive ESL programs through the expenditure of county resources if funds are appropriated by another law for intensive ESL grants.

(d) The plan required under this subdivision must be approved before the local or county service unit is eligible to receive funds under section 256J.625, subdivisions 2 and 3.

Sec. 22. Minnesota Statutes 2000, section 256J.56, is amended to read:

256J.56 [EMPLOYMENT AND TRAINING SERVICES COMPONENT; EXEMPTIONS.]

(a) An MFIP ~~caregiver~~ participant is exempt from the requirements of sections 256J.52 to 256J.55 if the ~~caregiver~~ participant belongs to any of the following groups:

- (1) ~~individuals~~ participants who are age 60 or older;
 - (2) ~~individuals~~ participants who are suffering from a professionally certified permanent or temporary illness, injury, or incapacity which is expected to continue for more than 30 days and which prevents the person from obtaining or retaining employment. Persons in this category with a temporary illness, injury, or incapacity must be reevaluated at least quarterly;
 - (3) ~~caregivers~~ participants whose presence in the home is required because of the professionally certified illness or incapacity of another member in the assistance unit, a relative in the household, or a foster child in the household and the illness or incapacity is expected to continue for more than 30 days;
 - (4) women who are pregnant, if the pregnancy has resulted in a professionally certified incapacity that prevents the woman from obtaining or retaining employment;
 - (5) caregivers of a child under the age of one year who personally provide full-time care for the child. This exemption may be used for only 12 months in a lifetime. In two-parent households, only one parent or other relative may qualify for this exemption;
 - ~~(6) individuals who are single parents, or one parent in a two-parent family, employed at least 35 hours per week;~~
 - ~~(7) individuals~~ (6) participants experiencing a personal or family crisis that makes them incapable of participating in the program, as determined by the county agency. If the participant does not agree with the county agency's determination, the participant may seek professional certification, as defined in section 256J.08, that the participant is incapable of participating in the program.
- Persons in this exemption category must be reevaluated every 60 days; or
- ~~(8) second parents in two-parent families employed for 20 or more hours per week, provided the first parent is employed at least 35 hours per week; or~~
 - ~~(9)~~ (7) caregivers with a child or an adult in the household who meets the disability or medical criteria for home care services under section 256B.0627, subdivision 1, paragraph (c), or a home and community-based waiver services program under chapter 256B, or meets the criteria for severe emotional disturbance under section 245.4871, subdivision 6, or for serious and persistent mental illness under section 245.462, subdivision 20, paragraph (c). Caregivers in this exemption category are presumed to be prevented from obtaining or retaining employment.

A caregiver who is exempt under clause (5) must enroll in and attend an early childhood and family education class, a parenting class, or some similar activity, if available, during the period of time the caregiver is exempt under this section. Notwithstanding section 256J.46, failure to attend the required activity shall not result in the imposition of a sanction.

(b) The county agency must provide employment and training services to MFIP ~~caregivers participants~~ who are exempt under this section, but who volunteer to participate. Exempt volunteers may request approval for any work activity under section 256J.49, subdivision 13. The hourly participation requirements for nonexempt ~~caregivers participants~~ under section 256J.50, subdivision 5, do not apply to exempt ~~caregivers participants~~ who volunteer to participate.

Sec. 23. Minnesota Statutes 2000, section 256J.57, subdivision 2, is amended to read:

Subd. 2. [NOTICE OF INTENT TO SANCTION.] (a) When a participant fails without good cause to comply with the requirements of sections 256J.52 to 256J.55, the job counselor or the county agency must provide a notice of intent to sanction to the participant specifying the program requirements that were not complied with, informing the participant that the county agency will impose the sanctions specified in section 256J.46, and informing the participant of the opportunity to request a conciliation conference as specified in paragraph (b). The notice must also state that the participant's continuing noncompliance with the specified requirements will result in additional sanctions under section 256J.46, without the need for additional notices or conciliation conferences under this subdivision. The notice, written in English, must include the department of human services language block, and must be sent to every applicable participant. If the participant does not request a conciliation conference within ten calendar days of the mailing of the notice of intent to sanction, the job counselor must notify the county agency that the assistance payment should be reduced. The county must then send a notice of adverse action to the participant informing the participant of the sanction that will be imposed, the reasons for the sanction, the effective date of the sanction, and the participant's right to have a fair hearing under section 256J.40.

(b) The participant may request a conciliation conference by sending a written request, by making a telephone request, or by making an in-person request. The request must be received within ten calendar days of the date the county agency mailed the ten-day notice of intent to sanction. If a timely request for a conciliation is received, the county agency's service provider must conduct the conference within five days of the request. The job counselor's supervisor, or a designee of the supervisor, must review the outcome of the conciliation conference. If the conciliation conference resolves the noncompliance, the job counselor must promptly inform the county agency and request withdrawal of the sanction notice.

(c) Upon receiving a sanction notice, the participant may request a fair hearing under section 256J.40, without exercising the option of a conciliation conference. In such cases, the county agency shall not require the participant to engage in a conciliation conference prior to the fair hearing.

(d) If the participant requests a fair hearing or a conciliation conference, sanctions will not be imposed until there is a determination of noncompliance. Sanctions must be imposed as provided in section 256J.46.

Sec. 24. Minnesota Statutes 2000, section 256J.62, subdivision 9, is amended to read:

Subd. 9. [CONTINUATION OF CERTAIN SERVICES.] At the request of the ~~caregiver participant~~, the county may continue to provide case management, counseling, or other support services to a participant ~~following the participant's achievement of:~~

(a) who has achieved the employment goal; or

(b) who under section 256J.42 is no longer eligible to receive MFIP.

These services may be provided for up to 12 months following termination of the participant's eligibility for MFIP.

~~A county may expend funds for a specific employment and training service for the duration of that service to a participant if the funds are obligated or expended prior to the participant losing MFIP eligibility.~~

Sec. 25. Minnesota Statutes 2000, section 256J.625, subdivision 1, is amended to read:

Subdivision 1. [ESTABLISHMENT; GUARANTEED MINIMUM ALLOCATION.] (a) The commissioner shall make grants under this subdivision to assist county and tribal TANF programs to more effectively serve hard-to-employ MFIP participants and participants who, within the last 12 months, have been determined under section 256J.42 to no longer be eligible to receive MFIP but whose income is below 120 percent of the federal poverty guidelines for a family of the same size. Funds appropriated for local intervention grants for self-sufficiency must be allocated first in amounts equal to the guaranteed minimum in paragraph (b), and second according to the provisions of subdivision 2. Any remaining funds must be allocated according to the formula in subdivision 3. Counties or tribes must have an approved local service unit plan under section 256J.50, subdivision 7, paragraph (b), in order to receive and expend funds under subdivisions 2 and 3.

(b) Each county or tribal program shall receive a guaranteed minimum annual allocation of \$25,000.

Sec. 26. Minnesota Statutes 2000, section 256J.625, subdivision 2, is amended to read:

Subd. 2. [SET-ASIDE FUNDS.] (a) Of the funds appropriated for grants under this section, after the allocation in subdivision 1, paragraph (b), is made, 20 percent of the remaining funds each year shall be retained by the commissioner and awarded to counties or tribes whose approved plans demonstrate additional need based on their identification of hard-to-employ families ~~and~~ working participants in need of job retention and wage advancement services, and participants who within the last 12 months, have been determined under section 256J.42 to no longer be eligible to receive MFIP but whose income is below 120 percent of the federal poverty guidelines for a family of same size, strong anticipated outcomes for families and an effective plan for monitoring performance, or, use of a multicounty, multi-entity or regional approach to serve hard-to-employ families ~~and~~ working participants in need of job retention and wage advancement services, and participants who, within the last 12 months, have been determined under section 256J.42 to no longer be eligible to receive MFIP but whose income is below 120 percent of the federal poverty guidelines for a family of the same size, who are identified as a target population to be served in the plan submitted under section 256J.50, subdivision 7, paragraph (b). In distributing funds under this paragraph, the commissioner must achieve a geographic balance. The commissioner may award funds under this paragraph to other public, private, or nonprofit entities to deliver services in a county or region where the entity or entities submit a plan that demonstrates a strong capability to fulfill the terms of the plan and where the plan shows an innovative or multi-entity approach.

(b) For fiscal year 2001 only, of the funds available under this subdivision the commissioner must allocate funding in the amounts specified in article 1, section 2, subdivision 7, for an intensive intervention transitional employment training project and for nontraditional career assistance and training programs. These allocations must occur before any set-aside funds are allocated under paragraph (a).

Sec. 27. Minnesota Statutes 2000, section 256J.625, subdivision 4, is amended to read:

Subd. 4. [USE OF FUNDS.] (a) A county or tribal program may use funds allocated under this subdivision to provide services to MFIP participants who are hard-to-employ and their families. Services provided must be intended to reduce the number of MFIP participants who are expected to reach the 60-month time limit under section 256J.42. Counties, tribes, and other entities receiving funds under subdivision 2 or 3 must submit semiannual progress reports to the commissioner which detail program outcomes.

(b) Funds allocated under this section may not be used to provide benefits that are defined as "assistance" in Code of Federal Regulations, title 45, section 260.31, to an assistance unit that is only receiving the food portion of MFIP benefits or under section 256J.42 is no longer eligible to receive MFIP.

(c) A county may use funds allocated under this section for that part of the match for federal access to jobs transportation funds that is TANF-eligible. A county may also use funds allocated under this section to enhance transportation choices for eligible recipients up to 150 percent of the federal poverty guidelines.

Sec. 28. Minnesota Statutes 2000, section 256J.751, is amended to read:

256J.751 [COUNTY PERFORMANCE MANAGEMENT.]

~~(a)~~ Subdivision 1. [QUARTERLY COUNTY CASELOAD REPORT.] The commissioner shall report quarterly to ~~all counties~~ each county on the county's performance on the following measures:

~~(1)~~ percent of MFIP caseload working in paid employment;

~~(2)~~ percent number of MFIP caseload cases receiving only the food portion of assistance;

~~(2)~~ number of child-only cases;

~~(3)~~ number of minor caregivers;

~~(4)~~ number of cases that are exempt from the 60-month time limit by the exemption category under section 256J.42;

~~(5)~~ number of participants who are exempt from employment and training services requirements by the exemption category under section 256J.56;

~~(6)~~ number of assistance units receiving assistance under a hardship extension under section 256J.425;

~~(7)~~ number of participants and number of months spent in each level of sanction under section 256J.46, subdivision 1;

~~(3)~~ ~~(8)~~ number of MFIP cases that have left assistance;

~~(4)~~ ~~(9)~~ federal participation requirements as specified in title 1 of Public Law Number 104-193; and

~~(5)~~ ~~(10)~~ median placement wage rate; and

~~(b)~~ ~~(11)~~ of each county's total MFIP caseload less the number of cases in clauses (1) to (6):

~~(i)~~ number of one-parent cases;

~~(ii)~~ number of two-parent cases;

~~(iii)~~ percent of one-parent cases that are working more than 20 hours per week;

~~(iv)~~ percent of two-parent cases that are working more than 20 hours per week; and

~~(v)~~ percent of cases that have received more than 36 months of assistance.

Subd. 2. [QUARTERLY COMPARISON REPORT.] The commissioner shall report quarterly to all counties on each county's performance on the following measures:

(1) percent of MFIP caseload working in paid employment;

(2) percent of MFIP caseload receiving only the food portion of assistance;

(3) number of MFIP cases that have left assistance;

(4) federal participation requirements as specified in Title 1 of Public Law Number 104-193;

(5) median placement wage rate; and

(6) caseload by months of TANF assistance.

Subd. 3. [ANNUAL REPORT.] The commissioner must report to all counties and to the legislature on each county's annual performance on the measures required under subdivision 1 by racial and ethnic group and, to the extent consistent with state and federal law, must include each county's performance on:

(1) the number of out-of-wedlock births and births to teen mothers; and

(2) number of cases by racial and ethnic group.

The report must be completed by January 1, 2002, and January 1 of each year thereafter and must comply with sections 3.195 and 3.197.

Subd. 4. [DEVELOPMENT OF PERFORMANCE MEASURES.] By January 1, 2002, the commissioner shall, in consultation with counties, develop measures for county performance in addition to those in ~~paragraph (a)~~ subdivision 1 and 2. In developing these measures, the commissioner must consider:

(1) a measure for MFIP cases that leave assistance due to employment;

(2) job retention after participants leave MFIP; and

(3) participant's earnings at a follow-up point after the participant has left MFIP; and

(4) the appropriateness of services provided to minority groups.

~~(a)~~ Subd. 5. [FAILURE TO MEET FEDERAL PERFORMANCE STANDARDS.] (a) If sanctions occur for failure to meet the performance standards specified in title 1 of Public Law Number 104-193 of the Personal Responsibility and Work Opportunity Act of 1996, the state shall pay 88 percent of the sanction. The remaining 12 percent of the sanction will be paid by the counties. The county portion of the sanction will be distributed across all counties in proportion to each county's percentage of the MFIP average monthly caseload during the period for which the sanction was applied.

~~(b)~~ (b) If a county fails to meet the performance standards specified in title 1 of Public Law Number 104-193 of the Personal Responsibility and Work Opportunity Act of 1996 for any year, the commissioner shall work with counties to organize a joint state-county technical assistance team to work with the county. The commissioner shall coordinate any technical assistance with other departments and agencies including the departments of economic security and children, families, and learning as necessary to achieve the purpose of this paragraph.

Sec. 29. Minnesota Statutes 2000, section 256K.25, subdivision 1, is amended to read:

Subdivision 1. [ESTABLISHMENT AND PURPOSE.] (a) ~~The commissioner shall establish a supportive housing and managed care pilot project in two counties, one within the seven-county metropolitan area and one outside of that area,~~ to determine whether the integrated delivery of employment services, supportive services, housing, and health care into a single, flexible program will:

(1) reduce public expenditures on homeless families with minor children, homeless noncustodial parents, and other homeless individuals;

(2) increase the employment rates of these persons; and

(3) provide a new alternative to providing services to this hard-to-serve population.

(b) The commissioner shall create a program for counties for the purpose of providing integrated intensive and individualized case management services, employment services, health care services, rent subsidies or other short- or medium-term housing assistance, and other supportive services to eligible families and individuals. Minimum project and application requirements shall be developed by the commissioner in cooperation with counties and their nonprofit partners with the goal to provide the maximum flexibility in program design.

(c) Services available under this project must be coordinated with available health care services for an eligible project participant.

Sec. 30. Minnesota Statutes 2000, section 256K.25, subdivision 3, is amended to read:

Subd. 3. [COUNTY ELIGIBILITY.] (a) A county may request funding under this pilot project if the county:

(1) agrees to develop, in cooperation with nonprofit partners, a supportive housing and managed care pilot project that integrates the delivery of employment services, supportive services, housing and health care for eligible families and individuals, or agrees to contract with an existing integrated program;

(2) for eligible participants who are also MFIP recipients, agrees to develop, in cooperation with nonprofit partners, procedures to ensure that the services provided under the pilot project are closely coordinated with the services provided under MFIP; ~~and~~

(3) develops a method for evaluating the quality of the integrated services provided and the amount of any resulting cost savings to the county and state; ~~and~~

(4) addresses in the pilot design the prevalence in the homeless population served those individuals with mental illness, a history of substance abuse, or HIV.

(b) Preference may be given to counties that cooperate with other counties participating in the pilot project for purposes of evaluation and counties that provide additional funding.

Sec. 31. Minnesota Statutes 2000, section 256K.25, subdivision 4, is amended to read:

Subd. 4. [PARTICIPANT ELIGIBILITY.] (a) In order to ~~be eligible~~ meet initial eligibility criteria for the pilot project, the county must determine that a participant is homeless or is at risk of homelessness; ~~has a mental illness, a history of substance abuse, or HIV;~~ and is a family that meets the criteria in paragraph (b) or is an individual who meets the criteria in paragraph (c).

(b) An eligible family must include a minor child or a pregnant woman, and:

(1) be receiving or be eligible for MFIP assistance under chapter 256J; or

(2) include an adult caregiver who is employed or is receiving employment and training services, and have household income below the MFIP exit level in section 256J.24, subdivision 10.

(c) An eligible individual must:

(1) meet the eligibility requirements of the group residential housing program under section 256I.04, subdivision 1; or

(2) be a noncustodial parent who is employed or is receiving employment and training services, and have household income below the MFIP exit level in section 256J.24, subdivision 10.

(d) Counties participating in the pilot project may develop and initiate disenrollment criteria, subject to approval by the commissioner of human services.

Sec. 32. Minnesota Statutes 2000, section 256K.25, subdivision 5, is amended to read:

Subd. 5. [FUNDING.] A county may request funding from the commissioner for a specified number of ~~TANF-eligible~~ project participants. The commissioner shall review the request for compliance with subdivisions 1 to 4 and may approve or disapprove the request. If other funds are available, the commissioner may allocate funding for project participants who meet the eligibility requirements of subdivision 4, paragraph (c). The commissioner may also redirect funds to the pilot project.

Sec. 33. Minnesota Statutes 2000, section 256K.25, subdivision 6, is amended to read:

Subd. 6. [REPORT.] Participating counties and the commissioner shall collaborate to prepare and issue an annual report, beginning December 1, 2001, to the chairs of the appropriate legislative committees on the pilot project's use of public resources, including other funds leveraged for this initiative; and an assessment of the feasibility of financing the pilot through other health and human services programs, the employment and housing status of the families and individuals served in the project, and the cost-effectiveness of the project. The annual report must also evaluate the pilot project with respect to the following project goals: that participants will lead more productive, healthier, more stable and better quality lives; that the teams created under the project to deliver services for each project participant will be accountable for ensuring that services are more appropriate, cost-effective and well-coordinated; and that the system-wide costs of serving this population, and the inappropriate use of emergency, crisis-oriented or institutional services, will be materially reduced. The commissioner shall provide data that may be needed to evaluate the project to participating counties that request the data.

Sec. 34. Minnesota Statutes 2000, section 268.0122, subdivision 2, is amended to read:

Subd. 2. [SPECIFIC POWERS.] The commissioner of economic security shall:

(1) administer and supervise all forms of unemployment benefits provided for under federal and state laws that are vested in the commissioner, including make investigations and audits, secure and transmit information, and make available services and facilities as the commissioner considers necessary or appropriate to facilitate the administration of any other states, or the federal Economic Security Law, and accept and use information, services, and facilities made available by other states or the federal government;

(2) administer and supervise all employment and training services assigned to the department under federal or state law;

(3) review and comment on local service unit plans and community investment program plans and approve or disapprove the plans;

(4) establish and maintain administrative units necessary to perform administrative functions common to all divisions of the department;

(5) supervise the county boards of commissioners, local service units, and any other units of government designated in federal or state law as responsible for employment and training programs;

(6) establish administrative standards and payment conditions for providers of employment and training services;

(7) act as the agent of, and cooperate with, the federal government in matters of mutual concern, including the administration of any federal funds granted to the state to aid in the performance of functions of the commissioner;

(8) obtain reports from local service units and service providers for the purpose of evaluating the performance of employment and training services; ~~and~~

(9) review and comment on plans for Indian tribe employment and training services and approve or disapprove the plans; and

(10) require all general employment and training programs that receive state funds to make available information about opportunities for women in nontraditional careers in the trades and technical occupations.

Sec. 35. Laws 1997, chapter 203, article 9, section 21, as amended by Laws 1998, chapter 407, article 6, section 111, and Laws 2000, chapter 488, article 10, section 28, is amended to read:

Sec. 21. [INELIGIBILITY FOR STATE FUNDED PROGRAMS.]

(a) Effective on the date specified, the following persons will be ineligible for general assistance and general assistance medical care under Minnesota Statutes, chapter 256D, group residential housing under Minnesota Statutes, chapter 256I, and MFIP assistance under Minnesota Statutes, chapter 256J, funded with state money:

(1) Beginning July 1, 2002, persons who are terminated from or denied Supplemental Security Income due to the 1996 changes in the federal law making persons whose alcohol or drug addiction is a material factor contributing to the person's disability ineligible for Supplemental Security Income, and are eligible for general assistance under Minnesota Statutes, section 256D.05, subdivision 1, paragraph (a), clause (15), general assistance medical care under Minnesota Statutes, chapter 256D, or group residential housing under Minnesota Statutes, chapter 256I;

(2) Beginning July 1, 2002, legal noncitizens who are ineligible for Supplemental Security Income due to the 1996 changes in federal law making certain noncitizens ineligible for these programs due to their noncitizen status; and

(3) Beginning July 1, ~~2001~~ 2002, legal noncitizens who are eligible for MFIP assistance, either the cash assistance portion or the food assistance portion, funded entirely with state money.

(b) State money that remains unspent due to changes in federal law enacted after May 12, 1997, that reduce state spending for legal noncitizens or for persons whose alcohol or drug addiction is a material factor contributing to the person's disability, or enacted after February 1, 1998, that reduce state spending for food benefits for legal noncitizens shall not cancel and shall be deposited in the TANF reserve account.

Sec. 36. [REPORT ON ASSESSMENT OF COUNTY PERFORMANCE.]

By January 15, 2003, the commissioner, in consultation with counties, must report to the chairs of the house and senate committees having jurisdiction over human services, on a proposal for assessing county performance using a methodology that controls for demographic, economic, and other variables that may impact county achievement of MFIP performance outcomes. The proposal must recommend how state and federal funds may be allocated to counties to encourage and reward high performance.

Sec. 37. [REPEALER.]

Minnesota Statutes 2000, sections 256J.42, subdivision 4; 256J.44; and 256J.46, subdivision 1a, are repealed.

ARTICLE 11

DHS LICENSING

Section 1. Minnesota Statutes 2000, section 13.46, subdivision 4, is amended to read:

Subd. 4. [LICENSING DATA.] (a) As used in this subdivision:

(1) "licensing data" means all data collected, maintained, used, or disseminated by the welfare system pertaining to persons licensed or registered or who apply for licensure or registration or who formerly were licensed or registered under the authority of the commissioner of human services;

(2) "client" means a person who is receiving services from a licensee or from an applicant for licensure; and

(3) "personal and personal financial data" means social security numbers, identity of and letters of reference, insurance information, reports from the bureau of criminal apprehension, health examination reports, and social/home studies.

(b)(1) Except as provided in paragraph (c), the following data on current and former licensees are public: name, address, telephone number of licensees, licensed capacity, type of client preferred, variances granted, type of dwelling, name and relationship of other family members, previous license history, class of license, and the existence and status of complaints. When disciplinary action has been taken against a licensee or the complaint is resolved, the following data are public: the substance of the complaint, the findings of the investigation of the complaint, the record of informal resolution of a licensing violation, orders of hearing, findings of fact, conclusions of law, and specifications of the final disciplinary action contained in the record of disciplinary action.

(2) The following data on persons subject to disqualification under section 245A.04 in connection with a license to provide family day care for children, child care center services, foster care for children in the provider's home, or foster care or day care services for adults in the provider's home, are public: the nature of any disqualification set aside under section 245A.04, subdivision 3b, and the reasons for setting aside the disqualification; and the reasons for granting any variance under section 245A.04, subdivision 9.

(3) When maltreatment is substantiated under section 626.556 or 626.557 and the victim and the substantiated perpetrator are affiliated with a program licensed under chapter 245A, the commissioner of human services, local social services agency, or county welfare agency may inform the license holder where the maltreatment occurred of the identity of the substantiated perpetrator and the victim.

(c) The following are private data on individuals under section 13.02, subdivision 12, or nonpublic data under section 13.02, subdivision 9: personal and personal financial data on family day care program and family foster care program applicants and licensees and their family members who provide services under the license.

(d) The following are private data on individuals: the identity of persons who have made reports concerning licensees or applicants that appear in inactive investigative data, and the records of clients or employees of the licensee or applicant for licensure whose records are received by the licensing agency for purposes of review or in anticipation of a contested matter. The names of reporters under sections 626.556 and 626.557 may be disclosed only as provided in section 626.556, subdivision 11, or 626.557, subdivision 12b.

(e) Data classified as private, confidential, nonpublic, or protected nonpublic under this subdivision become public data if submitted to a court or administrative law judge as part of a disciplinary proceeding in which there is a public hearing concerning the disciplinary action.

(f) Data generated in the course of licensing investigations that relate to an alleged violation of law are investigative data under subdivision 3.

(g) Data that are not public data collected, maintained, used, or disseminated under this subdivision that relate to or are derived from a report as defined in section 626.556, subdivision 2, are subject to the destruction provisions of section 626.556, subdivision 11.

(h) Upon request, not public data collected, maintained, used, or disseminated under this subdivision that relate to or are derived from a report of substantiated maltreatment as defined in section 626.556 or 626.557 may be exchanged with the department of health for purposes of completing background studies pursuant to section 144.057.

(i) Data on individuals collected according to licensing activities under chapter 245A, and data on individuals collected by the commissioner of human services according to maltreatment investigations under sections 626.556 and 626.557, may be shared with the department of human rights, the department of health, the department of corrections, the ombudsman for mental health and retardation, and the individual's professional regulatory board when there is reason to believe that laws or standards under the jurisdiction of those agencies may have been violated.

(j) In addition to the notice of determinations required under section 626.556, subdivision 10f, if the commissioner or the local social services agency has determined that an individual is a substantiated perpetrator of maltreatment of a child based on sexual abuse, as defined in section 626.556, subdivision 2, and the commissioner or local social services agency knows that the individual is a person responsible for a child's care in another facility, the commissioner or local social services agency shall notify the head of that facility of this determination. The notification must include an explanation of the individual's available appeal rights and the status of any appeal. If a notice is given under this paragraph, the government entity making the notification shall provide a copy of the notice to the individual who is the subject of the notice.

[EFFECTIVE DATE.] This section is effective July 1, 2001.

Sec. 2. Minnesota Statutes 2000, section 144.057, subdivision 3, is amended to read:

Subd. 3. **[RECONSIDERATIONS.]** The commissioner of health shall review and decide reconsideration requests, including the granting of variances, in accordance with the procedures and criteria contained in chapter 245A and Minnesota Rules, parts 9543.3000 to 9543.3090. The commissioner's decision shall be provided to the individual and to the department of human services. The commissioner's decision to grant or deny a reconsideration of disqualification is the final administrative agency action except for the provisions under section 245A.04, subdivisions 3b, paragraphs (e) and (f); and 3c, paragraph (a).

[EFFECTIVE DATE.] This section is effective January 1, 2002.

Sec. 3. Minnesota Statutes 2000, section 214.104, is amended to read:

214.104 **[HEALTH-RELATED LICENSING BOARDS; DETERMINATIONS REGARDING DISQUALIFICATIONS FOR MALTREATMENT.]**

(a) A health-related licensing board shall make determinations as to whether ~~licensees~~ regulated persons who are under the board's jurisdiction should be disqualified under section 245A.04, subdivision 3d, from positions allowing direct contact with persons receiving services the subject of disciplinary or corrective action because of substantiated maltreatment under section 626.556 or 626.557. A determination under this section may be done as part of an investigation under section 214.103. The board shall make a determination within 90 days of upon receipt, and after the review, of an investigation memorandum or other notice of substantiated maltreatment under section 626.556 or 626.557, or of a notice from the commissioner of human services that a background study of a licensee regulated person shows substantiated maltreatment. The board shall also make a determination under this section upon consideration of the licensure of an individual who was subject to disqualification before licensure because of substantiated maltreatment.

(b) In making a determination under this section, the board shall consider the nature and extent of any injury or harm resulting from the conduct that would constitute grounds for disqualification, the seriousness of the misconduct, the extent that disqualification is necessary to protect persons receiving services or the public, and other factors specified in section 245A.04, subdivision 3b, paragraph (b).

(c) ~~The board shall determine the duration and extent of the disqualification or may establish conditions under which the licensee may hold a position allowing direct contact with persons receiving services or in a licensed facility.~~

(b) Upon completion of its review of a report of substantiated maltreatment, the board shall notify the commissioner of human services and the lead agency that conducted an investigation under section 626.556 or 626.557, as applicable, of its determination. The board shall notify the commissioner of human services if, following a review of the report of substantiated maltreatment, the board determines that it does not have jurisdiction in the matter and the commissioner shall make the appropriate disqualification decision regarding the regulated person as otherwise provided in chapter 245A. The board shall also notify the commissioner of health or the commissioner of human services immediately upon receipt of knowledge of a facility or program allowing a regulated person to provide direct contact services at the facility or program while not complying with requirements placed on the regulated person.

(c) In addition to any other remedy provided by law, the board may, through its designated board member, temporarily suspend the license of a licensee; deny a credential to an applicant; or require the regulated person to be continuously supervised, if the board finds there is probable cause to believe the regulated person referred to the board according to paragraph (a) poses an immediate risk of harm to vulnerable persons. The board shall consider all relevant information available, which may include but is not limited to:

- (1) the extent the action is needed to protect persons receiving services or the public;
- (2) the recency of the maltreatment;
- (3) the number of incidents of maltreatment;
- (4) the intrusiveness or violence of the maltreatment; and
- (5) the vulnerability of the victim of maltreatment.

The action shall take effect upon written notice to the regulated person, served by certified mail, specifying the statute violated. The board shall notify the commissioner of health or the commissioner of human services of the suspension or denial of a credential. The action shall remain in effect until the board issues a temporary stay or a final order in the matter after a hearing or upon agreement between the board and the regulated person. At the time the board issues the notice, the regulated person shall inform the board of all settings in which the regulated person is employed or practices and the board shall inform all known employment and practice settings of the board action and schedule a disciplinary hearing to be held under chapter 14. The board shall provide the regulated person with at least 30 days' notice of the hearing, unless the parties agree to a hearing date that provides less than 30 days notice, and shall schedule the hearing to begin no later than 90 days after issuance of the notice of hearing.

[EFFECTIVE DATE.] This section is effective July 1, 2001.

Sec. 4. Minnesota Statutes 2000, section 245A.03, subdivision 2b, is amended to read:

Subd. 2b. [EXCEPTION.] The provision in subdivision 2, clause (2), does not apply to:

(1) a child care provider who as an applicant for licensure or as a license holder has received a license denial under section 245A.05, a ~~five~~ conditional license under section 245A.06, or a sanction under section 245A.07 from the commissioner that has not been reversed on appeal; or

(2) a child care provider, or a child care provider who has a household member who, as a result of a licensing process, has a disqualification under this chapter that has not been set aside by the commissioner.

[EFFECTIVE DATE.] This section is effective January 1, 2002.

Sec. 5. Minnesota Statutes 2000, section 245A.04, subdivision 3a, is amended to read:

Subd. 3a. [NOTIFICATION TO SUBJECT AND LICENSE HOLDER OF STUDY RESULTS; DETERMINATION OF RISK OF HARM.] (a) The commissioner shall notify the applicant or license holder and the individual who is the subject of the study, in writing or by electronic transmission, of the results of the study. When the study is completed, a notice that the study was undertaken and completed shall be maintained in the personnel files of the program. For studies on individuals pertaining to a license to provide family day care or group family day care, foster care for children in the provider's own home, or foster care or day care services for adults in the provider's own home, the commissioner is not required to provide a separate notice of the background study results to the individual who is the subject of the study unless the study results in a disqualification of the individual.

The commissioner shall notify the individual studied if the information in the study indicates the individual is disqualified from direct contact with persons served by the program. The commissioner shall disclose the information causing disqualification and instructions on how to request a reconsideration of the disqualification to the individual studied. An applicant or license holder who is not the subject of the study shall be informed that the commissioner has found information that disqualifies the subject from direct contact with persons served by the program. However, only the individual studied must be informed of the information contained in the subject's background study unless the only basis for the disqualification is failure to cooperate, substantiated maltreatment under section 626.556 or 626.557, the Data Practices Act provides for release of the information, or the individual studied authorizes the release of the information. When a disqualification is based on the subject's failure to cooperate with the background study or substantiated maltreatment under section 626.556 or 626.557, the agency that initiated the study shall be informed by the commissioner of the reason for the disqualification.

(b) Except as provided in subdivision 3d, paragraph (b), if the commissioner determines that the individual studied has a disqualifying characteristic, the commissioner shall review the information immediately available and make a determination as to the subject's immediate risk of harm to persons served by the program where the individual studied will have direct contact. The commissioner shall consider all relevant information available, including the following factors in determining the immediate risk of harm: the recency of the disqualifying characteristic; the recency of discharge from probation for the crimes; the number of disqualifying characteristics; the intrusiveness or violence of the disqualifying characteristic; the vulnerability of the victim involved in the disqualifying characteristic; and the similarity of the victim to the persons served by the program where the individual studied will have direct contact. The commissioner may determine that the evaluation of the information immediately available gives the commissioner reason to believe one of the following:

(1) The individual poses an imminent risk of harm to persons served by the program where the individual studied will have direct contact. If the commissioner determines that an individual studied poses an imminent risk of harm to persons served by the program where the individual studied will have direct contact, the individual and the license holder must be sent a notice of disqualification. The commissioner shall order the license holder to immediately remove the individual studied from direct contact. The notice to the individual studied must include an explanation of the basis of this determination.

(2) The individual poses a risk of harm requiring continuous supervision while providing direct contact services during the period in which the subject may request a reconsideration. If the commissioner determines that an individual studied poses a risk of harm that requires continuous supervision, the individual and the license holder must be sent a notice of disqualification. The commissioner shall order the license holder to immediately remove the individual studied from direct contact services or assure that the individual studied is within sight or hearing of another staff person when providing direct contact services during the period in which the individual may request a reconsideration of the disqualification. If the individual studied does not submit a timely request for reconsideration, or the individual submits a timely request for reconsideration, but the disqualification is not set aside for that license holder, the license holder will be notified of the disqualification and ordered to immediately remove the individual from any position allowing direct contact with persons receiving services from the license holder.

(3) The individual does not pose an imminent risk of harm or a risk of harm requiring continuous supervision while providing direct contact services during the period in which the subject may request a reconsideration. If the commissioner determines that an individual studied does not pose a risk of harm that requires continuous supervision, only the individual must be sent a notice of disqualification. The license holder must be sent a notice that more time is needed to complete the individual's background study. If the individual studied submits a timely request for reconsideration, and if the disqualification is set aside for that license holder, the license holder will receive the same notification received by license holders in cases where the individual studied has no disqualifying characteristic. If the individual studied does not submit a timely request for reconsideration, or the individual submits a timely request for reconsideration, but the disqualification is not set aside for that license holder, the license holder will be notified of the disqualification and ordered to immediately remove the individual from any position allowing direct contact with persons receiving services from the license holder.

(c) County licensing agencies performing duties under this subdivision may develop an alternative system for determining the subject's immediate risk of harm to persons served by the program, providing the notices under paragraph (b), and documenting the action taken by the county licensing agency. Each county licensing agency's implementation of the alternative system is subject to approval by the commissioner. Notwithstanding this alternative system, county licensing agencies shall complete the requirements of paragraph (a).

[EFFECTIVE DATE.] This section is effective July 1, 2001.

Sec. 6. Minnesota Statutes 2000, section 245A.04, subdivision 3b, is amended to read:

Subd. 3b. [RECONSIDERATION OF DISQUALIFICATION.] (a) The individual who is the subject of the disqualification may request a reconsideration of the disqualification.

The individual must submit the request for reconsideration to the commissioner in writing. A request for reconsideration for an individual who has been sent a notice of disqualification under subdivision 3a, paragraph (b), clause (1) or (2), must be submitted within 30 calendar days of the disqualified individual's receipt of the notice of disqualification. A request for reconsideration for an individual who has been sent a notice of disqualification under subdivision 3a, paragraph (b), clause (3), must be submitted within 15 calendar days of the disqualified individual's receipt of the notice of disqualification. An individual who was determined to have maltreated a child under section 626.556 or a vulnerable adult under section 626.557, and who was disqualified under this section on the basis of serious or recurring maltreatment, may request reconsideration of both the maltreatment and the disqualification determinations. The request for reconsideration of the maltreatment determination and the disqualification must be submitted within 30 calendar days of the individual's receipt of the notice of disqualification. Removal of a disqualified individual from direct contact shall be ordered if the individual does not request reconsideration within the prescribed time, and for an individual who submits a timely request for reconsideration, if the disqualification is not set aside. The individual must present information showing that:

(1) the information the commissioner relied upon is incorrect or inaccurate. If the basis of a reconsideration request is that a maltreatment determination or disposition under section 626.556 or 626.557 is incorrect, and the commissioner has issued a final order in an appeal of that determination or disposition under section 256.045 or 245A.08, subdivision 5, the commissioner's order is conclusive on the issue of maltreatment. If the individual did not request reconsideration of the maltreatment determination, the maltreatment determination is deemed conclusive; or

(2) the subject of the study does not pose a risk of harm to any person served by the applicant or license holder.

(b) The commissioner shall rescind the disqualification if the commissioner finds that the information relied on to disqualify the subject is incorrect. The commissioner may set aside the disqualification under this section if the commissioner finds that ~~the information the commissioner relied upon is incorrect~~ or the individual does not pose a risk of harm to any person served by the applicant or license holder. In determining that an individual does not pose a risk of harm, the commissioner shall consider the consequences of the event or events that lead to

disqualification, whether there is more than one disqualifying event, the vulnerability of the victim at the time of the event, the time elapsed without a repeat of the same or similar event, documentation of successful completion by the individual studied of training or rehabilitation pertinent to the event, and any other information relevant to reconsideration. In reviewing a disqualification under this section, the commissioner shall give preeminent weight to the safety of each person to be served by the license holder or applicant over the interests of the license holder or applicant.

(c) Unless the information the commissioner relied on in disqualifying an individual is incorrect, the commissioner may not set aside the disqualification of an individual in connection with a license to provide family day care for children, foster care for children in the provider's own home, or foster care or day care services for adults in the provider's own home if:

(1) less than ten years have passed since the discharge of the sentence imposed for the offense; and the individual has been convicted of a violation of any offense listed in sections 609.20 (manslaughter in the first degree), 609.205 (manslaughter in the second degree), criminal vehicular homicide under 609.21 (criminal vehicular homicide and injury), 609.215 (aiding suicide or aiding attempted suicide), felony violations under 609.221 to 609.2231 (assault in the first, second, third, or fourth degree), 609.713 (terroristic threats), 609.235 (use of drugs to injure or to facilitate crime), 609.24 (simple robbery), 609.245 (aggravated robbery), 609.25 (kidnapping), 609.255 (false imprisonment), 609.561 or 609.562 (arson in the first or second degree), 609.71 (riot), burglary in the first or second degree under 609.582 (burglary), 609.66 (dangerous weapon), 609.665 (spring guns), 609.67 (machine guns and short-barreled shotguns), 609.749 (harassment; stalking), 152.021 or 152.022 (controlled substance crime in the first or second degree), 152.023, subdivision 1, clause (3) or (4), or subdivision 2, clause (4) (controlled substance crime in the third degree), 152.024, subdivision 1, clause (2), (3), or (4) (controlled substance crime in the fourth degree), 609.224, subdivision 2, paragraph (c) (fifth-degree assault by a caregiver against a vulnerable adult), 609.228 (great bodily harm caused by distribution of drugs), 609.23 (mistreatment of persons confined), 609.231 (mistreatment of residents or patients), 609.2325 (criminal abuse of a vulnerable adult), 609.233 (criminal neglect of a vulnerable adult), 609.2335 (financial exploitation of a vulnerable adult), 609.234 (failure to report), 609.265 (abduction), 609.2664 to 609.2665 (manslaughter of an unborn child in the first or second degree), 609.267 to 609.2672 (assault of an unborn child in the first, second, or third degree), 609.268 (injury or death of an unborn child in the commission of a crime), 617.293 (disseminating or displaying harmful material to minors), a gross misdemeanor offense under 609.324, subdivision 1 (other prohibited acts), a gross misdemeanor offense under 609.378 (neglect or endangerment of a child), a gross misdemeanor offense under 609.377 (malicious punishment of a child), 609.72, subdivision 3 (disorderly conduct against a vulnerable adult); or an attempt or conspiracy to commit any of these offenses, as each of these offenses is defined in Minnesota Statutes; or an offense in any other state, the elements of which are substantially similar to the elements of any of the foregoing offenses;

(2) regardless of how much time has passed since the discharge of the sentence imposed for the offense, the individual was convicted of a violation of any offense listed in sections 609.185 to 609.195 (murder in the first, second, or third degree), 609.2661 to 609.2663 (murder of an unborn child in the first, second, or third degree), a felony offense under 609.377 (malicious punishment of a child), a felony offense under 609.324, subdivision 1 (other prohibited acts), a felony offense under 609.378 (neglect or endangerment of a child), 609.322 (solicitation, inducement, and promotion of prostitution), 609.342 to 609.345 (criminal sexual conduct in the first, second, third, or fourth degree), 609.352 (solicitation of children to engage in sexual conduct), 617.246 (use of minors in a sexual performance), 617.247 (possession of pictorial representations of a minor), 609.365 (incest), a felony offense under sections 609.2242 and 609.2243 (domestic assault), a felony offense of spousal abuse, a felony offense of child abuse or neglect, a felony offense of a crime against children, or an attempt or conspiracy to commit any of these offenses as defined in Minnesota Statutes, or an offense in any other state, the elements of which are substantially similar to any of the foregoing offenses;

(3) within the seven years preceding the study, the individual committed an act that constitutes maltreatment of a child under section 626.556, subdivision 10e, and that resulted in substantial bodily harm as defined in section 609.02, subdivision 7a, or substantial mental or emotional harm as supported by competent psychological or psychiatric evidence; or

(4) within the seven years preceding the study, the individual was determined under section 626.557 to be the perpetrator of a substantiated incident of maltreatment of a vulnerable adult that resulted in substantial bodily harm as defined in section 609.02, subdivision 7a, or substantial mental or emotional harm as supported by competent psychological or psychiatric evidence.

In the case of any ground for disqualification under clauses (1) to (4), if the act was committed by an individual other than the applicant or license holder residing in the applicant's or license holder's home, the applicant or license holder may seek reconsideration when the individual who committed the act no longer resides in the home.

The disqualification periods provided under clauses (1), (3), and (4) are the minimum applicable disqualification periods. The commissioner may determine that an individual should continue to be disqualified from licensure because the license holder or applicant poses a risk of harm to a person served by that individual after the minimum disqualification period has passed.

(d) The commissioner shall respond in writing or by electronic transmission to all reconsideration requests for which the basis for the request is that the information relied upon by the commissioner to disqualify is incorrect or inaccurate within 30 working days of receipt of a request and all relevant information. If the basis for the request is that the individual does not pose a risk of harm, the commissioner shall respond to the request within 15 working days after receiving the request for reconsideration and all relevant information. If the request is based on both the correctness or accuracy of the information relied on to disqualify the individual and the risk of harm, the commissioner shall respond to the request within 45 working days after receiving the request for reconsideration and all relevant information. If the disqualification is set aside, the commissioner shall notify the applicant or license holder in writing or by electronic transmission of the decision.

(e) ~~Except as provided in subdivision 3c, the commissioner's decision to disqualify an individual, including the decision to grant or deny a rescission or set aside a disqualification under this section, is the final administrative agency action and shall not be subject to further review in a contested case under chapter 14 involving a negative licensing appeal taken in response to the disqualification or involving an accuracy and completeness appeal under section 13.04; if a disqualification is not set aside or is not rescinded, an individual who was disqualified on the basis of a preponderance of evidence that the individual committed an act or acts that meet the definition of any of the crimes lists in subdivision 3d, paragraph (a), clauses (1) to (4); or for failure to make required reports under section 626.556, subdivision 3, or 626.557, subdivision 3, pursuant to subdivision 3d, paragraph (a), clause (4), may request a fair hearing under section 256.045. Except as provided under subdivision 3c, the commissioner's final order for an individual under this paragraph is conclusive on the issue of disqualification, including for purposes of subsequent studies conducted under section 245A.04, subdivision 3, and is the only administrative appeal of the final agency determination, specifically, including a challenge to the accuracy and completeness of data under section 13.04.~~

(f) Except as provided under subdivision 3c, if an individual was disqualified on the basis of a determination of maltreatment under section 626.556 or 626.557, which was serious or recurring, and the individual has requested reconsideration of the maltreatment determination under section 626.556, subdivision 10i, or 626.557, subdivision 9d, and also requested reconsideration of the disqualification under this subdivision, reconsideration of the maltreatment determination and reconsideration of the disqualification shall be consolidated into a single reconsideration. For maltreatment and disqualification determinations made by county agencies, the consolidated reconsideration shall be conducted by the county agency. Except as provided under subdivision 3c, if an individual who was disqualified on the basis of serious or recurring maltreatment requests a fair hearing on the maltreatment determination under section 626.556, subdivision 10i, or 626.557, subdivision 9d, the scope of the fair hearing under section 256.045 shall include the maltreatment determination and the disqualification. Except as provided under subdivision 3c, the commissioner's final order for an individual under this paragraph is conclusive on the issue of maltreatment and disqualification, including for purposes of subsequent studies conducted under subdivision 3, and is the only administrative appeal of the final agency determination, specifically, including a challenge to the accuracy and completeness of data under section 13.04.

[EFFECTIVE DATE.] This section is effective January 1, 2002.

Sec. 7. Minnesota Statutes 2000, section 245A.04, subdivision 3c, is amended to read:

Subd. 3c. [CONTESTED CASE.] (a) Notwithstanding subdivision 3b, paragraphs (e) and (f), if a disqualification is not set aside, a person who is an employee of an employer, as defined in section 179A.03, subdivision 15, may request a contested case hearing under chapter 14. If the disqualification which was not set aside or was not rescinded was based on a maltreatment determination, the scope of the contested case hearing shall include the maltreatment determination and the disqualification. In such cases, a fair hearing shall not be conducted under section 256.045. Rules adopted under this chapter may not preclude an employee in a contested case hearing for disqualification from submitting evidence concerning information gathered under subdivision 3, paragraph (e).

(b) If a disqualification for which reconsideration was requested and which was not set aside or was not rescinded under subdivision 3b is the basis for a denial of a license under section 245A.05 or a licensing sanction under section 245A.07, the license holder has the right to a contested case hearing under chapter 14 and Minnesota Rules, parts 1400.8510 to 1400.8612 and successor rules. The appeal must be submitted in accordance with section 245A.05 or 245A.07, subdivision 3. As provided for under section 245A.08, subdivision 2a, the scope of the consolidated contested case hearing shall include the disqualification and the licensing sanction or denial of a license. If the disqualification was based on a determination of substantiated serious or recurring maltreatment under section 626.556 or 626.557, the appeal must be submitted in accordance with sections 245A.07, subdivision 3, and 626.556, subdivision 10i, or 626.557, subdivision 9d. As provided for under section 245A.08, subdivision 2a, the scope of the contested case hearing shall include the maltreatment determination, the disqualification, and the licensing sanction or denial of a license. In such cases, a fair hearing shall not be conducted under section 256.045.

(c) If a maltreatment determination or disqualification, which was not set aside or was not rescinded under subdivision 3b, is the basis for a denial of a license under section 245A.05 or a licensing sanction under section 245A.07, and the disqualified subject is an individual other than the license holder and upon whom a background study must be conducted under subdivision 3, the hearing of all parties may be consolidated into a single contested case hearing upon consent of all parties and the administrative law judge.

(d) The commissioner's final order under section 245A.08, subdivision 5, is conclusive on the issue of maltreatment and disqualification, including for purposes of subsequent background studies. The contested case hearing under this subdivision is the only administrative appeal of the final agency determination, specifically, including a challenge to the accuracy and completeness of data under section 13.04.

[EFFECTIVE DATE.] This section is effective January 1, 2002.

Sec. 8. Minnesota Statutes 2000, section 245A.04, subdivision 3d, is amended to read:

Subd. 3d. [DISQUALIFICATION.] (a) Except as provided in paragraph (b), when a background study completed under subdivision 3 shows any of the following: a conviction of one or more crimes listed in clauses (1) to (4); the individual has admitted to or a preponderance of the evidence indicates the individual has committed an act or acts that meet the definition of any of the crimes listed in clauses (1) to (4); or an investigation results in an administrative determination listed under clause (4), the individual shall be disqualified from any position allowing direct contact with persons receiving services from the license holder and for individuals studied under section 245A.04, subdivision 3, paragraph (c), clauses (2), (6), and (7), in H. F. 1381, if enacted, the individual shall also be disqualified from access to persons receiving services from the license holder:

(1) regardless of how much time has passed since the discharge of the sentence imposed for the offense, and unless otherwise specified, regardless of the level of the conviction, the individual was convicted of any of the following offenses: sections 609.185 (murder in the first degree); 609.19 (murder in the second degree); 609.195 (murder in the third degree); 609.2661 (murder of an unborn child in the first degree); 609.2662 (murder of an unborn child in the second degree); 609.2663 (murder of an unborn child in the third degree); 609.322 (solicitation, inducement, and promotion of prostitution); 609.342 (criminal sexual conduct in the first degree); 609.343 (criminal sexual conduct in the second degree); 609.344 (criminal sexual conduct in the third degree); 609.345 (criminal sexual

conduct in the fourth degree); 609.352 (solicitation of children to engage in sexual conduct); 609.365 (incest); felony offense under 609.377 (malicious punishment of a child); a felony offense under 609.378 (neglect or endangerment of a child); a felony offense under 609.324, subdivision 1 (other prohibited acts); 617.246 (use of minors in sexual performance prohibited); 617.247 (possession of pictorial representations of minors); a felony offense under sections 609.2242 and 609.2243 (domestic assault), a felony offense of spousal abuse, a felony offense of child abuse or neglect, a felony offense of a crime against children; or attempt or conspiracy to commit any of these offenses as defined in Minnesota Statutes, or an offense in any other state or country, where the elements are substantially similar to any of the offenses listed in this clause;

(2) if less than 15 years have passed since the discharge of the sentence imposed for the offense; and the individual has received a felony conviction for a violation of any of these offenses: sections 609.20 (manslaughter in the first degree); 609.205 (manslaughter in the second degree); 609.21 (criminal vehicular homicide and injury); 609.215 (suicide); 609.221 to 609.2231 (assault in the first, second, third, or fourth degree); repeat offenses under 609.224 (assault in the fifth degree); repeat offenses under 609.3451 (criminal sexual conduct in the fifth degree); 609.713 (terroristic threats); 609.235 (use of drugs to injure or facilitate crime); 609.24 (simple robbery); 609.245 (aggravated robbery); 609.25 (kidnapping); 609.255 (false imprisonment); 609.561 (arson in the first degree); 609.562 (arson in the second degree); 609.563 (arson in the third degree); repeat offenses under 617.23 (indecent exposure; penalties); repeat offenses under 617.241 (obscene materials and performances; distribution and exhibition prohibited; penalty); 609.71 (riot); 609.66 (dangerous weapons); 609.67 (machine guns and short-barreled shotguns); 609.749 (harassment; stalking; penalties); 609.228 (great bodily harm caused by distribution of drugs); 609.2325 (criminal abuse of a vulnerable adult); 609.2664 (manslaughter of an unborn child in the first degree); 609.2665 (manslaughter of an unborn child in the second degree); 609.267 (assault of an unborn child in the first degree); 609.2671 (assault of an unborn child in the second degree); 609.268 (injury or death of an unborn child in the commission of a crime); 609.52 (theft); 609.2335 (financial exploitation of a vulnerable adult); 609.521 (possession of shoplifting gear); 609.582 (burglary); 609.625 (aggravated forgery); 609.63 (forgery); 609.631 (check forgery; offering a forged check); 609.635 (obtaining signature by false pretense); 609.27 (coercion); 609.275 (attempt to coerce); 609.687 (adulteration); 260C.301 (grounds for termination of parental rights); and chapter 152 (drugs; controlled substance). An attempt or conspiracy to commit any of these offenses, as each of these offenses is defined in Minnesota Statutes; or an offense in any other state or country, the elements of which are substantially similar to the elements of the offenses in this clause. If the individual studied is convicted of one of the felonies listed in this clause, but the sentence is a gross misdemeanor or misdemeanor disposition, the lookback period for the conviction is the period applicable to the disposition, that is the period for gross misdemeanors or misdemeanors;

(3) if less than ten years have passed since the discharge of the sentence imposed for the offense; and the individual has received a gross misdemeanor conviction for a violation of any of the following offenses: sections 609.224 (assault in the fifth degree); 609.2242 and 609.2243 (domestic assault); violation of an order for protection under 518B.01, subdivision 14; 609.3451 (criminal sexual conduct in the fifth degree); repeat offenses under 609.746 (interference with privacy); repeat offenses under 617.23 (indecent exposure); 617.241 (obscene materials and performances); 617.243 (indecent literature, distribution); 617.293 (harmful materials; dissemination and display to minors prohibited); 609.71 (riot); 609.66 (dangerous weapons); 609.749 (harassment; stalking; penalties); 609.224, subdivision 2, paragraph (c) (assault in the fifth degree by a caregiver against a vulnerable adult); 609.23 (mistreatment of persons confined); 609.231 (mistreatment of residents or patients); 609.2325 (criminal abuse of a vulnerable adult); 609.233 (criminal neglect of a vulnerable adult); 609.2335 (financial exploitation of a vulnerable adult); 609.234 (failure to report maltreatment of a vulnerable adult); 609.72, subdivision 3 (disorderly conduct against a vulnerable adult); 609.265 (abduction); 609.378 (neglect or endangerment of a child); 609.377 (malicious punishment of a child); 609.324, subdivision 1a (other prohibited acts; minor engaged in prostitution); 609.33 (disorderly house); 609.52 (theft); 609.582 (burglary); 609.631 (check forgery; offering a forged check); 609.275 (attempt to coerce); or an attempt or conspiracy to commit any of these offenses, as each of these offenses is defined in Minnesota Statutes; or an offense in any other state or country, the elements of which are substantially similar to the elements of any of the offenses listed in this clause. If the defendant is convicted of one of the gross misdemeanors listed in this clause, but the sentence is a misdemeanor disposition, the lookback period for the conviction is the period applicable to misdemeanors; or

(4) if less than seven years have passed since the discharge of the sentence imposed for the offense; and the individual has received a misdemeanor conviction for a violation of any of the following offenses: sections 609.224 (assault in the fifth degree); 609.2242 (domestic assault); violation of an order for protection under 518B.01 (Domestic Abuse Act); violation of an order for protection under 609.3232 (protective order authorized; procedures; penalties); 609.746 (interference with privacy); 609.79 (obscene or harassing phone calls); 609.795 (letter, telegram, or package; opening; harassment); 617.23 (indecent exposure; penalties); 609.2672 (assault of an unborn child in the third degree); 617.293 (harmful materials; dissemination and display to minors prohibited); 609.66 (dangerous weapons); 609.665 (spring guns); 609.2335 (financial exploitation of a vulnerable adult); 609.234 (failure to report maltreatment of a vulnerable adult); 609.52 (theft); 609.27 (coercion); or an attempt or conspiracy to commit any of these offenses, as each of these offenses is defined in Minnesota Statutes; or an offense in any other state or country, the elements of which are substantially similar to the elements of any of the offenses listed in this clause; failure to make required reports under section 626.556, subdivision 3, or 626.557, subdivision 3, for incidents in which: (i) the final disposition under section 626.556 or 626.557 was substantiated maltreatment, and (ii) the maltreatment was recurring or serious; or substantiated serious or recurring maltreatment of a minor under section 626.556 or of a vulnerable adult under section 626.557 for which there is a preponderance of evidence that the maltreatment occurred, and that the subject was responsible for the maltreatment.

For the purposes of this section, "serious maltreatment" means sexual abuse; maltreatment resulting in death; or maltreatment resulting in serious injury which reasonably requires the care of a physician whether or not the care of a physician was sought; or abuse resulting in serious injury. For purposes of this section, "abuse resulting in serious injury" means: bruises, bites, skin laceration or tissue damage; fractures; dislocations; evidence of internal injuries; head injuries with loss of consciousness; extensive second-degree or third-degree burns and other burns for which complications are present; extensive second-degree or third-degree frostbite, and others for which complications are present; irreversible mobility or avulsion of teeth; injuries to the eyeball; ingestion of foreign substances and objects that are harmful; near drowning; and heat exhaustion or sunstroke. For purposes of this section, "care of a physician" is treatment received or ordered by a physician, but does not include diagnostic testing, assessment, or observation. For the purposes of this section, "recurring maltreatment" means more than one incident of maltreatment for which there is a preponderance of evidence that the maltreatment occurred, and that the subject was responsible for the maltreatment. For purposes of this section, "access" means physical access to an individual receiving services or the individual's personal property without continuous, direct supervision as defined in section 245A.04, subdivision 3.

~~(b) If Except for background studies related to child foster care, adult foster care, or family child care licensure, when the subject of a background study is licensed regulated by a health-related licensing board as defined in chapter 214, and the regulated person has been determined to have been responsible for substantiated maltreatment under section 626.556 or 626.557, instead of the commissioner making a decision regarding disqualification, the board shall make the a determination regarding a disqualification under this subdivision based on a finding of substantiated maltreatment under section 626.556 or 626.557. The commissioner shall notify the health-related licensing board if a background study shows that a licensee would be disqualified because of substantiated maltreatment and the board shall make a determination under section 214.104: whether to impose disciplinary or corrective action under chapter 214.~~

(1) The commissioner shall notify the health-related licensing board:

(i) upon completion of a background study that produces a record showing that the individual was determined to have been responsible for substantiated maltreatment;

(ii) upon the commissioner's completion of an investigation that determined the individual was responsible for substantiated maltreatment; or

(iii) upon receipt from another agency of a finding of substantiated maltreatment for which the individual was responsible.

(2) The commissioner's notice shall indicate whether the individual would have been disqualified by the commissioner for the substantiated maltreatment if the individual were not regulated by the board. The commissioner shall concurrently send a copy of this notice to the individual.

(3) Notwithstanding the exclusion from this subdivision for individuals who provide child foster care, adult foster care, or family child care, when the commissioner or a local agency has reason to believe that the direct contact services provided by the individual may fall within the jurisdiction of a health-related licensing board, a referral shall be made to the board as provided in this section.

(4) If, upon review of the information provided by the commissioner, a health-related licensing board informs the commissioner that the board does not have jurisdiction to take disciplinary or corrective action, the commissioner shall make the appropriate disqualification decision regarding the individual as otherwise provided in this chapter.

(5) The commissioner has the authority to monitor the facility's compliance with any requirements that the health-related licensing board places on regulated persons practicing in a facility either during the period pending a final decision on a disciplinary or corrective action or as a result of a disciplinary or corrective action. The commissioner has the authority to order the immediate removal of a regulated person from direct contact or access when a board issues an order of temporary suspension based on a determination that the regulated person poses an immediate risk of harm to persons receiving services in a licensed facility.

(6) A facility that allows a regulated person to provide direct contact services while not complying with the requirements imposed by the health-related licensing board is subject to action by the commissioner as specified under sections 245A.06 and 245A.07.

(7) The commissioner shall notify a health-related licensing board immediately upon receipt of knowledge of noncompliance with requirements placed on a facility or upon a person regulated by the board.

[EFFECTIVE DATE.] This section is effective July 1, 2001.

Sec. 9. Minnesota Statutes 2000, section 245A.05, is amended to read:

245A.05 [DENIAL OF APPLICATION.]

The commissioner may deny a license if an applicant fails to comply with applicable laws or rules, or knowingly withholds relevant information from or gives false or misleading information to the commissioner in connection with an application for a license or during an investigation. An applicant whose application has been denied by the commissioner must be given notice of the denial. Notice must be given by certified mail. The notice must state the reasons the application was denied and must inform the applicant of the right to a contested case hearing under chapter 14 and Minnesota Rules, parts 1400.8510 to 1400.8612 and successor rules. The applicant may appeal the denial by notifying the commissioner in writing by certified mail within 20 calendar days after receiving notice that the application was denied. Section 245A.08 applies to hearings held to appeal the commissioner's denial of an application.

[EFFECTIVE DATE.] This section is effective January 1, 2002.

Sec. 10. Minnesota Statutes 2000, section 245A.06, is amended to read:

245A.06 [CORRECTION ORDER AND FINES CONDITIONAL LICENSE.]

Subdivision 1. [CONTENTS OF CORRECTION ORDERS ~~OR FINES AND CONDITIONAL LICENSES.~~] (a) If the commissioner finds that the applicant or license holder has failed to comply with an applicable law or rule and this failure does not imminently endanger the health, safety, or rights of the persons served by the program, the commissioner may issue a correction order and an order of conditional license to ~~or impose a fine on~~ the applicant

or license holder. When issuing a conditional license, the commissioner shall consider the nature, chronicity, or severity of the violation of law or rule and the effect of the violation on the health, safety, or rights of persons served by the program. The correction order or ~~fine~~ conditional license must state:

- (1) the conditions that constitute a violation of the law or rule;
- (2) the specific law or rule violated;
- (3) the time allowed to correct each violation; and

(4) if a ~~fine is imposed, the amount of the fine~~ license is made conditional, the length and terms of the conditional license.

(b) Nothing in this section prohibits the commissioner from proposing a sanction as specified in section 245A.07, prior to issuing a correction order or ~~fine~~ conditional license.

Subd. 2. [RECONSIDERATION OF CORRECTION ORDERS.] If the applicant or license holder believes that the contents of the commissioner's correction order are in error, the applicant or license holder may ask the department of human services to reconsider the parts of the correction order that are alleged to be in error. The request for reconsideration must be in writing and received by the commissioner within 20 calendar days after receipt of the correction order by the applicant or license holder, and:

- (1) specify the parts of the correction order that are alleged to be in error;
- (2) explain why they are in error; and
- (3) include documentation to support the allegation of error.

A request for reconsideration does not stay any provisions or requirements of the correction order. The commissioner's disposition of a request for reconsideration is final and not subject to appeal under chapter 14.

Subd. 3. [FAILURE TO COMPLY.] If the commissioner finds that the applicant or license holder has not corrected the violations specified in the correction order or conditional license, the commissioner may impose a fine and order other licensing sanctions pursuant to section 245A.07. ~~If a fine was imposed and the violation was not corrected, the commissioner may impose an additional fine. This section does not prohibit the commissioner from seeking a court order, denying an application, or suspending, revoking, or making conditional the license in addition to imposing a fine.~~

Subd. 4. [NOTICE OF ~~FINE~~ CONDITIONAL LICENSE; RECONSIDERATION OF ~~FINE~~ CONDITIONAL LICENSE.] ~~A license holder who is ordered to pay a fine~~ If a license is made conditional, the license holder must be notified of the order by certified mail. The notice must be mailed to the address shown on the application or the last known address of the license holder. The notice must state the reasons the ~~fine~~ conditional license was ordered and must inform the license holder of the ~~responsibility for payment of fines in subdivision 7 and the right to request reconsideration of the fine conditional license by the commissioner.~~ The license holder may request reconsideration of the order to ~~forfeit a fine of conditional license~~ by notifying the commissioner by certified mail ~~within 20 calendar days after receiving the order. The request must be in writing and must be received by the commissioner within ten calendar days after the license holder received the order. The license holder may submit with the request for reconsideration written argument or evidence in support of the request for reconsideration.~~ A timely request for reconsideration shall stay ~~forfeiture of the fine imposition of the terms of the conditional license~~ until the commissioner issues a decision on the request for reconsideration. ~~The request for reconsideration must be in writing and:~~

- ~~(1) specify the parts of the violation that are alleged to be in error;~~

- (2) explain why they are in error;
- (3) include documentation to support the allegation of error; and
- (4) any other information relevant to the fine or the amount of the fine.

The commissioner's disposition of a request for reconsideration is final and not subject to appeal under chapter 14.

~~Subd. 5. [FORFEITURE OF FINES.] The license holder shall pay the fines assessed on or before the payment date specified in the commissioner's order. If the license holder fails to fully comply with the order, the commissioner shall issue a second fine or suspend the license until the license holder complies. If the license holder receives state funds, the state, county, or municipal agencies or departments responsible for administering the funds shall withhold payments and recover any payments made while the license is suspended for failure to pay a fine.~~

~~Subd. 5a. [ACCRUAL OF FINES.] A license holder shall promptly notify the commissioner of human services, in writing, when a violation specified in an order to forfeit is corrected. If upon reinspection the commissioner determines that a violation has not been corrected as indicated by the order to forfeit, the commissioner may issue a second fine. The commissioner shall notify the license holder by certified mail that a second fine has been assessed. The license holder may request reconsideration of the second fine under the provisions of subdivision 4.~~

~~Subd. 6. [AMOUNT OF FINES.] Fines shall be assessed as follows:~~

~~(1) the license holder shall forfeit \$1,000 for each occurrence of violation of law or rule prohibiting the maltreatment of children or the maltreatment of vulnerable adults, including but not limited to corporal punishment, illegal or unauthorized use of physical, mechanical, or chemical restraints, and illegal or unauthorized use of aversive or deprivation procedures;~~

~~(2) the license holder shall forfeit \$200 for each occurrence of a violation of law or rule governing matters of health, safety, or supervision, including but not limited to the provision of adequate staff to child or adult ratios; and~~

~~(3) the license holder shall forfeit \$100 for each occurrence of a violation of law or rule other than those included in clauses (1) and (2).~~

~~For the purposes of this section, "occurrence" means each violation identified in the commissioner's forfeiture order.~~

~~Subd. 7. [RESPONSIBILITY FOR PAYMENT OF FINES.] When a fine has been assessed, the license holder may not avoid payment by closing, selling, or otherwise transferring the licensed program to a third party. In such an event, the license holder will be personally liable for payment. In the case of a corporation, each controlling individual is personally and jointly liable for payment.~~

~~Fines for child care centers must be assessed according to this section.~~

~~[EFFECTIVE DATE.] This section is effective January 1, 2002.~~

Sec. 11. Minnesota Statutes 2000, section 245A.07, is amended to read:

245A.07 [SANCTIONS.]

Subdivision 1. [SANCTIONS AVAILABLE.] In addition to ~~ordering forfeiture of fines~~ making a license conditional under section 245A.06, the commissioner may propose to suspend; or revoke; or ~~make conditional the license, impose a fine,~~ or secure an injunction against the continuing operation of the program of a license holder

who does not comply with applicable law or rule. When applying sanctions authorized under this section, the commissioner shall consider the nature, chronicity, or severity of the violation of law or rule and the effect of the violation on the health, safety, or rights of persons served by the program.

Subd. 2. ~~[IMMEDIATE SUSPENSION IN CASES OF IMMINENT DANGER TO HEALTH, SAFETY, OR RIGHTS TEMPORARY IMMEDIATE SUSPENSION.]~~ (a) If the license holder's actions or failure to comply with applicable law or rule ~~has placed~~ poses an imminent risk of harm to the health, safety, or rights of persons served by the program ~~in imminent danger~~, the commissioner shall act immediately to temporarily suspend the license. No state funds shall be made available or be expended by any agency or department of state, county, or municipal government for use by a license holder regulated under this chapter while a license is under immediate suspension. A notice stating the reasons for the immediate suspension and informing the license holder of the right to a ~~contested case~~ an expedited hearing under chapter 14 and Minnesota Rules, parts 1400.8510 to 1400.8612 and successor rules, must be delivered by personal service to the address shown on the application or the last known address of the license holder. The license holder may appeal an order immediately suspending a license. The appeal of an order immediately suspending a license must be made in writing by certified mail and must be received by the commissioner within five calendar days after the license holder receives notice that the license has been immediately suspended. A license holder and any controlling individual shall discontinue operation of the program upon receipt of the commissioner's order to immediately suspend the license.

(b) The commissioner is liable to the license holder for actual damages for days of lost service in an amount not more than \$50,000 when:

(1) the commissioner immediately suspends a license under paragraph (a); and

(2) the administrative law judge recommends, after a review of the facts in an expedited hearing under chapter 14 and Minnesota Rules, parts 1400.8510 to 1400.8612 and successor rules, that reasonable cause did not exist at the time the commissioner issued the immediate suspension.

(c) If the commissioner immediately suspends a license under paragraph (a) and the administrative law judge recommends that reasonable cause exists for the immediate suspension, the commissioner is not liable to the license holder.

Subd. 2a. [IMMEDIATE SUSPENSION EXPEDITED HEARING.] (a) Within five working days of receipt of the license holder's timely appeal, the commissioner shall request assignment of an administrative law judge. The request must include a proposed date, time, and place of a hearing. A hearing must be conducted by an administrative law judge within 30 calendar days of the request for assignment, unless an extension is requested by either party and granted by the administrative law judge for good cause. The commissioner shall issue a notice of hearing by certified mail at least ten working days before the hearing. The scope of the hearing shall be limited solely to the issue of whether the temporary immediate suspension should remain in effect pending the commissioner's final order under section 245A.08, regarding a licensing sanction issued under subdivision 3 following the immediate suspension. The burden of proof in expedited hearings under this subdivision shall be limited to the commissioner's demonstration that reasonable cause exists to believe that the license holder's actions or failure to comply with applicable law or rule poses an imminent risk of harm to the health, safety, or rights of persons served by the program.

(b) The administrative law judge shall issue findings of fact, conclusions, and a recommendation within ten working days from the date of hearing. The commissioner's final order shall be issued within ten working days from receipt of the recommendation of the administrative law judge. Within 90 calendar days after a final order affirming an immediate suspension, the commissioner shall make a determination regarding whether a final licensing sanction shall be issued under subdivision 3. The license holder shall continue to be prohibited from operation of the program during this 90-day period.

Subd. 3. [~~LICENSE SUSPENSION, REVOCATION, DENIAL OR CONDITIONAL LICENSE FINE.~~] The commissioner may suspend; ~~or~~ revoke; ~~make conditional, or deny~~ a license, ~~or impose a fine if an applicant or~~ a license holder fails to comply fully with applicable laws or rules, or knowingly withholds relevant information from or gives false or misleading information to the commissioner in connection with an application for a license or during an investigation. A license holder who has had a license suspended, revoked, or ~~made conditional~~ has been ordered to pay a fine must be given notice of the action by certified mail. The notice must be mailed to the address shown on the application or the last known address of the license holder. The notice must state the reasons the license was suspended, revoked, or ~~made conditional~~ a fine was ordered.

(a) If the license was suspended or revoked, the notice must inform the license holder of the right to a contested case hearing under chapter 14 and Minnesota Rules, parts 1400.8510 to 1400.8612 and successor rules. The license holder may appeal an order suspending or revoking a license. The appeal of an order suspending or revoking a license must be made in writing by certified mail and must be received by the commissioner within ten calendar days after the license holder receives notice that the license has been suspended or revoked.

(b) ~~If the license was made conditional, the notice must inform the license holder of the right to request a reconsideration by the commissioner. The request for reconsideration must be made in writing by certified mail and must be received by the commissioner within ten calendar days after the license holder receives notice that the license has been made conditional. The license holder may submit with the request for reconsideration written argument or evidence in support of the request for reconsideration. The commissioner's disposition of a request for reconsideration is final and is not subject to appeal under chapter 14: (1) If the license holder was ordered to pay a fine, the notice must inform the license holder of the responsibility for payment of fines and the right to a contested case hearing under chapter 14 and Minnesota Rules, parts 1400.8510 to 1400.8612 and successor rules. The appeal of an order to pay a fine must be made in writing by certified mail and must be received by the commissioner within ten calendar days after the license holder receives notice that the fine has been ordered.~~

(2) The license holder shall pay the fines assessed on or before the payment date specified. If the license holder fails to fully comply with the order, the commissioner may issue a second fine or suspend the license until the license holder complies. If the license holder receives state funds, the state, county, or municipal agencies or departments responsible for administering the funds shall withhold payments and recover any payments made while the license is suspended for failure to pay a fine. A timely appeal shall stay payment of the fine until the commissioner issues a final order.

(3) A license holder shall promptly notify the commissioner of human services, in writing, when a violation specified in the order to forfeit a fine is corrected. If upon reinspection the commissioner determines that a violation has not been corrected as indicated by the order to forfeit a fine, the commissioner may issue a second fine. The commissioner shall notify the license holder by certified mail that a second fine has been assessed. The license holder may appeal the second fine as provided under this subdivision.

(4) Fines shall be assessed as follows: the license holder shall forfeit \$1,000 for each determination of maltreatment of a child under section 626.556 or the maltreatment of a vulnerable adult under section 626.557; the license holder shall forfeit \$200 for each occurrence of a violation of law or rule governing matters of health, safety, or supervision, including but not limited to the provision of adequate staff to child or adult ratios, and failure to submit a background study; and the license holder shall forfeit \$100 for each occurrence of a violation of law or rule other than those subject to a \$1,000 or \$200 fine above. For purposes of this section, "occurrence" means each violation identified in the commissioner's fine order.

(5) When a fine has been assessed, the license holder may not avoid payment by closing, selling, or otherwise transferring the licensed program to a third party. In such an event, the license holder will be personally liable for payment. In the case of a corporation, each controlling individual is personally and jointly liable for payment.

Subd. 4. [ADOPTION AGENCY VIOLATIONS.] If a license holder licensed to place children for adoption fails to provide services as described in the disclosure form required by section 259.37, subdivision 2, the sanctions under this section may be imposed.

[EFFECTIVE DATE.] This section is effective January 1, 2002.

Sec. 12. Minnesota Statutes 2000, section 245A.08, is amended to read:

245A.08 [HEARINGS.]

Subdivision 1. [RECEIPT OF APPEAL; CONDUCT OF HEARING.] Upon receiving a timely appeal or petition pursuant to section 245A.04, subdivision 3c, 245A.05, or 245A.07, subdivision 3, the commissioner shall issue a notice of and order for hearing to the appellant under chapter 14 and Minnesota Rules, parts 1400.8510 to 1400.8612 and successor rules.

Subd. 2. [CONDUCT OF HEARINGS.] At any hearing provided for by section 245A.04, subdivision 3c, 245A.05, or 245A.07, subdivision 3, the appellant may be represented by counsel and has the right to call, examine, and cross-examine witnesses. The administrative law judge may require the presence of witnesses and evidence by subpoena on behalf of any party.

Subd. 2a. [CONSOLIDATED CONTESTED CASE HEARINGS FOR SANCTIONS BASED ON MALTREATMENT DETERMINATIONS AND DISQUALIFICATIONS.] (a) When a denial of a license under section 245A.05 or a licensing sanction under section 245A.07, subdivision 3, is based on a disqualification for which reconsideration was requested and which was not set aside or was not rescinded under section 245A.04, subdivision 3b, the scope of the contested case hearing shall include the disqualification and the licensing sanction or denial of a license. When the licensing sanction or denial of a license is based on a determination of maltreatment under section 626.556 or 626.557, or a disqualification for serious or recurring maltreatment which was not set aside or was not rescinded, the scope of the contested case hearing shall include the maltreatment determination, disqualification, and the licensing sanction or denial of a license. In such cases, a fair hearing under section 256.045 shall not be conducted as provided for in sections 626.556, subdivision 10i, and 626.557, subdivision 9d.

(b) In consolidated contested case hearings regarding sanctions issued in family child care, child foster care, and adult foster care, the county attorney shall defend the commissioner's orders in accordance with section 245A.16, subdivision 4.

(c) The commissioner's final order under subdivision 5 is the final agency action on the issue of maltreatment and disqualification, including for purposes of subsequent background studies under section 245A.04, subdivision 3, and is the only administrative appeal of the final agency determination, specifically, including a challenge to the accuracy and completeness of data under section 13.04.

(d) When consolidated hearings under this subdivision involve a licensing sanction based on a previous maltreatment determination for which the commissioner has issued a final order in an appeal of that determination under section 256.045, or the individual failed to exercise the right to appeal the previous maltreatment determination under section 626.556, subdivision 10i, or 626.557, subdivision 9d, the commissioner's order is conclusive on the issue of maltreatment. In such cases, the scope of the administrative law judge's review shall be limited to the disqualification and the licensing sanction or denial of a license. In the case of a denial of a license or a licensing sanction issued to a facility based on a maltreatment determination regarding an individual who is not the license holder or a household member, the scope of the administrative law judge's review includes the maltreatment determination.

(e) If a maltreatment determination or disqualification, which was not set aside or was not rescinded under section 245A.04, subdivision 3b, is the basis for a denial of a license under section 245A.05 or a licensing sanction under section 245A.07, and the disqualified subject is an individual other than the license holder and upon whom a background study must be conducted under section 245A.04, subdivision 3, the hearings of all parties may be consolidated into a single contested case hearing upon consent of all parties and the administrative law judge.

Subd. 3. [BURDEN OF PROOF.] (a) At a hearing regarding ~~suspension, immediate suspension, or revocation of a license for family day care or foster care~~ a licensing sanction under section 245A.07, including consolidated hearings under subdivision 2a, the commissioner may demonstrate reasonable cause for action taken by submitting statements, reports, or affidavits to substantiate the allegations that the license holder failed to comply fully with applicable law or rule. If the commissioner demonstrates that reasonable cause existed, the burden of proof ~~in~~ hearings involving suspension, immediate suspension, or revocation of a family day care or foster care license shifts to the license holder to demonstrate by a preponderance of the evidence that the license holder was in full compliance with those laws or rules that the commissioner alleges the license holder violated, at the time that the commissioner alleges the violations of law or rules occurred.

(b) At a hearing on denial of an application, the applicant bears the burden of proof to demonstrate by a preponderance of the evidence that the appellant has complied fully with ~~sections 245A.01 to 245A.15~~ this chapter and other applicable law or rule and that the application should be approved and a license granted.

~~(c) At all other hearings under this section, the commissioner bears the burden of proof to demonstrate, by a preponderance of the evidence, that the violations of law or rule alleged by the commissioner occurred.~~

Subd. 4. [RECOMMENDATION OF ADMINISTRATIVE LAW JUDGE.] The administrative law judge shall recommend whether or not the commissioner's order should be affirmed. The recommendations must be consistent with this chapter and the rules of the commissioner. The recommendations must be in writing and accompanied by findings of fact and conclusions and must be mailed to the parties by certified mail to their last known addresses as shown on the license or application.

Subd. 5. [NOTICE OF THE COMMISSIONER'S FINAL ORDER.] After considering the findings of fact, conclusions, and recommendations of the administrative law judge, the commissioner shall issue a final order. The commissioner shall consider, but shall not be bound by, the recommendations of the administrative law judge. The appellant must be notified of the commissioner's final order as required by chapter 14 and Minnesota Rules, parts 1400.8510 to 1400.8612 and successor rules. The notice must also contain information about the appellant's rights under chapter 14 and Minnesota Rules, parts 1400.8510 to 1400.8612 and successor rules. The institution of proceedings for judicial review of the commissioner's final order shall not stay the enforcement of the final order except as provided in section 14.65. A license holder and each controlling individual of a license holder whose license has been revoked because of noncompliance with applicable law or rule must not be granted a license for five years following the revocation. An applicant whose application was denied must not be granted a license for two years following a denial, unless the applicant's subsequent application contains new information which constitutes a substantial change in the conditions that caused the previous denial.

[EFFECTIVE DATE.] This section is effective January 1, 2002.

Sec. 13. Minnesota Statutes 2000, section 245A.16, subdivision 1, is amended to read:

Subdivision 1. [DELEGATION OF AUTHORITY TO AGENCIES.] (a) County agencies and private agencies that have been designated or licensed by the commissioner to perform licensing functions and activities under section 245A.04, to recommend denial of applicants under section 245A.05, to issue correction orders, to issue variances, and recommend ~~finer~~ a conditional license under section 245A.06, or to recommend suspending; ~~or~~ revoking, and making licenses probationary a license or issuing a fine under section 245A.07, shall comply with rules and directives of the commissioner governing those functions and with this section.

(b) For family day care programs, the commissioner may authorize licensing reviews every two years after a licensee has had at least one annual review.

[EFFECTIVE DATE.] This section is effective January 1, 2002.

Sec. 14. Minnesota Statutes 2000, section 245B.08, subdivision 3, is amended to read:

Subd. 3. [SANCTIONS AVAILABLE.] Nothing in this subdivision shall be construed to limit the commissioner's authority to suspend; or revoke a license, or ~~make conditional issue a fine~~ at any time a license under section 245A.07; make correction orders and ~~require fines~~ make a license conditional for failure to comply with applicable laws or rules under section 245A.06; or deny an application for license under section 245A.05.

[EFFECTIVE DATE.] This section is effective January 1, 2002.

Sec. 15. Minnesota Statutes 2000, 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, medical care, or a program of social services granted by the state agency or a county agency or the federal Food Stamp Act whose application for assistance is denied, not acted upon with reasonable promptness, or whose assistance is suspended, reduced, terminated, or claimed to have been incorrectly paid; (2) any patient or relative aggrieved by an order of the commissioner under section 252.27; (3) a party aggrieved by a ruling of a prepaid health plan; (4) except as provided under chapter 245A, any individual or facility determined by a lead agency to have maltreated a vulnerable adult under section 626.557 after they have exercised their right to administrative reconsideration under section 626.557; (5) any person whose claim for foster care payment according to a placement of the child resulting from a child protection assessment under section 626.556 is denied or not acted upon with reasonable promptness, regardless of funding source; (6) any person to whom a right of appeal according to this section is given by other provision of law; (7) an applicant aggrieved by an adverse decision to an application for a hardship waiver under section 256B.15; ~~or~~ (8) except as provided under chapter 245A, an individual or facility determined to have maltreated a minor under section 626.556, after the individual or facility has exercised the right to administrative reconsideration under section 626.556; or (9) except as provided under chapter 245A, an individual disqualified under section 245A.04, subdivision 3d, on the basis of serious or recurring maltreatment; a preponderance of the evidence that the individual has committed an act or acts that meet the definition of any of the crimes listed in section 245A.04, subdivision 3d, paragraph (a), clauses (1) to (4); or for failing to make reports required under section 626.556, subdivision 3, or 626.557, subdivision 3. Hearings regarding a maltreatment determination under clause (4) or (8) and a disqualification under this clause in which the basis for a disqualification is serious or recurring maltreatment, which has not been set aside or rescinded under section 245A.04, subdivision 3b, shall be consolidated into a single fair hearing. In such cases, the scope of review by the human services referee shall include both the maltreatment determination and the disqualification. The failure to exercise the right to an administrative reconsideration shall not be a bar to a hearing under this section if federal law provides an individual the right to a hearing to dispute a finding of maltreatment. Individuals and organizations specified in this section may contest the specified action, decision, or final disposition before the state agency by submitting a written request for a hearing to the state agency within 30 days after receiving written notice of the action, decision, or final disposition, or within 90 days of such written notice if the applicant, recipient, patient, or relative shows good cause why the request was not submitted within the 30-day time limit.

The hearing for an individual or facility under clause (4) ~~or~~ (8) or (9) is the only administrative appeal to the final agency determination specifically, including a challenge to the accuracy and completeness of data under section 13.04. Hearings requested under clause (4) apply only to incidents of maltreatment that occur on or after October 1, 1995. Hearings requested by nursing assistants in nursing homes alleged to have maltreated a resident prior to October 1, 1995, shall be held as a contested case proceeding under the provisions of chapter 14. Hearings requested under clause (8) apply only to incidents of maltreatment that occur on or after July 1, 1997. A hearing for an individual or facility under clause (8) is only available when there is no juvenile court or adult criminal action pending. If such action is filed in either court while an administrative review is pending, the administrative review must be suspended until the judicial actions are completed. If the juvenile court action or criminal charge is dismissed or the criminal action overturned, the matter may be considered in an administrative hearing.

For purposes of this section, bargaining unit grievance procedures are not an administrative appeal.

The scope of hearings involving claims to foster care payments under clause (5) shall be limited to the issue of whether the county is legally responsible for a child's placement under court order or voluntary placement agreement and, if so, the correct amount of foster care payment to be made on the child's behalf and shall not include review of the propriety of the county's child protection determination or child placement decision.

(b) 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.

(d) The commissioner may summarily affirm the county or state agency's proposed action without a hearing when the sole issue is an automatic change due to a change in state or federal law.

[EFFECTIVE DATE.] This section is effective January 1, 2002.

Sec. 16. Minnesota Statutes 2000, section 256.045, subdivision 3b, is amended to read:

Subd. 3b. [STANDARD OF EVIDENCE FOR MALTREATMENT AND DISQUALIFICATION HEARINGS.] The state human services referee shall determine that maltreatment has occurred if a preponderance of evidence exists to support the final disposition under sections 626.556 and 626.557. For purposes of hearings regarding disqualification, the state human services referee shall affirm the proposed disqualification in an appeal under subdivision 3, paragraph (a), clause (9), if a preponderance of the evidence shows the individual has:

(1) committed maltreatment under section 626.556 or 626.557, which is serious or recurring;

(2) committed an act or acts meeting the definition of any of the crimes listed in section 245A.04, subdivision 3d, paragraph (a), clauses (1) to (4); or

(3) failed to make required reports under section 626.556 or 626.557 for incidents in which:

(i) the final disposition under section 626.556 or 626.557 was substantiated maltreatment; and

(ii) the maltreatment was recurring or serious; or substantiated serious or recurring maltreatment of a minor under section 626.556 or of a vulnerable adult under section 626.557 for which there is a preponderance of evidence that the maltreatment occurred, and that the subject was responsible for the maltreatment. If the disqualification is affirmed, the state human services referee shall determine whether the individual poses a risk of harm in accordance with the requirements of section 245A.04, subdivision 3b.

The state human services referee shall recommend an order to the commissioner of health or human services, as applicable, who shall issue a final order. The commissioner shall affirm, reverse, or modify the final disposition. Any order of the commissioner issued in accordance with this subdivision is conclusive upon the parties unless appeal is taken in the manner provided in subdivision 7. Except as provided under section 245A.04, subdivisions 3b, paragraphs (e) and (f); and 3c, in any licensing appeal under chapter 245A and sections 144.50 to 144.58 and 144A.02 to 144A.46, the commissioner's determination as to maltreatment is conclusive.

[EFFECTIVE DATE.] This section is effective January 1, 2002.

Sec. 17. Minnesota Statutes 2000, section 256.045, subdivision 4, is amended to read:

Subd. 4. [CONDUCT OF HEARINGS.] (a) All hearings held pursuant to subdivision 3, 3a, 3b, or 4a shall be

conducted according to the provisions of the federal Social Security Act and the regulations implemented in accordance with that act to enable this state to qualify for federal grants-in-aid, and according to the rules and written policies of the commissioner of human services. County agencies shall install equipment necessary to conduct telephone hearings. A state human services referee may schedule a telephone conference hearing when the distance or time required to travel to the county agency offices will cause a delay in the issuance of an order, or to promote efficiency, or at the mutual request of the parties. Hearings may be conducted by telephone conferences unless the applicant, recipient, former recipient, person, or facility contesting maltreatment objects. The hearing shall not be held earlier than five days after filing of the required notice with the county or state agency. The state human services referee shall notify all interested persons of the time, date, and location of the hearing at least five days before the date of the hearing. Interested persons may be represented by legal counsel or other representative of their choice, including a provider of therapy services, at the hearing and may appear personally, testify and offer evidence, and examine and cross-examine witnesses. The applicant, recipient, former recipient, person, or facility contesting maltreatment shall have the opportunity to examine the contents of the case file and all documents and records to be used by the county or state agency at the hearing at a reasonable time before the date of the hearing and during the hearing. In hearings under subdivision 3, paragraph (a), clauses (4) ~~and~~, (8), and (9), either party may subpoena the private data relating to the investigation prepared by the agency under section 626.556 or 626.557 that is not otherwise accessible under section 13.04, provided the identity of the reporter may not be disclosed.

(b) The private data obtained by subpoena in a hearing under subdivision 3, paragraph (a), clause (4) ~~or~~, (8), or (9), must be subject to a protective order which prohibits its disclosure for any other purpose outside the hearing provided for in this section without prior order of the district court. Disclosure without court order is punishable by a sentence of not more than 90 days imprisonment or a fine of not more than \$700, or both. These restrictions on the use of private data do not prohibit access to the data under section 13.03, subdivision 6. Except for appeals under subdivision 3, paragraph (a), clauses (4), (5), ~~and~~ (8), and (9), upon request, the county agency shall provide reimbursement for transportation, child care, photocopying, medical assessment, witness fee, and other necessary and reasonable costs incurred by the applicant, recipient, or former recipient in connection with the appeal. All evidence, except that privileged by law, commonly accepted by reasonable people in the conduct of their affairs as having probative value with respect to the issues shall be submitted at the hearing and such hearing shall not be "a contested case" within the meaning of section 14.02, subdivision 3. The agency must present its evidence prior to or at the hearing, and may not submit evidence after the hearing except by agreement of the parties at the hearing, provided the petitioner has the opportunity to respond.

[EFFECTIVE DATE.] This section is effective January 1, 2002.

Sec. 18. Minnesota Statutes 2000, section 626.556, subdivision 3, is amended to read:

Subd. 3. **[PERSONS MANDATED TO REPORT.]** (a) A person who knows or has reason to believe a child is being neglected or physically or sexually abused, as defined in subdivision 2, or has been neglected or physically or sexually abused within the preceding three years, shall immediately report the information to the local welfare agency, agency responsible for assessing or investigating the report, police department, or the county sheriff if the person is:

(1) a professional or professional's delegate who is engaged in the practice of the healing arts, social services, hospital administration, psychological or psychiatric treatment, child care, education, or law enforcement; or

(2) employed as a member of the clergy and received the information while engaged in ministerial duties, provided that a member of the clergy is not required by this subdivision to report information that is otherwise privileged under section 595.02, subdivision 1, paragraph (c).

The police department or the county sheriff, upon receiving a report, shall immediately notify the local welfare agency or agency responsible for assessing or investigating the report, orally and in writing. The local welfare agency, or agency responsible for assessing or investigating the report, upon receiving a report, shall immediately notify the local police department or the county sheriff orally and in writing. The county sheriff and the head of

every local welfare agency, agency responsible for assessing or investigating reports, and police department shall each designate a person within their agency, department, or office who is responsible for ensuring that the notification duties of this paragraph and paragraph (b) are carried out. Nothing in this subdivision shall be construed to require more than one report from any institution, facility, school, or agency.

(b) Any person may voluntarily report to the local welfare agency, agency responsible for assessing or investigating the report, police department, or the county sheriff if the person knows, has reason to believe, or suspects a child is being or has been neglected or subjected to physical or sexual abuse. The police department or the county sheriff, upon receiving a report, shall immediately notify the local welfare agency or agency responsible for assessing or investigating the report, orally and in writing. The local welfare agency or agency responsible for assessing or investigating the report, upon receiving a report, shall immediately notify the local police department or the county sheriff orally and in writing.

(c) A person mandated to report physical or sexual child abuse or neglect occurring within a licensed facility shall report the information to the agency specified under subdivisions 3b and 3c as responsible for licensing the assessing or investigating a facility licensed under sections 144.50 to 144.58; a facility licensed under section 241.021; 245A.01 to 245A.16; or 245B; or a facility licensed under chapter 245A; a school as defined in sections section 120A.05, subdivisions 9, 11, and 13; and, or section 124D.10; or a nonlicensed personal care provider organization as defined in sections section 256B.04, subdivision 16; and, or section 256B.0625, subdivision 19. ~~A health or corrections~~ An agency receiving a report may request the local welfare agency to provide assistance pursuant to subdivisions 10, 10a, and 10b.

(d) Any person mandated to report shall receive a summary of the disposition of any report made by that reporter, including whether the case has been opened for child protection or other services, or if a referral has been made to a community organization, unless release would be detrimental to the best interests of the child. Any person who is not mandated to report shall, upon request to the local welfare agency, receive a concise summary of the disposition of any report made by that reporter, unless release would be detrimental to the best interests of the child.

(e) For purposes of this subdivision, "immediately" means as soon as possible but in no event longer than 24 hours.

[EFFECTIVE DATE.] This section is effective July 1, 2001.

Sec. 19. Minnesota Statutes 2000, section 626.556, subdivision 3c, is amended to read:

Subd. 3c. [AGENCY RESPONSIBLE FOR ASSESSING OR INVESTIGATING REPORTS OF MALTREATMENT.] The following agencies are the administrative agencies responsible for assessing or investigating reports of alleged child maltreatment in facilities made under this section:

(1) the county local welfare agency is the agency responsible for assessing or investigating allegations of maltreatment in child foster care, family child care, and legally unlicensed child care ~~and;~~

(2) the department of human services is the agency responsible for assessing or investigating allegations of maltreatment in juvenile correctional facilities licensed under section 241.021 located in the local welfare agency's county;

~~(3)~~ (3) the department of human services is the agency responsible for assessing or investigating allegations of maltreatment in facilities licensed under chapters 245A and 245B, except for child foster care and family child care; and

~~(4)~~ (4) the department of health is the agency responsible for assessing or investigating allegations of child maltreatment in facilities licensed under sections 144.50 to 144.58, and in unlicensed home health care.

[EFFECTIVE DATE.] This section is effective July 1, 2001.

Sec. 20. Minnesota Statutes 2000, section 626.556, subdivision 10b, is amended to read:

Subd. 10b. [DUTIES OF COMMISSIONER; NEGLECT OR ABUSE IN FACILITY.] (a) This section applies to the commissioners of human services, health, and children, families, and learning. The commissioner of the agency responsible for assessing or investigating the report shall immediately investigate if the report alleges that:

(1) a child who is in the care of a facility as defined in subdivision 2 is neglected, physically abused, or sexually abused by an individual in that facility, or has been so neglected or abused by an individual in that facility within the three years preceding the report; or

(2) a child was neglected, physically abused, or sexually abused by an individual in a facility defined in subdivision 2, while in the care of that facility within the three years preceding the report.

The commissioner of the agency responsible for assessing or investigating the report shall arrange for the transmittal to the commissioner of reports received by local agencies and may delegate to a local welfare agency the duty to investigate reports. In conducting an investigation under this section, the commissioner has the powers and duties specified for local welfare agencies under this section. The commissioner of the agency responsible for assessing or investigating the report or local welfare agency may interview any children who are or have been in the care of a facility under investigation and their parents, guardians, or legal custodians.

(b) Prior to any interview, the commissioner of the agency responsible for assessing or investigating the report or local welfare agency shall notify the parent, guardian, or legal custodian of a child who will be interviewed in the manner provided for in subdivision 10d, paragraph (a). If reasonable efforts to reach the parent, guardian, or legal custodian of a child in an out-of-home placement have failed, the child may be interviewed if there is reason to believe the interview is necessary to protect the child or other children in the facility. The commissioner of the agency responsible for assessing or investigating the report or local agency must provide the information required in this subdivision to the parent, guardian, or legal custodian of a child interviewed without parental notification as soon as possible after the interview. When the investigation is completed, any parent, guardian, or legal custodian notified under this subdivision shall receive the written memorandum provided for in subdivision 10d, paragraph (c).

(c) In conducting investigations under this subdivision the ~~commissioner or local welfare agency~~ responsible for assessing or investigating the report shall obtain be given access to information consistent with subdivision 10, paragraphs (g), (h), (i), and (j), and shall be granted the same access to the facility as the facility's licensing agency under the corresponding facility licensing statute. A facility that denies the investigating agency access to this information shall be subject to a negative licensing action by the appropriate licensing agency. When the agency responsible for assessing or investigating a report under this section and the licensing agency for the facility involved are not the same agency, the investigating agency and the licensing agency may share not public data as necessary to complete the investigation or to determine appropriate licensing action.

(d) Except for foster care and family child care, the commissioner has the primary responsibility for the investigations and notifications required under subdivisions 10d and 10f for reports that allege maltreatment related to the care provided by or in facilities licensed by the commissioner. The commissioner may request assistance from the local social services agency.

[EFFECTIVE DATE.] This section is effective July 1, 2001.

Sec. 21. Minnesota Statutes 2000, section 626.556, subdivision 10i, is amended to read:

Subd. 10i. [ADMINISTRATIVE RECONSIDERATION OF FINAL DETERMINATION OF MALTREATMENT AND DISQUALIFICATION BASED ON SERIOUS OR RECURRING MALTREATMENT.] (a) Except as provided under paragraph (e), an individual or facility that the commissioner or a local social service agency determines has maltreated a child, or the child's designee, regardless of the determination, who contests the investigating agency's final determination regarding maltreatment, may request the investigating agency to reconsider its final

determination regarding maltreatment. The request for reconsideration must be submitted in writing to the investigating agency within 15 calendar days after receipt of notice of the final determination regarding maltreatment. An individual who was determined to have maltreated a child under this section and who was disqualified on the basis of serious or recurring maltreatment under section 245A.04, subdivision 3d, may request reconsideration of the maltreatment determination and the disqualification. The request for reconsideration of the maltreatment determination and the disqualification must be submitted within 30 calendar days of the individual's receipt of the notice of disqualification under section 245A.04, subdivision 3a.

(b) Except as provided under paragraphs (e) and (f), if the investigating agency denies the request or fails to act upon the request within 15 calendar days after receiving the request for reconsideration, the person or facility entitled to a fair hearing under section 256.045 may submit to the commissioner of human services a written request for a hearing under that section.

(c) If, as a result of the reconsideration, the investigating agency changes the final determination of maltreatment, that agency shall notify the parties specified in subdivisions 10b, 10d, and 10f.

(d) Except as provided under paragraph (f), if an individual or facility contests the investigating agency's final determination regarding maltreatment by requesting a fair hearing under section 256.045, the commissioner of human services shall assure that the hearing is conducted and a decision is reached within 90 days of receipt of the request for a hearing. The time for action on the decision may be extended for as many days as the hearing is postponed or the record is held open for the benefit of either party.

(e) If an individual was disqualified under section 245A.04, subdivision 3d, on the basis of a determination of maltreatment, which was serious or recurring, and the individual has requested reconsideration of the maltreatment determination under paragraph (a) and requested reconsideration of the disqualification under section 245A.04, subdivision 3b, reconsideration of the maltreatment determination and reconsideration of the disqualification shall be consolidated into a single reconsideration. If an individual disqualified on the basis of a determination of maltreatment, which was serious or recurring requests a fair hearing under paragraph (b), the scope of the fair hearing shall include the maltreatment determination and the disqualification.

(f) If a maltreatment determination or a disqualification based on serious or recurring maltreatment is the basis for a denial of a license under section 245A.05 or a licensing sanction under section 245A.07, the license holder has the right to a contested case hearing under chapter 14 and Minnesota Rules, parts 1400.8510 to 1400.8612 and successor rules. As provided for under section 245A.08, subdivision 2a, the scope of the contested case hearing shall include the maltreatment determination, disqualification, and licensing sanction or denial of a license. In such cases, a fair hearing regarding the maltreatment determination shall not be conducted under paragraph (b). If the disqualified subject is an individual other than the license holder and upon whom a background study must be conducted under section 245A.04, subdivision 3, the hearings of all parties may be consolidated into a single contested case hearing upon consent of all parties and the administrative law judge.

[EFFECTIVE DATE.] This section is effective January 1, 2002.

Sec. 22. Minnesota Statutes 2000, section 626.557, subdivision 3, is amended to read:

Subd. 3. [TIMING OF REPORT.] (a) A mandated reporter who has reason to believe that a vulnerable adult is being or has been maltreated, or who has knowledge that a vulnerable adult has sustained a physical injury which is not reasonably explained shall immediately report the information to the common entry point. If an individual is a vulnerable adult solely because the individual is admitted to a facility, a mandated reporter is not required to report suspected maltreatment of the individual that occurred prior to admission, unless:

(1) the individual was admitted to the facility from another facility and the reporter has reason to believe the vulnerable adult was maltreated in the previous facility; or

(2) the reporter knows or has reason to believe that the individual is a vulnerable adult as defined in section 626.5572, subdivision 21, clause (4).

(b) A person not required to report under the provisions of this section may voluntarily report as described above.

(c) Nothing in this section requires a report of known or suspected maltreatment, if the reporter knows or has reason to know that a report has been made to the common entry point.

(d) Nothing in this section shall preclude a reporter from also reporting to a law enforcement agency.

(e) A mandated reporter who knows or has reason to believe that an error under section 626.5572, subdivision 17, paragraph (c), clause (5), occurred must make a report under this subdivision. If the reporter or a facility, at any time believes that an investigation by a lead agency will determine or should determine that the reported error was not neglect according to the criteria under section 626.5572, subdivision 17, paragraph (c), clause (5), the reporter or facility may provide to the common entry point or directly to the lead agency information explaining how the event meets the criteria under section 626.5572, subdivision 17, paragraph (c), clause (5). The lead agency shall consider this information when making an initial disposition of the report under subdivision 9c.

[EFFECTIVE DATE.] This section is effective the day following final enactment.

Sec. 23. Minnesota Statutes 2000, section 626.557, subdivision 9d, is amended to read:

Subd. 9d. [ADMINISTRATIVE RECONSIDERATION OF FINAL DISPOSITION OF MALTREATMENT AND DISQUALIFICATION BASED ON SERIOUS OR RECURRING MALTREATMENT; REVIEW PANEL.] (a) Except as provided under paragraph (e), any individual or facility which a lead agency determines has maltreated a vulnerable adult, or the vulnerable adult or an interested person acting on behalf of the vulnerable adult, regardless of the lead agency's determination, who contests the lead agency's final disposition of an allegation of maltreatment, may request the lead agency to reconsider its final disposition. The request for reconsideration must be submitted in writing to the lead agency within 15 calendar days after receipt of notice of final disposition or, if the request is made by an interested person who is not entitled to notice, within 15 days after receipt of the notice by the vulnerable adult or the vulnerable adult's legal guardian. An individual who was determined to have maltreated a vulnerable adult under this section and who was disqualified on the basis of serious or recurring maltreatment under section 245A.04, subdivision 3d, may request reconsideration of the maltreatment determination and the disqualification. The request for reconsideration of the maltreatment determination and the disqualification must be submitted within 30 calendar days of the individual's receipt of the notice of disqualification under section 245A.04, subdivision 3a.

(b) Except as provided under paragraphs (e) and (f), if the lead agency denies the request or fails to act upon the request within 15 calendar days after receiving the request for reconsideration, the person or facility entitled to a fair hearing under section 256.045, may submit to the commissioner of human services a written request for a hearing under that statute. The vulnerable adult, or an interested person acting on behalf of the vulnerable adult, may request a review by the vulnerable adult maltreatment review panel under section 256.021 if the lead agency denies the request or fails to act upon the request, or if the vulnerable adult or interested person contests a reconsidered disposition. The lead agency shall notify persons who request reconsideration of their rights under this paragraph. The request must be submitted in writing to the review panel and a copy sent to the lead agency within 30 calendar days of receipt of notice of a denial of a request for reconsideration or of a reconsidered disposition. The request must specifically identify the aspects of the agency determination with which the person is dissatisfied.

(c) If, as a result of a reconsideration or review, the lead agency changes the final disposition, it shall notify the parties specified in subdivision 9c, paragraph (d).

(d) For purposes of this subdivision, "interested person acting on behalf of the vulnerable adult" means a person designated in writing by the vulnerable adult to act on behalf of the vulnerable adult, or a legal guardian or conservator or other legal representative, a proxy or health care agent appointed under chapter 145B or 145C, or an individual who is related to the vulnerable adult, as defined in section 245A.02, subdivision 13.

(e) If an individual was disqualified under section 245A.04, subdivision 3d, on the basis of a determination of maltreatment, which was serious or recurring, and the individual has requested reconsideration of the maltreatment determination under paragraph (a) and reconsideration of the disqualification under section 245A.04, subdivision 3b, reconsideration of the maltreatment determination and requested reconsideration of the disqualification shall be consolidated into a single reconsideration. If an individual who was disqualified on the basis of serious or recurring maltreatment requests a fair hearing under paragraph (b), the scope of the fair hearing shall include the maltreatment determination and the disqualification.

(f) If a maltreatment determination or a disqualification based on serious or recurring maltreatment is the basis for a denial of a license under section 245A.05 or a licensing sanction under section 245A.07, the license holder has the right to a contested case hearing under chapter 14 and Minnesota Rules, parts 1400.8510 to 1400.8612 and successor rules. As provided for under section 245A.08, the scope of the contested case hearing shall include the maltreatment determination, disqualification, and licensing sanction or denial of a license. In such cases, a fair hearing shall not be conducted under paragraph (b). If the disqualified subject is an individual other than the license holder and upon whom a background study must be conducted under section 245A.04, subdivision 3, the hearings of all parties may be consolidated into a single contested case hearing upon consent of all parties and the administrative law judge.

(g) Until August 1, 2002, an individual or facility that was determined by the commissioner of human services or the commissioner of health to be responsible for neglect under section 626.5572, subdivision 17, after October 1, 1995, and before August 1, 2001, that believes that the finding of neglect does not meet an amended definition of neglect may request a reconsideration of the determination of neglect. The commissioner of human services or the commissioner of health shall mail a notice to the last known address of individuals who are eligible to seek this reconsideration. The request for reconsideration must state how the established findings no longer meet the elements of the definition of neglect. The commissioner shall review the request for reconsideration and make a determination within 15 calendar days. The commissioner's decision on this reconsideration is the final agency action.

(1) For purposes of compliance with the data destruction schedule under subdivision 12b, paragraph (d), when a finding of substantiated maltreatment has been changed as a result of a reconsideration under this paragraph, the date of the original finding of a substantiated maltreatment must be used to calculate the destruction date.

(2) For purposes of any background studies under section 245A.04, when a determination of substantiated maltreatment has been changed as a result of a reconsideration under this paragraph, any prior disqualification of the individual under section 245A.04 that was based on this determination of maltreatment shall be rescinded, and for future background studies under section 245A.04 the commissioner must not use the previous determination of substantiated maltreatment as a basis for disqualification or as a basis for referring the individual's maltreatment history to a health-related licensing board under section 245A.04, subdivision 3d, paragraph (b).

[EFFECTIVE DATE.] Paragraph (g) of this section is effective the day following final enactment. Paragraphs (a), (b), (e), and (f) are effective January 1, 2002.

Sec. 24. Minnesota Statutes 2000, section 626.5572, subdivision 17, is amended to read:

Subd. 17. [NEGLECT.] "Neglect" means:

(a) The failure or omission by a caregiver to supply a vulnerable adult with care or services, including but not limited to, food, clothing, shelter, health care, or supervision which is:

(1) reasonable and necessary to obtain or maintain the vulnerable adult's physical or mental health or safety, considering the physical and mental capacity or dysfunction of the vulnerable adult; and

(2) which is not the result of an accident or therapeutic conduct.

(b) The absence or likelihood of absence of care or services, including but not limited to, food, clothing, shelter, health care, or supervision necessary to maintain the physical and mental health of the vulnerable adult which a reasonable person would deem essential to obtain or maintain the vulnerable adult's health, safety, or comfort considering the physical or mental capacity or dysfunction of the vulnerable adult.

(c) For purposes of this section, a vulnerable adult is not neglected for the sole reason that:

(1) the vulnerable adult or a person with authority to make health care decisions for the vulnerable adult under sections 144.651, 144A.44, chapter 145B, 145C, or 252A, or section 253B.03, or 525.539 to 525.6199, refuses consent or withdraws consent, consistent with that authority and within the boundary of reasonable medical practice, to any therapeutic conduct, including any care, service, or procedure to diagnose, maintain, or treat the physical or mental condition of the vulnerable adult, or, where permitted under law, to provide nutrition and hydration parenterally or through intubation; this paragraph does not enlarge or diminish rights otherwise held under law by:

(i) a vulnerable adult or a person acting on behalf of a vulnerable adult, including an involved family member, to consent to or refuse consent for therapeutic conduct; or

(ii) a caregiver to offer or provide or refuse to offer or provide therapeutic conduct; or

(2) the vulnerable adult, a person with authority to make health care decisions for the vulnerable adult, or a caregiver in good faith selects and depends upon spiritual means or prayer for treatment or care of disease or remedial care of the vulnerable adult in lieu of medical care, provided that this is consistent with the prior practice or belief of the vulnerable adult or with the expressed intentions of the vulnerable adult;

(3) the vulnerable adult, who is not impaired in judgment or capacity by mental or emotional dysfunction or undue influence, engages in sexual contact with:

(i) a person including a facility staff person when a consensual sexual personal relationship existed prior to the caregiving relationship; or

(ii) a personal care attendant, regardless of whether the consensual sexual personal relationship existed prior to the caregiving relationship; or

(4) an individual makes an error in the provision of therapeutic conduct to a vulnerable adult which ~~(i) does not result in injury or harm which reasonably requires medical or mental health care; or, if it reasonably requires care,~~

(5) an individual makes an error in the provision of therapeutic conduct to a vulnerable adult that results in injury or harm which reasonably requires the care of a physician; and:

(i) the necessary care is sought and provided in a timely fashion as dictated by the condition of the vulnerable adult; and (ii) the injury or harm that required care does not result in substantial acute, or chronic injury or illness, or permanent disability above and beyond the vulnerable adult's preexisting condition;

~~(ii) is~~ (iii) the error is not part of a pattern of errors by the individual;

(iv) if in a facility, the error is immediately reported as required under section 626.557, and recorded internally by the employee or person providing services in the facility in order to evaluate and identify corrective action;

(v) if in a facility, the facility identifies and takes corrective action and implements measures designed to reduce the risk of further occurrence of this error and similar errors; and

~~(iii) is~~ (vi) if in a facility, the actions required under items (iv) and (v) are sufficiently documented for review and evaluation by the facility and any applicable licensing, certification, and ombudsman agency; and.

~~(iv) is not part of a pattern of errors by the individual.~~

(d) Nothing in this definition requires a caregiver, if regulated, to provide services in excess of those required by the caregiver's license, certification, registration, or other regulation.

(e) If the findings of an investigation by a lead agency result in a determination of substantiated maltreatment for the sole reason that the actions required of a facility under paragraph (c), clause (5), item (iv), (v), or (vi), were not taken, then the facility is subject to a correction order. This must not alter the lead agency's determination of mitigating factors under section 626.557, subdivision 9c, paragraph (c).

[EFFECTIVE DATE.] This section is effective the day following final enactment.

Sec. 25. [FEDERAL LAW CHANGE REQUEST OR WAIVER.]

The commissioner of health or human services, whichever is appropriate, shall pursue changes to federal law necessary to allow greater discretion on disciplinary activities of unlicensed health care workers and apply for necessary federal waivers or approval that would allow for a set-aside process related to disqualifications for nurse aides in nursing homes by July 1, 2002.

[EFFECTIVE DATE.] This section is effective July 1, 2001.

Sec. 26. [WAIVER FROM FEDERAL RULES AND REGULATIONS.]

By January 2002, the commissioner of health shall work with providers to examine federal rules and regulations prohibiting neglect, abuse, and financial exploitation of residents in licensed nursing facilities and shall apply for federal waivers to:

(1) allow the use of Minnesota Statutes, section 626.5572, to control the identification and prevention of maltreatment of residents in licensed nursing facilities, rather than the definitions under federal rules and regulations; and

(2) allow the use of Minnesota Statutes, sections 214.104, 245A.04, and 626.557 to control the disqualification or discipline of any persons providing services to residents in licensed nursing facilities, rather than the nurse aide registry or other exclusionary provisions of federal rules and regulations.

[EFFECTIVE DATE.] This section is effective July 1, 2001.

ARTICLE 12

MISCELLANEOUS

Section 1. Minnesota Statutes 2000, section 144.1222, is amended by adding a subdivision to read:

Subd. 2a. [POOLS AT FAMILY DAY CARE OR GROUP FAMILY DAY CARE HOMES.] Notwithstanding Minnesota Rules, part 4717.0250, subpart 8, a pool that is located at a family day care or group family day care home licensed under Minnesota Rules, chapter 9502, shall not be considered a public pool, and is exempt from the

requirements for public pools in Minnesota Rules, parts 4717.0150 to 4717.3975. If the provider chooses to allow children cared for at the family day care or group family day care home to use the pool located at the home, the provider must satisfy the requirements in section 245A.14, subdivision 10.

Sec. 2. Minnesota Statutes 2000, section 245A.14, is amended by adding a subdivision to read:

Subd. 10. [SWIMMING POOLS; FAMILY DAY CARE AND GROUP FAMILY DAY CARE PROVIDERS.]
(a) This subdivision governs pools located at family day care or group family day care homes licensed under Minnesota Rules, chapter 9502. This subdivision does not apply to portable wading pools or whirlpools located at family day care or group family day care homes licensed under Minnesota Rules, chapter 9502. For a provider to be eligible to allow a child cared for at the family day care or group family day care home to use the pool located at the home, the provider must not have had a licensing sanction under section 245A.07 or a correction order or fine under section 245A.06 relating to the supervision or health and safety of children substantiated by the county agency during the prior 24 months, and must satisfy the following requirements:

(1) obtain written consent from a child's parent or legal guardian allowing the child to use the pool, and renew the parent's or legal guardian's written consent at least annually. The written consent must include a statement that the parent or legal guardian has received and read materials provided by the department of health to the department of human services for distribution to all family day care or group family day care homes related to the risk of disease transmission as well as other health risks associated with swimming pools. The written consent must also include a statement that the department of health and county agency will not monitor or inspect the provider's swimming pool to ensure compliance with the requirements in this subdivision;

(2) enter into a written contract with a child's parent or legal guardian, and renew the written contract annually. The terms of the written contract must specify that the provider agrees to perform all of the requirements in this subdivision;

(3) attend and successfully complete a pool operator training course once every five years. Acceptable training courses are:

(i) the National Swimming Pool Foundation Certified Pool Operator course;

(ii) the National Spa and Pool Institute Tech I and Tech II courses (both required); or

(iii) the National Recreation and Park Association Aquatic Facility Operator course;

(4) require a caregiver trained in first aid and adult and child cardiopulmonary resuscitation to supervise and be present at the pool with any children in the pool;

(5) toilet all potty-trained children before they enter the pool;

(6) require all children who are not potty-trained to wear swim diapers while in the pool;

(7) if fecal material enters the pool water, add three times the normal shock treatment to the pool water to raise the chlorine level to at least 20 parts per million, and close the pool to swimming for the 24 hours following the entrance of fecal material into the water or until the water pH and disinfectant concentration levels have returned to the standards specified in clause (9), whichever is later;

(8) prevent any child from entering the pool who has an open wound or any child who has or is suspected of having a communicable disease;

(9) maintain the pool water at a pH of not less than 7.2 and not more than 8.0, maintain the disinfectant concentration between two and five parts per million for chlorine or between 2.3 and 4.5 parts per million for bromine, and maintain a daily record of the pool's operation with pH and disinfectant concentration readings on days when children cared for at the family day care or group family day care home are present;

(10) have a disinfectant feeder or feeders;

(11) have a recirculation system that will clarify and disinfect the pool volume of water in ten hours or less;

(12) maintain the pool's water clarity so that an object on the pool floor at the pool's deepest point is easily visible;

(13) have two or more suction lines in the pool;

(14) have in place and enforce written safety rules and pool policies;

(15) prohibit diving;

(16) prohibit pushing or rough play in the pool area;

(17) have in place at all times a safety rope that divides the shallow and deep portions of the pool;

(18) satisfy any existing local ordinances regarding pool installation, decks, and fencing;

(19) maintain a water temperature of not more than 104 degrees Fahrenheit and not less than 70 degrees Fahrenheit; and

(20) for lifesaving equipment, have a United States Coast Guard-approved life ring attached to a rope, an exit ladder, and a shepherd's hook available at all times to the caregiver supervising the pool.

(b) A violation of this subdivision is grounds for a sanction under section 245A.07, or a correction order or fine under section 245A.06. If a provider under this subdivision receives a licensing sanction or a correction order or fine relating to the supervision or health and safety of children, the provider is prohibited from allowing a child cared for at the family day care or group family day care home to continue to use the pool located at the home.

Sec. 3. Minnesota Statutes 2000, section 246.57, is amended by adding a subdivision to read:

Subd. 7. [SHARED SERVICES ACCOUNT.] Notwithstanding subdivision 1, beginning July 1, 2001, \$6,000,000 each biennium is transferred from the shared services account into which receipts for shared services under subdivision 1 are deposited to the general fund. This subdivision expires June 30, 2005.

Sec. 4. Minnesota Statutes 2000, section 252A.02, is amended by adding a subdivision to read:

Subd. 3a. [GUARDIANSHIP SERVICE PROVIDERS.] "Guardianship service providers" are individuals or agencies that meet the ethical conduct and best practice standards of the National Guardianship Association, meet the criminal background check requirements of section 245A.04, and do not provide any other services to the individuals for whom guardianship services are provided.

Sec. 5. Minnesota Statutes 2000, section 252A.02, subdivision 12, is amended to read:

Subd. 12. [COMPREHENSIVE EVALUATION.] "Comprehensive evaluation" shall consist of:

(1) a medical report on the health status and physical condition of the proposed ward, prepared under the direction of a licensed physician;

(2) a report on the proposed ward's intellectual capacity and functional abilities, specifying the tests and other data used in reaching its conclusions, prepared by a psychologist who is qualified in the diagnosis of mental retardation; and

(3) a report from the case manager that includes:

(i) the most current assessment of individual service needs as described in rules of the commissioner;

(ii) the most current individual service plan ~~as described in rules of the commissioner~~ under section 256B.092, subdivision 1b; and

(iii) a description of contacts with and responses of near relatives of the proposed ward notifying them that a nomination for public guardianship has been made and advising them that they may seek private guardianship.

Each report shall contain recommendations as to the amount of assistance and supervision required by the proposed ward to function as independently as possible in society. To be considered part of the comprehensive evaluation, reports must be completed no more than one year before filing the petition under section 252A.05.

Sec. 6. Minnesota Statutes 2000, section 252A.02, subdivision 13, is amended to read:

Subd. 13. [CASE MANAGER.] "Case manager" means the person designated ~~by the county board under rules of the commissioner to provide case management services~~ under section 256B.092.

Sec. 7. Minnesota Statutes 2000, section 252A.111, subdivision 6, is amended to read:

Subd. 6. [SPECIAL DUTIES.] In exercising powers and duties under this chapter, the commissioner shall:

(1) maintain close contact with the ward, visiting at least twice a year;

(2) ~~prohibit filming a ward in any way that would reveal the identity of the ward unless the commissioner determines the filming to be in the best interests of the ward. The commissioner may give written consent for filming of the ward after permitting and encouraging input by the nearest relative~~ protect and exercise the legal rights of the ward;

(3) take actions and make decisions on behalf of the ward that encourage and allow the maximum level of independent functioning in a manner least restrictive of the ward's personal freedom consistent with the need for supervision and protection; and

(4) permit and encourage maximum self-reliance on the part of the ward and permit and encourage input by the nearest relative of the ward in planning and decision making on behalf of the ward.

Sec. 8. Minnesota Statutes 2000, section 252A.16, subdivision 1, is amended to read:

Subdivision 1. [REVIEW REQUIRED.] The commissioner shall ~~provide~~ require an annual review of the physical, mental, and social adjustment and progress of every ward and conservatee. A copy of this review shall be kept on file at the department of human services and may be inspected by the ward or conservatee, the ward's or conservatee's parents, spouse, or relatives and other persons who receive the permission of the commissioner. The review shall contain information required under ~~rules of the commissioner~~ Minnesota Rules, part 9525.3065, subpart 1.

Sec. 9. Minnesota Statutes 2000, section 252A.19, subdivision 2, is amended to read:

Subd. 2. [PETITION.] The commissioner, ward, or any interested person may petition the appointing court or the court to which venue has been transferred for an order to remove the guardianship or to limit or expand the powers of the conservatorship or to appoint a guardian or conservator under sections 525.539 to 525.705 or to restore

the ward or conservatee to full legal capacity or to review de novo any decision made by the public guardian or public conservator for or on behalf of a ward or conservatee or for any other order as the court may deem just and equitable. Section 525.61, subdivision 3, does not apply to a petition to remove a public guardian.

Sec. 10. Minnesota Statutes 2000, section 252A.20, subdivision 1, is amended to read:

Subdivision 1. [WITNESS AND ATTORNEY FEES.] In each proceeding under sections 252A.01 to 252A.21, the court shall allow and order paid to each witness subpoenaed the fees and mileage prescribed by law; to each physician, psychologist, or social worker who assists in the preparation of the comprehensive evaluation and who is not in the employ of the local agency; or the state department of human services, ~~or area mental health-mental retardation board,~~ a reasonable sum for services and for travel; and to the ward's counsel, when appointed by the court, a reasonable sum for travel and for each day or portion of a day actually employed in court or actually consumed in preparing for the hearing. Upon order the county auditor shall issue a warrant on the county treasurer for payment of the amount allowed.

Sec. 11. Minnesota Statutes 2000, section 256.482, subdivision 8, is amended to read:

Subd. 8. [SUNSET.] Notwithstanding section 15.059, subdivision 5, the council on disability shall not sunset until June 30, ~~2004~~ 2005.

Sec. 12. [PUBLIC GUARDIANSHIP ALTERNATIVES.]

The commissioner of human services shall provide county agencies with funds up to the amount appropriated for public guardianship alternatives based on proposals by the counties to establish private alternatives.

Sec. 13. [AUTOMATIC DEFIBRILLATOR STUDY.]

The emergency medical services regulatory board, in consultation with the department of public safety, shall study and report to the legislature by December 15, 2002, regarding the availability of automatic defibrillators outside the seven-county metropolitan area. The report shall include recommendations to make these devices accessible within a reasonable distance throughout the nonmetropolitan area, including recommendations for funding their acquisition and distribution.

Sec. 14. [REPEALER.]

Minnesota Statutes 2000, section 252A.111, subdivision 3, is repealed.

ARTICLE 13

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 named fund, 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 "2002" and "2003" where used in this article, mean that the appropriation or appropriations listed under them are available for the fiscal year ending June 30, 2002, or June 30, 2003, respectively. Where a dollar amount appears in parentheses, it means a reduction of an appropriation.

SUMMARY BY FUND

APPROPRIATIONS	2002	2003	BIENNIAL TOTAL
General	\$3,083,573,000	\$3,390,338,000	\$6,473,911,000
State Government Special Revenue	35,517,000	37,259,000	72,776,000
Health Care Access	214,712,000	269,923,000	484,635,000
Federal TANF	318,103,000	277,420,000	595,523,000
Lottery Cash Flow	1,300,000	1,300,000	2,600,000
TOTAL	\$3,653,205,000	\$3,976,240,000	\$7,629,445,000

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Sec. 2. COMMISSIONER OF HUMAN SERVICES

Subdivision 1. Total Appropriation \$3,468,138,000 \$3,792,416,000

Summary by Fund

General	2,960,344,000	3,270,094,000
State Government Special Revenue	507,000	507,000
Health Care Access	207,884,000	263,095,000
Federal TANF	298,103,000	257,420,000
Lottery Cash Flow	1,300,000	1,300,000

[APPROPRIATION FOR COURT-ORDERED MENTAL HEALTH TREATMENT.] Of the general fund appropriation, \$2,289,000 in fiscal year 2002 and \$2,289,000 in fiscal year 2003 are for the cost of implementing H. F. 560, if enacted. This appropriation is available only if H. F. 560 is enacted.

[APPROPRIATIONS FOR CIVIL COMMITMENT.] (a) Of the general fund appropriation, \$3,386,000 in fiscal year 2003 is for the cost of implementing H. F. 281, if enacted. This appropriation is available only if H. F. 281 is enacted.

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(b) Of the general fund appropriation, \$155,000 in fiscal year 2003 is appropriated to the commissioner to be transferred to the Minnesota supreme court for costs associated with petitions filed for judicial commitment. This appropriation is available only if H. F. 281 is enacted.

[APPROPRIATIONS FOR CHILD SUPPORT.] (1) Of the general fund appropriation, \$32,000 in fiscal year 2002 and \$32,000 in fiscal year 2003 are for the cost of implementing H. F. 1807, if enacted. This appropriation is available only if H. F. 1807 is enacted.

(2) Of the general fund appropriation, \$435,000 in fiscal year 2002 is for the cost of implementing H. F. 1446, if enacted. This appropriation is available only if H. F. 1446 is enacted.

[APPROPRIATION FOR PATIENT PROTECTIONS.] (a) Of the general fund appropriation, \$248,000 in fiscal year 2002 and \$591,000 in fiscal year 2003 are for the cost of implementing the patient protection provisions in H. F. 560, if enacted. This appropriation is available only if H. F. 560 is enacted.

(b) Of the health care access fund appropriation, \$106,000 in fiscal year 2002 and \$255,000 in fiscal year 2003 are for the cost of implementing H. F. 560, if enacted. This appropriation is available only if H. F. 560 is enacted.

[RECEIPTS FOR SYSTEMS PROJECTS.] Appropriations and federal receipts for information system projects for MAXIS, PRISM, MMIS, and SSIS must be deposited in the state system account authorized in Minnesota Statutes, section 256.014. Money appropriated for computer projects approved by the Minnesota office of technology, funded by the legislature, and approved by the commissioner of finance may be transferred from one project to another and from development to operations as the commissioner of human services considers necessary. Any unexpended balance in the appropriation for these projects does not cancel but is available for ongoing development and operations.

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

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

[SPECIAL REVENUE FUND INFORMATION.] On December 1, 2001, and December 1, 2002, the commissioner shall provide the chairs of the house health and human services finance committee and the senate health, human services, and corrections budget division with detailed fund balance information for each special revenue fund account.

[FEDERAL ADMINISTRATIVE REIMBURSEMENT.] Federal administrative reimbursement resulting from MinnesotaCare outreach grants and the Minnesota senior health options project are appropriated to the commissioner for these activities. Any balance from this appropriation remaining at the end of the biennium shall be transferred to the general fund.

[NONFEDERAL SHARE TRANSFERS.] The nonfederal share of activities for which federal administrative reimbursement is appropriated to the commissioner may be transferred to the special revenue fund. Any balance from this appropriation remaining at the end of the biennium shall be transferred to the general fund.

[MAJOR SYSTEMS TRANSFER.] (1) \$22,600,000 of funds available in the state systems account authorized in Minnesota Statutes, section 256.014, is transferred to the general fund for the biennium ending June 30, 2003.

(2) \$1,400,000 of funds available in the state systems account authorized in Minnesota Statutes, section 256.014, is transferred to the general fund for the biennium ending June 30, 2005. Notwithstanding section 13 of this article, this rider does not expire on June 30, 2003.

[TANF FUNDS APPROPRIATED TO OTHER ENTITIES.] Any expenditures from the TANF block grant shall be expended in accordance with the requirements and limitations of part A of title IV of the Social Security Act, as amended, and any other applicable federal requirement or limitation. Prior to any expenditure of these funds, the commissioner shall assure that funds are expended in compliance with the requirements and limitations of federal law and that any reporting requirements of federal law are met. It shall be the responsibility of any entity to

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which these funds are appropriated to implement a memorandum of understanding with the commissioner that provides the necessary assurance of compliance prior to any expenditure of funds. The commissioner shall receipt TANF funds appropriated to other state agencies and coordinate all related interagency accounting transactions necessary to implement these appropriations. Unexpended TANF funds appropriated to any state, local, or nonprofit entity cancel at the end of the state fiscal year unless appropriating language permits otherwise.

[TANF FUNDS TRANSFERRED TO OTHER FEDERAL GRANTS.] The commissioner must authorize transfers from TANF to other federal block grants so that funds are available to meet the annual expenditure needs as appropriated. Transfers may be authorized prior to the expenditure year with the agreement of the receiving entity. Transferred funds must be expended in the year for which the funds were appropriated unless appropriation language permits otherwise. In accelerating transfer authorizations, the commissioner must aim to preserve the future potential transfer capacity from TANF to other block grants.

[TANF MAINTENANCE OF EFFORT.] (a) In order to meet the basic maintenance of effort (MOE) requirements of the TANF block grant specified under Code of Federal Regulations, title 45, section 263.1, the commissioner may only report nonfederal money expended for allowable activities listed in the following clauses as TANF MOE expenditures:

- (1) MFIP cash and food assistance benefits under Minnesota Statutes, chapter 256J;
- (2) the child care assistance programs under Minnesota Statutes, sections 119B.03 and 119B.05, and county child care administrative costs under Minnesota Statutes, section 119B.15;
- (3) state and county MFIP administrative costs under Minnesota Statutes, chapters 256J and 256K;
- (4) state, county, and tribal MFIP employment services under Minnesota Statutes, chapters 256J and 256K; and
- (5) expenditures made on behalf of noncitizen MFIP recipients who qualify for the medical assistance without federal financial participation program under Minnesota Statutes, section 256B.06, subdivision 4, paragraphs (d), (e), and (j).

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(b) The commissioner shall ensure that sufficient qualified nonfederal expenditures are made each year to meet the state's TANF MOE requirements. For the activities listed in paragraph (a), clauses (2) to (5), the commissioner may only report expenditures that are excluded from the definition of assistance under Code of Federal Regulations, title 45, section 260.31.

(c) If nonfederal expenditures for the programs and purposes listed in paragraph (a) are insufficient to meet the state's TANF MOE requirements, the commissioner shall recommend additional allowable sources of nonfederal expenditures to the legislature, if the legislature is or will be in session to take action to specify additional sources of nonfederal expenditures for TANF MOE before a federal penalty is imposed. The commissioner shall otherwise provide notice to the legislative commission on planning and fiscal policy under paragraph (e).

(d) If the commissioner uses authority granted under Laws 1999, chapter 245, article 1, section 10, or similar authority granted by a subsequent legislature, to meet the state's TANF MOE requirements in a reporting period, the commissioner shall inform the chairs of the appropriate legislative committees about all transfers made under that authority for this purpose.

(e) If the commissioner determines that nonfederal expenditures under paragraph (a) are insufficient to meet TANF MOE expenditure requirements, and if the legislature is not or will not be in session to take timely action to avoid a federal penalty, the commissioner may report nonfederal expenditures from other allowable sources as TANF MOE expenditures after the requirements of this paragraph are met. The commissioner may report nonfederal expenditures in addition to those specified under paragraph (a) as nonfederal TANF MOE expenditures, but only ten days after the commissioner of finance has first submitted the commissioner's recommendations for additional allowable sources of nonfederal TANF MOE expenditures to the members of the legislative commission on planning and fiscal policy for their review.

(f) The commissioner of finance shall not incorporate any changes in federal TANF expenditures or nonfederal expenditures for TANF MOE that may result from reporting additional allowable sources of nonfederal TANF MOE expenditures under the interim procedures in paragraph (e) into the February or November forecasts required under Minnesota Statutes, section 16A.103, unless the commissioner of finance has approved the additional sources of expenditures under paragraph (e).

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(g) The provisions of Minnesota Statutes, section 256.011, subdivision 3, which require that federal grants or aids secured or obtained under that subdivision be used to reduce any direct appropriations provided by law, do not apply if the grants or aids are federal TANF funds.

(h) Notwithstanding section 14 of this article, paragraphs (a) to (h) expire June 30, 2005.

Subd. 2. Agency Management

General	34,500,000	32,971,000
State Government Special Revenue	392,000	392,000
Health Care Access	3,591,000	3,602,000
Federal TANF	546,000	454,000

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

(a) Financial Operations

General	6,708,000	6,708,000
Health Care Access	803,000	803,000
Federal TANF	546,000	454,000

(b) Legal and Regulation Operations

General	8,682,000	8,305,000
State Government Special Revenue	392,000	392,000
Health Care Access	233,000	244,000

[CORE LICENSING ACTIVITIES.] Of the general fund appropriation, \$1,138,000 in fiscal year 2002 and \$923,000 in fiscal year 2003 is to support 14 new licenser positions. Of this amount, \$72,000 in fiscal year 2002 and \$107,000 in fiscal year 2003 is to cover maintenance and operational costs for a new

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computer system, which will provide public access to licensing information. In order to receive continued appropriations for these purposes, by January 1, 2003, the commissioner shall:

- (1) reduce the average length of time to complete investigations of licensing complaints within 75 days;
- (2) complete all licensing reviews within the one-year and two-year intervals set forth in statutes; and
- (3) complete negative licensing action decisions within 45 days of county recommendations.

[EXPEDITED MALTREATMENT INVESTIGATIONS.] Of the general fund appropriation, \$359,000 in fiscal year 2002 and \$277,000 in fiscal year 2003 are for one senior investigator position, three investigator positions, and one-half of a clerical position to achieve the goals for expedited maltreatment investigations. In order to receive continued appropriations for this purpose, by January 1, 2003, the commissioner shall reduce the average length of time to complete maltreatment investigations to 60 days.

[PUBLIC GUARDIANSHIP INCENTIVES.] Of the general fund appropriation, \$250,000 in fiscal year 2002 and \$250,000 in fiscal year 2003 is to be used for the purposes of providing fiscal incentives to encourage counties to establish private alternatives.

(c) Management Operations

General	19,110,000	17,958,000
Health Care Access	2,555,000	2,555,000

Subd. 3. Administrative Reimbursement/ Pass Through

Federal TANF	60,565	51,992
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Subd. 4. Children's Services Grants

General	59,320,000	59,833,000
Federal TANF	6,290,000	6,290,000

[ADOPTION ASSISTANCE INCENTIVE GRANTS.] Federal funds available during fiscal year 2002 and fiscal year 2003, for adoption incentive grants are appropriated to the commissioner for these purposes.

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[TANF TRANSFER TO SOCIAL SERVICES.] \$4,650,000 is appropriated to the commissioner in fiscal year 2002 and in fiscal year 2003 for purposes of increasing services for families with children whose incomes are at or below 200 percent of the federal poverty guidelines. The commissioner shall authorize a sufficient transfer of funds from the state's federal TANF block grant to the state's federal social services block grant to meet this appropriation.

[SOCIAL SERVICES BLOCK GRANT FUNDS FOR CONCURRENT PERMANENCY PLANNING.] Notwithstanding Minnesota Statutes, section 256E.07, \$4,650,000 in fiscal year 2002 and \$4,650,000 in fiscal year 2003 in social services block grant funds allocated to the commissioner under title XX of the Social Security Act are available for distribution to counties under the formula in Minnesota Statutes, section 260C.213, for the purposes of concurrent permanency planning.

Subd. 5. Children's Services Management

General	5,487,000	5,487,000
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Subd. 6. Basic Health Care Grants

Summary by Fund

General	1,113,870,000	1,317,141,000
Health Care Access	188,642,000	243,842,000

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

(a) MinnesotaCare Grants

Health Care Access	188,642,000	243,842,000
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[MINNESOTACARE FEDERAL RECEIPTS.] Receipts received as a result of federal participation pertaining to administrative costs of the Minnesota health care reform waiver shall be deposited as nondedicated revenue in the health care access fund. Receipts received as a result of federal participation pertaining to grants shall be deposited in the federal fund and shall offset health care access funds for payments to providers.

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[MINNESOTACARE FUNDING.] The commissioner may expend money appropriated from the health care access fund for MinnesotaCare in either fiscal year of the biennium.

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

General	433,298,000	517,563,000
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(c) MA Basic Health Care Grants - Elderly and Disabled

General	511,946,000	604,451,000
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[MEDICALLY NEEDY STANDARD AND FEDERAL AUTHORIZATION.] If federal authorization to use the medical assistance income standard in Minnesota Statutes, section 256B.056, subdivision 4, as the medically needy standard is not obtained, the commissioner shall use all resulting savings to provide services under the home and community-based waiver for persons with mental retardation and related conditions.

(d) General Assistance Medical Care

General	155,744,000	176,748,000
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(e) Health Care Grants - Other Assistance

General	12,882,000	18,379,000
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Health Care Access	750,000	750,000
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Subd. 7. Basic Health Care Management

General	20,715,000	20,665,000
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Health Care Access	13,583,000	13,583,000
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The amounts that may be spent from this appropriation for each purpose are as follows:

(a) Health Care Policy Administration

General	2,807,000	2,812,000
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Health Care Access	562,000	562,000
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(b) Health Care Operations

General	17,908,000	17,853,000
Health Care Access	13,021,000	13,021,000

[PREPAID MEDICAL PROGRAMS.] The nonfederal share of the prepaid medical assistance program fund, which has been appropriated to fund county managed care advocacy and enrollment operating costs, shall be disbursed as grants using either a reimbursement or block grant mechanism.

Subd. 8. State-Operated Services

General	205,868,000	199,287,000
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The amounts that may be spent from this appropriation for each purpose are as follows:

[MITIGATION RELATED TO STATE-OPERATED SERVICES RESTRUCTURING.] Money appropriated to finance mitigation expenses related to restructuring state-operated services programs and administrative services may be transferred between fiscal years within the biennium.

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

[STATE-OPERATED SERVICES RESTRUCTURING.] For purposes of restructuring state-operated services, any state-operated services employee whose position is to be eliminated shall be afforded the options provided in applicable collective bargaining agreements. All salary and mitigation allocations from fiscal year 2002 shall be carried forward into fiscal year 2003. Provided there is no conflict with any collective bargaining agreement, any state-operated services position

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reduction must only be accomplished through mitigation, attrition, transfer, and other measures as provided in state or applicable collective bargaining agreements and in Minnesota Statutes, section 252.50, subdivision 11, and not through layoff.

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

Subd. 9. Continuing Care Grants

General	1,367,177,000	1,483,241,000
Lottery Cash Flow	1,158,000	1,158,000

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

(a) Community Social Services Block Grants

48,718,000	49,695,000
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[CSSA TRADITIONAL APPROPRIATION.] Notwithstanding Minnesota Statutes, section 256E.06, subdivisions 1 and 2, the appropriations available under that section in fiscal years 2002 and 2003 must be distributed to each county proportionately to the aid received by the county in calendar year 2000.

(b) Aging Adult Service Grants

10,300,000	10,532,000
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[COUNTY PLANNING AND SERVICE DEVELOPMENT.] Of this appropriation, \$1,200,000 in fiscal year 2002 and \$1,600,000 in fiscal year 2003 are for distribution to county boards for planning and development of community services for the elderly as required under Minnesota Statutes, section 256B.437, subdivision 2. For Phase I funding to develop the initial biennial plan addendum, the commissioner shall distribute a minimum of \$10,000 to each county on July 1, 2001. In a county with more than 10,000 persons over 65 years, the funding allocation shall be \$15,000; with more than 30,000 persons over 65 years - \$20,000; with more than 50,000 persons over 65 years - \$25,000; and with more than 100,000 persons over 65 years - \$30,000. Upon submission of the completed biennial plan addendum, the commissioner shall distribute Phase II funding to each county for development of community-based services no later

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than January 1, 2002. For counties with less than 4,500 persons under 65 years, the Phase II allocation shall be \$10,000. For counties with more than 4,500 persons over 65 years, the Phase II allocation shall be \$2.23 per person over 65 years. Any remaining funds shall be available as targeted funds distributed to counties with designated critical access sites. Phase I funding may be carried over by the county into 2002 and 2003 for the development of services.

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

1,923,000	1,825,000
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[SERVICES TO DEAF PERSONS WITH MENTAL ILLNESS.] Of this appropriation, \$100,000 in fiscal year 2002 and \$100,000 in fiscal year 2003 is for a grant to a nonprofit agency that currently serves deaf and hard-of-hearing adults with mental illness through residential programs and supportive housing outreach activities. The grant must be used to continue and maintain community support services for deaf and hard-of-hearing adults with mental illness who use or wish to use sign language as their primary means of communication.

(d) Mental Health Grants

General	50,014,000	51,525,000
Lottery Cash Flow	1,158,000	1,158,000

(e) Community Support Grants

12,698,000	12,920,000
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(f) Medical Assistance Long-Term Care Waivers and Home Care

452,689,000	533,489,000
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[PROVIDER RATE INCREASES.] (1) The commissioner shall increase reimbursement rates by 3.0 percent the first year of the biennium and by 3.0 percent the second year for the providers listed in paragraph (2). The increases shall be effective for services rendered on or after July 1 of each year.

(2) The rate increases described in this section shall be provided to home and community-based waived services for persons with mental retardation or related conditions under Minnesota Statutes, section 256B.501; home and community-based waived services for the elderly under Minnesota Statutes, section 256B.0915;

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Minnesota Statutes, section 256B.431. The commissioner must use the facility's final 2000 and 2001 Medicare cost reports to calculate the adjustments. This rate increase shall become part of the facility's base rate for future rate years.

[ICF/MR DISALLOWANCES.] Of this appropriation, \$65,000 in each fiscal year is to reimburse a four-bed ICF/MR in Ramsey county for disallowance resulting from field audit findings. The commissioner shall exempt these facilities from the provisions of Minnesota Statutes, section 256B.501, subdivision 5b, paragraph (d), clause (6), for the rate years beginning October 1, 1996, and October 1, 1997.

[COMMUNITY SERVICES DEVELOPMENT GRANTS PROGRAM.] Of this appropriation, \$18,000,000 for the biennium ending June 30, 2003, is to the commissioner for grants under Minnesota Statutes, section 256.9754. Unexpended appropriations in fiscal year 2002 do not cancel but are available to the commissioner for these purposes in fiscal year 2003. This is a one-time appropriation and shall not become part of the base-level funding for the 2004-2005 biennium.

[LONG-TERM CARE CONSULTATION SERVICES.] Long-term care consultation services payments to all counties shall continue at the payment amount in effect for preadmission screening in fiscal year 2001.

(h) Alternative Care Grants

General	75,764,000	89,646,000
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[ALTERNATIVE CARE TRANSFER.] Any money allocated to the alternative care program that is not spent for the purposes indicated does not cancel but shall be transferred to the medical assistance account.

[ALTERNATIVE CARE APPROPRIATION.] The commissioner may expend the money appropriated for the alternative care program for that purpose in either year of the biennium.

(i) Group Residential Housing

General	78,712,000	86,807,000
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(j) Chemical Dependency Entitlement Grants

General	39,459,000	41,045,000
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(k) Chemical Dependency Nonentitlement Grants

General	5,941,000	5,918,000
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[CONSOLIDATED CHEMICAL DEPENDENCY TREATMENT FUND ONE-TIME TRANSFER.] \$9,367,000 of funds available in the consolidated chemical dependency treatment fund general reserve account is transferred in fiscal year 2002 to the general fund.

Subd. 10. Continuing Care Management

General	24,546,000	23,928,000
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State Government

Special Revenue	115,000	115,000
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Lottery Cash Flow	142,000	142,000
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[COUNTY INVOLVEMENT COSTS.] Of this appropriation, up to \$481,000 in fiscal year 2002 and up to \$642,000 in fiscal year 2003 are for the commissioner to allocate to counties for resident relocation costs resulting from planned closures under Minnesota Statutes, section 256B.437, and resident relocations under Minnesota Statutes, section 144A.161. Unexpended funds for fiscal year 2002 do not cancel but are available to the commissioner for this purpose in fiscal year 2003.

[REGION 10 QUALITY ASSURANCE COMMISSION.] (1) Of the appropriation from the general fund for the biennium ending June 30, 2003, \$548,000 is to the commissioner of human services to be allocated to the region 10 quality assurance commission for operating costs of the alternative quality assurance licensing project and for grants to counties participating in that project.

(2) \$50,000 is appropriated from the general fund to the commissioner of human services for the biennium ending June 30, 2003, for the region 10 quality assurance commission to conduct the evaluation required under Minnesota Statutes, section 256B.0951, subdivision 9.

(3) \$150,000 is appropriated from the general fund to the commissioner of human services for the biennium ending June 30, 2003, for the commissioner to conduct the project evaluation required for the federal 1115 waiver of ICF/MR regulations.

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Subd. 11. Economic Support Grants

General	91,086,000	90,136,000
Federal TANF	228,209,000	197,741,000

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

(a) Assistance to Families Grants

General	25,237,000	21,821,000
Federal TANF	164,745,000	133,553,000

(b) Work Grants

General	9,844,000	9,844,000
Federal TANF	62,203,000	61,403,000

[NONTRADITIONAL CAREER ASSISTANCE.] Of the federal TANF appropriation, \$500,000 for fiscal year 2002 and \$500,000 for fiscal year 2003 is for grants for nontraditional career assistance training programs under Minnesota Statutes, section 256K.30. This is a one-time appropriation and shall not be added to the base-level funding in the 2004-2005 biennium.

[SUPPORTIVE HOUSING AND MANAGED CARE PILOT PROJECT.] Of the general fund appropriation, \$2,000,000 in fiscal year 2002 and \$5,000,000 in fiscal year 2003 is for the supportive housing and managed care pilot project under Minnesota Statutes, section 256K.25. This appropriation may be transferred between fiscal years within the biennium.

[INTENSIVE INTERVENTION TRANSITIONAL EMPLOYMENT TRAINING PROJECT.] Of the federal TANF appropriation, \$800,000 for the biennium ending June 30, 2003, is for the Southeast Asian collaborative in Hennepin county for an intensive intervention transitional employment training project, which serves TANF-eligible recipients, and which moves refugee and immigrant welfare recipients into unsubsidized employment leading to self-sufficiency. The commissioner must select one of the five partners in the collaborative as the fiscal agent for the project. The primary effort of the project must be on intensive employment skills training, including workplace English and overcoming cultural barriers, and on specialized training in fields of work which involve a credit-based curriculum. For recipients

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beginning October 1, 2001. The draws of federal TANF funds shall be made on a regular basis based on calculations of credit expenditures by the commissioner of revenue. Up to the following amounts of federal TANF draws are appropriated to the commissioner of human services to deposit in the general fund: in fiscal year 2002, \$25,000,000; and in fiscal year 2003, \$16,000,000.

(d) Child Support Enforcement

General	4,239,000	4,239,000
Federal TANF	260,000	260,000

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

(e) General Assistance

General	17,156,000	15,700,000
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[GENERAL ASSISTANCE STANDARD.] The commissioner shall set the monthly standard of assistance for general assistance units consisting of an adult recipient who is childless and unmarried or living apart from his or her parents or a legal guardian at \$203. The commissioner may reduce this amount in accordance with Laws 1997, chapter 85, article 3, section 54.

(f) Minnesota Supplemental Aid

General	29,678,000	31,351,000
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(g) Refugee Services

General	250,000	250,000
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Subd. 12. Economic Support Management

General	37,775,000	37,405,000
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Health Care

Access	1,318,000	1,318,000
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Federal TANF	2,493,000	943,000
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The amounts that may be spent from this appropriation for each purpose are as follows:

(a) Economic Support Policy Administration

General	6,528,000	6,191,000
Federal TANF	2,493,000	943,000

[FOOD STAMP ADMINISTRATIVE REIMBURSEMENT.] The commissioner shall reduce quarterly food stamp administrative reimbursement to counties in fiscal years 2002 and 2003 by the amount that the United States Department of Health and Human Services determines to be the county random moment study share of the food stamp adjustment under Public Law Number 105-185. The reductions shall be allocated to each county in proportion to each county's contribution, if any, to the amount of the adjustment. Any adjustment to medical assistance administrative reimbursement that is based on the United States Department of Health and Human Services' determinations under Public Law Number 105-185 shall be distributed to counties in the same manner.

[EMPLOYMENT SERVICES TRACKING SYSTEM.] Of the federal TANF appropriation, \$1,750,000 in fiscal year 2002 and \$200,000 in fiscal year 2003 are for development of an employment tracking system in collaboration with the department of economic security. Unexpended funds in fiscal year 2002 do not cancel but are available to the commissioner for these purposes in fiscal year 2003. This is a one-time appropriation and shall not be added to the base-level funding for the 2004-2005 biennium.

(b) Economic Support Operations

General	31,247,000	31,214,000
Health Care Access	1,318,000	1,318,000
Federal TANF	...,0-,...	...,0-,...

[SPENDING AUTHORITY FOR FOOD STAMP ENHANCED FUNDING.] In the event that Minnesota qualifies for United States Department of Agriculture Food and Nutrition Services Food Stamp Program enhanced funding beginning in federal fiscal year 1998, the money is appropriated to the commissioner for the

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purposes of the program. The commissioner shall retain 25 percent of the enhanced funding for the Minnesota food assistance program, with the remaining 75 percent divided among the counties according to a formula that takes into account each county's impact on the statewide food stamp error rate.

[FINANCIAL INSTITUTION DATA MATCH AND PAYMENT OF FEES.] The commissioner is authorized to allocate up to \$310,000 each year in fiscal year 2002 and fiscal year 2003 from the PRISM special revenue account to make payments to financial institutions in exchange for performing data matches between account information held by financial institutions and the public authority's database of child support obligors as authorized by Minnesota Statutes, section 13B.06, subdivision 7.

Sec. 3. COMMISSIONER OF HEALTH

Subdivision 1. Total Appropriation	138,657,000	138,848,000
Summary by Fund		
General	87,619,000	86,160,000
State Government Special Revenue	24,210,000	25,860,000
Health Care Access	6,828,000	6,828,000
Federal TANF	20,000,000	20,000,000
Subd. 2. Family and Community Health	72,535,000	72,847,000
Summary by Fund		
General	47,943,000	47,256,000
State Government Special Revenue	936,000	1,935,000
Health Care Access	3,656,000	3,656,000
Federal TANF	20,000,000	20,000,000

[ELIMINATING HEALTH DISPARITIES.] Of the general fund appropriation, \$6,000,000 each year is for reducing health disparities. Of the amounts available:

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(1) \$1,500,000 each year is for competitive grants under Minnesota Statutes, section 145.928, subdivision 7, to eligible applicants to reduce health disparities in infant mortality rates and adult and child immunization rates.

(2) \$2,000,000 each year is for competitive grants under Minnesota Statutes, section 145.928, subdivision 8, to eligible applicants to reduce health disparities in breast and cervical cancer screening rates, HIV/AIDS and sexually transmitted infection rates, cardiovascular disease rates, diabetes rates, and rates of accidental injuries and violence.

(3) \$500,000 each year is for grants under Minnesota Statutes, section 145.928, subdivision 9, to community health boards as defined in Minnesota Statutes, section 145A.02, to improve access to health screening and follow-up services for refugee populations.

(4) \$2,000,000 each year is for grants to community health boards as defined in Minnesota Statutes, section 145A.02, according to the formula in Minnesota Statutes, section 145.882, subdivision 4a, to provide services targeted at reducing maternal and child health disparities.

[TEEN PREGNANCY PREVENTION.] \$20,000,000 from the TANF fund for the 2002-2003 biennium is appropriated to the commissioner of health for a teen pregnancy prevention program. Of the amounts available:

(1) \$3,500,000 in fiscal year 2002 and \$5,000,000 in fiscal year 2003 are for teen pregnancy prevention disparity grants under Minnesota Statutes, section 145.9257, subdivision 6.

(2) \$3,000,000 in fiscal year 2002 and \$3,000,000 in fiscal year 2003 are for high-risk community teen pregnancy prevention grants under Minnesota Statutes, section 145.9257, subdivision 7.

(3) \$2,000,000 in fiscal year 2002 and \$2,000,000 in fiscal year 2003 are for transfer to the commissioner of children, families, and learning to increase the number of adolescent parenting grants.

(4) \$1,500,000 in fiscal year 2002 is for one-time grants to public school districts to implement an abstinence until marriage curriculum and to train staff to implement the curriculum. The curriculum shall educate adolescents that abstinence from sexual activity outside of marriage is the expected standard and that sexual activity outside the context of marriage is likely to have harmful emotional, physical, and social effects; and shall provide

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an explanation of the value of the institution of marriage and a discussion of the historical purpose and significance of marriage. The commissioner of health, in consultation with the commissioner of children, families, and learning, shall make school districts aware of the availability of funds for this purpose. This appropriation shall not become part of the base-level funding for this activity.

[POISON INFORMATION SYSTEM.] Of the general fund appropriation, \$1,360,000 each fiscal year is for poison control system grants under Minnesota Statutes, section 145.93. This is a one-time appropriation that shall not become part of base-level funding in 2004-2005.

[SUICIDE PREVENTION.] Of the general fund appropriation, \$1,100,000 each fiscal year is for suicide prevention activities under Minnesota Statutes, section 145.56. Of the amounts available:

(1) \$275,000 each fiscal year is for refining, coordinating, and implementing the suicide prevention plan according to Minnesota Statutes, section 145.56, subdivisions 1, 3, 4, and 5.

(2) \$825,000 each fiscal year is to fund community-based programs under Minnesota Statutes, section 145.56, subdivision 2.

[TANF HOME VISITING PROGRAM.] Of the federal TANF appropriation, \$10,000,000 in fiscal year 2002 and \$10,000,000 in fiscal year 2003 are for family home visiting programs under Minnesota Statutes, section 145A.17. These amounts include \$7,000,000 in fiscal year 2002 and \$7,000,000 in fiscal year 2003 of appropriations to the commissioner of human services for transfer to the commissioner of health authorized in Laws 2000, chapter 488, article 13, section 15, subdivision 6, clause (3), as amended by Laws 2000, chapter 499, sections 22 and 39.

[TANFHOMEVISITINGCARRYFORWARD.] Any unexpended balance of the TANF funds appropriated for family home visiting in the first year of the biennium does not cancel but is available for the second year.

[TEENPREGNANCYPREVENTIONCARRYFORWARD.] Any unexpended balance of the TANF funds appropriated for teen pregnancy prevention in the first fiscal year of the biennium does not cancel but is available for the second year.

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[WIC TRANSFERS.] The general fund appropriation for the women, infants, and children (WIC) food supplement program is available for either year of the biennium. Transfers of these funds between fiscal years must be either to maximize federal funds or to minimize fluctuations in the number of program participants.

[MINNESOTA CHILDREN WITH SPECIAL HEALTH NEEDS CARRYFORWARD.] General fund appropriations for treatment services in the services for Minnesota children with special health needs program are available for either year of the biennium.

[ONE-TIME REDUCTION FOR FAMILY PLANNING SPECIAL PROJECT GRANTS.] For fiscal year 2003, base-level funding for the Family Planning Special Project Grants under Minnesota Statutes, section 145.925, shall be reduced by \$690,000.

Subd. 3. Access and Quality Improvement	31,350,000	30,400,000
Summary by Fund		
General	21,160,000	20,194,000
State Government		
Special Revenue	7,018,000	7,034,000
Health Care		
Access	3,172,000	3,172,000

[HEALTH CARE SAFETY NET.] (1) Of the general fund appropriation, \$5,000,000 each year is for a grant program to aid safety net community clinics.

(2) \$5,000,000 each year is for a grant program to provide rural hospital capital improvement grants described in Minnesota Statutes, section 144.148.

Subd. 4. Health Protection	29,808,000	30,639,000
Summary by Fund		
General	13,699,000	13,895,000
State Government		
Special Revenue	16,109,000	16,744,000

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[EMERGING HEALTH THREATS.] (a) Of the general fund appropriation, \$2,200,000 in the first year and \$2,400,000 in the second year are to increase the state capacity to identify and respond to emerging health threats.

(b) Of these amounts, \$1,900,000 in the first year and \$2,100,000 in the second year are to expand state laboratory capacity to identify infectious disease organisms, evaluate environmental contaminants, develop new analytical techniques, provide emergency response, and support local government by training health care system workers to deal with biological and chemical health threats.

(c) \$300,000 each year is to train, consult, and otherwise assist local officials responding to clandestine drug laboratories and minimizing health risks to responders and the public.

Subd. 5. Management and Support Services	4,964,000	4,962,000
Summary by Fund		
General	4,817,000	4,815,000
State Government		
Special Revenue	147,000	147,000
Sec. 4. VETERANS NURSING HOMES BOARD	30,336,000	28,784,000

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

[SETTING COST OF CARE.] The cost of care for the domiciliary residents at the Minneapolis veterans home for fiscal year 2002 and fiscal year 2003 shall be calculated based on 100 percent occupancy at each facility.

[DEFICIENCY FUNDING.] Of the general fund appropriation in fiscal year 2002, \$2,000,000 is available with the approval of the commissioner of finance. Approval of the commissioner of finance is contingent upon review of the board's submittal of a report outlining the following:

- (1) a long-term revenue outlook for the homes;

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(2) a review and recommendation of alternative funding sources for the homes' operations; and

(3) administrative and service options to bring cost growth in line with revenues.

Sec. 5. HEALTH-RELATED BOARDS

Subdivision 1. Total Appropriation	10,800,000	10,892,000
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[STATE GOVERNMENT SPECIAL REVENUE FUND.] The appropriations in this section are from the state government special revenue fund.

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

Subd. 2. Board of Chiropractic Examiners	361,000	361,000
Subd. 3. Board of Dentistry	806,000	806,000
Subd. 4. Board of Dietetic and Nutrition Practice	95,000	95,000
Subd. 5. Board of Marriage and Family Therapy	111,000	111,000
Subd. 6. Board of Medical Practice	3,270,000	3,270,000
Subd. 7. Board of Nursing	2,704,000	2,772,000

[HEALTH PROFESSIONAL SERVICES ACTIVITY.] Of these appropriations, \$534,000 in fiscal year 2002 and \$566,000 in fiscal year 2003 are for the Health Professional Services Activity.

Subd. 8. Board of Nursing Home Administrators	194,000	186,000
Subd. 9. Board of Optometry	90,000	90,000
Subd. 10. Board of Pharmacy	1,301,000	1,316,000

[ADMINISTRATIVE SERVICES UNIT.] Of this appropriation, \$433,000 the first year and \$441,000 the second year are for the health boards administrative services unit. The administrative services unit may receive and expend reimbursements for services performed for other agencies.

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Subd. 11. Board of Physical Therapy			185,000	185,000
Subd. 12. Board of Podiatry			52,000	42,000
Subd. 13. Board of Psychology			653,000	647,000
Subd. 14. Board of Social Work			825,000	832,000
Subd. 15. Board of Veterinary Medicine			153,000	179,000
Sec. 6. EMERGENCY MEDICAL SERVICES BOARD			3,033,000	3,037,000
Summary by Fund				
General	3,033,000		3,037,000	
[COMPREHENSIVE ADVANCED LIFE SUPPORT (CALs).]				
\$500,000 in fiscal year 2002 and \$500,000 in fiscal year 2003 are for the comprehensive advanced life support educational program under Minnesota Statutes, section 144E.37.				
Sec. 7. COUNCIL ON DISABILITY			692,000	714,000
Sec. 8. OMBUDSMAN FOR MENTAL HEALTH AND MENTAL RETARDATION			1,378,000	1,378,000
Sec. 9. OMBUDSMAN FOR FAMILIES			171,000	171,000
Sec. 10. TRANSFERS				
Subdivision 1. Grants				
<p>The commissioner of human services, with the approval of the commissioner of finance, and after notification of the chair of the senate health and family security budget division and the chair of the house health and human services finance committee, may transfer unencumbered appropriation balances for the biennium ending June 30, 2003, within fiscal years among the MFIP, general assistance, general assistance medical care, medical assistance, Minnesota supplemental aid, and group residential housing programs, and the entitlement portion of the chemical dependency consolidated treatment fund, and between fiscal years of the biennium.</p>				
Subd. 2. Administration				
<p>Positions, salary money, and nonsalary administrative money may be transferred within the departments of human services and health and within the programs operated by the veterans nursing</p>				

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homes board as the commissioners and the board consider necessary, with the advance approval of the commissioner of finance. The commissioner or the board shall inform the chairs of the house health and human services finance committee and the senate health and family security budget division quarterly about transfers made under this provision.

Sec. 11. INDIRECT COSTS NOT TO FUND PROGRAMS.

The commissioners of health and of human services shall not use indirect cost allocations to pay for the operational costs of any program for which they are responsible.

Sec. 12. CARRYOVER LIMITATION

None of the appropriations in this article which are allowed to be carried forward from fiscal year 2002 to fiscal year 2003 shall become part of the base level funding for the 2004-2005 biennial budget, unless specifically directed by the legislature.

Sec. 13. SUNSET OF UNCODIFIED LANGUAGE

All uncodified language contained in this article expires on June 30, 2003, unless a different expiration date is explicit.

Sec. 14. [246.141] [PROJECT LABOR.]

Wages for project labor may be paid by the commissioner out of repairs and betterments money if the individual is to be engaged in a construction project or a repair project of short-term and nonrecurring nature. Compensation for project labor shall be based on the prevailing wage rates, as defined in section 177.42, subdivision 6. Project laborers are excluded from the provisions of sections 43A.22 to 43A.30, and shall not be eligible for state-paid insurance and benefits."

Delete the title and insert:

"A bill for an act relating to human services; modifying provisions relating to health department; health care; continuing care and home care; consumer information and assistance and community-based care; long-term care reform and reimbursement; work force; regulation of supplemental nursing services agencies; long-term insurance; mental health and civil commitment; assistance programs; licensing; appropriating money; amending Minnesota Statutes 2000, sections 13.46, subdivision 4; 62A.48, subdivision 4, by adding subdivisions; 62S.01, by adding subdivisions; 62S.26; 103I.101, subdivision 6; 103I.112; 103I.208, subdivisions 1, 2; 103I.235, subdivision 1; 103I.525, subdivisions 2, 6, 8, 9; 103I.531, subdivisions 2, 6, 8, 9; 103I.535, subdivisions 2, 6, 8, 9; 103I.541, subdivisions 2b, 4, 5; 103I.545; 121A.15, subdivision 6; 135A.14, by adding a subdivision; 144.057; 144.1202, subdivision 4; 144.122; 144.1222, by adding a subdivision; 144.1464; 144.226, subdivision 4; 144.98, subdivision 3; 144A.071, subdivisions 1, 1a, 2, 4a; 144A.073, subdivisions 2, 4; 144A.44, subdivision 1; 144A.62, subdivisions 1, 2, 3, 4; 145.881, subdivision 2; 145.882, subdivision 7, by adding a subdivision; 145.885, subdivision 2; 145.924; 145.925, subdivisions 1, 1a; 145A.15, subdivision 1, by adding a subdivision; 145A.16, subdivision 1, by adding a subdivision; 148.212; 157.16, subdivision 3; 157.22; 214.104; 245.462, subdivisions 8, 18, by adding a subdivision;

245.4871, subdivisions 10, 27; 245.4876, subdivision 1, by adding a subdivision; 245.4885, subdivision 1; 245.4886, subdivision 1; 245.99, subdivision 4; 245A.03, subdivision 2b; 245A.04, subdivisions 3, 3a, 3b, 3c, 3d; 245A.05; 245A.06; 245A.07; 245A.08; 245A.13, subdivisions 7, 8; 245A.14, by adding a subdivision; 245A.16, subdivision 1; 245B.08, subdivision 3; 246.57, by adding a subdivision; 252.275, subdivision 4b; 252A.02, subdivisions 12, 13, by adding a subdivision; 252A.111, subdivision 6; 252A.16, subdivision 1; 252A.19, subdivision 2; 252A.20, subdivision 1; 254B.02, subdivision 3; 254B.03, subdivision 1; 254B.04, subdivision 1; 254B.09, by adding a subdivision; 256.01, subdivisions 2, 18, by adding a subdivision; 256.045, subdivisions 3, 3b, 4; 256.476, subdivisions 1, 2, 3, 4, 5, 8; 256.482, subdivision 8; 256.955, subdivision 2b; 256.9657, subdivision 2; 256.969, subdivisions 2b, 3a, by adding a subdivision; 256.973, by adding a subdivision; 256.975, by adding subdivisions; 256B.04, by adding a subdivision; 256B.055, subdivision 3a; 256B.056, subdivisions 1a, 3, 4, 5; 256B.057, subdivision 9, by adding a subdivision; 256B.0625, subdivisions 3b, 7, 13, 13a, 17, 17a, 18a, 19a, 19c, 20, 30, 34, by adding subdivisions; 256B.0627, subdivisions 1, 2, 4, 5, 7, 8, 10, 11, by adding subdivisions; 256B.0635, subdivisions 1, 2; 256B.0911, subdivisions 1, 3, 5, 6, 7, by adding subdivisions; 256B.0913, subdivisions 1, 2, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14; 256B.0915, subdivisions 1d, 3, 5; 256B.0916, subdivisions 1, 7, 9, by adding a subdivision; 256B.0917, subdivision 7; 256B.092, subdivisions 2a, 5; 256B.093, subdivision 3; 256B.095; 256B.0951, subdivisions 1, 3, 4, 5, 7, by adding subdivisions; 256B.0952, subdivisions 1, 4; 256B.431, subdivision 17, by adding subdivisions; 256B.434, subdivisions 4, 10, by adding subdivisions; 256B.49, by adding subdivisions; 256B.501, by adding a subdivision; 256B.69, subdivisions 4, 5, 5b, 23, by adding a subdivision; 256B.75; 256B.76; 256D.03, subdivisions 3, 4; 256D.053, subdivision 1; 256D.35, by adding subdivisions; 256D.44, subdivision 5; 256I.05, subdivision 1e; 256J.09, subdivisions 1, 2, 3, by adding subdivisions; 256J.15, by adding a subdivision; 256J.24, subdivision 10; 256J.26, subdivision 1; 256J.31, subdivisions 4, 12; 256J.32, subdivision 7a; 256J.42, by adding a subdivision; 256J.45, subdivision 1; 256J.46, subdivisions 1, 2a, by adding a subdivision; 256J.50, subdivisions 1, 7; 256J.56; 256J.57, subdivision 2; 256J.62, subdivision 9; 256J.625, subdivisions 1, 2, 4; 256J.751; 256K.03, subdivision 1; 256K.07; 256K.25, subdivisions 1, 3, 4, 5, 6; 256L.06, subdivision 3; 256L.12, subdivision 9, by adding a subdivision; 256L.16; 260C.201, subdivision 1; 268.0122, subdivision 2; 626.556, subdivisions 3, 3c, 10b, 10i; 626.557, subdivisions 3, 9d; 626.5572, subdivision 17; Laws 1995, chapter 178, article 2, section 36; Laws 1995, chapter 207, article 3, section 21, as amended; Laws 1997, chapter 203, article 9, section 21, as amended; Laws 1999, chapter 152, sections 1, 4; Laws 1999, chapter 245, article 3, section 45, as amended; Laws 1999, chapter 245, article 4, section 110; proposing coding for new law in Minnesota Statutes, chapters 62S; 144; 144A; 145; 145A; 246; 256; 256B; 256I; 256J; 299A; repealing Minnesota Statutes 2000, sections 144.0721, subdivision 1; 144.148, subdivision 8; 145.882, subdivisions 3, 4; 145.9245; 145.927; 252A.111, subdivision 3; 256.476, subdivision 7; 256B.037, subdivision 5; 256B.0635, subdivision 3; 256B.0911, subdivisions 2, 2a, 4, 8, 9; 256B.0912; 256B.0913, subdivisions 3, 15a, 15b, 15c, 16; 256B.0915, subdivisions 3a, 3b, 3c; 256B.0951, subdivision 6; 256B.434, subdivision 5; 256B.49, subdivisions 1, 2, 3, 4, 5, 6, 7, 8, 9, 10; 256E.06, subdivision 2b; 256J.42, subdivision 4; 256J.44; 256J.46, subdivision 1a; Laws 1995, chapter 178, article 2, section 48, subdivision 6; Minnesota Rules, parts 9505.2390; 9505.2395; 9505.2396; 9505.2400; 9505.2405; 9505.2410; 9505.2413; 9505.2415; 9505.2420; 9505.2425; 9505.2426; 9505.2430; 9505.2435; 9505.2440; 9505.2445; 9505.2450; 9505.2455; 9505.2458; 9505.2460; 9505.2465; 9505.2470; 9505.2473; 9505.2475; 9505.2480; 9505.2485; 9505.2486; 9505.2490; 9505.2495; 9505.2496; 9505.2500; 9505.3010; 9505.3015; 9505.3020; 9505.3025; 9505.3030; 9505.3035; 9505.3040; 9505.3065; 9505.3085; 9505.3135; 9505.3500; 9505.3510; 9505.3520; 9505.3530; 9505.3535; 9505.3540; 9505.3545; 9505.3550; 9505.3560; 9505.3570; 9505.3575; 9505.3580; 9505.3585; 9505.3600; 9505.3610; 9505.3620; 9505.3622; 9505.3624; 9505.3626; 9505.3630; 9505.3635; 9505.3640; 9505.3645; 9505.3650; 9505.3660; 9505.3670."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Ways and Means.

The report was adopted.

SECOND READING OF HOUSE BILLS

H. F. No. 351 was read for the second time.

SECOND READING OF SENATE BILLS

S. F. No. 2343 was read for the second time.

MESSAGES FROM THE SENATE

The following messages were received from the Senate:

Mr. Speaker:

I hereby announce the passage by the Senate of the following House File, herewith returned, as amended by the Senate, in which amendments the concurrence of the House is respectfully requested:

H. F. No. 2107, A bill for an act relating to education; specifying student conduct as grounds for dismissal or removal from class; amending Minnesota Statutes 2000, sections 121A.45, subdivision 2, by adding a subdivision; 121A.61, subdivision 2.

PATRICK E. FLAHAVEN, Secretary of the Senate

Johnson, J., moved that the House refuse to concur in the Senate amendments to H. F. No. 2107, that the Speaker appoint a Conference Committee of 3 members of the House, and that the House requests that a like committee be appointed by the Senate to confer on the disagreeing votes of the two houses. The motion prevailed.

Mr. Speaker:

I hereby announce the passage by the Senate of the following House File, herewith returned, as amended by the Senate, in which amendments the concurrence of the House is respectfully requested:

H. F. No. 967, A bill for an act relating to health; permitting schools to sponsor potluck events; permitting fraternal or patriotic organizations to sell home-prepared food at certain events; amending Minnesota Statutes 2000, section 157.22.

PATRICK E. FLAHAVEN, Secretary of the Senate

CONCURRENCE AND REPASSAGE

Mulder moved that the House concur in the Senate amendments to H. F. No. 967 and that the bill be repassed as amended by the Senate. The motion prevailed.

H. F. No. 967, A bill for an act relating to health; permitting schools to sponsor potluck events; permitting fraternal or patriotic organizations to sell home-prepared food at certain events; amending Minnesota Statutes 2000, section 157.22.

The bill was read for the third time, as amended by the Senate, and placed upon its repassage.

The question was taken on the repassage of the bill and the roll was called. There were 124 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abeler	Dorman	Hilty	Leighton	Otremba	Solberg
Anderson, B.	Dorn	Holberg	Lenczewski	Ozment	Stanek
Anderson, I.	Eastlund	Holsten	Leppik	Paulsen	Stang
Bakk	Entenza	Howes	Lieder	Pawlenty	Swapinski
Bernardy	Erhardt	Huntley	Lindner	Paymar	Swenson
Biernat	Erickson	Jacobson	Lipman	Pelowski	Sykora
Bishop	Evans	Jaros	Luther	Penas	Thompson
Boudreau	Finseth	Jennings	Mahoney	Peterson	Tingelstad
Bradley	Folliard	Johnson, J.	Mares	Pugh	Tuma
Buesgens	Fuller	Johnson, S.	Mariani	Rhodes	Vandever
Carlson	Gerlach	Juhnke	Marko	Rifenberg	Walz
Cassell	Gleason	Kahn	McElroy	Rukavina	Wasiluk
Clark, J.	Goodno	Kalis	McGuire	Ruth	Wenzel
Clark, K.	Goodwin	Kelliher	Molnau	Schumacher	Westerberg
Daggett	Greiling	Kielkucki	Mulder	Seagren	Westrom
Davids	Gunther	Knoblach	Mullery	Seifert	Wilkin
Davnie	Haas	Koskinen	Murphy	Sertich	Winter
Dawkins	Hackbarth	Krinkie	Nornes	Skoe	Workman
Dehler	Harder	Kubly	Opatz	Skoglund	Spk. Sviggum
Dempsey	Hausman	Kuisle	Osskopp	Slawik	
Dibble	Hilstrom	Larson	Osthoff	Smith	

The bill was repassed, as amended by the Senate, and its title agreed to.

Mr. Speaker:

I hereby announce the passage by the Senate of the following House File, herewith returned, as amended by the Senate, in which amendments the concurrence of the House is respectfully requested:

H. F. No. 1151, A bill for an act relating to professions; modifying penalty provisions for psychologists; amending Minnesota Statutes 2000, section 148.941, subdivision 2, and by adding a subdivision.

PATRICK E. FLAHAVEN, Secretary of the Senate

CONCURRENCE AND REPASSAGE

Mulder moved that the House concur in the Senate amendments to H. F. No. 1151 and that the bill be repassed as amended by the Senate. The motion prevailed.

H. F. No. 1151, A bill for an act relating to professions; modifying penalty provisions for psychologists; amending Minnesota Statutes 2000, section 148.941, subdivision 2, and by adding a subdivision.

The bill was read for the third time, as amended by the Senate, and placed upon its repassage.

The question was taken on the repassage of the bill and the roll was called. There were 126 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abeler	Dorman	Hilty	Larson	Osthoff	Smith
Anderson, B.	Dorn	Holberg	Leighton	Otremba	Solberg
Anderson, I.	Eastlund	Holsten	Lenczewski	Ozment	Stanek
Bakk	Entenza	Howes	Leppik	Paulsen	Stang
Bernardy	Erhardt	Huntley	Lieder	Pawlenty	Swapinski
Biernat	Erickson	Jacobson	Lindner	Paymar	Swenson
Bishop	Evans	Jaros	Lipman	Pelowski	Sykora
Boudreau	Finseth	Jennings	Luther	Penas	Thompson
Bradley	Folliard	Johnson, J.	Mahoney	Peterson	Tingelstad
Buesgens	Fuller	Johnson, R.	Mares	Pugh	Tuma
Carlson	Gerlach	Johnson, S.	Mariani	Rhodes	Vandever
Cassell	Gleason	Juhnke	Marko	Rifenberg	Wagenius
Clark, J.	Goodno	Kahn	McElroy	Rukavina	Walz
Clark, K.	Goodwin	Kalis	McGuire	Ruth	Wasiluk
Daggett	Gray	Kelliher	Molnau	Schumacher	Wenzel
Davids	Greiling	Kielkucki	Mulder	Seagren	Westerberg
Davnie	Gunther	Knoblach	Mullery	Seifert	Westrom
Dawkins	Hackbarth	Koskinen	Murphy	Sertich	Wilkin
Dehler	Harder	Krinkie	Nornes	Skoe	Winter
Dempsey	Hausman	Kubly	Opatz	Skoglund	Workman
Dibble	Hilstrom	Kuisle	Osskopp	Slawik	Spk. Sviggum

The bill was repassed, as amended by the Senate, and its title agreed to.

Mr. Speaker:

I hereby announce the passage by the Senate of the following House File, herewith returned, as amended by the Senate, in which amendments the concurrence of the House is respectfully requested:

H. F. No. 1188, A bill for an act relating to environment; regulating ash disposal from fire training exercises; amending Minnesota Statutes 2000, section 116.07, by adding a subdivision.

PATRICK E. FLAHAVEN, Secretary of the Senate

CONCURRENCE AND REPASSAGE

Gunther moved that the House concur in the Senate amendments to H. F. No. 1188 and that the bill be repassed as amended by the Senate. The motion prevailed.

H. F. No. 1188, A bill for an act relating to environment; regulating ash disposal from fire training exercises; amending Minnesota Statutes 2000, section 116.07, by adding a subdivision.

The bill was read for the third time, as amended by the Senate, and placed upon its repassage.

The question was taken on the repassage of the bill and the roll was called. There were 101 yeas and 26 nays as follows:

Those who voted in the affirmative were:

Abeler	Eastlund	Huntley	Lieder	Pelowski	Stang
Anderson, B.	Entenza	Jacobson	Lindner	Penas	Swenson
Anderson, I.	Erhardt	Jaros	Lipman	Peterson	Sykora
Bakk	Erickson	Jennings	Mahoney	Pugh	Thompson
Bishop	Finseth	Johnson, J.	Mares	Rhodes	Tingelstad
Boudreau	Fuller	Johnson, R.	Marko	Rifenberg	Tuma
Bradley	Gerlach	Juhnke	McElroy	Rukavina	Vandever
Buesgens	Goodno	Kalis	Molnau	Ruth	Walz
Carlson	Gunther	Kielkucki	Murphy	Schumacher	Wenzel
Cassell	Haas	Knoblach	Nornes	Seagren	Westerberg
Clark, J.	Hackbarth	Krinkie	Opatz	Seifert	Westrom
Daggett	Harder	Kubly	Osskopp	Sertich	Wilkin
Davids	Hilstrom	Kuisle	Osthoff	Skoe	Winter
Dehler	Hilty	Larson	Otremba	Slawik	Wolf
Dempsey	Holberg	Leighton	Ozment	Smith	Workman
Dorman	Holsten	Lenczewski	Paulsen	Solberg	Spk. Sviggum
Dorn	Howes	Leppik	Pawlenty	Stanek	

Those who voted in the negative were:

Bernardy	Dibble	Gray	Kelliher	Mullery	Wasiluk
Biernat	Evans	Greiling	Koskinen	Paymar	
Clark, K.	Folliard	Hausman	Luther	Skoglund	
Davnie	Gleason	Johnson, S.	Mariani	Swapinski	
Dawkins	Goodwin	Kahn	McGuire	Wagenius	

The bill was repassed, as amended by the Senate, and its title agreed to.

Mr. Speaker:

I hereby announce the passage by the Senate of the following House File, herewith returned, as amended by the Senate, in which amendments the concurrence of the House is respectfully requested:

H. F. No. 1192, A bill for an act relating to education; permitting applicants for a temporary limited teaching license or a personnel variance to submit their application by July 1 in any year; directing the board of teaching to amend its rules to conform with the July 1 date; amending Minnesota Statutes 2000, section 122A.18, by adding a subdivision.

PATRICK E. FLAHAVEN, Secretary of the Senate

CONCURRENCE AND REPASSAGE

Abeler moved that the House concur in the Senate amendments to H. F. No. 1192 and that the bill be repassed as amended by the Senate. The motion prevailed.

H. F. No. 1192, A bill for an act relating to education; permitting applicants for a temporary limited teaching license or a personnel variance to submit their application by July 1 in any year; directing the board of teaching to amend its rules to conform with the July 1 date; amending Minnesota Statutes 2000, section 122A.18, by adding a subdivision.

The bill was read for the third time, as amended by the Senate, and placed upon its repassage.

The question was taken on the repassage of the bill and the roll was called. There were 127 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abeler	Dorn	Holberg	Lenczewski	Pawlenty	Swenson
Anderson, B.	Eastlund	Holsten	Leppik	Paymar	Sykora
Anderson, I.	Entenza	Howes	Lieder	Pelowski	Thompson
Bakk	Erhardt	Huntley	Lindner	Penas	Tingelstad
Bernardy	Erickson	Jacobson	Lipman	Peterson	Tuma
Biernat	Evans	Jaros	Luther	Pugh	Vandever
Bishop	Finseth	Jennings	Mahoney	Rhodes	Wagenius
Boudreau	Folliard	Johnson, J.	Mares	Rifenberg	Walz
Bradley	Fuller	Johnson, R.	Mariani	Rukavina	Wasiluk
Buesgens	Gerlach	Johnson, S.	Marko	Ruth	Wenzel
Carlson	Gleason	Juhnke	McElroy	Schumacher	Westerberg
Cassell	Goodno	Kahn	McGuire	Seagren	Westrom
Clark, J.	Goodwin	Kalis	Molnau	Seifert	Wilkin
Clark, K.	Gray	Kelliher	Mulder	Sertich	Winter
Daggett	Greiling	Kielkucki	Mullery	Skoe	Wolf
Davids	Gunther	Knoblach	Murphy	Skoglund	Workman
Davnie	Haas	Koskinen	Nornes	Slawik	Spk. Sviggum
Dawkins	Hackbarth	Krinkie	Opatz	Smith	
Dehler	Harder	Kubly	Osskopp	Solberg	
Dempsey	Hausman	Kuisle	Osthoff	Stanek	
Dibble	Hilstrom	Larson	Ozment	Stang	
Dorman	Hilty	Leighton	Paulsen	Swapinski	

The bill was repassed, as amended by the Senate, and its title agreed to.

Mr. Speaker:

I hereby announce the passage by the Senate of the following House File, herewith returned, as amended by the Senate, in which amendments the concurrence of the House is respectfully requested:

H. F. No. 1522, A bill for an act relating to health; modifying requirements for full-time nursing home administrators; amending Minnesota Statutes 2000, section 144A.04, subdivisions 5 and 7a; repealing Minnesota Statutes 2000, section 144A.04, subdivision 5a; and Minnesota Rules, part 4658.0055, subpart 2.

PATRICK E. FLAHAVEN, Secretary of the Senate

CONCURRENCE AND REPASSAGE

Bradley moved that the House concur in the Senate amendments to H. F. No. 1522 and that the bill be repassed as amended by the Senate. The motion prevailed.

H. F. No. 1522, A bill for an act relating to health; modifying requirements for full-time nursing home administrators; amending Minnesota Statutes 2000, section 144A.04, subdivision 5; repealing Minnesota Statutes 2000, section 144A.04, subdivisions 5a, 7a; Minnesota Rules, part 4658.0055, subpart 2.

The bill was read for the third time, as amended by the Senate, and placed upon its repassage.

The question was taken on the repassage of the bill and the roll was called. There were 128 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abeler	Dorn	Holberg	Lenczewski	Paulsen	Swapinski
Anderson, B.	Eastlund	Holsten	Leppik	Pawlenty	Swenson
Anderson, I.	Entenza	Howes	Lieder	Paymar	Sykora
Bakk	Erhardt	Huntley	Lindner	Pelowski	Thompson
Bernardy	Erickson	Jacobson	Lipman	Penas	Tingelstad
Biernat	Evans	Jaros	Luther	Peterson	Tuma
Bishop	Finseth	Jennings	Mahoney	Pugh	Vandever
Boudreau	Folliard	Johnson, J.	Mares	Rhodes	Wagenius
Bradley	Fuller	Johnson, R.	Mariani	Rifenberg	Walz
Buesgens	Gerlach	Johnson, S.	Marko	Rukavina	Wasiluk
Carlson	Gleason	Juhnke	McElroy	Ruth	Wenzel
Cassell	Goodno	Kahn	McGuire	Schumacher	Westerberg
Clark, J.	Goodwin	Kalis	Molnau	Seagen	Westrom
Clark, K.	Gray	Kelliher	Mulder	Seifert	Wilkin
Daggett	Greiling	Kielkucki	Mullery	Sertich	Winter
Davids	Gunther	Knoblach	Murphy	Skoe	Wolf
Davnie	Haas	Koskinen	Nornes	Skoglund	Workman
Dawkins	Hackbarth	Krinkie	Opatz	Slawik	Spk. Sviggum
Dehler	Harder	Kubly	Osskopp	Smith	
Dempsey	Hausman	Kuisle	Osthoff	Solberg	
Dibble	Hilstrom	Larson	Otremba	Stanek	
Dorman	Hilty	Leighton	Ozment	Stang	

The bill was repassed, as amended by the Senate, and its title agreed to.

Mr. Speaker:

I hereby announce the passage by the Senate of the following House File, herewith returned, as amended by the Senate, in which amendments the concurrence of the House is respectfully requested:

H. F. No. 1681, A bill for an act relating to state employment; making technical and housekeeping changes; classifying employee identification numbers as public data; extending a pilot project; modifying the vacation donation provisions for certain law enforcement employees; placing department of human services chief executive officers in the unclassified service; repealing provisions governing appointment of human services chief executive officers; amending Minnesota Statutes 2000, sections 13.43, subdivision 2; 43A.04; 43A.08, subdivision 1; repealing Minnesota Statutes 2000, section 246.02.

PATRICK E. FLAHAVEN, Secretary of the Senate

CONCURRENCE AND REPASSAGE

Dehler moved that the House concur in the Senate amendments to H. F. No. 1681 and that the bill be repassed as amended by the Senate. The motion prevailed.

H. F. No. 1681, A bill for an act relating to state employment; making technical and housekeeping changes; classifying employee identification numbers as public data; extending a pilot project; placing department of human services chief executive officers in the unclassified service; repealing provisions governing appointment of human services chief executive officers; amending Minnesota Statutes 2000, sections 13.43, subdivision 2; 43A.04, subdivision 8; and 43A.08, subdivision 1; repealing Minnesota Statutes 2000, section 246.02.

The bill was read for the third time, as amended by the Senate, and placed upon its repassage.

The question was taken on the repassage of the bill and the roll was called. There were 118 yeas and 10 nays as follows:

Those who voted in the affirmative were:

Abeler	Dorn	Hilty	Lenczewski	Pawlenty	Stang
Anderson, B.	Eastlund	Holsten	Leppik	Paymar	Swapinski
Anderson, I.	Entenza	Howes	Lieder	Pelowski	Swenson
Bakk	Erhardt	Huntley	Lindner	Penas	Sykora
Bernardy	Evans	Jacobson	Lipman	Peterson	Thompson
Biernat	Finseth	Jaros	Luther	Pugh	Tingelstad
Bishop	Folliard	Jennings	Mahoney	Rhodes	Tuma
Boudreau	Fuller	Johnson, J.	Mares	Rifenberg	Wagenius
Bradley	Gerlach	Johnson, R.	Mariani	Rukavina	Walz
Carlson	Gleason	Johnson, S.	Marko	Ruth	Wasiluk
Cassell	Goodno	Juhnke	McElroy	Schumacher	Wenzel
Clark, K.	Goodwin	Kahn	McGuire	Seagren	Westerberg
Daggett	Gray	Kalis	Mullery	Seifert	Westrom
Davids	Greiling	Kelliher	Murphy	Sertich	Wilkin
Davnie	Gunther	Knoblach	Nornes	Skoe	Winter
Dawkins	Haas	Koskinen	Opatz	Skoglund	Wolf
Dehler	Hackbarth	Kubly	Osskopp	Slawik	Workman
Dempsey	Harder	Kuisle	Osthoff	Smith	Spk. Sviggum
Dibble	Hausman	Larson	Otremba	Solberg	
Dorman	Hilstrom	Leighton	Ozment	Stanek	

Those who voted in the negative were:

Buesgens	Erickson	Kielkucki	Molnau	Paulsen
Clark, J.	Holberg	Krinkie	Mulder	Vandaveer

The bill was repassed, as amended by the Senate, and its title agreed to.

Mr. Speaker:

I hereby announce the passage by the Senate of the following Senate Files, herewith transmitted:

S. F. Nos. 560, 1894, 2351, 1263 and 1932.

PATRICK E. FLAHAVEN, Secretary of the Senate

Mr. Speaker:

I hereby announce the passage by the Senate of the following Senate Files, herewith transmitted:

S. F. Nos. 2046, 2197, 1334, 923, 1712 and 2006.

PATRICK E. FLAHAVER, Secretary of the Senate

FIRST READING OF SENATE BILLS

S. F. No. 560, A bill for an act relating to health; modifying review organization provisions; allowing review organizations to participate in Internet-based information sharing systems; amending Minnesota Statutes 2000, sections 145.61, subdivision 5; and 145.64, subdivision 1, and by adding subdivisions.

The bill was read for the first time and referred to the Committee on Health and Human Services Policy.

S. F. No. 1894, A bill for an act relating to state government; modifying department of administration procedures relating to lost property, the office of citizenship and volunteer service, and the office of technology; eliminating a report; amending Minnesota Statutes 2000, sections 16B.25, subdivision 2; 16B.88, subdivision 2; 16E.04, subdivision 2; Laws 1999, chapter 250, article 1, section 12, subdivision 3; repealing Minnesota Statutes 2000, section 16E.08.

The bill was read for the first time and referred to the Committee on Governmental Operations and Veterans Affairs Policy.

S. F. No. 2351, A bill for an act relating to state government; appropriating money for environmental, natural resources, and agricultural purposes; establishing and modifying certain programs; providing for regulation of certain activities and practices; providing for accounts, assessments, and fees; amending Minnesota Statutes 2000, sections 15.059, subdivision 5a; 16A.531, subdivision 1, by adding subdivisions; 17.038; 17.1025; 17.117; 17.457, subdivision 10; 17.85; 18B.065, subdivision 5; 18C.425, subdivisions 2, 6; 18E.04, subdivisions 2, 4, 5; 21.85, subdivision 12; 27.041, subdivision 2; 28A.04, subdivision 1; 28A.085, subdivision 4; 29.22, subdivision 2; 31.39; 32.392; 32.394, subdivisions 8a, 8e; 34.07; 41A.09, subdivisions 3a, 5a; 84.025, subdivision 7; 84.0887, subdivision 4; 84.83, subdivision 3; 84.925, subdivision 1; 84.9256, subdivision 1; 85.015, by adding subdivisions; 85.32, subdivision 1; 86A.21; 89.001, by adding a subdivision; 89.012; 89A.01, subdivision 3; 89A.05, subdivisions 1, 2a, 4; 89A.06, subdivisions 2, 2a; 89A.08, subdivision 4; 93.002, subdivision 1; 97A.045, subdivision 7; 97A.055, subdivision 4a; 97A.405, subdivision 2; 97A.411, subdivision 2; 97A.473, subdivisions 2, 3, 5; 97A.474, subdivisions 2, 3; 97A.475, subdivisions 5, 10; 97A.485, subdivision 6; 97B.721; 97C.305; 115.03, by adding a subdivision; 115.073; 115.55, subdivision 3; 115.56, subdivision 4; 115A.0716, by adding a subdivision; 115A.54, subdivision 2a; 115A.908, subdivisions 1, 2; 115A.912, subdivision 1; 115A.914, subdivision 2; 115A.9651, subdivision 6; 115B.17, subdivisions 6, 7, 14, 16; 115B.19; 115B.20; 115B.22, subdivision 7; 115B.25, subdivisions 1a, 4; 115B.26; 115B.30; 115B.31, subdivisions 1, 3, 4; 115B.32, subdivision 1; 115B.33, subdivision 1; 115B.34; 115B.36; 115B.40, subdivision 4; 115B.41, subdivisions 1, 2, 3; 115B.42, subdivision 2; 115B.421; 115B.445; 115B.48, subdivision 2; 115B.49, subdivisions 1, 2, 3, 4, 4a; 115C.07, subdivision 3; 115C.09, subdivisions 1, 2a, 3, 3h; 115C.093; 115C.112; 115C.13; 116.07, subdivisions 2, 4d, 4h; 116.70, subdivision 1; 116.994; 116C.834, subdivision 1; 116P.06, subdivision 1; 223.17, subdivision 3; 231.16; 268.035, subdivision 20; 297A.94; 297H.13, subdivisions 1, 2; 325E.10, subdivision 1; 325E.112, subdivision 3; 469.175, subdivision 7; 473.843, subdivision 2; 473.844, subdivisions 1, 1a; 473.845, subdivisions 3, 7, 8; 473.846; Laws 1995, chapter 220, section 142, as amended; Laws 1996, chapter 407, section 32, subdivision 4; Laws 2000, chapter 473, section 21; proposing coding for new law in Minnesota Statutes, chapters 28A; 32; 41B; 84; 89; 103G; 116; 116P; 297H; 626; repealing Minnesota Statutes 2000, sections 31.11, subdivision 2; 41A.09, subdivision 1a; 86.71; 86.72; 89A.07,

subdivisions 1, 2, 3; 103G.650; 115.55, subdivision 8; 115A.906; 115A.912, subdivisions 2, 3; 115B.02, subdivision 1a; 115B.19; 115B.22, subdivision 8; 115B.42, subdivision 1; 115C.02, subdivisions 11a, 12a; 115C.082; 115C.09, subdivision 3g; 115C.091; 115C.092; 116.12; 116.67; 116.70, subdivisions 2, 3a, 4; 116.71; 116.72; 116.73; 116.74; 297H.13, subdivisions 3, 4; 325E.113; 473.845, subdivisions 1, 4; Laws 2000, chapter 337, section 2; Minnesota Rules, parts 1560.9000, subpart 2; 7002.0210; 7002.0220; 7002.0230; 7002.0240; 7002.0250; 7002.0270; 7002.0280; 7002.0290; 7002.0300; 7002.0305; 7002.0310; 7023.9000; 7023.9005; 7023.9010; 7023.9015; 7023.9020; 7023.9025; 7023.9030; 7023.9035; 7023.9040; 7023.9045; 7023.9050; 7080.0020, subparts 24c, 51a; 7080.0400; 7080.0450.

The bill was read for the first time and referred to the Committee on Ways and Means.

S. F. No. 1263, A bill for an act relating to state government; changing the expiration dates of certain advisory councils and committees and other multimember entities; amending Minnesota Statutes 2000, sections 6.65; 15.059, subdivision 5; 15.50, subdivision 2; 16B.181, subdivision 2; 16B.27, subdivision 3; 16B.76, subdivision 1; 17.136; 18B.305, subdivision 3; 21.112, subdivision 2; 28A.20; 43A.316, subdivision 4; 62J.15, subdivision 1; 62J.46, subdivision 1; 62J.692, subdivision 2; 62Q.03, subdivision 5a; 82B.05, subdivision 1; 115A.12; 116P.06, subdivision 1; 122A.624, subdivision 2; 144.1481, subdivision 1; 144.672, subdivision 1; 144A.073, subdivisions 2, 3, 3c; 145A.10, subdivision 10; 148C.11, subdivision 3; 161.1419, subdivisions 2, 8; 161.17, subdivision 2; 174.55, subdivision 1; 175.007, subdivision 1; 175.008; 176.102, subdivision 3; 176.103, subdivision 3; 178.02, subdivision 2; 182.656, subdivision 3; 214.32, subdivision 1; 248.10; 254A.03, subdivision 2; 256.482, subdivision 8; 256B.0917, subdivisions 1, 2; 256B.093, subdivision 1; 256B.69, subdivision 5b; 256E.115, subdivision 1; 268.29; 268A.02, subdivision 2; 402.03; proposing coding for new law in Minnesota Statutes, chapter 245; repealing Minnesota Statutes 2000, sections 15.059, subdivision 5a, as amended; 17.49, subdivision 1; 17.703; 17.76; 40A.14, subdivision 3; 52.061; 60K.19, subdivision 4; 93.002; 97A.055, subdivision 4a; 116C.711; 124D.894; 124D.95, subdivision 6; 134.31, subdivision 5; 137.342, subdivision 2; 144A.31; 162.09, subdivision 2; 256B.071, subdivision 5; 256B.0911, subdivision 8; 256B.434, subdivision 13; 299A.295, subdivision 2; 299K.03, subdivision 4.

The bill was read for the first time.

Anderson, B., moved that S. F. No. 1263 and H. F. No. 1869, now on the General Register, be referred to the Chief Clerk for comparison. The motion prevailed.

S. F. No. 1932, A bill for an act relating to economic security; modifying and repealing various statutory provisions in the area of economic security; amending Minnesota Statutes 2000, sections 119A.46, subdivision 3; 268.0111, subdivision 4; 268.0122, subdivision 3; 268.665, subdivision 3; 268.871, subdivisions 1, 1a; repealing Minnesota Statutes 2000, sections 268.0111, subdivision 9; 268.6715; 268.672; 268.673; 268.6751; 268.677; 268.681; 268.6811; 268.682; 268.85; 268.86, subdivision 8; 268.871, subdivisions 2, 4; 268.88; 268.90; 268.971.

The bill was read for the first time.

Gunther moved that S. F. No. 1932 and H. F. No. 2070, now on the Calendar for the Day, be referred to the Chief Clerk for comparison. The motion prevailed.

S. F. No. 2046, A bill for an act relating to workers' compensation; making technical changes; requiring interest earned on revenue collected by the special compensation fund to be deposited into the fund; extending a pilot program; providing for payment of various penalties to the commissioner of labor and industry; amending Minnesota Statutes 2000, sections 176.042, subdivision 2; 176.102, subdivisions 3a, 11, 14; 176.103, subdivision 3; 176.129, subdivisions 10, 13, by adding a subdivision; 176.1351, subdivision 5; 176.138; 176.1812, subdivision 6; 176.191, subdivision 1a; 176.192; 176.194, subdivision 4; 176.221, subdivisions 1, 3, 3a, 6; 176.231, subdivisions 2, 6, 10; 176.238, subdivision 10; repealing Minnesota Statutes 2000, section 176.445.

The bill was read for the first time.

Nornes moved that S. F. No. 2046 and H. F. No. 2225, now on the General Register, be referred to the Chief Clerk for comparison. The motion prevailed.

S. F. No. 2197, A bill for an act relating to human services; requiring the commissioner of human services to identify and address nonfinancial barriers to provider participation in state health care programs.

The bill was read for the first time and referred to the Committee on Health and Human Services Finance.

S. F. No. 1334, A bill for an act relating to crime prevention; requiring submission of DNA evidence by offenders convicted of felony-level fifth degree criminal sexual conduct; clarifying and increasing the penalty for fleeing a peace officer when the commission of the crime results in death; expanding the crime of aiding an offender; amending Minnesota Statutes 2000, sections 609.117; 609.487, subdivision 4; 609.495, subdivisions 1 and 3.

The bill was read for the first time and referred to the Committee on Judiciary Finance.

S. F. No. 923, A bill for an act relating to health occupations; temporarily exempting certain persons who are refugees or immigrants to the United States and for whom English is a second language from the examination requirement for social work licensure and for obtaining a temporary permit to practice social work; amending Minnesota Statutes 2000, section 148B.21, subdivisions 3, 4, 5, 6, and 7.

The bill was read for the first time.

Boudreau moved that S. F. No. 923 and H. F. No. 1067, now on the General Register, be referred to the Chief Clerk for comparison. The motion prevailed.

S. F. No. 1712, A bill for an act relating to crime prevention; clarifying provisions of the sex offender registration law, registration law for other offenders, and law requiring submission of a biological specimen for DNA testing; providing criminal penalties; requiring additional offenders to submit a biological specimen for DNA testing; amending Minnesota Statutes 2000, sections 243.166, subdivisions 3, 4a, 6; 243.167, subdivision 1; 609.117, subdivision 2; repealing Minnesota Statutes 2000, section 243.166, subdivision 10.

The bill was read for the first time and referred to the Committee on Judiciary Finance.

S. F. No. 2006, A bill for an act relating to government data; authorizing certain accident data to be made public; amending Minnesota Statutes 2000, section 169.09, subdivision 13.

The bill was read for the first time.

Workman moved that S. F. No. 2006 and H. F. No. 1830, now on the General Register, be referred to the Chief Clerk for comparison. The motion prevailed.

CONSENT CALENDAR

Pawlenty moved that the Consent Calendar be continued. The motion prevailed.

CALENDAR FOR THE DAY

Pawlenty moved that the Calendar for the Day be continued. The motion prevailed.

FISCAL CALENDAR ANNOUNCEMENT

Pursuant to rule 1.22, Bishop announced his intention to place S. F. No. 2343 and H. F. No. 351 on the Fiscal Calendar for Monday, April 30, 2001.

ADJOURNMENT

Pawlenty moved that when the House adjourns today it adjourn until 10:00 a.m., Monday, April 30, 2001. The motion prevailed.

Pawlenty moved that the House adjourn. The motion prevailed, and the Speaker declared the House stands adjourned until 10:00 a.m., Monday, April 30, 2001.

EDWARD A. BURDICK, Chief Clerk, House of Representatives