

STATE OF MINNESOTA

EIGHTY-THIRD SESSION — 2004

 NINETY-FIFTH DAY

SAINT PAUL, MINNESOTA, THURSDAY, APRIL 22, 2004

The House of Representatives convened at 12:00 noon and was called to order by Steve Sviggum, Speaker of the House.

Prayer was offered by Pastor Milt Ost, retired minister of Grace Lutheran Church, Albert Lea, 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	DeLaForest	Heidgerken	Larson	Osterman	Smith
Abrams	Demmer	Hilstrom	Latz	Otremba	Soderstrom
Adolphson	Dempsey	Hilty	Lenczewski	Otto	Solberg
Anderson, B.	Dill	Holberg	Lesch	Ozment	Swenson
Anderson, I.	Dorman	Hoppe	Lieder	Paulsen	Sykora
Anderson, J.	Dorn	Hornstein	Lindgren	Paymar	Thao
Atkins	Eastlund	Howes	Lindner	Pelowski	Thissen
Beard	Eken	Huntley	Lipman	Penas	Tingelstad
Bernardy	Ellison	Jacobson	Magnus	Peterson	Urdahl
Biernat	Entenza	Jaros	Mariani	Powell	Vandever
Blaine	Erhardt	Johnson, J.	Marquart	Pugh	Wagenius
Borrell	Erickson	Johnson, S.	McNamara	Rhodes	Walker
Boudreau	Finstad	Juhnke	Mullery	Rukavina	Walz
Bradley	Fuller	Kahn	Murphy	Ruth	Wardlow
Brod	Gerlach	Kelliher	Nelson, C.	Samuelson	Wasiluk
Buesgens	Goodwin	Klinzing	Nelson, M.	Seagren	Westerberg
Carlson	Greiling	Knoblach	Nelson, P.	Seifert	Westrom
Clark	Gunther	Koenen	Newman	Sertich	Wilkin
Cornish	Haas	Kohls	Nornes	Severson	Zellers
Cox	Hackbarth	Krinkie	Olsen, S.	Sieben	Spk. Sviggum
Davids	Harder	Kuisle	Olson, M.	Simpson	
Davnie	Hausman	Lanning	Opatz	Slawik	

A quorum was present.

Mahoney, Meslow, Stang and Strachan were excused.

The Chief Clerk proceeded to read the Journal of the preceding day. Lindner 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 STANDING COMMITTEES

Paulsen from the Committee on Rules and Legislative Administration to which was referred:

H. F. No. 622, A bill for an act relating to public safety; modifying emergency 911 telephone system provisions to require multiline telephone systems to provide caller location; amending Minnesota Statutes 2002, sections 403.01, subdivision 6; 403.02, by adding subdivisions; proposing coding for new law in Minnesota Statutes, chapter 403.

Reported the same back with the recommendation that the bill pass.

The report was adopted.

Knoblach from the Committee on Ways and Means to which was referred:

H. F. No. 890, A bill for an act relating to retirement; various retirement plans; modifying the responsibilities to provide actuarial valuations and proposed legislative cost estimates; amending Minnesota Statutes 2002, sections 352.03, subdivision 6; 352B.02, subdivision 1e; 353.03, subdivision 3a; 354.06, subdivision 2a; 354A.021, subdivision 7; 356.215, subdivisions 2, 18; 422A.06, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 356; repealing Minnesota Statutes 2002, sections 3.85, subdivisions 11, 12; 356.217.

Reported the same back with the recommendation that the bill pass.

The report was adopted.

Knoblach from the Committee on Ways and Means to which was referred:

H. F. No. 2127, A bill for an act relating to health; requiring licensure for outpatient surgical centers; requiring certain disclosures; requiring reports for diagnostic imaging facilities; providing for inspections; modifying disciplinary grounds for physicians; modifying certain definitions for medical assistance; amending Minnesota Statutes 2002, sections 144.55, subdivisions 1, 2, 3, 5, 6, 7, by adding subdivisions; 144.651, subdivision 2; 144.653, subdivision 4; 144.698, subdivisions 1, 5; 147.091, subdivision 1; 256B.02, subdivision 7; Minnesota Statutes 2003 Supplement, section 144.7063, subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 144.

Reported the same back with the following amendments:

Page 5, line 16, delete "by individual payor;" and insert "for each health plan company and each public program, including workers' compensation, as follows:

(i) the number of computerized tomography (CT) procedures performed;

(ii) the number of magnetic resonance imaging (MRI) procedures performed; and

(iii) the number of positron emission tomography (PET) procedures performed; and"

Page 5, delete line 17

Page 5, line 18, delete "(3)" and insert "(2)"

Page 11, line 2, delete "August 1, 2004,"

Page 11, line 3, delete "or"

Page 11, line 5, delete everything after the comma and insert "provided the commissioner has secured sufficient funds from nonstate sources to operate the outpatient surgical center reporting system in fiscal year 2005."

Page 17, after line 5, insert:

"Sec. 18. [APPROPRIATION.]

Any money received by the Department of Health from nonstate sources to operate the outpatient surgical center reporting system in fiscal year 2005 is appropriated to the Department of Health for that purpose.

Amend the title as follows:

Page 1, line 7, after the semicolon, insert "appropriating money;"

With the recommendation that when so amended the bill pass.

The report was adopted.

Knoblach from the Committee on Ways and Means to which was referred:

H. F. No. 2175, A bill for an act relating to health; modifying requirements for various public health occupations; prescribing authority of speech-language pathology assistants; modifying requirements for physician assistants, acupuncture practitioners, licensed professional counselors, alcohol and drug counselors, dentists, dental hygienists, dental assistants, and podiatrists; modifying provisions for designating essential community providers; modifying certain immunization provisions; amending Minnesota Statutes 2002, sections 147A.02; 147A.20; 147B.01, by adding a subdivision; 147B.06, subdivision 4; 148.211, subdivision 1; 148.284; 148.512, subdivisions 9, 19, by adding a subdivision; 148.6402, by adding a subdivision; 148.6403, subdivision 5; 148.6405; 148.6428; 148.6443, subdivisions 1, 5; 150A.06, as amended; 150A.08, subdivision 1; 150A.09, subdivision 4; 153.01, subdivision 2; 153.16, subdivisions 1, 2; 153.19, subdivision 1; 153.24, subdivision 4; 153.25, subdivision 1; Minnesota Statutes 2003 Supplement, sections 62Q.19, subdivision 2; 121A.15, subdivisions 3a, 12; 147A.09, subdivision 2; 148.212, subdivision 1; 148.511; 148.512, subdivisions 12, 13; 148.513, subdivisions 1, 2; 148.5161, subdivisions 1, 4, 6; 148.5175; 148.518; 148.5193, subdivisions 1, 6a; 148.5195, subdivision 3; 148.5196, subdivision 3; 148B.52; 148B.53, subdivisions 1, 3; 148B.54; 148B.55; 148B.59; 148C.04, subdivision 6; 148C.075, subdivision 2, by adding a subdivision; 148C.11, subdivision 6, by adding a subdivision; 148C.12, subdivisions 2, 3; proposing coding for new law in Minnesota Statutes, chapters 148; 148B; repealing Minnesota Statutes 2002, section 147B.02, subdivision 5; Minnesota Rules, parts 6900.0020, subparts 3, 3a, 9, 10; 6900.0400.

Reported the same back with the following amendments:

Page 10, lines 15 and 18, delete "this supervision must be" and insert "the work performed must be under"

Page 29, after line 35, insert:

"Sec. 4. [APPROPRIATION.]

\$24,000 is appropriated in fiscal year 2005 from the state government special revenue fund to the Board of Nursing for the purpose of administering this article. The base for this appropriation in fiscal year 2006 and after is \$4,000. These amounts are added to appropriations in Laws 2003, First Special Session chapter 14, article 13C, section 5."

Page 45, line 20, delete "another" and insert "any"

Page 45, line 27, after "(4)" insert "if requested by the board,"

Page 47, line 17, delete "must" and insert "may"

Page 47, line 18, delete everything after the period

Page 47, delete lines 19 to 21

Page 47, line 22, delete "(g)"

Page 57, lines 22 to 24, delete the new language

Page 57, lines 26 and 28, reinstate the stricken language and delete the new language

Page 58, lines 2 and 6, reinstate the stricken language and delete the new language

Page 59, line 14, before "Podiatric" insert "For a podiatrist who has completed a residency,"

Page 59, line 17, delete everything after "surgery" and insert a period

Page 59, delete lines 18 to 24

Amend the title as follows:

Page 1, line 11, after the semicolon, insert "appropriating money;"

With the recommendation that when so amended the bill pass.

The report was adopted.

Knoblach from the Committee on Ways and Means to which was referred:

H. F. No. 2540, A bill for an act relating to financing and operation of state and local government; making policy, technical, administrative, enforcement, collection, refund, and other changes to income, franchise, property, sales and use, estate, vehicle registration, health care provider, cigarette and tobacco products, insurance premiums, aggregate removal, petroleum, gambling, mortgage registry, occupation, net proceeds, and production taxes, and other taxes and tax-related provisions; changing provisions relating to fiscal disparities, tax-forfeited lands, state debt collection procedures, sustainable forest incentives programs, and tax data provisions; conforming provisions to

certain changes in federal law; changing powers and duties of certain local governments and state departments or agencies; changing tax increment financing provisions; authorizing establishment of an International Economic Development Zone and providing for tax incentives; imposing a franchise fee for operation of card clubs; regulating tax preparers; imposing requirement on vendors that contract with state to collect sales taxes; changing provisions relating to certificates of title of vehicles held by motor vehicle dealers; changing or providing for studies and reports; providing for task force on electronic filing and recording of real estate documents; changing and providing penalties; providing for allocation and transfers of funds; clarifying appropriations; appropriating money; amending Minnesota Statutes 2002, sections 16C.03, by adding a subdivision; 16D.10; 97A.061, subdivision 1; 144F.01, subdivision 10; 168A.02, subdivision 2; 168A.11, subdivisions 1, 2, by adding a subdivision; 240.30, by adding a subdivision; 270.02, subdivision 3; 270.65; 270.69, subdivision 4; 270B.01, subdivision 8; 270B.12, subdivision 9; 272.01, subdivision 2; 272.02, subdivisions 1a, 7, 22, by adding subdivisions; 272.0212, subdivisions 1, 2; 272.029, subdivisions 4, 6; 273.11, by adding a subdivision; 273.111, subdivision 6; 273.124, subdivision 8, by adding a subdivision; 273.1384, subdivision 1; 273.19, subdivision 1a; 274.14; 275.065, subdivision 1a; 275.07, subdivisions 1, 4; 276.04, subdivision 2; 282.016; 282.21; 282.224; 282.301; 287.04; 289A.08, subdivision 1; 289A.12, subdivision 3; 289A.31, subdivision 2; 289A.37, subdivision 5; 289A.38, subdivision 6; 289A.56, by adding a subdivision; 289A.60, subdivision 6; 290.06, subdivision 22, by adding a subdivision; 290.0674, subdivision 2; 290.091, subdivision 3; 290.17, by adding a subdivision; 290.191, subdivisions 2, 3, 5, 6, 10, 11, by adding a subdivision; 290.92, subdivisions 1, 4b; 290.9705, subdivision 1; 290A.03, subdivision 13; 290A.07, by adding a subdivision; 290C.05; 295.50, subdivision 4; 295.582; 296A.22, by adding a subdivision; 297A.61, subdivision 4, by adding subdivisions; 297A.62, by adding a subdivision; 297A.67, by adding a subdivision; 297A.68, by adding subdivisions; 297A.70, by adding a subdivision; 297A.71, by adding a subdivision; 297A.87, subdivisions 2, 3; 297A.995, subdivision 6; 297E.01, subdivisions 5, 7, by adding subdivisions; 297E.07; 297F.01, by adding a subdivision; 297F.09, by adding a subdivision; 297I.01, by adding subdivisions; 297I.05, subdivisions 4, 5, by adding a subdivision; 298.01, subdivisions 3, 4; 298.24, subdivision 1; 325D.33, subdivision 6; 365.43, subdivision 1; 365.431; 469.1734, subdivision 6; 469.174, subdivision 11; 469.175, subdivision 4a; 469.176, subdivision 4d; 469.1761, subdivisions 1, 3; 469.1771, subdivision 5; 469.178, subdivision 1; 469.1831, subdivision 6; 473.843, subdivision 5; 473F.02, subdivisions 2, 7; 477A.11, subdivision 4, by adding a subdivision; 477A.12, subdivisions 1, 2; 477A.14, subdivision 1; Minnesota Statutes 2003 Supplement, sections 4A.02; 16A.152, subdivision 2; 116J.556; 168A.05, subdivision 1a; 270.06; 270.30, subdivisions 1, 5, 8; 270B.12, subdivision 13; 272.02, subdivisions 47, 56, 65; 273.11, subdivision 1a; 274.014, subdivision 3; 275.065, subdivision 3; 276.112; 289A.02, subdivision 7; 289A.08, subdivision 16; 289A.19, subdivision 4; 289A.40, subdivision 2; 290.01, subdivisions 7, 19, 19a, 19b, 19c, 19d, 31; 290.0674, subdivision 1; 290.091, subdivision 2; 290.0921, subdivision 3; 290A.03, subdivision 15; 290C.10; 291.005, subdivision 1; 291.03, subdivision 1; 297A.668, subdivisions 1, 3, 5; 297A.669, subdivision 16; 297A.68, subdivisions 2, 5, 39; 297A.70, subdivision 8; 297F.08, subdivision 12; 297F.09, subdivisions 1, 2; 298.75, subdivision 1; 469.174, subdivision 25; 469.177, subdivision 1; 469.310, subdivision 11; 469.330, subdivision 11; 469.335; 469.337; 477A.011, subdivision 36; 477A.03, subdivision 2b; Laws 1990, chapter 604, article 7, section 29, subdivision 1, as amended; Laws 1998, chapter 389, article 3, section 41; Laws 1998, chapter 389, article 3, section 42, subdivision 2, as amended; Laws 1998, chapter 389, article 8, section 43, subdivision 3; Laws 1998, chapter 389, article 11, section 24, subdivisions 1, 2; Laws 2000, chapter 391, section 1, subdivisions 1, 2, as amended; Laws 2001, First Special Session chapter 10, article 2, section 77, as amended; Laws 2002, chapter 365, section 9; Laws 2002, chapter 377, article 3, section 4; Laws 2003, First Special Session chapter 1, article 2, section 123; Laws 2003, First Special Session chapter 21, article 5, section 13; Laws 2003, First Special Session chapter 21, article 6, section 9; proposing coding for new law in Minnesota Statutes, chapters 270; 272; 273; 290; 290C; 297F; 325F; 469; 473; repealing Minnesota Statutes 2002, sections 273.19, subdivision 5; 274.05; 275.15; 283.07; 297E.12, subdivision 10; 469.176, subdivision 1a; 469.1766; Laws 1975, chapter 287, section 5; Laws 2003, chapter 127, article 9, section 9, subdivision 4; Minnesota Rules, parts 8093.2000; 8093.3000; 8130.0110, subpart 4; 8130.0200, subparts 5, 6; 8130.0400, subpart 9; 8130.1200, subparts 5, 6; 8130.2900; 8130.3100, subpart 1; 8130.4000, subparts 1, 2; 8130.4200, subpart 1; 8130.4400, subpart 3; 8130.5200; 8130.5600, subpart 3; 8130.5800, subpart 5; 8130.7300, subpart 5; 8130.8800, subpart 4.

Reported the same back with the following amendments:

Page 51, after line 18, insert:

"Sec. 7. Minnesota Statutes 2003 Supplement, section 290.06, subdivision 2c, is amended to read:

Subd. 2c. [SCHEDULES OF RATES FOR INDIVIDUALS, ESTATES, AND TRUSTS.] (a) The income taxes imposed by this chapter upon married individuals filing joint returns and surviving spouses as defined in section 2(a) of the Internal Revenue Code must be computed by applying to their taxable net income the following schedule of rates:

- (1) On the first \$25,680, 5.35 percent;
- (2) On all over \$25,680, but not over \$102,030, 7.05 percent;
- (3) On all over \$102,030, 7.85 percent.

Married individuals filing separate returns, estates, and trusts must compute their income tax by applying the above rates to their taxable income, except that the income brackets will be one-half of the above amounts.

(b) The income taxes imposed by this chapter upon unmarried individuals must be computed by applying to taxable net income the following schedule of rates:

- (1) On the first \$17,570, 5.35 percent;
- (2) On all over \$17,570, but not over \$57,710, 7.05 percent;
- (3) On all over \$57,710, 7.85 percent.

(c) The income taxes imposed by this chapter upon unmarried individuals qualifying as a head of household as defined in section 2(b) of the Internal Revenue Code must be computed by applying to taxable net income the following schedule of rates:

- (1) On the first \$21,630, 5.35 percent;
- (2) On all over \$21,630, but not over \$86,910, 7.05 percent;
- (3) On all over \$86,910, 7.85 percent.

(d) In lieu of a tax computed according to the rates set forth in this subdivision, the tax of any individual taxpayer whose taxable net income for the taxable year is less than an amount determined by the commissioner must be computed in accordance with tables prepared and issued by the commissioner of revenue based on income brackets of not more than \$100. The amount of tax for each bracket shall be computed at the rates set forth in this subdivision, provided that the commissioner may disregard a fractional part of a dollar unless it amounts to 50 cents or more, in which case it may be increased to \$1.

(e) An individual who is not a Minnesota resident for the entire year must compute the individual's Minnesota income tax as provided in this subdivision. After the application of the nonrefundable credits provided in this chapter, the tax liability must then be multiplied by a fraction in which:

(1) the numerator is the individual's Minnesota source federal adjusted gross income as defined in section 62 of the Internal Revenue Code and increased by the additions required under section 290.01, subdivision 19a, clauses (1), (5), and (6), and reduced by the ~~subtraction~~ subtractions under section 290.01, subdivision 19b, ~~clause~~ clauses

(11) and (12), and the Minnesota assignable portion of the subtraction for United States government interest under section 290.01, subdivision 19b, clause (1), after applying the allocation and assignability provisions of section 290.081, clause (a), or 290.17; and

(2) the denominator is the individual's federal adjusted gross income as defined in section 62 of the Internal Revenue Code of 1986, increased by the amounts specified in section 290.01, subdivision 19a, clauses (1), (5), and (6), and reduced by the amounts specified in section 290.01, subdivision 19b, clauses (1) ~~and~~, (11), and (12).

[EFFECTIVE DATE.] This section is effective for taxable years beginning after December 31, 2002."

Page 66, after line 2, insert:

"Subd. 3. [IN-LIEU PAYMENT; LIMITATION.] If an in-lieu payment or service fee is negotiated between a facility exempted under this section and the county, city, or town where the facility is located, the payment or fee in any year may not exceed the property tax revenue that the jurisdiction would receive from the facility if it were not exempt."

Page 66, line 3, delete "3" and insert "4"

Page 87, line 20, delete "years subsequent to calendar year 2005" and insert "fiscal years 2006 and later"

Page 88, line 11, after "year" insert ", excluding the amounts raised by this subdivision."

Page 88, after line 27, insert:

"(d) This levy is not subject to the property tax recognition shift under Minnesota Statutes, sections 123B.75, subdivision 5, and 127A.441."

Page 92, line 32, delete "and" and insert ". The tax"

Page 92, line 34, before the period, insert "or, if the tax is included in the lease and the lease is assigned, the tax shall be due from the original lessor at the time the lease is assigned"

Page 93, line 5, before the period, insert ", excluding any rent charge related to the capitalization of the tax"

Page 96, line 4, before the period, insert ", except transportation, transmission, and distribution do not include blending of petroleum or biodiesel fuel, as defined in section 239.77"

Page 97, line 31, after "blend" insert "petroleum or"

Page 102, line 14, after "other" insert "higher education"

Page 116, line 35, before the period, insert ", provided that the amendment to clause (2) applies only to the extent that the underlying provisions of clause (2) apply to the district and to the sale or lease under prior law"

Page 126, after line 14, insert:

"**[EFFECTIVE DATE.]** This section is effective upon approval by the governing bodies of the city of New Brighton and Ramsey County and upon compliance by the city with Minnesota Statutes, section 645.021, subdivision 3."

Page 175, line 12, after the comma, insert "and to the chairs of the house and senate committees with jurisdiction over state government finance."

Page 231, after line 27, insert:

"ARTICLE 14

BLUE WATERS

Section 1. Minnesota Statutes 2003 Supplement, section 273.13, subdivision 23, is amended to read:

Subd. 23. [CLASS 2.] (a) Class 2a property is agricultural land including any improvements that is homesteaded. The market value of the house and garage and immediately surrounding one acre of land has the same class rates as class 1a property under subdivision 22. The value of the remaining land including improvements up to and including \$600,000 market value has a net class rate of 0.55 percent of market value. The remaining property over \$600,000 market value has a class rate of one percent of market value.

(b) Class 2b property is (1) real estate, rural in character and used exclusively for growing trees for timber, lumber, and wood and wood products; (2) real estate that is not improved with a structure and is used exclusively for growing trees for timber, lumber, and wood and wood products, if the owner has participated or is participating in a cost-sharing program for afforestation, reforestation, or timber stand improvement on that particular property, administered or coordinated by the commissioner of natural resources; (3) real estate that is nonhomestead agricultural land; or (4) a landing area or public access area of a privately owned public use airport. Class 2b property has a net class rate of one percent of market value.

(c) Agricultural land as used in this section means contiguous acreage of ten acres or more, used during the preceding year for agricultural purposes. "Agricultural purposes" as used in this section means the raising or cultivation of agricultural products. "Agricultural purposes" also includes enrollment in the Reinvest in Minnesota program under sections 103F.501 to 103F.535 or the federal Conservation Reserve Program as contained in Public Law 99-198 if the property was classified as agricultural (i) under this subdivision for the assessment year 2002 or (ii) in the year prior to its enrollment. Contiguous acreage on the same parcel, or contiguous acreage on an immediately adjacent parcel under the same ownership, may also qualify as agricultural land, but only if it is pasture, timber, waste, unusable wild land, or land included in state or federal farm programs. Agricultural classification for property shall be determined excluding the house, garage, and immediately surrounding one acre of land, and shall not be based upon the market value of any residential structures on the parcel or contiguous parcels under the same ownership.

(d) Real estate, excluding the house, garage, and immediately surrounding one acre of land, of less than ten acres which is exclusively and intensively used for raising or cultivating agricultural products, shall be considered as agricultural land.

Land shall be classified as agricultural even if all or a portion of the agricultural use of that property is the leasing to, or use by another person for agricultural purposes.

Classification under this subdivision is not determinative for qualifying under section 273.111.

The property classification under this section supersedes, for property tax purposes only, any locally administered agricultural policies or land use restrictions that define minimum or maximum farm acreage.

(e) The term "agricultural products" as used in this subdivision includes production for sale of:

(1) livestock, dairy animals, dairy products, poultry and poultry products, fur-bearing animals, horticultural and nursery stock, fruit of all kinds, vegetables, forage, grains, bees, and apiary products by the owner;

(2) fish bred for sale and consumption if the fish breeding occurs on land zoned for agricultural use;

(3) the commercial boarding of horses if the boarding is done in conjunction with raising or cultivating agricultural products as defined in clause (1);

(4) property which is owned and operated by nonprofit organizations used for equestrian activities, excluding racing;

(5) game birds and waterfowl bred and raised for use on a shooting preserve licensed under section 97A.115;

(6) insects primarily bred to be used as food for animals;

(7) trees, grown for sale as a crop, and not sold for timber, lumber, wood, or wood products; and

(8) maple syrup taken from trees grown by a person licensed by the Minnesota Department of Agriculture under chapter 28A as a food processor.

(f) If a parcel used for agricultural purposes is also used for commercial or industrial purposes, including but not limited to:

(1) wholesale and retail sales;

(2) processing of raw agricultural products or other goods;

(3) warehousing or storage of processed goods; and

(4) office facilities for the support of the activities enumerated in clauses (1), (2), and (3),

the assessor shall classify the part of the parcel used for agricultural purposes as class 1b, 2a, or 2b, whichever is appropriate, and the remainder in the class appropriate to its use. The grading, sorting, and packaging of raw agricultural products for first sale is considered an agricultural purpose. A greenhouse or other building where horticultural or nursery products are grown that is also used for the conduct of retail sales must be classified as agricultural if it is primarily used for the growing of horticultural or nursery products from seed, cuttings, or roots and occasionally as a showroom for the retail sale of those products. Use of a greenhouse or building only for the display of already grown horticultural or nursery products does not qualify as an agricultural purpose.

The assessor shall determine and list separately on the records the market value of the homestead dwelling and the one acre of land on which that dwelling is located. If any farm buildings or structures are located on this homesteaded acre of land, their market value shall not be included in this separate determination.

(g) To qualify for classification under paragraph (b), clause (4), a privately owned public use airport must be licensed as a public airport under section 360.018. For purposes of paragraph (b), clause (4), "landing area" means that part of a privately owned public use airport properly cleared, regularly maintained, and made available to the public for use by aircraft and includes runways, taxiways, aprons, and sites upon which are situated landing or navigational aids. A landing area also includes land underlying both the primary surface and the approach surfaces that comply with all of the following:

(i) the land is properly cleared and regularly maintained for the primary purposes of the landing, taking off, and taxiing of aircraft; but that portion of the land that contains facilities for servicing, repair, or maintenance of aircraft is not included as a landing area;

(ii) the land is part of the airport property; and

(iii) the land is not used for commercial or residential purposes.

The land contained in a landing area under paragraph (b), clause (4), must be described and certified by the commissioner of transportation. The certification is effective until it is modified, or until the airport or landing area no longer meets the requirements of paragraph (b), clause (4). For purposes of paragraph (b), clause (4), "public access area" means property used as an aircraft parking ramp, apron, or storage hangar, or an arrival and departure building in connection with the airport.

(h) Class 2c property consists of any parcel or contiguous parcels of unimproved real estate, excluding agricultural land classified under this subdivision, that meets all the criteria in clauses (1) to (5):

(1) the property consists of at least 200 contiguous feet of unimproved real estate that borders a meandered lake as defined in section 103G.005, subdivision 15, paragraph (a), clause (3);

(2) the unimproved real estate is located within 400 feet from the ordinary high water elevation of the public waters. For purposes of this clause, "unimproved" means that the property, or that portion of the property qualifying under this paragraph, contains no structures, that there are no docks or landings on its shoreline, and that the natural terrain and vegetation has not been disturbed, or has been restored to native vegetation;

(3) the property is either (i) the homestead of the owner, the owner's spouse, or the owner or spouse's son or daughter, or (ii) has been in possession of the owner, the owner's spouse, or the owner's or spouse's son or daughter for a period of at least seven years prior to application for benefits under this section;

(4) the owner files an application with the county assessor by July 1 for classification under this paragraph for the subsequent assessment year; and

(5) the owner of the property signs a covenant agreement and files the covenant with the county assessor in the county where the property is located. The covenant agreement must include all of the following:

(i) legal description of the area to which the covenant applies;

(ii) name and address of the owner;

(iii) a statement that the land described in the covenant must be kept as undeveloped land for the duration of the covenant;

(iv) a statement that the landowner may initiate expiration of the covenant agreement by notifying the county assessor, in writing, with the date of expiration which must be at least eight years from the date of the expiration notice;

(v) a statement that the covenant is binding on the owner or owner's successor or assignee and runs with the land; and

(vi) a witnessed signature of the owner covenanting to keep the land in its undeveloped state as it existed on the date the covenant was signed.

Upon expiration of a covenant agreement in clause (5), the property is subject to additional taxes. The amount of additional taxes due on the property equals the difference between the taxes actually levied and the taxes that would have been imposed if the property had been valued and classified as if class 2c did not apply. The additional taxes must be extended against the property on the tax list for the current year. No interest or penalties may be levied on the additional taxes if timely paid, and the additional taxes must be levied only with respect to the last seven years that the property was valued and assessed under this paragraph. For purposes of this paragraph, "timely paid" means paid (A) within 60 days after notification from the county that the property no longer qualifies, or (B) prior to the recording of the conveyance of the property, whichever is earlier.

The tax imposed under this paragraph is a lien on the property assessed to the same extent and for the same duration as other real property taxes. The tax must be extended by the county auditor and, when payable, be collected and distributed in the same manner provided by law for the collection and distribution of other property taxes.

Class 2c has a class rate of 0.8 percent of market value.

[EFFECTIVE DATE.] This section is effective for the 2005 assessment and thereafter, for taxes payable in 2006 and thereafter."

Renumber the sections in sequence

Amend the title as follows:

Page 2, line 33, after the first semicolon, insert "273.13, subdivision 23;"

Page 2, line 37, after the first semicolon, insert "290.06, subdivision 2c;"

With the recommendation that when so amended the bill pass.

The report was adopted.

Knoblach from the Committee on Ways and Means to which was referred:

H. F. No. 2629, A bill for an act relating to state government; codifying transfer of planning office to Department of Administration; authorizing forward pricing for energy purchases; reinstating Small Business Procurement Advisory Council; amending Minnesota Statutes 2002, sections 4A.03; 4A.04; 4A.05, subdivisions 1, 1a, 2; 4A.07, subdivisions 2, 3, 4, 5; 16B.87, subdivision 1; 16C.17, subdivision 2; 116.182, subdivision 3a; 116C.03, subdivisions 4, 5; 116C.712, subdivisions 3, 5; 124D.23, subdivision 9; 299C.65, subdivision 2; 414.01, subdivisions 1, 16; 414.011, subdivision 11; 414.031, subdivision 4a; 414.12, subdivision 3; 572A.02, subdivisions 2, 5; Minnesota Statutes 2003 Supplement, sections 4.045; 4A.02; 14.3691, subdivision 2; 15A.0815, subdivision 2; 16E.01, subdivision 3; 40A.121, subdivision 1; 43A.08, subdivision 1; 103F.211, subdivision 2; 116C.03, subdivision 2; 145.9255, subdivision 1; 145.9266, subdivision 6; 145.951; 245.697, subdivision 2a; 272.67, subdivision 1; 276A.09; 299A.293, subdivision 1; 365.46, subdivision 2; 379.05; 412.021, subdivision 1; 412.091; 469.334, subdivision 1; 473F.13, subdivision 1; 473H.14; 477A.014, subdivision 4; 572A.015, subdivision 2; 572A.02, subdivision 6; 611A.78, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 16C; repealing Minnesota Statutes 2002, sections 4A.01; 394.232, subdivisions 1, 3, 4, 5, 6, 7, 8; 414.01, subdivision 7a; 462.3535; 473.1455; 572A.01; 572A.03, subdivision 2; Minnesota Statutes 2003 Supplement, sections 119A.04, subdivision 3; 394.232, subdivision 2; Minnesota Rules, part 4410.0200, subpart 1a.

Reported the same back with the following amendments:

Pages 35 to 38, delete section 3 and insert:

"Sec. 3. [APPROPRIATION.]

(a) The commissioner of finance must transfer any outstanding balance from the expired technology enterprise fund to the general fund.

(b) \$117,000 in fiscal year 2004 is appropriated from the general fund to the commissioner of administration for the purpose of completing small agency infrastructure and electronic government services projects funded through the technology enterprise fund and underway but not completed when the technology enterprise fund enabling language was repealed in 2003. This appropriation is available until June 30, 2005.

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

Amend the title as follows:

Page 1, line 6, after the semicolon, insert "appropriating money;"

Page 1, line 16, delete "16E.01,"

Page 1, line 17, delete "subdivision 3;"

With the recommendation that when so amended the bill pass.

The report was adopted.

Paulsen from the Committee on Rules and Legislative Administration to which was referred:

H. F. No. 2905, A bill for an act relating to state government; authorizing the cooperative purchase of goods; amending Minnesota Statutes 2002, section 16C.03, by adding a subdivision.

Reported the same back with the recommendation that the bill pass.

The report was adopted.

Paulsen from the Committee on Rules and Legislative Administration to which was referred:

H. F. No. 3061, A bill for an act relating to the State Board of Investment; classifying data related to certain investments; amending Minnesota Statutes 2002, sections 11A.24, subdivision 6; 13.635, by adding a subdivision.

Reported the same back with the recommendation that the bill pass.

The report was adopted.

Paulsen from the Committee on Rules and Legislative Administration to which was referred:

House Resolution No. 22, A House resolution remembering Molly Cade.

Reported the same back with the recommendation that the resolution be adopted.

The report was adopted.

SECOND READING OF HOUSE BILLS

H. F. Nos. 622, 890, 2127, 2175, 2540, 2629, 2905 and 3061 were read for the second time.

CALENDAR FOR THE DAY

H. F. No. 2637, A bill for an act relating to human services; making changes to child care, the Minnesota family investment program, long-term care, and health care; amending Minnesota Statutes 2002, sections 119B.011, by adding a subdivision; 119B.03, subdivisions 3, 6a, by adding a subdivision; 256.955, subdivisions 2, 2b; 256B.0911, subdivision 4a; 256J.01, subdivision 1; 256J.08, subdivisions 73, 82a; 256J.21, subdivision 3; 256J.415; 256J.425, subdivision 5; Minnesota Statutes 2003 Supplement, sections 119B.011, subdivisions 8, 10, 20; 119B.03, subdivision 4; 119B.05, subdivision 1; 119B.09, subdivision 7; 119B.12, subdivision 2; 119B.13, subdivisions 1, 1a; 119B.189, subdivisions 2, 4; 119B.19, subdivision 1; 119B.24; 119B.25, subdivision 2; 245A.11, subdivision 2a; 256.01, subdivision 2; 256.046, subdivision 1; 256.955, subdivision 2a; 256.98, subdivision 8; 256B.06, subdivision 4; 256B.0625, subdivision 9; 256B.0915, subdivisions 3a, 3b; 256B.431, subdivision 32; 256D.03, subdivisions 3, 4; 256J.09, subdivision 3b; 256J.24, subdivision 5; 256J.32, subdivisions 2, 8; 256J.37, subdivision 9; 256J.425, subdivisions 1, 4, 6; 256J.46, subdivision 1; 256J.49, subdivision 4; 256J.515; 256J.521, subdivisions 1, 2; 256J.53, subdivision 2; 256J.56; 256J.57, subdivision 1; 256J.626, subdivision 2; 256J.751, subdivision 2; 256J.95, subdivisions 1, 3, 11, 12, 19; repealing Minnesota Statutes 2002, sections 119B.211; 256D.051, subdivision 17; Laws 2000, chapter 489, article 1, section 36.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage 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	Bradley	Dill	Goodwin	Hornstein	Koenen
Abrams	Brod	Dorman	Greiling	Howes	Kohls
Adolphson	Buesgens	Dorn	Gunther	Huntley	Kuisle
Anderson, B.	Carlson	Eastlund	Haas	Jacobson	Lanning
Anderson, I.	Clark	Eken	Hackbarth	Jaros	Larson
Anderson, J.	Cornish	Ellison	Harder	Johnson, J.	Latz
Atkins	Cox	Entenza	Hausman	Johnson, S.	Lenczewski
Bernardy	Dauids	Erhardt	Heidgerken	Juhnke	Lesch
Biernat	Davnie	Erickson	Hilstrom	Kahn	Lieder
Blaine	DeLaForest	Finstad	Hilty	Kelliher	Lindgren
Borrell	Demmer	Fuller	Holberg	Klinzing	Lindner
Boudreau	Dempsey	Gerlach	Hoppe	Knoblach	Lipman

Magnus	Nornes	Paymar	Samuelson	Solberg	Walker
Marquart	Olsen, S.	Pelowski	Seifert	Swenson	Walz
McNamara	Olson, M.	Penas	Sertich	Sykora	Wardlow
Mullery	Opatz	Peterson	Severson	Thao	Wasiluk
Murphy	Osterman	Powell	Sieben	Thissen	Westerberg
Nelson, C.	Otremba	Pugh	Simpson	Tingelstad	Westrom
Nelson, M.	Otto	Rhodes	Slawik	Urdahl	Wilkin
Nelson, P.	Ozment	Rukavina	Smith	Vandever	Zellers
Newman	Paulsen	Ruth	Soderstrom	Wagenius	Spk. Sviggum

The bill was passed and its title agreed to.

H. F. No. 2425, A bill for an act relating to human services; clarifying medical assistance coverage for skilled nursing facility services; providing for collaborative service models; amending Minnesota Statutes 2002, section 256B.0625, by adding a subdivision; Minnesota Statutes 2003 Supplement, section 256B.69, subdivision 6b.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 129 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abeler	DeLaForest	Heidgerken	Larson	Osterman	Soderstrom
Abrams	Demmer	Hilstrom	Latz	Otremba	Solberg
Adolphson	Dempsey	Hilty	Lenczewski	Otto	Swenson
Anderson, B.	Dill	Holberg	Lesch	Ozment	Sykora
Anderson, I.	Dorman	Hoppe	Lieder	Paulsen	Thao
Anderson, J.	Dorn	Hornstein	Lindgren	Paymar	Thissen
Atkins	Eastlund	Howes	Lindner	Pelowski	Tingelstad
Beard	Eken	Huntley	Lipman	Penas	Urdahl
Bernardy	Ellison	Jacobson	Magnus	Peterson	Vandever
Biernat	Entenza	Jaros	Mariani	Powell	Wagenius
Blaine	Erhardt	Johnson, J.	Marquart	Pugh	Walker
Borrell	Erickson	Johnson, S.	McNamara	Rhodes	Walz
Boudreau	Finstad	Juhnke	Mullery	Rukavina	Wardlow
Bradley	Fuller	Kahn	Murphy	Ruth	Wasiluk
Brod	Gerlach	Kelliher	Nelson, C.	Samuelson	Westerberg
Buesgens	Goodwin	Klinzing	Nelson, M.	Seifert	Westrom
Carlson	Greiling	Knoblach	Nelson, P.	Sertich	Wilkin
Clark	Gunther	Koenen	Newman	Severson	Zellers
Cornish	Haas	Kohls	Nornes	Sieben	Spk. Sviggum
Cox	Hackbarth	Krinkie	Olsen, S.	Simpson	
Davids	Harder	Kuisle	Olson, M.	Slawik	
Davnie	Hausman	Lanning	Opatz	Smith	

The bill was passed and its title agreed to.

Olsen, S., was excused for the remainder of today's session.

H. F. No. 2103 was reported to the House.

Nelson, C., moved to amend H. F. No. 2103, the first engrossment, as follows:

Page 2, line 12, after the period, insert "A municipality must not condition the approval of any proposed subdivision or development on an agreement to waive the right to challenge the validity of a fee."

Page 2, line 14, delete "city" and insert "municipality"

Page 3, line 31, delete "city" and insert "municipality"

Page 3, line 36, after "is" insert "not"

The motion prevailed and the amendment was adopted.

Goodwin offered an amendment to H. F. No. 2103, the first engrossment, as amended.

POINT OF ORDER

Klinzing raised a point of order pursuant to rule 3.21 that the Goodwin amendment was not in order. The Speaker ruled the point of order well taken and the Goodwin amendment out of order.

Eken offered an amendment to H. F. No. 2103, the first engrossment, as amended.

POINT OF ORDER

Bradley raised a point of order pursuant to rule 3.21 that the Eken amendment was not in order. The Speaker ruled the point of order well taken and the Eken amendment out of order.

Eken appealed the decision of the Speaker.

A roll call was requested and properly seconded.

The vote was taken on the question "Shall the decision of the Speaker stand as the judgment of the House?" and the roll was called. There were 76 yeas and 51 nays as follows:

Those who voted in the affirmative were:

Abeler	Anderson, B.	Blaine	Bradley	Cornish	DeLaForest
Abrams	Anderson, J.	Borrell	Brod	Cox	Demmer
Adolphson	Beard	Boudreau	Buesgens	Davids	Dempsey

Eastlund	Heidgerken	Kuisle	Newman	Samuelson	Vandevveer
Erhardt	Holberg	Lanning	Nornes	Seifert	Walz
Erickson	Hoppe	Lindgren	Olson, M.	Severson	Wardlow
Finstad	Howes	Lindner	Osterman	Simpson	Westerberg
Fuller	Jacobson	Lipman	Ozment	Smith	Westrom
Gerlach	Johnson, J.	Magnus	Paulsen	Soderstrom	Wilkin
Gunther	Klinzing	McNamara	Penas	Swenson	Zellers
Haas	Knoblach	Murphy	Powell	Sykora	Spk. Sviggum
Hackbarth	Kohls	Nelson, C.	Rhodes	Tingelstad	
Harder	Krinkie	Nelson, P.	Ruth	Urdahl	

Those who voted in the negative were:

Anderson, I.	Eken	Huntley	Lenczewski	Otto	Solberg
Atkins	Ellison	Jaros	Lesch	Paymar	Thao
Bernardy	Entenza	Johnson, S.	Lieder	Pelowski	Thissen
Biernat	Goodwin	Juhnke	Mariani	Peterson	Wagenius
Carlson	Greiling	Kahn	Marquart	Pugh	Walker
Clark	Hausman	Kelliher	Mullery	Rukavina	Wasiluk
Davnie	Hilstrom	Koenen	Nelson, M.	Sertich	
Dill	Hilty	Larson	Opatz	Sieben	
Dorn	Hornstein	Latz	Otremba	Slawik	

So it was the judgment of the House that the decision of the Speaker should stand.

H. F. No. 2103, A bill for an act relating to real property; local planning and zoning; authorizing municipalities to require the dedication of land for public purposes; providing certain terms and conditions for the dedication; amending Minnesota Statutes 2002, section 462.358, subdivision 2b, by adding a subdivision; Minnesota Statutes 2003 Supplement, section 462.353, subdivision 4.

The bill was read for the third time, as amended, and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 81 yeas and 47 nays as follows:

Those who voted in the affirmative were:

Abeler	DeLaForest	Hilty	Magnus	Powell	Tingelstad
Abrams	Demmer	Howes	McNamara	Rhodes	Urdahl
Adolphson	Dempsey	Jacobson	Murphy	Ruth	Vandevveer
Anderson, J.	Dorman	Johnson, J.	Nelson, C.	Samuelson	Walz
Beard	Eastlund	Klinzing	Nelson, M.	Seagren	Wardlow
Blaine	Erhardt	Knoblach	Newman	Seifert	Wasiluk
Borrell	Finstad	Kohls	Nornes	Sertich	Westerberg
Boudreau	Fuller	Kuisle	Olson, M.	Severson	Westrom
Bradley	Gerlach	Lanning	Opatz	Simpson	Wilkin
Brod	Gunther	Larson	Osterman	Smith	Zellers
Buesgens	Haas	Latz	Ozment	Soderstrom	Spk. Sviggum
Cornish	Hackbarth	Lenczewski	Paulsen	Swenson	
Cox	Harder	Lindgren	Pelowski	Sykora	
Davids	Heidgerken	Lipman	Penas	Thissen	

Those who voted in the negative were:

Anderson, B.	Dorn	Hilstrom	Kahn	Marquart	Rukavina
Anderson, I.	Eken	Holberg	Kelliher	Mullery	Sieben
Atkins	Ellison	Hoppe	Koenen	Nelson, P.	Slawik
Bernardy	Entenza	Hornstein	Krinkie	Otremba	Solberg
Biernat	Erickson	Huntley	Lesch	Otto	Thao
Carlson	Goodwin	Jaros	Lieder	Paymar	Wagenius
Clark	Greiling	Johnson, S.	Lindner	Peterson	Walker
Dill	Hausman	Juhnke	Mariani	Pugh	

The bill was passed, as amended, and its title agreed to.

The Speaker called Abrams to the Chair.

H. F. No. 2040, A bill for an act relating to water; modifying provisions relating to warrantied sewage treatment systems; creating a certification program for new wastewater treatment technology; appropriating money; amending Minnesota Statutes 2002, section 115.55, subdivision 9; proposing coding for new law in Minnesota Statutes, chapter 115; repealing Minnesota Statutes 2002, section 115.55, subdivision 10.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 129 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abeler	DeLaForest	Heidgerken	Larson	Otremba	Soderstrom
Abrams	Demmer	Hilstrom	Latz	Otto	Solberg
Adolphson	Dempsey	Hilty	Lenczewski	Ozment	Swenson
Anderson, B.	Dill	Holberg	Lesch	Paulsen	Sykora
Anderson, I.	Dorman	Hoppe	Lieder	Paymar	Thao
Anderson, J.	Dorn	Hornstein	Lindgren	Pelowski	Thissen
Atkins	Eastlund	Howes	Lindner	Penas	Tingelstad
Beard	Eken	Huntley	Lipman	Peterson	Urdahl
Bernardy	Ellison	Jacobson	Magnus	Powell	Vandever
Biernat	Entenza	Jaros	Mariani	Pugh	Wagenius
Blaine	Erhardt	Johnson, J.	Marquart	Rhodes	Walker
Borrell	Erickson	Johnson, S.	McNamara	Rukavina	Walz
Boudreau	Finstad	Juhnke	Mullery	Ruth	Wardlow
Bradley	Fuller	Kahn	Murphy	Samuelson	Wasiluk
Brod	Gerlach	Kelliher	Nelson, C.	Seagren	Westerberg
Buesgens	Goodwin	Klinzing	Nelson, M.	Seifert	Westrom
Carlson	Greiling	Knoblach	Nelson, P.	Sertich	Wilkin
Clark	Gunther	Koenen	Newman	Severson	Zellers
Cornish	Haas	Kohls	Nornes	Sieben	Spk. Sviggum
Cox	Hackbarth	Krinkie	Olson, M.	Simpson	
Davids	Harder	Kuisle	Opatz	Slawik	
Davnie	Hausman	Lanning	Osterman	Smith	

The bill was passed and its title agreed to.

S. F. No. 2299, A bill for an act relating to the environment; providing for enforcement for certain aboveground petroleum storage tanks; modifying field citations procedures for petroleum storage tanks; amending Minnesota Statutes 2002, section 115.071, subdivision 7; Minnesota Statutes 2003 Supplement, section 116.073, subdivisions 1, 2.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage 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	DeLaForest	Hilstrom	Latz	Otto	Solberg
Abrams	Demmer	Hilty	Lenczewski	Ozment	Swenson
Adolphson	Dempsey	Holberg	Lesch	Paulsen	Sykora
Anderson, B.	Dill	Hoppe	Lieder	Paymar	Thao
Anderson, I.	Dorman	Hornstein	Lindgren	Pelowski	Thissen
Anderson, J.	Dorn	Howes	Lindner	Penas	Tingelstad
Atkins	Eastlund	Huntley	Lipman	Peterson	Urdahl
Beard	Eken	Jacobson	Magnus	Powell	Vandever
Bernardy	Ellison	Jaros	Mariani	Pugh	Wagenius
Biernat	Entenza	Johnson, J.	Marquart	Rhodes	Walker
Blaine	Erhardt	Johnson, S.	McNamara	Rukavina	Walz
Borrell	Erickson	Juhnke	Mullery	Ruth	Wardlow
Boudreau	Finstad	Kahn	Murphy	Samuelson	Wasiluk
Bradley	Fuller	Kelliher	Nelson, C.	Seagren	Westerberg
Brod	Gerlach	Klinzing	Nelson, M.	Seifert	Westrom
Buesgens	Goodwin	Knoblach	Nelson, P.	Sertich	Wilkin
Carlson	Greiling	Koenen	Newman	Severson	Zellers
Clark	Gunther	Kohls	Nornes	Sieben	Spk. Sviggum
Cornish	Haas	Krinkie	Olson, M.	Simpson	
Cox	Hackbarth	Kuisle	Opatz	Slawik	
Davids	Harder	Lanning	Osterman	Smith	
Davnie	Heidgerken	Larson	Otremba	Soderstrom	

The bill was passed and its title agreed to.

H. F. No. 2724 was reported to the House.

Penas, Boudreau, Hilty, Otremba and Bradley moved to amend H. F. No. 2724, the third engrossment, as follows:

Page 131, after line 6, insert:

"Section 1. Minnesota Statutes 2002, section 62T.02, is amended by adding a subdivision to read:

Subd. 3. [SEASONAL EMPLOYEES.] A purchasing alliance may define eligible employees to include seasonal employees. For purposes of this chapter, "seasonal employee" means an employee who is employed on a full-time basis for at least six months during the calendar year and is unemployed for no longer than four months during the calendar year. If seasonal employees are included:

(1) the alliance must not show bias in the selection of members based on the percentage of seasonal employees employed by an employer member;

(2) prior to issuance or renewal, the employer must inform the alliance that it will include seasonal employees;

(3) the employer must cover seasonal employees for the entire term of its plan year; and

(4) the purchasing alliance may require an employer-member contribution of at least 50 percent of the cost of employee coverage during the months the seasonal employee is unemployed."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed and the amendment was adopted.

Rukavina and Heidgerken moved to amend H. F. No. 2724, the third engrossment, as amended, as follows:

Page 110, after line 22, insert:

"Sec. 12. [WIC HOME DELIVERY.]

The commissioner of health shall seek federal approval for an amendment to the state plan for the special supplemental nutrition program for women, infants, and children (WIC program) to allow home delivery of supplemental foods. The amendment must include provisions to: (1) prevent fraud; (2) minimize additional program costs related to home delivery; and (3) allow orders to be placed by telephone, facsimile, or Internet. The commissioner shall notify the chairs and ranking minority members of the house and senate committees with jurisdiction over health care policy and funding on whether federal approval is obtained.

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

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

A roll call was requested and properly seconded.

The question was taken on the Rukavina and Heidgerken amendment and the roll was called. There were 76 yeas and 53 nays as follows:

Those who voted in the affirmative were:

- | | | | | | |
|--------------|----------|---------|---------|------------|-----------|
| Abeler | Bernardy | Davids | Dorn | Goodwin | Hilty |
| Abrams | Biernat | Davnie | Eken | Greiling | Hornstein |
| Anderson, I. | Carlson | Dempsey | Ellison | Hausman | Howes |
| Anderson, J. | Clark | Dill | Entenza | Heidgerken | Huntley |
| Atkins | Cox | Dorman | Erhardt | Hilstrom | Jacobson |

Jaros	Larson	Mullery	Pelowski	Slawik	Wagenius
Johnson, S.	Latz	Murphy	Penas	Solberg	Walker
Juhnke	Lenczewski	Nelson, M.	Peterson	Swenson	Walz
Kahn	Lesch	Opatz	Pugh	Thao	Wasiluk
Kelliher	Lieder	Osterman	Rhodes	Thissen	Westerberg
Klinzing	Lipman	Otremba	Rukavina	Tingelstad	Westrom
Koenen	Mariani	Otto	Sertich	Urdahl	
Lanning	Marquart	Paymar	Sieben	Vandev eer	

Those who voted in the negative were:

Adolphson	Cornish	Haas	Kuisle	Olson, M.	Simpson
Anderson, B.	DeLaForest	Hackbarth	Lindgren	Ozment	Smith
Beard	Demmer	Harder	Lindner	Paulsen	Soderstrom
Blaine	Eastlund	Holberg	Magnus	Powell	Sykora
Borrell	Erickson	Hoppe	McNamara	Ruth	Wardlow
Boudreau	Finstad	Johnson, J.	Nelson, C.	Samuelson	Wilkin
Bradley	Fuller	Knoblach	Nelson, P.	Seagren	Zellers
Brod	Gerlach	Kohls	Newman	Seifert	Spk. Sviggum
Buesgens	Gunther	Krinkie	Nornes	Severson	

The motion prevailed and the amendment was adopted.

Thissen moved to amend H. F. No. 2724, the third engrossment, as amended, as follows:

Page 43, line 1, reinstate the stricken language and delete the new language

The motion prevailed and the amendment was adopted.

Kahn moved to amend H. F. No. 2724, the third engrossment, as amended, as follows:

Page 1, after line 39, insert:

"Section 1. Minnesota Statutes 2003 Supplement, section 119B.011, subdivision 6, is amended to read:

Subd. 6. [CHILD CARE FUND.] "Child care fund" means a program under this chapter providing:

(1) financial assistance for child care to parents engaged in employment, job search, or education and training leading to employment, or an at-home infant child care subsidy; and

(2) grants to develop, expand, and improve the access and availability of child care services statewide.

[EFFECTIVE DATE.] This section is effective July 1, 2004.

Sec. 2. Minnesota Statutes 2003 Supplement, 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 child 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 earned income tax credits; assistance specifically excluded as income by law; in-kind income such as food support, 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 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.

[EFFECTIVE DATE.] This section is effective July 1, 2004."

Page 4, after line 2, insert:

"Sec. 4. [119B.035] [AT-HOME INFANT CHILD CARE PROGRAM.]

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 program. An eligible family must meet the eligibility factors under section 119B.09, except as provided in subdivision 4, the income criteria under section 119B.12, 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 percent of the annual appropriation for the basic sliding fee 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 program.

Subd. 2. [ELIGIBLE FAMILIES.] 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 a life-long total of 12 months of assistance under this section; and

(3) the family is participating in the basic sliding fee program or provides verification of participating in an authorized activity at the time of application and meets the program requirements.

Subd. 3. [ELIGIBLE PARENT.] A family is eligible for assistance under this section if one parent cares for the family's infant child. The eligible parent must:

(1) be over the age of 18;

(2) care for the infant full time in the infant's home; and

(3) care for any other children in the family who are eligible for child care assistance under this chapter.

For purposes of this section, "parent" means birth parent, adoptive parent, or stepparent.

Subd. 4. [ASSISTANCE.] (a) A family is limited to a lifetime total of 12 months of assistance under subdivision 2. The maximum rate of assistance is equal to 90 percent of the rate established under section 119B.13 for care of infants in licensed family child care in the applicant's county of residence. For purposes of this section, the annual income of the applicant family must be based on an annualization of the income received only during the period in which the family is participating in the at-home infant child care program.

(b) A participating family must report income and other family changes as specified in the county's plan under section 119B.08, subdivision 3.

(c) Persons who are admitted to the at-home infant child care program retain their position in any basic sliding fee 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 child care program re-enter the basic sliding fee program at the position they would have occupied or the waiting list at the position to which they would have advanced. Persons who would have attained eligibility for the basic sliding fee program must be given assistance or advance to the top of the waiting list when they leave the at-home infant child care program. Persons admitted to the at-home infant child care program who are not on a basic sliding fee waiting list may apply to the basic sliding fee program, and if eligible, be placed on the waiting list.

(d) Assistance under this section does not establish an employer-employee relationship between any member of the assisted family and the county or state.

Subd. 5. [IMPLEMENTATION.] The commissioner shall implement the at-home infant child care program under this section through counties that administer the basic sliding fee program under section 119B.03. The commissioner must develop and distribute consumer information on the at-home infant child care program to assist parents of infants or expectant parents in making informed child care decisions.

[EFFECTIVE DATE.] This section is effective July 1, 2004."

Page 4, after line 16, insert:

"Sec. 5. Minnesota Statutes 2003 Supplement, section 119B.09, subdivision 7, is amended to read:

Subd. 7. [DATE OF ELIGIBILITY FOR ASSISTANCE.] (a) The date of eligibility for child care assistance under this chapter is the later of the date the application was signed; the beginning date of employment, education, or training; or the date a determination has been made that the applicant is a participant in employment and training services under Minnesota Rules, part 3400.0080, subpart 2a, or chapter 256J or 256K. The date of eligibility for the basic sliding fee at-home infant child care program is the later of the date the infant is born, or in a county with a basic sliding fee waiting list, the date the family applies for at-home infant child care.

(b) Payment ceases for a family under the at-home infant child care program when a family has used a total of 12 months of assistance as specified under section 119B.035. 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. 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. Payment of child care assistance for transition year child care must be made retroactive to the date of eligibility for transition year child care.

[EFFECTIVE DATE.] This section is effective July 1, 2004."

ReNUMBER the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed and the amendment was adopted.

H. F. No. 2724, as amended, was read for the third time.

MOTION FOR RECONSIDERATION

Abeler moved that the action whereby H. F. No. 2724, as amended, was given its third reading be now reconsidered. The motion prevailed.

Thissen moved to amend H. F. No. 2724, the third engrossment, as amended, as follows:

Page 17, line 26, reinstate the stricken language and delete the new language

The motion prevailed and the amendment was adopted.

H. F. No. 2724, A bill for an act relating to human services; making changes affecting counties, human services policy, child care, assistance programs, adoption and child placement, child welfare, economic support, mental health, and continuing care for the elderly; amending Minnesota Statutes 2002, sections 62T.02, by adding a subdivision; 119B.02, subdivision 4; 119B.03, subdivision 6; 119B.09, subdivision 4; 119B.21, subdivision 5; 144A.071, subdivision 1a; 245.462, subdivision 18; 245.464, by adding a subdivision; 256.01, by adding a subdivision; 256B.02, subdivision 12; 256B.056, by adding subdivisions; 256B.431, subdivision 37; 256D.02, subdivision 17; 256D.06, subdivision 5; 256J.67, subdivisions 1, 3; 256L.04, subdivision 2; 257.85, subdivisions 2, 3; 259.23, subdivisions 1, 2; 259.41, subdivision 3; 259.79, subdivision 1; 260C.001, subdivision 3; 260C.007, subdivisions 7, 8, 18, 22, 27; 260C.151, subdivision 6; 260C.178; 260C.201, subdivisions 1, 2, 6, 10, 11; 260C.212, subdivision 5; 260C.312; 260C.317, subdivision 3; 549.02, by adding a subdivision; 549.04; 626.556, subdivisions 1, 10f, 11c, by adding subdivisions; Minnesota Statutes 2003 Supplement, sections 119B.011, subdivisions 6, 15; 119B.025, subdivision 1; 119B.09, subdivision 7; 119B.125, subdivisions 1, 2; 245.4874; 245B.03, subdivision 2; 256.01, subdivision 2; 256B.0622, subdivision 8; 256B.431, subdivision 38; 256J.40; 256J.425, subdivision 7; 256J.46, subdivision 1; 256J.521, subdivision 2; 256J.626, subdivisions 6, 7; 256J.95, subdivisions 10, 12; 260.012; 626.556, subdivisions 2, 3, 10, 10b, 10e, 10i, 11; proposing coding for new law in Minnesota Statutes, chapter 119B; repealing Minnesota Statutes 2002, section 626.5551, subdivisions 1, 2, 3, 4, 5; Laws 2001, First Special Session chapter 9, article 9, section 52; Laws 2003, First Special Session chapter 14, article 3, section 56; Minnesota Rules, part 9560.0220, subpart 6, item B.

The bill was read for the third time, as amended, and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 108 yeas and 20 nays as follows:

Those who voted in the affirmative were:

Abeler	Bradley	Dorman	Harder	Johnson, S.	Lesch
Abrams	Brod	Dorn	Hausman	Juhnke	Lieder
Anderson, B.	Carlson	Eastlund	Heidgerken	Kahn	Lipman
Anderson, I.	Clark	Eken	Hilstrom	Kelliher	Magnus
Anderson, J.	Cornish	Ellison	Hilty	Klinzing	Mariani
Atkins	Cox	Entenza	Hornstein	Knoblach	Marquart
Beard	Dauids	Erhardt	Howes	Koenen	McNamara
Bernardy	Davnie	Erickson	Huntley	Lanning	Murphy
Biernat	Demmer	Goodwin	Jacobson	Larson	Nelson, C.
Blaine	Dempsey	Greiling	Jaros	Latz	Nelson, M.
Boudreau	Dill	Hackbarth	Johnson, J.	Lenczewski	Nelson, P.

Newman	Paulsen	Rhodes	Sieben	Thao	Walz
Nornes	Paymar	Rukavina	Slawik	Thissen	Wardlow
Opatz	Pelowski	Ruth	Smith	Tingelstad	Wasiluk
Osterman	Penas	Samuelson	Soderstrom	Urdahl	Westerberg
Otremba	Peterson	Seagren	Solberg	Vandev eer	Westrom
Otto	Powell	Sertich	Swenson	Wagenius	Wilkin
Ozment	Pugh	Severson	Sykora	Walker	Spk. Sviggum

Those who voted in the negative were:

Adolphson	Finstad	Haas	Krinkie	Olson, M.
Borrell	Fuller	Holberg	Kuisle	Seifert
Buesgens	Gerlach	Hoppe	Lindgren	Simpson
DeLaForest	Gunther	Kohls	Lindner	Zellers

The bill was passed, as amended, and its title agreed to.

The Speaker resumed the Chair.

H. F. No. 2277 was reported to the House.

Abeler moved to amend H. F. No. 2277, the first engrossment, as follows:

Page 34, after line 16, insert:

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

Page 35, line 5, delete "subdivision 9."

Page 35, after line 6, insert:

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

Page 37, after line 31, insert:

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

Page 40, after line 23, insert:

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

The motion prevailed and the amendment was adopted.

Abeler and Huntley moved to amend H. F. No. 2277, the first engrossment, as amended, as follows:

Page 80, after line 8, insert:

"Section 1. Minnesota Statutes 2003 Supplement, section 245.4874, is amended to read:

245.4874 [DUTIES OF COUNTY BOARD.]

The county board in each county shall use its share of mental health and Community Social Services Act funds allocated by the commissioner according to a biennial children's mental health component of the community social services plan that is approved by the commissioner. The county board must:

(1) develop a system of affordable and locally available children's mental health services according to sections 245.487 to 245.4887;

(2) establish a mechanism providing for interagency coordination as specified in section 245.4875, subdivision 6;

(3) develop a biennial children's mental health component of the community social services plan which considers the assessment of unmet needs in the county as reported by the local children's mental health advisory council under section 245.4875, subdivision 5, paragraph (b), clause (3). The county shall provide, upon request of the local children's mental health advisory council, readily available data to assist in the determination of unmet needs;

(4) assure that parents and providers in the county receive information about how to gain access to services provided according to sections 245.487 to 245.4887;

(5) coordinate the delivery of children's mental health services with services provided by social services, education, corrections, health, and vocational agencies to improve the availability of mental health services to children and the cost-effectiveness of their delivery;

(6) assure that mental health services delivered according to sections 245.487 to 245.4887 are delivered expeditiously and are appropriate to the child's diagnostic assessment and individual treatment plan;

(7) provide the community with information about predictors and symptoms of emotional disturbances and how to access children's mental health services according to sections 245.4877 and 245.4878;

(8) provide for case management services to each child with severe emotional disturbance according to sections 245.486; 245.4871, subdivisions 3 and 4; and 245.4881, subdivisions 1, 3, and 5;

(9) provide for screening of each child under section 245.4885 upon admission to a residential treatment facility, acute care hospital inpatient treatment, or informal admission to a regional treatment center;

(10) prudently administer grants and purchase-of-service contracts that the county board determines are necessary to fulfill its responsibilities under sections 245.487 to 245.4887;

(11) assure that mental health professionals, mental health practitioners, and case managers employed by or under contract to the county to provide mental health services are qualified under section 245.4871;

(12) assure that children's mental health services are coordinated with adult mental health services specified in sections 245.461 to 245.486 so that a continuum of mental health services is available to serve persons with mental illness, regardless of the person's age;

(13) assure that culturally informed mental health consultants are used as necessary to assist the county board in assessing and providing appropriate treatment for children of cultural or racial minority heritage; and

(14) consistent with section 245.486, arrange for or provide a children's mental health screening to a child receiving child protective services or a child in out-of-home placement, a child for whom parental rights have been terminated, a child found to be delinquent, and a child found to have committed a juvenile petty offense for the third or subsequent time, unless a screening has been performed within the previous 180 days, or the child is currently under the care of a mental health professional. The court or county agency must notify a parent or guardian whose parental rights have not been terminated of the potential mental health screening and the option to prevent the screening by notifying the court or county agency in writing. The screening shall be conducted with a screening instrument approved by the commissioner of human services according to criteria that are updated and issued annually to ensure that approved screening instruments are valid and useful for child welfare and juvenile justice populations, and shall be conducted by a mental health practitioner as defined in section 245.4871, subdivision 26, or a probation officer or local social services agency staff person who is trained in the use of the screening instrument. Training in the use of the instrument shall include training in the administration of the instrument, the interpretation of its validity given the child's current circumstances, the state and federal data practices laws and confidentiality standards, the parental consent requirement, and providing respect for families and cultural values. If the screen indicates a need for assessment, the child's family, or if the family lacks mental health insurance, the local social services agency, in consultation with the child's family, shall have conducted a diagnostic assessment, including a functional assessment, as defined in section 245.4871. The administration of the screening shall safeguard the privacy of children receiving the screening and their families and shall comply with the Minnesota Government Data Practices Act, chapter 13, and the federal Health Insurance Portability and Accountability Act of 1996, Public Law 104-191. Screening results shall be considered private data and the commissioner shall not collect individual screening results."

Page 80, after line 32, insert:

"Sec. 2. Minnesota Statutes 2002, section 256.01, is amended by adding a subdivision to read:

Subd. 21. [HOMELESS SERVICES.] The commissioner of human services may contract directly with nonprofit organizations providing homeless services in two or more counties.

[EFFECTIVE DATE.] This section is effective immediately following final enactment."

Page 81, after line 35, insert:

"Sec. 4. Minnesota Statutes 2002, section 260C.212, subdivision 5, is amended to read:

Subd. 5. [RELATIVE SEARCH; NATURE.] (a) In implementing the requirement that the responsible social services agency must consider placement with a relative under subdivision 2 ~~as soon as possible~~ without delay after identifying the need for placement of the child in foster care, the responsible social services agency shall identify relatives of the child and notify them of the need for a foster care home for the child and of the possibility of the need for a permanent out-of-home placement of the child. The relative search required by this section shall be reasonable and comprehensive in scope and may last up to six months or until a fit and willing relative is identified. ~~Relatives should be notified that a decision not to be a placement resource at the beginning of the case may affect the relative being considered for placement of the child with that relative later.~~ The relative search required by this section shall include both maternal relatives of the child and paternal relatives of the child, if paternity is adjudicated. The relatives must be notified that they must keep the responsible social services agency informed of their current address in order to receive notice that a permanent placement is being sought for the child. A relative who fails to provide a current address to the responsible social services agency forfeits the right to notice of the possibility of permanent placement. A decision by a relative not to be a placement resource at the beginning of the case shall not affect whether the relative is considered for placement of the child with that relative later.

(b) A responsible social services agency may disclose private or confidential data, as defined in section 13.02, to relatives of the child for the purpose of locating a suitable placement. The agency shall disclose only data that is necessary to facilitate possible placement with relatives. If the child's parent refuses to give the responsible social services agency information sufficient to identify the maternal and paternal relatives of the child, the agency shall ~~determine whether the parent's refusal is in the child's best interests. If the agency determines the parent's refusal is not in the child's best interests, the agency shall file a petition under section 260C.141, and shall ask the juvenile court to order the parent to provide the necessary information.~~ If a parent makes an explicit request that relatives or a specific relative not be contacted or considered for placement, the agency shall bring the parent's request to the attention of the court to determine whether the parent's request is consistent with the best interests of the child and the agency shall not contact relatives or a specific relative unless authorized to do so by the juvenile court.

(c) When the placing agency determines that a permanent placement hearing is necessary because there is a likelihood that the child will not return to a parent's care, the agency may send the notice provided in paragraph (d), may ask the court to modify the requirements of the agency under this paragraph, or may ask the court to completely relieve the agency of the requirements of this paragraph. The relative notification requirements of this paragraph do not apply when the child is placed with an appropriate relative or a foster home that has committed to being the permanent legal placement for the child and the agency approves of that foster home for permanent placement of the child. The actions ordered by the court under this section must be consistent with the best interests, safety, and welfare of the child.

(d) Unless required under the Indian Child Welfare Act or relieved of this duty by the court under paragraph (c), when the agency determines that it is necessary to prepare for the permanent placement determination hearing, or in anticipation of filing a termination of parental rights petition, the agency shall send notice to the relatives, any adult with whom the child is currently residing, any adult with whom the child has resided for one year or longer in the past, and any adults who have maintained a relationship or exercised visitation with the child as identified in the agency case plan. The notice must state that a permanent home is sought for the child and that the individuals receiving the notice may indicate to the agency their interest in providing a permanent home. The notice must state that within 30 days of receipt of the notice an individual receiving the notice must indicate to the agency the individual's interest in providing a permanent home for the child or that the individual may lose the opportunity to be considered for a permanent placement.

(e) The Department of Human Services shall develop a best practices guide and specialized staff training to assist the responsible social services agency in performing and complying with the relative search requirements under this subdivision.

Sec. 5. [REPEALER.]

Laws 2003, First Special Session chapter 14, article 3, section 56, is repealed effective immediately following final enactment.

ARTICLE 4

CHILD CARE; MINNESOTA FAMILY INVESTMENT PLAN

Section 1. Minnesota Statutes 2003 Supplement, section 119B.011, subdivision 8, is amended to read:

Subd. 8. [COMMISSIONER.] "Commissioner" means the commissioner of ~~education~~ human services.

Sec. 2. Minnesota Statutes 2003 Supplement, section 119B.011, subdivision 10, is amended to read:

Subd. 10. [DEPARTMENT.] "Department" means the Department of ~~Education~~ Human Services.

Sec. 3. Minnesota Statutes 2002, section 119B.011, is amended by adding a subdivision to read:

Subd. 10a. [DIVERSIONARY WORK PROGRAM.] "Diversionary work program" means the program established under section 256J.95.

Sec. 4. Minnesota Statutes 2003 Supplement, section 119B.011, subdivision 20, is amended to read:

Subd. 20. [TRANSITION YEAR FAMILIES.] ~~(a)~~ "Transition year families" means families who have received MFIP assistance, or who were eligible to receive MFIP assistance after choosing to discontinue receipt of the cash portion of MFIP assistance under section 256J.31, subdivision 12, or families who have received DWP assistance under section 256J.95 for at least three of the last six months before losing eligibility for MFIP or DWP. Transition year child care may be used to support employment or job search. Transition year child care is not available to families who have been disqualified from MFIP or DWP due to fraud.

~~(b)~~ Subd. 20a. "Transition year extension ~~year~~ families" means families who have completed their transition year of child care assistance under this subdivision and who are eligible for, but on a waiting list for, services under section 119B.03. For purposes of sections 119B.03, subdivision 3, and 119B.05, subdivision 1, clause (2), families participating in extended transition year shall not be considered transition year families. Transition year extension child care may be used to support employment or a job search that meets the requirements of section 119B.10 for the length of time necessary for families to be moved from the basic sliding fee waiting list into the basic sliding fee program.

Sec. 5. Minnesota Statutes 2002, section 119B.03, subdivision 3, is amended to read:

Subd. 3. [ELIGIBLE PARTICIPANTS.] Families that meet the eligibility requirements under sections 119B.07, 119B.09, and 119B.10, except MFIP participants, ~~work first participants~~ diversionary work program, and transition year families are eligible for child care assistance under the basic sliding fee program. Families enrolled in the basic sliding fee program shall be continued until they are no longer eligible. Child care assistance provided through the child care fund is considered assistance to the parent.

Sec. 6. Minnesota Statutes 2003 Supplement, section 119B.03, subdivision 4, is amended to read:

Subd. 4. [FUNDING PRIORITY.] (a) First priority for child care assistance under the basic sliding fee program must be given 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 to pursue education leading to employment and who need child care assistance to participate in the education program. Within this priority, the following subpriorities must be used:

- (1) child care needs of minor parents;
- (2) child care needs of parents under 21 years of age; and
- (3) child care needs of other parents within the priority group described in this paragraph.

(b) Second priority must be given to parents who have completed their MFIP or ~~work first~~ DWP transition year, or parents who are no longer receiving or eligible for diversionary work program supports.

(c) Third priority must be given to families who are eligible for portable basic sliding fee assistance through the portability pool under subdivision 9.

(d) Families under paragraph (b) must be added to the basic sliding fee waiting list on the date they begin the transition year under section 119B.011, subdivision 20, and must be moved into the basic sliding fee program as soon as possible after they complete their transition year.

Sec. 7. Minnesota Statutes 2002, section 119B.03, subdivision 6a, is amended to read:

Subd. 6a. [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 6.

Sec. 8. Minnesota Statutes 2002, section 119B.03, is amended by adding a subdivision to read:

Subd. 6b. [ALLOCATION DUE TO DECREASED FUNDING.] When funding decreases are implemented within a calendar year, county allocations must be reduced in an amount proportionate to the reduction in the total allocation for the same time period. This applies when a funding decrease necessitates the revision of an existing calendar year allocation.

Sec. 9. Minnesota Statutes 2003 Supplement, section 119B.05, subdivision 1, is amended to read:

Subdivision 1. [ELIGIBLE PARTICIPANTS.] Families eligible for child care assistance under the MFIP child care program are:

- (1) MFIP participants who are employed or in job search and meet the requirements of section 119B.10;
- (2) persons who are members of transition year families under section 119B.011, subdivision 20, and meet the requirements of section 119B.10;
- (3) families who are participating in employment orientation or job search, or other employment or training activities that are included in an approved employability development plan under ~~chapter 256K~~ section 256J.95;
- (4) MFIP families who are participating in work job search, job support, employment, or training activities as required in their ~~job search support or employment plan, or in appeals, hearings, assessments, or orientations~~ according to chapter 256J;
- (5) MFIP families who are participating in social services activities under chapter 256J ~~or 256K~~ as required in their employment plan approved according to chapter 256J ~~or 256K~~;
- (6) families who are participating in programs as required in tribal contracts under section 119B.02, subdivision 2, or 256.01, subdivision 2; and
- (7) families who are participating in the transition year extension under section 119B.011, subdivision 20, ~~paragraph (a)~~ 20a.

Sec. 10. Minnesota Statutes 2003 Supplement, section 119B.09, subdivision 7, is amended to read:

Subd. 7. [DATE OF ELIGIBILITY FOR ASSISTANCE.] (a) The date of eligibility for child care assistance under this chapter is the later of the date the application was signed; the beginning date of employment, education, or training; or the date a determination has been made that the applicant is a participant in employment and training services under Minnesota Rules, part 3400.0080, subpart 2a, or chapter 256J ~~or 256K~~.

(b) 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. Payment of child care assistance for MFIP or ~~work-first DWP~~ participants in employment and training services is effective the date of commencement of the services or the date of MFIP or ~~work-first DWP~~ eligibility, whichever is later. Payment of child care assistance for transition year child care must be made retroactive to the date of eligibility for transition year child care.

Sec. 11. Minnesota Statutes 2003 Supplement, section 119B.12, subdivision 2, is amended to read:

Subd. 2. [PARENT FEE.] A family must be assessed a parent fee for each service period. A family's parent fee must be a fixed percentage of its annual gross income. Parent fees must apply to families eligible for child care assistance under sections 119B.03 and 119B.05. 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 100 percent of the annual federal poverty guidelines. 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 \$10 per month. Parent fees must provide for graduated movement to full payment.

Sec. 12. Minnesota Statutes 2003 Supplement, section 119B.13, subdivision 1, is amended to read:

Subdivision 1. [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 2~~ or a special needs rate paid under subdivision 3 may be in excess of the maximum rate allowed under this subdivision. The department shall monitor the effect of this paragraph on provider rates. The county shall pay the provider's full charges for every child in care up to the maximum established. The commissioner shall determine the maximum rate for each type of care on an hourly, full-day, and weekly basis, including special needs and handicapped care. Not less than once every two years, the commissioner shall evaluate market practices for payment of absences and shall establish policies for payment of absent days that reflect current market practice.

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 co-payment fee.

Sec. 13. Minnesota Statutes 2003 Supplement, section 119B.13, subdivision 1a, is amended to read:

Subd. 1a. [LEGAL NONLICENSED FAMILY CHILD CARE PROVIDER RATES.] (a) Legal nonlicensed family child care providers receiving reimbursement under this chapter must be paid on an hourly basis for care provided to families receiving assistance.

(b) The maximum rate paid to legal nonlicensed family child care providers must be 80 percent of the county maximum hourly rate for licensed family child care providers. In counties where the maximum hourly rate for licensed family child care providers is higher than the maximum weekly rate for those providers divided by 50, the maximum hourly rate that may be paid to legal nonlicensed family child care providers is the rate equal to the maximum weekly rate for licensed family child care providers divided by 50 and then multiplied by 0.80.

(c) A rate which includes ~~a provider bonus paid under subdivision 2~~ or a special needs rate paid under subdivision 3 may be in excess of the maximum rate allowed under this subdivision.

(d) Legal nonlicensed family child care providers receiving reimbursement under this chapter may not be paid registration fees for families receiving assistance.

Sec. 14. Minnesota Statutes 2003 Supplement, section 119B.189, subdivision 2, is amended to read:

Subd. 2. [INTERIM FINANCING.] "Interim financing" means funding for up to 18 months:

(1) for activities that are necessary to receive and maintain state child care licensing;

(2) to expand an existing child care program or to improve program quality; and

(3) to operate for a period of six consecutive months after a child care facility becomes licensed or satisfies standards of the commissioner of ~~education~~ human services.

Sec. 15. Minnesota Statutes 2003 Supplement, section 119B.189, subdivision 4, is amended to read:

Subd. 4. [TRAINING PROGRAM.] "Training program" means child development courses offered by an accredited postsecondary institution or similar training approved by a county board or the commissioner. A training program must be a course of study that teaches specific skills to meet licensing requirements or requirements of the commissioner of ~~education~~ human services.

Sec. 16. Minnesota Statutes 2003 Supplement, section 119B.19, subdivision 1, is amended to read:

Subdivision 1. [DISTRIBUTION OF FUNDS FOR OPERATION OF CHILD CARE RESOURCE AND REFERRAL PROGRAMS.] The commissioner of ~~education~~ human services shall distribute funds to public or private nonprofit organizations for the planning, establishment, expansion, improvement, or operation of child care resource and referral programs under this section. The commissioner must adopt rules for programs under this section and sections 119B.189 and 119B.21. The commissioner must develop a process to fund organizations to operate child care resource and referral programs that includes application forms, timelines, and standards for renewal.

Sec. 17. Minnesota Statutes 2003 Supplement, section 119B.24, is amended to read:

119B.24 [DUTIES OF COMMISSIONER.]

In addition to the powers and duties already conferred by law, the commissioner of ~~education~~ human services shall:

(1) administer the child care fund, including the basic sliding fee program authorized under sections 119B.011 to 119B.16;

(2) monitor the child care resource and referral programs established under section 119B.19; and

(3) encourage child care providers to participate in a nationally recognized accreditation system for early childhood and school-age care programs. Subject to approval by the commissioner, family child care providers and early childhood and school-age care programs shall be reimbursed for one-half of the direct cost of accreditation fees, upon successful completion of accreditation.

Sec. 18. Minnesota Statutes 2003 Supplement, section 119B.25, subdivision 2, is amended to read:

Subd. 2. [GRANTS.] The commissioner shall distribute money provided by this section through a grant to a nonprofit corporation organized to plan, develop, and finance early childhood education and child care sites. The nonprofit corporation must have demonstrated the ability to analyze financing projects, have knowledge of other sources of public and private financing for child care and early childhood education sites, and have a relationship

with the resource and referral programs under section 119B.211. The board of directors of the nonprofit corporation must include members who are knowledgeable about early childhood education, child care, development and improvement, and financing. The commissioners of the Departments of ~~Education~~ Human Services and Employment and Economic Development, and the commissioner of the Housing Finance Agency shall advise the board on the loan program. The grant must be used to make loans to improve child care or early childhood education sites, or loans to plan, design, and construct or expand licensed and legal unlicensed sites to increase the availability of child care or early childhood education. All loans made by the nonprofit corporation must comply with section 363A.16.

Sec. 19. Minnesota Statutes 2003 Supplement, section 256.046, subdivision 1, is amended to read:

Subdivision 1. [HEARING AUTHORITY.] A local agency must initiate an administrative fraud disqualification hearing for individuals, including child care providers caring for children receiving child care assistance, accused of wrongfully obtaining assistance or intentional program violations, in lieu of a criminal action when it has not been pursued, in the aid to families with dependent children program formerly codified in sections 256.72 to 256.87, MFIP, the diversionary work program, child care assistance programs, general assistance, family general assistance program formerly codified in section 256D.05, subdivision 1, clause (15), Minnesota supplemental aid, food stamp programs, general assistance medical care, MinnesotaCare for adults without children, and upon federal approval, all categories of medical assistance and remaining categories of MinnesotaCare except for children through age 18. The hearing is subject to the requirements of section 256.045 and the requirements in Code of Federal Regulations, title 7, section 273.16, for the food stamp program and title 45, section 235.112, as of September 30, 1995, for the cash grant, medical care programs, and child care assistance under chapter 119B.

Sec. 20. Minnesota Statutes 2003 Supplement, section 256.98, subdivision 8, is amended to read:

Subd. 8. [DISQUALIFICATION FROM PROGRAM.] (a) Any person found to be guilty of wrongfully obtaining assistance by a federal or state court or by an administrative hearing determination, or waiver thereof, through a disqualification consent agreement, or as part of any approved diversion plan under section 401.065, or any court-ordered stay which carries with it any probationary or other conditions, in the Minnesota family investment program, the diversionary work program, the food stamp or food support program, the general assistance program, the group residential housing program, or the Minnesota supplemental aid program shall be disqualified from that program. In addition, any person disqualified from the Minnesota family investment program shall also be disqualified from the food stamp or food support program. The needs of that individual shall not be taken into consideration in determining the grant level for that assistance unit:

- (1) for one year after the first offense;
- (2) for two years after the second offense; and
- (3) permanently after the third or subsequent offense.

The period of program disqualification shall begin on the date stipulated on the advance notice of disqualification without possibility of postponement for administrative stay or administrative hearing and shall continue through completion unless and until the findings upon which the sanctions were imposed are reversed by a court of competent jurisdiction. The period for which sanctions are imposed is not subject to review. The sanctions provided under this subdivision are in addition to, and not in substitution for, any other sanctions that may be provided for by law for the offense involved. A disqualification established through hearing or waiver shall result in the disqualification period beginning immediately unless the person has become otherwise ineligible for assistance. If the person is ineligible for assistance, the disqualification period begins when the person again meets the eligibility criteria of the program from which they were disqualified and makes application for that program.

(b) A family receiving assistance through child care assistance programs under chapter 119B with a family member who is found to be guilty of wrongfully obtaining child care assistance by a federal court, state court, or an administrative hearing determination or waiver, through a disqualification consent agreement, as part of an approved diversion plan under section 401.065, or a court-ordered stay with probationary or other conditions, is disqualified from child care assistance programs. The disqualifications must be for periods of three months, six months, and two years for the first, second, and third offenses respectively. Subsequent violations must result in permanent disqualification. During the disqualification period, disqualification from any child care program must extend to all child care programs and must be immediately applied.

(c) A provider caring for children receiving assistance through child care assistance programs under chapter 119B is disqualified from receiving payment for child care services from the child care assistance program under chapter 119B when the provider is found to have wrongfully obtained child care assistance by a federal court, state court, or an administrative hearing determination or waiver under section 256.046, through a disqualification consent agreement, as part of an approved diversion plan under section 401.065, or a court-ordered stay with probationary or other conditions. The disqualification must be for a period of one year for the first offense and two years for the second offense. Any subsequent violation must result in permanent disqualification. The disqualification period must be imposed immediately after a determination is made under this paragraph. During the disqualification period, the provider is disqualified from receiving payment from any child care program under chapter 119B.

(d) Any person found to be guilty of wrongfully obtaining general assistance medical care, MinnesotaCare for adults without children, and upon federal approval, all categories of medical assistance and remaining categories of MinnesotaCare, except for children through age 18, by a federal or state court or by an administrative hearing determination, or waiver thereof, through a disqualification consent agreement, or as part of any approved diversion plan under section 401.065, or any court-ordered stay which carries with it any probationary or other conditions, is disqualified from that program. The period of disqualification is one year after the first offense, two years after the second offense, and permanently after the third or subsequent offense. The period of program disqualification shall begin on the date stipulated on the advance notice of disqualification without possibility of postponement for administrative stay or administrative hearing and shall continue through completion unless and until the findings upon which the sanctions were imposed are reversed by a court of competent jurisdiction. The period for which sanctions are imposed is not subject to review. The sanctions provided under this subdivision are in addition to, and not in substitution for, any other sanctions that may be provided for by law for the offense involved.

Sec. 21. Minnesota Statutes 2002, section 256J.01, subdivision 1, is amended to read:

Subdivision 1. [IMPLEMENTATION OF MINNESOTA FAMILY INVESTMENT PROGRAM (MFIP).] Except for section 256J.95, this chapter and chapter 256K may be cited as the Minnesota family investment program (MFIP). MFIP is the statewide implementation of components of the Minnesota family investment plan (MFIP) authorized and formerly codified in section 256.031 and Minnesota family investment plan-Ramsey County (MFIP-R) formerly codified in section 256.047.

Sec. 22. Minnesota Statutes 2002, section 256J.08, subdivision 73, is amended to read:

Subd. 73. [QUALIFIED NONCITIZEN.] "Qualified noncitizen" means a person:

(1) who was lawfully admitted for permanent residence ~~pursuant~~ according to United States Code, title 8;

(2) who was admitted to the United States as a refugee ~~pursuant~~ according to United States Code, title 8; section 1157;

(3) whose deportation is being withheld ~~pursuant~~ according to United States Code, title 8, ~~section~~ sections 1231(b)(3), 1253(h), and 1641(b)(5);

(4) who was paroled for a period of at least one year ~~pursuant~~ according to United States Code, title 8, section 1182(d)(5);

(5) who was granted conditional entry ~~pursuant~~ according to United State Code, title 8, section 1153(a)(7);

(6) who is a Cuban or Haitian entrant as defined in section 501(e) of the Refugee Education Assistance Act of 1980, United States Code, title 8, section 1641(b)(7);

(7) who was granted asylum ~~pursuant~~ according to United States Code, title 8, section 1158;

~~(7) determined to be a battered noncitizen by the United States Attorney General according to the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Title V of the Omnibus Consolidated Appropriations Bill, Public Law 104-208;~~

(8) who is a ~~child of a noncitizen determined to be a battered noncitizen by the United States Attorney General according to the Illegal Immigration Reform and Responsibility Act of 1996, title V, Public Law 104-200~~ battered noncitizen according to United States Code, title 8, section 1641(c); or

(9) who ~~was admitted as a Cuban or Haitian entrant~~ is a parent or child of a battered noncitizen according to United States Code, title 8, section 1641(c).

Sec. 23. Minnesota Statutes 2002, section 256J.08, subdivision 82a, is amended to read:

Subd. 82a. [SHARED HOUSEHOLD STANDARD.] "Shared household standard" means the basic standard used when the household includes an unrelated member. The standard also applies to a member disqualified under section 256J.425. The cash portion of the shared household standard is equal to 90 percent of the cash portion of the transitional standard. The cash portion of the shared household standard plus the food portion equals the full shared household standard.

Sec. 24. Minnesota Statutes 2003 Supplement, section 256J.09, subdivision 3b, is amended 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 without a high school diploma or its equivalent and explain to the applicant the assessment procedures and employment plan requirements under section 256J.54;

(2) explain to the applicant the eligibility criteria in section 256J.545 for the family violence waiver, and what an applicant should do to develop an employment plan;

~~(3) determine if an applicant qualifies for an exemption under section 256J.56 from employment and training services requirements~~ explain that the activities and hourly requirements of the employment plan may be adjusted to accommodate the personal and family circumstances of applicants who meet the criteria in section 256J.561, subdivision 2, paragraph (d), explain how a person should report to the county agency any status changes, and explain that an applicant who is exempt not required to participate in employment services under section 256J.561 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 assessment under section 256J.521;

(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. 25. Minnesota Statutes 2002, section 256J.21, subdivision 3, is amended to read:

Subd. 3. [INITIAL INCOME TEST.] The county agency shall determine initial eligibility by considering all earned and unearned income that is not excluded under subdivision 2. To be eligible for MFIP, the assistance unit's countable income minus the disregards in paragraphs (a) and (b) must be below the transitional standard of assistance according to section 256J.24 for that size assistance unit.

(a) The initial eligibility determination must disregard the following items:

(1) the employment disregard is 18 percent of the gross earned income whether or not the member is working full time or part time;

(2) dependent care costs must be deducted from gross earned income for the actual amount paid for dependent care up to a maximum of \$200 per month for each child less than two years of age, and \$175 per month for each child two years of age and older under this chapter and chapter 119B;

(3) all payments made according to a court order for spousal support or the support of children not living in the assistance unit's household shall be disregarded from the income of the person with the legal obligation to pay support, provided that, if there has been a change in the financial circumstances of the person with the legal obligation to pay support since the support order was entered, the person with the legal obligation to pay support has petitioned for a modification of the support order; and

(4) an allocation for the unmet need of an ineligible spouse or an ineligible child under the age of 21 for whom the caregiver is financially responsible and who lives with the caregiver according to section 256J.36.

(b) Notwithstanding paragraph (a), when determining initial eligibility for applicant units when at least one member has received ~~work first or~~ MFIP in this state within four months of the most recent application for MFIP, apply the disregard as defined in section 256J.08, subdivision 24, for all unit members.

After initial eligibility is established, the assistance payment calculation is based on the monthly income test.

Sec. 26. Minnesota Statutes 2003 Supplement, section 256J.24, subdivision 5, is amended to read:

Subd. 5. [MFIP TRANSITIONAL STANDARD.] The MFIP transitional standard is based on the number of persons in the assistance unit eligible for both food and cash assistance unless the restrictions in subdivision 6 on the birth of a child apply. The following table represents the transitional standards effective October 1, ~~2002~~ 2003.

Number of Eligible People	Transitional Standard	Cash Portion	Food Portion
1	\$370 <u>\$371</u> :	\$250	\$120 <u>\$121</u>
2	\$658 <u>\$661</u> :	\$437	\$221 <u>\$224</u>

3	\$844 \$852 :	\$532	\$312 <u>\$320</u>
4	\$998 <u>\$1,006</u> :	\$621	\$377 <u>\$385</u>
5	\$1,135 <u>\$1,146</u> :	\$697	\$438 <u>\$449</u>
6	\$1,296 <u>\$1,309</u> :	\$773	\$523 <u>\$536</u>
7	\$1,414 <u>\$1,428</u> :	\$850	\$564 <u>\$578</u>
8	\$1,558 <u>\$1,572</u> :	\$916	\$642 <u>\$656</u>
9	\$1,700 <u>\$1,715</u> :	\$980	\$720 <u>\$735</u>
10	\$1,836 <u>\$1,853</u> :	\$1,035	\$801 <u>\$818</u>
over 10			
per additional member.	add \$136 <u>\$137</u> :	\$53	\$83 <u>\$84</u>

The commissioner shall annually publish in the State Register the transitional standard for an assistance unit sizes 1 to 10 including a breakdown of the cash and food portions.

Sec. 27. Minnesota Statutes 2003 Supplement, section 256J.32, subdivision 2, is amended to read:

Subd. 2. [DOCUMENTATION.] The applicant or participant must document the information required under subdivisions 4 to 6 or authorize the county agency to verify the information. The applicant or participant has the burden of providing documentary evidence to verify eligibility. The county agency shall assist the applicant or participant in obtaining required documents when the applicant or participant is unable to do so. The county agency may accept ~~an affidavit~~ a signed personal statement from the applicant or participant only for factors specified under subdivision 8.

Sec. 28. Minnesota Statutes 2003 Supplement, section 256J.32, subdivision 8, is amended to read:

Subd. 8. [~~AFFIDAVIT~~ PERSONAL STATEMENT.] The county agency may accept ~~an affidavit~~ a signed personal statement from the applicant or recipient participant explaining the reasons that the documentation requested in subdivision 2 is unavailable as sufficient documentation at the time of application ~~or~~, recertification, or change related to eligibility only for the following factors:

- (1) a claim of family violence if used as a basis to qualify for the family violence waiver;
- (2) information needed to establish an exception under section 256J.24, subdivision 9;
- (3) relationship of a minor child to caregivers in the assistance unit; ~~and~~

(4) citizenship status from a noncitizen who reports to be, or is identified as, a victim of severe forms of trafficking in persons, if the noncitizen reports that the noncitizen's immigration documents are being held by an individual or group of individuals against the noncitizen's will. The noncitizen must follow up with the Office of Refugee Resettlement (ORR) to pursue certification. If verification that certification is being pursued is not received within 30 days, the MFIP case must be closed and the agency shall pursue overpayments. The ORR documents certifying the noncitizen's status as a victim of severe forms of trafficking in persons, or the reason for the delay in processing, must be received within 90 days, or the MFIP case must be closed and the agency shall pursue overpayments; and

(5) other documentation unavailable for reasons beyond the control of the applicant or participant. Reasonable attempts must have been made to obtain the documents requested under subdivision 2.

Sec. 29. Minnesota Statutes 2003 Supplement, section 256J.37, subdivision 9, is amended to read:

Subd. 9. [UNEARNED INCOME.] (a) The county agency must apply unearned income to the MFIP standard of need. When determining the amount of unearned income, the county agency must deduct the costs necessary to secure payments of unearned income. These costs include legal fees, medical fees, and mandatory deductions such as federal and state income taxes.

(b) The county agency must convert unearned income received on a periodic basis to monthly amounts by prorating the income over the number of months represented by the frequency of the payments. The county agency must begin counting the monthly amount in the month the periodic payment is received and budget it according to the assistance unit's budget cycle.

Sec. 30. Minnesota Statutes 2002, section 256J.415, is amended to read:

256J.415 [NOTICE OF TIME LIMIT 12 MONTHS PRIOR TO 60-MONTH TIME LIMIT EXPIRING.]

(a) The county agency shall mail a notice to each assistance unit when the assistance unit has 12 months of TANF assistance remaining and each month thereafter until the 60-month limit has expired. The notice must be developed by the commissioner of human services and must contain information about the 60-month limit, the number of months the participant has remaining, the hardship extension policy, and any other information that the commissioner deems pertinent to an assistance unit nearing the 60-month limit.

(b) For applicants who have less than 12 months remaining in the 60-month time limit because the unit previously received TANF assistance in Minnesota or another state, the county agency shall notify the applicant of the number of months of TANF remaining when the application is approved and begin the process required in paragraph (a).

Sec. 31. Minnesota Statutes 2003 Supplement, section 256J.425, subdivision 1, is amended to read:

Subdivision 1. [ELIGIBILITY.] (a) To be eligible for a hardship extension, a participant in an assistance unit subject to the time limit under section 256J.42, subdivision 1, must be in compliance in the participant's 60th counted month. For purposes of determining eligibility for a hardship extension, a participant is in compliance in any month that the participant has not been sanctioned.

(b) If one participant in a two-parent assistance unit is determined to be ineligible for a hardship extension, the county shall give the assistance unit the option of disqualifying the ineligible participant from MFIP. In that case, the assistance unit shall be treated as a one-parent assistance unit and the assistance unit's MFIP grant shall be calculated using the shared household standard under section 256J.08, subdivision 82a.

(c) Prior to denying an extension, the county must review the sanction status and determine whether the sanction is appropriate or if good cause exists under section 256J.57. If the sanction was inappropriately applied or the participant is granted a good cause exception before the end of month 60, the participant shall be considered for an extension.

Sec. 32. Minnesota Statutes 2003 Supplement, section 256J.425, subdivision 4, is amended to read:

Subd. 4. [EMPLOYED PARTICIPANTS.] (a) An assistance unit subject to the time limit under section 256J.42, subdivision 1, is eligible to receive assistance under a hardship extension if the participant who reached the time limit belongs to:

(1) a one-parent assistance unit in which the participant is participating in work activities for at least 30 hours per week, of which an average of at least 25 hours per week every month are spent participating in employment;

(2) a two-parent assistance unit in which the participants are participating in work activities for at least 55 hours per week, of which an average of at least 45 hours per week every month are spent participating in employment; or

(3) an assistance unit in which a participant is participating in employment for fewer hours than those specified in clause (1), and the participant submits verification from a qualified professional, in a form acceptable to the commissioner, stating that the number of hours the participant may work is limited due to illness or disability, as long as the participant is participating in employment for at least the number of hours specified by the qualified professional. The participant must be following the treatment recommendations of the qualified professional providing the verification. The commissioner shall develop a form to be completed and signed by the qualified professional, documenting the diagnosis and any additional information necessary to document the functional limitations of the participant that limit work hours. If the participant is part of a two-parent assistance unit, the other parent must be treated as a one-parent assistance unit for purposes of meeting the work requirements under this subdivision.

(b) For purposes of this section, employment means:

(1) unsubsidized employment under section 256J.49, subdivision 13, clause (1);

(2) subsidized employment under section 256J.49, subdivision 13, clause (2);

(3) on-the-job training under section 256J.49, subdivision 13, clause (2);

(4) an apprenticeship under section 256J.49, subdivision 13, clause (1);

(5) supported work under section 256J.49, subdivision 13, clause (2);

(6) a combination of clauses (1) to (5); or

(7) child care under section 256J.49, subdivision 13, clause (7), if it is in combination with paid employment.

(c) If a participant is complying with a child protection plan under chapter 260C, the number of hours required under the child protection plan count toward the number of hours required under this subdivision.

(d) The county shall provide the opportunity for subsidized employment to participants needing that type of employment within available appropriations.

(e) To be eligible for a hardship extension for employed participants under this subdivision, a participant must be in compliance for at least ten out of the 12 months the participant received MFIP immediately preceding the participant's 61st month on assistance. If ten or fewer months of eligibility for TANF assistance remain at the time the participant from another state applies for assistance, the participant must be in compliance every month.

(f) The employment plan developed under section 256J.521, subdivision 2, for participants under this subdivision must contain at least the minimum number of hours specified in paragraph (a) related to employment and work activities for the purpose of meeting the requirements for an extension under this subdivision. The job counselor and the participant must sign the employment plan to indicate agreement between the job counselor and the participant on the contents of the plan.

(g) Participants who fail to meet the requirements in paragraph (a), without good cause under section 256J.57, shall be sanctioned or permanently disqualified under subdivision 6. Good cause may only be granted for that portion of the month for which the good cause reason applies. Participants must meet all remaining requirements in the approved employment plan or be subject to sanction or permanent disqualification.

(h) If the noncompliance with an employment plan is due to the involuntary loss of employment, the participant is exempt from the hourly employment requirement under this subdivision for one month. Participants must meet all remaining requirements in the approved employment plan or be subject to sanction or permanent disqualification. This exemption is available to ~~a~~ each participant two times in a 12-month period.

Sec. 33. Minnesota Statutes 2002, section 256J.425, subdivision 5, is amended to read:

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~~ Participants who meet the criteria in clause (1), (2), or (3) and who are not eligible for assistance under a hardship extension under subdivision 2, paragraph (a), clause (3), shall be eligible for 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:

(1) a caregiver 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 (f), 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), who was subject to the requirements in section 256J.561, subdivision 2;

~~(2) 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 exempt under section 256J.56, paragraph (a), clause (7), from the employment and training services requirements; or~~

(3) exempt under section 256J.56, paragraph (a), clause (3), and demonstrates at the time of the case review required under section 256J.42, subdivision 6, that the participant met the exemption criteria under section 256J.56, paragraph (a), clause (7), during one or more months the participant was exempt under section 256J.56, paragraph (a), clause (3). Only months during which the participant met the criteria under section 256J.56, paragraph (a), clause (7), shall be considered.

(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 4 or 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 4 or 5.

~~(c) A participant who received TANF assistance that counted towards the federal 60-month time limit while the participant was exempt under section 256J.56, paragraph (a), clause (3), from employment and training services requirements, who demonstrates at the time of the case review required under section 256J.42, subdivision 6, that the participant met the exemption criteria under section 256J.56, paragraph (a), clause (7), during one or more months the participant was exempt under section 256J.56, paragraph (a), clause (3), before or after July 1, 2002, 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 during the time the participant met the criteria under section 256J.56, paragraph (a), clause (7) After the accrued months have been exhausted, the county agency must determine if the assistance unit is eligible for an extension under another extension category in section 256J.425, subdivision 2, 3, or 4.~~

(d) At the time of the case review, a county agency must explain to the participant the basis for receiving a hardship extension based on the accrual of exempt months. The participant must provide documentation necessary to enable the county agency to determine whether the participant is eligible to receive a hardship extension based on the accrual of exempt months or authorize a county agency to verify the information.

(e) While receiving extended MFIP assistance under this subdivision, a participant is subject to the MFIP policies that apply to participants during the first 60 months of MFIP, unless the participant is a member of a two-parent family in which one parent is extended under subdivision 3 or 4. For two-parent families in which one parent is extended under subdivision 3 or 4, the sanction provisions in subdivision 6, shall apply.

Sec. 34. Minnesota Statutes 2003 Supplement, section 256J.425, subdivision 6, is amended to read:

Subd. 6. [SANCTIONS FOR EXTENDED CASES.] (a) If one or both participants in an assistance unit receiving assistance under subdivision 3 or 4 are not in compliance with the employment and training service requirements in sections 256J.521 to 256J.57, the sanctions under this subdivision apply. For a first occurrence of noncompliance, an assistance unit must be sanctioned under section 256J.46, subdivision 1, paragraph (c), clause (1). For a second or third occurrence of noncompliance, the assistance unit must be sanctioned under section 256J.46, subdivision 1, paragraph (c), clause (2). For a fourth occurrence of noncompliance, the assistance unit is disqualified from MFIP. If a participant is determined to be out of compliance, the participant may claim a good cause exception under section 256J.57, however, the participant may not claim an exemption under section 256J.56.

(b) If both participants in a two-parent assistance unit are out of compliance at the same time, it is considered one occurrence of noncompliance.

(c) When a parent in an extended two-parent assistance unit who has not used 60 months of assistance is out of compliance with the employment and training service requirements in sections 256J.521 to 256J.57, sanctions must be applied as specified in clauses (1) and (2).

(1) If the assistance unit is receiving assistance under subdivision 3 or 4, the assistance unit is subject to the sanction policy in this subdivision.

(2) If the assistance unit is receiving assistance under subdivision 2, the assistance unit is subject to the sanction policy in section 256J.46.

(d) If a two-parent assistance unit is extended under subdivision 3 or 4, and a parent who has not reached the 60-month time limit is out of compliance with the employment and training services requirements in sections 256J.521 to 256J.57 when the case is extended, the sanction in the 61st month is considered the first sanction for the purposes of applying the sanctions in this subdivision, except that the sanction amount shall be 30 percent.

Sec. 35. Minnesota Statutes 2003 Supplement, section 256J.46, subdivision 1, is amended to read:

Subdivision 1. [PARTICIPANTS NOT COMPLYING WITH PROGRAM REQUIREMENTS.] (a) A participant who fails without good cause under section 256J.57 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 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 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.515 to 256J.57 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. If both participants in a two-parent assistance unit are out of compliance at the same time, it is considered one occurrence of noncompliance.

(c) Sanctions for noncompliance shall be imposed as follows:

(1) For the first occurrence of noncompliance by a participant in 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, third, fourth, fifth, or sixth occurrence of noncompliance by a participant in an assistance unit, 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 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 the participant in a one-parent assistance unit returns to compliance. In a two-parent 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 to determine if the employment plan is still appropriate.

(d) For a seventh occurrence of noncompliance by a participant in an assistance unit, or when the participants in a two-parent assistance unit have a total of seven occurrences of noncompliance, the county agency shall close the MFIP assistance unit's financial assistance case, both the cash and food portions, and redetermine the family's continued eligibility for food support payments. The MFIP case must remain closed for a minimum of one full month. ~~Closure under this paragraph does not make a participant automatically ineligible for food support, if otherwise eligible.~~ Before the case is closed, the county agency 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. The participant may bring an advocate to the face-to-face meeting. If a face-to-face meeting is not conducted, the county agency must send the participant a written notice that includes the information required under clause (1).

(1) During the face-to-face meeting, the county agency 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 (9);

(ii) determine whether the participant qualifies for a good cause exception under section 256J.57, or if the sanction is for noncooperation with child support requirements, determine if the participant qualifies for a good cause exemption under section 256.741, subdivision 10;

(iii) determine whether the participant qualifies for an exemption under section 256J.56 or the work activities in the employment plan are appropriate based on the criteria in section 256J.521, subdivision 2 or 3;

(iv) determine whether the participant qualifies for the family violence waiver;

(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; and

(vii) inform the participant of the right to appeal under section 256J.40.

(2) If the lack of an identified activity or service can explain the noncompliance, the county must work with the participant to provide the identified activity.

(3) The grant must be restored to the full amount for which the assistance unit is eligible retroactively to the first day of the month in which the participant was found to lack preemployment activities or to qualify for an exemption under section 256J.56, a family violence waiver, or for a good cause exemption under section 256.741, subdivision 10, or 256J.57.

(e) For the purpose of applying sanctions under this section, only occurrences of noncompliance that occur after July 1, 2003, shall be considered. If the participant is in 30 percent sanction in the month this section takes effect, that month counts as the first occurrence for purposes of applying the sanctions under this section, but the sanction shall remain at 30 percent for that month.

(f) An assistance unit whose case is closed under paragraph (d) or (g), may reapply for MFIP and shall be eligible if the participant complies with MFIP program requirements and demonstrates compliance for up to one month. No assistance shall be paid during this period.

(g) An assistance unit whose case has been closed for noncompliance, that reapplies under paragraph (f), is subject to sanction under paragraph (c), clause (2), for a first occurrence of noncompliance. Any subsequent occurrence of noncompliance shall result in case closure under paragraph (d).

Sec. 36. Minnesota Statutes 2003 Supplement, section 256J.49, subdivision 4, is amended to read:

Subd. 4. [EMPLOYMENT AND TRAINING SERVICE PROVIDER.] "Employment and training service provider" means:

~~(1) a public, private, or nonprofit employment and training agency certified by the commissioner of economic security under sections 268.0122, subdivision 3, and 268.871, subdivision 1, or is approved under section 256J.51 and is included in the county service agreement submitted under section 256J.626, subdivision 4;~~

~~(2) a public, private, or nonprofit agency that is not certified by the commissioner under clause (1), but with which a county has contracted to provide employment and training services and which is included in the county's service agreement submitted under section 256J.626, subdivision 4; or~~

~~(3)~~ (2) a county agency, if the county has opted to provide employment and training services and the county has indicated that fact in the service agreement submitted under section 256J.626, subdivision 4.

Notwithstanding section 268.871, an employment and training services provider meeting this definition may deliver employment and training services under this chapter.

Sec. 37. Minnesota Statutes 2003 Supplement, section 256J.515, is amended to read:

256J.515 [OVERVIEW OF EMPLOYMENT AND TRAINING SERVICES.]

During the first meeting with participants, job counselors must ensure that an overview of employment and training services is provided that:

- (1) stresses the necessity and opportunity of immediate employment;
- (2) outlines the job search resources offered;
- (3) outlines education or training opportunities available;
- (4) describes the range of work activities, including activities under section 256J.49, subdivision 13, clause (18), that are allowable under MFIP to meet the individual needs of participants;
- (5) explains the requirements to comply with an employment plan;
- (6) explains the consequences for failing to comply;
- (7) explains the services that are available to support job search and work and education; and
- (8) provides referral information about shelters and programs for victims of family violence, and the time limit exemption, ~~and waivers of regular employment and training requirements~~ for family violence victims.

Failure to attend the overview of employment and training services without good cause results in the imposition of a sanction under section 256J.46.

An applicant who requests and qualifies for a family violence waiver is exempt from attending a group overview. Information usually presented in an overview must be covered during the development of an employment plan under section 256J.521, subdivision 3.

Sec. 38. Minnesota Statutes 2003 Supplement, section 256J.521, subdivision 1, is amended to read:

Subdivision 1. [ASSESSMENTS.] (a) For purposes of MFIP employment services, assessment is a continuing process of gathering information related to employability for the purpose of identifying both participant's strengths and strategies for coping with issues that interfere with employment. The job counselor must use information from the assessment process to develop and update the employment plan under subdivision 2 or 3, as appropriate, and to determine whether the participant qualifies for a family violence waiver including an employment plan under subdivision 3.

(b) The scope of assessment must cover at least the following areas:

- (1) basic information about the participant's ability to obtain and retain employment, including: a review of the participant's education level; interests, skills, and abilities; prior employment or work experience; transferable work skills; child care and transportation needs;
- (2) identification of personal and family circumstances that impact the participant's ability to obtain and retain employment, including: any special needs of the children, the level of English proficiency, family violence issues, and any involvement with social services or the legal system;

(3) the results of a mental and chemical health screening tool designed by the commissioner and results of the brief screening tool for special learning needs. Screening tools for mental and chemical health and special learning needs must be approved by the commissioner and may only be administered by job counselors or county staff trained in using such screening tools. The commissioner shall work with county agencies to develop protocols for referrals and follow-up actions after screens are administered to participants, including guidance on how employment plans may be modified based upon outcomes of certain screens. Participants must be told of the purpose of the screens and how the information will be used to assist the participant in identifying and overcoming barriers to employment. Screening for mental and chemical health and special learning needs must be completed by participants who are unable to find suitable employment after six weeks of job search under subdivision 2, paragraph (b), and participants who are determined to have barriers to employment under subdivision 2, paragraph (d). Failure to complete the screens will result in sanction under section 256J.46; and

(4) a comprehensive review of participation and progress for participants who have received MFIP assistance and have not worked in unsubsidized employment during the past 12 months. The purpose of the review is to determine the need for additional services and supports, including placement in subsidized employment or unpaid work experience under section 256J.49, subdivision 13.

(c) Information gathered during a caregiver's participation in the diversionary work program under section 256J.95 must be incorporated into the assessment process.

(d) The job counselor may require the participant to complete a professional chemical use assessment to be performed according to the rules adopted under section 254A.03, subdivision 3, including provisions in the administrative rules which recognize the cultural background of the participant, or a professional psychological assessment as a component of the assessment process, when the job counselor has a reasonable belief, based on objective evidence, that a participant's ability to obtain and retain suitable employment is impaired by a medical condition. The job counselor may assist the participant with arranging services, including child care assistance and transportation, necessary to meet needs identified by the assessment. Data gathered as part of a professional assessment must be classified and disclosed according to the provisions in section 13.46.

Sec. 39. Minnesota Statutes 2003 Supplement, section 256J.521, subdivision 2, is amended to read:

Subd. 2. [EMPLOYMENT PLAN; CONTENTS.] (a) Based on the assessment under subdivision 1, the job counselor and the participant must develop an employment plan that includes participation in activities and hours that meet the requirements of section 256J.55, subdivision 1. The purpose of the employment plan is to identify for each participant the most direct path to unsubsidized employment and any subsequent steps that support long-term economic stability. The employment plan should be developed using the highest level of activity appropriate for the participant. Activities must be chosen from clauses (1) to (6), which are listed in order of preference. Notwithstanding this order of preference for activities, priority must be given for activities related to a family violence waiver when developing the employment plan. The employment plan must also list the specific steps the participant will take to obtain employment, including steps necessary for the participant to progress from one level of activity to another, and a timetable for completion of each step. Levels of activity include:

- (1) unsubsidized employment;
- (2) job search;
- (3) subsidized employment or unpaid work experience;
- (4) unsubsidized employment and job readiness education or job skills training;

(5) unsubsidized employment or unpaid work experience and activities related to a family violence waiver or preemployment needs; and

(6) activities related to a family violence waiver or preemployment needs.

(b) Participants who are determined to possess sufficient skills such that the participant is likely to succeed in obtaining unsubsidized employment must job search at least 30 hours per week for up to six weeks and accept any offer of suitable employment. The remaining hours necessary to meet the requirements of section 256J.55, subdivision 1, may be met through participation in other work activities under section 256J.49, subdivision 13. The participant's employment plan must specify, at a minimum: (1) whether the job search is supervised or unsupervised; (2) support services that will be provided; and (3) how frequently the participant must report to the job counselor. Participants who are unable to find suitable employment after six weeks must meet with the job counselor to determine whether other activities in paragraph (a) should be incorporated into the employment plan. Job search activities which are continued after six weeks must be structured and supervised.

(c) Beginning July 1, 2004, activities and hourly requirements in the employment plan may be adjusted as necessary to accommodate the personal and family circumstances of participants identified under section 256J.561, subdivision 2, paragraph (d). Participants who no longer meet the provisions of section 256J.561, subdivision 2, paragraph (d), must meet with the job counselor within ten days of the determination to revise the employment plan.

(d) Participants who are determined to have barriers to obtaining or retaining employment that will not be overcome during six weeks of job search under paragraph (b) must work with the job counselor to develop an employment plan that addresses those barriers by incorporating appropriate activities from paragraph (a), clauses (1) to (6). The employment plan must include enough hours to meet the participation requirements in section 256J.55, subdivision 1, unless a compelling reason to require fewer hours is noted in the participant's file.

(e) The job counselor and the participant must sign the employment plan to indicate agreement on the contents. Failure to develop or comply with activities in the plan, or voluntarily quitting suitable employment without good cause, will result in the imposition of a sanction under section 256J.46.

(f) Employment plans must be reviewed at least every three months to determine whether activities and hourly requirements should be revised.

Sec. 40. Minnesota Statutes 2003 Supplement, section 256J.53, subdivision 2, is amended to read:

Subd. 2. [APPROVAL OF POSTSECONDARY EDUCATION OR TRAINING.] (a) In order for a postsecondary education or training program to be an approved activity in an employment plan, the participant must be working in unsubsidized employment at least 20 hours per week.

(b) Participants seeking approval of a postsecondary education or training plan must provide documentation that:

(1) the employment goal can only be met with the additional education or training;

(2) there are suitable employment opportunities that require the specific education or training in the area in which the participant resides or is willing to reside;

(3) the education or training will result in significantly higher wages for the participant than the participant could earn without the education or training;

(4) the participant can meet the requirements for admission into the program; and

(5) there is a reasonable expectation that the participant will complete the training program based on such factors as the participant's MFIP assessment, previous education, training, and work history; current motivation; and changes in previous circumstances.

(c) The hourly unsubsidized employment requirement ~~may be reduced~~ does not apply for intensive education or training programs lasting 12 weeks or less when full-time attendance is required.

(d) Participants with an approved employment plan in place on July 1, 2003, which includes more than 12 months of postsecondary education or training shall be allowed to complete that plan provided that hourly requirements in section 256J.55, subdivision 1, and conditions specified in paragraph (b), and subdivisions 3 and 5 are met. A participant whose case is subsequently closed for three months or less for reasons other than noncompliance with program requirements and who return to MFIP shall be allowed to complete that plan provided that hourly requirements in section 256J.55, subdivision 1, and conditions specified in paragraph (b) and subdivisions 3 and 5 are met.

Sec. 41. Minnesota Statutes 2003 Supplement, section 256J.56, is amended to read:

256J.56 [EMPLOYMENT AND TRAINING SERVICES COMPONENT; EXEMPTIONS.]

(a) An MFIP Paragraphs (b) and (c) apply only to an MFIP participant who was exempt from participating in employment services as of June 30, 2004, has not been required to develop an employment plan under section 256J.561, and continues to qualify for an exemption under this section. All exemptions under this section expire at the time of the participant's recertification. No new exemptions shall be granted under this section after June 30, 2004.

(b) A participant is exempt from the requirements of sections 256J.515 to 256J.57 if the participant ~~belongs~~ continues to belong to any of the following groups:

(1) participants who are age 60 or older;

(2) participants who are suffering from a permanent or temporary illness, injury, or incapacity which has been certified by a qualified professional when the illness, injury, or incapacity is expected to continue for more than 30 days and 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) participants whose presence in the home is required as a caregiver because of the illness, injury, or incapacity of another member in the assistance unit, a relative in the household, or a foster child in the household when the illness or incapacity and the need for a person to provide assistance in the home has been certified by a qualified professional and is expected to continue for more than 30 days;

(4) women who are pregnant, if the pregnancy has resulted in an incapacity that prevents the woman from obtaining or retaining employment, and the incapacity has been certified by a qualified professional;

(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) 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 certification from a qualified professional, 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. A personal or family crisis related to family violence, as determined by the county or a job counselor with the assistance of a person trained in domestic violence, should not result in an exemption, but should be addressed through the development or revision of an employment plan under section 256J.521, subdivision 3; or

(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 (f), 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)~~ (c) The county agency must provide employment and training services to MFIP 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 participants under section 256J.55, subdivision 1, do not apply to exempt participants who volunteer to participate.

~~(e)~~ (d) This section expires on June 30, ~~2004~~ 2005.

Sec. 42. Minnesota Statutes 2003 Supplement, section 256J.57, subdivision 1, is amended to read:

Subdivision 1. [GOOD CAUSE FOR FAILURE TO COMPLY.] The county agency shall not impose the sanction under section 256J.46 if it determines that the participant has good cause for failing to comply with the requirements of sections 256J.515 to 256J.57. Good cause exists when:

- (1) appropriate child care is not available;
- (2) the job does not meet the definition of suitable employment;
- (3) the participant is ill or injured;
- (4) a member of the assistance unit, a relative in the household, or a foster child in the household is ill and needs care by the participant that prevents the participant from complying with the employment plan;
- (5) the ~~parental caregiver~~ participant is unable to secure necessary transportation;
- (6) the ~~parental caregiver~~ participant is in an emergency situation that prevents compliance with the employment plan;
- (7) the schedule of compliance with the employment plan conflicts with judicial proceedings;
- (8) a mandatory MFIP meeting is scheduled during a time that conflicts with a judicial proceeding or a meeting related to a juvenile court matter, or a participant's work schedule;
- (9) the ~~parental caregiver~~ participant is already participating in acceptable work activities;

(10) the employment plan requires an educational program for a caregiver under age 20, but the educational program is not available;

(11) activities identified in the employment plan are not available;

(12) the ~~parental-caregiver~~ participant is willing to accept suitable employment, but suitable employment is not available; or

(13) the ~~parental-caregiver~~ participant documents other verifiable impediments to compliance with the employment plan beyond the ~~parental-caregiver's~~ participant's control.

The job counselor shall work with the participant to reschedule mandatory meetings for individuals who fall under clauses (1), (3), (4), (5), (6), (7), and (8).

Sec. 43. Minnesota Statutes 2003 Supplement, section 256J.626, subdivision 2, is amended to read:

Subd. 2. [ALLOWABLE EXPENDITURES.] (a) The commissioner must restrict expenditures under the consolidated fund to benefits and services allowed under title IV-A of the federal Social Security Act. Allowable expenditures under the consolidated fund may include, but are not limited to:

(1) short-term, nonrecurring shelter and utility needs that are excluded from the definition of assistance under Code of Federal Regulations, title 45, section 260.31, for families who meet the residency requirement in section 256J.12, subdivisions 1 and 1a. Payments under this subdivision are not considered TANF cash assistance and are not counted towards the 60-month time limit;

(2) transportation needed to obtain or retain employment or to participate in other approved work activities;

(3) direct and administrative costs of staff to deliver employment services for MFIP or the diversionary work program, to administer financial assistance, and to provide specialized services intended to assist hard-to-employ participants to transition to work;

(4) costs of education and training including functional work literacy and English as a second language;

(5) cost of work supports including tools, clothing, boots, and other work-related expenses;

(6) county administrative expenses as defined in Code of Federal Regulations, title 45, section 260(b);

(7) services to parenting and pregnant teens;

(8) supported work;

(9) wage subsidies;

(10) child care needed for MFIP or diversionary work program participants to participate in social services;

(11) child care to ensure that families leaving MFIP or diversionary work program will continue to receive child care assistance from the time the family no longer qualifies for transition year child care until an opening occurs under the basic sliding fee child care program; and

(12) services to help noncustodial parents who live in Minnesota and have minor children receiving MFIP or DWP assistance, but do not live in the same household as the child, obtain or retain employment.

(b) Administrative costs that are not matched with county funds as provided in subdivision 8 may not exceed 7.5 percent of a county's or 15 percent of a tribe's ~~reimbursement~~ allocation under this section. The commissioner shall define administrative costs for purposes of this subdivision.

Sec. 44. Minnesota Statutes 2003 Supplement, section 256J.751, subdivision 2, is amended to read:

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 104-193;
- (5) median placement wage rate;
- (6) caseload by months of TANF assistance;

(7) percent of MFIP and diversionary work program (DWP) cases off cash assistance or working 30 or more hours per week at one-year, two-year, and three-year follow-up points from a baseline quarter. This measure is called the self-support index. Twice annually, the commissioner shall report an expected range of performance for each county, county grouping, and tribe on the self-support index. The expected range shall be derived by a statistical methodology developed by the commissioner in consultation with the counties and tribes. The statistical methodology shall control differences across counties in economic conditions and demographics of the MFIP and DWP case load; and

(8) the MFIP work participation rate, defined as the participation requirements specified in title 1 of Public Law 104-193 applied to all MFIP cases except child only cases and cases exempt under section 256J.56.

Sec. 45. Minnesota Statutes 2003 Supplement, section 256J.95, subdivision 1, is amended to read:

Subdivision 1. [ESTABLISHING A DIVERSIONARY WORK PROGRAM (DWP).] (a) The Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, establishes block grants to states for temporary assistance for needy families (TANF). TANF provisions allow states to use TANF dollars for nonrecurrent, short-term diversionary benefits. The diversionary work program established on July 1, 2003, is Minnesota's TANF program to provide short-term diversionary benefits to eligible recipients of the diversionary work program.

(b) The goal of the diversionary work program is to provide short-term, necessary services and supports to families which will lead to unsubsidized employment, increase economic stability, and reduce the risk of those families needing longer term assistance, under the Minnesota family investment program (MFIP).

(c) When a family unit meets the eligibility criteria in this section, the family must receive a diversionary work program grant and is not eligible for MFIP.

(d) A family unit is eligible for the diversionary work program for a maximum of four consecutive months ~~only once in a 12 month period. The 12 month period begins at the date of application or the date eligibility is met, whichever is later.~~ During the ~~four month period~~ four consecutive months, family maintenance needs as defined in

subdivision 2, shall be vendor paid, up to the cash portion of the MFIP standard of need for the same size household. To the extent there is a balance available between the amount paid for family maintenance needs and the cash portion of the transitional standard, a personal needs allowance of up to \$70 per DWP recipient in the family unit shall be issued. The personal needs allowance payment plus the family maintenance needs shall not exceed the cash portion of the MFIP standard of need. Counties may provide supportive and other allowable services funded by the MFIP consolidated fund under section 256J.626 to eligible participants during the four-month diversionary period.

Sec. 46. Minnesota Statutes 2003 Supplement, section 256J.95, subdivision 3, is amended to read:

Subd. 3. [ELIGIBILITY FOR DIVERSIONARY WORK PROGRAM.] (a) Except for the categories of family units listed below, all family units who apply for cash benefits and who meet MFIP eligibility as required in sections 256J.11 to 256J.15 are eligible and must participate in the diversionary work program. Family units that are not eligible for the diversionary work program include:

- (1) child only cases;
 - (2) a single-parent family unit that includes a child under 12 weeks of age. A parent is eligible for this exception once in a parent's lifetime and is not eligible if the parent has already used the previously allowed child under age one exemption from MFIP employment services;
 - (3) a minor parent without a high school diploma or its equivalent;
 - (4) ~~a caregiver an 18 or 19 years of age year old caregiver~~ without a high school diploma or its equivalent who chooses to have an employment plan with an education option;
 - (5) a caregiver age 60 or over;
 - (6) family units with a ~~parent caregiver~~ who received DWP benefits ~~within a 12 month period as defined in subdivision 1, paragraph (d) in the 12 months prior to the month the family applied for DWP, except as provided in paragraph (c); and~~
 - (7) family units with a ~~parent caregiver~~ who received MFIP within the ~~past 12 months prior to the month the family unit applied for DWP;~~
 - (8) a family unit with a caregiver who received 60 or more months of TANF assistance; and
 - (9) a family unit with a caregiver who is disqualified from DWP or MFIP due to fraud.
- (b) A two-parent family must participate in DWP unless both ~~parents caregivers~~ meet the criteria for an exception under paragraph (a), clauses (1) through (5), or the family unit includes a parent who meets the criteria in paragraph (a), clause (6) ~~or~~ (7), (8), or (9).
- (c) Once DWP eligibility is determined, the four months run consecutively. If a participant leaves the program for any reason and reapplies during the four-month period, the county must redetermine eligibility for DWP.

Sec. 47. Minnesota Statutes 2003 Supplement, section 256J.95, subdivision 11, is amended to read:

Subd. 11. [UNIVERSAL PARTICIPATION REQUIRED.] (a) All DWP caregivers, except caregivers who meet the criteria in paragraph (d), are required to participate in DWP employment services. Except as specified in paragraphs (b) and (c), employment plans under DWP must, at a minimum, meet the requirements in section 256J.55, subdivision 1.

(b) A caregiver who is a member of a two-parent family that is required to participate in DWP who would otherwise be ineligible for DWP under subdivision 3 may be allowed to develop an employment plan under section 256J.521, subdivision 2, paragraph (c), that may contain alternate activities and reduced hours.

(c) A participant who ~~has~~ is a victim of family violence ~~waiver~~ shall be allowed to develop an employment plan under section 256J.521, subdivision 3. A claim of family violence must be documented by the applicant or participant by providing a sworn statement which is supported by collateral documentation in section 256J.545, paragraph (b).

(d) One parent in a two-parent family unit that has a natural born child under 12 weeks of age is not required to have an employment plan until the child reaches 12 weeks of age unless the family unit has already used the exclusion under section 256J.561, subdivision 2, or the previously allowed child under age one exemption under section 256J.56, paragraph (a), clause (5).

(e) The provision in paragraph (d) ends the first full month after the child reaches 12 weeks of age. This provision is allowable only once in a caregiver's lifetime. In a two-parent household, only one parent shall be allowed to use this category.

(f) The participant and job counselor must meet within ten working days after the child reaches 12 weeks of age to revise the participant's employment plan. The employment plan for a family unit that has a child under 12 weeks of age that has already used the exclusion in section 256J.561 or the previously allowed child under age one exemption under section 256J.56, paragraph (a), clause (5), must be tailored to recognize the caregiving needs of the parent.

Sec. 48. Minnesota Statutes 2003 Supplement, section 256J.95, subdivision 12, is amended to read:

Subd. 12. [CONVERSION OR REFERRAL TO MFIP.] (a) If at any time during the DWP application process or during the four-month DWP eligibility period, it is determined that a participant is unlikely to benefit from the diversionary work program, the county shall convert or refer the participant to MFIP as specified in paragraph (d). Participants who are determined to be unlikely to benefit from the diversionary work program must develop and sign an employment plan. Participants who meet any one of the criteria in paragraph (b) shall be considered to be unlikely to benefit from DWP, provided the necessary documentation is available to support the determination.

(b) A participant who:

(1) has been determined by a qualified professional as being unable to obtain or retain employment due to an illness, injury, or incapacity that is expected to last at least 60 days;

(2) is required in the home as a caregiver because of the illness, injury, or incapacity, of a family member, or a relative in the household, or a foster child, and the illness, injury, or incapacity and the need for a person to provide assistance in the home has been certified by a qualified professional and is expected to continue more than 60 days;

(3) is determined by a qualified professional as being needed in the home to care for a child or adult meeting the special medical criteria in section ~~256J.425~~ 256J.561, subdivision 2, paragraph (d), clause (3);

(4) is pregnant and is determined by a qualified professional as being unable to obtain or retain employment due to the pregnancy; or

(5) has applied for SSI or ~~RSDI~~ SSDI.

(c) In a two-parent family unit, both parents must be determined to be unlikely to benefit from the diversionary work program before the family unit can be converted or referred to MFIP.

(d) A participant who is determined to be unlikely to benefit from the diversionary work program shall be converted to MFIP and, if the determination was made within 30 days of the initial application for benefits, no additional application form is required. A participant who is determined to be unlikely to benefit from the diversionary work program shall be referred to MFIP and, if the determination is made more than 30 days after the initial application, the participant must submit a program change request form. The county agency shall process the program change request form by the first of the following month to ensure that no gap in benefits is due to delayed action by the county agency. In processing the program change request form, the county must follow section 256J.32, subdivision 1, except that the county agency shall not require additional verification of the information in the case file from the DWP application unless the information in the case file is inaccurate, questionable, or no longer current.

(e) The county shall not request a combined application form for a participant who has exhausted the four months of the diversionary work program, has continued need for cash and food assistance, and has completed, signed, and submitted a program change request form within 30 days of the fourth month of the diversionary work program. The county must process the program change request according to section 256J.32, subdivision 1, except that the county agency shall not require additional verification of information in the case file unless the information is inaccurate, questionable, or no longer current. When a participant does not request MFIP within 30 days of the diversionary work program benefits being exhausted, a new combined application form must be completed for any subsequent request for MFIP.

Sec. 49. Minnesota Statutes 2003 Supplement, section 256J.95, subdivision 19, is amended to read:

Subd. 19. ~~[RECOVERY OF DWP OVERPAYMENTS AND UNDERPAYMENTS.]~~ When DWP benefits are subject to overpayments and underpayments. Anytime an overpayment or an ATM error underpayment is determined for DWP, the overpayment correction shall be recouped or calculated using prospective budgeting. Corrections shall be determined based on the policy in section 256J.34, subdivision 1, paragraphs (a), (b), and (c), and subdivision 3, paragraph (b), clause (1). ATM errors must be recovered as specified in section 256J.38, subdivision 5. DWP overpayments are not subject to cross program recoupment.

Sec. 50. [REPEALER.]

(a) Minnesota Statutes 2002, sections 119B.211 and 256D.051, subdivision 17, are repealed.

(b) Laws 2000, chapter 489, article 1, section 36, is repealed.

ARTICLE 5

LONG-TERM CARE

Section 1. Minnesota Statutes 2003 Supplement, section 245A.11, subdivision 2a, is amended to read:

Subd. 2a. [ADULT FOSTER CARE LICENSE CAPACITY.] (a) An adult foster care license holder may have a maximum license capacity of five if all persons in care are age 55 or over and do not have a serious and persistent mental illness or a developmental disability.

(b) The commissioner may grant variances to paragraph (a) to allow a foster care provider with a licensed capacity of five persons to admit an individual under the age of 55 if the variance complies with section 245A.04, subdivision 9, and approval of the variance is recommended by the county in which the licensed foster care provider is located.

(c) The commissioner may grant variances to paragraph (a) to allow the use of a fifth bed for emergency crisis services for a person with serious and persistent mental illness or a developmental disability, regardless of age, if the variance complies with section 245A.04, subdivision 9, and approval of the variance is recommended by the county in which the licensed foster care provider is located.

(d) Notwithstanding paragraph (a), the commissioner may issue an adult foster care license with a capacity of five adults when the capacity is recommended by the county licensing agency of the county in which the facility is located and if the recommendation verifies that:

- (1) the facility meets the physical environment requirements in the adult foster care licensing rule;
- (2) the five-bed living arrangement is specified for each resident in the resident's:
 - (i) individualized plan of care;
 - (ii) individual service plan under section 256B.092, subdivision 1b, if required; or
 - (iii) individual resident placement agreement under Minnesota Rules, part 9555.5105, subpart 19, if required;

(3) the license holder obtains written and signed informed consent from each resident or resident's legal representative documenting the resident's informed choice to living in the home and that the resident's refusal to consent would not have resulted in service termination; and

- (4) the facility was licensed for adult foster care before March 1, 2003.

(e) The commissioner shall not issue a new adult foster care license under paragraph (d) after June 30, 2005. The commissioner shall allow a facility with an adult foster care license issued under paragraph (d) before June 30, 2005, to continue with a capacity of five ~~or six~~ adults if the license holder continues to comply with the requirements in paragraph (d).

Sec. 2. Minnesota Statutes 2002, section 256B.0625, is amended by adding a subdivision to read:

Subd. 2a. [SKILLED NURSING FACILITY AND HOSPICE SERVICES FOR DUAL ELIGIBLES.] Medical assistance covers skilled nursing facility services for individuals eligible for both medical assistance and Medicare who have waived the Medicare skilled nursing facility room and board benefit and have enrolled in the Medicare hospice program. Medical assistance covers skilled nursing facility services regardless of whether an individual enrolled in the Medicare hospice program prior to, on, or after the date of the hospitalization that qualified the individual for Medicare skilled nursing facility services.

Sec. 3. Minnesota Statutes 2002, section 256B.0911, subdivision 4a, is amended 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 ~~400-508~~ 101-508.

The following criteria apply to the preadmission screening:

(1) the county must use forms and criteria developed by the commissioner 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 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 under Code of Federal Regulations, title 42, section 483.440 (a)(1).

(d) The determination of the need for nursing facility level of care must be made according to criteria developed by the commissioner. 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. 4. Minnesota Statutes 2003 Supplement, section 256B.0915, subdivision 3a, is amended to read:

Subd. 3a. [ELDERLY WAIVER COST LIMITS.] (a) The monthly limit for the cost of waived services to an individual elderly waiver client shall be the weighted average monthly nursing facility rate of the case mix resident class to which the elderly waiver client would be assigned under 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 rate increase or ~~any legislatively adopted the average~~ statewide percent rate percentage increase for in nursing facilities facility payment rates.

(b) If extended medical supplies and equipment or environmental modifications are or will be purchased for an elderly waiver client, the costs may be prorated for up to 12 consecutive months beginning with the month of purchase. If the monthly cost of a recipient's waived services exceeds the monthly limit established in paragraph (a), the annual cost of all waived services shall be determined. In this event, the annual cost of all waived services shall not exceed 12 times the monthly limit of waived services as described in paragraph (a).

Sec. 5. Minnesota Statutes 2003 Supplement, section 256B.0915, subdivision 3b, is amended to read:

Subd. 3b. [COST LIMITS FOR ELDERLY WAIVER APPLICANTS WHO RESIDE IN A NURSING FACILITY.] (a) For a person who is a nursing facility resident at the time of requesting a determination of eligibility for elderly waived services, 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 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 initially approved conversion rate may be adjusted by the greater of any subsequent legislatively adopted home and community-based services ~~cost-of-living~~ percentage rate increase ~~or any subsequent legislatively adopted~~ the average statewide percentage ~~rate~~ increase ~~for in~~ nursing facilities facility payment rates. The limit under this subdivision 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.

(b) 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.

Sec. 6. Minnesota Statutes 2003 Supplement, section 256B.431, subdivision 32, is amended to read:

Subd. 32. [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 paid 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;
- (2) for the next 60 paid 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;
- (3) 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; and
- (4) payments under this paragraph apply to admissions occurring on or after July 1, 2001, and before July 1, 2003, and to resident days occurring before July 30, 2003.

(b) For rate years beginning on or after July 1, 2003, the total payment rate for a facility reimbursed under this section, section 256B.434, or any other section shall be:

- (1) for the first 30 calendar days after admission, the rate shall be 120 percent of the facility's medical assistance rate for each RUG class;

(2) beginning with the 31st calendar day after admission, the payment rate shall be the rate otherwise determined under this section, section 256B.434, or any other section; and

(3) payments under this paragraph apply to admissions occurring on or after July 1, 2003.

(c) Effective January 1, 2004, the enhanced rates under this subdivision shall not be allowed if a resident has resided during the previous 30 calendar days in:

(1) the same nursing facility;

(2) a nursing facility owned or operated by a related party; or

(3) a nursing facility or part of a facility that closed or was in the process of closing.

Sec. 7. Minnesota Statutes 2003 Supplement, section 256B.69, subdivision 6b, is amended to read:

Subd. 6b. [HOME AND COMMUNITY-BASED WAIVER SERVICES.] (a) For individuals enrolled in the Minnesota senior health options project authorized under subdivision 23, elderly waiver services shall be covered according to the terms and conditions of the federal agreement governing that demonstration project.

(b) For individuals under age 65 enrolled in demonstrations authorized under subdivision 23, home and community-based waiver services shall be covered according to the terms and conditions of the federal agreement governing that demonstration project.

(c) The commissioner of human services shall issue requests for proposals for collaborative service models between counties and managed care organizations to integrate the home and community-based elderly waiver services and additional nursing home services into the prepaid medical assistance program.

(d) Notwithstanding Minnesota Rules, part 9500.1457, subpart 1, item C, elderly waiver services shall be covered statewide no sooner than July 1, 2006, under the prepaid medical assistance program for all individuals who are eligible according to section 256B.0915. The commissioner may develop a schedule to phase in implementation of these waiver services, including collaborative service models under paragraph (c). The commissioner shall phase in implementation beginning with those counties participating under section 256B.692, and those counties where a viable collaborative service model has been developed. In consultation with counties and all managed care organizations that have expressed an interest in participating in collaborative service models, the commissioner shall evaluate the models. The commissioner shall consider the evaluation in selecting the most appropriate models for statewide implementation.

ARTICLE 6

HEALTH CARE

Section 1. Minnesota Statutes 2003 Supplement, section 256.01, subdivision 2, is amended to read:

Subd. 2. [SPECIFIC POWERS.] Subject to the provisions of section 241.021, subdivision 2, the commissioner of human services shall carry out the specific duties in paragraphs (a) through (aa):

(+) (a) 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) (1) 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) (2) 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) (3) develop a quality control program or other monitoring program to review county performance and accuracy of benefit determinations;

(d) (4) 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) (5) 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) (6) make contracts with and grants to public and private agencies and organizations, both profit and nonprofit, and individuals, using appropriated funds; and

(g) (7) 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) (b) 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) (c) 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) (d) 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) (e) 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) (f) 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)~~ (g) Establish and maintain any administrative units reasonably necessary for the performance of administrative functions common to all divisions of the department.

~~(8)~~ (h) 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 or a Minnesota tribal social services 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)~~ (i) Act as coordinating referral and informational center on requests for service for newly arrived immigrants coming to Minnesota.

~~(10)~~ (j) 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)~~ (k) 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)~~ (l) 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)~~ (1) 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; and

~~(b)~~ (2) a comprehensive plan, including estimated project costs, shall be approved by the Legislative Advisory Commission and filed with the commissioner of administration.

~~(13)~~ (m) 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)~~ (n) 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)~~ (1) 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; and

~~(b)~~ (2) notwithstanding the provisions of ~~paragraph (a) clause (1)~~, 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) clause (1)~~, 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) clause (1)~~.

~~(45)~~ (o) 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.

~~(46)~~ (p) 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.

~~(47)~~ (q) Have the authority to establish and enforce the following county reporting requirements:

~~(a)~~ (1) 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; and

~~(b)~~ (2) 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; and

~~(c)~~ (3) if the required reports are not received by the deadlines established in clause ~~(b)~~ (2), 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; and

~~(d)~~ (4) 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)~~ (5) 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)~~ (6) the commissioner may not delay payments, withhold funds, or require repayment under ~~paragraph (e) clause (3)~~ or ~~(e) (5)~~ 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 (e) clause (3)~~ or ~~(e) (5)~~, the county board may appeal the action according to sections 14.57 to 14.69; and

~~(g)~~ (7) counties subject to withholding of funds under ~~paragraph (e) clause (3)~~ or forfeiture or repayment of funds under ~~paragraph (e) clause (5)~~ shall not reduce or withhold benefits or services to clients to cover costs incurred due to actions taken by the commissioner under ~~paragraph (e) clause (3)~~ or ~~(e) (5)~~.

~~(8)~~ (r) 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.

~~(9)~~ (s) 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)~~ (t) 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)~~ (u) 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 rebate as defined for purposes of the federal rebate program in United States Code, title 42, section ~~1396r-8(e)(1)~~ 1396r-8. 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)~~ (v) 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.

(23) (w) Have the authority to administer a supplemental drug rebate program for drugs purchased under the medical assistance program. The commissioner may enter into supplemental rebate contracts with pharmaceutical manufacturers and may require prior authorization for drugs that are from manufacturers that have not signed a supplemental rebate contract. Prior authorization of drugs shall be subject to the provisions of section 256B.0625, subdivision 13.

(24) (x) 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.

(25) (y) 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.

(26) (z) Incorporate cost reimbursement claims from First Call Minnesota and Greater Twin Cities United Way 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 and Greater Twin Cities United Way according to normal department payment schedules.

(27) (aa) 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 2002, section 256.955, subdivision 2, is amended to read:

Subd. 2. [DEFINITIONS.] (a) For purposes of this section, the following definitions apply.

(b) "Health plan" has the meaning provided in section 62Q.01, subdivision 3.

(c) "Health plan company" has the meaning provided in section 62Q.01, subdivision 4.

(d) "Qualified individual" means an individual who meets the requirements described in subdivision 2a or 2b, and:

(1) who is not determined eligible for medical assistance according to section 256B.0575, who is not determined eligible for medical assistance ~~or general assistance medical care~~ without a spenddown, or who is not enrolled in MinnesotaCare;

(2) is not enrolled in prescription drug coverage under a health plan;

(3) is not enrolled in prescription drug coverage under a Medicare supplement plan, as defined in sections 62A.31 to 62A.44, or policies, contracts, or certificates that supplement Medicare issued by health maintenance organizations or those policies, contracts, or certificates governed by section 1833 or 1876 of the federal Social Security Act, United States Code, title 42, section 1395, et seq., as amended;

(4) has not had coverage described in clauses (2) and (3) for at least four months prior to application for the program; and

(5) is a permanent resident of Minnesota as defined in section 256L.09.

Sec. 3. Minnesota Statutes 2003 Supplement, section 256.955, subdivision 2a, is amended to read:

Subd. 2a. [ELIGIBILITY.] An individual satisfying the following requirements and the requirements described in subdivision 2, paragraph (d), is eligible for the prescription drug program:

(1) is at least 65 years of age or older; 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. 4. Minnesota Statutes 2002, 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. 5. Minnesota Statutes 2003 Supplement, section 256B.06, subdivision 4, is amended to read:

Subd. 4. [CITIZENSHIP REQUIREMENTS.] (a) Eligibility for medical assistance is limited to citizens of the United States, qualified noncitizens as defined in this subdivision, and other persons residing lawfully in the United States.

(b) "Qualified noncitizen" means a person who meets one of the following immigration criteria:

(1) admitted for lawful permanent residence according to United States Code, title 8;

(2) admitted to the United States as a refugee according to United States Code, title 8, section 1157;

(3) granted asylum according to United States Code, title 8, section 1158;

(4) granted withholding of deportation according to United States Code, title 8, section 1253(h);

(5) paroled for a period of at least one year according to United States Code, title 8, section 1182(d)(5);

(6) granted conditional entrant status according to United States Code, title 8, section 1153(a)(7);

(7) determined to be a battered noncitizen by the United States Attorney General according to the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, title V of the Omnibus Consolidated Appropriations Bill, Public Law 104-200;

(8) is a child of a noncitizen determined to be a battered noncitizen by the United States Attorney General according to the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, title V, of the Omnibus Consolidated Appropriations Bill, Public Law 104-200; or

(9) determined to be a Cuban or Haitian entrant as defined in section 501(e) of Public Law 96-422, the Refugee Education Assistance Act of 1980.

(c) All qualified noncitizens who were residing in the United States before August 22, 1996, who otherwise meet the eligibility requirements of this chapter, are eligible for medical assistance with federal financial participation.

(d) All qualified noncitizens who entered the United States on or after August 22, 1996, and who otherwise meet the eligibility requirements of this chapter, are eligible for medical assistance with federal financial participation through November 30, 1996.

Beginning December 1, 1996, qualified noncitizens who entered the United States on or after August 22, 1996, and who otherwise meet the eligibility requirements of this chapter are eligible for medical assistance with federal participation for five years if they meet one of the following criteria:

(i) refugees admitted to the United States according to United States Code, title 8, section 1157;

(ii) persons granted asylum according to United States Code, title 8, section 1158;

(iii) persons granted withholding of deportation according to United States Code, title 8, section 1253(h);

(iv) veterans of the United States armed forces with an honorable discharge for a reason other than noncitizen status, their spouses and unmarried minor dependent children; or

(v) persons on active duty in the United States armed forces, other than for training, their spouses and unmarried minor dependent children.

Beginning December 1, 1996, qualified noncitizens who do not meet one of the criteria in items (i) to (v) are eligible for medical assistance without federal financial participation as described in paragraph (j).

(e) Noncitizens who are not qualified noncitizens as defined in paragraph (b), who are lawfully residing in the United States and who otherwise meet the eligibility requirements of this chapter, are eligible for medical assistance under clauses (1) to (3). These individuals must cooperate with the Immigration and Naturalization Service to pursue any applicable immigration status, including citizenship, that would qualify them for medical assistance with federal financial participation.

(1) Persons who were medical assistance recipients on August 22, 1996, are eligible for medical assistance with federal financial participation through December 31, 1996.

(2) Beginning January 1, 1997, persons described in clause (1) are eligible for medical assistance without federal financial participation as described in paragraph (j).

(3) Beginning December 1, 1996, persons residing in the United States prior to August 22, 1996, who were not receiving medical assistance and persons who arrived on or after August 22, 1996, are eligible for medical assistance without federal financial participation as described in paragraph (j).

(f) Nonimmigrants who otherwise meet the eligibility requirements of this chapter are eligible for the benefits as provided in paragraphs (g) to (i). For purposes of this subdivision, a "nonimmigrant" is a person in one of the classes listed in United States Code, title 8, section 1101(a)(15).

(g) Payment shall also be made for care and services that are furnished to noncitizens, regardless of immigration status, who otherwise meet the eligibility requirements of this chapter, if such care and services are necessary for the treatment of an emergency medical condition, except for organ transplants and related care and services and routine prenatal care.

(h) For purposes of this subdivision, the term "emergency medical condition" means a medical condition that meets the requirements of United States Code, title 42, section 1396b(v).

(i) Pregnant noncitizens who are undocumented or nonimmigrants, who otherwise meet the eligibility requirements of this chapter, are eligible for medical assistance payment without federal financial participation for care and services through the period of pregnancy, and 60 days postpartum, except for labor and delivery.

(j) Qualified noncitizens as described in paragraph (d), and all other noncitizens lawfully residing in the United States as described in paragraph (e), who are ineligible for medical assistance with federal financial participation and who otherwise meet the eligibility requirements of chapter 256B and of this paragraph, are eligible for medical assistance without federal financial participation. Qualified noncitizens as described in paragraph (d) are only eligible for medical assistance without federal financial participation for five years from their date of entry into the United States.

(k) Beginning October 1, 2003, persons who are receiving care and rehabilitation services from a nonprofit center established to serve victims of torture and are otherwise ineligible for medical assistance under this chapter ~~or general assistance medical care under section 256D.03~~ are eligible for medical assistance without federal financial participation. These individuals are eligible only for the period during which they are receiving services from the center. Individuals eligible under this paragraph shall not be required to participate in prepaid medical assistance.

Sec. 6. Minnesota Statutes 2003 Supplement, section 256B.0625, subdivision 9, is amended to read:

Subd. 9. [DENTAL SERVICES.] (a) Medical assistance covers dental services. Dental services include, with prior authorization, fixed bridges that are cost-effective for persons who cannot use removable dentures because of their medical condition.

(b) Coverage of dental services for adults age 21 and over who are not pregnant is subject to a \$500 annual benefit limit and covered services are limited to:

- (1) diagnostic and preventative services;
- (2) ~~basic~~ restorative services; and
- (3) emergency services.

Emergency services, dentures, and extractions related to dentures are not included in the \$500 annual benefit limit.

Sec. 7. Minnesota Statutes 2003 Supplement, section 256D.03, subdivision 3, is amended to read:

Subd. 3. [GENERAL ASSISTANCE MEDICAL CARE; ELIGIBILITY.] (a) General assistance medical care may be paid for any person who is not eligible for medical assistance under chapter 256B, including eligibility for medical assistance based on a spenddown of excess income according to section 256B.056, subdivision 5, or MinnesotaCare as defined in 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 (MFIP), or who is having a payment made on the person's behalf under sections 256L.01 to 256L.06; or

(2) who is a resident of Minnesota; and

(i) who has gross countable income not in excess of 75 percent of the federal poverty guidelines for the family size, using a six-month budget period 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 section 256B.056, subdivision 3, 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; or

(ii) who has gross countable income above 75 percent of the federal poverty guidelines but not in excess of 175 percent of the federal poverty guidelines for the family size, using a six-month budget period, whose equity in assets is not in excess of the limits in section 256B.056, subdivision 3c, and who applies during an inpatient hospitalization.

(b) General assistance medical care may not be paid for applicants or recipients who meet all eligibility requirements of MinnesotaCare as defined in sections 256L.01 to 256L.16, and are adults with dependent children under 21 whose gross family income is equal to or less than 275 percent of the federal poverty guidelines.

(c) For applications received on or after October 1, 2003, eligibility may begin no earlier than the date of application. For individuals eligible under paragraph (a), clause (2), item (i), a redetermination of eligibility must occur every 12 months. Individuals are eligible under paragraph (a), clause (2), item (ii), only during inpatient hospitalization but may reapply if there is a subsequent period of inpatient hospitalization. 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 a name, address, Social Security number, and signature when health care is delivered due to a medical condition or disability, a health care provider may act on an applicant's behalf to establish the date of an initial Minnesota health care program application by providing the county agency or Department of Human Services with provider

identification and a temporary unique identifier for the applicant. 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.

(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.

(h) In determining the amount of assets of an individual eligible under paragraph (a), clause (2), item (i), 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 104-193, sections 421 and 422, and subsequently set out in federal rules.

(j) Undocumented noncitizens and nonimmigrants are ineligible for general assistance medical care, ~~except an individual eligible under paragraph (a), clause (4), remains eligible through September 30, 2003.~~ 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.

(k) Notwithstanding any other provision of law, a noncitizen who is ineligible for medical assistance due to the deeming of a sponsor's income and resources, is ineligible for general assistance medical care.

(l) Effective July 1, 2003, general assistance medical care emergency services end.

Sec. 8. Minnesota Statutes 2003 Supplement, section 256D.03, subdivision 4, is amended to read:

Subd. 4. [GENERAL ASSISTANCE MEDICAL CARE; SERVICES.] (a)(i) For a person who is eligible under subdivision 3, paragraph (a), clause (2), item (i), 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 except special transportation;
- (12) chiropractic services as covered under the medical assistance program;
- (13) podiatric services;
- (14) dental services and dentures, subject to the limitations specified in section 256B.0625, subdivision 9;
- (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.

(ii) Effective October 1, 2003, for a person who is eligible under subdivision 3, paragraph (a), clause (2), item (ii), general assistance medical care coverage is limited to inpatient hospital services, including physician services provided during the inpatient hospital stay. A \$1,000 deductible is required for each inpatient hospitalization.

(b) 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.

(c) In order to contain costs, the commissioner of human services shall select vendors of medical care who can provide the most economical care consistent with high medical standards and shall where possible contract with organizations on a prepaid capitation basis to provide these services. The commissioner shall consider proposals by counties and vendors for prepaid health plans, competitive bidding programs, block grants, or other vendor payment mechanisms designed to provide services in an economical manner or to control utilization, with safeguards to ensure that necessary services are provided. Before implementing prepaid programs in counties with a county operated or affiliated public teaching hospital or a hospital or clinic operated by the University of 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.

(d) Recipients eligible under subdivision 3, paragraph (a), clause (2), item (i), shall pay the following co-payments for services provided on or after October 1, 2003:

(1) \$3 per nonpreventive visit. For purposes of this subdivision, a visit means an episode of service which is required because of a recipient's symptoms, diagnosis, or established illness, and which is delivered in an ambulatory setting by a physician or physician ancillary, chiropractor, podiatrist, nurse midwife, advanced practice nurse, audiologist, optician, or optometrist;

(2) \$25 for eyeglasses;

(3) \$25 for nonemergency visits to a hospital-based emergency room;

(4) \$3 per brand-name drug prescription and \$1 per generic drug prescription, subject to a \$20 per month maximum for prescription drug co-payments. No co-payments shall apply to antipsychotic drugs when used for the treatment of mental illness; and

(5) 50 percent coinsurance on ~~basic~~ restorative dental services.

(e) Co-payments shall be limited to one per day per provider for nonpreventive visits, eyeglasses, and nonemergency visits to a hospital-based emergency room. Recipients of general assistance medical care are responsible for all co-payments in this subdivision. The general assistance medical care reimbursement to the provider shall be reduced by the amount of the co-payment, except that reimbursement for prescription drugs shall not be reduced once a recipient has reached the \$20 per month maximum for prescription drug co-payments. The provider collects the co-payment from the recipient. Providers may not deny services to recipients who are unable to pay the co-payment, except as provided in paragraph (f).

(f) If it is the routine business practice of a provider to refuse service to an individual with uncollected debt, the provider may include uncollected co-payments under this section. A provider must give advance notice to a recipient with uncollected debt before services can be denied.

(g) Any county may, from its own resources, provide medical payments for which state payments are not made.

(h) Chemical dependency services that are reimbursed under chapter 254B must not be reimbursed under general assistance medical care.

(i) The maximum payment for new vendors enrolled in the general assistance medical care program after the base year shall be determined from the average usual and customary charge of the same vendor type enrolled in the base year.

(j) The conditions of payment for services under this subdivision are the same as the conditions specified in rules adopted under chapter 256B governing the medical assistance program, unless otherwise provided by statute or rule.

(k) Inpatient and outpatient payments shall be reduced by five percent, effective July 1, 2003. This reduction is in addition to the five percent reduction effective July 1, 2003, and incorporated by reference in paragraph (i).

(l) Payments for all other health services except inpatient, outpatient, and pharmacy services shall be reduced by five percent, effective July 1, 2003.

(m) Payments to managed care plans shall be reduced by five percent for services provided on or after October 1, 2003.

(n) 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."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed and the amendment was adopted.

Westrom and Walker moved to amend H. F. No. 2277, the first engrossment, as amended, as follows:

Page 81, after line 35, insert:

"Sec. 4. [CHILD PROTECTION STUDY.]

(a) To improve the commissioner of human services' monitoring and oversight of county social services agencies' performance in the operation and administration of the child protection system, the legislative auditor shall study:

(1) whether the commissioner of human services holds county social services agencies sufficiently accountable for the agencies' compliance with child protection laws;

(2) the ways in which the commissioner of human services could improve monitoring and oversight of county social services agencies' compliance with child protection laws;

(3) the financial costs to the state and counties associated with any failure by the commissioner of human services to hold county social services agencies sufficiently accountable for the agencies' noncompliance with child protection laws;

(4) whether the financial incentives in the child protection system lead to child placement decisions by county social services agencies that are not in the best interests of children;

(5) the difference in outcomes for children in the child protection system based upon age, race, reason for entry into the child protection system, and geographic area in the state. The study of outcomes for children in the child protection system must include whether relative placement or other out-of-home placement is considered, the length of the child's stay in out-of-home placement, whether the parental rights are terminated, and whether the child is reunified with the parents; and

(6) whether and how financial sanctions of the state agency or county social services agencies for noncompliance with child protection laws could improve state and local compliance with the laws.

(b) This section applies only if the legislative auditor has the time and resources available to conduct the study under this section after completing the evaluation of the topics selected by the Legislative Audit Commission for program evaluation in 2004."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion did not prevail and the amendment was not adopted.

H. F. No. 2277, A bill for an act relating to human services; making changes to licensing provisions; regulating child protection dispositions; clarifying a mental health case management provision; changing a provision under child welfare targeted case management; regulating child care, long-term care, and health care; amending Minnesota Statutes 2002, sections 119B.011, by adding a subdivision; 119B.03, subdivisions 3, 6a, by adding a subdivision; 245.4881, subdivision 1; 245.814, subdivision 1; 245A.02, subdivisions 2a, 5a, 7, 10, 14, by adding a subdivision; 245A.03, subdivision 3; 245A.04, subdivisions 5, 6, 7, by adding a subdivision; 245A.05; 245A.06, subdivisions 2, 4; 245A.07, subdivisions 2, 2a, 3; 245A.08, subdivision 5; 245A.16, subdivision 4; 245A.22, subdivision 2; 245B.02, by adding a subdivision; 245B.05, subdivision 2; 245B.07, subdivisions 8, 12; 252.28, subdivision 1; 256.01, by adding a subdivision; 256.955, subdivisions 2, 2b; 256B.0625, by adding a subdivision; 256B.0911, subdivision 4a; 256F.10, subdivision 5; 256J.01, subdivision 1; 256J.08, subdivisions 73, 82a; 256J.21, subdivision 3; 256J.415; 256J.425, subdivision 5; 260C.212, subdivision 5; Minnesota Statutes 2003 Supplement, sections 119B.011, subdivisions 8, 10, 20; 119B.03, subdivision 4; 119B.05, subdivision 1; 119B.09, subdivision 7; 119B.12, subdivision 2; 119B.13, subdivisions 1, 1a; 119B.189, subdivisions 2, 4; 119B.19, subdivision 1; 119B.24; 119B.25, subdivision 2; 241.021, subdivision 6; 245.4874; 245A.03, subdivision 2; 245A.04, subdivision 1; 245A.08, subdivisions 1, 2a; 245A.085; 245A.11, subdivisions 2a, 2b; 245A.16, subdivision 1; 245A.22, subdivision 3; 245C.02, subdivision 18; 245C.03, subdivision 1, by adding a subdivision; 245C.05, subdivisions 1, 2, 5, 6; 245C.08, subdivisions 2, 3, 4; 245C.09, subdivision 1; 245C.13, subdivision 1; 245C.14, subdivision 1; 245C.15, subdivisions 2, 3, 4; 245C.16, subdivision 1; 245C.17, subdivisions 1, 3; 245C.18; 245C.20; 245C.21, subdivision 3, by adding a subdivision; 245C.22, subdivisions 3, 4, 5, 6; 245C.23, subdivisions 1, 2; 245C.25; 245C.26; 245C.27, subdivisions 1, 2; 245C.28, subdivisions 1, 2, 3; 245C.29, subdivision 2; 256.01, subdivision 2; 256.045, subdivisions 3, 3b; 256.046, subdivision 1; 256.955, subdivision 2a; 256.98, subdivision 8; 256B.0596; 256B.06, subdivision 4; 256B.0625, subdivision 9; 256B.0915, subdivisions 3a, 3b; 256B.431, subdivision 32; 256B.69, subdivision 6b; 256D.03, subdivisions 3, 4; 256J.09, subdivision 3b; 256J.24, subdivision 5; 256J.32, subdivisions

2, 8; 256J.37, subdivision 9; 256J.425, subdivisions 1, 4, 6; 256J.46, subdivision 1; 256J.49, subdivision 4; 256J.515; 256J.521, subdivisions 1, 2; 256J.53, subdivision 2; 256J.56; 256J.57, subdivision 1; 256J.626, subdivision 2; 256J.751, subdivision 2; 256J.95, subdivisions 1, 3, 11, 12, 19; 626.556, subdivision 10i; 626.557, subdivision 9d; proposing coding for new law in Minnesota Statutes, chapters 245A; 245B; repealing Minnesota Statutes 2002, sections 119B.211; 256D.051, subdivision 17; Minnesota Statutes 2003 Supplement, sections 245C.02, subdivision 17; Laws 2000, chapter 489, article 1, section 36; Laws 2003, First Special Session chapter 14, article 3, section 56; Minnesota Rules, parts 9525.1600; 9543.0040, subpart 3; 9543.1000; 9543.1010; 9543.1020; 9543.1030; 9543.1040; 9543.1050; 9543.1060.

The bill was read for the third time, as amended, and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 104 yeas and 21 nays as follows:

Those who voted in the affirmative were:

Abeler	Dempsey	Hilstrom	Lieder	Paulsen	Swenson
Abrams	Dill	Hilty	Lindgren	Paymar	Sykora
Anderson, I.	Dorman	Hornstein	Lindner	Pelowski	Thao
Atkins	Dorn	Huntley	Magnus	Penas	Thissen
Beard	Eastlund	Jacobson	Mariani	Peterson	Tingelstad
Bernardy	Eken	Jaros	Marquart	Pugh	Urdahl
Biernat	Ellison	Johnson, J.	McNamara	Rhodes	Vandever
Borrell	Entenza	Juhnke	Murphy	Rukavina	Wagenius
Boudreau	Erhardt	Kahn	Nelson, C.	Ruth	Walker
Bradley	Erickson	Kelliher	Nelson, M.	Samuelson	Wasiluk
Brod	Fuller	Klinzing	Nelson, P.	Seagren	Westerberg
Carlson	Goodwin	Knoblach	Newman	Sertich	Westrom
Clark	Greiling	Koenen	Nornes	Severson	Zellers
Cornish	Gunther	Lanning	Opatz	Sieben	Spk. Sviggum
Cox	Haas	Larson	Osterman	Simpson	
Davids	Hackbarth	Latz	Otremba	Slawik	
Davnie	Harder	Lenczewski	Otto	Soderstrom	
Demmer	Hausman	Lesch	Ozment	Solberg	

Those who voted in the negative were:

Adolphson	Buesgens	Heidgerken	Kohls	Powell	Wilkin
Anderson, B.	DeLaForest	Holberg	Krinkie	Seifert	
Anderson, J.	Finstad	Hoppe	Kuisle	Walz	
Blaine	Gerlach	Howes	Olson, M.	Wardlow	

The bill was passed, as amended, and its title agreed to.

Paulsen moved that the remaining bills on the Calendar for the Day be continued. The motion prevailed.

MOTIONS AND RESOLUTIONS

Westerberg moved that the names of Samuelson and Nelson, C., be added as authors on H. F. No. 3183. The motion prevailed.

Juhnke moved that the name of Koenen be added as an author on H. F. No. 3184. The motion prevailed.

FISCAL CALENDAR ANNOUNCEMENT

Pursuant to rule 1.22, Abrams announced his intention to place H. F. No. 2540 on the Fiscal Calendar for Friday, April 23, 2004.

ADJOURNMENT

Paulsen moved that when the House adjourns today it adjourn until 8:00 a.m., Friday, April 23, 2004. The motion prevailed.

Paulsen moved that the House adjourn. The motion prevailed, and the Speaker declared the House stands adjourned until 8:00 a.m., Friday, April 23, 2004.

EDWARD A. BURDICK, Chief Clerk, House of Representatives